

GREATER MEKONG SUBREGION ECONOMIC COOPERATION PROGRAM
Special Meeting of the Trade Facilitation Working Group
25-26 April 2005, ADB Manila

SUMMARY OF PROCEEDINGS

I. Introduction

1. The Special Meeting of the Trade Facilitation Working Group (TWFG) was held at ADB Headquarters, Manila, Philippines on 25-26 April 2005. The meeting was chaired by Mr. Robert Boumphrey, Director of the Governance, Finance and Trade Division of ADB's Mekong Department. Seventeen officials from the commerce, trade, customs, immigration and quarantine agencies of the six GMS countries as well as ADB staff participated in the Meeting. The list of participants is at [Appendix 1](#).

2. The objective of the meeting was to discuss and reach consensus on the key elements, guiding principles, strategic objectives and principal actions of the proposed Strategic Framework for Action on Trade Facilitation and Investment (SFA-TFI) in the GMS. The Meeting agenda is at [Appendix 2](#).

II. Opening Session

3. Mr. Rajat Nag, Director General, Mekong Department, ADB welcomed the participants. He readily noted that the trade facilitation action plan is one of the agreed deliverables for the forthcoming GMS Leaders Summit to be held in Kunming, PRC on 4-5 July 2005, thereby acknowledging the very important and challenging task ahead for the Meeting. Mr. Nag cited that recent developments in the GMS are helping to underscore the importance of trade facilitation. Greater physical connectivity along with electricity and telecoms network is transforming the GMS into a more integrated and competitive economic grouping. The deepening of economic integration at the regional and global levels is also another factor that makes trade facilitation an important item in the GMS cooperation agenda. Mr. Nag recalled that at the 12th Ministerial Meeting in Dali in 2003, GMS countries agreed on the three fundamental building blocks of connectivity, competitiveness and community. Connectivity has been the central focus of the GMS Program for the past decade. To take advantage of the deepening regional and global integration, the GMS Ministers have agreed that the second decade (2002-2012) should focus on competitiveness. Trade facilitation is a critical dimension of enhancing competitiveness of the subregion. Mr. Nag noted that the GMS Leaders in 2002 mandated the GMS countries to act with speed and determination to formulate and implement a trade and investment facilitation plan. He expressed hope that the Meeting will arrive at a broad consensus on the priorities and principal actions embodied in the draft strategic framework.

III. Session I: Strategic Framework for Action on Trade Facilitation and Investment (SFA-TFI)
--- Overview, Structure, Key Elements and Priority Areas for Action

4. Mr. Robert Boumphrey reminded the participants that the goal of the Meeting is to reach a consensus on the SFA-TFI draft. He noted that the current SFA-TFI draft is the outcome of several rounds of consultations and earlier drafts have been circulated in recent months for review by the GMS countries. Although further changes are expected to be made at the Meeting, he expressed the hope that the Meeting can agree on a final draft, which could be endorsed at the Summit.

5. Mr. Sun, PRC, thanked ADB for organizing the Special TFWG Meeting. As host country, PRC hoped that the Summit would result in productive and practical initiatives that would be beneficial to all GMS countries. For this reason, PRC proposed a trade and investment facilitation action plan during the first GMS Summit. In the past, the GMS has made substantial gains in the area of infrastructure, but as trade figures would indicate, there is tremendous potential for further increasing intra-regional trade through greater efforts on trade facilitation. He expressed appreciation to the GMS countries, to ADB and its team of experts for their support to the trade facilitation initiative. He expressed the hope that the GMS countries will continue to be deeply involved in the process of developing and implementing the strategic framework, and that ADB would continue to provide continued guidance and advice. Mr. Sun noted that

since the Special TFWG Meeting could very well be the last opportunity for substantive discussions on the SFA-TFI prior to the Summit meeting in July, he expects the Meeting to reach a general consensus on the basic elements, structure and priority areas as proposed in the draft SFA-TFI document with the view to refining and finalizing it in the remaining two months prior to the Summit.

6. Ms. Lingling Ding, Senior Trade Economist, MKGF, ADB briefly presented (a) the process of SFA-TFI formulation, and (b) an overview of the current draft.

a. The formulation of the SFA-TFI involved the following processes:

- (i) PRC initially proposed the basic elements of a comprehensive trade and investment facilitation action plan (TIFAP) at the TFWG-4 meeting in Kunming in November 2004.
- (ii) At the 13th Ministerial Meeting, the Ministers welcomed the initiative and agreed to have the trade and investment facilitation action plan as one of the deliverables to the Summit.
- (iii) Upon request of the GMS countries, ADB processed a small scale technical assistance project to support further development of the action plan.
- (iv) At the same time the draft of an action plan prepared by PRC was circulated to the GMS countries for written comments.
- (v) Upon approval of the TA on 10 February 2005 and the mobilization of a team of experts, the comments by the GMS countries on the earlier draft were consolidated and carefully examined.
- (vi) In-country consultations were carried out in PRC, at PRC's invitation, following PRC's colleagues visit to Cambodia, Thailand and Viet Nam in February to exchange views on preparation of the action plan. In-country consultations were also conducted in Myanmar to ensure that all correspondence with regard to preparation of the SFA-TFI is properly conveyed.
- (vii) With mobilization of the SSTA expert team, and further work undertaken to develop the draft, a complete draft with the title SFA-TFI was formally circulated on 22 March for comments and review. A further revised draft, incorporating comments received from the GMS countries was also sent to the countries prior to the Meeting.
- (viii) The document had been renamed as SFA-TFI to reflect more appropriately, the strategic focus of the trade facilitation initiative.

b. The current draft SFA-TFI for consideration of the Meeting has 4 sections as follows:

- (i) Section 1 – Introduction: situates trade facilitation and investment within the context of the GMS, and emergence of a strategic framework.
- (ii) Section 2 – the SFA-TFI: specifies the purpose, time frame, guiding principles, priority areas and their corresponding principal actions.
- (iii) Section 3 – Implementation, Monitoring, Review and Evaluation: discusses in detail the implementation modalities, monitoring and evaluation, and mechanisms to operationalize the SFA-TFI. This section specifies the roles and responsibilities of the trade facilitation focal point, as well as the mechanisms at the national level, which would be crucial in driving the SFA-TFI process; it also makes explicit that the implementation of the SFA-TFI will be the primary responsibility of the GMS countries.
- (iv) Section 4 – List of Annexes: indicates an illustrative list of activities that could be implemented under each of the principal actions corresponding to the four priority areas; for each activity, the time frame, indicators of achievement, responsible institutions, risks and assumptions are indicated.

7. Mr. Chris Page, Team Leader of the ADB team of experts, presented the structure and key elements of the SFA-TFI. Highlights of his presentation follow:

- (i) The choice of the title/acronym for the document was seriously discussed and considered by the team. SFA-TFI stresses the strategic nature of this pan-GMS trade facilitation and investment initiative. The SFA-TFI document will guide the work throughout the GMS on

- all trade facilitation and investment initiatives. It is highly strategic and it is important to reflect in its title that it is operating at that level.
- (ii) The team deliberately worked on expanding the Introductory (I) and Implementation (III) sections of the document in order to clarify, for the benefit of the widest possible range of stakeholders, including other donors, what the SFA-TFI is intended to achieve in relation to trade facilitation and investment in the GMS.
 - (iii) Section 2 contains much of the text from the originally circulated TIFAP, but has been reordered in a hierarchical manner. First, the broad priority areas, which were originally identified by the GMS countries, remain the same. Each of these is followed by a rationale that explains to any reader of the document why a specific area has been selected, why it is important for trade facilitation and investment, and what its purpose is. Each priority area has been given a strategic objective, and under each strategic objective, a series of principal actions have been identified.
 - (iv) At the back of the document are several annexes that contain specific activities, the implementation of which will enable the principal actions to be achieved. These activities are illustrative, and will need to be reviewed, revised, or updated at the implementation stage. The purpose of including specific activities in annexes enables those activities to be regularly reviewed, revised, updated and adjusted in the light of trade facilitation and investment progress in the GMS, without the frequent need for revising the entire SFA-TFI, which is after all intended to be a long-term document.
 - (v) It should be made clear that the activities in the annexes are by no means exhaustive; indeed, they are largely indicative. Other activities may be amended, added or removed by the GMS countries themselves as the implementation of the strategic framework evolves. Because it is important to keep the implementation process manageable as well as strategic, it is recommended that the GMS countries start with a comfortable number of activities, reflecting their most significant priorities.
 - (vi) Capacity building and investment facilitation were originally identified as priority areas in the earlier iterations of the document, but have been subsequently deleted. Attachment 2 to ADB's consultation letter explains the background. In respect of capacity building, while it is clear that at some point capacity building will have to be undertaken to enable the SFA-TFI to be effectively implemented, capacity building is in fact a measure rather than a priority area in itself. Nevertheless, its importance is stressed in the Guiding Principles on page 10 of the SFA-TFI. Increased investment in the GMS is seen as a consequence of effective trade facilitation initiatives, rather than a priority area in its own right. There is also the difficulty of dealing with investment issues under the TFWG, since a separate SIWG has already been set up under the GMS Program. Clearly, however, there is a need to ensure close coordination between the SIWG and the TFWG within the context of the SFA-TFI.

8. Mr. Page also briefly summarized the guiding principles of the SFA-TFI. First, ownership of the strategy belongs to the GMS countries and, in order for the strategy to work, the GMS countries must take responsibility for its implementation. Secondly, the various actions taken under the SFA-TFI must be sustainable; they must be capable of standing up on their own, and working without the constant need for external support. While external assistance from donors such as the ADB can be expected in the early stages of implementation, the GMS countries should design their trade facilitation and investment activities such that in the long-term they are able to undertake this kind of work by themselves. Capacity building will accordingly emphasize the need to help GMS people to develop the know-how and skills to enable them undertake trade facilitation and investment work. The team took note of the differences in the aspirations, levels of development, and priorities of the GMS countries. Consequently, the document has to be flexible enough to accommodate those differences particularly when it comes to the speed of implementation. There cannot be a 'one-size-fits-all' approach to the implementation of trade facilitation activities, and this principle of the SFA-TFI stresses the importance of ensuring that, when action is taken in any of the priority areas, this fits with the priorities of the individual GMS countries. It is therefore not essential for every GMS member to take the same priority areas when it comes to implementation. The statement on value-added is to assure other interested parties – particularly other donors – that there will be no overlaps or duplication in the activities being undertaken by national governments and external

donors. Finally, trade facilitation and investment is an issue that must inevitably involve the private sector, so this is reflected in the guiding principles.

Discussions

9. Cambodia requested clarification on the issue of flexibility. It should be made clear that although flexibility will be given to a country that does not have the ability to comply with the targets set by the strategic framework, flexibility should not mean that any country has the option to unduly delay its compliance with the SFA-TFI. The country must stay on track and this could be made possible by providing the country with technical assistance and guidance to enable it to comply with the SFA-TFI. Cambodia also noted that while the SFA-TFI stresses the importance of providing value-added to existing initiatives, there are still incidence of overlaps and duplication in donor programs. Cambodia encouraged strong coordination between ADB, other donor agencies and the country receiving the donor assistance to ensure complementarities and efficient use of resources.

10. Cambodia also noted the need to indicate the timeframe for the review and monitoring process for the SFA-TFI. It is important to specify the review and monitoring mechanisms, and the respective roles of the trade facilitation focal point and the TFWG, to ensure that implementation is on track. Cambodia further suggested that existing in-country arrangements be taken into account when establishing the SFA-TFI coordination mechanisms. Cambodia pointed out that while the SFA-TFI is not a legally binding document, clearance of the concerned government bodies or authorities must be secured to facilitate implementation.

11. Referring to the timescale for SFA-TFI implementation ending in 2010 that coincides with the full implementation of the ASEAN-China FTA, Cambodia informed the Meeting that the target year for some activities in the Agreement applicable to the CLMV countries is 2015. This should be reflected in the SFA-TFI document accordingly.

12. Myanmar commented that the purpose of trade facilitation is to enhance the competitiveness of the sub-region by reducing trade costs, which could possibly result in increases in foreign direct investment. Myanmar sought clarification as to whether or not investment promotion should be included as a priority area in the SFA-TFI.

13. Viet Nam noted that the SFA-TFI is a very comprehensive document and contains important directions and principles. Despite the flexibility principle, however, GMS countries would need more time to discuss the contents of the document with concerned government agencies to ensure that activities can be realistically implemented. This is all the more important since the SFA-TFI makes reference to international agreements. Viet Nam suggested that the GMS countries be given a month to conduct further internal consultations. More specifically, Viet Nam raised several queries, namely, (i) whether the SFA-TFI would be signed at the Summit; (ii) whether the GMS Governments would need to approve the SFA-TFI prior to its endorsement by the Summit; (iii) whether a country can withdraw its endorsement of the SFA-TFI if it determines that it cannot comply with the document; and (iv) where will the required resources to implement the SFA-TFI activities will come from.

14. PRC sought clarification on the structure of the meeting and also expressed the wish to follow-up on the points raised by Viet Nam. It is recognized that internal consultation is a requirement for all the countries. However, it should be remembered that it is only two months before the Summit and the Leaders would normally need to review the draft document one month before. Thus, it is a matter of urgency that this Meeting arrives at a general consensus on certain issues. Since a number of meetings and consultations have been conducted and extensive discussions made on the overall structure, general principles and key elements of the document, it should be expected that general consensus can be reached on these issues.

15. In responding to issue of the application of the flexibility principle, ADB stated that flexibility is not without limits. The expectation is that the GMS countries would honor their commitments to implement the SFA-TFI to the best of their abilities. ADB is committed to support the implementation process to ensure

that trade facilitation has a real impact on the region in the long-run. As regards the review and monitoring mechanism, ADB explained that TFWG and SOM are the appropriate mechanisms at the sub-regional level. The TFWG is expected to play a big role in terms of reviewing the details of implementation at the operational level. Although TFWG normally meets only once a year, it can meet more often if necessary in order to raise, discuss or address issues arising from the implementation of the SFA-TFI.

16. With regard to the points raised by Viet Nam on the need for further internal consultations, ADB recalled that the GMS countries have been discussing the key elements and priority areas of the SFA-TFI since 4 to 5 months ago. It is thus expected that the Special TFWG Meeting should arrive at a consensus on the key elements and basic structure of the document, taking into account that there would be flexibility in implementation.

17. PRC supplemented ADB's response by explaining that the GMS Leaders would not sign the SFA-TFI. Their understanding was that the Ministry of Foreign Affairs plans to annex the SFA-TFI to the Joint Summit Declaration (JSD), which would reflect an endorsement of the document. PRC clarified that there should be no flexibility in endorsing the SFA-TFI as a framework document and that flexibility should be understood as applicable only to the choice of activities and timing of implementation. Since the SFA-TFI is a non-legally binding document, full consensus of the all six GMS countries is required. The review and monitoring process will be an important mechanism for adjusting or removing some activities if they prove too difficult to implement by some or all of the GMS countries. On the question of the resources required to implement the SFA-TFI, PRC explained that all GMS countries are expected to contribute domestic resources to implement some of the activities. For instance, PRC is committed to organizing two training courses in June in the areas of customs and quarantine, as part of its support for activities under the SFA-TFI.

18. Mr. Page assured the meeting that the various concerns expressed so far about implementation, monitoring and review had been anticipated, and these would be addressed when the implementation modalities are discussed during Session III. It is clear that when it comes to implementation modalities, each GMS country will need to do further work, not least in terms of consultations with other departments. However, there is an urgent need to come to agreement now on the main SFA-TFI document at this working level so that it can be put to the Leaders well in advance of the Summit.

19. Mr. Page agreed with ADB and Cambodia that too much flexibility could render the Strategic Framework meaningless. It is for this reason that each of the illustrative activities shown in the annexes has a specific implementation timescale. More particularly, an overall target date of 2010 for implementation for the strategic framework, thus aligning it with the target for full implementation of the ASEAN-China FTA.

IV. Session II: Proposed Activities under the SFA-TFI

20. The Meeting considered the draft SFA-TFI of April 2005, previously circulated by ADB. This draft was revised during the course of the meeting to the 26 April 2005 draft.

21. The team of experts presented and discussed the strategic objectives and principal actions for each of the four priority areas of the SFA-TFI, as follows:

Customs Procedures (Chris Page)

22. Mr Page directed the delegates' attention firstly towards the Strategic Objective, and explained how this was linked with the four Principal Actions set out beneath it. He then briefly summarized, one by one, each of the Principal Actions, and – where applicable – the related Activities in the annexes to the SFA-TFI. He also gave a brief explanation for the structure of, and headings within, the annexes.

23. In respect of Principal Action I, Mr Page referred to the earlier discussions about flexibility, and pointed out that this particular area was a good example of where GMS countries might consider aiming for the achievement of regional standards as an intermediate step towards the longer-term aim of meeting

international standards. He recognized that extensive simplification and harmonization work in relation to customs procedures was already underway in the GMS countries, but suggested that the benefits to be gained from the implementation of this action would be (i) it will enable all GMS countries to identify areas where further work is required to simplify customs laws, regulations, procedures and forms, and to specify related requirements for assistance; (ii) it will enable those GMS countries that have so far missed out on the benefits of other simplification initiatives to receive much needed guidance, support and assistance; (iii) it will directly harness the multiplicity of ongoing and planned simplification work to the achievement of a primary pan-GMS political objective, namely the successful implementation of the CBTA; and (iv) it will enable GMS countries to share information, experience and good practice.

24. For Principal Action III, Mr Page gave a detailed summary of the proposed scope and coverage of risk-based post-clearance and post-release control, firstly stressing the fact that it has a much broader application than the transaction-based post-clearance audit work planned in some GMS countries, and secondly listing and emphasizing the benefits both to individual GMS countries, and to the region.

Discussions

25. Cambodia referred to rules of origin. Currently, most countries in the GMS work to AFTA targets because of the slow progress in the WTO. Mr Page observed that this appeared to be a good example of the practical application of flexibility towards standards discussed earlier. Cambodia also suggested that, since Cambodia, Thailand and Viet Nam are set to implement single stop customs inspection (as well as single-window inspection) by 2008, consideration might be given to using the same terminology as in the CBTA.

26. PRC reminded the meeting that, under Annex 4 of the CBTA, different modalities may be adopted for the implementation of single stop customs inspection such as recognition of inbound seals, reciprocity or use of common cargo listings.

27. Lao PDR commented that the single stop inspection could be considered as the first step in the establishment of a single window inspection. It also noted that trade facilitation covers a broad area and has a direct bearing on the cost of trade, trade and customs regulations, trade and customs documents, customs clearance, trade and customs enforcement practices, ICT, and trade finance structure.

28. Thailand informed the meeting that it is now moving towards electronic form of customs processing so that there is less physical inspection.

29. Mr Page clarified for the meeting that the main intention of Principal Action IV is to focus the attention of the GMS countries on the need to ensure that customs frontier controls at all points of entry to the GMS are, so far as is possible, conducted in parallel with those of other frontier control agencies. This is consistent with the CBTA's 'single-window' inspection principles, and this is specifically mentioned in order to emphasize the complementarities of the SFA-TFI and CBTA. However, the SFA-TFI should not be seen as being solely concerned with CBTA implementation. It has a much broader scope and coverage, and the need for concurrent controls at seaports and airports, as well as at land borders, should also be kept in mind.

Inspection and Quarantine Measures (Stefan Moser)

30. Mr. Moser advised the Meeting that four countries in the GMS are already members of the WTO and two others are negotiating for accession. The Agreement on Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade do not in principle impose specific standards themselves. They refer to other international bodies or to "best endeavors" and encourage Members to enhance coordination and transparency, and request them to apply sanitary or phytosanitary measures and technical regulations on a non-discriminatory basis. Therefore, GMS countries have the flexibility to harmonize and simplify intra-regional SPS and TBT measures, taking into account the country's specific situation.

31. GMS countries have already committed themselves to implementing several international technical standards and SPS measures. There are several agencies involved in the implementation of these international standards and measures, within and outside the GMS. Furthermore, the WTO Agreements on SPS and TBT oblige Members to introduce specific authorities and coordination units (e.g. Enquiry Points). It is also advisable that on top of these bodies the GMS would put in place a governmental “focal unit” dealing with the overall coordination of the different agencies, bodies and associations involved.

32. Mr. Moser then presented the seven Principal Actions on Inspection and Quarantine.

Discussions

33. PRC agreed with all of the Principal Actions. In relation to the inter-agency cooperation in Principal Action IV, they suggested in connection with the risk assessment and conformity assessment procedures to add “control, inspection and approval procedures”. Under Action VI, there are already in existence a certain number of mutual recognition agreements in the GMS, but dealing only with very specific goods. In this context PRC suggested that the phrase “exploring the possibility of” should be replaced with “encourage”, and to focus the mutual recognition of the equivalence (of sanitary and phytosanitary measures) on “specific measures” in accordance with the language of the SPS Agreement.

34. Cambodia proposed to delete “customs” in Principal Action V since it relates to inspection and quarantine measures. They suggested that since five GMS countries are members of ASEAN, and China is about to formalize its FTA agreement with ASEAN, it might be beneficial to align this sentence with the language or the level of agreement between China and ASEAN.

35. Lao PDR requested clarification as to what other agencies are included in “other frontier control agencies” in Principal Action V. For the purposes of being consistent with the context of single window inspection as applied in Lao PDR, it should be clear in the SFA-TFI that the agencies referred to are customs, immigration and quarantine. They also noted that with the development of infrastructure and legislation, not all agencies may remain at the border but some will move to new facilities inside the country.

36. Vietnam suggested adding “focal units” to Principal Action I and to introduce at the end “as specified by individual GMS countries” to take into account the fact that not all GMS Countries are Members of the WTO yet.

37. In respect of Principal Action VII, ADB pointed out that there are similar ongoing activities at the ASEAN level, which are also supported by ADB. Caution should be exercised that the SFA-TFI does not duplicate those activities.

Trade Logistics (Andy Goh)

38. Trade logistics is seen as a competitive tool that can help the GMS countries to enhance trade and hence has been included as a Priority Area in the SFA-TFI. Principal Action I seeks to complement and support the CBTA by speeding up the finalization of the negotiations on the Annexes and Protocols related to transport and logistics and subsequent implementation activities. Principal Action II essentially has the same rationale as the Principal Actions under Customs and Inspection and Quarantine that deal with improving information transparency in the GMS region. This Principal Action will look into improving the transparency of transport costs, administrative and documentation fees, port and handling charges, and other logistics-related costs in transporting goods along the GMS corridors, so that traders and manufacturers can make better freight scheduling and supply chain decisions. Principal Action III will look holistically at logistics development in the GMS as previous interventions in the GMS have focused mainly on developing hard infrastructure such as road, railways, and ports, ignoring the development of supporting logistics infrastructure. The action will focus on (a) assessing the gaps and needs in the area of logistics development in the GMS, (b) identifying the infrastructure needed to support logistics development, and (c) setting up of logistics facilities such as inter-modal interchanges or distribution

hubs/centers within the GMS to support trade facilitation. A major component of this Priority Action will be the adoption of ICT. Finally, as logistics is a service-oriented industry, Principal Action IV will seek to upgrade the quality of logistics professionals and practitioners in the GMS to improve their comprehension of logistics and supply chain management to better service GMS traders and manufacturers.

Discussions

39. Thailand expressed full support for the trade logistics Principal Actions and noted that the target deadlines for compliance of CLMV should be more flexible. Thailand described its recent experience of participating in a Trade Mission to sites within a GMS trade corridor, and expressed the view that such missions have a significant role to play in addressing logistics issues. Thailand also informed the Meeting that it is exploring the possibility of setting up a distribution center along the Economic Corridors.

40. PRC inquired about the role of the “inland logistics and distribution centers”, and how they are expected to function. In particular, PRC was interested to know whether more than one center was envisaged for the GMS, and whether such centers are restricted to inland-based facilities.

41. Mr Goh briefly described the role and functions of logistics distribution centers, which are expected to serve as multi-modal collection, processing and re-distribution facilities along major trading routes or industrial locations in the GMS countries. He also described some of the trade and economic factors that drive their establishment and location. He stressed that it was impossible at this stage to say where such centers might be located, but thought that more than one center was likely; and further that the establishment of such centers need not be restricted to inland-based locations.

42. Mr Goh proposed that the word “inland” should be deleted from Principal Action III in the SFA-TFI, in order to broaden the coverage of this Action to include airports and seaports.

Mobility of Business People (Stefan Moser)

43. Mr. Moser informed the Meeting that the focus of the Principal Actions for this Priority Area is to facilitate the movement of business people within the GMS by simplifying visa regulations and procedures, considering the introduction of a single GMS visa, and eventually extending this scheme to business people from third countries.

44. Mr. Moser then presented the Principal Actions on Mobility of Business People.

Discussion

45. Viet Nam commented that progress with the GMS visa has been slow, although at MM13, three countries had agreed to implement a common visa. Viet Nam also noted that under ASEAN, visa-free entry is already allowed for short stays and this does not distinguish between business or tourist.

46. Cambodia agreed with Viet Nam that under ASEAN arrangements, there is no distinction between tourists and business visitors provided that the stay is within what is allowable. The differentiation is only in the timeframe.

47. PRC stressed that mobility of business people is an important component of trade facilitation. PRC reported even if it is not a member of ASEAN, it has experienced good cooperation from GMS countries through the embassies. They noted that travelers can easily obtain information on Chinese immigration rules from the different websites of the foreign ministry, embassies or missions. PRC agreed that there is still time for further study of the GMS single visa concept.

48. In respect of Principal Action V, Thailand supported the implementation of trade missions and commented that such missions have been very beneficial to Thailand in terms of getting to know the problems on the ground. Due to the overarching nature of the concept, it was agreed that this Principal

Action should be moved to the 'principles' area within Section II of the SFA-TFI, with a reference being made in Section III to its implementation and reviewing functions.

V. Session III: SFA-TFI Implementation Modalities and Next Steps

49. Mr. Chris Page introduced this Session by reminding the Meeting that the SFA-TFI is a strategic framework for action, and that it means nothing unless it is fully and effectively implemented by the GMS countries. He then summarized the key factors that will need to be present if this is to be achieved:

- (a) Detailed identification of the action to be taken, in each GMS member country, to deliver the Activities listed in the SFA-TFI Annexes.
- (b) Careful specification of the nature and timing of the identified actions.
- (c) Ensuring that the specified actions interface properly with other relevant planned and ongoing initiatives, including those funded/supported by external organizations.
- (d) Utilizing all opportunities for implementing Activities on an intra-GMS basis, and sharing related information amongst all GMS countries.
- (e) Regular monitoring, review and evaluation of progress with implementation.
- (f) Updating and further developing the SFA-TFI in the light of progress made.

50. With the assistance of a short visual presentation, Mr. Page then described some of the processes (establishing benchmarks, conducting gap- and needs analyses, stock-taking existing and planned initiatives, planning, project specification) that would need to be undertaken by each GMS country in order to fully specify the detailed Activities and related actions that will appear in the SFA-TFI Annexes. He reminded the Meeting that the Annexes remain flexible, and that Activities may be amended, added, or deleted even after agreement on the framework document has been reached.

51. Mr. Page also stressed the importance of each GMS country establishing a trade facilitation focal point mechanism in order to manage and coordinate SFA-TFI implementation, review and monitoring processes, and particularly the initial development – with 'line' departments (Customs, Transport, Immigration, etc) – of formulating the national action plans. He described the role and responsibilities of the focal point, and its inter-relationship both with 'line' departments and the TFWG. The TFWG would be the principal mechanism for reviewing and monitoring SFA-TFI activities, and would report to the SOM and the Ministerial Meeting on the progress of implementation and any issues requiring action.

52. Mr. Page reminded the meeting that ADB has made it clear that it will support the implementation of the SFA-TFI through the provision of technical assistance. He then briefly described how this might be structured and delivered in order to help the GMS countries to further develop the coordination, analytical, planning, representational and management skills required to manage the SFA-TFI implementation process.

53. As to the next steps, Ms. Carol Guina said that clearance from the GMS governments would be required before the SFA-TFI is elevated to the Summit. A full understanding of the GMS countries' internal clearance procedures is needed so that the potential issues can be addressed. It was emphasized that political endorsement of the SFA-TFI by the Summit will create a major impact on the individual country's bureaucracy which will be accountable for implementing the commitment of their respective Leaders. Since the GMS Summits are held regularly every three years, concerned agencies in each country would need to deliver concrete results and report significant accomplishments to their Leaders.

Discussion

54. Viet Nam explained that an endorsement by the GMS Leaders would imply that the SFA-TFI is a legally binding document. This means that the SFA-TFI will have to be submitted to the Prime Minister for prior approval especially since the document refers to commitments related to aligning standards, rules and regulations with international agreements. The process would also involve obtaining written comments from the relevant departments prior to submitting the SFA-TFI document for clearance by the Prime Minister. Viet Nam suggested that the matrix of activities in the Annexes be classified into tasks that are easy to implement, and tasks that require changes in laws and policies. This classification could help facilitate the internal approval processes. Moreover, Viet Nam proposed that the non-legally binding nature of the SFA-TFI should be explicitly embodied in the main text of the document; otherwise, it would be difficult to obtain the required clearance from the Prime Minister's office.

55. PRC gave the view that a Summit endorsement does not constitute legal binding but is simply a manifestation of the GMS Leaders' political will. The elements in the SFA-TFI is unlike the WTO obligations where sanctions are imposed on countries that fail to comply. The nature of the SFA-TFI document is that of a strategic framework that puts forward guiding principles and identifies priority areas for cooperation, where countries can exercise flexibility in their choice of activities to implement, as well as the timeframe for their implementation, based on their national priorities, capacities and needs. As regards Viet Nam's requirement to solicit comments from the relevant agencies, PRC reminded the Meeting that the SFA-TFI has been the subject of consultations since November 2004 when the first draft was circulated for comments at the TFWG-4 meeting. In addition, several other meetings and consultations have taken place to discuss the SFA-TFI. During these times, the relevant government agencies in Viet Nam should have been fully informed of the contents and key elements of the document, and their comments solicited.

56. Cambodia supported the view of PRC and noted that the SFA-TFI is an open-ended document. Cambodia suggested that a paragraph could be incorporated in the document to explicitly state that the SFA-TFI is non-binding and that flexibility that will be given to the individual GMS countries in the course of implementation, subject to limitations identified in earlier discussions. PRC was of the view, however, that an explicit reference to the non-binding nature of the document in the main text of the SFA-TFI could weaken the credibility of the document and create the impression that the GMS countries are not fully committed to implement the SFA-TFI. PRC proposed that this should simply be explained in the cover letter transmitting the document to the approving authorities in Viet Nam. As another alternative, ADB proposed that, in lieu of an explicit reference to the non-binding nature of the document in the main body of the SFA-TFI, an explanatory note could be written to this effect, for purposes of facilitating internal clearance by Viet Nam. This explanatory note would be removed once the internal clearance has been obtained.

57. On the matter of resources for SFA-TFI implementation, ADB confirmed for the Meeting that it is prepared to support the initial implementation of the SFA-TFI through technical assistance that would be processed by around the third quarter of 2005. The TA would, as previously described by Mr. Page, assist the countries in undertaking the gap- and needs analyses required in the course of preparing the national action plans. ADB stressed however, that it would not be able to provide all the resources required for SFA-TFI implementation and would therefore exert efforts to mobilize support from other donor partners. It was also stressed that the GMS countries should be able to contribute their own resources in implementing some of the activities.

Conclusions

58. The Meeting agreed on the structure, key elements, including the four Priority Areas, and Principal Actions, as well as implementation modalities of the SFA-TFI, as reflected on the 26 April draft.

59. The SFA-TFI is not a legally binding document. Its endorsement by the GMS Leaders at the Second GMS Summit is in the nature of a political endorsement and does not constitute a legal obligation to comply with any of the actions embodied in the document.

60. The principle of “flexibility” means that (i) each GMS country will develop its own national action plan in the four Priority Areas in accordance with its own national requirements, priorities and circumstances; and (ii) two or more GMS countries that share a common need or interest can implement an activity, without the need for participation by all GMS countries (6 minus x principle).

61. The SFA-TFI is fully owned by the GMS Governments, who will be primarily responsible for its implementation. They will allocate the resources to support SFA-TFI implementation. The GMS countries are encouraged to provide assistance to help others with the implementation of the SFA-TFI.

62. ADB will support the GMS countries in implementing specific components of the SFA-TFI and, in its role as catalyst for the GMS Program, will mobilize resources from other development partners to support SFA-TFI implementation. Initially, ADB will provide technical assistance to support the analysis required for, and the process of formulating, the national action plans, and properly formulated projects to implement the SFA-TFI.

63. The GMS countries agreed to expedite the internal procedures required to obtain an official endorsement of the SFA-TFI document (26 April 2005 draft) by the appropriate Government body or authority prior to the Summit.

64. Considering (i) the intensive process to prepare the document and the various rounds of consultation which have taken place starting from November 2004; (ii) that the current draft SFA-TFI document has been formulated in close consultation with the relevant agencies in the GMS countries; (iii) that the draft document has been previously circulated for review; and (iv) that the Special Meeting of the TFWG has agreed on the structure, key elements, including the four Priority Areas, and Principal Actions, as well as implementation modalities of the SFA-TFI as reflected in the 26 April draft; it is understood that the document to be officially endorsed by the Second GMS Summit would be based on the 26 April draft of the SFA-TFI. It was also agreed that the deadline for completing the process of obtaining the internal clearance and subsequently conveying the same to ADB will be not later than 10 June 2005.

**Special Meeting of the Trade and Facilitation Working Group
25-26 April 2005
ADB Headquarters, Manila, Philippines**

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**Greater Mekong Subregion
Economic Cooperation Program**

**Special Meeting of the Trade Facilitation Working Group (TFWG)
25-26 April 2005 (Monday and Tuesday)
Conf. Rm. 1614S, ADB Headquarters
Manila, Philippines**

AGENDA

25 April 2005 (Monday)

Chair: Mr. Robert Boumphrey
Director, Governance, Finance and Trade Division (MKGf)
Asian Development Bank

0800-0830 **Registration**

Opening Session:

0830-0845 **Opening and Welcome Remarks**
-- Mr. Rajat Nag, Director General
Mekong Department (MKRD)
Asian Development Bank

Session I **Strategic Framework for Action on Trade Facilitation and Investment**
0845-1015 (SFA-TFI) --- Overview, Structure, Key Elements and Priority Areas
for Action

--- Representative from PRC

--- Ms. Lingling Ding
Senior Trade Economist
Governance, Finance and Trade Division (MKGf)
Asian Development Bank

--- Mr. Chris Page
Team Leader, SSTA to Support Development of the Action Plan
on Trade and Investment Facilitation in GMS

The background to, and key elements of the SFA-TFI will be presented and discussed. Under this session the TFWG is expected to discuss proposed priority areas and the rationale for each. The objective of the session is to seek broad endorsement of the priority areas, and the principal actions in relation to each one, under the SFA-TFI.

1015-1030 *Coffee/Tea Break*

Session I **SFA-TFI: Overview, Structure, Key Elements and Priority Areas for Action (continued)**
1030-1200

1200-1330 *Lunch (Private Dining Room 4 and 4a)*

Session II **Proposed Activities under the SFA-TFI**
1330-1500

The TFWG will discuss the detailed activities proposed under each priority area/principal action within the SFA-TFI and implications for the work envisaged in the implementation phase. The SFA-TFI team of experts will serve as technical resources for this session.

1500-1515 Coffee/Tea Break

Session III **SFA-TFI Implementation Modalities and Next Steps**
1515-1700

The TFWG will discuss the implementation modalities as proposed in the SFA-TFI drafts. The pending issues that need to be resolved prior to the Summit, as well as the next steps required, will also be identified.

26 April 2005 (Tuesday)

0900-1015 **Review of the Revised Draft of the SFA-TFI**

The meeting will review the revised draft of the SFA-TFI based on the comments made on Day 1. The revised draft will be prepared after the meeting, by the expert team.

1000-1015 Coffee/ Tea Break

1015-1130 Consideration of the Summary of Proceedings

1130-1300 *Lunch (Private Dining Room 4 and 4a)*