

ASEAN - China FTA

	QUESTION	ANSWER
1.	ACFTA application procedure	Attachment : FAQ ACFTA - application procedures.doc
2.	Can we pay the duty under protest pending Form E and claim for refund later?	Yes, you can pay first and claim later in the event, if your CO is questioned and detained by the Customs authorities.
3.	Can we transfer the container to bonded warehouse for shipment from China? We will use Form E to clear partial shipment that is for local use and re export for cargo that sell to oversea at the bonded warehouse?	I believe that you are referring to the back-to-back CO arrangement. Back-to-Back Certificate of Origin arrangement is an issuance of Certificate of Origin (CO) by an intermediate ACFTA party, where the goods pass through to undergo bulk break activities or repackaging of products. For your information, back-to-back CO arrangement is not allowed under the ASEAN-China FTA.
4.	Check the following product Import duty: Cause : Bra 6212.10.900 Panty 6108.29.000 Sleepwear	The import duty using Form E (ACFTA Arrangements) in 2010 for the following items are as follows: Bra 6212.10.900 - 0%

6207.29.000 Costume
Jewelry 7117.19.000

Panty 6108.29.000 -
0%
Sleepwear 6207.29.000
- 0%
Costume Jewelry
7117.19.000 - 0%
Please follow the
URL Link as follows
to view the rates for
imports and exports of
products using Form
E: /cms/content.jsp?
id=com.tms.
cms.article.Article_dd4aeab0-
c0a81573-7e017e01-
a58e2a60

5.

Do we need to provide the certificate of country of origin (FORM E) to Malaysia custom office if tariff will not be exempted in our trade configuration (intermediate trade through Japan) with Malaysia mentioned.

Cause :

Our business is intermediate trade between Malaysia and China via Japan.

As for the import duty for the exportation of products under HS 8431.49.90 from China to Malaysia, the import duty in 2010 is 10% and this is the MFN rate as this product is listed under the Malaysia's Sensitive List. In this case, Form E is not necessary since MFN rates will be imposed for the exportation of this product. As such, import duties of 10% will be imposed and no exemption will be given.

6.

Do you have a website with details of items that are duty free in 2010 based on ACFTA

We have had our Custom Duty Order for ASEAN-China FTA uploaded into the MITI Website. Kindly follow the URL as follows: /

duty elimination or reduction schedule?

cms/content.jsp?id=com.tms.cms.article.Article_dd4aeab0-c0a81573-7e017e01-a58e2a60&curpage=tt

Pleased be informed that the Malaysia's Custom Duty Order covers the multiyear reduction from the first tranche of tariff reduction in 2005 until the last tranche of tariff reduction in 2012.

7.

Do you have any special arrangement applicable for Hong Kong trading company?

The import duty rate for the exportation of products 68118200 for 2010 are as follows:

Cause:

i) 6811.82.100 roofing, facing or partition sheets = 0%

We are writing to request information about the free trade among Malaysia / China / Hong Kong. We are a Hong Kong based trading company.

ii) 6811.82.200 floor or wall tiles containing plastics = 0%

Our business are engaging trading of China made fibre cement building boards (Code HS 68118200) and exporting to Malaysia. Currently our shipments are shipped from China port to Malaysia directly. All

iii) 6811.82.900 others = 0%

In order to be granted preferential tariffs, application of CO Form E from China is required. I see no problem in getting a Form E from China since the products are produced in China. For

I/E documents are produced by us in Hong Kong. Since we are not a mainland China company. So we cannot provide C/O Form E in order to waive the import duty. However we can still provide a C/O of China to prove all our board products are made in China. Though Hong Kong is out of the agreement between ASEAN and China, In fact all products are made in China.

your information, there is another arrangement under the ASEAN-China FTA which is the third party invoicing. Third party invoicing is an arrangement whereby products are shipped from China to Malaysia but the invoicing can come directly from Hong Kong. However, this arrangement is only expected to come into force in January 2011.

8.

Form E can be accepted to use for the shipment?

3rd party invoicing was never allowed under the ACFTA arrangements.

Cause :

We are a logistics company in Port Klang. We have a client named Tesco Stores (M) Sdn. Bhd. They have a shipment from Shekou, China. Port Klang Customs informed that Form E cannot be used for this shipment, due to shipper invoice was issued by the company in Hong Kong.

Shipper: Invoice & B/
L Shipper: Company in
Hong Kong Consignee :
Company in Malaysia
Port of Loading:
Shekou, China
Port of Discharge: Port
Klang, Malaysia

In here, we would like
to seek your opinions
whether Form E can
be accepted to use for
the shipment same as
above or not.

9.

Has China given any flexibility treatment to AMS on soya and rape seed oil manufacturing under the ASEAN-China agreement on Investment?

Cause :

As soya and rapeseed oil manufacturing are currently listed under the Catalogue of Restricted Foreign Investment Industries in China, I would like to seek your assistance to check whether has China given any flexibility treatment to AMS on soya and rape seed oil manufacturing

ASEAN-China Investment Agreement does not have liberalisation element tied to the Agreement. As such, all Parties to the Agreement can continue to maintain their existing/new non-conforming regime for soya and rapeseed oil manufacturing as per Article 6 of the ASEAN-China Investment Agreement.

Article 6 : Non-Conforming Measures

1. Article 4 (National Treatment) and Article 5 (Most-Favoured Nation Treatment) shall not apply to:

under the ASEAN-China agreement on Investment.

(a) any existing or new non-conforming measures maintained or adopted within its territory; (b) the continuation or amendment of any non-conforming measures referred to in Sub-paragraph (a).

2. The Parties will endeavor to progressively remove the non-conforming measures.

3. The Parties shall enter into discussions pursuant to Article 24 (Review) with a view to furthering the objectives in Article 2(a) and Article 2(e). The Parties will endeavor to achieve the objectives to be overseen by the institution under Article 22 (Institutional Arrangement).

10.

How to apply for ACFTA?

Guidelines to Apply for Preferential Certificates of Origin

- Approval For Cost Analysis Conditions and Procedures for Application:

(i) The company must be registered with the Companies Commission of Malaysia (SSM).

(ii) Eligible Products

-Products for export as stipulated in the

list of products of the importing countries of respective schemes.

-Products for export must fulfill the condition of the rules of origin under the respective schemes.

(iii) How to Apply

- Obtain the ASEAN Harmonised Tariff Nomenclature (AHTN) or Harmonised System (HS) code from the Royal Customs of Malaysia for every product and raw material used.

Application must be submitted with:

- Form BAK 1(a):
Details of Exporter/
Manufacturer and
Products

- Form BAK 1(b):
Product's Cost Analysis
- Form BAK 1(c): Letter
of Indemnity

- A Copy of the
following documents:

1. Certificate of
company's registration.
2. Invoices of raw
material purchasing.
3. Sample/photograph/
products catalogue.
4. Flow chart of
production process.

(iv) Application Forms
of BAK 1(a), BAK 1(b)
and BAK 1(c) Forms
can be obtained from:

- MITI Website - [http://
www.miti.gov.my](http://www.miti.gov.my).

- Service Counter
(Ground Floor), MITI
office Kuala Lumpur.

- MITI's branch offices
in respective states.

Completed application
forms must be
submitted to:

Ministry of International
Trade and Industry
(MITI) Trade
Cooperation and
Industry Coordination
Section Ground Floor,
(Service Counter),
Block 10 Government
Offices Complex, Jalan
Duta, 50622 Kuala
Lumpur

Tel.: 03-6203 3022
Fax: 03-6201 3351

or

MITI's branch offices in
respective states

(v) Notification letter will
be issued to applicant
within 7 working
days upon receipt of
completed application
form.

11.

**How we can help
industries especially
the SMEs in respond
to ACFTA?**

Cause :

There are concerns
raised by the industries
on the impact of
ACFTA to SMEs.

In the FTA negotiations
the varying level
of economic
developments among
parties to the FTAs
are always taken
into consideration.
Flexibilities are
accorded in terms of
differentiated timelines
and tariff reduction and
elimination thresholds
for countries which are

less developed. These countries are normally given an additional 2-5 years to meet their full commitments. This approach has worked well for ASEAN.

ASEAN's objective is to create a dynamic environment for business activities to be established in the region. This is critical for ASEAN's economic growth. That is why ASEAN is working towards deeper economic integration to create the ASEAN Economic Community by 2015. Malaysia and the ASEAN Member States have been a major recipient of investments in the past and this trend is expected to continue. FDI flows to the region in 2008 was US\$69.5 billion in 2007 and US\$60.2 billion in 2008 compared to US \$23 billion in 1998. In 2008, intra-ASEAN investment was US \$11.1 billion.

As import duties and other barriers to

trade are dismantled under the ASEAN-China Free Trade Agreement, some domestic industries view that they will be subject to stiffer competition. However, companies stand to benefit most from the implementation of the ACFTA. China is an emerging market for Malaysian products. There are many areas of complementarities that could be tapped by the business communities in ASEAN and China.

Nevertheless, MITI is monitoring the trade flows under the FTA. MITI is in constant touch with the Malaysian business community to assess the impact of the FTA. ASEAN countries and China are also continuously engaged in dialogues to address problems faced in the implementation of the FTA. To assist ASEAN, China is also providing various forms of assistance to enhance the capacity of

ASEAN businesses and industries. Specialised seminars such as understanding trade rules and regulations are held on an ongoing basis to facilitate ASEAN.

One of the challenges is to get the SMEs in Malaysia to work with their counterparts in China to produce for the global market. The FTAs are in a way forcing SMEs to be more cost competitive as well as adopt a strategy to produce high quality goods not only for the Chinese market but for the global market.

12.

If tariff for our goods will not be exempted for our customers in Malaysia, we want to know how much % is the tariff rate.

Cause :

Our business is intermediate trade between Malaysia and China via Japan.

The reduction/ elimination of import duties under the ASEAN-China FTA has been implemented since 2005 by all ASEAN Member States and China. The full implementation of the ASEAN-China Free Trade Agreement (ACFTA) has been realised on 1 January 2010.

Import duties on 90 per cent of the products traded between ASEAN-6 (Brunei, Indonesia, Malaysia, the Philippines, Thailand and Singapore) and China has been eliminated on 1 January 2010. The 150 tariff lines (NT 2) will gradually be eliminated by 2012. 10% of the products are also placed in the Sensitive Track and Exclusion List. These products are given longer time frame to reduce the duties.

For the CLMV countries, full tariff elimination for products in the NT will only be realised in 2015, with flexibility on 250 tariff lines under NT2 which will be eliminated in 2018. Sensitive products are given longer time frame for the elimination of duties.

With regards to the Back to back Arrangement (in the case of China, the Back-to back

is replaced by the Movement of certificate arrangement but both the arrangements are similar) and third party invoicing arrangements on ACFTA, ASEAN and China have concluded the negotiations on these two arrangements and the implementation of these two arrangements is scheduled to take place in January 2011.

13.

Invoice issued by another party, which is the authorized sales & marketing agent of the factory in overseas. Please advise whether this business module entitled for the Form E duty exemption in Malaysia?

Looking at the scenario of business, there should be no problem for the importation of goods from mainland China (excluding Hong Kong, Macau and Taiwan) to Malaysia. For your information, third party invoicing was never allowed under the ASEAN-China FTA. However, in the case of Malaysia, invoicing issued by another country is allowed as long as the goods are originated in China and fulfill to the criteria of 40% Regional Value Content (RVC).

14.

Is Taiwan considered part of China as well?

Taiwan is not considered as Party to the ASEAN-China FTA arrangements.

15.

Is the current 5% import tax for imported prime movers (heavy trucks that pull trailers) has been eliminated in 2010?

Cause :

I represent a Chinese truck manufacturer. I have read on 1 January 2010, the full ASEAN Free Trade Agreement will take effect and the import duty on ASEAN-made CBUs (completely built vehicles) will drop to zero from 5% currently. But I also read the current 5% import duty will be extended to 2015.

Since China is not a party to the AFTA, exports of products from China to Malaysia could only be undertaken through the ASEAN-China FTA Arrangements.

For your information, AFTA has been realised on 1 January 2010. However, for the ACFTA, 90% of the products in the Normal Track will be at 0% on 1 January 2010. For products under the sensitive lists, duties will be reduced to 20 percent by 2012 and further reduction to 0-5 percent by 2018. Attached herewith is the ACFTA tariff rates for prime movers for your reference:

AFTA rates for all the 3 tariff lines listed above are already at 0% in 2009. For further information on tariff rates under ACFTA, please follow the URL as follow: /
cms/content.jsp?id=com.tms.cms.article.Article_42de9e6b-c0a81573-6dca6dca-92eba3f2.

16. **Is the current duty for importing children clothing from China under the FTA and is there any other restriction?**
- Malaysia has eliminated import duties on 98% of the total lines under normal track (9,250 tariff lines) on 1 January 2010. The remaining 2 per cent will be eliminated on 1 January 2012.
- On your queries for the import duty rates for children clothing, there should be no restriction in utilising the ACFTA arrangements as long as the requirement of 40% regional value content is being fulfilled.
17. **Is the shipper required to apply for the certificate of non-manipulation or is there some other documents to be prepared?**
- Cause :**
- Clarification on the documents required to prove on the transshipment from Hong Kong Port
- Application of Certificate of Non-manipulation for Transshipment cases under the ASEAN-China FTA
- The ASEAN-China Trade in Goods Agreement has been implemented since 2005. The FTA has created a single market of 1.9 billion consumers and a combined gross domestic product (GDP) of approximately US\$6 trillion. The market is now open and offers both challenges

and opportunities to the business community in Malaysia as well as the other ASEAN countries.

The ASEAN-China FTA arrangement only applies to the Parties of the Agreement which is ASEAN and mainland China. However, there are instances whereby shipment will be transshipped via Hong Kong.

This arrangement is allowed. In such cases, exporters are required to apply for the certification of non-manipulation which serves as a document to indicate that the goods were not manipulated or tempered in any way while in transshipment. The non-manipulation certificate will be issued by the Customs General Administration People's Republic of China.

To meet the requirements of Customs General Administration People's Republic of China, the applicant is required

to follow the following procedures:

- the applicant must guarantee that during the stay in Hong Kong , the goods are not processed, unpacked, inspected, repacked or replaced with others;

- to apply for the certification of non-manipulation through the Certification Service Department of China Inspection Co., Ltd. at least 2 working days before the goods arrive in Hong Kong;

- to submit the following documents when applying:

- a) an original of truly filed out application form (available at Certification Service Department of China Inspection Co., Ltd. at HKD50.00 per pad);

- b) an original and a copy of related preferential certificate of origin (CO Form E);

c) a copy of invoice to the consignee of the importing region or country; and

d) a copy of bill of lading.

When these documents are in place, the China Inspection Co., Ltd. will stamp and countersign on box 4 of the original preferential certificate of origin (Form E) with the following words as the certification of non-manipulation:

THIS IS TO CERTIFY
THAT THE GOODS
STATED IN THIS
CERTIFICATE
HAD NOT BEEN
SUBJECTED TO
ANY PROCESSING
DURING THEIR STAY/
TRANSSHIPMENT IN
HONG KONG.?

Applicants are also requested to pay certification fee which is non-refundable in the process of application of the non-manipulation certificate. The fee starts from HKD500 per certificate and subject

to adjustment without prior notice depending on a case by case basis.

Contact point for further inquiries on the application of the certificate of non-manipulation:

Hong Kong Office:

29/F., East Tower,
Shun Tak Centre,
No. 168-200
Connaught Road
Central,
Hong Kong
Tel: +85 2503 1988
Fax: +85 2512 0353 /
+85 2512 0262

Kowloon Office:

Unit 401-406, New East
Ocean Centre,
9, Science Museum
Road,
Tsim Sha Tsui East,
Kowloon
Tel:+85 2397 8111
Fax:+85 2392 0213 /
+85 2392 0261

Man Kam To Office :

1028 DD88 Man Kam
To Road,

Sheung Shui, N.T.
Tel:+85 2668 5383
Fax:+85 2670 0337

To avoid goods being detained at the Ports, Malaysian exporters are requested to comply with the conditions.

Note:

Certificate of non-manipulation is only required for the exportation of goods e.g., from Malaysia to mainland China via HK. As for importation of goods from mainland China to Malaysia via HK, you don't need to apply this certificate, however, the exporters are required to prove to the Malaysia customs upon clearance that the goods are originating from China, fulfill to the 40% regional value content as well as the goods are not being tempered in any way during the transshipment.

18.

Is there a for SMEs to promote their products?

MITI is according high priority to enhancing trade and investment

relations with China given the huge potential of the Chinese market. In general, China's strong economic growth has in a way reduced the impact of the global financial and economic crisis on ASEAN.

It is in this context that MITI has embarked on several promotional programmes to tap the opportunities in the Chinese market. Regular trade and investment missions are being dispatched to China on a continuous basis not only by MITI and its agencies, but by other economic ministries, Chambers of Commerce, trade and industry associations. In addition to the trade missions, Malaysia through the Malaysia External Trade Development Corporation (MATRADE) has been coordinating the participation of over 100 companies at the China-ASEAN Expo held in Nanning annually from 2004.

This Expo has provided a very good platform for Malaysian companies to promote their products in the Chinese market. Specialized product missions are also dispatched on a regular basis.

Offices of MATRADE and Malaysian Industrial Development Authority (MIDA) have been opened in several provinces in China to assist Malaysian businesses.

The Ministry has also undertaken several outreach programmes to explain to the Malaysian business community on the benefits of ACFTA. These programmes will continue to be undertaken on a continuous basis.

19.

Is there any other cooperations under ACFTA besides in Goods, Services and Investment?

Since the signing of the ASEAN-China Framework Agreement on Comprehensive Economic Cooperation in 2002, ASEAN and China have intensified their relations, especially in

the field of trade and investment.

Three key agreements have been signed over the last 5 years. These include the ASEAN-China Trade in Goods Agreement, ASEAN-China Trade in Services Agreement and the ASEAN-China Investment Agreement. These agreements are intended to facilitate trade and investments between ASEAN and China.

To further facilitate trade, ASEAN and China signed in October 2009 the MoU on Cooperation in the Field of Intellectual Property and the MoU on Strengthening Cooperation in the Field of Standards, Technical Regulations and Conformity Assessment.

China has also established the China-ASEAN Investment Cooperation Fund with an allocation of US \$10 billion to finance major investment

cooperation projects in infrastructure, energy and resources, information and communications technology and other fields. China has also made available a US\$15 billion credit facility to advance ASEAN integration and ASEAN-China economic cooperation in the next three to five years. These initiatives demonstrate the important role assumed by China in deepening ASEAN-China linkages.

An ASEAN-China Centre to promote trade, investment, tourism and cultural exchange was established in Beijing in 2010. The MoU on Establishing this Centre was signed by the Foreign Ministers of ASEAN and China during their recent meeting in October 2009.

With these agreements and mechanisms in place, Malaysia and the other ASEAN countries

are expected to enhance and maximize their collaboration with China, including attracting Chinese investments into the region.

20.

Is transshipment allowed?

Cause :

Tyco Electronics (M) Sdn Bhd is trading company. We buy cable from vendor, whereby their factory is in China but the sales office is located in Hong Kong. So the issuing invoice & packing list is from the Hong Kong office. All these cables from the factory in Shanghai are sent directly to Port Klang instead of transit in Hong Kong. Please review & appreciated the comments.

The problem in the transaction is the invoice which is coming from Hong Kong. 3rd party invoicing is never allowed under the ACFTA.

21.

Issuing invoice & packing list is from the Hong Kong office.

Cause :

Tyco Electronics (M) Sdn Bhd is trading

The problem in the transaction is the invoice which is coming from Hong Kong. Please be informed that 3rd party invoicing was never allowed under the ACFTA.

company. We buy cable from vendor, whereby their factory is in China but the sales office is located in Hong Kong. So the issuing invoice & packing list is from the Hong Kong office. All these cables from the factory in Shanghai are sent directly to Port Klang instead of transit in Hong Kong.

22.

Tariff for steel?

The rates for the importation of steel materials from China to Malaysia using CO Form E (ASEAN-China FTA) in 2010 are as follows:

Cause :

7209.26.00 : Of a thickness exceeding 1mm but less than 3mm

7209.26.00 = 25% (MFN rates)

7209.27.00 : Of a thickness of 0.5mm or more but not exceeding 1mm

7209.27.00 = 25% (MFN rates)

23.

Third party invoicing is accepted to enjoy preferential tariff in Malaysia?

3rd party invoicing was never allowed under ACFTA. However, Malaysia do accept and accord preferential treatment under ACFTA as long as the goods are originating from China and fulfill the regional value content (RVC) 40%.

Cause :

Cargo from China using ACFTA Form E. If invoice is issued by Hong Kong Company, as the head office is in Hong Kong, goods

are manufactured in China and truck to Hong Kong as loading port to Malaysia.

24.

Unequal import duty between Malaysia (ASEAN) and China for our export product Enamel Copper Wire (HS-Code: 8544 11 100)

The import duty rate for the product HS 8544.11.100 for both Malaysia and China in 2010 are as follows:

Malaysia = 0%

Cause :

China = 5%

China 5% import duty, but Malaysia 0% duty.

This is because for Malaysia, this product is listed under the Normal Track 1 whereby the import duty has been at 0% since 1 January 2010 whereas for China, this product is listed under the Normal Track 2, whereby import duties will be reduced to 0% on 1 January 2012.

We would like to inform that the placement of tariff lines by all the ASEAN Member States and China is based on the modality of the ACFTA and not on reciprocity basis. Under the ACFTA modality, ASEAN-6 (Brunei, Indonesia, Malaysia,

25.

We are a logistics company in Port Klang. Port Klang Customs informed that Form E cannot be used for this shipment, due to shipper invoice was issued by the company in Hong Kong.

Cause :

We have a client named Tesco Stores (M) Sdn. Bhd. They

Philippines, Singapore and Thailand) and China are required to reduce 90% of the products under the Normal Track to 0% on 1 January 2010 with flexibility given to not more than 150 tariff lines which is placed under Normal Track 2. Duties for products under Normal Track 2 will be eliminated to 0% on 1 January 2012.

In this case, Malaysia has listed this particular product in Normal Track 1, while China has listed it under the Normal Track 2.

3rd party invoicing was never allowed under the ACFTA arrangements. However, Malaysia's Customs are accepting invoice from non-party of ACFTA as long as the goods are originated from China and adheres to the 40% Regional Value Content (RVC).

have a shipment from
Shekou, China.

Shipper Invoice & B/L

Shipper: Company in
Hong Kong

Consignee : Company
in Malaysia

Port of Loading:
Shekou, China

Port of Discharge: Port
Klang, Malaysia

26.

**What are the benefits
of ACFTA?**

The programme for import duty reduction and elimination under the ASEAN-China Free Trade Agreement (ACFTA) began in July 2005. Since then, duties have been progressively reduced or eliminated. Prior to the implementation of the ACFTA, ASEAN and China also undertook to eliminate import duties for agricultural and selected manufactured products under the Early Harvest Programme from 2004-2006. As such, the duties on most

products have already been eliminated.

Starting from 1 January 2010, Malaysia, Brunei, Indonesia, the Philippines, Singapore and Thailand (ASEAN-6) and China implemented the FTA with duties on 90 per cent of the products eliminated. This is also ASEAN's first FTA with its dialogue partners.

The ASEAN-China FTA is the world's biggest free trade area embracing 1.9 billion consumers and a combined gross domestic product (GDP) of approximately 6 trillion US dollars. China's strong economic growth offers opportunities for Malaysia and other ASEAN countries to benefit by increasing their exports of goods and services to the Chinese market.

Besides trade in goods, ASEAN and China are also liberalising the services sector.

Several sectors have been opened up for greater Chinese equity ownership and these include architecture, engineering, telecommunications, financial services, education, health and tourism.

Similarly, China has also liberalised sectors such as computer and related services, management consulting services, construction, environmental services, recreational services and transport services.

China will continue to be a key market for Malaysia and the other ASEAN Member States. New approaches and strategies, including smart tie-ups with Chinese entrepreneurs are required to benefit from this large integrated market. Malaysian companies will have to take advantage of the preferential duty free access to export to China as well as take advantage of the

27.

What are the impacts of ACFTA?

Cause :

1 January 2010, marks the realisation for ACFTA for ASEAN-6 and China .

liberalization of the services sector.

Malaysia's expectation is that the ACFTA should bring about a win-win situation to all parties. This is also the view of the private sector. ASEAN and China must work together collectively as well as bilaterally and through mutual understanding and support to overcome any challenges posed by ACFTA to any particular country. There is a need to make adjustments and Chinese support in this area is critical so that we can enhance industry competitiveness and bring balanced development in the process.

China certainly offers opportunities for Malaysia and the other countries in the region in a wide range of activities:

Firstly, the ASEAN-China FTA has laid the foundation for both sides to build a strong

and mutually beneficial trade, investment and economic relations. It brings more opportunities, a bigger market and better conditions for resource allocation.

Secondly, China's economic development needs offers ASEAN and in particular Malaysia opportunities for investments in infrastructure development, retail and wholesale trade, education, healthcare and manufacturing. Many Malaysian companies are already operating projects in China. Besides that, with China's rapid industrialisation, there is a need for more raw materials and semi finished products which Malaysia and the other ASEAN Members can supply;

Thirdly, Chinese investments are expanding overseas. Chinese investments in ASEAN from 2000-2008 was US\$5.1 billion. The Chinese

government is now encouraging Chinese to invest abroad and the ASEAN-China FTA offers these investors opportunities to invest in ASEAN;

Fourthly, the ASEAN-China FTA has opened up the need to increase connectivity between ASEAN and China. Air transport activities between ASEAN and the various Chinese cities have been established. Malaysian Airlines and Air Asia now provides services to many Chinese cities, and the same can be said of the other airlines in the region;

Fifth, there are an increasing number of Chinese tourists visiting the region, particularly Malaysia, Indonesia, Singapore and Thailand; and

Lastly, Malaysia has also been receiving an increasing number of Chinese students pursuing their higher education in Malaysia.

Today, ASEAN-China relations covers wide spectrum of activities ranging from cooperation in science and technology, education, defence, food security, monetary cooperation through the Chiang Mai Initiative where US\$120 billion fund has been established to address short term balance of payment difficulties together with Japan and Korea, youth and cultural exchange and sports.

Many Malaysian companies are operating in China. For example, Parkson, Sime Darby, UMW and Berjaya have been very successful in China. New approaches and strategies, including smart tie-ups with Chinese entrepreneurs are required to benefit from this large integrated market. Malaysian companies will have to take advantage of the preferential duty free access to export to China as well as

- take advantage of the liberalisation of the services sector as well as the liberalized investment regime under the ACFTA arrangement.
28. **What are the types of forms used when applying for CoO?** Application for CoO can be made by using specific forms designed for every FTAs:
- Form E for ASEAN-China;
- For exports to ASEAN countries, exporters can choose to use either CEPT Form D or ACFTA Form E or Form AKFTA. However, it is advisable to use Form D, unless using Form E or Form AKFTA could render more benefits.
29. **What is ACFTA?** The Framework Agreement on Comprehensive Economic Cooperation between ASEAN and China was signed by Leaders of ASEAN and China at the ASEAN-China Summit in Phnom Penh, Cambodia on 4th November 2002. ACFTA has been fully

implemented on 1 January 2010.

Import duties on 90 per cent of the products traded between ASEAN-6 (Brunei, Indonesia, Malaysia, the Philippines, Thailand and Singapore) and China were eliminated on 1 January 2010. The remaining 150 tariff lines (NT2) will gradually be eliminated by 2012. For the CLMV countries, full tariff elimination for products in the NT will only be realised in 2015, with flexibility on 250 tariff lines under NT2 which will be eliminated in 2018.

Coverage:

i) Trade in Goods

- Implemented beginning 1 July 2005. (Early Harvest Programme (EHP) in 2004. Full tariff elimination by 2010, with flexibilities.

ii) Trade in Services

- First package of commitments signed in January 2007 and implemented July 2007.

iii) Investment

- The ASEAN-China Investment Agreement was signed on 15 August 2009 and implemented on 1 January 2010 for ASEAN (except Cambodia and Indonesia) and China.

iv) Economic Cooperation

30.

What is Certificate of non-manipulation and when this certificate is required?

Certificate of non-manipulation is only required for the exportation of goods e.g., from Malaysia to mainland China via HK. As for importation of goods from mainland China to Malaysia via HK, you don't need to apply this certificate, however, the exporters are required to prove to the Malaysia customs upon clearance that the goods are originating from China, fulfill to the 40% regional value content as well as the goods are

not being tempered in any way during the transshipment. Guidelines for the application of certificate of non-manipulation are as follows:

- the applicant must guarantee that during the stay in Hong Kong, the goods are not processed, unpacked, inspected, repacked or replaced with others;

- to apply for the certification of non-manipulation through the Certification Service Department of China Inspection Co., Ltd. at least 2 working days before the goods arrive in Hong Kong;

- to submit the following documents when applying:

- a) an original of truly filled out application form (available at Certification Service Department of China Inspection Co., Ltd. at HKD50.00 per pad);

b) an original and a copy of related preferential certificate of origin (CO Form E);

c) a copy of invoice to the consignee of the importing region or country; and

d) a copy of bill of lading.

When these documents are in place, the China Inspection Co., Ltd. will stamp and countersign on box 4 of the original preferential certificate of origin (Form E) with the following words as the certification of non-manipulation:

THIS IS TO CERTIFY
THAT THE GOODS
STATED IN THIS
CERTIFICATE
HAD NOT BEEN
SUBJECTED TO
ANY PROCESSING
DURING THEIR STAY/
TRANSSHIPMENT IN
HONG KONG".

Applicants are also requested to pay certification fee which is non-refundable in the

process of application of the non-manipulation certificate. The fee starts from HKD500 per certificate and subject to adjustment without prior notice depending on a case by case basis.

Contact point for further inquiries on the application of the certificate of non-manipulation:

Hong Kong Office:

29/F., East Tower,
Shun Tak Centre,
No. 168-200
Connaught Road
Central,
Hong Kong
Tel:+85 2503 1988
Fax:+85 2512 0353 /
+85 2512 0262

Kowloon Office:

Unit 401-406, New East
Ocean Centre,
9, Science Museum
Road,
Tsim Sha Tsui East,
Kowloon
Tel:+85 2397 8111
Fax:+85 2392 0213 /
+85 2392 0261

Man Kam To Office :

1028 DD88 Man Kam
To Road,
Sheung Shui, N.T.
Tel:+85 2668 5383
Fax:+85 2670 0337

To avoid goods
being detained at
the Ports, Malaysian
exporters are requested
to comply with the
conditions.

31.

**What is the validity
time for Form E?**

The following time limit
for the presentation of
the Certificate of Origin
shall be observed:

(a) Certificate of Origin
shall be submitted to
the Customs Authorities
of the importing Party
within four (4) months
from the date of
endorsement by the
relevant Government
authorities of the
exporting Party;

(b) Where the products
pass through the
territory of one or
more non-parties in
accordance with the
provisions of Rule 8 (c)
of the ASEAN-China
Rules of Origin, the
time limit laid down in

paragraph (a) above for the submission of the Certificate of Origin is extended to six (6) months;

(c) Where the Certificate of Origin is submitted to the relevant Government authorities of the importing Party after the expiration of the time limit for its submission, such Certificate is still to be accepted when failure to observe the time limit results from force majeure or other valid causes beyond the control of the exporter; and

(d) In all cases, the relevant Government authorities in the importing Party may accept such Certificate of Origin provided that the products have been imported before the expiration of the time limit of the said Certificate of Origin.

Note: RULE 8: DIRECT
CONSIGNMENT

The following shall be considered as consigned directly from the exporting Party to the importing Party:

(a) If the products are transported passing through the territory of any other ACFTA member states;

(b) If the products are transported without passing through the territory of any non-ACFTA member states;

(c) The products whose transport involves transit through one or more intermediate non-ACFTA member states with or without transshipment or temporary storage in such countries, provided that:

(i) the transit entry is justified for geographical reason or by consideration related exclusively to transport requirements;

(ii) the products have not entered into trade

or consumption there;
and

(iii) the products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

32.

What type of documentation is required to prove to the Malaysian Customs that the goods were not tampered while at Hong Kong?

Certificate of Form E, bill of lading, packing list , invoice and etc.

Cause :

The certificate of non-manipulation is only required for export shipments from Malaysia to China via Hong Kong. Should we have import from China to Malaysia but through Hong Kong you say we do not need to apply for the certificate of non-manipulation but prove the goods are indeed from China and to fulfill to the 40% regional value content and also the goods

are not tempered in any way during the transshipment.

33.

Why am I not allowed to apply for a back-to-back ACFTA Form E for my export to China if I am able to obtain a Form E from my supplier in Singapore?

Currently, there is no provision for the back-to-back Form E under the ACFTA. However, the negotiations for the inclusion of this arrangement has been concluded and the Second Protocol to Amend the Trade in Goods Agreement is schedule for signing at the 17th ASEAN Summit in October 2010 in time for the implementation on 1 January 2011.