



Terms of Reference for Private Sector Engagement in ASEAN Customs Meeting¹

I. Background

1. Private sector is a key stakeholder that makes significant contributions to the smooth regional and global supply chain. It is, thus, essential that ASEAN actively promote further cooperation with the business community, especially those with trade and customs-related activities in ASEAN to deliver more seamless trade flow in the region.
2. One of the ways ASEAN Customs can further cooperation with the private sectors is by engaging private sector in ASEAN Customs Meeting. Private sector engagement contributes to these overarching objectives, notably by:
 - 1) reducing the gap of understanding of the private sector on what government is doing in terms of simplifying, harmonizing, standardizing and modernising customs rules and procedures;
 - 2) exploring how intra-regional trade and investment could be promoted; and
 - 3) reducing current and future customs-related trade impediments faced by business enterprises.

II. Scope

3. This terms of reference applies to private sectors' engagement with ASEAN Directors-General of Customs, ASEAN Coordinating Committee on Customs (CCC) , and in case the need arises, ASEAN Customs Procedures & Trade Facilitation Working Group (CPTFWG)/ ASEAN Customs Enforcement and Compliance Working Group (CECWG)/ ASEAN Customs Capacity Building Working Group (CCBWG), with the endorsement from CCC. Any reference to the private sector organizations/councils to be engaged with ASEAN CCC/ ASEAN Directors-General of Customs is a reference to:
 - 1) Those associated with ASEAN and listed in Annex 2 of the ASEAN Charter as Business Councils, Business Organizations, Industry Associations, and Other Stakeholders in ASEAN;
 - 2) Other customs-related private sector organizations/councils as suggested by ASEAN Member States (AMS), subject to other AMS' approval; and
 - 3) Small and Medium Enterprises (SMEs), which shall be put in order of priority based on:

¹ Amended TOR accepted by the 27th CPTFWG Meeting (October 2019) and endorsed by the 31st CCC Meeting (November 2019)

- a. whether they originate in ASEAN;
 - b. whether they operate in ASEAN;
 - c. whether it is a manufacturer.
4. Subject to other AMS' approval, host of the Meeting of ASEAN Directors-General of Customs may nominate SMEs fulfilling the criteria as referred to in point 3) to engage in the Meeting of ASEAN Directors-General of Customs.

III. Criteria for Engagement

5. It is important that any engagement between ASEAN Customs Procedures & Trade Facilitation Working Group (CPTFWG)/ ASEAN Customs Enforcement and Compliance Working Group (CECWG)/ ASEAN Customs Capacity Building Working Group (CCBWG)/ ASEAN Coordinating Committee on Customs (CCC)/ ASEAN Directors-General of Customs and the private sector entities concerned is conducted in the following principles:
- 1) Mutual respect, mutual tolerance, and mutual understanding of each other's' roles, strength and constraints;
 - 2) Transparency, sincerity, and non-confrontational;
 - 3) Constructive dialogue, positive thinking, and goodwill in cooperation;
 - 4) Focusing on common issues of interest directly relevant to the aims and purposes of ASEAN;
 - 5) Working collaboratively towards the common interest of the ASEAN Community and its peoples.

IV. Levels of Engagement

6. The private sector organizations/councils are to establish working links with the most relevant working groups.
7. The recommended level of direct engagement is at the level of CCC. Nevertheless, the private sector organizations/councils are welcome to engage with AMS at the ASEAN Directors-General of Customs Meeting subject to the endorsement of CCC.
8. If the scope of matters to be discussed pertains to the scope of a particular ASEAN Customs working group (e.g. CPTFWG/CECWG/CCBWG), private sector organizations/councils may also engage at the working group level, with the endorsement from CCC;
9. To ensure the effectiveness of the engagement as well as the decision making process, the private sector organization/council representatives to be engaged with the ASEAN Directors-General of Customs Meeting (subject to the endorsement of CCC) shall be at the level of Board of Directors that have the authority to make decisions. If absent, The Board of Directors may write a mandate to the General Manager to attend on their behalf.

10. At the national level, meanwhile, AMSs are to continue to engage with private sector organizations/councils based on existing practices, procedures and mechanisms.

V. Types of Engagement

11. The ASEAN Customs Procedures & Trade Facilitation Working Group (CPTFWG)/ ASEAN Customs Enforcement and Compliance Working Group (CECWG)/ ASEAN Customs Capacity Building Working Group (CCBWG)/ ASEAN Coordinating Committee on Customs (CCC)/ ASEAN Directors-General of Customs and the private sector organizations/councils may engage through consultation, dialogues, meetings, joint events and activities, including regional conferences. Any participation by the private sector must be approved, by consensus, by the AMSs. When considering private sector applications, the CCC or its working groups will take into consideration its public profile and any relevant information which may help in assessing the application, the relevance of the private sector's expertise to the issues being discussed, the capacity to make a contribution to the work of the ASEAN Customs, as well as any demonstrated interest towards the advancement of ASEAN interest.

VI. Rules of Procedure

A. Administrative Procedure

12. The followings are the rules of procedure on how the private sector organizations/councils are to engage with ASEAN Customs Procedures & Trade Facilitation Working Group (CPTFWG)/ ASEAN Customs Enforcement and Compliance Working Group (CECWG)/ ASEAN Customs Capacity Building Working Group (CCBWG)/ ASEAN Coordinating Committee on Customs (CCC)/ ASEAN Directors-General of Customs
 - 12.1. Write formal request to ASEAN Secretariat with copy to Chair of CCC/CPTFWG/CECWG/CCBWG
 - 12.2. The formal letter seeking engagement shall state, among others:
 - 12.2.1. The level of engagement;
 - 12.2.2. the purpose and issue of engagement; and
 - 12.2.3. the participating members and aim of the organization.
 - 12.3. The Chair of the ASEAN Customs Meeting which the Private sector organisations/councils wish to engage with, with the assistance of the ASEAN Secretariat shall circulate the application letter to all Members to seek consensus/further advice among all AMS-

- 12.4. Upon receiving the consensus, ASEAN Secretariat with the approval of Chair of the ASEAN Customs Meeting shall write a formal reply informing the private sector of its application status.

B. Private Sector Engagement Mechanism

13. Any request will be dealt with in a consistent and transparent manner according to the following process:
 - 13.1. Any request to participate in the consultation/meeting/dialogue with ASEAN Customs must be provided in writing to the ASEAN Secretariat **at least six (6) weeks before the date of the consultation/meeting/dialogue. For engagement related to training/workshop the request must be provided in writing at least eight (8) weeks prior to the date of training/workshop.**
 - 13.2. **In case preliminary request was conveyed to the CCC or the ASEAN Directors-General of Customs and deemed to be further discussed at the Working/Sub-Working Group level, sub-para 13.1 would not be applied.**
 - 13.3. Simultaneously with the submission of the request of engagement, the private sector organizations/councils shall submit a paper containing such main elements as issues, aim, background, rationale, recommendations, and proposed solutions. The more detailed presentation of the issue to be presented shall be submitted 3 (three) weeks before the date of the consultation/meeting/dialogue.
 - 13.4. Issues to be raised by the private sector organizations/ councils at the consultation/meeting/dialogue are encouraged to be new and relevant issues/policy recommendations that have not been raised and/or agreed upon by AMS at the previous consultation/meeting/dialogue.
 - 13.5. The ASEAN Secretariat will notify the Chair of the ASEAN Customs Meeting which the Private sector organisations/councils wish to engage with of any such request.
 - 13.6. Upon receiving a request, the Chair of the ASEAN Customs Meeting which the Private sector organisations/councils wish to engage with shall, with the assistance of the ASEAN Secretariat, will write (via email) to all member states to seek agreement/seek further advice to the private sector's engagement in the consultation/meeting/dialogue.
 - 13.7. The Chair of the ASEAN Customs Meeting which the Private sector organisations/councils wish to engage with will inform the ASEAN Secretariat regarding the decision of AMSs of any private sector engagement so they can notify the private sector.
 - 13.8. The consultation/meeting/dialogue with the private sector organizations/councils in ASEAN shall be conducted within the dedicated session within a meeting.

- 13.9. In the consultation/meeting/dialogue, representatives from private sector organizations/councils shall deliver presentations in turn followed by an interactive dialogue session.
- 13.10. The private sector entity shall only present their views and interact in their dedicated session, and shall not sit through the whole meeting, unless otherwise agreed by all AMS.

C. Response Mechanism to Issues Raised by the Private Sector

14. The ASEAN Secretariat shall prepare the responses to the issues raised by the private sector bodies in the following manner/steps:
 - 14.1. The ASEAN Secretariat shall categorise issues in a matrix format and identify responsible working group to address the issues.
 - 14.2. The matrix shall comprise the following columns; Issues/Problems, Recommendations (if any, as proposed by the private sector body/ies), Private Sector Body/ies that raised the issues, working groups identified to respond to the issues raised and AMSs' Responses.
 - 14.3. The ASEAN Secretariat shall send the matrix to relevant working groups, through desk officers, seeking responses to those issues within 1 (one) month, noting that the working groups may require longer time to deliberate on some of the issues raised.
 - 14.4. The ASEAN Secretariat shall consolidate all responses from the relevant working groups and submit for CCC consideration.
 - 14.5. For responses that require the CCC's guidance, the ASEAN Secretariat would send it to the CCC for their guidance accordingly. For responses that require the ASEAN Directors-General of Customs' guidance/ endorsement, the ASEAN Secretariat would send it to the ASEAN Directors-General of Customs through the CCC. The ASEAN Secretariat shall communicate the responses to the respective private sector body/ies thereafter.

