

4th ASEAN GOVERNMENT LEGAL OFFICERS PROGRAMME (AGLOP)

**WORKSHOP ON HARMONIZATION OF TRADE LAWS
OF ASEAN MEMBER STATES
(ARBITRATION AND INTERNATIONAL SALE OF GOODS)**

11 – 12 MARCH 2013

**KEYNOTE ADDRESS BY
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Distinguished delegates and participants

On behalf of the Attorney-General's Chambers of Singapore, it is my pleasure to warmly welcome you to Singapore to attend this 4th ASEAN Government Legal Officers Programme, which is the ASEAN Senior Law Officials Meeting (ASLOM) Workshop on the Harmonization of the Trade Laws of ASEAN Member States. This Workshop will focus on 2 key issues – Arbitration and the International Sale of Goods.

I would like to extend a special welcome to our foreign speakers, Ms Corrine Montineri from the UNCITRAL Secretariat, Professor Anna Veneziano, Deputy Secretary-General of UNIDROIT and Mr Un Sovannasam from the ASEAN Secretariat, who have travelled from Vienna, Rome and Jakarta respectively to speak at this Workshop. I would also like

to thank our local speaker, Ms Valerie Thean, Deputy Secretary of the Ministry of Law, Singapore. Unfortunately Associate Professor Gary Bell who was initially scheduled to speak at the Workshop has unexpectedly taken ill. However, Ms Montineri has graciously agreed to deliver a presentation in his place.

This ASLOM Workshop seeks to further the work of the ASLOM Working Group on the Harmonisation of the Trade Laws of ASEAN Member States. Specifically, it seeks to provide more information to all participants on developments in the law and practice of arbitration and the modalities available internationally for the harmonization of laws relating to the international sale of goods.

This Workshop and the work of the Working Group must be seen in the wider context of the recent decision by our ASEAN Leaders at the 21st ASEAN Summit held in Phnom Penh, Cambodia on 18 November 2012 reaffirming that the ASEAN Community will be created on 31 December 2015. That date is slightly over 2 years and 9 month away. Between now and then, it is the responsibility of each ASEAN Member State to ensure the timely implementation of the 3 Blueprints that constitute the Roadmap for an ASEAN Community – namely, the Political-Security Community Blueprint, the Economic Community Blueprint and the Socio-Cultural Community Blueprint.

In drawing up the Economic Community Blueprint, our Leaders drew on their decisions from the Bali Summit of October 2003, where it was declared that “the ASEAN Economic Community shall be the goal of regional

economic integration (Bali Concord II) by 2020”. This is also reflected in the ASEAN Charter, where we note that one of the foremost Purposes of ASEAN is “to create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment...”

The goal of regional economic integration is a worthy goal which will allow ASEAN Member States and their respective communities to benefit in multiple ways. These benefits can be realised through increased trade, the seamless flow of goods and services within the region and even in and out of the region, market expansion, as well as increased opportunities for employment of our peoples, and with that, increased prosperity for all.

To provide a sense of the importance of the task, we only need to recall the ASEAN Merchandise & Trade Statistics Database record that in 2011, the total value of intra-ASEAN trade was US\$598 million, while the total value of extra-ASEAN trade was US\$1.79 billion. These numbers are by no means insignificant, and our collective goal of maintaining and growing these numbers depends on the efforts of many arms of our respective governments, not least of which is the legal arm.

This Workshop’s, and indeed, Singapore’s efforts at promoting the harmonization of the trade laws of ASEAN Member States, are precisely driving at this worthy goal of greater economic integration within ASEAN. Achieving the goal of regional economic integration depends on several factors. One key aspect of economic integration is, of course, the reduction of trade barriers and tariffs for the movement of goods and services.

Another important aspect in economic integration is the certainty of the legal system which brings about this economic integration. As the legal officers of ASEAN Member States, it is our duty, and indeed our responsibility, to attend to the domestic laws and legal systems within our respective states which serve to bring about the certainty and predictability of this economic integration which our Leaders collectively aspire towards.

The lynchpin of certainty and predictability is undoubtedly the rule of law. Even as we marked the 4th anniversary of the ASEAN Charter's entry into force in December, we recall that our governments took a conscious decision to position ASEAN as a rules-based organisation. The lawyers among us would recall ASEAN's guiding Principle set out in Article 2(h) of the Charter – “adherence to the rule of law, good governance, the principles of democracy and constitutional government”; while those with economic backgrounds would recall Article 2(n) – “adherence to multilateral trade rules and ASEAN's rules-based regimes for effective implementation of economic commitments and progressive reduction towards elimination of all barriers to regional economic integration, in a market-driven economy.” The inescapable sense one receives from the foregoing emphases in the ASEAN Charter is that ASEAN's Economic Community Blueprint and the economic integration within ASEAN is to be carried out through law, and in continuous conformity with law.

The role of the law in ASEAN thus cannot be overstated. Within our individual countries, laws give our people a sense of security, and form the backbone of economic prosperity which investors, businesses, employers and employees rely on. For businessmen and traders both within and outside

our region, familiarity with our laws and legal systems, as well as the certainty of legal outcomes, provide increased business certainty and lower transactional risks in the course of trade.

This brings me back to the topic of harmonization of the trade laws of ASEAN Member States. As legal officers of ASEAN Member States, we would be acutely aware that the different countries within ASEAN have different legal systems. Over the years, the legal officials of ASEAN have interacted and learnt from each other in forums like the ASEAN Senior Law Officials Meeting (ASLOM), the ASEAN Government Legal Officers Programme (AGLOP) and the ASEAN Law Forums (ALF). In addition to these, we have the many gatherings of the ASEAN Law Association which has separate chapters in nearly all ASEAN Member States. All these have brought the legal communities of ASEAN closer together and promoted greater understanding of each other's laws and legal systems. But this notwithstanding, for the business community at large, the diversity of the different legal systems in ASEAN poses significant challenges as one is obliged to navigate through different systems in the course of a single transnational commercial transaction. It is against this backdrop that I welcome all participants to this Workshop which seeks to promote greater understanding of the modalities that can unite our legal systems, at least in common areas touching on arbitration and the international sale of goods.

In these areas, the ASLOM Working Group on Examining the Modalities for the Harmonization of the Trade Laws of ASEAN Member States has identified certain protocols worthy of further study and consideration by ASEAN Member States. This Working Group, comprising

of members from all 10 ASEAN Member States, has, over the years since its inception, diligently sifted through various international efforts at harmonization of trade laws. These have been shortlisted and prioritised for the consideration of ASEAN Member States. This Working Group, which was formed pursuant to the endorsement of our Law Ministers at the 6th ASEAN Law Ministers Meeting in Hanoi, Vietnam, set out its goal very simply. I can do no better than to quote from the Working Group proposal paper which was endorsed by ASLOM and our Law Ministers:

“One way for ASEAN countries to help its businessmen cope with the uncertainty and cost of having to deal with different legal regimes in business transactions between ASEAN countries would be for the states to harmonise their international trade laws. If this is achieved, then businessmen who conduct business across ASEAN would have to consider only one set of rules applicable to their transaction, rather than many different sets of rules. This would remove uncertainty, reduce cost, generate greater business confidence and, as the final outcome, promote greater intra-ASEAN trade.”

Over the course of these 2 days, I hope that all of you will have a very productive time at this Workshop. I understand that in addition to the presentations by the speakers, there will be country reports by each country for each of the two topics covered by this Workshop. These are opportunities for all of us to learn from each other, and assist each other along, as various economies in ASEAN are opening up and developing at this time of great promise in the economic landscape of ASEAN.

Singapore fully supports the efforts of the Working Group at the harmonization of the trade laws of ASEAN Member States. It is my hope that you will benefit greatly from this Workshop, and that it will be a significant stepping stone towards the realisation of economic integration and the establishment of the ASEAN Community.

Thank you.

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