



# ELEVATING EU-ASEAN RELATIONS:

Towards Modern And Innovative  
Trade Agreements And Strategic  
Cooperation

MARCH 2025



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## 1. Introduction

In turbulent and uncertain times, strengthened partnerships and deepened relationships with trading partners are vital for growth and competitiveness. The European Union's (EU) enduring relationship with the Association of Southeast Asian Nations (ASEAN), needs to be nurtured and further enhanced. In fact, there is significant potential to strengthen ASEAN-EU trade, connectivity, and cooperation. While ASEAN has established robust engagements with multiple dialogue partners, there remains untapped potential for the EU to further elevate its presence and collaboration in the region. A more proactive and strategic engagement from Brussels would reinforce mutual economic growth and shared prosperity, ensuring that this partnership remains resilient and future ready.

We applaud the EU's recent work to streamline and simplify existing sustainability reporting requirements and the due diligence framework and encourage further efforts in this regard. We further applaud the EU's stated priorities around growth and competitiveness. That new focus combined with the current global developments creates significant opportunities for the EU to strengthen the *EU-ASEAN Strategic Partnership*<sup>1</sup>, especially when it comes to trade. While we welcome the progress in trade negotiations between the EU and a number of ASEAN Member States, various EU regulatory initiatives, notably those within the *European Green Deal*, such as the Carbon Border Adjustment Mechanism (CBAM) and the EU's Deforestation-Free Products Regulation (EUDR), have increasingly polarised discussions and adversely impacted EU-ASEAN political relations.

In this White Paper, the EU-ABC and its Members lay out their vision, perspectives, and recommendations on how to improve EU-ASEAN trade relations, in a context of global geopolitical and geoeconomic tensions, through the use of innovative trade policy, trade instruments, and negotiated solutions. Business as usual is no longer an option. There are different ways to take the EU-ASEAN partnership to new heights, while anchoring the bilateral relationship to the rule of law, due process, trade facilitation, honest cooperation, regulatory dialogue, climate change/adaptation and real synergies.

## 2. Executive Commentary - A Call for Action for the EU

In a world of ever increasing geopolitical and geoeconomic tensions, working closer with a bloc like ASEAN – whose values and objectives align closely with those of the EU – should be a strategic priority that supports the EU's competitiveness agenda. However, other than the many mentions in the EU's *Indo-Pacific Strategy* document, ASEAN has not been featuring nearly high enough on the agenda of much of the European Commission. There are signs that it is changing but that change has to be more rapid and more sustainable. Deepening good relations will not only boost trade and investment numbers but will also enable more strategic developments at a time when both the EU and ASEAN need more friends and tangible support for each other.

In our annual *Business Sentiment Survey*<sup>2</sup> a recurring theme has been the view that ASEAN represents the region of best economic opportunity with consistently high numbers of European business reporting intentions to expand their operations in the region. Regrettably, another consistent theme has been a feeling that the EU institutions are not engaged enough with ASEAN. Last year, only 20% of respondents felt that the European Commission was sufficiently engaged in supporting European business interests in

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<sup>1</sup> [https://www.eeas.europa.eu/eeas/eu-asean-strategic-partnership\\_en](https://www.eeas.europa.eu/eeas/eu-asean-strategic-partnership_en)

<sup>2</sup> <https://www.eu-asean.eu/eu-asean-business-sentiment-survey/>

ASEAN. Additionally, nearly 9 out of 10 respondents felt that the lack of a region-to-region FTA between the EU and ASEAN meant that European businesses were operating at a disadvantage compared to their competitors from places such as China, Japan, and Korea. And it is not only the companies talking; speaking to ministers, senior officials, and policymakers across Southeast Asia, as the EU-ABC regularly does, eyebrows are being raised at the EU's absence in crucial areas where other global players are all too eager to show up.

This perception stands in stark contrast to the EU's track record in ASEAN: it is amongst the largest aid and development donors to ASEAN, running many projects under the various ASEAN Community Pillars totalling several hundred million Euros over the years, with equally high numbers allocated for further projects going forward. This is not to mention the role of European companies in ASEAN where, in some markets, they have also invested and become part of the local economic development for much longer (100 years + in some sectors) than other foreign investors. Unfortunately, the EU does not do enough to highlight this.

Despite these sentiments, it is possible to say that we are currently at a high note in our trade and investment interactions with ASEAN. Free Trade Agreements have been signed and are being implemented with Vietnam and Singapore (which also recently signed a Digital Trade Agreement with the EU), while ongoing FTA negotiations with Indonesia, Malaysia, the Philippines, and Thailand are paving the way for even stronger ties. Add to that the trade preferences accorded to several other ASEAN Member States, and the efforts of the Joint Working Group on EU-ASEAN Trade and Investment, and it is clear that, on the trade front, things have never looked rosier. We are grateful to DG Trade in Brussels for pushing this forward.

Forging closer economic ties with key partners in one of the few parts of the world displaying dynamic and fast growth which aligns with the EU's commitments to growth and competitiveness, should be top of the list for the European Commissioner of Trade and Economic Security. It is essential that he meet his ASEAN counterparts, in person, at the annual ASEAN Economic Ministers meeting. Not only because of the ongoing negotiations, but also because doing so will help Europe with its goal of enhancing supply chain resilience and aiding a fast-developing region navigate its green transition and its own economic integration agenda.

ASEAN should not just matter to the European Commissioner of Trade and Economic Security but also to the Commissioners of other key portfolios, such as International Partnerships, Digital Economy, Environment, Transport and Mobility, Health, Energy and Financial Services to name just a few. The biggest concern for European businesses is the lack of EU engagement at the highest levels in these key areas: sectors where European businesses see growth opportunities, want to work with ASEAN more and where a deeper even more meaningful bloc-to-bloc relationship could be built.

Engagement has become competitive, and relationships are important, especially in an increasingly multi-aligned world. Countries like Australia, China, Japan, South Korea, and the US are energetically engaging at the highest levels in regular meetings with ASEAN Ministerial bodies on digital, health, agriculture, energy, transport, customs, and financial services issues, while the EU is, at best, only represented at senior officials' level, and even then, often not by officials travelling from Brussels. European businesses need the EU to more actively represent them by investing in relationship building with ASEAN counterparts.

European businesses are often left to navigate the complexities of the ASEAN market without the high-level political backing that businesses from elsewhere regularly enjoy. The lack of EU representation puts us at a disadvantage – we miss out on the opportunity to influence regulations, standards, and policies that directly impact our operations in the region. There is also a growing concern that European companies are being sidelined in favour of competitors from other countries whose governments are more visibly and actively engaging with ASEAN and who seem easier to deal with. In addition, European companies are facing the imposition of non-tariff measures that are intended to favour domestic or State-owned enterprises in various sectors, such as energy.

This perception is not only a matter of optics but seems to send the message that the EU is just not as committed to ASEAN as others are and has the potential to undo years of trust and good work the EU has built. An example is the most recent State of Southeast Asia survey<sup>3</sup> where the EU has slipped in rankings – also affecting the long-term prospects of European companies who want to do business in this region.

It is the view of the EU-ASEAN Business Council and its Members that the European Commissioners should be giving ASEAN more attention. The current *EU-ASEAN Plan of Action*<sup>4</sup>, agreed at the Commemorative Summit of 45 years of relations between the two regions in December 2022, sets out a whole raft of areas where the two strategic partners are meant to be collaborating and cooperating. Actions on the ground appear few and far between.

The European Commission's Directorate-General overseeing International Partnerships has been instrumental in supporting ASEAN through numerous projects focused on areas like economic integration, the green economy, energy transition, and critical infrastructure development. However, despite hundreds of millions of Euro that have been spent on these initiatives, they remain under the radar. This is to the detriment of Europe's interests in the region. ASEAN's other dialogue partners, who give much less in terms of aid and development donations, shout louder and longer about their generosity. They, of course, are helped by an ability and desire to "*pour concrete*" and deliver real tangible benefits to the region. This has not been Europe's *modus operandi* which should perhaps be reviewed. Like others, Europe should consider moving to a regime of "*tied aid*", thus giving EU businesses in ASEAN better chances to win any contracts.

For DG Environment, the diplomatic uneasiness that has been created by what are perceived in Southeast Asia as high-handed approaches to sustainability-linked regulation (e.g. the EU's Deforestation-Free Products Regulation, EUDR) should entice the Environment Commissioner to look at international outreach as an absolute priority. The decision to delay the implementation of EUDR was welcomed by many policymakers in ASEAN and this delay should be dedicated to reaching out to countries like Indonesia and Malaysia and to find a way forward that is a win-win for all. Providing enhanced capacity building for the benefit of ASEAN Member States and their companies to help them deal and comply with the various novel EU regulations and directives should be a priority.

The EU's absence at the hugely important ASEAN Ministers for Energy Meeting in September 2024 was jarring while other dialogue partners were clamouring to offer assistance and advice to a region that is rapidly moving ahead with the energy transition and which has high ambitions to develop its own regional power grid, pursue low-carbon solutions and, at the same time, ensure energy security. Given the EU's

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<sup>3</sup> See: <https://www.iseas.edu.sg/centres/asean-studies-centre/state-of-southeast-asia-survey/the-state-of-southeast-asia-2024-survey-report/>

<sup>4</sup> See; [https://www.eeas.europa.eu/eeas/plan-action-implement-asean-eu-strategic-partnership-2023-2027-0\\_en](https://www.eeas.europa.eu/eeas/plan-action-implement-asean-eu-strategic-partnership-2023-2027-0_en)

experience in implementing an integrated electricity network and in developing renewable energies, the DG overseeing energy issues should be working closer with ASEAN. It is pleasing to note that there now seems to be increased activity in this area, after substantial lobbying by the EU-ABC.

Meanwhile, for digital connectivity, ASEAN's own objective of completing a ground-breaking region-wide *Digital Economy Framework Agreement* should spark a higher level of interest in the EU and within DG CONNECT. Whilst interaction at an official level with the Senior Digital Officials from ASEAN in January 2025 was a good start, it should have been with officials from Brussels, and it should have also allowed European businesses to provide inputs.

On the transport side, there is a need to build on the excellent, and pioneering, region-to-region air services agreement between Europe and ASEAN. The *Comprehensive Air Transport Agreement* is a real and tangible statement of what can be achieved between the two blocs. With connectivity at the forefront of both blocs' transport and infrastructure needs, there are obvious reasons to work closer together on maritime and rail projects and help bring the *Global Gateway* to life.

And last, but by no means least, there are financial market developments. When the ASEAN Finance Ministers and Central Bank Governors meet every Spring, the World Bank, the IMF, the Asian Development Bank, and a host of dialogue partners are present – not the EU. Yet, there are areas where institutional involvement, through the European Investment Bank (EIB) for example, would be beneficial: driving closer alignment of taxonomies, helping with the development of sustainable finance and access to funds, implementing international compliance regimes, and the development of digital cross-border payments.

As the then President of the European Council *Charles Michel* said at the East Asia Summit in Lao PDR in 2024, “*more cooperation and more coordination lead to more benefits for all... the spectacular success of Asian economies in recent decades has benefited the wider world, including us in Europe*”. These words should serve as a guiding principle for the Commission and its work in ASEAN. It is essential that Commissioners not only recognise the region's growing relevance to business and trade but take proactive steps to engage with the region: travel more to ASEAN, meet counterparts, and improve cooperation and coordination with Southeast Asia on a professional and personal basis. Only through these efforts can the EU fully capitalise on the opportunities presented by ASEAN's dynamic growth and its strategic significance in the global landscape.

In addition to the above recommendations, this White Paper also lays out a more granular review of the issues, irritants, and opportunities that shape EU-ASEAN's strategic relationship and that should be addressed in order to reap the potential benefits of this partnership. In particular, a number of specific recommendations are made to take this relationship to the next level through the negotiation of preferential trade agreements between the EU and individual ASEAN Member States in a way that is innovative, mutually beneficial, and reflective of the new trade world that we live in. The EU-ABC hopes that the European Commissioner of Trade and Economic Security and the competent DGs within the Commission accept these recommendations on board and remain available to engage further for purposes of translating them into actions.

### 3. EU-ABC Recommendations

Below is a summary of the recommendations contained in this White Paper. For full details of these recommendations please refer to Section 8 below.

Summary of Recommendations	
1	<b>A Real Strategic Partnership – Elevating Cooperation and Coordination to a New Level</b>
	<p>Deepen the relationship through more high-level Commissioner engagement with the region, particularly with ASEAN Ministerial meetings</p> <p>Bring all aspects of the <i>ASEAN-EU Plan of Action</i> to life, notably through meaningful and tangible engagement and practical support.</p>
2	<b>A Different Kind of Preferences</b>
	<p>Take a different approach to trade preferences – beyond simple removal of tariffs focusing instead also on the removal of, or minimising of, regulatory requirements and facilitating cooperation in areas such as mutual recognition of standards.</p>
3	<b>The Long-Term Objectives of an EU-ASEAN FTA</b>
	<p>The prospect of a region-to-region FTA should remain on the table, and accelerated once more bilateral FTAs are in place.</p>
4	<b>Improved Transparency and Implementation</b>
	<p>Negotiate, formulate, commit to, and enforce ambitious transparency obligations for the rules, requirements, and procedures that traders need to know and comply with the respective preferential trade agreements, using simple but effective technological solutions.</p>
5	<b>Business Friendly Enforcement and Dispute Settlement Mechanism</b>
	<p>There is often a sense that not enough is done to implement and enforce preferential trade agreements. The EU has, in recent years, rightly become more assertive on this front, but new instruments could and should be considered for negotiation and use in its new preferential trade agreements with ASEAN Member States.</p>
6	<b>More Rapid Updates and Modernisation</b>
	<p>Implementation processes for trade agreements need to be accelerated and agreements should be “living agreements” with simplified procedures to allow for their updating and modernisation.</p>
7	<b>Effective Technical Assistance and Capacity Building</b>
	<p>Given the <i>Strategic Partnership</i> between the EU and ASEAN, cooperation and collaboration should be taken to a new level and should move from mere technical assistance to regulatory cooperation and administrative collaboration.</p> <p>The private sector should be consulted prior to the organisation and implementation of specific projects and could also play more active and supportive roles in delivering technical assistance that is geared to trade facilitation, economic integration, and investment.</p>
8	<b>Achieving and Preserving Public Support</b>
	<p>Better engagement should take place between the EU and its Member States and various affected constituencies, so as to illustrate the opportunities under these agreements, the risks and the mitigating instruments, the broader contexts, and the socio-economic benefits that they deliver.</p>

#### 4. Background and Context

The EU-ABC and its Members have formulated their perspectives and recommendations on EU-ASEAN trade policy in a context of geopolitical tensions, trade wars, and in view of the increasing threats to the rules-based trading system, rule of law, and due process. All of this has a significant impact on businesses, as it leads to reduced legal certainty and commercial predictability.

In these challenging times, emphasis should be placed on enhancing relations with reliable partners. This is why we strongly advocate for enhanced EU-ASEAN trade relations and innovative approaches to support businesses, ultimately benefitting the respective economies and consumers.

##### **Economic integration in times of global uncertainty**

Decades of relative stability for the rules-based trading system have been upended in recent years. The paralysis of the World Trade Organisation (WTO) is evident, notably the slow progress in the multilateral negotiations, which have come to a near standstill and the dispute settlement system having been compromised through the demise of its Appellate Body since 2019. At the same time, trade and trade policy have been subject to significant disruptions, due to geopolitical developments.

Unfortunately, support for a rules-based international trading system has decreased in recent times and trade policy is increasingly used to further completely different objectives. The imposition of additional tariffs, or threats thereof, such as on the basis of alleged national security grounds, which are perceived as illegal under world trade rules by affected trading partners, inevitably leads to *'tit for tat'* trade wars that mainly deliver reduced legal certainty and less and less commercial predictability for businesses, adding costs to trade that will have to be shouldered by consumers. For many years, opening up markets and conducting global trade negotiations to remove trade barriers has been an important cornerstone of global trade policy, but such an approach is increasingly put into question.

Countries and economies are also increasingly suffering from the side effects of globalisation, such as the outsourcing of certain economic activities and the rapid deindustrialisation, with severe socio-economic and unemployment consequences. At the same time, distant events can have significant impacts on supply chains, incentivising regulators to pursue increasingly protectionist policies. However, protectionism and isolationism can and should not be the response to these trends in today's interconnected world. Rather, in order to continue relying on the economic bonds established between countries and regions around the world, existing agreements and arrangements should be assessed and new instruments should be developed that deliver benefits and that condition preferential market access to certain guarantees.

Finally, arguably, current preferential trade agreements are not sufficiently well structured to manage the trade effects of regulatory initiatives, suggesting that new and innovative approaches are needed. There is increasing, albeit legitimate, regulatory activity with important effects on trade, especially when it comes to the many regulatory initiatives adopted by the EU in recent years aimed at addressing issues related to human rights, labour rights, and the environment. Regulations such as the EU's Deforestation-Free Products Regulation and the EU's Forced Labour Regulation pursue legitimate objectives and many



of our Members engage in activities supporting these objectives, and have set up their own projects and structures for corporate social responsibility and sustainability. We welcome the recent simplification package but note that compliance with the multitude of new rules and regulations remains a challenge – in the EU, but also around the world – particularly for businesses based in developing countries.

The only real answer to these disturbances is a renewed focus on solidifying and enhancing trade relations between those trading partners that share common values and that should further integrate their economies and markets. This includes the EU and ASEAN, as well as individual EU and ASEAN Member States. The economies in the EU and ASEAN are, to a large extent, very complementary and can only benefit from each other. Well-constructed preferential trade agreements would help our regions ‘*weather the upcoming storm*’, expand trade, while, at the same time, not undermining our respective societal values, priorities, socio-economic needs and political agendas.

ASEAN and the EU can put in place great synergies and do so with a set of rules to manage trade liberalisation, build on each other’s strengths, and create win-win scenarios for our economies, our companies, and our people.

### Building on the priorities set in the EU’s relevant strategies

The EU has recently stepped up its engagement with ASEAN, when it comes to its trade and investment policies as seen by the resumption of FTA negotiations with Thailand, the Philippines and, most recently, with Malaysia. Given the uncertainties in trade relations with the US and other trading partners, further emphasis should be placed on expanding these relationships.

In 2021, the Council of the EU adopted conclusions on an *EU Strategy for cooperation in the Indo-Pacific* and, as a follow-up, the European Commission and the High Representative for Foreign Affairs and Security Policy presented a Joint Communication on the EUs ***Indo-Pacific Strategy***.

The following are some of the statements of the EU in its *Indo-Pacific Strategy* as they relate to EU-ASEAN cooperation.

*“The EU and the Indo-Pacific are natural partner regions in terms of trade and investment. (...)*

*(...) it is essential for the EU to reinforce cooperation with Indo-Pacific partners, including in bilateral, regional and multilateral contexts, and to promote the rules-based international order and access to open markets and ensure a stable trading environment. This will entail a further deepening and diversification of trade and investment ties and collaboration to help accelerate the green and digital transitions. This engagement should contribute to strengthening Europe’s strategic reach and security and to securing the resilience of its supply chains”.*<sup>5</sup>

*“The EU will work with its Indo-Pacific partners to reinforce value chains by strengthening and diversifying trade relations, implementing existing trade agreements, finalising ongoing trade*

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<sup>5</sup> The EU strategy for cooperation in the Indo-Pacific, 16 September 2021, p. 1-2, available at [https://www.eeas.europa.eu/sites/default/files/jointcommunication\\_2021\\_24\\_1\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/jointcommunication_2021_24_1_en.pdf) (accessed 24 February 2025).

*negotiations and developing cooperation in strategic sectors, including to address strategic dependencies in supply chains”.*<sup>6</sup>

*“The EU is committed to further engagement on open, sustainable and rules-based trade with partners in the Indo-Pacific region, including on building support for the modernization of the World Trade Organisation”.*<sup>7</sup>

In 2021, the EU also published its trade policy strategy ‘An Open, Sustainable and Assertive Trade Policy’, which underlines that the EU’s preferential trade agreements are “the basis for engagement with important markets and countries around the world”, including in the Asia-Pacific Region.<sup>8</sup>

*“In order to help fulfil its geopolitical ambitions globally, the EU will need to diversify its relations and build alliances with like-minded partners, including through its broad network of trade agreements. This network is essential with each and every current and future agreement forging our relationships with partners. The EU’s free trade agreements (FTAs) are platforms for enhanced cooperation pursuing our values and interests. They are the basis for engagement with important markets and countries around the world, particularly in the Asia-Pacific region (...)”.*<sup>9</sup>

Within the Asia Pacific, ASEAN plays an important role in the EU’s trade strategies. For Southeast Asia, ASEAN and its Member States are the EU’s natural partners.

In view of the new term of the European Commission that started the end of 2024, new and updated strategies will likely be devised going forward. The EU-ABC and its Members see this White Paper as an initial contribution to this strategic process.

### **ASEAN’s ambitions and the EU’s role**

ASEAN and its Member States are pursuing consistent efforts to further integrate into the global economy and global supply and value chains. Our Members, operating across ASEAN, play their part in this development. Increasing trade with other countries and regions is an important part of ASEAN’s agenda and the EU-ABC and its activities are testament to this priority.

ASEAN as a whole has been pursuing the conclusion of preferential trade agreements and now maintains trade agreements with Australia/New Zealand, China, Hong Kong, India, Japan, and Korea, the so-called ASEAN+1 Agreements. Certain individual ASEAN Member States are also pursuing their own trade

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<sup>6</sup> The EU strategy for cooperation in the Indo-Pacific, 16 September 2021, p. 6, available at [https://www.eeas.europa.eu/sites/default/files/jointcommunication\\_2021\\_24\\_1\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/jointcommunication_2021_24_1_en.pdf) (accessed 24 February 2025).

<sup>7</sup> The EU strategy for cooperation in the Indo-Pacific, 16 September 2021, p. 7, available at [https://www.eeas.europa.eu/sites/default/files/jointcommunication\\_2021\\_24\\_1\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/jointcommunication_2021_24_1_en.pdf) (accessed 24 February 2025).

<sup>8</sup> An Open, Sustainable and Assertive Trade Policy, 18 February 2021, available at [https://eur-lex.europa.eu/resource.html?uri=cellar:5bf4e9d0-71d2-11eb-9ac9-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:5bf4e9d0-71d2-11eb-9ac9-01aa75ed71a1.0001.02/DOC_1&format=PDF) (accessed 24 February 2025).

<sup>9</sup> An Open, Sustainable and Assertive Trade Policy, 18 February 2021, p. 9, available at [https://eur-lex.europa.eu/resource.html?uri=cellar:5bf4e9d0-71d2-11eb-9ac9-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:5bf4e9d0-71d2-11eb-9ac9-01aa75ed71a1.0001.02/DOC_1&format=PDF) (accessed 24 February 2025).

negotiations. Furthermore, ASEAN is currently negotiating an FTA with Canada, as well as looking to upgrade its existing FTAs.

Additionally, ASEAN together with China, Japan, Korea, Australia and New Zealand have concluded and are now implementing the Regional Comprehensive Economic Partnership (RCEP) further strengthening ASEAN's position in regional and global chains. Several ASEAN Member States are also Parties to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

*"ASEAN aims to become a more dynamic and stronger segment of the global supply chain and is determined to look beyond the borders of the ASEAN Economic Community".<sup>10</sup>*

The EU, as an important example of successful regional integration, has been a strong supporter of ASEAN and ASEAN regional integration. Formal *'dialogue relations'* between ASEAN and the EU began in 1977 and, in December 2020, the EU and ASEAN became *Strategic Partners*, which elevated the partnership with a commitment to regular summits at leaders' level. The EU notes that the relationship between the two regional organisations *"is based on shared values and principles such as rules-based international order, effective and sustainable multilateralism, free and fair trade"*.<sup>11</sup>

In August 2022, the EU and ASEAN adopted the 2023-2027 Plan of Action to Implement the ASEAN-EU Strategic Partnership.<sup>12</sup> This document sets a number of areas for enhanced collaboration and cooperation, covering Political and Security issues, Socio-Cultural issues, and Economic Co-operation, as well as some cross-pillar issues. On paper, the Plan of Action is excellent. However, we are now half-way through the timeline for the Plan of Action, and much of what is contained in the document, particularly on the Economic and Cross-Pillar sections that are most relevant to the trade and investment relationship, remains to be implemented or, in some cases, is yet to be launched.

The EU and ASEAN are natural partners, well-positioned to foster mutually beneficial trade relations. As *Strategic Partners*, the EU and ASEAN should indeed take their relations to a new level and deliver benefits to their businesses and people.

## 5. EU-ASEAN Trade and Investment

The EU is an important trading partner for ASEAN, and *vice-versa*. In 2023, the EU was ASEAN's third largest trading partner. The ASEAN is also the EU's third-largest trading partner outside of Europe after China and the US. In 2023, bilateral trade between the EU and ASEAN was recorded at approximately EUR 258.4 billion of trade in goods.<sup>13</sup> The EU ranks among the top four trading partners for eight of the ten

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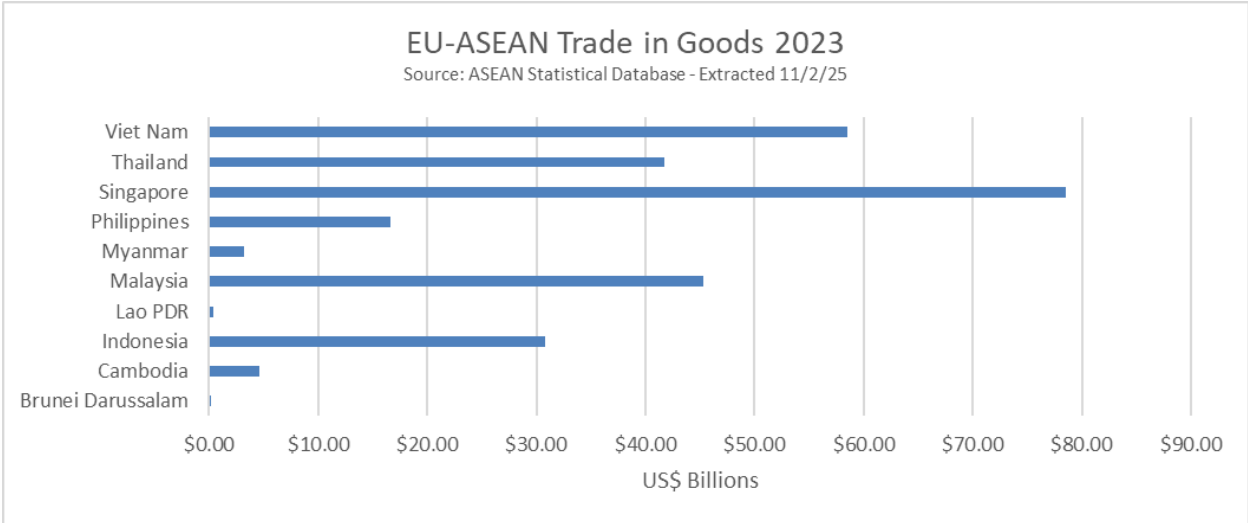
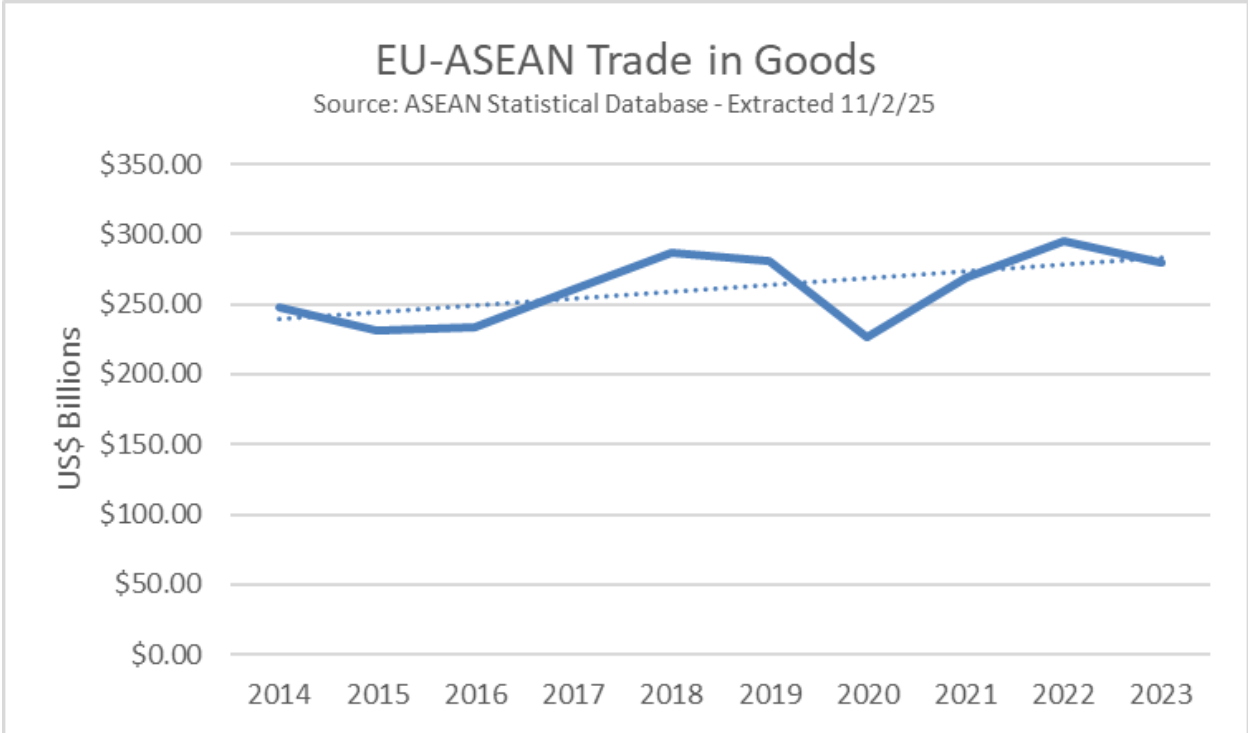
<sup>10</sup> ASEAN Economic Community, *Integration into the Global Economy*, available at <https://investasean.asean.org/asean-economic-community/view/670/newsid/761/integration-into-the-global-economy.html> (accessed 24 February 2025).

<sup>11</sup> European Union External Action Service, *EU-ASEAN Strategic Partnership*, available at [https://www.eeas.europa.eu/eeas/eu-asean-strategic-partnership\\_en](https://www.eeas.europa.eu/eeas/eu-asean-strategic-partnership_en) (accessed 24 February 2025).

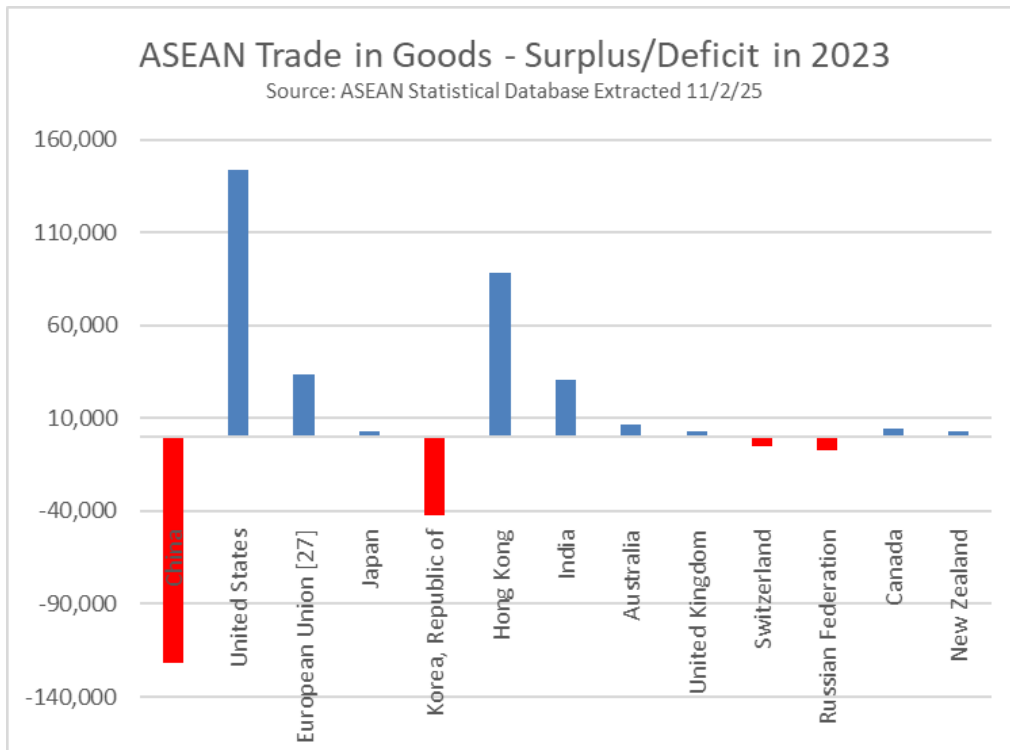
<sup>12</sup> European Union External Action Service, *Plan of Action to implement the ASEAN-EU Strategic Partnership*, Available at [https://www.eeas.europa.eu/eeas/plan-action-implement-asean-eu-strategic-partnership-2023-2027-0\\_en](https://www.eeas.europa.eu/eeas/plan-action-implement-asean-eu-strategic-partnership-2023-2027-0_en) (accessed 10 March 2025).

<sup>13</sup> EU Commission, *Association of South East Asian Nations (ASEAN)*, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/association-south-east-asian-nations-asean\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/association-south-east-asian-nations-asean_en) (accessed 10 February 2025).

ASEAN Member States. According to statistics from the EU, bilateral trade in services amounted to EUR126.1 billion in 2022<sup>14</sup>.



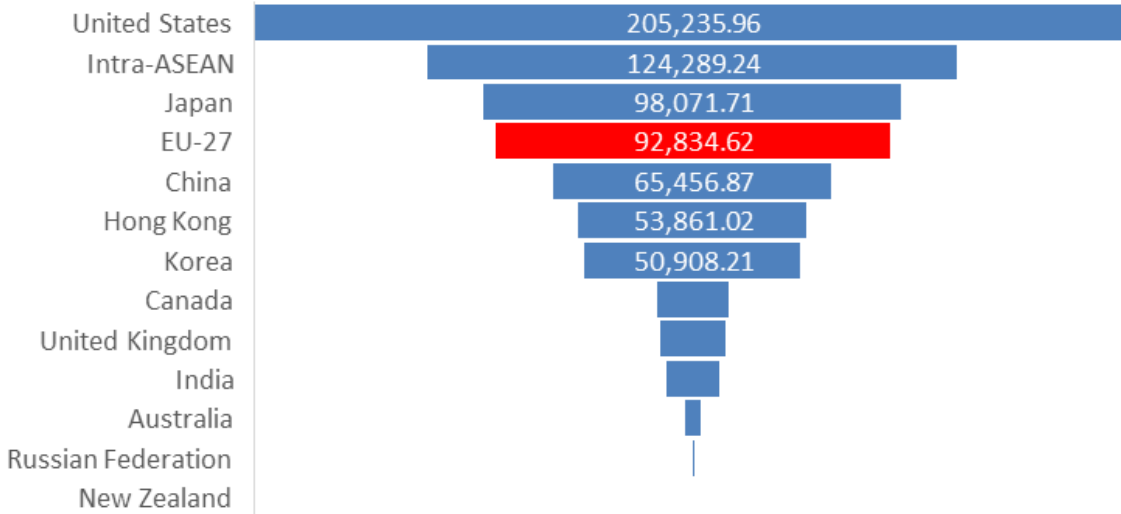
<sup>14</sup> See: [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/association-south-east-asian-nations-asean\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/association-south-east-asian-nations-asean_en)



In terms of foreign direct investment (FDI) flows to ASEAN, the EU was the second highest source of FDI to the region in 2023, with a total of USD 24.4 billion (EUR 23.45 billion) and, over a ten-year span, the EU ranked third in terms of external sources of FDI.

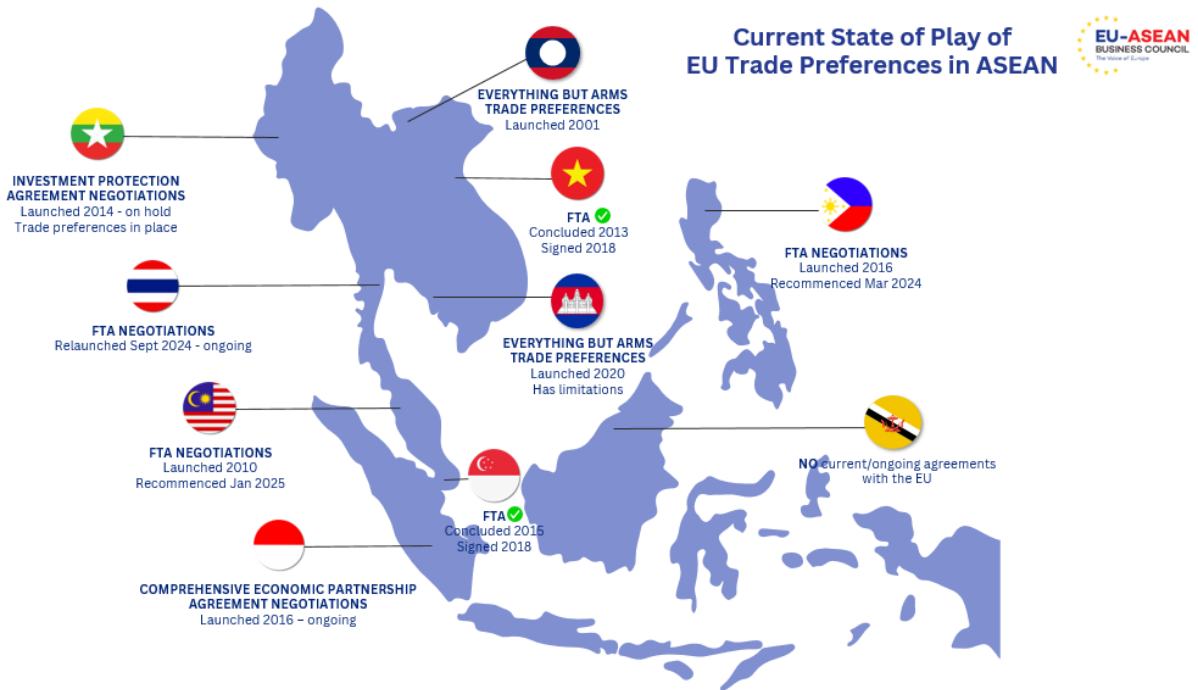
## FDI Flows to ASEAN By Selected Partners (2019-2023) US\$Millions

Source: ASEAN Statistical Database Extracted 11 March 2025



## 6. Impact of Trade Policy Instruments on EU-ASEAN Economic Relations

### 6.1 Mapping of EU Trade Policy Instruments with ASEAN Member States



Improving EU-ASEAN trade must be a priority both for the EU and for ASEAN and their respective Member States. Comprehensive FTAs can build on the existing Partnership and Cooperation Agreements (PCAs) between the EU and individual ASEAN Member States.

Negotiations for a region-to-region trade and investment agreement between the EU and ASEAN had been launched in 2007 but were suspended by mutual agreement in 2009 due to the complexities of region-to-region negotiations.<sup>15</sup> Following this suspension, the EU started pursuing bilateral preferential agreements with individual ASEAN Member States.

- Negotiations were concluded between the EU and Singapore in 2014 and between the EU and Viet Nam in 2015. The EU-Singapore Free Trade Agreement (EUSFTA)<sup>16</sup> entered into force on 21 November 2019, while the EU-Viet Nam Free Trade Agreement (EVFTA)<sup>17</sup> entered into force on 1 August 2020;
- Negotiations between the EU and Indonesia are ongoing. The negotiations for the EU-Indonesia Comprehensive Economic Partnership Agreement (CEPA) were launched in July 2016. In July 2024, the EU and Indonesia held the 19<sup>th</sup> round of negotiations for the EU-Indonesia CEPA, which was characterised as the final in-person formal round. However, various key issues, including with respect to market access and digital trade, remain unresolved. The Government of Indonesia has committed to a rapid conclusion of the negotiations of the EU-Indonesia CEPA by the first quarter of 2025, while the EU has remained more cautious. A number of key obstacles remain to the conclusion of the agreement, some of which will require significant policy shifts by one or both sides, or compromise.
- In March 2023, March 2024, and January 2025, the EU formally resumed negotiations with Thailand, the Philippines, and Malaysia, respectively;
- Negotiations for a trade agreement with Thailand were launched in March 2013, and were suspended by the EU in May 2014 due to the political situation in Thailand.<sup>18</sup> On 23 March 2023, the two sides announced the relaunch of trade negotiations.<sup>19</sup> The first negotiating round took place in September 2023, while the fourth and latest negotiating round took place in November 2024;<sup>20</sup>

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<sup>15</sup> European Parliament, *Trade negotiations between the EU and ASEAN member states*, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754629/EPRS\\_BRI\(2023\)754629\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754629/EPRS_BRI(2023)754629_EN.pdf) (accessed 10 February 2025).

<sup>16</sup> European Commission, *EU-Singapore Free Trade Agreement*, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/singapore/eu-singapore-agreements/texts-agreements\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/singapore/eu-singapore-agreements/texts-agreements_en) (accessed 10 February 2025).

<sup>17</sup> European Commission, *EU-Viet Nam Free Trade Agreement*, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/vietnam/eu-vietnam-agreement\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/vietnam/eu-vietnam-agreement_en) (accessed 10 February 2025).

<sup>18</sup> European Parliament, *Trade negotiations between the EU and ASEAN member states*, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754629/EPRS\\_BRI\(2023\)754629\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754629/EPRS_BRI(2023)754629_EN.pdf) (accessed 10 February 2025).

<sup>19</sup> EU Commission, *EU-Thailand Agreement*, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/thailand/eu-thailand-agreement\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/thailand/eu-thailand-agreement_en) (accessed 10 February 2025).

<sup>20</sup> EU Commission, *Eu-Thailand Agreement: Documents*, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/thailand/eu-thailand-agreement/documents\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/thailand/eu-thailand-agreement/documents_en) (accessed 10 February 2025).

- Negotiations with the Philippines were officially launched in December 2015 but were put on hold following the second negotiating round in February 2017.<sup>21</sup> In March 2024, the EU and the Philippines officially announced the resumption of negotiations.<sup>22</sup> The first negotiating round took place in October 2024 and the second negotiating round took place during the week of 10 February 2025; and
- Negotiations with Malaysia were launched in October 2010 but were suspended in 2012.<sup>23</sup> In January 2025, the EU and Malaysia officially announced the relaunch of negotiations for an EU-Malaysia FTA and the first round of resumed negotiations should take place during the course of the year 2025.<sup>24</sup>

Other ASEAN Member States currently still benefit from the EU's autonomous trade preferences under the EU's Generalised Scheme of Preferences (GSP). More specifically, as least-developed countries, Cambodia, Lao PDR, and Myanmar still benefit from the EU's Everything But Arms (EBA) scheme, which provides for duty-free and quota-free market access for all goods, except arms and ammunition.

- Lao PDR is expected to graduate from LDC status in 2026, which means that it will lose EBA beneficiary status in 2029, but would still likely benefit from the EU's more limited GSP preferences;
- In 2024, the United Nations Economic and Social Council (ECOSOC) endorsed the recommendation for Cambodia's LDC graduation in 2029, following a five-year preparatory period and a potential 3-year extension, which means that it would lose EBA beneficiary status in 2032;
- In 2018, Myanmar had met the United Nations' criteria to graduate from LDC status, but the United Nations' Committee for Development Policy deferred its decision on a recommendation to 2024. Even if Myanmar were to graduate from LDC status in 2024, EBA preferences would still apply at least until 2027 given that there is a three-year transition period;<sup>25</sup> and
- Brunei Darussalam is the only ASEAN Member State that does not benefit from any preferential market access condition vis-à-vis the EU and *vice versa*.

Bilateral trade agreements between the EU and individual ASEAN Member States are important stepping stones towards a broader EU-ASEAN Trade Agreement. However, for that to happen, the EU and the

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<sup>21</sup> EU Commission, Eu Philippines Agreement, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/philippines/eu-philippines-agreement\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/philippines/eu-philippines-agreement_en) (accessed 10 February 2025).

<sup>22</sup> EU Commission, Eu Thailand Agreement, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/thailand/eu-thailand-agreement\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/thailand/eu-thailand-agreement_en) (accessed 10 February 2025).

<sup>23</sup> European Parliament, *Trade negotiations between the EU and ASEAN member states*, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754629/EPRS\\_BRI\(2023\)754629\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754629/EPRS_BRI(2023)754629_EN.pdf) (accessed 10 February 2025); EU Commission, *Malaysia*, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/malaysia\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/malaysia_en) (accessed 10 February 2025).

<sup>24</sup> EU Commission, *Malaysia*, available at [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/malaysia\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/malaysia_en) (accessed 10 February 2025).

<sup>25</sup> United Nations, *Myanmar Graduation Status*, See <https://www.un.org/ldcportal/content/myanmar-graduation-status> (accessed 10 March 2025).



relevant ASEAN Member States must effectively address the existing trade irritants and reach mutually agreeable solutions. This can only be achieved through a shift in attitude from both sides, particularly by adopting a more pragmatic approach that balances competing interests and regulatory sovereignty with compromise, on one hand, and trade facilitation, on the other hand. Additionally, the parties should pursue a good degree of cooperation, either bilaterally or multilaterally, to align their trade and investment policies and address other emerging issues, such as on sustainability, energy security and energy transition.

### 6.2 Unlocking New Potential

The impressive bilateral trade and investment figures underscore a robust economic relationship between the EU and ASEAN. The conclusion and implementation of mutually beneficial FTAs would further deepen relations and trade liberalisation will spur economic growth and welfare, innovation as well as supply chain integration.

According to the European Commission, completing the FTA negotiations with Indonesia, Malaysia, and the Philippines alone could add up to EUR 9.3 billion to the EU’s GDP by 2032 and deliver welfare benefits of up to EUR 8.1 billion. In addition, EU exports could increase by up to EUR 24 billion per year by 2032.<sup>26</sup> These are significant numbers and should be reason enough to move ahead as quickly as possible with the negotiations.

Table 1: Sustainability Impact Assessments<sup>27</sup>

	European Union (Cumulative)	Indonesia	Philippines	Malaysia
<b>Potential Welfare Increase</b>	EUR 8.12 billion	EUR 3.23 billion	EUR 1.29 billion	EUR 2.56 billion
<b>Potential GDP Increase</b>	EUR 9.28 billion	EUR 5.19 billion	EUR 1.5 billion	EUR 5.63 billion
<b>Potential Increase in Exports</b>	EUR 23.86 billion	EUR 7.76 billion	EUR 2.4 billion	EUR 3.64 billion

In this context, the below sections lay out the EU-ABC and its Members’ positions on the respective negotiating contexts.

<sup>26</sup> European Commission, *Sustainable Impact Assessments*, available at [https://policy.trade.ec.europa.eu/analysis-and-assessment/sustainability-impact-assessments\\_en?wt-search=yes](https://policy.trade.ec.europa.eu/analysis-and-assessment/sustainability-impact-assessments_en?wt-search=yes) (accessed 16 March 2025). Numbers from the Sustainability Impact Assessment (SIA) for Thailand are still awaited.

<sup>27</sup> European Commission, *Sustainable Impact Assessments*, available at [https://policy.trade.ec.europa.eu/analysis-and-assessment/sustainability-impact-assessments\\_en?wt-search=yes](https://policy.trade.ec.europa.eu/analysis-and-assessment/sustainability-impact-assessments_en?wt-search=yes) (accessed 16 March 2025).

## 6.2.1 Trade in Goods

### Customs Duties

In 2023, the EU’s average Most-Favoured Nation (MFN) duty was 5%, while tariffs on imports from Indonesia, Malaysia, the Philippines, and Thailand stood at 8%, 5.6%, 6%, and 9.8%, respectively. Across several key sectors, including automotive, wine and spirits, seafood, and dairy, tariffs remain exceptionally high, creating substantial trade barriers that hinder market access and disrupt supply chains.

To maximise the economic benefits of upcoming agreements, negotiating parties should:

- Avoid carving out individual tariff lines or committing only to partial tariff removal;
- Establish reasonable transition periods—not exceeding seven years—to allow for domestic industries to adapt to increased competition, while ensuring swift liberalisation; and
- Front-load tariff reductions, where possible, similar to those negotiated within the EVFTA, to facilitate rapid trade and supply chain integration (see examples in Table 2).

Table 2: Duty elimination by sector in EVFTA<sup>28</sup>

Sector	EIF	Year 3	Year 5	Year 7	Year 9	Year 10
<b>European Union</b>						
Seafood	52%	77%	96%	100%		
Plastics	100%					
Footwear	42%	58%	70%	100%		
Toys	100%					
<b>Vietnam</b>						
Pharmaceuticals	63%	64%	98%	100%		
Fertilizers	80%	80%	80%	100%		
Spirits	-	-	92%	92%	100%	
Car parts (8708)	-	-	-	100%	100%	

### Tariff Rate Quotas (TRQs)

Tariff Rate Quotas (TRQs) allow a specified quantity of imports to enter a market at a reduced or zero tariff rate, known as “*in-quota rate*”, in contrast to the Most-Favoured Nation (MFN) duty rate, known as “*over-quota rate*”. TRQs are key trade policy tools designed to balance market liberalisation with the protection of sensitive domestic industries.

Both the EU and ASEAN Member States, including Indonesia, Malaysia, the Philippines, and Thailand have implemented TRQs across a range of industrial and agricultural commodities, such as dairy, rice, and fertilisers. However, MFN duties for products subject to TRQs are often significant, particularly when import volumes exceed the defined quota threshold, triggering the application of the over-quota rates

<sup>28</sup> Compiled by author based on the legal texts of the EU-Viet Nam Free Trade Agreement, available at [EU-Vietnam: Texts of the agreements](#) (accessed 28 February 2025).

(see Table 3 for examples). These high tariff levels create substantial trade barriers, limiting market access and competitiveness in affected sectors.

Table 3: Thai Tariff Rate Quota For Dairy in Thailand<sup>29</sup>

Dairy Produce	HS code	Year	Quota Volume (MT)	In-Quota Tariff Rate	Over-Quota Tariff rate
<b>Milk and Cream</b>	0401.10	2023	2,150	5.0%	55%
		2024	2,400	5.0%	55%
<b>Skimmed Milk Powder</b>	0402.10	2023	55,000	5.0%	216%
		2024	55,000	5.0%	216%
<b>Whole Milk Powder</b>	0402.21	2023	2,000	5.0%	187%
		2024	2,000	5.0%	187%
<b>Whey</b>	0404.10	2023	1,700	5%	30%
		2024	1,700	5%	30%

If full tariff liberalisation across all tariff lines is not feasible, the FTAs should at a minimum offer substantial preferential TRQs for the affected products. Concessions should be particularly ambitious in sectors where domestic production cannot achieve self-sufficiency. For example, the EU currently maintains TRQs on rice, despite a self-sufficiency level of approximately 60%. Granting generous preferential TRQs could significantly enhance trade flows for key agricultural products, such as rice, sweet corn, tuna, and dairy between the EU and its ASEAN partners. In instances where countries have granted enhanced market access by adopting preferential TRQs, these FTAs should serve as a benchmark for the level of ambition. Examples include the EVFTA for the EU, CPTPP for Malaysia, and the Thailand-Australia FTA (TAFTA) for Thailand (see Table 4).

Table 4: Preferential TRQ's by Country<sup>30</sup>

Country	Product	Trade Agreement	Concession
<b>EU<sup>31</sup></b>	Rice	EVFTA	80,000 metric tons duty free access
	Sweetcorn	EVFTA	5,000 metric tons duty free access
	Tuna	EVFTA	11,500 metric tons duty free access
<b>Thailand<sup>32</sup></b>	Skim Milk Powder	TAFTA	Quota and duty-free access as of January 2025

<sup>29</sup> World Trade Organization, *WTO Notification 2023 (G/AG/N/THA/120)*, available at [Thailand Member profile - Notification Portal](#), World Trade Organization (accessed 28 February 2025), <sup>29</sup> World Trade Organization, *WTO Notification 2024 (G/AG/N/THA/136)*, available at [Thailand Member profile - Notification Portal](#) (accessed 28 February 2025).

<sup>30</sup> Compiled by author based on the legal texts of the EVFTA, CPTPP, TAFTA.

<sup>31</sup> EU Commission, *EU-Vietnam Texts of the agreement*, available at [EU-Vietnam: Texts of the agreements](#) (accessed 28 February 2025).

<sup>32</sup> Australia Department of Foreign Affairs and Trade, *Thailand-Australia FTA Text*, available at [Download | Australian Government Department of Foreign Affairs and Trade](#) (accessed 28 February 2025).

	Milk and Cream	TAFTA	Quota and duty-free access as of January 2025
<b>Malaysia<sup>33</sup></b>	Milk	CPTPP	3,300,000 Liters duty free, starting from Years 1, with an annual increase by 1 per cent compounded annually.  Duties are removed 16 years after entry into force of the CPTPP.

**Rules of Origin (ROO)**

The effective utilisation of FTAs by businesses largely depends on the Rules of Origin (RoO), which determine whether products qualify for preferential tariff treatment. If RoO requirements are overly complex or misaligned with global manufacturing and trade practices, the benefits of an FTA may be significantly reduced, limiting its impact on trade flows.

To facilitate trade between the EU and ASEAN Member States, RoO provisions should be as liberal and simplified as possible, ensuring they reflect the realities of global shipping and enhance supply chain efficiencies. The following key elements should be prioritised:

*Designing liberal ROO*

- **Adopt co-equal rules:** The Product specific rules should give manufacturers the choice between meeting either a regional value content (RVC) rule or a change in tariff classification (CTC) rule to qualify for preferential treatment. This approach allows businesses to select the compliance method that best aligns with their supply chain structures, reducing administrative burden and increasing FTA utilisation.
- **Full bilateral cumulation:** FTAs should permit full bilateral cumulation, meaning that all inputs and processing operations conducted in the EU or its respective ASEAN trading partner count toward origin calculations.
- **Diagonal cumulation:** Unlike the EVFTA, which does not allow comprehensive diagonal cumulation, other FTAs should embrace ASEAN cumulation provisions. This would allow inputs from other ASEAN countries with EU FTAs to be counted toward local content requirements, ensuring supply chain efficiency. This is particularly important for industries with complex and fragmented supply chains, such as consumer electronics, household appliances, and garments. Additionally, this would serve as a stepping stone toward a future EU-ASEAN region-to-region trade agreement.
- **Generous tolerances,** allowing companies to utilise non-originating materials in their RoO compliance, are especially relevant for companies to adapt to complex supply chains for goods that must comply with changes in tariff classification. In other EU FTAs, such as the

<sup>33</sup> CPTPP Repository, *Comprehensive and Progressive Agreement for Trans-Pacific Partnership text*, available at [2-D.-Malaysia-Appendix-A-Tariff-Rate-Quotas.pdf](#) (accessed 28 February 2025).

one with Vietnam, these tolerances are set at 10%, which should serve as a benchmark. EU FTAs specify special tolerances for textiles, which are extremely complex and should be adjusted and harmonised to the tolerance rate of other consumer and industrial goods.

- FTAs should allow a reasonable percentage of non-originating materials to be incorporated in the originating products that comply with CTC rules, recognising the complexity of modern supply chains. The EVFTA sets this tolerance at 10%, which should serve as a benchmark for the other FTAs. Special tolerances for textiles, which currently vary across EU FTAs, should be harmonised to align with those applied to other consumer and industrial goods, improving predictability for businesses.

#### *Reflecting the reality of global shipping and enabling supply chain efficiencies*

- **Non-alteration:** The FTAs should enable products shipped through third parties, in addition to transshipment and temporary warehousing, to retain their preferential status where consignments are split into partial consignments, enabling the use of regional distribution centres.
- **Accounting segregation:** The FTAs should enable accounting segregation of materials to reduce storage costs and drive supply chain efficiency.
- **Third-party invoicing:** The FTAs should provide a clear definition of third-party invoicing that enables commercial transactions, where the export is not necessarily the person (seller) that issues the sales invoice for the consignment.
- **Errors and Discrepancies:** The FTAs should not reject a preferential tariff claim due to minor errors or discrepancies in the origin statement. The agreements should define and list out these types of errors and discrepancies.
- **Origin Verification:** The FTAs should stipulate clear procedures on post-importation origin verification, e.g., process and required documents).

#### ***Measures inhibiting Importation and Exportation***

Export and import restrictions and license requirements are important trade policy instruments to regulate the movement of goods, while ensuring national security, protecting public health, safeguarding the environment and maintaining domestic stability. It is not unusual for ASEAN Member States to administer such trade measures and while they promote legitimate policy objectives, they are not always implemented effectively or in a transparent manner. This is why the FTAs need to define clear rules and require such measures to be applied neutrally and transparently and ensure a fair and equitable administration.

In this regard, the FTA negotiations should particularly serve to address the following measures:

- Import licensing requirements, sometimes preconditioned upon import recommendations;

- Import restrictions on specific goods, such as fuels, motor vehicles and alcoholic beverages; and
- Export restrictions, such as on certain minerals.

### ***Harmonisation of Standards and Mutual Recognition***

Divergences from international standards continue to pose significant challenges for European businesses seeking to export to and source from the ASEAN region, as well as to integrate and leverage regional value chains. Divergences from international standards are particularly pronounced in the automotive industry, as well as in the health and alcoholic beverages sectors. As a result, companies encounter a myriad of non-tariff measures, including burdensome and costly double-testing and certification requirements, quarantine requirements, pre-shipment inspections, and marking/labelling requirements.

The objective of the trade agreements with ASEAN Member States should be to drive harmonisation with global norms and to recognise European standards for all imports, thereby obviating existing non-tariff measures. These concessions should be anchored in the Chapter on Technical Barriers to Trade (TBT) and the Chapter on Sanitary and Phytosanitary Measures (SPS). The recognition of European standards should be guaranteed by sectoral annexes and advanced through the use of trade-facilitative instruments, such as mutual recognition of conformity assessment, harmonisation of standards, and/or equivalence.

### ***Technical Barriers To Trade (TBT)***

To foster a transparent, efficient, and trade-facilitative regulatory environment, the FTAs must establish strong disciplines on technical regulations, conformity assessment procedures, marking and labelling, and regulatory cooperation through technical discussions and consultations. The effective implementation of these provisions will enhance legal certainty, reduce unnecessary trade barriers, and promote deeper supply chain integration, trade, and investment between the EU and ASEAN partners.

- *Technical Regulations*

FTAs should explicitly require that international standards serve as the basis for technical regulations, except in cases where a party demonstrates through objective evidence that such standards would be ineffective or inappropriate in achieving a legitimate policy objective. To provide legal certainty and predictability, agreements should establish a definitive list of internationally recognised standard-setting bodies, including:

- International Organization for Standardization (ISO)
- International Electrotechnical Commission (IEC)
- International Telecommunication Union (ITU)
- World Forum for Harmonization of Vehicle Regulations (WP.29 – UNECE)
- United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UN/SCEGHS)
- International Council on Harmonization of Technical Requirements for Pharmaceuticals for Human Use (ICH)
- International Organization of Vine and Wine (OIV)

To prevent unnecessary regulatory fragmentation, the FTAs should mandate that parties regularly review their technical regulations to enhance alignment with international standards and incorporate evolving regulatory developments.

- *Conformity Assessment Procedures (CAPs)*

The FTAs should require that conformity assessment procedures (*i.e.*, audits, sampling, testing, and certification requirements) be proportionate to risk, ensuring that excessive or redundant conformity testing be avoided. Conformity assessment procedures and requirements in ASEAN Member States often deviate from international practices and approaches under relevant ISO, IEC, and UNR-UNECE guidelines, creating complex, burdensome, lengthy, and costly regimes. These regimes are often not *per se* protectionist in nature but driven by the objective of forcing the utilisation of domestic testing facilities and are the consequence of quality infrastructure systems based on the standardisation bodies' licensing powers, which evidences the fundamental conflict of interest. Where conformity assessments are required, a *Supplier's Declaration of Conformity* (SDoC) should be recognised as an acceptable means of demonstrating compliance, particularly in low-risk sectors, such as textiles and apparel, non-medical footwear, toys, furniture, decor, cosmetics and personal care, and simple electronic components.

In order to promote mutual recognition and the acceptance of test results, FTAs should encourage parties to participate in international agreements on conformity assessment, harmonising testing and certification procedures. Parties should also commit to recognise, by virtue of dedicated mutual recognition agreements to be annexed to the FTAs, the conformity assessments carried out and certified by their respective competent authorities or delegated bodies, so as to facilitate trade. This would aim at ensuring that products certified in one country be recognised in another, minimising redundant testing. Additionally, conformity assessment bodies should be permitted to subcontract testing and inspections, including to facilities located in the territory of the other party, ensuring efficiency and cost reductions while maintaining regulatory integrity.

- *Regulatory marking and labelling requirement*

The FTAs should prevent unnecessary and trade-restrictive marking and labelling requirements by limiting mandatory labelling strictly to information relevant to consumer safety, product usage, or conformity with technical regulations. To further streamline trade, FTAs should:

- Prohibit unnecessary pre-approvals, registrations, or certifications, unless justified by legitimate concerns (*e.g.*, public health, safety, or environmental protection);
- Permit multilingual labelling, internationally recognised symbols, and voluntary supplementary information, provided they do not mislead consumers; and

- Allow supplementary labelling or corrections in Customs warehouses or designated areas within the importing country rather than requiring modifications before export.
- *Institutionalising Technical Discussions and Consultations*

To enhance regulatory cooperation and address regulatory concerns, the FTAs should establish formal mechanisms for technical discussions and consultations on draft or proposed technical regulations and conformity assessment procedures. These provisions should require structured engagement within a clearly defined timeframe to prevent delays in resolving an issue, while fostering regulatory cooperation and convergence.

### **Sector-Specific Provisions or Annexes**

To address sector-specific regulatory challenges, the FTAs should include sectoral annexes that outline tailored rules to reduce technical barriers to trade. Sectoral annexes should drive regulatory alignment and facilitate market access by standardising approvals, mutual recognition frameworks, and equivalence agreements. The following are only two examples of the type of sector-specific annexes that could be attached to the TBT Chapters of EU-ASEAN FTAs.

- *Sector-specific Annex for Automotives*

A dedicated automotive annex should establish comprehensive sectoral rules governing the trade of motor vehicles and automotive components. Its scope should encompass all forms of motor vehicles under tariff headings 8701 to 9705, as well as critical automotive equipment, including engines (8407-8409), chassis (8706), batteries (8507), and pneumatic tires (4011-4012). The annex should mandate the mutual recognition of whole vehicle type approvals, system approvals, and component approvals, thereby ensuring regulatory alignment across markets. To drive regulatory convergence and promote a consistent approach to technical standards, the agreement should institutionalise a motor vehicle working group, modelled after the EU-Japan Economic Partnership Agreement (EPA), to facilitate ongoing dialogue and cooperation between regulatory authorities.

Furthermore, the FTAs should incorporate a formal equivalence agreement on type approval regulations for *Whole Vehicle Type Approval (WVTA)*, thereby reducing duplicative testing and streamlining approval procedures. By removing unnecessary regulatory divergences, this annex would not only enhance trade flows between the EU and ASEAN Member States but also support ASEAN's efforts to develop a regionally integrated and resilient automotive value chain, fostering greater investment and industrial collaboration.

- *Sector-specific Annex for Wines and Spirits*

A sectoral annex for wines and spirits should establish a framework for harmonised regulatory cooperation to eliminate technical barriers to trade in this sector. The annex should comprehensively cover all wine and spirit products under tariff headings 2204, 2205, and 2208, ensuring that regulatory alignment is achieved through the adoption of internationally recognised definitions and oenological practices, as established by the



*International Organization of Vine and Wine (OIV)*. It should also include a commitment to authorise the importation and sale of wines produced in accordance with OIV standards, preventing arbitrary restrictions that could distort trade.

Moreover, to effectively address both current and future trade barriers associated with labelling requirements, the annex should set clear, harmonised rules for the labelling of alcoholic beverages, ensuring that labelling regulations do not create unjustified obstacles to market access. By promoting regulatory coherence and reducing technical barriers, this annex would significantly enhance market predictability, support industry competitiveness, and facilitate smoother trade flows between the EU and ASEAN.

Further sectoral rules could be considered for pharmaceutical and medical devices, electronics, green technologies, retail/transport fuel and other sectors. In fact, these annexes have the potential to allow both the EU and individual ASEAN Member States to address specific irritants and find the trade-facilitative solutions that are necessary to compromise and settle outstanding disputes (*e.g.*, trade in vegetable oils and other crops *vis-à-vis* the many sustainability and environmental requirements being applied by the EU; halal requirements *vis-à-vis* the impact that this labelling scheme may have on products ranging from food to pharmaceuticals, cosmetics, leather goods and the related processing and production methods; competitive and market-based access to supply for retail fuel sector; restrictions for an established investor in the retail fuel business to setup associated non-retail fuel business; clarity and predictability for excise tax refunds process for a foreign investor in the retail fuel sector in the Philippines & Thailand; etc.).

### **Sanitary and Phytosanitary (SPS) Measures**

To facilitate trade in food and agricultural commodities, while safeguarding human, plant, and animal life and health, the FTAs must establish transparent, science-based, and predictable SPS measures that promote regulatory cooperation, harmonisation and equivalence, and mutual recognition.

- *Equivalence*

The FTAs should prescribe robust equivalence frameworks, which would facilitate the recognition of SPS measures where an exporting party demonstrates that its measures provide an equivalent level of protection. If an equivalence request is denied, the FTAs should require the importing country to provide scientific and technical justifications. To avoid redundant reassessments, mechanisms should ensure continued recognition of equivalence when regulatory updates occur.

- *Transparency and Trade Facilitation*

The FTAs should require importing countries to publicly disclose SPS-linked import requirements, ensuring that exporters have clear guidance on compliance. The FTAs should require prompt notification of new SPS regulations, risk assessments, or emerging health threats that could affect trade. Additionally, trading partners should share scientific data, regulatory justifications, and risk assessments, ensuring clarity of compliance.

To minimise trade disruption, if a product has already been approved for import, similar products should be expedited through streamlined procedures, avoiding redundant risk assessments,

unless scientifically justified. Additionally, importing countries should not suspend imports solely due to internal regulatory reviews, ensuring trade continuity unless there is a demonstrated risk.

- *Risk Management and Emergency Measures*

The FTAs should mandate that emergency SPS measures must be necessary, science-based, and proportionate to the risk involved, preventing unjustified trade restrictions. When such measures are imposed, the importing party should immediately notify – ideally within 24 hours – the other party, providing a clear scientific justification. If requested, technical consultations must take place promptly to assess alternative, less trade-restrictive solutions. To prevent emergency measures from becoming disguised trade barriers, FTAs should mandate regular reviews of their necessity and allow flexibility for in-transit consignments, ensuring that goods already in transport are not unfairly rejected.

### **Local Content Requirements (LCRs)**

As anti-globalisation sentiments and geopolitical tensions continue to escalate, the use of local content requirements (LCRs) has become increasingly prevalent. Governments implement LCRs as a tool to enhance industrial competitiveness, increase value-added manufacturing, support job creation, and attract investment and new technologies. However, in practice, LCRs often fail to achieve these objectives and instead restrict market access, deter foreign investment, stifle local innovation, and create supply chain inefficiencies.

Indonesia applies local content requirements across multiple industrial sectors, integrating them into its industrial strategy and government procurement policies, with particularly stringent measures in the healthcare sector. A key concern is that Indonesia's LCR thresholds are disproportionately high relative to the current capabilities of domestic supply chains. Many companies must rely on regional and global production networks, making compliance with these requirements infeasible. As a result, instead of fostering industrial growth, LCRs frequently act as a barrier to trade and investment, limiting opportunities for technological advancement and supply chain efficiency in Indonesia.

FTAs should phase out and prohibit local content requirements across sectors to free manufacturing and trade from these regulatory distortions. Instead, the FTAs should focus on enhancing the integration of local suppliers in supply chains of EU businesses. This can be achieved by:

- Aligning national standards with international norms, ensuring that local manufacturers meet global quality and safety requirements;
- Promoting mutual recognition agreements (MRAs) to streamline regulatory compliance;
- Eliminating non-tariff barriers that restrict the ability of local firms to access global markets;
- Enhancing regulatory transparency, reducing administrative complexity and compliance costs; and
- Strengthening intellectual property rights (IPR) protections, fostering a climate conducive to innovation and technology transfer.

Table 5: Non-exhaustive list of local content requirements in Indonesia

Sector	Regulation	Description
Automotive	Presidential Regulation No. 55 of 2019 on Acceleration of Battery Electric Vehicle for Road Transportation Program	Requirement to produce BEV with certain percentage of local content. For 2- to 3-wheel vehicle: <ul style="list-style-type: none"> <li>● 2019 - 23: 40%</li> <li>● 2024 - 25: 60%</li> <li>● 2026 - onwards: 80%</li> </ul> For 4-wheel vehicle <ul style="list-style-type: none"> <li>● 2019–21: 35%</li> <li>● 2022–23: 40%</li> <li>● 2024–29: 60%</li> <li>● 2030–onwards: 80%</li> </ul>
Medical Devices	National Healthcare Insurance (JKN) program.	Medical devices from 79 categories from the LKPP e-Katalog public procurement system are subject to a 40% local content requirement.
Pharmaceuticals	Ministry of Industry Regulation No. 16/2020	Ministry of Industry (MOI) provides detailed local content calculation formula for pharmaceutical products based on their raw material (50%), research and development (30%), manufacturing (15%) and packaging (5%).  While the regulation does not stipulate any sanction for failure to obtain the local content certificate, the certificate is linked to benefits obtained in the government procurement process.
Renewable Energy	Minister of Industry (MEMR Regulation No.11/2024)  and  Ministry of Industry Regulation No. 34 of 2024	MEMR Regulation 11/2024 prescribes the following local content requirements: <ul style="list-style-type: none"> <li>● Geothermal power plants – 20-29% depending on the capacity type</li> <li>● Hydropower plants – 23-45% depending on the capacity type</li> <li>● Solar powerplants – 20%</li> <li>● Wind powerplants – 15%</li> <li>● Biomass powerplants – 21%</li> <li>● Biogas powerplants – 25.19%</li> <li>● Waste powerplants – 16.53%</li> </ul>
Telecommunication	Ministry of Communication and Information (MCI) Regulation No 13/2021	MCI Regulation 13/2021 prescribes local content requirements for LTE telecommunication devices and for base stations of 35% and 40%, respectively.

## 6.2.2 Trade in Services

As cross-border trade in services continues to expand—particularly through digital platforms and remote service delivery—regulatory restrictions on services have become increasingly fragmented and complex. These barriers not only impede trade in services but also affect global value chains (GVCs), where efficient service integration is critical for manufacturing and production processes.

In the 2025 *OECD Services Trade Restrictiveness Index (STRI)*<sup>34</sup>, Indonesia (#49), Malaysia (#44), the Philippines (#51), and Thailand (#48), rank among the most restrictive markets compared to OECD economies.<sup>35</sup>

These rankings reflect measures that inhibit trade in services, including foreign equity limitations, operational constraints and license requirements across key service sectors that pose challenges across ASEAN markets. Table 6 provides some examples of measures that restrict trade in services.

*Table 6: Illustrative list of trade restrictions in trade in services*

Service Sector	Restriction
<b>Accounting, Auditing and Bookkeeping (Malaysia)</b>	Foreign accounting and taxation firms are subject to local partnership requirement with the foreign equity being capped at 30%.
<b>Postal services (Indonesia)</b>	Postal services are subject to a maximum 49% foreign ownership.  To operate, additional joint venture requirements apply, and operational limitations are confined to provincial capital cities.
<b>Banking (Thailand)</b>	Local Ownership: Foreign banks are generally restricted to holding a maximum of 25% of the shares in Thai financial institutions. The Bank of Thailand possesses discretionary authority to permit foreign ownership of up to 49% on a case-by-case basis.  Operational limits: Foreign Banks branches licensed to operate in Thailand are permitted to establish up to three services points. Foreign financial institutions face operational restrictions, limiting the number of branch operations to three.
<b>Retail (Philippines)</b>	Minium capitalisation requirement for foreign retailers is set at PHP 25 million for foreign retailers.  Additional performance measures require a per-store investment of PHP 10 million.

<sup>34</sup> STRI ranks 50 countries based on regulatory restrictions across 22 service sectors.

<sup>35</sup> Organisation for Economic Co-operation and Development (OCED), *FDI Regulatory Restrictiveness Index*, available at [Services trade restrictiveness index | OECD](#) (accessed 10 March 2025).

Given the impact of service sector restrictions on trade and investment, it is imperative that the EU and ASEAN Member States negotiate FTAs that liberalise and remove barriers to trade in services, ensuring a fair, open, and predictable regulatory environment. The following should be considered during negotiations:

- **Level of ambition**

ASEAN's approach to service sector liberalisation varies significantly across trade agreements. While CPTPP has resulted in substantial market opening, other FTAs have failed to remove barriers in commercially relevant sectors. The FTAs need to pursue *ambitious concessions in commercially meaningful sectors*:

- *"Ambitious concessions"* in sectors with foreign equity caps would mean at least to increase limits to foreign equity participation up to or beyond 50%.
- *"Commercially meaningful sectors"* include accounting, auditing, and bookkeeping services, taxation services, legal services, computer and related services, postal and express courier services, retail services, transport services, and banking and insurance services.

- **Scheduling Methodology**

Service sector liberalisation in FTAs can follow a *"positive list"* or *"negative list"* methodology. In recent years the EU has negotiated FTAs that follow a *"negative list"* approach, while ASEAN Member States have continued to use *"positive lists"* as their preferred method for services liberalisation. Recently, Malaysia and Indonesia have scheduled concessions based on *"negative lists"*.<sup>36</sup> Since *"negative lists"* generally lead to greater service sector liberalisation and provide more clarity for businesses, the EU and its ASEAN trading partners are encouraged to use a *"negative list"* approach in their negotiations.

- **Movement of natural persons**

The movement of professionals remains a major challenge in ASEAN because of a myriad of issues, including strict limitations on the movement of senior managers and specialists, complex procedures and slow processing of business visas and work permits. The FTAs should include concessions that are geared towards enabling business mobility, especially for Intra-Corporate Transferees, and creating more efficient and transparent processes for visa and permit applications.

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<sup>36</sup> Malaysia adopted a negative list approach in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and Regional Comprehensive Economic Partnership (RCEP), Indonesia in RCEP and Indonesia-Australia Comprehensive Economic Partnership Agreement (IA CEPA).

- **Domestic Regulation**

Measures such as licensing and qualification requirements can unintentionally restrict trade in services, if they are not administered transparently and predictably. For this reason, WTO Members, including the EU, the Philippines, and Thailand, have committed to implementing new disciplines and adopting good regulatory practices in the context of the *Joint Initiative on Services Domestic Regulation*. Unfortunately, Indonesia and Malaysia are not involved in this initiative. To facilitate trade in services, it is crucial that the FTAs incorporate horizontal disciplines for domestic regulation. These should include detailed rules on transparency in license requirements and procedures, qualification requirements, and procedures that affect international trade in services. The rules in the EUSFTA and the EVFTA set reasonable benchmarks for such clauses.

- **Digital Services**

It is essential that any trade agreement that the EU negotiates with the ASEAN region include text that allows for the maximum possible free flow of cross-border data (whilst ensuring appropriate levels of data privacy) and prevent data localisation requirements except for a few specified reasons.

The EU-Singapore Digital Trade Agreement should be the baseline for any such negotiations. Measures to encourage and support digital and paperless trade are also crucial in FTAs. This includes provisions covering the use of digital identities, e-invoicing, e-signatures, e-certification and e-contracts etc. Digital trade provisions should also include commitments to maintaining domestic electronic transaction frameworks in line with the principals of the UNCITRAL MLETR, and commitments not to impose customs duties on electronic transmissions. It is also essential that any such Agreements include provisions explicitly supporting the WTO moratorium on Customs duties on electronic transmissions.

- **Sector-specific rules for highly regulated service sectors**

To reiterate the commitment to maintain open and predictable operating environments, any agreements should detail sectoral rules for financial services, telecommunication devices and maritime transport services. These rules should detail commitments for parties to align with relevant internationally standards, provide regulatory transparency and ensure for non-discrimination against foreign service providers.

### 6.2.3 Intellectual Property Rights

The EU is a global leader in advanced manufacturing and innovative service delivery, with its industrial base deeply integrated into high-value global value chains. The EU's strengths span cutting-edge sectors, such as aerospace, pharmaceuticals, automotive, semiconductors, and green technologies. As a result, intellectual property (IP)-intensive industries contribute approximately 45% of the EU's GDP<sup>37</sup> and the

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<sup>37</sup> European Centre For International Political Economy, *The Benefits of Intellectual Property Rights in EU Free Trade Agreements*, available at [The Benefits of Intellectual Property Rights in EU Free Trade Agreements |](#) (accessed 1 March 2025)

majority of its international trade is concentrated in sectors where strong intellectual property rights (IPRs) protection is critical.

Conversely, ASEAN is rapidly emerging as a global manufacturing hub, moving up the value chain from labour-intensive industries to more research and development (R&D)-intensive sectors, such as advanced electronics, automotive, and pharmaceuticals. These industries inherently require robust IPR protection and enforcement mechanisms to encourage innovation and foster investment.

Trade negotiations between the EU and ASEAN present a unique opportunity to establish a comprehensive and high-standard framework for IPR protection, which is crucial for strengthening trade and investment. The FTAs should incorporate advanced provisions on IPR protection and enforcement.

### ***Enhancing IPR protection***

To ensure effective IPR protection, FTA provisions should build on the existing international framework while incorporating 'WTO Plus' commitments. The scope of protected legal positions should encompass: copyrights, trademarks, designs, patents, and geographical indications.

#### **(1) Patent Term Restoration Systems**

Patent registration, especially for pharmaceuticals, is a lengthy and complex process that often results in delays in the granting of patents. To compensate for unreasonable delays, encourage innovation in high-risk industries, and balance public health needs with market competition, the EU offers patent term restoration through *Supplementary Protection Certificates (SPCs)*. These certificates extend patent protection for pharmaceuticals and plant protection products for up to five years. In contrast, Indonesia, Malaysia, the Philippines, and Thailand currently do not offer any form of patent term restoration, despite regularly experiencing delays in patent approvals. To address this gap in the respective legal frameworks, and in alignment with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement), the FTAs should include provisions granting patent term extensions of up to two years in cases where unreasonable administrative delays occur.

#### **(2) Geographical Indications**

The EU grants the highest level of protection for Geographical Indications (GIs), exceeding the legal protections mandated under the WTO TRIPs Agreement by:

- Requiring a higher level of protection for agricultural commodities, ensuring that only genuine regional products can use protected names;
- Imposing stricter rules on naming and labelling, preventing misleading branding; and
- Mandating a compulsory GI registration system, ensuring uniform legal protection.

To enhance GI protection globally, the EU leverages its bilateral trade agreements to promote GIs internationally. In ASEAN, levels of GI protection vary across Member States, with none adopting a comprehensive approach comparable to the one of the EU. Given ASEAN's rich biodiversity, diverse agricultural production, and deep-rooted cultural heritage, all four countries currently negotiating FTAs with the EU could significantly benefit from adopting EU-style GI protections. The increased adoption by ASEAN Member States of EU-style GIs and the related protection would strategically shape their competitiveness in the EU market.

### (3) Regulatory Data Protection

Developing new pharmaceuticals and agrochemicals requires significant investment in research, clinical trials, and regulatory approval. On average, it costs EUR 1 to 2 billion to bring a new drug to the market and takes 10 to 15 years of R&D efforts. By providing temporary exclusivity, Regulatory Data Protection (RDP) aims at ensuring that companies can recoup their investments, preventing their competitors from relying on the safety and efficacy data.

For pharmaceuticals, the EU has granted up to 11 years of RDP, following the "8+2+1" model, while for agrochemicals the RDP grants up to 13 years. This stands in stark contrast to Indonesia, the Philippines, and Thailand, which do not provide any RDP, creating disincentives for innovation and investment. Malaysia, Vietnam, and Singapore, are the only markets in Southeast Asia that provide data exclusivity for new drug products, containing a new chemical entity and second indications of registered drug products for up to five years. To foster pharmaceutical and agricultural innovation, and in accordance with the WTO TRIPs Agreement, the FTAs should at least match the standards in the EVFTA and EUSFTA on regulatory data protection of at least five years.

### (4) Transfer and Source code

To prevent forced technology transfers and promote digital trade, the FTAs should explicitly prohibit the mandatory transfer of, or access to, source code of software as a condition for the import, distribution, sale or use of such software. Limited exceptions should be granted where deemed necessary. The provision should provide an exhaustive list when the transfer or access of the source code can be required. This should be limited to the following instances:

- Voluntary commercial transfers in the context of public procurement
- Regulatory authorities, law enforcement, and judicial bodies to require source code modification where necessary to ensure compliance with domestic law
- Legal access to source for investigations, inspections, enforcement actions and judicial proceedings, provided that appropriate safeguards are in place to prevent unauthorized disclosure.
- Competition authorities to access source codes when necessary to address violations of competition law and prevent anti-competitive practices.



## Enhancing IPR Enforcement

A robust enforcement framework is essential for encouraging continuous investment in innovation and preventing large-scale IPR infringement. FTAs should establish detailed provisions on civil and administrative enforcement, as well as border measures to combat illicit trade.

(i) Leveraging border measures to combat illicit trade of counterfeit goods

Southeast Asia is a major market for counterfeit goods, valued at USD 35 billion annually, affecting industries such as garments, toys, cosmetics and consumer care products, alcoholic beverages, and tobacco. The rise of e-commerce has further facilitated the proliferation of counterfeit goods, as social media platforms and online marketplaces allow infringing products to reach consumers more easily.

Counterfeit goods not only pose serious health and safety risks but also erode revenues and damage brand reputations.

Customs and border control agencies play a crucial role in detecting, intercepting, and seizing illicit goods before they enter legal markets. While ASEAN Member States have adopted border measures in line with the WTO TRIPs Agreement, major gaps and inconsistencies remain. For instance, Indonesia limits access to border measures to domestic right holders, requiring local presence, while the Philippines allows foreign rights holders to access border protections, in line with the *Customs Modernization and Tariff Act of 2016*. Another example is that unlike Thailand and Indonesia, Malaysia lacks a formal Customs recordation system that allows right holders to register IP rights with Customs authorities, enabling more effective identification of counterfeit goods.

The objective of the FTAs should be to enhance border measures to effectively combat illicit trade of counterfeit goods by making border measures more accessible, comprehensive and effective. This can be achieved by:

- *Accessible*: Requiring parties to set up Customs recordation systems, which are available to all rights holders, regardless of geographical presence and removing administrative fees in relation to such measures;
- *Comprehensive*: Border measures should apply to a broad spectrum of IPR, including trademarks, copyrights and related rights, geographical indications, patents, utility models, industrial designs. Topographies of integrated circuits, and plant variety rights. Furthermore, enforcement should cover imports, exports, and transshipments; and
- *Effective*: Customs authorities should be empowered to act *ex officio* (without requiring a prior complaint). The FTAs should also allow for the destruction of counterfeit goods to be expedited without lengthy administrative or judicial proceedings, as well as expedited procedures for goods in courier and postal consignments. Enhanced cross-border cooperation should be promoted to detect and seize counterfeit goods in international trade.

## 6.2.4 Digital Trade

The growing importance of digital trade has been reflected in the European Commission's 2021 Communication on *An Open, Sustainable and Assertive Trade Policy*, which highlights that the EU needs to “step up bilateral engagement and explore stronger frameworks for cooperation on trade-related digital issues with like-minded partners”.<sup>38</sup> As part of this overall approach, the EU pursued *Digital Partnerships* with its key trading partners in the Indo-Pacific region, notably Singapore. A *Digital Partnership* establishes an overarching framework to strengthen connectivity and interoperability of digital markets and policy frameworks.<sup>39</sup>

On 1 February 2023, the EU and Singapore signed the ***EU-Singapore Digital Partnership***.<sup>40</sup> Under the Digital Partnership, the EU and Singapore agreed to work together on critical areas such as “semiconductors, trusted data flows and data innovation, digital trust, standards, digital trade facilitation, digital skills for workers, and the digital transformation of businesses and public services”.<sup>41</sup>

On the same day, both sides signed ***Digital Trade Principles***, which refer to “non-binding instruments that reflect a common understanding of key issues relevant to digital trade and a joint commitment to an open digital economy, free of unjustified barriers to international trade”.<sup>42</sup>

While the EU's *Digital Partnerships* have only been concluded with countries that have existing trade agreements with the EU, the EU could consider concluding a similar partnership, perhaps with a lower level of commitment and different modalities, also with ASEAN. Such a partnership could support ASEAN and ASEAN Member States to achieve early regulatory convergence on digital trade issues with the EU through institutionalised dialogue.

The EU's *Digital Partnerships* and *Digital Trade Principles* are an essential step forward to developing common regulatory approaches on digital trade, but they remain non-binding. In this context, the EU has been pursuing binding commitments on digital trade, which are intended to ‘modernise’ the rules on electronic commerce in the Preferential Trade Agreements (PTAs) concluded with Japan, Singapore, and the Republic of Korea. Notably, the EU is also pursuing binding commitments on digital trade in trade agreements under negotiations.

On 25 July 2024, the EU and Singapore concluded negotiations for the ***EU-Singapore Digital Trade Agreement*** (DTA), which modernises the commitments contained in the *EU-Singapore FTA* that only focus on electronic commerce. The key elements of the DTA are divided into four main areas, namely: 1)

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<sup>38</sup> European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Trade Policy Review - An Open, Sustainable and Assertive Trade Policy*, available at <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2021:66:FIN> (accessed 11 February 2025).

<sup>39</sup> European Commission, *EU-Singapore Digital Partnership*, available at <https://digital-strategy.ec.europa.eu/en/library/eu-singapore-digital-partnership> (accessed 10 February 2025).

<sup>40</sup> European Commission, *EU and Singapore launch Digital Partnership*, available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_467](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_467) (accessed 10 February 2025).

<sup>41</sup> European Commission, *EU and Singapore launch Digital Partnership*, available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_467](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_467) (accessed 10 February 2025).

<sup>42</sup> EU Commission, *Digital trade*, available at [https://policy.trade.ec.europa.eu/help-exporters-and-importers/accessing-markets/goods-and-services/digital-trade\\_en](https://policy.trade.ec.europa.eu/help-exporters-and-importers/accessing-markets/goods-and-services/digital-trade_en) (accessed 10 February 2025).

“Enabling and facilitating open and secure data flow”; 2) “Facilitating end-to-end digital trade; 3) “Establishing trusted and secure digital systems”; and 4) “Promoting greater participation and access to opportunities in the Digital Economy”.<sup>43</sup>

Since these legal instruments are separate and supplementary to the preferential trade agreements negotiated or being negotiated, a region-to-region EU-ASEAN negotiation towards an overall digital trade agreement could prevent further fragmentation. ASEAN has recognised the importance of setting regional standards for digital trade and has started to negotiate a Digital Economy Framework Agreement (DEFA).

### 6.2.5 Government Procurement

With the exception of Singapore, none of the ASEAN Member States<sup>44</sup> are parties to the WTO Government Procurement Agreement (GPA) and are, therefore, not bound by its disciplines, which prescribe open, fair, and transparent competition conditions for public procurement. As a predominantly developing region, ASEAN has been cautious about opening its procurement markets to international competition. This cautious approach is reflected in ASEAN trade policy, where most bilateral and regional trade agreements do not include comprehensive commitments, particularly on market access.

In recent years, however, notable exceptions have emerged. With the entry into force of the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership* (CPTPP) in 2019 and the EU-Vietnam Free Trade Agreement (EVFTA) in 2020, Brunei, Malaysia, and Vietnam have, for the first time, taken steps to open their procurement markets. Nonetheless, this appears to be the exception rather than the norm, as more recently concluded Free Trade Agreements (FTAs)—including the *Regional Comprehensive Economic Partnership* (RCEP)—have not continued this trajectory.

In contrast, the EU is a party to the WTO GPA and is among the most open markets in the world in terms of government procurement. The EU’s government procurement market is estimated to be worth €2 trillion, accounting for approximately 13% of the EU’s GDP. However, the EU has noted that “*EU companies cannot always get equal access to public procurement markets.*”<sup>45</sup>. As a result, the liberalisation of public procurement has become a key objective of the EU’s trade policy agenda, with a strong track record of securing public procurement commitments in its FTAs.

While the EU’s ambitions for public procurement liberalisation are commendable, negotiations often face challenges due to differences in the levels of ambition between the EU and its trading partners. This discrepancy significantly slows down negotiations and, in some cases, has resulted in a complete standstill. To ensure productive trade negotiations, it is essential to establish a common middle ground on public procurement. Therefore, the FTAs should include provisions that *promote fairness, openness, and transparency in public procurement* and incorporate commitments that facilitate greater market access over time.

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<sup>43</sup> EU Commission, *EU and Singapore conclude negotiations for landmark Digital Trade Agreement*, available at [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_24\\_3982](https://ec.europa.eu/commission/presscorner/detail/en/ip_24_3982) (accessed 10 February 2025).

<sup>44</sup> Indonesia (October 2012), Malaysia (July 2012), Philippines (June 2019), Thailand (June 2015) and Vietnam (December 2012) are observers of the WTO Government Procurement Agreement.

<sup>45</sup> European Commission, *Public Procurement*, available at [Public procurement - European Commission](#) (accessed 1 March 2025).

1) The FTAs should *promote fairness, openness, and transparency in public procurement* by

- Formulating detailed procedural requirements for procurement processes, ensuring non-discrimination and competition;
- Establishing clear standards for procurement-related information that enhance predictability and accessibility;
- Implementing domestic review mechanisms, which ensure that businesses can challenge procurement decisions in cases of unfair treatment; and
- As in the EVFTA, ASEAN and the EU could use the WTO GPA as a blueprint for developing a regulatory framework that aligns with international best practices.

2) The FTAs should incorporate *commitments that facilitate greater market access over time*

- While full market access liberalisation may not be immediately feasible, commitments could be phased-in with generous transition periods. This approach was taken in the EVFTA and the CPTPP, where specific sectors or thresholds are gradually opened up to foreign competition.
- The inclusion of “*built-in agendas*” could present a viable solution for market access concessions. The FTAs could prescribe a roadmap with clear timelines and identified entities for a phased inclusion of public procurement commitments following the entry into force of an FTA. To ensure compliance and good faith implementation, the “*built-in agendas*” could be subject to the dispute settlement mechanism.

Ultimately, both the EU and ASEAN Member States should work at finding innovative solutions to make progress on public procurement without unnecessary delays or derailing negotiations. Given the broader economic benefits of a respective bilateral FTA, it is in the interest of the parties to adopt a pragmatic and balanced approach to government procurement. While ambitious market access commitments may remain a long-term objective, a well-structured agreement that guarantees fairness, transparency, and gradual market opening could be a more viable solution.

### **6.2.6 Customs and Trade Facilitation**

In global production networks, simple, modern, and harmonised trade processes and Customs procedures are important to facilitate trade, create supply chain efficiency, and a predictable operating environment. Trade facilitation in ASEAN is relevant for the region’s ambition to become a global manufacturing hub, which hinges on seamless and efficient trade procedures that allow companies to navigate the complex and fragmented nature of regional supply chains.

in reality, Customs procedures often lack transparency and rules are often applied in an inconsistent manner, causing unexpected costs and delays at the border, creating inefficiencies in supply chains.

ASEAN Member States have made commitments in regional trade initiatives and bilateral trade agreements to enhance Customs procedures and trade facilitation. Unfortunately, provisions are often just declaratory in nature. It is worth noting that, in the EU-ABC's 2024 *Business Sentiment Survey*, only 2% of respondents said that they found Customs procedures in ASEAN to be speedy and efficient.

For the FTA negotiations between the EU and ASEAN Member States, it is paramount that the agreements entail comprehensive rules that detail legally binding measures on trade facilitation. The WTO Agreement on Trade Facilitation should serve as the foundational benchmark for the negotiations, establishing a minimum standard upon which more ambitious commitments should be built. The FTAs should also incorporate standstill and rollback provisions pertaining to trade facilitation measures.

Notably the FTAs should cover rules on:

- *Publication of Laws and Regulation*

Transparency is critical for predictable and efficient trade facilitation. All Customs-related laws, regulations, and administrative procedures should be published in English in a timely manner. Designated inquiry points should be established to address concerns and complement access to information. Furthermore, publishing proposed regulations in advance and allowing stakeholders to comment before the adoption should be mandated to strengthen good regulatory practices and accountability, and to prevent disruptions to trade.

- *Release of Goods*

To enhance supply chain efficiency and reliability, simplified Customs procedures for the efficient release of goods should be a priority in the FTA. Parties should agree to provide the release of goods within a period no greater than that required to ensure compliance with its Customs law and, to the extent possible, within 48 hours of the goods' arrival. The agreements should provide for the electronic submission and processing of documents before arrival, enabling immediate clearance without the temporary transfer to warehouses or other facilities.

- *Risk Management*

A robust risk management mechanism is essential for trade facilitation. The FTAs should detail rules requiring Customs to adopt and maintain electronic or automated risk management systems for assessment and targeting that enables authorities to focus their respective inspection activities on high-risk goods and expedite clearance of low-risk products.

- *Expedited Shipments*

Customs procedures for expedited shipments are essential to facilitating trade and the timely delivery of goods, especially for perishable goods. The FTAs should incorporate provisions that require Customs to set up expedited shipment procedures for express shipments. This includes electronic submission and processing of shipment information before arrival, a single manifest for all goods in an express shipment, and clearance within

four hours under normal conditions. To facilitate express shipments, those valued at USD 200 or less should be exempt from Customs duties, taxes, and formal entry documents.

- *Review and Appeals*

A fair and transparent review and appeals system is essential for accountability and Customs determination. Importers must have access to an independent administrative review that is separate from the original decision makers. This would enhance business confidence, prevent arbitrary decisions, and promote compliance with trade regulations.

- *Penalties*

Effective enforcement of Customs laws requires a robust system of penalties to ensure compliance and deter violations. The FTAs should require parties to adopt civil, administrative, and, where appropriate, criminal penalties for breaches related to tariff classification, Customs valuation, country of origin, and preferential tariff claims. A clear and enforceable penalty system promotes fair trade, prevents fraud, and strengthens the integrity of Customs.

- *Advanced Rulings*

A transparent and efficient ruling system is essential for trade predictability and compliance. The FTAs should adopt rules that allow manufacturers, importers, and exporters to obtain written advanced rulings for tariff classification and origin determination within 90 days of the application. Companies should also have access to administrative review.

## **6.2.7 Transparency and Good Regulatory Practices**

The EU upholds high standards of transparency and good regulatory practices, ensuring that legislative and regulatory processes are open, predictable, and inclusive. The EU's *Better Regulation* framework governs EU policy making, requiring that proposed legal instruments undergo public consultation, regulatory impact assessments, and stakeholder engagement before adoption. Draft legislation, impact assessments, and policy evaluations are published on the European Commission's "*Have Your Say*" portal, allowing stakeholders to provide feedback at multiple stages of the legislative process. Additionally, the Official Journal of the EU serves as a central platform where all laws, regulations, and decisions are made publicly available.

By contrast, this culture of transparency and stakeholder consultation is less prevalent across ASEAN, often resulting in less predictable and effective regulations. However, in recent years, ASEAN has demonstrated a growing commitment to regulatory transparency, particularly in trade-related measures. Initiatives such as the ASEAN Trade Repository, provided by the ASEAN Trade in Goods Agreement (ATIGA), mark a positive step forward, when properly implemented, but further improvements are necessary to transform the regulatory landscape across the region.

FTAs present a unique opportunity for the EU and ASEAN to collaborate on strengthening transparency and good regulatory practices. This should be a priority area in FTAs calling for comprehensive and legally binding commitments in both areas.

- *Strengthening Transparency in Trade Agreements*

The provisions on transparency in the FTAs should require the prompt publication of laws, regulations, and administrative rules through an officially designated medium, preferably in electronic format and in English. This would ensure that businesses and stakeholders have timely and clear access to regulatory information. Moreover, the FTAs should, where feasible, mandate explanations of regulatory objectives and provide reasonable transition periods before the enforcement of the measures, so as to minimise compliance burdens. Additionally, effective enquiry mechanisms should be established to allow businesses to request and receive timely clarifications on trade regulations.

- *Promoting Good Regulatory Practices*

The provisions on good regulatory practices should aim to foster a culture of transparency and stakeholder engagement throughout the regulatory process. FTAs should encourage regulatory authorities to publicly disclose their rulemaking processes through digital platforms, ensuring real-time accessibility to regulatory updates. Authorities should publish draft regulations, with clear guidelines for stakeholder engagement.

Furthermore, the FTAs should promote regulatory impact assessments (RIAs) to provide holistic insights into the economic, social, and environmental implications of new regulations. To ensure continued effectiveness, regulations should also be subject to periodic review to assess their relevance, efficiency, and necessity.

## **6.2.8 Dispute Settlement and Effective FTA Implementation**

The successful implementation of FTAs is essential to maximising their economic, social, and geopolitical impact. To ensure the full adoption and proper operationalisation of these agreements, the parties should integrate the following concessions into the FTAs:

- *A Robust Dispute Settlement Mechanism*

A comprehensive and enforceable Dispute Settlement Mechanism (DSM) must be a core feature of the FTAs, providing a structured and legally binding process to address violations and ensure compliance with agreed commitments. These mechanisms should incorporate consultations, mediation, and adjudication to ensure that disputes are resolved within an established legal framework. Moreover, DSM provisions in EU FTAs should apply horizontally, covering all key chapters of the agreements.

- *“Snap-back” or “roll-back provisions” as alternatives to the Dispute Settlement Mechanism*

Despite their legal significance, formal dispute settlement procedures are rarely invoked due to political sensitivities, high costs, lengthy proceedings, and uncertainty in enforcement. Governments often prioritise diplomatic solutions and informal consultations over formal litigation, weakening enforcement and allowing non-compliance to persist.

To address non-compliance more flexibly and effectively, some trade agreements incorporate “*snap-back*” or “*roll-back*” provisions, allowing parties to reinstate previous tariffs or trade barriers if commitments are not met. For example:

- EU-Japan Economic Partnership Agreement (EPA): The agreement includes a safeguard clause in the automotive annex, allowing either party to suspend equivalent concessions or obligations if the other party fails to comply with the agreed rules.
- EU-Mercosur FTA: This agreement anchors the *Paris Agreement* as an essential element, granting parties the right to suspend the FTA—either partially or fully—if another party withdraws from the *Paris Agreement*.

These examples demonstrate how both targeted and broader “*snap-back*” provisions can be effectively designed to pursue compliance. Future trade negotiations should draw from these precedents, integrating clear and enforceable “*snap-back*” mechanisms as a means to strengthen implementation and uphold commitments within FTAs.

- *Clear and Justifiable derogations clauses*

The agreements should allow derogations based on legitimate public policy objectives, such as national security, public health, environmental protection, and consumer safety. However, to prevent the misuse of derogation clauses as a means to diminish trade concessions or delay FTA implementation, these exceptions must be:

- Clearly defined within the agreement- ideally derogations should be specified in exhaustive lists; and
- Linked, where possible, to international standards (*e.g.*, WTO principles, the Paris Agreement, or WHO guidelines).

The FTAs could include sunset clauses and periodic reviews, ensuring that derogation measures are revoked after a reasonable period unless renewed with a justified rationale. This would prevent the use of public policy exceptions as *de facto* trade barriers.

- *Capability building*

Recognising that FTA implementation requires significant regulatory and institutional changes, capacity building must be a central pillar of trade agreements. The FTAs should commit parties to adopting comprehensive capacity-building programs in key areas, including:



- Trade facilitation and customs procedures: Modernizing border controls, digitizing trade processes, and streamlining regulations.
- Sanitary and Phytosanitary (SPS) measures: Enhancing compliance with food safety and agricultural health standards.
- Intellectual property (IP) protection and enforcement: Strengthening legal frameworks to combat counterfeiting and ensure robust IP rights.
- Sustainable development: Supporting regulatory alignment with climate policies, labor rights, and environmental standards.

Particularly in relation to sustainable development, capacity-building efforts should prioritise areas linked to the *European Green Deal*, with a focus on supporting the development of localised capabilities and know-how for private and public sector stakeholders. This would not only strengthen *Green Deal* compliance and advance sustainability in regional production networks but also foster a better understanding of EU regulatory developments and ASEAN supply chain complexities among the parties.

## 7. Taking into account EU Regulatory Developments

In recent times, the EU has pursued a high number of large-scale regulatory initiatives with an impact on trade. These initiatives are often linked to broader policy initiatives, the objectives of which are largely shared by the EU-ABC and its Members, as well as by EU trading partners. Still, they have created widespread concern, confusion, and increased pushback by several ASEAN Member States.

- **The *European Green Deal*:** A package of policy initiatives by the European Commission, which aims to make the EU climate neutral by 2050;<sup>46</sup>
- **The *Fit for 55* package:** A set of legislative proposals by the European Commission, which aims to reduce the EU’s net greenhouse gas emissions by at least 55% by 2030;<sup>47</sup> and
- **The *Farm to Fork* Strategy:** A policy initiative within the European Green Deal, which aims to make the EU’s food system “*fair, healthy and environmentally-friendly*”.<sup>48</sup>

Within the context of the broader umbrella frameworks, the EU has introduced several specific legal instruments that have garnered particular attention in the EU and beyond, including for the trade and commercial impact of some of the measures. The Members of the EU-ABC fully support the objectives of the instruments and broadly align with their strategic direction and commitments to sustainability. However, it is crucial that such policy initiatives do not hinder the progress in negotiating preferential trade agreements. Rather, autonomous measures taken by the EU, ASEAN or an ASEAN Member State should be factored in and be subject to trade facilitative commitments during the negotiations.

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<sup>46</sup> European Commission, *The European Green Deal*, available at <https://www.consilium.europa.eu/en/policies/green-deal/> (accessed 5 February 2025).

<sup>47</sup> European Commission, *Fit for 55*, available at <https://www.consilium.europa.eu/en/policies/fit-for-55/> (accessed 5 February 2025).

<sup>48</sup> European Commission, *Farm to Fork Strategy*, available at [https://food.ec.europa.eu/horizontal-topics/farm-fork-strategy\\_en](https://food.ec.europa.eu/horizontal-topics/farm-fork-strategy_en) (accessed 5 February 2025).

The following measures appear to be of particular relevance for businesses and trade, including between ASEAN and the EU, and are briefly discussed in the context of FTA negotiations below:

- Deforestation-Free Products Regulation (EUDR);
- Carbon Border Adjustment Mechanism (CBAM);
- Forced Labour Regulation;
- Corporate Sustainability Reporting Directive (CSRD);
- Corporate Sustainability Due Diligence Directive (CSDDD); and
- Critical Raw Materials Act.

**Deforestation-Free Products Regulation (EUDR)**

The EUDR is designed to reduce the EU's contribution to global deforestation and forest degradation driven by the EU's consumption of certain forest-risk commodities and their derived products. The EUDR imposes due diligence requirements on any operator and trader that places any of the covered commodities, or any of the products derived therefrom, on the EU market, or that exports them from it, to prove that such commodities or products are 'deforestation-free'.

The EUDR is probably one of the most controversial legislative instruments adopted by the EU in recent years, despite the fact that it pursues an objective that everyone can agree with, namely reducing deforestation and forest degradation. However, the approach selected by the EU, requiring businesses to prove, through due diligence and beyond legality, that their products were not grown, harvested, obtained from, or raised on land that has been subject to deforestation or forest degradation after 31 December 2020, poses significant challenges, especially for developing countries and their smallholders, notably in the ASEAN region. Despite the one-year delay in its implementation, agreed by the EU in late 2024, businesses and supply chains are still working towards achieving EUDR compliance and there is a need to further enhance capacity building, technical assistance, and training.

At the same time, efforts by exporting countries should be recognised, and greater emphasis should be placed on fostering cooperation and building trust among the competent authorities of the EU and exporting countries, which would then allow the EU to classify certain countries or regions as having low or no risk of deforestation and forest degradation. Dialogue is important, but even more so is the willingness of all parties to listen, understand, and consider innovative solutions that enhance the fight against deforestation, while facilitating trade.

The FTA negotiations in ASEAN provide significant leeway to ensure that the EUDR is effectively implemented and that the trading partners proactively engage in dialogue and cooperation to combat deforestation while facilitating trade. The parties could agree to incorporate provisions into the Trade and Sustainable Development Chapter that align with the objective of the EUDR, such as commitments to combat illegal logging and promote trade in products from sustainably managed forests.

Furthermore, in the EU-Mercosur Trade Agreement, the Annex to the Chapter on Trade and Sustainable Development acknowledges that Mercosur countries are best placed to assess compliance with EUDR. By incorporating such provisions alongside clauses on information exchange and collaboration regarding trade-related initiatives for sustainable forest management and governance, competent authorities in ASEAN could significantly contribute to the effective implementation of the EUDR. Additionally, it could help ASEAN Member States overcome existing reservations regarding the EUDR. Finally, such measures would help the EU and its ASEAN counterparts coordinate effectively to address structural challenges in EUDR-commodity value chains.

<b>Carbon Border Adjustment Mechanism (CBAM)</b>	<b>The CBAM puts a price on the carbon emitted during the production of carbon-intensive goods that are entering the EU, in order to ensure that the carbon price of imports into the EU is equivalent to the carbon price paid by EU domestic producers under the European Emission Trading System (ETS).</b>
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While limited to energy-intensive sectors, the CBAM is poised to have a significant impact on trade for the covered commodities, including when it comes to exports from some ASEAN Member States. Certain ASEAN Member States have introduced or are in the process of introducing carbon pricing measures, including carbon tax or emission trading schemes. The EU should work toward establishing an effective, flexible and simple methodology that enables importers to account for carbon prices paid in the exporting countries.

Under the European Commission’s *Simplification Omnibus* package of proposals, the EU has proposed introducing default values for carbon prices paid in the exporting country, when the carbon price effectively paid cannot be determined. The *Simplification Omnibus* package further details that the Commission may “publish the methodology and make available [...] the default carbon prices for [...] third countries, based on the best available data from reliable, publicly available information and information provided by those third countries”<sup>49</sup>.

Trade policy instruments, particularly FTAs, offer an opportunity to formalise commitments for technical exchanges, regulatory cooperation, and dialogue. The EU and its ASEAN partners could consider incorporating such commitments on climate regulations, including carbon pricing and, notably, CBAM. For instance, the parties could set up a dedicated subcommittee dealing with climate policies, composed of representatives of the parties with technical expertise to facilitate exchanges on regulatory best practices and to identify trade-facilitative solutions. For instance, mutual recognition agreements could be negotiated and agreed, as attachment to the FTAs, enabling the exporting party to certify compliance with the CBAM of in-scope products.

<b>Forced Labour Regulation</b>	<b>The Forced Labour Regulation prohibits the placing and making available on the EU market, or the export from the EU market, of any product made using forced labour.</b>
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<sup>49</sup> European Commission, *Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2023/956 as regards simplifying and strengthening the carbon border adjustment mechanism*, available at [https://commission.europa.eu/document/download/606b4811-9842-40be-993e-179fc8ea657c\\_en?filename=COM\\_2025\\_87\\_1\\_EN\\_ACT\\_part1\\_v5.pdf](https://commission.europa.eu/document/download/606b4811-9842-40be-993e-179fc8ea657c_en?filename=COM_2025_87_1_EN_ACT_part1_v5.pdf) (accessed 1 March 2025).

Forced labour is another area in which the EU-ABC and its Members very much share the objective pursued by the EU, namely, to eradicate forced labour. While businesses will closely follow the compliance requirements and operationalise the forthcoming EU guidelines, governments must equally review and enhance legal and policy frameworks, enforcement and inspection mechanisms, multi-stakeholder engagement channels, and international cooperation and enforcement mechanisms to effectively eradicate forced labour. To support this, the EU should not only consider providing capacity-building and technical assistance to third countries but also leverage its trade policy to tackle forced labour and drive the effective implementation of the International Labour Organisation (ILO) Conventions on Forced Labour (No. 29 and No. 105) and the Protocol of 2014 to Convention No.29.

The EU’s Generalised Scheme of Preferences (GSP) serves as a notable example of how preferential market access can lead to or contribute to sustainable development. The GSP+ scheme gives developing countries a special incentive to pursue sustainable development and good governance, as they must implement 27 international conventions on human rights, labour rights, the environment, and good governance. Compliance is determined through monitoring, including through monitoring missions and the involvement of stakeholders.

Conditionalising trade preferences appears to be a more systematic way to drive human rights and environmental protection than setting due diligence requirements. FTAs or autonomous arrangements like the GSP could be tailored to require trading partners to ensure that businesses within their jurisdiction adhere to internationally agreed rules and requirements linked to human rights, labour rights, and the environment.

<p><b>Corporate Sustainability Reporting Directive (CSRD)</b></p>	<p>The CSRD modernises and strengthens the rules regarding social and environmental information that companies have to report. Notably, a broader set of large companies, as well as listed SMEs, will be required to report on sustainability.</p>
<p><b>Corporate Sustainability Due Diligence Directive (CSDDD)</b></p>	<p>The CSDDD lays down a substantive corporate duty for large companies to perform due diligence to <i>“identify, prevent, mitigate and account for external harm resulting from adverse human rights and environmental impacts in the company’s own operations, its subsidiaries and in the value chain”</i>.</p>

Following through with its commitment to significantly reduce the administrative burden created by EU regulation, the European Commission has recently put forward an ambitious Omnibus Simplification Package, which proposes to simplify both CSRD and CSDDD. This is an important step forward in addressing the challenges faced by globally operating companies, as they have to comply with diverse and not always coherent jurisdictional requirements, particularly in the area of sustainability.

Given today’s interconnected global supply chains, ensuring that companies act responsibly and sustainably should be a global priority. This is an excellent example of where enhanced regulatory cooperation and coherence could make a great contribution to sustainable change, while fostering economic growth. Local rules should be consistent with international standards and strive to be interoperable.

### Critical Raw Materials Act

The *Critical Raw Materials Act* aims to strengthen all stages of the European critical raw materials value chain, diversify the EU's imports to reduce strategic dependencies, as well as improve EU capacity to monitor and mitigate risks of disruptions to the supply of critical raw materials.

For many current technologies, access to certain raw materials is critical, and these raw materials, especially certain minerals and rare earths, are unevenly distributed around the world. The EU is, therefore, increasingly pursuing commitments on raw materials in its trade agreements, including with ASEAN Member States. At the same time, a number of ASEAN Member States are seeking to export value-added products instead of raw materials. This is another area for greater cooperation between the EU and ASEAN, ensuring access, supporting value addition, and enhancing trade.

### ***Trade commitments***

The EU-ABC and its Members consider that the *European Green Deal* and related policy initiatives linked to sustainable development should not hinder progress in the negotiation of preferential trade agreements and their implementation. Rather, autonomous measures taken by the EU or ASEAN or an ASEAN Member State, should be factored in and be subject to trade facilitative commitments.

While most businesses support the objectives of many legal instruments promoting greater sustainability, measures must be proportional, reasonable and explicit. At the same time, regulators must be mindful of the different degrees of development and readiness for compliance. When well established EU-based companies express concerns about rules, such as the EUDR, CBAM, and CSRD/CSDDD- it underscores the significant compliance challenge that businesses in developing countries, including ASEAN, may encounter. While this is not an argument to renounce all these initiatives, there is a clear case for greater regulatory cooperation, capacity building, and trade facilitation. These global issues are only going to be resolved by concerted global efforts. We businesses share and understand the objectives, but maintaining trade is vital for our companies and our countries' economies. In fact, economic benefits and preferences can be important incentives to ensure compliance.

Greater cooperation and coordination between the EU and ASEAN should naturally provide the platform for discussing these and other regulatory initiatives that are poised to affect trade. While the EU and ASEAN will likely easily agree on shared objectives, such as climate change mitigation, safeguarding forests, and protecting workers from forced labour, the compliance requirements may pose significant challenges for ASEAN businesses, especially MSMEs and smallholders, which often are integral parts of the multinationals' supply chains. Trade-facilitative tools should be considered to live up to the objectives of the *Strategic Partnership*, while pursuing these shared objectives.

## 8. EU-ABC Recommendations

The EU-ABC and its Members believe in strong EU-ASEAN relations and call on stakeholders in the EU and across ASEAN to pursue an ambitious agenda that can counterbalance the current geopolitical disruptions. The world is changing, and EU-ASEAN cooperation and relations must evolve as well. The traditional approach of preferential trade agreements generating trade and economic integration can no longer play out as it has in the past, which means that new, innovative solutions must be tried and tested. It also means that more agility and flexibility is needed in order to more swiftly react to changing environments, new trends, and policy developments.

The EU-ABC and its Members strongly support the EU's efforts in terms of negotiating preferential trade agreements with ASEAN and ASEAN Member States and stand ready to also publicly advocate for such agreements that provide important opportunities for both sides. The EU-ABC and its Members have a clear interest in the swift and successful conclusion of the ongoing trade negotiations with ASEAN Member States, namely Indonesia, Malaysia, the Philippines, and Thailand. In the current geopolitical context, strengthening relations with ASEAN Member States is more important than ever, as it presents a significant opportunity for Europe's economic growth. By tapping into dynamic and fast-growing markets and developing diversified and resilient supply chains, Europe can build momentum and bolster its competitiveness on the global stage. We have laid out our specific concerns and interests above and provide a number of broader perspectives and negotiating suggestions in the sections below.

### ***A Real Strategic Partnership – Elevating Cooperation and Coordination to a New Level***

Naturally, countries and jurisdictions maintain their sovereignty and policy space to introduce certain rules and procedures regulating their markets, but the trade dimension should not be disregarded, allowing for dialogue, regulatory cooperation and coherence, as well as trade facilitation.

This should especially be the case within existing frameworks of cooperation, such as the EU-ASEAN *Strategic Partnership*. While such partnerships visibly translate into regular summits at the highest political level, there are a lot more opportunities to foster meaningful cooperation and trade facilitation at the technical level. There is much scope for enhanced collaboration and cooperation between the EU and ASEAN. At the moment, official interaction is largely limited to an annual consultation on trade issues between the European Commissioner of Trade and Economic Security and counterparts at the ASEAN Economic Ministers Meeting, and between the EU's High Representative for Foreign Affairs and Security Policy and ASEAN Foreign Ministers. The engagement in the context of other ASEAN Ministerial or Senior Official Groupings is *ad hoc* at best. The EU-ABC believes, in line with the ASEAN-EU Plan of Action, that there should be regular dialogue at Ministerial/Commissioner Level and Senior Official Level in areas such as Digital Economy, Energy, Agriculture, Transport, Environment, and Health, only to name a few. These are all *fora* where ASEAN's other dialogue partners regularly participate, whilst the absence of the EU is often commented on. Furthermore, such interaction has to be in person and with people travelling from Brussels.

This must also be the case with respect to the negotiation of preferential trade agreements and the identification of novel instruments and creative solutions to facilitate trade and provide reciprocal preferences. These preferences can no longer just be tariff preferences, but must encompass non-tariff measures, regulatory convergence, mutual recognition and many other tools that can assist in achieving important societal values and addressing non-economic concerns, while facilitating trade.

### ***A Different Kind of Preferences***

In terms of trade, the benefits of closer cooperation should also translate into preferential market access. However, we believe that the term “*preferential market access*” should be reinterpreted to make it worthwhile in today’s trade environment. Traditionally, “*preferences*” and “*preferential market access*” refer to removing or reducing tariffs. However, following the GATT and WTO rounds and the negotiation of preferential trade agreements, EU tariffs are, for the most part, already relatively low or at 0%, so that tariff reductions, as important as they still are, should not be the only or main focus. Rather, the introduction of certain regulatory requirements (often in the form of non-tariff measures that favour certain domestic and state-owned enterprises), the non-compliance with which impedes the access to that given market, is creating significant obstacles that act like tariffs, making market access more expensive and discriminatory or even unattainable. As the removal of such regulatory requirements is often not an option from a policy perspective, it should be considered how compliance could be facilitated through cooperation or available trade instruments, such as the mutual recognition of the standards or of the related conformity assessments.

In fact, we consider that most of the Preferential Trade Agreements in force today are not properly equipped to address these burdensome regulatory developments and non-tariff measures, which have an important impact on trade. Innovative solutions must be considered and tried.

### ***The Long-Term Objective of an EU-ASEAN FTA***

The EU and ASEAN should not lose sight of a region-to-region agreement. In fact, ASEAN has already negotiated and is negotiating, as a bloc, a number of trade agreements. ASEAN clearly demonstrated its ability to negotiate as one during the RCEP negotiating process and its negotiations with Canada.

At the same time, within a few years, most ASEAN Member States will likely have concluded agreements with the EU (*i.e.*, Indonesia, Malaysia, the Philippines, Singapore, Thailand, and Vietnam) and it should also be taken into account that Cambodia, Lao PDR, and Myanmar are on track to graduate from LDC status and would move to become GSP or GSP+ beneficiaries. Therefore, a comprehensive trade agreement would also be of greater interest for trade with these ASEAN Member States.

### ***Improved Transparency and Implementation***

A key priority for the EU-ABC and its members is, of course, the effective implementation of existing trade agreements (*e.g.*, Singapore and Vietnam) and proactive taking into account of industry’s perspectives related to the need for enabling and non-discriminatory trade and investment environment for existing foreign investors in the ongoing negotiations with other ASEAN Member States, namely with Indonesia, Malaysia, the Philippines, and Thailand. Proper implementation is important to ensure that the concessions made under the respective agreements, which often come at considerable political and economic cost, are balanced by adequate and quantifiable benefits to many constituencies across both parties. This makes both common sense and business sense.

Diligent monitoring and regulatory transparency are core prerequisites for the successful implementation and enforcement of trade agreements. Transparency, in particular, is critical to regional economic integration and to the rule of law, which are principles dear to both the EU and ASEAN.

The EU is at the forefront of applying transparency to its legislative and regulatory processes, allowing access to civil society and interested stakeholders, including the private sector, to virtually all stages of its legislative and administrative action.

This reality impairs trade, limits investment and region-to-region integration, stands as a hurdle to the rule of law, and weighs disproportionately on SMEs and their cross-border trading opportunities. The preferential trade agreements of the EU with ASEAN Member States should revisit the traditional approach to transparency and explore new instruments and enforceable commitments with respect to transparency. The return on the investment in greater transparency would be significant, also improving governance and reducing the scourge of corruption, which often remains a major irritant in doing trade with ASEAN.

Therefore, the EU-ABC calls on the EU and ASEAN to negotiate, formulate, commit to, and enforce ambitious transparency obligations for the rules, requirements and procedures that traders and investors need to know and comply with under the respective preferential trade agreements. Simple but effective technological solutions could be adopted to offer this information through online repositories, ensuring that the information provided is comprehensive, reliable and regularly upgraded. Online enquiry points should offer traders, investors and interested stakeholders the opportunity to request specific information, when missing on the repository, and receive it within a reasonably short timeframe.

Other flanking measures could be considered to enforce these transparency obligations. For instance, a system could be devised that, when a party to the preferential trade agreement has evaded its transparency and notification obligations with respect to a specific trade-related measure, the burden of proof to prove that such measure is consistent with the agreement, if need be, would be reversed, falling no longer on the complainant (proving its inconsistency), but on the respondent (proving its consistency).

Finally, with respect to transparency and private sector engagement, which, arguably, must go hand-in-hand, consideration could also be given to institutionalising and reflecting in the preferential trade agreement a mechanism to allow transparent consultations between the private sector affected by measures of the parties, and the parties to the agreement. This could happen virtually through a dedicated e-platform for consultations with the private sector.

### ***Business-friendly Enforcement and Dispute Settlement Mechanisms***

Enforcement is a key priority for business and an area where improvements would be very desirable and could make a difference. The EU and ASEAN must continue to see that preferential trade agreements bring more benefits than risks and the inevitable adjustment pains, when domestic constituencies are faced with increased competition. There is often a sense that not enough is done to implement and enforce preferential trade agreements. The EU has, in recent years, rightly become more assertive on this front, but new instruments could and should be considered for negotiation and use in its new preferential trade agreements with ASEAN Member States.



For instance, shorter time periods should be provided under the agreements for the trade barriers identified by the respective businesses and traders to be addressed, to become issues of consultation between the parties, and to trigger provisional suspensions of equivalent concessions or the reinstatement of the MFN trading conditions (*i.e.*, ‘*snap back*’ clauses) until such time as the barriers have been removed or addressed. If done within the ‘*guardrails*’ of clear rules and due process agreed under the agreements, instead of through unilateral, arbitrary, and retaliatory measures, these instruments would greatly contribute to effective implementation, to commercial predictability, and to widespread support for trade liberalisation.

In fact, businesses and industries should be much more involved in the implementation and enforcement of commitments. For instance, the EU’s *Single Entry Point* is an important novelty, but it is too slow and neither sufficiently effective, nor transparent. While businesses can submit detailed complaints, the follow up by the Commission is often uncertain and lacking transparency. Additionally, the dispute settlement provisions that allow disputes between the Parties to the Agreement are important to ensure general compliance and implementation, but they are less relevant for the immediate concerns of businesses. For example, the EU’s trade agreement with the Andean countries provides for a *Mediation Mechanism for Non-tariff Measures*, but it does not appear to have been used to address any of the current controversial issues. Still, innovative ideas and solutions must be developed and considered.

Once trade issues have been identified, there must also be options to act and react, ideally swiftly and decisively. On the one hand, this should discourage certain actions that go against the spirit of cooperation and/or commitments in an agreement and, on the other hand, should provide the necessary means to react. While the EU has been adding to its toolbox, such as through its *Anti-Coercion instrument*, further innovative solutions and mechanisms should be considered. As noted above, this could include rapid tariff ‘*snap back*’ provisions that allow the reinstatement of tariffs that had been reduced or removed by the agreement.

### **More Rapid Updates and Modernisation**

Given that negotiations for preferential trade agreements often take years and are then followed by lengthy procedures to finalise and ratify the concluded agreements, provisions and commitments are often already outdated by the time that actual implementation begins. To a certain extent, this is normal. At the same time, it is often rather difficult to update and amend existing agreements and agreements are too static.

The EU-ABC and its Members consider that these processes must become faster and more reliable. More specifically, the EU should ensure that trade commitments falling under EU competence be rapidly implemented, notably by consistently splitting broader agreements into EU-only parts related to trade commitments and parts addressing other aspects that also fall under EU Member States’ competence and also requiring their ratification.

The preferential trade agreements, once concluded, should become real ‘*living agreements*’ that facilitate their update in relation to emerging issues, recalibrations, and the amendment of relevant aspects. Such modernisation should be subject to simple procedures, for instance linked to the committees established under the respective agreement and tasked with supporting implementation. These tasks could be rendered legally and technically simpler by placing in the bodies of the agreements only the general obligations and mechanisms that would require ratification when amended, and greatly expanding the

use of Annexes and Protocols, where the commitments and obligations that may require more frequent modification and adaptation are placed, so that they could be progressively amended and kept up to date at a technical level, without requiring new ratification procedures.

On this note, it should be pointed out that the use of Annexes and Protocols is not, in itself, a novelty and the recourse to these instruments, including by the EU, has already been successfully implemented with respect to certain sectors (*e.g.*, automotive, pharmaceuticals, electronics). However, the EU-ABC and its Members believe that sector-specific commitments could also be beneficial in many other sectors that are subject to ever more stringent regulation in the EU or that are subject affected by trade-restrictive policies and measures in ASEAN Member States. Such dedicated instruments within the preferential trade agreements would allow a deep dive into the specificities of each sector and cater to the needs of the relevant industries and the peculiarities of each market.

At the same time, given the potential implications of the amendments and updates, certain consultative mechanisms could be introduced to allow for inputs into the process by relevant stakeholders. This could also concern the additional inclusion of sector-specific commitments. Such processes should be much more easily triggered, including in view of inputs from traders, businesses, industries, consumers, and other interest groups.

### ***Effective Technical Assistance and Capacity Building***

The EU is already providing extensive technical assistance and capacity building around the world, including in the ASEAN region. However, it appears that activities could be much more tailored to the needs of businesses and of operators on the ground. In this regard, the private sector, such as businesses gathered in the EU-ABC, could be consulted prior to the development and implementation of specific projects, and could also play more active and supportive roles in delivering technical assistance that is geared to trade facilitation, economic integration and investment.

After all, most EU-ABC Members have a long history of engagement with the governments of ASEAN Member States, as well as within the commercial realities and the local communities where they operate. Greater synergies between the EU public and private sectors in engaging with our ASEAN partners would create better economies of scale and fit well within the *Team Europe* spirit under which EU technical assistance is provided to ASEAN.

Given the *Strategic Partnership* between the EU and ASEAN, cooperation and collaboration should be deepened and should move from mere technical assistance to regulatory cooperation and administrative collaboration. Given that a lot of the trade instruments are implemented and enforced at the border, a natural ambit of collaboration would be the area of Customs facilitation. Other areas, which are prone to greater support by the EU, are those of standardisation, harmonisation, mutual recognition, and trade and sustainable development.

### ***Achieving and Preserving Public Support***

In recent times, preferential trade agreements have often led to public backlash and strong criticism by certain interest groups. While the criticism may originate with certain interest groups, it often translates into broader scepticism, sometimes founded in misconceptions and a lack of awareness and knowledge.

Better engagement should take place between the EU and its Member States and various affected constituencies, so as to illustrate the opportunities under these agreements, the risks and the mitigating instruments, the broader contexts, and the socio-economic benefits that they deliver.

It is clear that preferential trade agreements, despite all safeguards and transitional phase-in periods, put certain domestic constituents under stress and pressure by leading to increased competition. Therefore, we believe that two things must go hand in hand: 1) Trade commitments that take account of sensitive issues, together with the accompanying measures mitigating negative impacts; as well as 2) Clear and simple communication of the benefits of trade agreements. The business community is willing and available to do its part and also publicly advocate for an open and fair-trade policy.

**Innovative and business-friendly solutions exist, and the EU-ABC and its Members trust the EU and ASEAN to act on their commitments and to take big steps forward in the coming months and years. The EU-ABC and its Members stand ready to do their part.**

## **9. About the EU-ASEAN Business Council**

The EU-ASEAN Business Council (EU-ABC) is the primary voice for European business within the ASEAN region. Recognised by both the European Commission and the ASEAN Secretariat, and accredited under Annex 2 of the ASEAN Charter, the EU-ABC serves as an independent body committed to promoting European business interests and driving policy and regulatory changes that enhance trade and investment between Europe and ASEAN.

The EU-ABC is dedicated to advancing the interests of its members through strategic advocacy initiatives that cover various sectors and topics. Our mission is to influence policy and regulatory environments to foster a sustainable and competitive business landscape in the ASEAN region.

The overarching objective of the EU-ABC is to promote changes in policies, rules and regulations so that European businesses can more easily invest and develop their businesses in the region to the benefit of the local economies and populations as well as their own shareholders.

For more information please visit [www.eu-asean.eu](http://www.eu-asean.eu)