



# **ASSIST: The New System of ASEAN Consultations to Solve Trade and Investment Issues**

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# Introduction

## The ACT and its Legal Basis

- Article 88 of the ATIGA on the ACT and Declaration on ASEAN Concord II;
- Article 47(b) of the ATIGA and, including the “*promotion of effective mechanisms for exchanges with the business and trading community, including opportunities for consultation when formulating, implementing and reviewing rules and procedures relating to trade*”;
- Its rationale (non-binding mechanism for disputes avoidance and resolution);
- Article 40 of the ATIGA on Non-Tariff Measures (NTMs) and on avoidance of ‘*unnecessary obstacles to trade*’; and
- Article 42 of the ATIGA on the ‘*elimination of Non-Tariff Barriers*’ (NTBs), including those reported by the private sector (paragraph 4 thereof).



# Introduction

## The '*Bigger Picture*'

- AEC 2025;
- Regional economic integration and role of '*private sector*' in assisting Governments to remove obstacles;
- Needs of '*private sector*', particularly SMEs (trade facilitation, expedited processes, ease of engagement with authorities, avoidance of disputes);
- Transparency, especially of NTMs. Linkage to the National Trade Repositories (NTRs) and ASEAN Trade Repository (ATR).

## The State-of-Play of the ACT System

- Launched in 2005 and modelled on the EU's SOLVIT system;
- It soon lost credibility and has been inactive since 2011. Currently non operational. Only 19 valid complaints lodged and 14 addressed.



## Proposal by ARISE

### **ASEAN Solutions and Settlements for Investments, Services and Trade (A.S.S.I.S.T.)**

- The new ACT: easy to remember, easy to find, easy to use, easy to manage, reliable and effective;
- Aimed at facilitating trade, investments and ASEAN economic integration;
- Focus on businesses based in ASEAN;
- Scope of ASSIST will be on trade in goods, trade in services, investment issues, and trade-related transport, customs, finance and standards matters;
- Internet-based, consultative and non-binding mechanism;
- Key role in addressing perceived NTBs and streamline NTMs;
- Natural add-on to the ATR (<http://atr.asean.org/>).



# The ASEAN Trade Repository

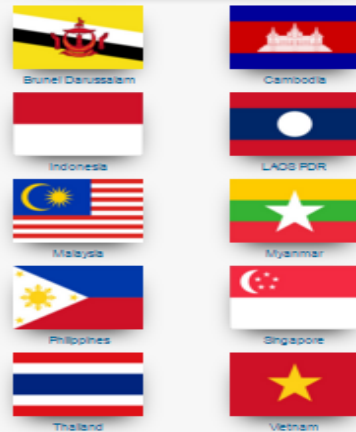
## ASEAN TRADE REPOSITORY

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TRANSPARENCY  
LAWS  
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REQUIREMENTS  
STANDARDS

### ASEAN MEMBER STATES



### TOPICS

- Tariff nomenclature
- MFN tariffs, preferential tariffs offered under the ATIGA and other Agreements of ASEAN with its Dialogue Partners
- Rules of origin
- Non-tariff measures
- National trade and customs laws and rules
- Procedures and documentary requirements
- Administrative rulings
- Best practices in trade facilitation applied by each Member State
- List of authorised traders of AMSs

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In line with the ASEAN Trade in Goods Agreement (ATIGA), the ASEAN Trade Repository (ATR) is intended to provide transparency on the trade and customs laws and procedures of all ASEAN Member States. The ATR is an electronic interface through which the public can freely access the information available on the National Trade Repositories (NTRs) of each AMS.



This database contains the standards that ASEAN has harmonized towards the existing relevant international standards, as mandated under the ATIGA.



## Key Actors in ASSIST

- **AE:** ASEAN-based Enterprise that raises an issue/query/complaint through ASSIST. Only duly-registered ASEAN-based companies or trade associations can validly lodge a complaint through ASSIST.
- **CA:** Central Administrator of ASSIST, responsible for checking the completeness of the complaint submitted by the AE, for verifying the standing of the complaining AE, for forwarding the application to both Home Contact Point (HCP) and Destination Contact Point (DCP), for monitoring progress in accordance with the agreed deadlines, and for reporting the response/resolution back to the AE. The CA is also charged with the maintenance of the integrity of the ASSIST portal.
- The ASEAN Secretariat acts as the CA and must be given the necessary resources and authority.



## Key Actors in ASSIST

- **DCP:** Destination Contact Point, which is the national body (ASSIST Focal Point) in the ASEAN Member State where the issue is raised and that is responsible for accepting (or rejecting) the issue and then coordinating the resolution/response by the relevant responsible authority(ies) (RAs).
- **HCP:** Home Contact Point, which is the national body (ASSIST Focal Point) in the ASEAN Member State of the AE that is notified of the query/complaint by the CA.
- **RA:** Responsible Authority(ies) (RAs) in the country of the DCP that will investigate the issue/complaint and provide a solution, if possible.
- The HCPs/DCPs and RAs in each AMS must be identified, structured, trained and built into a national network, which is efficient and responsive.



# Key Features of ASSIST

- Applicants will need to register and receive a password-protected log-in;
- A standardised online application form has been developed for use;
- CA will verify completeness and assign a tracking code;
- CA will assess the '*standing*' of the complainant and of complaint;
- CA will inform AE and submit complaint to DCP/HCP, if there is '*standing*';
- Maximum time limit is set for DCP to accept/reject complaint;
- Rejections of complaints must be motivated with a reason;
- If accepted, DCP will involve RA(s) and fixed time limits will apply;
- RAs/DCP may request a single time extension if issue is complex;
- RAs/DCP must provide a response/resolution/remedy in written form;
- CA will follow-up. If DCP/RAs unresponsive, issue will be referred to AMSs;



# Key Features of ASSIST

- DCP may provide solution to CA or advise why it is not solvable;
- CA will register the solution on ASSIST and send it to the AE;
- CA will copy the HCP;
- The AE will notify the CA if it considers the issue satisfactorily addressed (*i.e.*, resolved/settled);
- If not satisfied, the AE may advise the CA on its intended course of action;
- A '*traffic light*' dashboard will be kept by CA on ASSIST to show progress of each complaint (Grey/Yellow: on schedule; Red: delayed; Green/Grey: resolved, withdrawn);
- A '*public forum*' section of the ASSIST portal will in the future provide data/statistics on complaints, operational guidelines, success stories of resolved cases, feedback from users/AEs, and tips on using ASSIST;
- No confidential information will be placed on the *public forum*.



# Key Principles by ASSIST

- ASSIST aims to be an effective tool of regional economic integration;
- It remains consultative and non-binding in nature, but it must be professionally-managed and credible;
- It must be reliable, transparent, responsive, efficient;
- It is based on simple and user-friendly formats, with clear instructions and processes;
- AMSs and all Key Actors must commit to adhere to the administrative and technical requirements, meeting the required timeframes and following the due process;
- The CA must be independent from the HCPs/DCPs, but it needs the clear mandate to maintain the effectiveness and integrity of the portal;



# Key Principles of ASSIST

- Only duly-registered AEs that file complete complaints can use ASSIST. Proof of registration will be requested to AE when lodging complaint;
- Each AMS must devote the necessary institutional, financial and human resources to maintain their DCPs and HCPs, and establishing networks of RAs, which are critical to its success;
- Where does each AMS stand with the necessary institutional build-up?
- The resources to fund and staff the operations of the CA must be earmarked within the ASEAN budget;
- Continued commitment by ARISE by running in-country training for ASSIST Focal Points (HCPs/DCPs), RAs and private sector representative bodies;
- Time is of the essence if ASSIST is to be made fully operational and launched at the ASEAN Summit in September 2016.



# Thank You



**ASEAN Regional Integration Support from the EU**

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