Leveraging ASEAN solutions for trade through ASSIST:
The EU’s support under the ARISE Plus Programme

Paolo R. Vergano
Trade Facilitation Key Expert, ARISE Plus

CARI Briefings
8 January 2019, Kuala Lumpur

ASEAN Regional Integration Support by the EU (ARISE) Plus
ASSIST and its Legal Basis

- **Article 88 of the ATIGA** on the ACT and Declaration on ASEAN Concord II;
- **Article 47(b) of the ATIGA** and, including the “promotion of effective mechanisms for exchanges with the business and trading community, including opportunities for consultation when formulating, implementing and reviewing rules and procedures relating to trade”;
- **Article 40 of the ATIGA** on Non-Tariff Measures (NTMs) and on avoidance of ‘unnecessary obstacles to trade’; and
- **Article 42 of the ATIGA** on the ‘elimination of Non-Tariff Barriers’ (NTBs), including those reported by the private sector (paragraph 4 thereof).
The Broader Context

• The AEC Blueprint 2025 and its trade facilitation agenda
  “82. To ensure effective implementation of the AEC Blueprint 2025, the following strategic measures will be undertaken iv. ASEAN Member States may also access other mechanisms such as the ASEAN Solutions for Investments, Services, and Trade (ASSIST)”;

• Regional economic integration and role of ‘private sector’ in assisting Governments to remove obstacles;

• Needs of ‘private sector’, particularly SMEs (trade facilitation, expedited processes, ease of engagement with authorities, avoidance of disputes);

• Transparency, especially of NTMs (primary focus on goods). Linkage to the National Trade Repositories (NTRs) and ASEAN Trade Repository (ATR).
The ASSIST Concept

**ASEAN Solutions and Settlements for Investments, Services and Trade**

- Easy to remember, easy to find, easy to use, easy to manage, reliable and effective. It may be used **directly by ASEAN enterprises or by representative entities** (trade associations, chambers of commerce, business councils, business federations, and ASEAN lawyers or law firms);
- Aimed at facilitating trade, investments and ASEAN economic integration;
- **Focus on businesses based in ASEAN** (AEs legally registered in AMSs);
- Internet-based (http://assist.asean.org), consultative and non-binding mechanism;
- **Cost effective** (no fees and simplified, non-judicial procedures);
- For **trade in goods**, key role in addressing perceived NTBs and streamlining NTMs and natural add-on to the ATR (http://atr.asean.org). It is being extended to **trade in services**.
The Key Actors

- **AE:** **ASEAN-based Enterprise** that raises an issue/query/complaint through ASSIST. Anonymity can be preserved by lodging cases through trade associations, chambers of commerce, business councils/federations, lawyers or law firms. New **anonymity features** have been developed, allowing anonymous complaints to be filed on behalf of AEs by these **representative entities**. Special rules apply for ASEAN-registered lawyers or law firms.

- **CA:** **Central Administrator of ASSIST**, responsible for checking the completeness of the complaint submitted by the AE, for verifying the standing of the complaining AE, for forwarding the application to both the Home Contact Point (HCP) and the Destination Contact Point (DCP), for monitoring progress in accordance with the agreed deadlines, and for reporting the response/resolution back to the AE. The CA is also charged with the maintenance of the integrity of the ASSIST portal.
The Key Actors

- The **ASEAN Secretariat** (ASEC) acts as the CA. ASSIST is run by ASEC’s TFD for Trade in Goods and by ASEC’s SID for Trade in Services.

- **HCP:** **Home Contact Point**, which is the national body in the ASEAN Member State of the AE that is notified of the query/complaint by the CA.

- **DCP:** **Destination Contact Point**, which is the national body in the ASEAN Member State where the issue is raised and that is responsible for accepting (or rejecting) the issue and then coordinating the resolution/response by the relevant responsible authority(ies) (RAs).

- **RA(s):** **Responsible Authority(ies)** in the country of the DCP that will investigate the issue/compliant and provide a solution, if possible.
The Process

• Applicants will need to register and receive a password-protected log-in;
• Standardised online application forms have been developed for use;

File a Complaint

Please click on the icon of choice below and fill-in the required form so as to provide ASSIST with enough information on the trade problem that you are experiencing. Fields marked with an * are mandatory fields. Please note that, if you require anonymity, your complaint may be submitted by an ASEAN-based trade association, or by any other representative entity of your choice, such as a chamber of commerce, business council, business federation, or registered lawyer or law firm. In this case, the representative entity shall use its business registration number from the ASEAN jurisdiction where it is incorporated.
The Process

• A computer-generated tracking code is assigned, with CA/HCP notified;
• CA will assess the complainant’s ‘standing’ and complaint’s completeness;
• CA may request the complainant to provide additional information or clarifications;
• CA will inform AE and submit complaint to DCP/HCP, if there is ‘standing’;
• Maximum time limit is set for DCP to accept/reject complaint;
• Rejections of complaints must be motivated with a reason;
• If accepted, DCP will involve RA(s) and fixed time limits will apply;
• RAs/DCP may request a single time extension if the issue is complex;
• RAs/DCP must provide a response/resolution/remedy in written form;
• CA will follow-up. If DCP/RAs unresponsive, issue will be referred to AMSs;
The Process

- DCP will provide solution to CA or advise why the case is not solvable;
- CA will register the solution on ASSIST and send it to the AE and the HCP;
- The AE (or its representative entity) will notify the CA if it considers the issue satisfactorily addressed (i.e., resolved/settled);
- If not satisfied, the AE may advise the CA on its intended course of action;
- A ‘traffic light’ dashboard will be available on ASSIST to show progress of each complaint (Green: on schedule; Yellow: warning; Red: delayed);
- A ‘public forum’ section of the ASSIST portal will in the future provide data/statistics on complaints, operational guidelines, success stories of resolved cases, feedback from users/AEs, and tips on using ASSIST;
- A FAQ page is available on the website. User Manual for CA/HCPs/DCPs;
- No confidential information will be placed on the public forum.
AE submits application to CA via the ASSIST web portal

Review of the complaint by the CA

10 working days

If incomplete, return of the complaint to the AE by the CA, and subsequent re-submission of the complaint by the AE
Flowchart

Complaint is duly and validly lodged by the AE (i.e., accepted by the CA)

Review of the complaint by the DCP

Acceptance of the complaint by the DCP

Rejection of the complaint by the DCP and review of the DCP's rejection by the CA

max 2 weeks

10 working days
Flowchart

1. Search for a solution to the complaint by the RA(s)
   - 30 working days

2. Notification of a solution to the CA by the DCP
   - Possible extension: Up to 20 working days

3. Registration of the solution by the CA and notification circulated to the AE by the CA

4. Notification to the CA by the AE of whether it considers the issue resolved/remedied

- Assistance by the HCP, if the DCP/RA(s) are unable to find a solution within agreed-upon timeframe

*The timeframe for solving cross-border problems brought under ASSIST shall be no more than 60 working days or 3 calendar months*
The Key Features

- ASSIST aims at being an effective tool of trade facilitation and regional economic integration;
- It remains consultative and non-binding in nature, but intends to be professionally-managed and credible;
- It may be used even just to seek greater regulatory transparency and/or interpretative clarity (e.g., rules of origins, customs regimes, licensing, etc.);
- It aims at being reliable, transparent, responsive and efficient;
- It is based on simple and user-friendly formats, with clear instructions and processes;
- Confidentiality and anonymity can be preserved;
- AMSs and all Key Actors must commit to adhere to the agreed administrative and technical requirements, meeting the required timeframes and following the codified due process;
Only **duly-registered AEs** (or their representative entities), which file complete complaints can use ASSIST. **Proof of registration** will be requested to AE when lodging complaint;

- Each AMS must devote the necessary institutional, financial and human resources to maintain their DCPs and HCPs, and establishing networks of RAs, which are critical to its success. The **private sector must be vigilant**;

- **AEs must take full advantage of ASSIST**;

- **Online tutorials** are now available online and the ASSIST website will soon be available in **all ASEAN languages** (but cases may only be filed in English);

- **ARISE Plus** remains available to work with the private sector to advance this and other ASEAN trade facilitation instruments. In-country **training workshops or awareness creation events** can be hosted.
The following trade facilitation tools have also been developed by ASEAN with support from the EU under the ARISE and ARISE Plus programmes:

- The **ASEAN Trade Repository** ([http://atr.asean.org](http://atr.asean.org)), with its objective of legislative and regulatory transparency, and the network of ASEAN Member States’ **National Trade Repositories** (NTRs);
- The trade and transport facilitation regime represented by the **ASEAN Customs Transit System** ([http://acts.asean.org](http://acts.asean.org));
- The work on ASEAN standardization, harmonization and mutual recognition of conformity assessments, particularly in the areas of food safety and pharmaceuticals, notably by supporting the **ASEAN Risk Assessment Centre** ([http://www.arac-asean.org](http://www.arac-asean.org)) and through the **ASEAN Harmonized Standards Search Facility** ([http://atr.asean.org/standards](http://atr.asean.org/standards)); and
- The increased private sector engagement within the ATF-JCC and the relevant ASEAN Sectoral Bodies, as well as through the **ARISE Plus Roundtable Discussions on Trade Facilitation**.
Thank You

ASEAN Regional Integration Support by the EU (ARISE) Plus

ASEAN Secretariat
Jl. Sisingamangaraja 70A, Jakarta 12110 – Indonesia
Tel: (+62 21) 726 2991, 724 3372 ext. 852
Fax: (+62 21) 739 8234
E-mail: ariseplus@asean.org