

Terms of Reference for Conducting General Review of AANZFTA

27 July 2016

The Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) has now been in force for the majority of Parties for over six years. When AANZFTA entered into force it was a significant step forward – comprehensive, and ASEAN’s most ambitious and highest quality FTA. Since 2010, the level of trade between the 12 Parties has grown rapidly, and investment has also increased. ASEAN’s total merchandise trade with Australia and New Zealand was worth USD 81.1 billion in 2014, compared to USD 62.7 billion in 2010. Furthermore, the regional architecture of which AANZFTA forms part has evolved significantly since the Agreement entered into force. Many of AANZFTA’s Parties have concluded further FTAs with third countries and all are involved in the Regional Comprehensive Economic Partnership (RCEP) negotiations. The ASEAN Economic Community (AEC) was established in late 2015, and the AEC Blueprint 2025, which sets out a new set of economic goals for ASEAN, has been launched.

AANZFTA Parties envisaged that the Agreement would be a ‘living’ document and need periodic review and updating to ensure it remained the high quality and ambitious Agreement it was when it entered into force, as well as remaining modern and relevant to changing business and trade practices and the evolving regional architecture, including establishment of the AEC in 2015.

I. Objectives

Chapter 18, Article 9 of AANZFTA requires Parties to:

undertake a general review of this Agreement with a view to furthering its objectives in 2016, and every five years thereafter, unless otherwise agreed by the Parties.

The Parties to AANZFTA have agreed the objectives of the General Review will be to:

- assess the benefits AANZFTA brings to the Parties, having regard to the objectives of the Agreement as set out in the chapters, associated annexes and documents;
- consider the implementation, operation and impact of the Agreement since its entry into force in 2010; and
- make recommendations to update, improve, upgrade and unlock the potential of AANZFTA taking into account the AEC Blueprint 2025 and other relevant developments;

so as to further remove impediments in order to increase trade and investment, contribute to deepening and broadening the trade and economic relationship between the Parties, respond to the evolving regional and global economic architecture and ensure

AANZFTA retains its relevance and 'value add' to current trade, investment and business linkages between the Parties.

II. Scope

The General Review will consider:

- each chapter, annex and appendix of AANZFTA;
- any elements of the built-in agenda that have not been completed;
- the role of economic cooperation in the ongoing implementation of the Agreement and negotiation of the built-in agenda, as well as advancing economic integration among the Parties (**Annex 1: Economic Cooperation**);
- supporting the ASEAN objectives of narrowing development gap, including facilitating the more effective economic integration of least developed ASEAN Member States;
- the outcomes from any reviews of other FTAs that ASEAN, Australia or New Zealand is a member of, and any RCEP outcomes, in assessing any implications for AANZFTA.
- improvements that could be made to areas of commitments already included in AANZFTA;
- options to enhance AANZFTA's role in promoting closer economic integration among the Parties (e.g. regulatory cooperation); and
- the inclusion of any other issues that would ensure AANZFTA remains a high quality and ambitious agreement.

AANZFTA Parties have agreed the General Review will be conducted in accordance with the process set out in **Annex 2: Methodology for the General Review of AANZFTA**.

III. Timing of the General Review

In view of the current negotiation of RCEP, which provides a further opportunity to deepen and broaden the trade and economic relationship, the AANZFTA Parties have agreed to proceed with the commencement of the Chapter 18, Article 9 General Review of AANZFTA in 2017, as set out in **Annex 3: Indicative timeline for the General Review of AANZFTA**. This timeline provides appropriate flexibility for the AANZFTA Review to be undertaken so as to not divert from RCEP negotiations.

Regardless of developments in the RCEP negotiations, the FJC recommends that the AANZFTA General Review should commence in early 2017 and be completed by end of 2017.

Annex 1: AANZFTA - ECONOMIC COOPERATION

The future of economic cooperation under AANZFTA will be considered by AANZFTA's General Review. The General Review will make recommendations on the scope and focus of economic cooperation and determine the components of the Agreement under which economic cooperation can effectively support the implementation of AANZFTA and deepen regional economic integration. AANZFTA Parties, through AANZFTA's institutional arrangements, will continue to direct the implementation of economic cooperation under AANZFTA.

Support to economic cooperation under AANZFTA will be delivered through a successor program to the AANZFTA Economic Cooperation Support Program (AECSP). The design of a new economic cooperation support program will be undertaken by the Parties to operationalize the approach to economic cooperation as established by the General Review. The design process will explore the possible structure and governance arrangements for a new program and determine the appropriate mechanism to deliver economic cooperation activities under AANZFTA. The design may consider the developments in RCEP negotiations involving the 12 AANZFTA Parties. The successor economic cooperation program will, as appropriate, build upon existing economic cooperation under AANZFTA to contribute to achieving institutional and sustainable capacity building outcomes.

Annex 2: Methodology for the General Review of AANZFTA

Consultation

After the General Review is launched, AANZFTA Parties will be given sufficient time to consult internally with government agencies, business and other groups as necessary.

Analysis

The Parties will collectively undertake analysis addressing the objectives and scope set out in parts I and II of TOR for Conducting General Review of AANZFTA, taking into consideration the research and analysis that has already been undertaken as part of the FTA Joint Committee's Assessment of the AANZFTA Economic Cooperation Support Programme (AECSP) in 2015, other analysis and reporting prepared through ongoing AANZFTA implementation activities (for example the Case Studies on the benefits of services liberalisation undertaken by the Committee on Trade in Services) and other research and analysis supported by the AECSP. In support of this work, Parties should endeavour to share trade data and other analysis, including tariff preference utilisation to the extent that such information is available.

The findings of consultation and analysis undertaken individually by the Parties will be shared with the other Parties.

Joint Report

Findings from collective and individual consultation and analysis will be consolidated by the FJC into a single draft General Review Joint Report, including recommendations for improving and upgrading the AANZFTA, to be referred to AEM-CER for consideration.

The FTA Joint Committee will produce, by consensus, a Joint Report as the outcome of the General Review. A summary form of the General Review Joint Report will be released to the public.

General Review Work Programme

The General Review Joint Report's recommendations will be used to formulate a Work Programme, including areas where AANZFTA is to be improved and upgraded, which will be the major outcome of the General Review. In addition, the review's findings and recommendations will be an integral part of the design of a new economic cooperation programme.

Annex 3: Indicative timeline for the General Review of AANZFTA

Before 23 June 2016	FJC discusses draft Terms of Reference, intersessionally
July 2016	SEOM-CER approves draft Terms of Reference, intersessionally
August 2016	AEM-CER endorses Terms of Reference Individual Parties carry out domestic consultation
February 2017	FJC Leads meet to determine the consultation, research and analysis required for the General Review
May 2017	Submissions by ASEAN, Australia and New Zealand and any collective analysis and research shared between Parties
January-June 2017	AANZFTA FJC and committees and subcommittees meet as convenient (e.g. in margins of other meetings) to discuss review elements for individual chapters
June 2017	FTA Joint Committee meets: <ul style="list-style-type: none">• ASEAN, Australia and New Zealand inputs discussed;• FJC and committees and subcommittees present their reports on review elements for individual chapters;• Outline of General Review Joint Report agreed.
July-August 2017	FJC develops first draft of General Review Joint Report Individual Parties verify the draft Joint Report FJC meets inter-sessionally to consider draft General Review Joint Report and approve Terms of Reference for design of new economic cooperation programme
Second quarter 2018	FJC meets to approve final draft of General Review Joint Report
Second quarter / July 2018	FJC seeks SEOM-CER endorsement of FJC's recommendations arising from the General Review, to be submitted to AEM-CER
August 2018	AEM-CER considers with a view to endorsing FJC's recommendations arising from the General Review
