

Appendix 1.

The ASEAN Declaration (Bangkok Declaration)

Thailand, 8 August 1967

The Presidium Minister for Political Affairs/ Minister for Foreign Affairs of Indonesia, the Deputy Prime Minister of Malaysia, the Secretary of Foreign Affairs of the Philippines, the Minister for Foreign Affairs of Singapore and the Minister of Foreign Affairs of Thailand:

MINDFUL of the existence of mutual interests and common problems among countries of South-East Asia and convinced of the need to strengthen further the existing bonds of regional solidarity and cooperation;

DESIRING to establish a firm foundation for common action to promote regional cooperation in South-East Asia in the spirit of equality and partnership and thereby contribute towards peace, progress and prosperity in the region;

CONSCIOUS that in an increasingly interdependent world, the cherished ideals of peace, freedom, social justice and economic well-being are best attained by fostering good understanding, good neighbourliness and meaningful cooperation among the countries of the region already bound together by ties of history and culture;

CONSIDERING that the countries of South-East Asia share a primary responsibility for strengthening the economic and social stability of the region and ensuring their peaceful and progressive national development, and that they are determined to ensure their stability and security from external interference in any form or manifestation in order to preserve their national identities in accordance with the ideals and aspirations of their peoples;

AFFIRMING that all foreign bases are temporary and remain only with the expressed concurrence of the countries concerned and are not intended to be used directly or indirectly to subvert the national independence and freedom of States in the area or prejudice the orderly processes of their national development;

DO HEREBY DECLARE:

FIRST, the establishment of an Association for Regional Cooperation among the countries of South-East Asia to be known as the Association of South-East Asian Nations (ASEAN).

SECOND, that the aims and purposes of the Association shall be:

1. To accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian Nations;
2. To promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter;
3. To promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields;
4. To provide assistance to each other in the form of training and research facilities in the educational, professional, technical and administrative spheres;
5. To collaborate more effectively for the greater utilization of their agriculture and industries, the expansion of their trade, including the study of the problems of international commodity trade, the improvement of their transportation and communications facilities and the raising of the living standards of their peoples;
6. To promote South-East Asian studies;
7. To maintain close and beneficial cooperation with existing international and regional organizations with similar aims and purposes, and explore all avenues for even closer cooperation among themselves.

THIRD, that to carry out these aims and purposes, the following machinery shall be established:

- (a) Annual Meeting of Foreign Ministers, which shall be by rotation and referred to as ASEAN

Ministerial Meeting. Special Meetings of Foreign Ministers may be convened as required.

(b) A Standing committee, under the chairmanship of the Foreign Minister of the host country or his representative and having as its members the accredited Ambassadors of the other member countries, to carry on the work of the Association in between Meetings of Foreign Ministers.

(c) Ad-Hoc Committees and Permanent Committees of specialists and officials on specific subjects.

(d) A National Secretariat in each member country to carry out the work of the Association on behalf of that country and to service the Annual or Special Meetings of Foreign Ministers, the Standing Committee and such other committees as may hereafter be established.

FOURTH, that the Association is open for participation to all States in the South-East Asian Region subscribing to the aforementioned aims, principles and purposes.

FIFTH, that the Association represents the collective will of the nations of South-East Asia to bind themselves together in friendship and cooperation and, through joint efforts and sacrifices, secure for their peoples and for posterity the blessings of peace, freedom and prosperity.

DONE in Bangkok on the Eighth Day of August in the Year One Thousand Nine Hundred and Sixty-Seven.

Source: ASEAN Secretariat, <<http://www.aseansec.org/1212.htm>>

Appendix 2.

Treaty of Amity and Cooperation in Southeast Asia

Indonesia, 24 February 1976

The High Contracting Parties :

CONSCIOUS of the existing ties of history, geography and culture, which have bound their peoples together;

ANXIOUS to promote regional peace and stability through abiding respect for justice and the rule of law and enhancing regional resilience in their relations;

DESIRING to enhance peace, friendship and mutual cooperation on matters affecting Southeast Asia consistent with the spirit and principles of the Charter of the United Nations, the Ten Principles adopted by the Asian-African Conference in Bandung on 25 April 1955, the Declaration of the Association of Southeast Asian Nations signed in Bangkok on 8 August 1967, and the Declaration signed in Kuala Lumpur on 27 November 1971;

CONVINCED that the settlement of differences or disputes between their countries should be regulated by rational, effective and sufficiently flexible procedures, avoiding negative attitudes which might endanger or hinder cooperation;

BELIEVING in the need for cooperation with all peace-loving nations, both within and outside Southeast Asia, in the furtherance of world peace, stability and harmony;

SOLEMNLY AGREE to enter into a Treaty of Amity and Cooperation as follows:

CHAPTER I : PURPOSE AND PRINCIPLES

Article 1

The purpose of this Treaty is to promote perpetual peace, everlasting amity and cooperation among their peoples which would contribute to their strength, solidarity and closer relationship,

Article 2

In their relations with one another, the High Contracting Parties shall be guided by the following fundamental principles :

- a. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- b. The right of every State to lead its national existence free from external interference, subversion or coercion;
- c. Non-interference in the internal affairs of one another;
- d. Settlement of differences or disputes by peaceful means;
- e. Renunciation of the threat or use of force;
- f. Effective cooperation among themselves.

CHAPTER II : AMITY

Article 3

In pursuance of the purpose of this Treaty the High Contracting Parties shall endeavour to develop and strengthen the traditional, cultural and historical ties of friendship, good neighbourliness and cooperation which bind them together and shall fulfill in good faith the obligations assumed under this Treaty. In order to promote closer understanding among them, the High Contracting Parties shall encourage and facilitate contact and intercourse among their peoples.

CHAPTER III : COOPERATION

Article 4

The High Contracting Parties shall promote active cooperation in the economic, social, technical, scientific and administrative fields as well as in matters of common ideals and aspiration of international peace and stability in the region and all other matters of common interest.

Article 5

Pursuant to Article 4 the High Contracting Parties shall exert their maximum efforts *multilaterally* as well as bilaterally on the basis of equality, non-discrimination and mutual benefit.

Article 6

The High Contracting Parties shall collaborate for the acceleration of the economic growth in the region in order to strengthen the foundation for a prosperous and peaceful community of nations in Southeast Asia. To this end, they shall promote the greater utilization of their agriculture and industries, the expansion of their trade and the improvement of their economic infrastructure for the mutual benefit of their peoples. In this regard, they shall continue to explore all avenues for close and beneficial cooperation with other States as well as international and regional ~organisations outside the region.

Article 7

The High Contracting Parties, in order to achieve *social justice* and to raise the standards of living of the peoples of the region, shall intensify economic cooperation. For this purpose, they shall adopt appropriate regional strategies for economic development and mutual assistance.

Article 8

The High Contracting Parties shall strive to achieve the closest cooperation on the widest scale and shall seek to provide assistance to one another in the form of training and research facilities in the social, cultural, technical, scientific and administrative fields.

Article 9

The High Contracting Parties shall endeavour to foster cooperation in the furtherance of the cause of peace, harmony, and stability in the region. To this end, the High Contracting Parties shall maintain regular contacts and consultations with one another on international and regional matters with a view to coordinating their views actions and policies.

Article 10

Each High Contracting Parties shall not in any manner of form participate in any activity which shall constitute a treat to the political and economic stability, sovereignty, or territorial integrity of another High Contracting Party.

Article 11

The High Contracting Parties shall endeavour to strengthen their respective national resilience in their political, economic, sociocultural as well as security fields in conformity with their respective ideals and aspirations, free from external interference as well as internal subversive activities in order to preserve their respective national identities.

Article 12

The High Contracting Parties in their efforts to achieve regional prosperity and security, shall endeavour to cooperate in all fields for the promotion of regional resilience, based on the principles of self-confidence, self-reliance, mutual respect, cooperation of solidarity which will constitute the foundation for a strong and viable community of nations in Southeast Asia.

CHAPTER IV : PACIFIC SETTLEMENT OF DISPUTES

Article 13

The High Contracting Parties shall have the determination and good faith to prevent disputes from arising. In case disputes on matters directly affecting them shall refrain from the threat or use of force and shall at all times settle such disputes among themselves through friendly negotiations.

Article 14

To settle disputes through regional processes, the High Contracting Parties shall constitute, as a continuing body, a High Council comprising a Representative at ministerial level from each of the High Contracting Parties to take cognizance of the existence of disputes or situations likely to disturb regional peace and harmony.

Article 15

In the event no solution is reached through direct negotiations, the High Council shall take cognizance of the dispute or the situation and shall recommend to the parties in dispute appropriate means of settlement such as good offices, mediation, inquiry or conciliation. The High Council may however offer its good offices, or upon agreement of the parties in dispute, constitute itself into a committee of mediation, inquiry or conciliation. When deemed necessary, the High Council shall recommend appropriate measures for the prevention of a deterioration of the dispute or the situation.

Article 16

The foregoing provision of this Chapter shall not apply to a dispute unless all the parties to the dispute agree to their application to that dispute. However, this shall not preclude the other High Contracting Parties not party to the dispute from offering all possible assistance to settle the said dispute. Parties to the dispute should be well disposed towards such offers of assistance.

Article 17

Nothing in this Treaty shall preclude recourse to the modes of peaceful settlement contained in Article 33(I) of the Charter of the United Nations. The High Contracting Parties which are parties to a dispute

should be encouraged to take initiatives to solve it by friendly negotiations before resorting to the other procedures provided for in the Charter of the United Nations.

CHAPTER V : General Provision

Article 18

This Treaty shall be signed by the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand. It shall be ratified in accordance with the constitutional procedures of each signatory State. It shall be open for accession by other States in Southeast Asia.

Article 19

This Treaty shall enter into force on the date of the deposit of the fifth instrument of ratification with the Governments of the signatory States which are designated Depositories of this Treaty and the instruments of ratification or accession.

Article 20

This Treaty is drawn up in the official languages of the High Contracting Parties, all of which are equally authoritative. There shall be an agreed common translation of the texts in the English language. Any divergent interpretation of the common text shall be settled by negotiation.

IN FAITH THEREOF the High Contracting Parties have signed the Treaty and have hereto affixed their Seals.

DONE at Denpasar, Bali, this twenty-fourth day of February in the year one thousand nine hundred and seventy-six

Source: ASEAN Secretariat, <http://www.aseansec.org/5047.htm>

Appendix 3.

DECLARATION OF ASEAN CONCORD II (BALI CONCORD II)

The Sultan of Brunei Darussalam, the Prime Minister of the Kingdom of Cambodia, the President of the Republic of Indonesia, the Prime Minister of the Lao People's Democratic Republic, the Prime Minister of Malaysia, the Prime Minister of the Union of Myanmar, the President of the Republic of the Philippines, the Prime Minister of the Republic of Singapore, the Prime Minister of the Kingdom of Thailand and the Prime Minister of the Socialist Republic of Viet Nam;

RECALLING the Declaration of ASEAN Concord adopted in this historic place of Bali, Indonesia in 1976, the Leaders of the Association of Southeast Asian Nations (ASEAN) expressed satisfaction with the overall progress made in the region;

NOTING in particular the expansion of ASEAN to ten countries in Southeast Asia, the deepening of regional economic integration and the impending accession to the Treaty of Amity and Cooperation (TAC) by States outside Southeast Asia;

CONSCIOUS of the need to further consolidate and enhance the achievements of ASEAN as a dynamic, resilient, and cohesive regional association for the well being of its member states and people as well as the need to further strengthen the Association's guidelines in achieving a more coherent and clearer path for cooperation between and among them;

REAFFIRMING their commitment to the principles enshrined in the ASEAN Declaration (Bangkok, 1967), the Declaration on Zone of Peace, Freedom, and Neutrality (Kuala Lumpur, 1971), the Treaty of Amity and Cooperation in Southeast Asia (Bali, 1976), the Declaration of ASEAN Concord (Bali, 1976), and the Treaty on the Southeast Asia Nuclear Weapons Free Zone (Bangkok, 1995);

COGNIZANT that the future of ASEAN cooperation is guided by the ASEAN Vision 2020, the Hanoi Plan of Action (1999-2004), and its succeeding Plans of Action, the Initiative for ASEAN Integration (IAI), and the Roadmap for the Integration of ASEAN (RIA);

CONFIRMING further that ASEAN Member Countries share primary responsibility for strengthening the economic and social stability in the region and ensuring their peaceful and progressive national development, and that they are determined to ensure their stability and security from external interference

in any form or manner in order to preserve their national interest in accordance with the ideals and aspirations of their peoples;

REAFFIRMING the fundamental importance of adhering to the principle of non-interference and consensus in ASEAN cooperation;

REITERATING that the Treaty of Amity and Cooperation in Southeast Asia (TAC) is an effective code of conduct for relations among governments and peoples;

RECOGNIZING that sustainable economic development requires a secure political environment based on a strong foundation of mutual interests generated by economic cooperation and political solidarity;

COGNIZANT of the interdependence of the ASEAN economies and the need for ASEAN member countries to adopt “Prosper Thy Neighbour” policies in order to ensure the long-term vibrancy and prosperity of the ASEAN region;

REITERATING the importance of rules-based multilateral trading system that is equitable and that contributes towards the pursuit of development;

REAFFIRMING that ASEAN is a concert of Southeast Asian nations, bonded together in partnership in dynamic development and in a community of caring societies, committed to upholding cultural diversity and social harmony;

DO HEREBY DECLARE THAT:

1. An ASEAN Community shall be established comprising three pillars, namely political and security cooperation, economic cooperation, and socio-cultural cooperation that are closely intertwined and mutually reinforcing for the purpose of ensuring durable peace, stability and shared prosperity in the region;
2. ASEAN shall continue its efforts to ensure closer and mutually beneficial integration among its member states and among their peoples, and to promote *regional peace and stability, security, development and prosperity* with a view to realizing an ASEAN Community that is open, dynamic and resilient;
3. ASEAN shall respond to the new dynamics within the respective ASEAN Member Countries and shall urgently and effectively address the challenge of translating ASEAN cultural diversities and different

economic levels into equitable development opportunity and prosperity, in an environment of solidarity, regional resilience and harmony;

4. ASEAN shall nurture common values, such as habit of consultation to discuss political issues and the willingness to share information on matters of common concern, such as environmental degradation, maritime security cooperation, the enhancement of defense cooperation among ASEAN countries, develop a set of socio-political values and principles, and resolve to settle long-standing disputes through peaceful means;

5. The Treaty of Amity and Cooperation in Southeast Asia (TAC) is the key code of conduct governing relations between states and a diplomatic instrument for the promotion of peace and stability in the region;

6. The ASEAN Regional Forum (ARF) shall remain the primary forum in enhancing political and security cooperation in the Asia Pacific region, as well as the pivot in building peace and stability in the region. ASEAN shall enhance its role in further advancing the stages of cooperation within the ARF to ensure the security of the Asia Pacific region;

7. ASEAN is committed to deepening and broadening its internal economic integration and linkages with the world economy to realize an ASEAN Economic Community through a bold, pragmatic and unified strategy;

8. ASEAN shall further build on the momentum already gained in the ASEAN+3 process so as to further draw synergies through broader and deeper cooperation in various areas;

9. ASEAN shall build upon opportunities for mutually beneficial regional integration arising from its existing initiatives and those with partners, through enhanced trade and investment links as well as through IAI process and the RIA;

10. ASEAN shall continue to foster a community of caring societies and promote a common regional identity;

DO HEREBY ADOPT:

The framework to achieve a dynamic, cohesive, resilient and integrated ASEAN Community:

A. ASEAN SECURITY COMMUNITY (ASC)

1. *The ASEAN Security Community is envisaged to bring ASEAN's political and security cooperation to a higher plane to ensure that countries in the region live at peace with one another and with the world at large in a just, democratic and harmonious environment. The ASEAN Security Community members shall rely exclusively on peaceful processes in the settlement of intra-regional differences and regard their security as fundamentally linked to one another and bound by geographic location, common vision and objectives.*
2. *The ASEAN Security Community, recognizing the sovereign right of the member countries to pursue their individual foreign policies and defense arrangements and taking into account the strong interconnections among political, economic and social realities, subscribes to the principle of comprehensive security as having broad political, economic, social and cultural aspects in consonance with the ASEAN Vision 2020 rather than to a defense pact, military alliance or a joint foreign policy.*
3. *ASEAN shall continue to promote regional solidarity and cooperation. Member Countries shall exercise their rights to lead their national existence free from outside interference in their internal affairs.*
4. *The ASEAN Security Community shall abide by the UN Charter and other principles of international law and uphold ASEAN's principles of non-interference, consensus-based decision-making, national and regional resilience, respect for national sovereignty, the renunciation of the threat or the use of force, and peaceful settlement of differences and disputes.*
5. *Maritime issues and concerns are transboundary in nature, and therefore shall be addressed regionally in holistic, integrated and comprehensive manner. Maritime cooperation between and among ASEAN member countries shall contribute to the evolution of the ASEAN Security Community.*
6. *Existing ASEAN political instruments such as the Declaration on ZOPFAN, the TAC, and the SEANWFZ Treaty shall continue to play a pivotal role in the area of confidence building measures, preventive diplomacy and the approaches to conflict resolution.*
7. *The High Council of the TAC shall be the important component in the ASEAN Security Community since it reflects ASEAN's commitment to resolve all differences, disputes and conflicts peacefully.*

8. The ASEAN Security Community shall contribute to further promoting peace and security in the wider Asia Pacific region and reflect ASEAN's determination to move forward at a pace comfortable to all. In this regard, the ARF shall remain the main forum for regional security dialogue, with ASEAN as the primary driving force.

9. The ASEAN Security Community is open and outward looking in respect of actively engaging ASEAN's friends and Dialogue Partners to promote peace and stability in the region, and shall build on the ARF to facilitate consultation and cooperation between ASEAN and its friends and Partners on regional security matters.

10. The ASEAN Security Community shall fully utilize the existing institutions and mechanisms within ASEAN with a view to strengthening national and regional capacities to counter terrorism, drug trafficking, trafficking in persons and other transnational crimes; and shall work to ensure that the Southeast Asian Region remains free of all weapons of mass destruction. It shall enable ASEAN to demonstrate a greater capacity and responsibility of being the primary driving force of the ARF.

11. The ASEAN Security Community shall explore enhanced cooperation with the United Nations as well as other international and regional bodies for the maintenance of international peace and security.

12. ASEAN shall explore innovative ways to increase its security and establish modalities for the ASEAN Security Community, which include, inter alia, the following elements: norms-setting, conflict prevention, approaches to conflict resolution, and post-conflict peace building.

B. ASEAN ECONOMIC COMMUNITY (AEC)

1. The ASEAN Economic Community is the realisation of the end-goal of economic integration as outlined in the ASEAN Vision 2020, to create a stable, prosperous and highly competitive ASEAN economic region in which there is a free flow of goods, services, investment and a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities in year 2020.

2. The ASEAN Economic Community is based on a convergence of interests among ASEAN members to deepen and broaden economic integration efforts through existing and new initiatives with clear timelines.

3. The ASEAN Economic Community shall establish ASEAN as a single market and production base, turning the diversity that characterises the region into opportunities for business complementation making the ASEAN a more dynamic and stronger segment of the global supply chain. ASEAN's strategy shall consist of the integration of ASEAN and enhancing ASEAN's economic competitiveness. In moving towards the ASEAN Economic Community, ASEAN shall, inter alia, institute new mechanisms and

measures to strengthen the implementation of its existing economic initiatives including the ASEAN Free Trade Area (AFTA), ASEAN Framework Agreement on Services (AFAS) and ASEAN Investment Area (AIA); accelerate regional integration in the priority sectors; facilitate movement of business persons, skilled labour and talents; and strengthen the institutional mechanisms of ASEAN, including the improvement of the existing ASEAN Dispute Settlement Mechanism to ensure expeditious and legally binding resolution of any economic disputes. As a first step towards the realization of the ASEAN Economic Community, ASEAN shall implement the recommendations of the **High Level Task Force on ASEAN Economic Integration as annexed.**

4. The ASEAN Economic Community shall ensure that deepening and broadening integration of ASEAN shall be accompanied by technical and development cooperation in order to address the development divide and accelerate the economic integration of Cambodia, Lao PDR, Myanmar and Viet Nam through IAI and RIA so that the benefits of ASEAN integration are shared and enable all ASEAN Member Countries to move forward in a unified manner.

5. The realization of a fully integrated economic community requires implementation of both liberalization and cooperation measures. There is a need to enhance cooperation and integration activities in other areas. These will involve, among others, human resources development and capacity building; recognition of educational qualifications; closer consultation on macroeconomic and financial policies; trade financing measures; enhanced infrastructure and communications connectivity; development of electronic transactions through e-ASEAN; integrating industries across the region to promote regional sourcing; and enhancing private sector involvement.

C. ASEAN SOCIO-CULTURAL COMMUNITY (ASCC)

1. The ASEAN Socio-cultural Community, in consonance with the goal set by ASEAN Vision 2020, envisages a Southeast Asia bonded together in partnership as a community of caring societies.

2. In line with the programme of action set by the 1976 Declaration of ASEAN Concord, the Community shall foster cooperation in social development aimed at raising the standard of living of disadvantaged groups and the rural population, and shall seek the active involvement of all sectors of society, in particular women, youth, and local communities.

3. ASEAN shall ensure that its work force shall be prepared for, and benefit from, economic integration by investing more resources for basic and higher education, training, science and technology development, job creation, and social protection. The development and enhancement of human resources is a key strategy for employment generation, alleviating poverty and socio-economic disparities, and ensuring

economic growth with equity. ASEAN shall continue existing efforts to promote regional mobility and mutual recognition of professional credentials, talents, and skills development.

4. ASEAN shall further intensify cooperation in the area of public health, including in the prevention and control of infectious diseases, such as HIV/AIDS and SARS, and support joint regional actions to increase access to affordable medicines. The security of the Community is enhanced when poverty and diseases are held in check, and the peoples of ASEAN are assured of adequate health care.

5. The Community shall nurture talent and promote interaction among ASEAN scholars, writers, artists and media practitioners to help preserve and promote ASEAN's diverse cultural heritage while fostering regional identity as well as cultivating people's awareness of ASEAN.

6. The Community shall intensify cooperation in addressing problems associated with population growth, unemployment, environmental degradation and transboundary pollution as well as disaster management in the region to enable individual members to fully realize their development potentials and to enhance the mutual ASEAN spirit.

We hereby pledge to our peoples our resolve and commitment to bring the ASEAN Community into reality and, for this purpose, task the concerned Ministers to implement this Declaration.

Source: ASEAN Secretariat, <<http://www.aseansec.org/15159.htm>>

Appendix 4.

Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994

Members,

Having regard to the provisions of Article XXIV of GATT 1994;

Recognizing that customs unions and free trade areas have greatly increased in number and importance since the establishment of GATT 1947 and today cover a significant proportion of world trade;

Recognizing the contribution to the expansion of world trade that may be made by closer integration between the economies of the parties to such agreements;

Recognizing also that such contribution is increased if the elimination between the constituent territories of duties and other restrictive regulations of commerce extends to all trade, and diminished if any major sector of trade is excluded;

Reaffirming that the purpose of such agreements should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other Members with such territories; and that in their formation or enlargement the parties to them should to the greatest possible extent avoid creating adverse effects on the trade of other Members;

Convinced also of the need to reinforce the effectiveness of the role of the Council for Trade in Goods in reviewing agreements notified under Article XXIV, by clarifying the criteria and procedures for the assessment of new or enlarged agreements, and improving the transparency of all Article XXIV agreements;

Recognizing the need for a common understanding of the obligations of Members under paragraph 12 of Article XXIV;

Hereby *agree* as follows:

1. Customs unions, free-trade areas, and interim agreements leading to the formation of a customs union or free-trade area, to be consistent with Article XXIV, must satisfy, *inter alia*, the provisions of paragraphs 5, 6, 7 and 8 of that Article.

Article XXIV:5

2. The evaluation under paragraph 5(a) of Article XXIV of the general incidence of the duties and other regulations of commerce applicable before and after the formation of a customs union shall in respect of duties and charges be based upon an overall assessment of weighted average tariff rates and of customs duties collected. This assessment shall be based on import statistics for a previous representative period to be supplied by the customs union, on a tariff-line basis and in values and quantities, broken down by WTO country of origin. The Secretariat shall compute the weighted average tariff rates and customs duties collected in accordance with the methodology used in the assessment of tariff offers in the Uruguay Round of Multilateral Trade Negotiations. For this purpose, the duties and charges to be taken into consideration shall be the applied rates of duty. It is recognized that for the purpose of the overall assessment of the incidence of other regulations of commerce for which quantification and aggregation are difficult, the examination of individual measures, regulations, products covered and trade flows affected may be required.

3. The "reasonable length of time" referred to in paragraph 5(c) of Article XXIV should exceed 10 years only in exceptional cases. In cases where Members parties to an interim agreement believe that 10 years would be insufficient they shall provide a full explanation to the Council for Trade in Goods of the need for a longer period.

Article XXIV:6

4. Paragraph 6 of Article XXIV establishes the procedure to be followed when a Member forming a customs union proposes to increase a bound rate of duty. In this regard Members reaffirm that the procedure set forth in Article XXVIII, as elaborated in the guidelines adopted on 10 November 1980 (BISD 27S/26-28) and in the Understanding on the Interpretation of Article XXVIII of GATT 1994, must be commenced before tariff concessions are modified or withdrawn upon the formation of a customs union or an interim agreement leading to the formation of a customs union.

5. These negotiations will be entered into in good faith with a view to achieving mutually satisfactory compensatory adjustment. In such negotiations, as required by paragraph 6 of Article XXIV, due account shall be taken of reductions of duties on the same tariff line made by other constituents of the customs union upon its formation. Should such reductions not be sufficient to provide the necessary compensatory adjustment, the customs union would offer compensation, which may take the form of reductions of duties on other tariff lines. Such an offer shall be taken into consideration by the Members having negotiating rights in the binding being modified or withdrawn. Should the compensatory

adjustment remain unacceptable, negotiations should be continued. Where, despite such efforts, agreement in negotiations on compensatory adjustment under Article XXVIII as elaborated by the Understanding on the Interpretation of Article XXVIII of GATT 1994 cannot be reached within a reasonable period from the initiation of negotiations, the customs union shall, nevertheless, be free to modify or withdraw the concessions; affected Members shall then be free to withdraw substantially equivalent concessions in accordance with Article XXVIII.

6. GATT 1994 imposes no obligation on Members benefiting from a reduction of duties consequent upon the formation of a customs union, or an interim agreement leading to the formation of a customs union, to provide compensatory adjustment to its constituents.

Review of Customs Unions and Free-Trade Areas

7. All notifications made under paragraph 7(a) of Article XXIV shall be examined by a working party in the light of the relevant provisions of GATT 1994 and of paragraph 1 of this Understanding. The working party shall submit a report to the Council for Trade in Goods on its findings in this regard. The Council for Trade in Goods may make such recommendations to Members as it deems appropriate.

8. In regard to interim agreements, the working party may in its report make appropriate recommendations on the proposed time-frame and on measures required to complete the formation of the customs union or free-trade area. It may if necessary provide for further review of the agreement.

9. Members parties to an interim agreement shall notify substantial changes in the plan and schedule included in that agreement to the Council for Trade in Goods and, if so requested, the Council shall examine the changes.

10. Should an interim agreement notified under paragraph 7(a) of Article XXIV not include a plan and schedule, contrary to paragraph 5(c) of Article XXIV, the working party shall in its report recommend such a plan and schedule. The parties shall not maintain or put into force, as the case may be, such agreement if they are not prepared to modify it in accordance with these recommendations. Provision shall be made for subsequent review of the implementation of the recommendations.

11. Customs unions and constituents of free-trade areas shall report periodically to the Council for Trade in Goods, as envisaged by the CONTRACTING PARTIES to GATT 1947 in their instruction to the GATT 1947 Council concerning reports on regional agreements (BISD 18S/38), on the operation of the relevant agreement. Any significant changes and/or developments in the agreements should be reported as

they occur.

Dispute Settlement

12. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding may be invoked with respect to any matters arising from the application of those provisions of Article XXIV relating to customs unions, free-trade areas or interim agreements leading to the formation of a customs union or free-trade area.

Article XXIV:12

13. Each Member is fully responsible under GATT 1994 for the observance of all provisions of GATT 1994, and shall take such reasonable measures as may be available to it to ensure such observance by regional and local governments and authorities within its territory.

14. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding may be invoked in respect of measures affecting its observance taken by regional or local governments or authorities within the territory of a Member. When the Dispute Settlement Body has ruled that a provision of GATT 1994 has not been observed, the responsible Member shall take such reasonable measures as may be available to it to ensure its observance. The provisions relating to compensation and suspension of concessions or other obligations apply in cases where it has not been possible to secure such observance.

15. Each Member undertakes to accord sympathetic consideration to and afford adequate opportunity for consultation regarding any representations made by another Member concerning measures affecting the operation of GATT 1994 taken within the territory of the former.

Source: WTO, http://www.wto.org/english/docs_e/legal_e/10-24.pdf