



# ASEAN Mutual Recognition Arrangement on **Engineering Services**: Moving Forward

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**This article addresses many questions on the ASEAN Mutual Recognition Arrangement on Engineering Services. How do we advance after the notice of participation from all member states is completed? How do we ensure that the objectives of the Mutual Recognition Arrangements are achieved? Can we as ASEAN Professionals in ASEAN member states contribute and play a significant role in helping to push for greater economic cooperation, collaboration and synergy? How do we facilitate the process of liberalisation of our (engineering) services industry?**

**The overview of the formation of ASEAN and the establishment of ASEAN Framework Agreement on Services are presented in a separate part under Background Information.**

Recognising the objectives of the ASEAN Framework Agreement on Services (AFAS), which are to enhance co-operation in services among ASEAN Member Countries, and noting that Article V of AFAS provides that ASEAN Member Countries may recognise the education or experience obtained, requirements met, and license or certification granted in other ASEAN Member Countries, for the purpose of licensing or certification of service suppliers, noting the decision of the Bali Concord II held in 2003 calling for completion of Mutual Recognition Arrangements (MRA) for qualifications in major professional services by 2008 to facilitate free movement of professionals, skilled labour and talents in ASEAN, the Economic Ministers of ASEAN Member States on December 9, 2005 signed the ASEAN MRA on Engineering Services.

The MRA also serves to strengthen professional capabilities by promoting the flow of relevant information and exchanging expertise, experiences and best practices suited to specific needs of ASEAN Member Countries. The objectives of the MRA are to facilitate mobility of engineering services professionals and to exchange information in order to promote the adoption of best practices on standards and qualifications. Furthermore, the MRA can be considered an answer to the many issues during the negotiating rounds of WTO regarding trade liberalisation of the services sector, and these include:

- Restrictions on establishing commercial presence;
- Citizenship or residency requirements to practice;
- Limited or no recognition of foreign qualifications; and
- Compulsory memberships of professional associations

To facilitate the mobility of engineering professionals, the MRA provides for the creation and recognition of the ASEAN Chartered Professional Engineer [ACPE]. In general, a professional engineer in any of the ASEAN Member States who possesses the prescribed qualifications is eligible to apply to the ASEAN Chartered Professional Engineer Co-ordinating Committee ACPECC to be registered as an ACPE under the ACPE Register [ACPER].

The prescribed qualifications are as follows:

- An accredited engineering degree recognised by the professional engineering accreditation body whether in the country of origin or host country or assessed as having the equivalent of such a degree.
- Possess a current and valid professional registration or licensing certificate to practice engineering in the country of origin issued either by the Professional Regulatory Authority [PRA] of the ASEAN Member Countries or the Monitoring Committee.
- Acquired practical and diversified experience of not less than seven years after graduation, at least two years of which shall be in responsible charge of significant engineering work.
- Comply with Continuing Professional Development [CPD] policy of the Country of Origin.
- Obtained certification from the PRA of the Country of Origin with no record of serious violation on technical, professional, or ethical standards for the practice of engineering.

An ACPE will be eligible to practice in a host country after being registered as a Registered Foreign Professional Engineer [RFPE]. The RFPE will, subject to domestic laws and regulations and where applicable, not making submissions to statutory authorities of the host country, be permitted to work as a Registered Foreign Professional Engineer, not in an independent practice, but in collaboration with designated Professional Engineers in the host country.

A Monitoring Committee [MC] shall be established in and by each participating member country. The MC will be recognised as competent and will be able to certify the qualification and experience of individual professional engineers.

An ACPECC will be established and will have the authority to confer or withdraw the title ACPE. Members of the ACPECC will comprise one appointed representative from each Monitoring Committee of the participating ASEAN Member Countries.

The MRA provides for mutual exemption from further assessment by the PRA that controls the right to practice in each country only with

the involvement and consent of the PRA and the relevant Government agencies.

## **ASEAN CHARTERED PROFESSIONAL ENGINEER CO-ORDINATING COMMITTEE (ACPECC)**

### **- Initiatives and Implementation Strategies**

ACPECC was officially formed in May 2008 with Indonesia as the Chairman and Malaysia as the Vice-Chairman, with the Chairmanship rotated every two years. In 2010, Malaysia became the Chairman and Lao PDR the Vice Chairman. In July 2012, the Chairmanship was handed over to Myanmar assisted by the Philippines.

The ACPECC Secretariat is currently located in Jakarta, Indonesia. The Secretariat facilitates the administration of ACPECC and processes and maintains an ASEAN Chartered Professional Engineer Register [ACPER]. Currently, the Secretariat is responsible for the preparation and issuance of the ACPE certificates which are distributed to the successful new ACPEs.

ACPECC meetings have been held back to back with the CCS meetings because some ASEAN Countries prefer this arrangement. Furthermore, not all the ASEAN Countries are fully on board with the MRA and ACPECC. Efforts are being made to ensure that most ASEAN Countries, if not all, will in the future participate in the MRA on Engineering Services. The Meetings of ACPECC, must be attended by the Chairman, Vice Chairman, Secretary, not more than three delegates from each of the participating ASEAN Member Countries and not more than three observers from each of the non-participating ASEAN Member Countries.

So far, the effort of ACPECC has been on creating the ACPER for each Member Country. Currently, all Member Countries have formed their own Monitoring Committees and submitted their Assessment Statement.

The total number of ACPEs is 794; with 154 from Indonesia, 199 from Malaysia, 218 from Singapore, 113 from Vietnam, 72 from Myanmar and 38 from Philippines.

A Networking Session and Seminar, later called Roundtable Discussion, was an effort introduced by Malaysia, and later hosted by Singapore and Thailand, to expedite the co-operation and understanding among ACPEs and Professional



Source: [acpecc.net](http://acpecc.net)

Engineers in the ASEAN Member Countries. The Second Networking Session was held in Singapore (2011) and the third in Bangkok (2012). Of late, the Roundtable Discussion has been combined with the ASEAN Architect Council.

### ***PROFESSIONAL ENGINEERS EXCHANGE PROGRAMME (PEEP)***

The Professional Engineers Exchange Programme (PEEP) which has been adopted by ACPECC Meeting was an initiative introduced by Malaysia to spearhead and expedite the co-operation and understanding among ACPEs and Professional Engineers within the ASEAN Member States and also an initiative to facilitate the mechanism for mobility and transfer of knowledge and technology among ACPEs.

### ***IMPLEMENTATION STRATEGIES FOR THE ACHIEVEMENT OF MRA OBJECTIVES***

It should be emphasised that the objectives of the MRA are not only to facilitate the mobility of engineering services professionals but also to strengthen the professional capabilities by promoting the flow of relevant information and exchanging expertise, and experiences and to

promote adoption of best practices on standards and qualifications.

Hence, PEEP can be considered as an initiative to fulfil the above objective of promoting the flow of relevant information and exchanging expertise.

Another initiative which was proposed by Malaysia is the ASEAN Engineering Programme Accreditation Council or Committee; however, this has not been seriously discussed at ACPECC Meetings as yet. This concept or idea can be considered as an initiative to promote the adoption of best practices for Qualifications. It should be emphasised here that Singapore and Malaysia are already full members of the Washington Accord, which is an international agreement on the accreditation of undergraduate engineering programmes. Thailand is at the stage of applying for the provisional membership, and indications are that Thailand may be considered at the next Washington Accord meeting.

The ideas of both the ASEAN Engineering Programme Accreditation Council or Committee and PEEP could be further developed through the roundtable discussions or future ACPECC meetings so as to ensure that all the ASEAN Member Countries could participate and benefit from the programmes. It is important that ACPECC and ACPEs exchange ideas and thoughts on how to develop further the ACPE and the understanding among the ASEAN Countries on engineering services so that mobility of professionals and the enhancement of trade in services could be successfully attained. It is important to realise that the final outcome of all these efforts should be the acceleration of economic growth, social progress and cultural development within all Member Countries leading to a prosperous and peaceful community of ASEAN.

#### **PROFESSIONAL SERVICES MRAs**

The Economic Ministers of ASEAN Member States signed the ASEAN MRA on Engineering Services on December 9, 2005 to realise the decision of the Bali Concord II held in 2003 calling for completion of MRAs for qualifications in major professional services by 2008 to facilitate free movement of professional, skilled labour and talents in ASEAN.

Consequently, ACPECC meetings were held back to back with CCS meetings to discuss issues relating to the notification of participation of the Engineering MRA by the Professional Regulatory

Authorities of all ASEAN Member States and the implementation mechanism of the MRAs.

The ASEAN MRA was signed on December 9, 2005 but it took two and half years for the ACPECC to have the first meeting, which was in 2008, which was the year the MRA was anticipated to be completed by the Bali Concord II Meeting.

It took six years and 25 ACPECC meetings to arrive at where we are now and to finally have all Member States register their Notice of Participation and submit their Assessment Statements and Monitoring Committees. And yet, the Engineering MRA is considered to be the most advanced amongst all the Professional MRAs [Architecture, Land Surveying and Accountancy].

Currently, ACPECC has registered 794 engineers with Indonesia at 154, Malaysia at 199, Singapore at 218, Vietnam at 113, Myanmar at 72 and Philippines at 38. Malaysia and Singapore have worked out the mechanism to register Registered Foreign Professional Engineer [RFPE]. Malaysia has recently registered four FRPEs from Singapore. Other countries have not submitted their mechanism to register their RFPEs.

The Engineering PRAs of some Member States are also involved in other international engineering alliances and mutual recognitions. This provides an opportunity for ASEAN Member States to take advantage of the ASEAN Engineering MRA and to experiment with services trade liberalisation and mobility amongst themselves first prior to the inevitable liberalisation to other nations, but this may be lost if the ASEAN MRA is not fully implemented.

At other international Engineering Alliance Meetings, such as the Washington Accord for accreditation of engineering degrees, EMF and APEC Engineers for the mutual recognition of engineering professional qualifications, great strides have been achieved through the formulation and adoption of graduate attributes outcome, exemplar standards and engineering competency.

Although currently, ASEAN Engineering MRA calls for mutual recognition based on trust of the various Member States Monitoring Committees, in the final analysis, ACPECC must, I believe, begin to discuss capacity and capability building of our ASEAN Chartered Professional Engineers; and within an acceptable time frame, to formulate and implement higher standards both at University

ASEAN Mutual Recognition Arrangement on Engineering Services  
Kuala Lumpur, 9 December 2005

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam, Member Countries of the Association of South East Asian Nations (hereinafter collectively referred to as "ASEAN" or "ASEAN Member Countries" or singularly as "ASEAN Member Country");

**RECOGNISING** the objectives of the ASEAN Framework Agreement on Services (hereinafter referred to as "AFAS"), which are to enhance cooperation in services amongst ASEAN Member Countries in order to improve the efficiency and competitiveness, diversify production capacity and supply and distribution of services of their services suppliers within and outside ASEAN; to eliminate substantially restrictions to trade in services amongst ASEAN Member Countries; and to liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by ASEAN Member Countries under the General Agreement on Trade in Services (hereinafter referred to as "GATS") with the aim of realising free trade in services;

**NOTING** that Article V of AFAS provides that ASEAN Member Countries may recognise the education or experience obtained, requirements met, and license or certification granted in other ASEAN Member Countries, for the purpose of licensing or certification of service suppliers;

**NOTING** the decision of the Bali Concord II adopted at the Ninth ASEAN Summit held in 2003 calling for completion of Mutual Recognition Arrangements (hereinafter referred to as "MRAs" or singularly as "MRA") for qualifications in major professional services by 2008 to facilitate free movement of professionals/skilled labour/taillents in ASEAN; and

**DESIRING** to provide a generic model MRA for Engineering Services in strengthening professional capabilities by promoting the flow of relevant information and exchanging expertise, experiences and best practices suited to specific needs of ASEAN Member Countries;

**HAVE AGREED** on this ASEAN Mutual Recognition Arrangement on Engineering Services (hereinafter referred to as "this Arrangement") as follows:

**ARTICLE 1  
OBJECTIVES**

The objectives of this Arrangement are:

- 1.1 To facilitate mobility of engineering services professionals; and
- 1.2 To exchange information in order to promote adoption of best practices on standards and qualifications.

**ARTICLE 2  
DEFINITIONS**

In this Arrangement, unless the context otherwise requires:

- 2.1 **Accreditation** refers to quality assurance of graduate engineers by national professional

In developing the strategy to move forward ACPE mobility, issues such as mutual respect, mutual recognition, capability building, professional competency, professional ethics and integrity, professional exchange programmes and ASEAN strengths in facing the challenges of globalisation will always be on the table.

As ASEAN Member States have diverse standards and codes of engineering practice, there is a need in the future to begin discussing whether harmonising standards and understanding cultural diversity would pave the way for better integration of engineering services amongst ASEAN professionals.

The MRA provides an avenue for ACPEs of other Member States to register as RFPE in the host Member States and to provide engineering services under Mode 3 or Mode 4 mechanisms. There is an urgent need for ACPECC to discuss RFPE and its effective implementation within all Member States.

In order to expedite the RFPE registration, National Monitoring Committee [NMC] Malaysia has recently approved the procedure for registration of RFPE from other ASEAN Member States. Applications by ACPEs for RFPE can be made to the Board of Engineers Malaysia through NMC Malaysia using BEM Form 3.

*The ASEAN MRA was signed on December 9, 2005*

and Professional level, so that ASEAN Engineers would be professionally competent and in a more confident position to compete with the more developed countries.

PEEP, as a mechanism to encourage mobility, networking, information gathering and technology transfer should be activated as best as possible, not only for reason of engineering professionalism but also economic and cultural.

Taking cognizance of the slow acceptance of the ACPE and the ASEAN MRAs, and the seemingly lack of commitment to activate mechanisms for engineering services liberalisation and mobility amongst ASEAN Member States, the question ACPECC or for that matter the ASEAN Member States should ask is, "How do we move forward to fully implement the ASEAN Mutual Recognition Arrangement on Engineering Services? How do we strategise consolidating capability building and Engineering mobility through co-operation and collaboration?"

## CONCEPT OF WIN-WIN NEGOTIATION

Negotiation of CCS or ACPECC or any other Professional MRAs is a Multi-Party, Multi-Issue Negotiation. In such a negotiation, it is important that all parties identify their options and interests on the many issues, understand which are the more important issues and create a win-win integrative negotiation through trade-offs.

A Pareto-optimal solution is a solution where the "economic cake" has been expanded to the maximum, and that the various parties' interests and needs will be satisfied, at least beyond the reserve points or walk-away positions of all parties. Such solution or agreement is possible when parties realise that "an agreement is better than no agreement", and that co-operation is better than competition.

As in many negotiations, the objective of the negotiation is to create good options, build trust and maintain relationships. With the ASEAN

spirit, this approach becomes more important for successful negotiations

### CONCLUSION

Since the MRA encourages the effort to promote adoption of best practices on standards of engineering and qualifications of engineers, there is a need for ASEAN Member Countries to co-operate and collaborate on acquiring the relevant knowledge and technology so that the level of competency and expertise in engineering among ASEAN Countries could be enhanced.

The PEEP, if administered properly, would provide the platform for the exchange of information, knowledge and technology. It would also provide an avenue for professionals from Member Countries to keep track and benchmark with each other, and perhaps to have a “peep” at what the other countries are doing.

The ASEAN Councillor Committee on Engineering Programme Accreditation [ACEPA] should be recognised as an effort and initiative to rationalise and enhance the quality of the various engineering programmes within ASEAN Member Countries to a common benchmark in terms of the core engineering knowledge and codes of practice, but allowing flexibility and latitude as far as language, culture and national interests are concerned.

Efforts should be geared towards formulating the RFPE Mechanism; and all Member States should look at the impediments to the implementation of the RFPE within their existing regulations.

Finally, innovative ideas and continuous commitments are necessary in order for trade in engineering services to become a major contributor and driver of the ASEAN economy. ■

### ACKNOWLEDGEMENT

The author would like to record his gratitude and appreciation to the World Trade Organisation, the ASEAN Secretariat, MITI Malaysia, CCS and ACPECC Secretariat. Thanks also to Board of Engineers Malaysia and University of Technology Malaysia for their support of the author’s involvement in areas related to the engineering profession.

*The total number of ACPEs is 794; with 154 from Indonesia, 199 from Malaysia, 218 from Singapore, 113 from Vietnam, 72 from Myanmar and 38 from Philippines.*

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# BACKGROUND INFORMATION

## Formation of ASEAN

The Association of Southeast Asian Nations, or ASEAN, was established on August 8, 1967 in Bangkok, Thailand. The founding members of ASEAN, namely Indonesia, Malaysia, Philippines, Singapore and Thailand were the initial signatories of the ASEAN Declaration, which was also known as the Bangkok Declaration. For almost 16 years and five months, these nations maintained their co-operation and understanding among themselves for mutual benefits, and later further enhanced and strengthened ASEAN to include more Member States.

ASEAN accepted five more new members; Brunei Darussalam on January 7, 1984, Vietnam on 28th July 1995, Lao PDR and Myanmar on July 23, 1997, and Cambodia on April 30, 1999. Thus, ASEAN is currently a regional group consisting of 10 Member States.

The noble objectives of ASEAN were set out in the ASEAN Declaration. ASEAN seeks to strengthen the foundation for a prosperous and peaceful community of Southeast Asian nations by creating a conducive environment which encourages joint endeavours on the basis of equality and partnership.

ASEAN hopes that the co-operation and understanding together with the mechanisms thus forged would accelerate the economic growth, social progress and cultural development within her Member States. ASEAN also hopes to promote regional peace and stability by upholding the respect for law and justice.

One of the noble aims of ASEAN is to collaborate and co-operate for the expansion of their trade and mutual assistance on matters of common interest in the economic, technical, scientific, social and cultural fields.

In their modus operandi, the ASEAN Member States have adopted the fundamental principles as contained in the Treaty of Amity and Cooperation in Southeast Asia [TAC] of 1976. These fundamental principles are:

- Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations.

- The right of every State to lead its national existence free from external interference, subversion or coercion.
- Non-interference in the internal affairs of one another
- Settlement of differences or disputes by peaceful manner
- Renunciation of the threat or use of force
- Effective Co-operation among member states

Noting that world trade is becoming more competitive and is being liberalised through World Trade Organisation [WTO], taking cognisance that there are about 90 WTO Members with the European Community [EC] considered as one Member and realising that even developed countries were forming economic blocs and economic communities, the ASEAN leaders, at the 9th ASEAN summit in 2003, resolved that an ASEAN Community shall be established.

The Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015 was signed on January 2007. The three pillars of the ASEAN Community are ASEAN Political-Security Community, ASEAN Economic Community and ASEAN Socio-Cultural Community.

To effect the formation and the implementation of the ASEAN Community, the ASEAN Charter entered into force on December 15, 2008. This Charter, which provided the legal status and institutional framework for ASEAN, has become the legally binding agreement among the 10 ASEAN Member States.

## **General Agreement on Trade in Services [GATS] and ASEAN Framework Agreement on Services [AFAS]**

The General Agreement on Trade in Services [GATS] came into existence in April 1974 and is one of the instruments of the World Trade Organisation [WTO]. The Agreement exists because members of WTO recognize the growing importance of trade in services for the growth of world economy, and wish to establish a multilateral framework of principles and rules for trade in services with a view to the expansion

of such trade under conditions of transparency and progressive liberalisation and as a means of promoting the economic growth of all trading partners and the development of developing countries.

GATS recognize the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right.

GATS Article V Clause 1 states that GATS agreement shall not prevent any of its Members from being a party to or entering into any agreement liberalising trade in services between or among the parties to such an agreement, provided that such an agreement:

- Has substantial sector coverage;
- Provides for the absence or elimination of substantially all discrimination, in the sense of Article XVII, between or among the parties, in the sectors covered under subparagraph (a), through,
  - i. Elimination of existing discriminatory measures, and/or
  - ii. Prohibition of new or more discriminatory measures,

Either at the entry into force of that agreement or on the basis of a reasonable time- frame, except for measures permitted under Articles XI, XII, XIV, and XIV bis.

Article XVII describes how Members handle *National Treatment*. *Each Member shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply services, treatment no less favourable than that it accords to its own like services and service supplier. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Member compared to like services or service suppliers of any other Member.*

It should be noted that with the introduction of GATS, Governments still have the power and the right to regulate; the right to introduce new regulations even after commitments to GATS.

### **Trade in Services**

Traditionally, services were considered not “trade-able” and not storable. Services have also been traditionally strongly monopolised by Governments and Public Service. A majority of services managed by Governments or Public Service have been those that provide for non-economic objectives and more focused on social, cultural or safety objectives.

However, in the recent years Services have become more trade-able as a result of technical progress such as e-banking, telemedicine, and distance learning. Furthermore, Government is focusing on its core business and downsizing. Hence, with market liberalisation and regulatory reform, trade in services has been increasing.

World exports of goods and commercial services have almost doubled since year 2000. Service exports data by economic groups for developed and developing countries for the year 1980-2004 shows that in 1980, 80% of the exports came from developed countries while 20% came from developing countries, including least developed countries (LDC) and Commonwealth Independent States (CIS) countries. However in year 2004, the percentages have changed to 76% for developed countries and 24% for developing countries, which includes LDC and CIS.

One observation from the above data [Source WTO database] is that it seems the developed countries combined benefited so much more from trade in services and liberalisation of services. Furthermore, if we take into account that there are more countries in the category developing countries, LDC and CIS countries, then the disparity between the benefit achieved by the developed countries and the non-developed countries will be huge.





### **ASEAN Framework Agreement on Services [AFAS]**

The AFAS was signed by ASEAN Economic Ministers [AEM] with the objectives of:

- Enhance co-operation in services among Member States in order to improve the efficiency and competitiveness, diversify production capacity, and supply and distribution of services within and outside ASEAN.
- Eliminate substantially restrictions to trade in services among Member Countries.
- Liberalise trade in services by expanding the depth and scope of liberalisation beyond those undertaken by ASEAN Member Countries under GATS with the aim of realising a free trade area in services.

AFAS has provided a basis for ASEAN Member States to improve Market Access [MA] and ensure equal National Treatment [NT] for service suppliers in all four modes of services supply.

The four modes of supply are:

- Mode 1 [Cross Border Supply], meaning services flow from the home Country into the country of another.
- Mode 2 [Consumption Abroad], meaning a service consumer from the home country moves into another country to obtain service.
- Mode 3 [Commercial Presence], implying a service supplier from another country

establishes a territorial presence, including through ownership or lease of premises, in the home country to provide a service.

- Mode 4 [Movement of Natural Persons], meaning persons of one Member Country entering the territory of another Member Country [the home country] to supply a service.

ASEAN liberalisation targets for AFAS has suggested the following specific equity thresholds under Commercial Presence [Mode 3]

Priority Sectors: 49% by 2006, 51% by 2008, 70% by 2010

Non-priority Sectors: 30% by 2006, 49% by 2008, 51% by 2010, 70% by 2015

### **Engineering Services**

Engineering services is categorised as non-priority sector.

ASEAN provided for 15% overall flexibility of the sub-sectors list, which may not be committed and/ or may not comply with the agreed parameters of liberalisation.

ASEAN through AEM also agreed that Market Access [MA] limitations for a few sub-sectors in the schedules of commitments can still be maintained, such as a maximum of two types of MA limitations for priority services sectors.

It should also be noted that AEM has also agreed that NT limitations will be removed on a voluntary basis.