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## Trade Facilitation Action Plan

A synthesis of reports by some ASEM members on measures taken to address the Consolidated and Prioritised List of the Major Generic Trade Barriers among ASEM Partners - 2002

### 1. Introduction

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The Senior Official Meeting on Trade and Investment (SOMTI) adopted in 2000 the Consolidated and Prioritised List of the Major Generic Barriers to Trade among ASEM Partners. This list was established on the basis of individual documents compiled by each ASEM partner, with input from the business community, as a basis for future work.

The Consolidated and Prioritised list sets out barriers in eight priority areas: customs procedures, standards and conformity assessment, public procurement, quarantine and sanitary phyto-sanitary procedures, intellectual property rights, mobility of business people, distribution, as well as other barriers, which do not fall clearly within of the other categories.

The present report provides a summary of the main trends and developments extracted from the information about new developments taken in the EU, China, Thailand, Vietnam, Philippines, Malaysia, Brunei, and Singapore.

There have been significant, new developments in all the countries which reported - particularly in the areas of customs procedures, standards and conformity assessment, quarantine and sanitary phyto-sanitary procedures, and intellectual property rights.

Overall, the key trend which is apparent amongst all the ASEM partners is the increasing use of the internet to provide greater transparency and much wider access to information in all priority areas. There are a number of notable innovations to facilitate and streamline procedures. In order to increase transparency in various priority areas, many partners are making use of the Internet to publish relevant information and guidelines in several languages for the benefit in particular of the business community, and SMEs in particular.

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## **Trade Facilitation Action Plan**

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## 1. CUSTOMS PROCEDURES

- *Lack of transparency (e.g. the existence of unofficial customs procedures, unwritten rules and unpublished changes, and the absence of information regarding customs regulations and procedures in English).*

All the ASEM partners who reported have continued to work on further harmonisation and increasing the transparency of their custom procedures. Several indicated that they have in place various guidelines and flowcharts of procedures to be observed and to serve as reference for traders in strategic locations in operational offices throughout the country concerned. Many are also ensuring that their relevant legislation, guidelines and procedures are being made publicly available through web sites on the Internet in several languages.

In some cases, importers are given the possibility to obtain information on the tariffs that are applied, based on a product description and the origin of the good. Importers may also have access to databases of “binding tariff information “ and “binding origin information”.

- *Complex and/or costly regulations (e.g. additional levies and charges imposed on imports and tariffs imposed on samples and catalogues) – No streamlining of procedures.*

The European Community indicated that it does not impose custom duties on samples and catalogues and that additional levies and charges are only collected by the customs services if they actually perform services for the benefit of the importer, such as after-hours customs clearance.

A number of ASEM partners indicated that they are focusing intensive efforts on further streamlining their customs procedures. For example, Singapore has introduced a one-stop service for the collection of parcels.

- *Delays in customs clearance procedures due to, for instance, excessive and/or irrelevant paperwork, and the absence of after-hours customs services despite the provision for such services in the regulations, causing undue financial burden on traders (e.g., ongoing demurrage charges).*

Most ASEM partners have established a policy to support trade facilitation through the reduction of time that is needed for customs clearance. In this context, the simplification of custom clearance procedures plays an important role. Also on the agenda is reducing paperwork by importers to the minimum that is required for ensuring the protection of legitimate interests of the country of importation.

A number of new customs techniques and initiatives to streamline procedures are being implemented and utilised in several countries, including Post Clearance Audit, Risk Management, as well as Internet-based technology, including capacity building efforts for personnel involved in customs.

In all Member States of the European Union, it is the common rule for customs offices at important ports, airports and land borders to ensure that a 24 service is provided for the purpose of customs declarations. In certain ASEM countries, the need to ensure a physical customs presence throughout the day is being eliminated completely through the use of information technology and automated processing.

Further streamlining of customs procedures in many ASEM countries is taking place by promoting the use of computerised systems for customs declarations, with many partners now working towards developing eventual paperless transactions. Singapore makes use of electronic filing to eliminate paper for a range of services, including shipmaster's acknowledgements and refunds.

Of particular note are the very sophisticated projects on electronic commerce and paperless trading which have been launched by the Philippines. The M (Mobile) – Governance Project for Cellphone-based Billing and Payment of Duties and Taxes by Smart Money is the first of its kind in the world, providing an alternate mode for the payment of taxes. When a broker files an electronic import entry at his own premises or at the Electronic Encoding Center, he receives an mobile bill text message of the computed taxes due via a Smart system. He then pays using his mobile by transferring the funds from his Smart Money accounts to the relevant customs authority. Once payment is confirmed, mobile OLRs or on-line release system instructions are then sent to the broker by text messaging. This end-to-end payment process takes only 5 minutes without the need to physically have access to a bank. The present system takes 3 to 9 hours (overnight) when a payment is made through a bank.

Another innovative project in the Philippines is the Cellphone-based Broadcast of Cargo Status by Globe. Once an import entry is filed at the international airport on a shipment in the name of an EPZA or Export Processing Zone (EPZ) locator, the import manager or other authorised company officials will be alerted by a text message on their mobiles at any time during the day of the arrival. This system prevents unauthorised use of the name of EPZA locators whose imports are mostly tax-free. After receiving the text message, the EPZA's finance transport and/or import departments anticipate requirements regarding the shipment. Customs personnel in the destination ports of the inbound shipment are also alerted 24 hours a day. Eventually, confirmation of the arrival of the shipment will be done via a text message to a shipment database and a cellphone tracking system. Presently, there is no such system for locators. Currently, customs personnel are informed when a telegram is sent, sometimes arriving after the shipment has already arrived in the EPZA or EPZ locator.

Furthermore, there is no need to have a computer to send or receive an e-mail to/from the Philippines Customs Bureau, as a result of their Cellphone-based BoC Website Surfing and E-mail facility. The public, including internal clients such as brokers or importers can surf the Customs website and have access to all the written information (minus the graphics) on the website via Nextel phone. The full range of transactions and information that are available in the website can be completed through phone access alone.

Finally, the Express Cargo Clearance Facility (ECCF) Project is developing an Internet-based Cargo and Tax Payment Processing. An air express cargo importer or broker can electronically file his import entry, pay his duties and taxes and receive OLRs or on-line release system instructions all via the Internet. All these can be done right in his premises with his computer connected to the Internet.

The increasing use of such widely available electronic facilities to streamline customs procedures is an obvious area where ASEM partners should intensify their exchange of information in order to take greater advantage of shared experiences and to identify possibilities for common approaches.

- *Problems with customs valuation (e.g., lack of uniformity and frequent modifications) and customs reclassification.*

The majority of ASEM partners report that their customs legislation fully implements the WTO Agreement on Customs Valuation, with the goal of ensuring the uniform application of these rules by their custom administrations. ASEAN countries are developing and implementing the ASEAN Harmonised Tariff Nomenclature (AHTN).

- *Inconsistent interpretation and application of existing regulations.*

All ASEM partners who reported indicated that their customs policy is intended to achieve uniform interpretation and application of the existing customs regulations throughout their country. To this end, various forms of co-ordination and control have been established among the services concerned. In addition, in some countries, it was stated that importers may appeal decisions of customs authorities, either via administrative or judicial procedures, which also contributes to a consistent interpretation and application of legal rules.

- *Irregular, illegal and/or non-transparent practices in return for compensation – (e.g., requests for unofficial fees to accelerate the process), the existence of unofficial, simplified customs channels and/or uncertain special privileges for selected companies.*

No detailed information was provided on the individual efforts to fight corruption and fraud.

## 2. STANDARDS AND CONFORMITY ASSESSMENT

- *Double standards and discriminatory treatment of foreign/domestic products*

All ASEM partners who reported stated that they conform strictly with the WTO-TBT rules in this respect, and that the provisions of their regulations apply equally to domestic and foreign products. Both domestic and foreign manufacturers should therefore have at their disposal identical standards and conformity assessment procedures.

In the EU, under the New Approach to technical harmonisation and standardisation initiated in 1985 for a large number of products there are no mandatory requirements for use of specific standards. It is sufficient to adhere to the essential requirements set out in EU directives or regulations, concerning legitimate public policy objectives, such as health and safety.

- *Complex approval procedures*

Most ASEM partners continue to pay attention to streamlining procedures.

The EU supports a very broad use of manufacturer's declaration of conformity in a large number of regulations whenever this is deemed adequate to fulfil the legitimate public health and safety requirements, and with no discrimination between domestic and foreign producers. This approach has required that an appropriate legislative framework for market surveillance of products - including safeguard actions against non-compliant or dangerous products - has been set up as the necessary complement to the use of appropriate conformity assessment procedures.

Under the Singaporean Consumer Protection (Safety Requirements) Registration Scheme, which does not recognise manufacturer's self-certification of conformity, certain electrical, electronic, and gas consumer products are required to be certified and registered before being sold. Conformity assessment is a single standard, single test scheme based upon mainly international IEC standards and requiring certification by designated third-party conformity assessment bodies (local or MRA partner CABs).

- *Lack of use of international standards*

All reporting ASEM partners indicated that their policy is to adopt International Standards, where relevant, and that they are active in the International Organisation of Standardisation - ISO and the International Electrotechnical Commission - IEC. Some partners have an on-going exercise to review the alignment of national standards with existing relevant international standards.

There are indications of increasing co-ordination between certain Asian partners. For example, in the area of measurement and metrology, Brunei Darussalam unilaterally makes use of other countries' measurement systems, and in area of Accreditation, Brunei Darussalam utilises Singaporean accreditation services including laboratory accreditation for conformity assessment.

Several ASEM partners reported participation in multilateral and bilateral mutual recognition agreements/arrangements. Countries are becoming members of the Pacific Accreditation Co-operation Multilateral Recognition Arrangement (PAC-MLA) so that their accreditation schemes can be recognised in the Pacific region, ensuring that certificates being issued by the accredited certifying bodies are recognised by other PAC-MLA signatory members. Membership in the Asia

Pacific Laboratory Accreditation Co-operation Mutual Recognition Arrangement (APLAC-MRA) ensures recognition of laboratory accreditation schemes in the Asia-Pacific region

At the international level, the PAC-MLA will be recognised by other regions such as the European Accreditation (EA) through the International Accreditation Forum (IAF), in which both PAC and EA are members.

- *Lack of consistency regarding the proper body to establish and administer standards, approval and certification requirements for imports and problems with non-recognition of conformity assessment procedures obtained in the country of origin*

Many ASEM partners distinguish between standards setting bodies and conformity assessment organisations. In the EU, both standards setting (CEN, CENELEC, and ETSI) and conformity assessment organisations are separate private bodies, whereas in most Asian ASEM partners, standards are set within public organisations.

Equally, conformity assessment bodies playing a role in regulations; these “notified” bodies have to prove, among other things, independence from specific manufacturers to be eligible.

- *Lack of transparency in regulations*

Most ASEM partners are signatories to the WTO TBT agreement and therefore submit their draft and final regulations according to TBT rules.

At the various levels of rule-making, the EU takes the appropriate steps to ensure information and participation of interested parties: for example, specific Working Groups (composed of representatives of national authorities, consumers, manufacturers, standard bodies, etc.) are normally involved, since the early stages, in the drafting of regulations.

### 3. PUBLIC PROCUREMENT

All the Member States of the EU and some Asian Partners of ASEM are signatories of the WTO plurilateral Government Procurement Agreement (GPA). Therefore, the procedural guarantees incorporated in their national systems can already be invoked by the suppliers from these ASEM Partners. Accession to this Agreement can contribute to finding an effective solution to many of the barriers mentioned in this area.

- *Bidding restrictions and discriminatory treatment of foreign enterprises (e.g., the process is open to companies with a minimum level of domestically-held shares or domestic content in products / preferential treatment of domestic companies or those with local partners)*

ASEM partners who are signatories to the GPA prohibit bidding restrictions and discriminatory treatment in respect of products, services or companies of other GPA parties for procurement covered by this Agreement.

Some ASEM partners implement various restrictions on government procurement. Malaysia will only invite international tenders if goods and services are not available locally. This policy is considered to be in line with the 4<sup>th</sup> WTO Ministerial Declaration Doha on transparency in Government procurement that does not restrict preferences to be given to domestic supplies and suppliers by taking into account the development priorities of the WTO member.

In Vietnam, there are restrictions only in the area of construction, where foreign tenderers must enter into partnership with national partners or to commit to using national sub-contractors, but in the area of goods, this requirement is not compulsory. Foreign tenderers from countries without trade relations with Vietnam can participate in international bidding in the field of counter trade.

- *General lack of openness and transparency in the bidding process*

Most ASEM partners report that they are focusing their efforts in this priority area on improving openness and transparency in the bidding process. Several partners have established websites on the Internet to provide information on government procurement, and in some cases, to publish and allow the bid document to be sold on-line by the government agencies (Thailand).

As in the customs area, the Philippines indicated that it is in the process of making better use of the opportunities offered by information technology by establishing a comprehensive Government Electronic Procurement System (G-EPS), with the following features - a centralised electronic bulletin board to advertise procurement opportunities, notices, awards and reasons for award, a centralised electronic registry of all authorised suppliers, consultants and contractors, and a centralised electronic price list for certain goods and services where EPS-registered and accredited suppliers, consultants and contractors can have their respective electronic catalogues hosted by, or linked to the EPS website. A Virtual Store, electronic bid submission, on-line payment, and other features may be developed in the future.

Some ASEM partners are making efforts to consolidate their rules and procedures on procurement, including by simplifying pre-qualification through the use of an eligibility check, and strengthening post-qualification, using the Lowest Calculated and Responsive Bid as the criterion for award in the case of procurement of certain goods and services, using an approved budget for the contract as the ceiling for the bid price and the award, and providing transparent, objective and non-discretionary standards and criteria which are included in the bid documents.



- *Circumvention of rules through splitting of contracts*

Both the EU and Vietnam stated that they prohibit the splitting of contracts with the aim of circumventing the application of the public procurement rules.

- *Short notice of tenders*

Several ASEM countries reported that their legislation obliges procuring entities to respect minimum deadlines for the submission of tenders in order to guarantee equal opportunities to both foreign and domestic suppliers.

- *Requirements of technology transfer and counter trade*

Only the EU confirmed that it prohibits recourse to “offsets”, which includes any kind of requirements for technology transfer and counter trade.

#### 4. QUARANTINE AND SPS PROCEDURES

Most ASEM partners are signatories of the WTO-SPS Agreement (Sanitary and Phytosanitary Agreement - SPSA), and are committed to meeting their obligations under the SPSA, including the notification of their relevant legislation to other WTO members, while at the same time protecting and preserving the health and security of their people. In certain Islamic countries, regulations and quarantine requirements are also guided by religious principles.

The European Union reported that it is setting up a Food Authority with responsibility for certain key tasks such as scientific advice, information gathering, rapid alert systems and communication.

- *Quarantine and Inspection procedures*

Most ASEM partners who reported indicated that their procedures are generally developed on a case by case basis with exporting countries, sometimes through the use of protocols, and responding to the need to achieve national standards of health protection while tailoring the certification requirements to the individual circumstances of the exporting country.

They explained that pre-export conformity assessment is used to minimise costly and excessive quarantine and excessive requirements. Certificates may only be issued by officially recognised conformity assessment bodies. It is therefore possible to operate on the basis of recognition that the exporting countries' national measures give equivalent guarantees to national requirements.

Inspection procedures are being streamlined where possible. The EU indicated that the frequency of border checks may be reduced for countries with a good record of compliance. Thailand reported that it is reducing the number of food products subject to registration.

- *Discrepancy between domestic and international standards*

Most ASEM partners indicated that they participate in discussions in Codex (FAO/WHO), the Office International des Epizooties (OIE) and International Plants Protection Convention (IPPC), and make use of the recommendations of these bodies where they exist and where they meet the national required level of protection. China mentioned that although it has not joined the OIE, it adopts the inspection and quarantine standards on animal and animal products recommended by the OIE. In general, ASEM partners are making efforts to ensure that regulations are revised or amended to be in line with international standards.

Where there are no international standards, or where the protection they provide is judged to be insufficient, countries conduct their own risk analysis and take measures based on the best scientific advice available. Such measures are normally notified to the SPS Committee and the exporting country affected. In the EU, in cases where there is incomplete scientific information, the precautionary principle has been accepted as a risk management strategy.

- *Non-recognition of SPS certificates, costly licensing systems*

EU import certificates are developed jointly with the exporting countries, and are widely published. Properly completed certificates, which conform to the EU model should be accepted by the border inspection post unless there is suspicion of malpractice. The import charges are based on recovery of actual costs and are harmonised throughout the EU.

- *Transparency*

Most ASEM partners reported that their regulations and requirements are easily available from a website. China is now developing an electronic approval management system in order to simplify procedures and increase transparency.

In addition, several countries reported that they ensure that their clients are kept informed of any proposed delays and the reasons thereof.

- *Non-recognition of competent authority and control procedures*

For most sanitary certificates, the national veterinary service is recognised as the competent authority. Where appropriate, other bodies are also recognised for Fisheries, Dairy and Plant Health Inspectorates. It is normal practice in ASEM countries for the competent authority to be independent of the product producer and responsible to the national government.

Most ASEM partners who reported indicated that their legislation permits foreign measures to be recognised as providing equivalent standards to national ones. However, this is rarely an automatic procedure, and the simplest and quickest route for an exporter to follow may be to comply with the specific national standards.

In terms of recognition of certificates and competence, China recognises the import certificates of inspection and quarantine on animal products from certain countries, and will further expand the scope of this recognition in the future. Certificates issued by the competent authority are treated as providing proof of conformity for imported products. The Thai competent authorities are seeking to sign Memoranda of Understanding or Mutual Recognition Agreements with their major trading partners. Vietnam also recognises sanitary and phytosanitary certificates issued by the competent authority of exporting countries with whom it has signed bilateral agreements.

- *Animal welfare and GMOs*

The EU was the only ASEM partner to mention that it is committed to holding multilateral discussions on how to avoid unnecessary restrictions to trade because of animal welfare concerns and has presented a paper to WTO on this aspect.

In the EU, GMOs are subject to specific legislation, but the principles of transparency of scientific debate, application of measure etc, as described under SPS measures above, apply in full, as does the overarching principle of achieving a high level of health protection.

- *Restrictive labelling rules*

No labelling rules apply to plant and animal products in China. Food labelling requirements in Thailand are based on the Codex Standard on Labelling of Pre-packaged Food.

- *Abusive testing requirements*

China's testing requirements strictly comply with those stipulated in the WTO/TBT and WTO/SPS Agreements.

## 5. INTELLECTUAL PROPERTY RIGHTS

Most ASEM partners reported that they had established an intellectual property regime in line with the TRIPS Agreement to fulfill their obligations under the WTO. Some partners were collaborating with WIPO in the initial drafting of legislation to ensure full compliance with the TRIPS Agreement. The EU mentioned the adoption on 12 December 2001 of a regulation introducing a single Community system for the protection of designs, which sets up a simple and inexpensive procedure for registering designs with the Office for harmonisation in the internal market in Alicante.

- *Widespread infringement of intellectual property rights (IPR) and insufficient measures protecting such rights*

Most laws of the ASEM partners are intended to comply with the standards set by TRIPs. In the EU, MFN and national treatment are conferred on nationals of third countries in accordance with TRIPs and other international agreements.

All reporting ASEM countries described how IPR infringement is being addressed in their countries. Various enforcement mechanisms have been created, but partners mentioned the difficulty for their authorities to be proactive in view of the limited resources and expertise which is available to them.

Malaysia has adopted a multi-pronged approach to contain piracy through pro-active, vigorous and sustained enforcement actions, legislative measures and through education and publicity. The government does not discriminate between local and foreign works in its enforcement actions. Apart from enforcement taken by the enforcement authorities, a high-level Special Copy-right Task Force has been established to combat piracy, which is chaired by the Minister of Domestic Trade and Consumer Affairs. In Thailand, special police units have been set up to monitor on a daily basis infringement activities at well known shopping centres both in Bangkok and other provinces. Continuous efforts to identify and remedy any possible loopholes in the enforcement regime have been utilised. In Vietnam, a Steering Committee for anti-smuggling, production and trading of counterfeits as well as for anti-commercial fraud. The Philippines has set up several enforcement agencies which have intensified their collaboration in combating the infringement, piracy and counterfeiting of IPRs.

- *Insufficient or unequal enforcement of existing IPR legislation and legal uncertainty about the interpretation of IPR agreements by the host country.*

Many ASEM partners confirmed that they have recently implemented new legislation or modified existing legislation in the areas of Copyright and related rights, Trade Marks (including Service Marks), Patents, and Designs, in order for their IPR protection to be fully compliant with the requirements of the WTO TRIPS Agreement. A few partners have also implemented legislation in the areas of Biotechnological inventions, Topographies of semiconductor products, Plant varieties, and Geographical indications. IPR legislation generally provide for enforcement procedures and remedies, including border control measures, enabling the execution of criminal proceedings. Alternatively, in some cases civil remedies are also available under the common law to enable effective action to be taken by IPR holders.

In Malaysia, the government has implemented Optical Disc (Licensing and Control) legislation to control piracy at source. Thailand is also drafting a new law on CD Manufacturing Control, in order to prevent any copyright infringement arising from know-how embedded in optical media and is in

the process of modifying their provisions on the importation of the CD manufacturing machinery to help prevent the production of illegal CDs.

The Philippines is exploring new approaches to handle patent and trademark application, shifting from "first to invent" to "first-to file" for patent applications, giving priority to first filers, and eliminating the requirement of prior use for trademark applications. They are also strengthening IPR enforcement by increasing criminal penalties for trademark, copyright and patent infringement, as well as expanding the scope of trademark infringement to include acts preparatory to the sale of goods or services. Other revisions will more adequately address complaints on IPR violations and simplify the rules and procedures for settlement of disputes, making them more mediation-oriented.

It was pointed out by the Philippines that in hearing IPR cases in their courts, the success of these cases depends on the co-operation which is received from complainants whose rights have been violated. An assessment of the court cases indicates that most complainants have not pursued their cases and instead opted to settle outside of the judicial system. Hence, the enforcement agencies often find themselves in an awkward position due to the inability or lack of interest of IPR owners to have their cases prosecuted through to the end. Despite having limited resources for enforcement activities, the Philippines remains committed to pursuing IPR violators as long as private complainants are willing to pursue their cases. Also, in the Philippines, the government must shoulder the entire burden of IPR enforcement, in contrast with other countries where copyright owners exert time, money and efforts to assist with enforcement.

- *Absence of systems to enable SMEs to take advantage of intellectual property – obstacles faced by SMEs trying to benefit from intellectual properties (e.g., imposition of fees on certain products to protect the national cultural industry)*

All ASEM partners reported that there were no existing measures in their countries which would have the effect of obstructing access to IPR protection by SMEs or particular sectors.

Several ASEM countries had set up web sites of particular interest to SMEs seeking information about IPR protection, in some cases creating a help desk facility to provide comprehensive free advice service.

The Thai Government has initiated the Industrial Property Information Center Project (IPIC), which provides various industrial property information data, including patent information from 1979 including patent bibliographic data, patent publication documents (gazettes), and patent application documents (full document), English abstracts of published Japanese patent applications issued in Japan since 1976, as well as all European patent application documents issued by the European Patent Office (EPO) and other European patent offices since 1978. The IPIC website allows multinational companies seeking patent protection for their newest technology in Thailand as well as Thai inventors to publish their applications on the IPIC website.

In order to support SMEs, the Philippines has provided a Technology Information Brokering and Matching service to promote the diffusion of knowledge and technology found in patent documents so that SMEs can make appropriate use of these technologies to improve their competitiveness in the world market. The Philippines also operates a 2-tier fee structure which permits SMEs falling under the small entity category, to pay of 50% of the fees charged to large entities.

## 6. MOBILITY OF BUSINESS PEOPLE

- *Complex, time-consuming and rigid procedures for the issuance of visas to business people*

Many ASEM partners indicated that while maintaining a proper and effective immigration control, they are also making concerted efforts to simplify and expedite existing visa and immigration laws, regulations, and procedures. Application and processing procedures for the temporary residency of business people in the country are being streamlined. Visa exemptions are provided for social and business visits. Multiple Entry Visas with long validity periods are often available for business people. Procedures for applying for work permit are being made more transparent and efforts are taking place to reduce the time which is required to process them.

Thailand is in the process of modifying its visa regulation to allow foreign nationals who enter the Kingdom as tourists without having to apply for a visa and wish to stay longer for business reasons to apply for a non-immigrant visa without having to travel outside of the territory to reapply for a visa. Vietnam has currently signed agreements with some ASEM partners allowing free visas for diplomatic, official and also ordinary passport holders in certain circumstances. The Philippines has launched a website on immigration laws, policies and procedures.

Procedures for the issuance of visas in the European Community are laid down in the Common Consular Instructions, for members of the Schengen Agreement, i.e. all Members States, except Ireland and the UK, and are implemented by these Member States. In the UK and Ireland national rules apply.

- *Lengthy and/or restrictive work and residence permit procedures for business people on short-term/temporary assignments.*

All reporting ASEM partners indicated that they were giving priority to problems which might arise in this context.

## 7. DISTRIBUTION

- *Limitations on foreign ownership and lease of real estate*

Several ASEM partners mentioned that their retail sector was a completely closed sector to foreign retailers until recently. Efforts are now being undertaken to open this sector up.

Thailand has legislation which allows foreign investors to acquire land ownership and provides detailed information regarding foreign ownership to the public through their Board of Investment website.

In Vietnam, foreign investors are allowed to sell identical products to those produced domestically by other enterprises.

In the Philippines, 100% foreign ownership is permitted for certain categories of business. Foreigners may lease land for a period of fifty (50) years, renewable for another twenty-five (25) years. Foreign nationals and foreign corporations are generally not allowed to own private land in the Philippines, but are, however, allowed to own up to 40% of a corporation which owns the land.

The Distribution sector in the European Community is largely liberalised and open to foreigners in all sub-sectors. Although the situation may differ among individual Member States, there are no important restrictions in the Community. Exception is made for some limitations concerning certain goods, usually justified by security or public order reasons, and for the existence of economic need tests for department stores in some cases, in respect of which the main criteria are clearly specified.

Malaysia reported no restrictions on any form of commercial activity including the import, export and distribution trade.

## 8. OTHER BARRIERS

- *General lack of transparency and legal certainty (such as ambiguous or imprecise legislation, unpublished regulations at the local and provincial levels and other measures such as import licensing and import quotas) in the proceedings of some trade measures at borders*

All EU legislation is published in the Official Journal of the European Communities, which is accessible to the public. Regulations imposing import quotas or licensing requirements are thus available to interested parties.

- *Effects of measures on trade relating to issues such as animal welfare, GMO's, environment, food safety, trade-related waste management measures on trade (such as electronic waste and packing and packaging waste).*

As regards waste management measures, European Community measures follow the principles of transparency, adequacy, proportionality and equal treatment between European and foreign producers.

- *Measures which may cause trade distortionary effects such as production support and export subsidies*

All subsidies applied in the European Community are compatible with WTO commitments.

- *Excessive requirement of documentation, long delays, and discrimination against foreign companies and products.*

ASEM partners legislation is intended to be transparent and to facilitate trade flows without discrimination. In the EU, internal market procedures allow for free circulation of goods within the Community, once import procedures have been completed in one Member State.

Malaysia reported that EU requirements for the transportation and storage of palm oil for human consumption using containers made of stainless steel and coated with epoxy resins increases the transportation costs, as these containers are not readily available. The draft Codex Code recommends that inner surface materials should be non-toxic and inert, and a stainless steel and resin coat is recommended but not mandatory. They consider that the implementation of mandatory requirements may act as a technical barrier.

Thailand has replaced their existing textile export license issuance manual system with Electronic Data Interchange (EDI). With the implementation of the EDI, the license issuance period has been significantly reduced. Textile exporters can electronically submit export license requests in EDI format rather than submitting them in person. Thailand is also considering the application of EDI systems for other documentation such as Certificates of Origins and export licenses for other commodities.

Vietnam now allows organisations specialising in payment services, including the State Bank of Vietnam, as well as other banks and organisations, to use electronic documents for bookkeeping to record capital payments and balances.