

TERMS OF REFERENCE

ASEAN-AUSTRALIA AND NEW ZEALAND TRADE NEGOTIATING COMMITTEE (AANZTNC)

Introduction

1. Following the signing of the Joint Declaration of the Leaders at the ASEAN-Australia and New Zealand Commemorative Summit in Vientiane, Lao PDR, on 30 November 2004, ASEAN and Australia and New Zealand will initiate negotiations in early 2005 on an ASEAN-Australia and New Zealand Free Trade Agreement (AANZFTA) covering trade in goods, services and investment.
2. The following are agreed terms of reference for the creation and operation of the ASEAN-Australia and New Zealand Trade Negotiating Committee (AANZTNC).

Objective

3. The ASEAN-Australia and New Zealand Trade Negotiating Committee (AANZTNC) shall be the forum for negotiating the AANZFTA, based on the timeframes and negotiating principles agreed by Ministers at the 9th AEM-CER Consultations on 5 September 2004 in Jakarta and by Leaders at the ASEAN – Australia and New Zealand Commemorative Summit on 30 November 2004 in Vientiane.

Composition

4. The AANZTNC shall comprise the senior trade negotiators from ASEAN Member Countries, Australia and New Zealand. Each side shall nominate their representatives to the AANZTNC.
5. There shall be three Chief Negotiators representing ASEAN, Australia and New Zealand. The Chief Negotiators shall be senior level government officials to be nominated by each side.
6. ASEAN, Australia and New Zealand may include experts in their respective delegations to the AANZTNC to assist in the negotiations.

Chairmanship

7. The AANZTNC shall be co-chaired by the Chief Negotiators of ASEAN, Australia and New Zealand.
8. The Chief Negotiators shall be the main spokespersons for ASEAN, Australia and New Zealand in the negotiations process.

Scope of work

9. The AANZTNC's work shall be guided by the principles agreed by Leaders on 30 November 2004 in Vientiane, The Guiding Principles appear as **Annex**.

Reporting Mechanism

10. The AANZTNC may establish and task expert or working groups, as and when necessary, to carry out negotiations on specific areas, or assist the TNC, as directed, in the negotiation of the AANZFTA.

11. Expert groups/working groups established by the AANZTNC will report regularly on progress to the AANZTNC.

12. The AANZTNC shall report the progress and outcome of the negotiations to the AEM-CER Consultations through the SEOM-CER Consultations.

Meeting Schedule

13. The AANZTNC shall determine its own schedule of meetings. Where appropriate, inter-sessional meetings and/or teleconferences could be scheduled to advance negotiations. There should also be provision for electronic communication and exchange of texts inter-sessionally through designated liaison points in each country.

Secretariat Support

14. The ASEAN Secretariat shall provide ASEAN with the necessary secretariat support, including with AANZTNC meetings which are held in ASEAN member countries. Australia and New Zealand shall provide the necessary support when the meetings are held in their respective countries.

**GUIDING PRINCIPLES FOR NEGOTIATION ON ASEAN-AUSTRALIA AND
NEW ZEALAND FREE TRADE AREA (FTA)**

The FTA will be mutually beneficial for all parties. With that objective in mind, the negotiations will be guided by the following principles:

- (a) The FTA should be comprehensive in scope, covering trade in goods, services and investment.
- (b) The objective of the FTA should be to move towards deeper economic integration between the two regions through progressive elimination of all forms of barriers to trade in goods, services and investment; and through trade and investment facilitation and economic cooperation measures.
- (c) The FTA should, where relevant, build on members' commitments in the WTO.
- (d) Due consideration should be given to the different levels of development and capacity of the Member Countries to participate in comprehensive trade and investment liberalisation. The FTA should therefore include provision for flexibility, including special and differential treatment, especially for the newer ASEAN members.
- (e) Recognising the different levels of development among the Member Countries of the two regions, provision should be made for technical assistance and capacity building programs to enable all parties to participate fully and to obtain full benefit from the FTA.
- (f) The FTA will be designed to enhance and improve transparency in trade and investment relations between the parties.
- (g) The modalities and timeframes of the FTA, including differentiated timeframes for Australia and New Zealand, ASEAN-6 and CLMV, and products, should be settled at an early stage of the negotiations.
- (h) The FTA will be open to inclusion of issues not covered by the existing AFTA and CER Agreements, to be agreed by all parties.
- (i) The terms of the FTA will be subject to periodic review.
- (j) The FTA should be consistent with WTO provisions, including GATT Article XXIV and GATS Article V.
- (k) The FTA should draw, as appropriate, on elements of the economic integration agreements of ASEAN and CER. In addition, the elements of any FTAs involving ASEAN Member Countries, Australia and New Zealand may be used as reference points.
- (l) AFTA and CER will continue to exist as distinct, functioning agreements, as will the FTAs between ASEAN Member Countries, Australia and New Zealand. No provision in the FTA will detract from the terms and conditions of bilateral and plurilateral FTAs between ASEAN Member Countries, Australia and New Zealand.

The FTA will be fully implemented within 10 years. The negotiations will commence in early 2005 and be completed within two years.