

The ASEAN Good Regulatory Practice (GRP) Core Principles

I. Introduction

1. Effective regulations are needed to support growth, investment, innovation, and the functioning of markets and society as a whole. The importance of good regulatory practice (GRP) has been well-recognised by ASEAN. Enhanced regulatory practice and the capacity of individual ASEAN Member States (AMS) is not only key for the successful delivery of their respective national development agenda but also the implementation of regional commitments and the region's long-term competitiveness. A renewed emphasis has been given to the importance of GRP in the ASEAN Economic Community (AEC) Blueprint 2025, particularly in Element B7 "Effective, Efficient, Coherent and Responsive Regulations and Good Regulatory Practice" under the second characteristic of "A Competitive, Innovative and Dynamic ASEAN".

2. To follow through on this, the ASEAN Work Plan on GRP 2016-2025 was adopted at the 23rd ASEAN Economic Ministers' (AEM) Retreat in March 2017, and endorsed intersessionally by the AEC Council Ministers in April 2017. One of the key deliverables of the Work Plan is to secure commitment to GRP at the political level, which is done herewith through the ASEAN GRP Core Principles. The ASEAN GRP Core Principles are described below.

II. ASEAN GRP Core Principles

3. The objective of the Core Principles is to assist AMS in improving their regulatory practice and to foster ASEAN-wide regulatory cooperation. The Core Principles are non-binding, and to be implemented on a best-endeavour basis by each relevant AEC sectoral body or AMS' national regulatory systems. The principles provide broad parameters for assessing the application of GRP in ASEAN. The ASEAN GRP Core Principles do not advocate a particular model of GRP standards but focus on common elements that are applicable to the ASEAN context.

Principle 1: Clarity in policy rationale, objectives, and institutional frameworks

Regulations should be introduced with clear policy rationale, objectives and the role of implementing agencies and other supporting institutions, through which the regulation will take effect.

Clarity in policy rationale necessitates any regulatory intervention to be done only when "necessary" and socially beneficial. The necessity of regulations emerges when issues are not adequately addressed by individuals, existing regulations, and/or markets are not properly functioning 'to correct' such issues.

Clarity in regulatory objectives requires the policy problem to be specified, including evidence of its nature, scope, coverage, and magnitude, and adequately explaining why it has arisen. To ensure the relevance between the proposed regulation and its objectives, regulators should assess legal and empirical bases, and consider a range of policy options, including the options of designing non-regulatory interventions and improving existing regulations. The latter can often be less costly than introducing new regulations.

Clarity in institutional frameworks requires for related governance arrangements, including roles and accountabilities of the implementing agencies and other supporting institutions, to be

clearly specified. This is important so as to avoid conflicting or overlapping objectives across different regulations or levels of governments (i.e., national and local) and/or across different agencies. The design of the regulation should set and provide clear and appropriate regulatory powers for implementing agencies, including cooperation and coordination with other agencies.

Within the context of ASEAN, alignment of regulations with or contribution to the achievements of regional goals, as envisaged by the ASEAN Community Vision 2025, should be explored.

Principle 2: Produce benefits that justify costs and be least distortive to the markets

Any regulation introduced should effectively address identified problems while **minimising costs, risks, and other adverse effects** throughout the regulatory cycle. A regulation therefore needs to target the lowest possible cost to all parties and provide economic benefits and stability. Such costs cover compliance and monitoring costs, as well as externalities such as the effects on long-term productivity and competitiveness, and the broader economic, environmental, and social effects.

Within the context of the ASEAN, the focus is to minimise the costs of meeting regional commitments.

Principle 3: Be consistent, transparent, and practical

Consistency amongst existing regulations and new regulations is key in avoiding duplication or establishing conflicting regulations. Consistency could be achieved through coordination mechanisms, information sharing and transparency, and identification and reform of overlapping regulations in issues across differing levels of governments.

Within the ASEAN context, consistency calls for alignment of proposed regulations with the overall ASEAN Community Vision 2025; with commitments or initiatives across different sectors especially in the cross-cutting areas; and consistency between regional and national regulatory objectives. Consistency may also include taking international standards into consideration.

Transparency is derived from the availability and access to relevant and salient information. Access to accurate, easy-to-understand, and accessible information on the regulations should be made available for relevant stakeholders. Different information needs may be addressed using various tools.

The principle of **practicality** aims to bridge the gap between high-level policy objectives and regulatory efficiency and effectiveness upon implementation. This requires a user-focused regulatory design. Additionally, a recursive process to evaluate regulatory efficiency and effectiveness will allow for continuous refinement.

The strategic measures in the AEC Blueprint 2025 are operationalised through sectoral work plans with clearly identified action lines, and timelines, and are supported by robust monitoring and evaluation mechanisms to ensure their effective implementation while also addressing public outreach.

Principle 4: Support regional regulatory cooperation

Good regulatory outcomes require **cooperation**, by the government, amongst regulators, the regulated, and the broader community including the international community. Regulatory

cooperation could take on many forms, from exchange of information to more binding forms such as the harmonisation of rules.

In ASEAN, the meeting of policy objectives may require coordination and cooperation across relevant sectoral bodies and/or agencies within and across Member States. For instance, exchange of information may lead to regulatory cooperation between regulators from different AMS, where, on a voluntary basis, AMS can exchange information on regulations to achieve a better understanding of different regulatory platforms and, when possible, avoid unnecessary differences in regulations.

Principle 5: Promote stakeholder engagement and participation

Stakeholder consultation and engagement is a continuous process across all stages of the regulatory cycle. A well-designed and implemented stakeholder engagement should consider all perspectives on the issues; highlighting alternative approaches to achieving objectives; serve as a useful means for evaluating regulatory costs and benefits assessment; enhance awareness and inclusivity, as well as foster transparency, accountability and hence compliance.

This principle is also recognised under the fourth characteristic of the AEC Blueprint 2025 on “A Resilient, Inclusive, People-Oriented, and People-Centred ASEAN”, particularly “The Strengthening Role of the Private Sector” (Element D2), “Public-private Partnership” (Element D3), and “Contribution of Stakeholders on Regional Integration Efforts” (Element D5). Under “Good Governance” (Element B6). Efforts to institutionalise and build a more structured and meaningful engagement with stakeholders should also be continued.

Principle 6: Be subject to regular review for continued relevance, efficiency, and effectiveness

To ensure that the regulations continue to meet their intended objectives efficiently and effectively, **regular review** is essential. Such review will need to be informed by systematic monitoring of regulatory performance, and appropriate conduct policy evaluation such as the Regulatory Impact Analysis (RIA). Review clauses or sunset provisions could also be considered.

Review clauses within the regulation usually allow for reviews to be conducted within a certain period. This would help ensure the continued appropriateness of regulations, by assessing them against the dynamic policy environment and new policy options both regulatory and non-regulatory. The focus of such review should be to assess and, as appropriate, amend areas of regulation that are burdensome and duplicative, with a view to improve ASEAN’s competitiveness.