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FACULTY OF SOCIAL & POLITICAL SCIENCES  
UNIVERSITAS GADJAH MADA

CONFERENCE PROCEEDINGS

# ECONOMIC AND SOCIAL DEVELOPMENT IN ASEAN

**ICONAS 2014 - Yogyakarta, October 1<sup>st</sup> - 2<sup>nd</sup> 2014**

International Conference on ASEAN Studies - Inner and Outer Look of  
Southeast Asia in 2015: Championing ASEAN Community

*Conference Proceeding*

# **ECONOMIC AND SOCIAL DEVELOPMENT IN ASEAN**

INTERNATIONAL CONFERENCE ON ASEAN STUDIES 2014  
(ICONAS)

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# FOREWORD

The year of 2014 marked as an important year when the 1st International Conference on ASEAN Studies (ICONAS) 2014 is held in Indonesia, particularly in Southeast Asia region. It is part of ASEAN Studies Center Universitas Gadjah Mada, Indonesia (ASC UGM) initiatives in collaboration with ASEAN Studies Center Chulalongkorn University, Thailand.

ICONAS 2014 is aimed to identify challenges and opportunities of ASEAN Community in 2015 as well as to further develop ASEAN Studies in the region. The conference is envisioned to be a melting-pot for academics, business, government from ASEAN member states and their dialogue partners to discuss how to pursue and achieve the vision ASEAN Community through three pillars: Political and Security Community, Economic Community, and Socio-Cultural Community.

This Proceedings brings you academic papers presented in the Panel Discussion with 12 main themes: (1) ASEAN Security Dilemma; (2) ASEAN and Human Security; (3) Pondering ASEAN Economic Development; (4) Transforming Future Governance of Extractive Industries in ASEAN; (5) The Role of Higher Education in ASEAN; (6) Youth Participation in ASEAN; (7) ASEAN Community: New Alternatives; (8) ASEAN and New Media; (9) ASEAN Economic Community 2015; (10) ASEAN Economic Community: Critical Assessment; (11) The Cultural Aspects of ASEAN; and (12) Rethinking Identity in ASEAN.

The 2014 ICONAS proceeding published in three parts based on three ASEAN Community pillars. The first part covers various issues on Political and Security in ASEAN. The second proceeding discusses mainly on economic and social development, and following the economic part, social and cultural issues are disseminated on the third part.

We would like to express our gratitude to all presenters who contributed to the success of the 1st International Conference on ASEAN Studies (ICONAS) 2014, remarkably the authors and co-authors for their valuable contribution to the ICONAS 2014. Special thanks goes to all colleagues, who tirelessly participated in the proof-reading of this Proceedings. We wish the Proceeding could drive interest among Southeast Asian scholars and enlighten us to new perspectives on exploring ASEAN related issues.



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# **KNOWLEDGE-BASED GOVERNANCE FOR TRANSFORMING RESOURCE-DEPENDENCY TO SUSTAINABLE DEVELOPMENT: IN SEARCH OF A FRAMEWORK**

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UNIVERSITAS GADJAH MADA



# KNOWLEDGE-BASED GOVERNANCE FOR TRANSFORMING RESOURCE-DEPENDENCE TO SUSTAINABLE DEVELOPMENT: IN SEARCH OF A FRAMEWORK

Purwo Santoso<sup>1</sup> & Joash Tapiheru<sup>2</sup>

## Abstract

*This is an initial attempt to develop a framework for further enhancing the capacity to govern ASEAN community, as it gains more and more prominence in its role transforming common prosperity and security in the region. The idea is to emphasize the importance of knowledge in making deliberate attempt to arrived the stated goal, or enhance the governance which take place simultaneously at local, national and supranational level. This article proposes a particular model of governance, which has been set in place albeit implicitly, but powerful enough for further enhancing the existing capacity. We call it 'knowledge-based governance', within which the transformative capacity of knowledge is devoted to enhance collective advantages of people and country in the region. The knowledge-based character would direct the people's trajectory toward sustainable development, as sustainability has been set as the guiding principle in governing the region.*

**Keywords:** *knowledge-based governance, knowledge management, ASEAN*

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## Model for Enhancing Engagement in a Deep Need

During its course, as aforementioned, ASEAN member states envision ASEAN to be more than merely regional body. Through ASEAN they want to create a one integrated region with the people as a single community of ASEAN. Initiated in Kuala Lumpur in 1997 as Vision of ASEAN 2020, the initiative was then accelerated to commence on 2015 through the Cebu Declaration on the Acceleration of Establishment of an ASEAN Community by 2015.<sup>3</sup>

The scope of the engagement of ASEAN is so wide and the degree of integration is getting tighter and tighter. Proposing an all encompassing and yet useful model of governance ASEAN, therefore, is a difficult task. For this reason, this article confines its scope on achieving one, among many other purposes of ASEAN, that is:

“to promote sustainable development so as to ensure the protection of the region’s environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of its people”.<sup>4</sup>

To make the challenge of developing the model of enhancing the model of governance, this article further confines its usage on dealing with extractive industries. The model, nonetheless, would be led a pathway for further usage.

Why does the model of governance in search have to leans on the usage of knowledge in the first place? The governance of ASEAN is so complex, and within its complexity a vital element of it has been obscure. It involves different layers, covers virtually all kind of public affairs, but the way governance works has been carefully conducted in such a way which maintain mutual respect and interference of other member state. The way ASEAN presents itself, namely the enabling and the constraining structure for the functioning of its governance, is deceiving. It pretends to be a simple bureaucratic structure by revealing the way they distribute role and responsibility in a simple diagram. <sup>5</sup> It obscures the fact that there are complicated processes to take place. This inevitably leaves fragmentations, as each of them operating in different sphere of authorities. Yet, they eventually bound to solve public affairs.<sup>6</sup> It leaves the public with various form of engagement, yet the problem solving eventually rest on the use of public authority.<sup>7</sup> Given these cross-cutting process, the absence of knowledge would be

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<sup>3</sup>Secretariat of Directorate General for ASEAN Collaboration, 2012, *ASEAN: Selayang Pandang-20th Edition-2012*, Jakarta: Secretariat of Directorate General for ASEAN Collaboration, Indonesian Ministry for Foreign Affairs, p.6

<sup>4</sup> See ASEAN Charter; Article 1.9. In this regard, it is important to note that ASEAN specifies 15 ideas in the article.

<sup>5</sup> Look at it in : <http://www.asean.org/asean/asean-secretariat/organisational-structure>.

<sup>6</sup> James N. Rosenau, “Strong Demand, Huge Supply: Governance in an Emerging Epoch”, in Ian Bache and Mathew Flinders, *Multi-level Governance*, Oxford Scholarship Online: April 2014.

<sup>7</sup> Maarten A. Hajer; *Authoritative Governance: Policy Making in the Age of Mediatization*, Published to Oxford Scholarship Online: February 2010.

unthinkable.<sup>8</sup> Bringing the knowledge to the fore is important not only for academic interest, but also for practical engagement.

We notice that the first governing principle of ASEAN is: “respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States.”<sup>9</sup> It implies that, states have to play its key role in governing the region. But, at the same time, they way each member state operates would inevitably market-driven.<sup>10</sup> ASEAN charter explicitly declares that the purpose of the association is also to:

”create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professional, talents and labour; and freer flow of capital”.<sup>11</sup>

Given the two quotes of the charter, it is apparent that the model of governance required by ASEAN shall not be entrapped in the academic debate, which has been marked by bipolar contestation between state-centric model and the market-based governance. Debate on the model of governance shall move beyond minimal-optimal role of the state because the current study suggests state need to retain its strategic role, and even engage in smarter way.

The region committed to liberalize the economy in the sense that market-based mechanism is unleashed through voluntary-exchange processes, but the integrative process is keep within the state-guided blueprints. The member states make a deliberate a particular institutional set-up; but theoretically speaking, the set-up is strikingly marked by accumulation of knowledge through series of collective learning.<sup>12</sup> Indeed, the governing mechanism of ASEAN is not in the control-and-command fashion, but the use of state’s authority in targeting socio-economic and cultural changes are vital. Bearing these in mind, the viable model inclines to synthesize the two, and expand the commonality between the opposing poles in the debate. In Mark Whitehead terminology, it requires meta-governance analysis to see how the shadow of hierarchy works.<sup>13</sup>

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<sup>8</sup> Carolyn J. Hill and Laurence E. Lynn Jr.; “Governance and Public Management, an Introduction”, *Journal of Policy Analysis and Management*, Vol. 23, No. 1 (Winter, 2004), pp. 3-11

<sup>9</sup> ASEAN Charter, Article 2.2.(a).

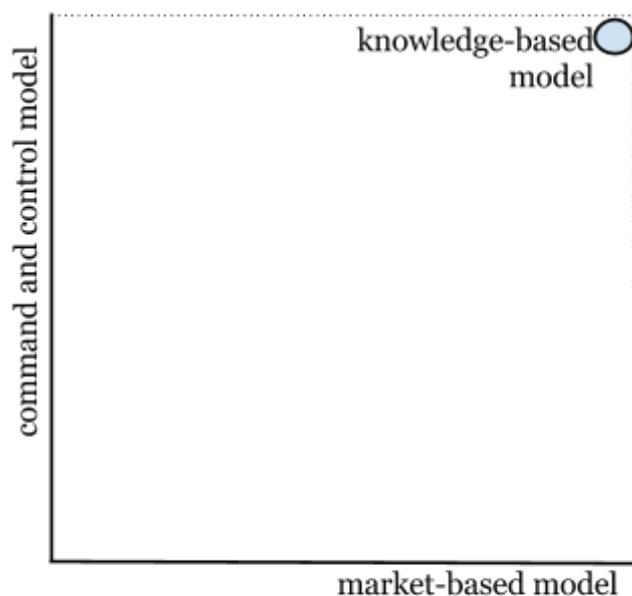
<sup>10</sup> Alexander Ebner and Nikolaus Beck, *The Institution of the Market: Organisations of the market: Organizations, Social System and Governance*.

<sup>11</sup> ASEAN Charter, Article 1.5.

<sup>12</sup> Ebner, Alexander and Nikolaus Beck, *The Institution of the Market: Organisations, Social System and Governance*, Published to Oxford Scholarship Online: September 2008. DOI: 10.1093/acprof:oso/9780199231423.001.0001.

<sup>13</sup> Whitehead, Mark; “ ‘In the Shadow of Hierarchy’: Meta-Governance, Policy Reform and Urban Regeneration in the West Midlands, *Area*, Vol. 35, No. 1 (Mar., 2003), pp. 6-14, Published by:

Within each of the competing models, knowledge sector are highly-valued but never been explicitly formulated. Each model agrees on its vital role in securing the process of governing. In the first model, the governance relies on the dominant role of the state. Conversely, the second model relies on the initiative and voluntary exchanges among the society or business. What really needed, so to speak, is to explore how the supporting role of knowledge play vital role in governance at ASEAN level and to explore its effectiveness. Combining the two



**Figure 1**  
**Knowledge-based model and its relation to command-and-control and market-based models**

models is important because state needs to play important role in governing ASEAN community, and at the same time, it is unimaginable to have ASEAN economic community without allowing market mechanism in place. See Figure 1.

Since its inception in 1967, as expressed in the Bangkok Declaration, ASEAN has been keeping the balance between independence of domestic governance of each member state with the prevailing market exchange in respective country. In doing so, the country in the region has provided important lessons to their neighbours. Its membership then grew from the 6 initial members in 1967 to 10 in

2010 with the entrance of Democratic Republic of Cambodia as its 10th member state. In this regard, reputation seems not a big deal. There has been process of lesson drawing and reputation creating, but they are “unnoticed” given the limit of the existing analytical framework to look at it. The role of reputation in explaining the expansion has not been taken seriously.<sup>14</sup>

The importance of improving the model of governance is stems also from anxiety, in following the expansive understanding that as sovereignty of national state remain central, but at the same time increasingly less apparent. At the same time, study of governance has revealed that the exercise of state authority has

Wiley on behalf of The Royal Geographical Society (with the Institute of British Geographers), Stable URL: <http://www.jstor.org/stable/20004284> Accessed: 17/09/2014 06:36.

<sup>14</sup>Picci, Lucio, *Reputation-based Governance*, Published to Stanford Scholarship Online, June 2013, DOI: 10.11126/stanford/9780804773294.001.0001.

been discursive in nature, but its discursive nature only recently understood.<sup>15</sup> We understand that governance is a matter of interaction, but the interaction has been narrowly portrayed as that among actors. More specifically, the actors have been confined in the three categories: state, society and business.<sup>16</sup> For that reason, there has been a big demand to advance interactive governance as a new paradigm<sup>17</sup>. From constructivist point of view, governance is a matter of discursive engagement.<sup>18</sup>

In its day to day practices, there are hundreds of policy issues being discussed within ASEAN. In this regard, one to one policy analysis has a limited use. Moreover, the discourse of public policy issue has been increasingly overshadowed by discourse on governance.<sup>19</sup> At the same time, discourse on transformative capacity of the state's authority withering away. The shifting of academic attention from policy-making to governance carries a slippery assumption: the better the governance the more effective the policy. A comparative study on long terms trend analysis conducted by Kaufman et. al shows that in the long run, good governance is positively correlates with growth, but there is no guarantee that it is so in the short run.<sup>20</sup> In the context of governing ASEAN, there should be assurance that the ambition of to achieve the stated goals is not carefully transformed goal seeking.<sup>21</sup> By bringing to the fore the notion of knowledge-based governance, the authors hope to be able to secure the importance of policy-making within the discourse on governance. Moreover, given the ever increasingly ambitious objectives has been pursue through ASEAN framework, the notion of governance would be inevitably transformative. In this regard, this article making reference to the way to transform the dependency on natural resources to sustainable stage.

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<sup>15</sup>Dryzek, John S., *Foundations and Frontiers of Deliberative Governance*, Oxford University Press, Published to Oxford Scholarship Online: 2011.

<sup>16</sup> See for example: Newman, Janet, *Remaking Governance: People, Politics and the Public Sphere*, Published to Policy Press Scholarship Online: March 2012, DOI: 10.1331/1331/policypress/9781861346407.001.0001.

<sup>17</sup>Torfinn, Jacob, B. Guy Peters, Jon Pierre and Eva Sorensen, *Interactive Governance: Advancing the Paradigm*, Published to Oxford Scholarship Online: May 2012, DOI: 10.1093/acprof:oso/9780199596751.001.0001.

<sup>18</sup>Diez, Thomas, *Governance - A Matter of Discourse: Discursive Nodal Points in the British Debate over Europe*, Paper for presentation at the Biennial Convention of the European Community Studies Association (ECSA), Seattle, 28 May - 1 June 1997.

<sup>19</sup> See Goksel, Nilüfer Karacasulu, Globalisation and the State, downloaded from: <http://sam.gov.tr/wp-content/uploads/2012/02/1.-NiluferKaracasuluGoksel.pdf>, accessed 16th September 2014

<sup>20</sup> Kaufmann, Daniel, Aart Kraay, Eduardo Lora and Lant Pritchett; "Growth without Governance [with Comments]", *Economia*, Vol. 3, No. 1 (Fall, 2002), pp. 169-229, Brookings Institution Press, Stable URL: <http://www.jstor.org/stable/20065434>, Accessed: 17/09/2014 07:59.

<sup>21</sup> Frank Fischer, *Reframing Public Policy: Discursive Politics and Deliberative Practice*, Published to Oxford Scholarship Online: November 2003. DOI: 10.1093/019924264X.001.0001.

This paper is divided into three sections. The first section discusses the transformation of roles of ASEAN amidst the changing context at both global and national levels that somehow also affect ASEAN. In doing so this section also examines how the existing framework of governance has been tacitly relying on knowledge and managing the knowledge to equip various kind of governance. The second section deepened the analysis by discussing how knowledge-based governance may contribute more in achieving ASEAN goals. To make the point easier to understand, this section relies on the cases of extractive industries which, in terms of governance, is challenging. It is transnational in its nature, and typically involves small circle of elites and, more importantly the failure of governance on this issue would be disastrous. In specifying the model, the third section contains itemizes series of recommendations for further development of knowledge-based governance at the ASEAN level.

### **Governing ASEAN Community: Unarticulated Mode of Knowledge-based Practices**

Throughout 47 years of its existence, ASEAN has been developing, not only in terms of membership, but also in terms of the depth and the the size of its coverage. The participation of member state in ASEAN implies dedication to carrying out policy ideas collectively, and impressive performance has been observed. Yet, studies on governance of ASEAN has been overlook the importance and the role of ASEAN in dealing ideas, and hence, knowledge. This paper aims to fill this gap.

The notion of governance, in this regard refers to “... the process of governing societies in a situation where no single actor can claim absolute dominance.”<sup>22</sup> The situation described in this definition fits the realities of ASEAN where all member states are considered to equal with no governing body above them to set rules and mechanism of their engagements. It is exactly in this situation knowledge that commonly shared among the equals become crucial and vital as it is by and through common knowledge each member state set its approach and behavior to others. From its inception, ASEAN is presented as a forum and channel for the member states to accelerate economic development, fostering regional peace and stability and multi-sector collaboration for mutual benefits. The description goes by emphasizing that, given its nature as collaborating and consolidating forum, the member states of ASEAN engage in numerous substantive issues.

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<sup>22</sup> Fazekas and Burns quoted in Hopfenbeck, Therese; Astrid Tolo; Teresa Florez; Yasmine El Mazri, 2013, *Balancing Trust and Accountability? The Assessment for Learning Programme in Norway-A Governing Complex Education Systems Case Study*, OECD, p.15

In that regard, it is important to note that, within that process policy ideas do matter. They are the subject being consulted and debated, and discourse on governance tends to take this for granted. Since the obsession of the study has been on the process, procedure or mechanism to arrive at acceptable decision, the dynamic of the ideas has been barely understood. Given the fact that policy content or substance always embedded in the process in governing, analysis of governance ASEAN needs to link way the organization work, and the ways policy ideas floating, improving, and more importantly, transform them into practice.

To illustrate that point, let us have a closer look at the working jargon of ASEAN. There has been a proud in reciting the jargon: “united under one vision, one identity and one caring and sharing community”.<sup>23</sup> This allows the member states to load extensive range of policy ideas, and at the same time, they rightly locate ASEAN as medium of the debate, and then reformulate the policies. Obviously, in dealing with the interconnecting issues, ASEAN managed to develop an integrative framework to govern policy ideas; dan settle the way to came to a certain degree of agreement. It then ends up with commitment, and the commitment has been set within a jargon of ASEAN Community. It even is set to take effect in 2015.<sup>24</sup>In organising the community, the policy ideas are organised into three clusters: politics, economy and culture.

But what has been so important with the categorization of the policy ideas into three categories? The category lead to the formulation of blueprints and each of them legitimize the dominant role of experts. The legality of the blueprints conceal particular set interests embedded in the given policy ideas. Connectivity, for example becomes a buzzword in developing ASEAN community, but the buzzword set different advantages/disadvantages to different people/country.

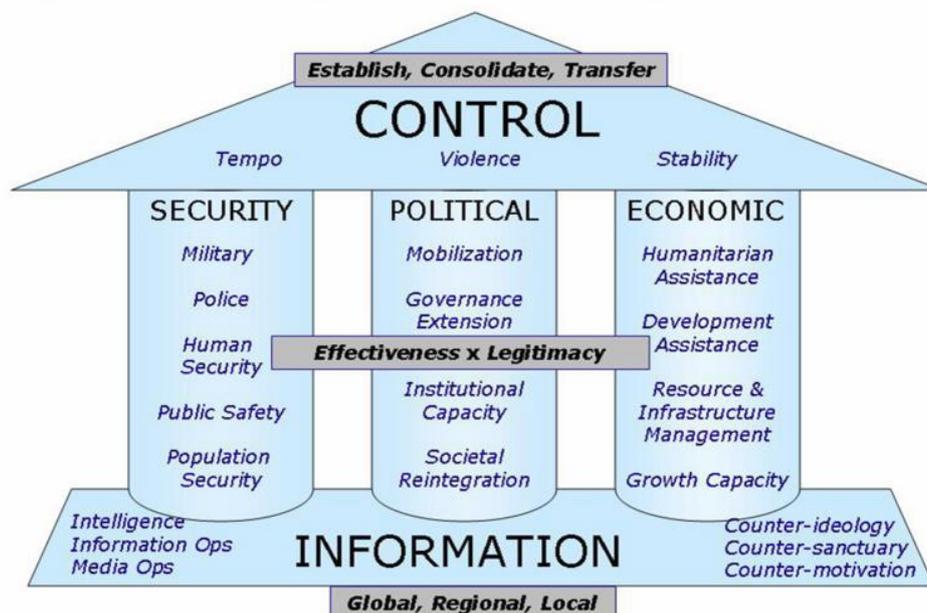
These three blueprints have been articulated as the three pillars of the collaboration within ASEAN. It eases everyone to understand what to do or not to do. Policy ideas, apparently is not a neutral entity as they adhere to specific context. The way to organize the complex ideas comprehensible to everyone works simultaneously with the way it sets advantage/disadvantages. This is parallel with what three pillar means when David Kilcullen write his article: Three Pillars of Counterinsurgency. The categorization of ideas corresponds with different set of control in the governing process. He visualizes his idea in Figure 2.

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<sup>23</sup> ASEAN Charter, Preamble.

<sup>24</sup> Secretariat of Directorate General for ASEAN Collaboration, 2012, *ASEAN: Selayang Pandang-20th Edition-2012*, Jakarta: Secretariat of Directorate General for ASEAN Collaboration, Indonesian Ministry for Foreign Affairs, pp. 3-6

Figure 2 – Inter-agency Counterinsurgency Framework



The point to make here is that, behind the intention of articulating three pillars, Kilcullen has an easy way of transforming information into ability to control. Moreover, by organising the ideas into three categories, he has easier way to demand of controlling the entire complexity.<sup>25</sup> Looking from Kilcullen perspective, it is apparent that governance is a matter of transforming information into knowledge, and further transforming knowledge into control. By visualizing the ideas as three pillars, the process of governance at three layers –global, regional and local–takes place.

Obviously, this article presupposes that the three pillar of ASEAN is a functional tool of governance. There is something political within it, and unless the politics behind it is revealed, the inconsistency in pursuing the objective of having ASEAN would prevail. To assert in a positive way, sensitivity over the ideas and how it manifest in public discourse would enhance the existing mode of governance.

As a regional body, ASEAN has been successful in maintaining other standards of international governance, such as respect over the position of each member state as sovereign nation-state. It has been successful in translating a number of values into workable principles of consensus, non-intervention, and mutually beneficial collaborations. The feeling that everyone has been working within a certain framework, where the member states are in equal position to one another is the footprint of the governance itself. The sense of clarity of the

<sup>25</sup> Kilcullen, David. J.; Three Pillars of Counterinsurgency, Remarks delivered at the U.S. Government Counterinsurgency Conference, Washington DC, 28 September 2006.

framework gladly leads this regional body to rely on commonly shared perception and knowledge, yet the mode of governance has not been sensitive to it.

The leader from every member country in charge, need to know what the situation they are facing is and what possible ways to anticipate it are. But the dominant role of experts in the process, potentially undermine their capacity to, discursively engage in decision and policy making. The existence of blueprints facilitates the policy makers to govern, yet it also normalizes certain kinds of negligence derived from bias embedded in the blueprint. Normatively speaking, governance should adhere to many things, including the rule of law, good governance, the principle of democracy and constitutional government. It should also adhere to respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice and alike.<sup>26</sup> By specifying the standard, there would be a collective process of transforming people's live in the region. What really understated, in this regard is that, each of the participating states agrees to rely on their own system and their own understanding on what is good/bad.

The workability of a model of governance, presupposes some sort of agreement on certain ideas. The ideas might be retained and unarticulated along the history of the region. In this regard, the underlying ideas of the formation of ASEAN are the common historical experience and situation of its member states. In this regard, we know that history is a matter of collective memory or shared implicit knowledge.<sup>27</sup> Unlike the European Union, which was formed out of the functioning implicit knowledge that the exaggeration of the so-called national interests eventually drove them to two times of world wars in time span less than 40 years, ASEAN has been driven by different sort of historical trajectory. These states in ASEAN region at various points of their history, except for Thailand, have experienced colonization. In this regards, the countries in the region share collective memory of reemergence of colonialism in various forms. Bearing this in mind, we can not only expect the persistence of post-colonial political attitude but also collective respond to previously dominating rulers. While European prevent worldwide war by intensifying collaboration among themselves through European Union, it doesn't make any surprise serve as collective agenda to prevent the return of colonialism in its updated form.

Colonialism, in this regard, is matter access to resources. Imbalance control over resources, become a leeway for colonialism to take place. Moreover, the capacity to prevent the return of colonial power, there has been common understanding on the importance enhancing human resources, as oppose to

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<sup>26</sup> ASEAN Charter, 2.2.

<sup>27</sup> For the nature of tacit knowledge, its importance and transmission see *Tacit Knowledge: Making It Explicit*, downloaded from <http://www.lse.ac.uk/economichistory/research/facts/tacit.pdf>, accessed on 15th September 2014

natural resource. Whatever the institutional setup available is, the resources are dedicated to reach the aforementioned set of goals. The fact that countries in SEA are also endowed with abundant natural resources of oil, gas, coal and other minerals, (see Table 1) are not necessarily secure the region in achieving the stated goals of ASEAN. The wealth of natural resources has been the main drive for other countries to colonize this region up to the second half of the last century. In other words, the governance of the region requires a strong basis of knowledge on how the resource should be used. More importantly, strong basis of knowledge is required to ensure that both the regulation and the market mechanism do not discount the future due to the obsession of resolving the current problems. It serves as foundation or infrastructure, upon which, the day to day process of governing takes place and takes effect. For example, Brunei Darussalam, which gained its independence on 1 August 1984, remains dependent on their natural resource deposit for revenue to finance their development programs. The abundance of revenue from the oil industry might allow the country to maintain its economic growth for some time, but at some point, the growth would be at a halt, unless the people of the Kingdom of Brunei Darussalam understand and agree on how to consume without leaving some sort of vulnerability.

**Table 1: Reserves of Oil and Gas in ASEAN countries<sup>28</sup>**

Brunei	Crude Petroleum – 1.35 bi barrels, natural gas 391 bi cu.m
Myanmar	1473 mi barrels of crude oil and 14,290 bi cubic feet of natural gas. The daily yield is 12,000 barrels of crude oil and 160 million cubic feet of natural gas.
Cambodia	2 billion barrels of oil; 10 trillion cubic feet of natural gas
East Timor	553.8 million barrels; 200 billion cubic meters of natural gas
Indonesia	4.37 billion barrels of oil; 3 trillion cubic meters of natural gas
Malaysia	Domestic oil and gas reserves – 20.13 billion barrels International oil and gas reserves - 6.24 billion barrels
Philippines	8.895 billion barrels of oil
Thailand	290 million barrels of oil reserves; 14.8 trillion cubic feet natural gas
Vietnam	3.41 billion barrels of oil reserves; 0.22 trillion cubic meters natural gas reserves

<sup>28</sup> Source: Kirana, Chandra, *Promoting Natural Resources Revenue Transparency and Accountability*, Power Point Presentation in Meeting of the GOPAC Global Task Force on the UN Convention Against Corruption and Monitoring Workshop & Regional meeting of the Southeast Asian Parliamentarians

Shared knowledge is intangible, but very crucial. Being an infrastructure of governance, it is as important as road for a car to pass through. The governing scheme of ASEAN relies on commonly shared knowledge among its member states when addressing crucial issue has long roots in ASEAN. For example, on environmental issue, James Cotton's study on the ASEAN handling of haze mentions that in order to address the environmental issue ASEAN has been relying on a group of specialists that regularly holds meetings since 1977. Cotton also mentions that until 1991, the specialists were considered as the main actor in determining policies to address environmental issue.<sup>29</sup> Besides environmental issue, ASEAN also exercises similar scheme to address other crucial issues, such as Human Rights and the ASEAN Community plan as discussed in the following part of this section.

Dependency on commonly shared knowledge in ASEAN is also further tangible when we learn the specific mechanism through which many of its policies have been decided. Diplomacy within ASEAN is largely conducted through "the back door" and loosely regulated, unlike the formal diplomacy process.<sup>30</sup> Agreement and consensus are largely built during informal meetings, while formal fora only served as ceremonial stage to make the informally reached consensus and agreement receive formal status. When rigid rules and mechanism are absence, the involved actors must rely on mutual trust. Such trust is impossible without some sort of commonly shared knowledge among the ASEAN member states.

ASEAN is a medium of policy coordination. It inevitably involves sets of epistemic communities.<sup>31</sup> This explains why ASEAN in addressing issues it considers to be crucial heavily rely on experts and specialists. As further elaborated in following part of this paper, whenever addressing issues considered to be crucial for the collective interest of ASEAN such as environmental and

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<sup>29</sup> On this sector, this group was initiated through the "ASEAN Environment Program I" in 1977. This initiative then was further institutionalized by upgrading it into annual meetings of the ASEAN Senior Officials on the Environment (ASOEN) in 1989. Cotton, James, "The "Haze" over Southeast Asia: Challenging the ASEAN Mode of Regional Engagement" in *Pacific Affairs*, Vol. 72, No. 3 (Autumn, 1999), pp. 331-351, Pacific Affairs, University of British Columbia, p.342; <http://www.jstor.org/stable/2672225>, Accessed: 30/08/2014 01:22

<sup>30</sup> One high profile case that exemplifies the operation and effectiveness of this backdoor diplomacy was the release of Aung San Su Kyi from arrest by the Government of Myanmar, see *Asia's Security Forum Tells Myanmar to Free Prisoners, Admit UN Envoy*, <http://aseanregionalforum.asean.org/news-21895/15-asias-security-forum-tells-myanmar-to-free-prisoners-admit-un-envoy.html>, accessed on 15th September 2014. See also Norada, Noel M., "Asia and the Pacific" in Genser, Jared and Irwin Cotler, 2012, *The Responsibility to Protect: the Promise of Stopping Mass Atrocities in Our Time*, Oxford University Press, p. 152

<sup>31</sup> Haas, Peter M., "Introduction: Epistemic Communities and International Policy Coordination", *International Organization*, Vol. 46, No. 1, Knowledge, Power, and International Policy Coordination (Winter, 1992), pp. 1-35; Published by: The MIT Press, Stable URL: <http://www.jstor.org/stable/2706951>, Accessed: 17/09/2014 06:07.

disaster issues, administration & statistic at regional level, international relations with strategic counterparts ASEAN always makes the initiative through a group of experts on the related field.

The establishment and working mechanism of these groups of experts are designed in such a way that the knowledge produced becomes collective endowment for the ASEAN and its members. These groups of experts are established by the ASEAN. Often, the membership is not only based on expertise but also implies symbolic representations of each ASEAN member states. They work to produce knowledge that serves as common reference for the decision makers in the ASEAN.

Working under the guidance of the aforementioned principles, we can find that ASEAN has been working largely based on commonly shared knowledge. The tangible expression of this mechanism can be found in the institutional arrangements either commissions, *fora*, and other bodies subsidiaries to ASEAN. The role of experts working in a form of think-tank has been prominent within ASEAN. One clear example is the ASEAN Charter. ASEAN Charter is the official document on framework for cooperation in ASEAN signed by the head of the member states during the 13th ASEAN Summit in 2007 was formulated by Eminent Persons Group-EPG, followed with High Level Task Force-HETF from 2006.

One particular feature that we find if we take a look closely on the diplomacy and policy process in the ASEAN is the operation some sort of think tanks work, comprised of experts, to support the process with relevant knowledge and information. The EPGs have been initiated not only for the formulation of ASEAN Charter. For various issues, especially ones considered to be important, like India-ASEAN cooperation, there was an EMP initiated to probe the issue and produce a report that includes recommendation on how to address the issue best.<sup>32</sup> The existence of such think-tank indicates the operation of knowledge that is well institutionalized within the ASEAN.

Actually, this was the group of people who drafted the document that would be the ASEAN Charter. The ASEAN EPG was formed on the 12 December 2005 during the 11th ASEAN Summit in Kuala Lumpur. The task for this group is to take stock of ASEAN's 38 years of existence to "...identify its major achievements and shortcomings, and assess current ASEAN cooperation as well as propose improvements..., Recommend desirable key elements of an ASEAN Charter ..., Recommend a strategy for the ASEAN Charter drafting process..."<sup>33</sup>

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<sup>32</sup> See for example *ASEAN-India Eminent Persons' Report to the Leaders*, Jakarta: ASEAN Secretariat, October 2012, <http://aic.ris.org.in/wp-content/uploads/2014/05/Asean-India-AIEPG-29-10-12-final.pdf>, accessed 10 September 2014

<sup>33</sup><http://www.asean.org/news/item/terms-of-reference-of-the-eminent-persons-group-epg-on-the-asean-charter>, accessed 16th September 2014.

The incorporation and recognition of the vital roles of think-tanks within policy process has been further institutionalized in ASEAN. There are, ASEAN Centres and Facilities.<sup>34</sup> There are also entities associated with ASEAN, to include parliamentarians<sup>35</sup>, business organizations<sup>36</sup>, network think tanks<sup>37</sup>, accredited civil society organizations and other stakeholders<sup>38</sup>. Networks and engagements of the intellectuals and technocrats is formalized Track II diplomacy and the actors known as Track II actors.<sup>39</sup>

However, in the future, there are much potential which are still need to be developed if ASEAN is to gain maximum benefit from the knowledge-based governance. One particular feature of the existence of those EGPs if we look at the report produced is the relative absence of discussion on how the EGPs produce the report. It is hard to believe that the individual members of the EGPs work on its own without back-up from a group or collection of groups that provide him/her with necessary and relevant information in formulating the EGPs' report.

Further, analysis on the issues addressed by those EGPs must be somehow contested. The process through which the contest over those issues are resolved, including the actors; the fora; and the approach to address each of the conflicting opinion on the issues addressed have not been well documented. Such information is important since it contains valuable knowledge on bigger map of policy and epistemic community related to certain issues in the SEA region and even beyond.

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<sup>34</sup> They are: (1) ASEAN Centre for Energy, (2) ASEAN Centre for the Development of Agricultural Cooperatives, (3) ASEAN Coordinating Centre for Transboundary Haze Pollution, (4) Environment Division of ASEAN Secretariat, (5) ASEAN Council on Petroleum, (6) ASEAN Earthquake Information Centre, (7) ASEAN-EC Management Centre, (8) ASEAN Insurance Training and Research Institute, (9) ASEAN Centre for Biodiversity, (10) ASEAN Secretariat, (11) ASEAN Specialised Meteorological Centre, (12) South East Asian Central Banks, (13) ASEAN University Network.

<sup>35</sup> ASEAN Inter-parliamentary Assembly (AIPA).

<sup>36</sup> This includes: (1) ASEAN Airline Meeting, (2) ASEAN Alliance of Health Supplement Association, (3) ASEAN Automotive Federation, (4) ASEAN Bankers Association, (5) ASEAN Business Association, (6) ASEAN Business Advisory Council, (7) ASEAN Business Forum, (8) ASEAN Chamber of Commerce and Industry, (9) ASEAN Chemical Industry Council, (10) ASEAN Federation of Textiles Industries, (11) ASEAN Furniture Industries Council, (12) ASEAN Insurance Council, (13) ASEAN Intellectual Property Association, (14) ASEAN International Airports Association, (15) ASEAN Iron & Steel Industry Federation, (16) ASEAN Pharmaceutical Club, (17) ASEAN Tourism Association, (18) Federation of ASEAN Economic Associations, (19) Federation of ASEAN Shippers' Council, (20) US-ASEAN Business Council.

<sup>37</sup> ASEAN-ISIS Network.

<sup>38</sup> (1) ASEANAPOL, (2) ASEANSAL, (3) Federation of Institutes of Food Science and Technology in ASEAN (FIFSTA), (4) Southeast Asian Fisheries Development Centre (SEAFDEC), (5) Working Group for an ASEAN Human Rights Mechanism.

<sup>39</sup> Lopa, Consuelo Katrina A., "CSOs' Engagement with ASEAN: Perspectives and Learnings" in Pandey, Nischal N. and Kumar Shrestha, 2012, *Building Bridges and Promoting People to People Interaction in South Asia*, Kathmandu: Centre for South Asian Studies (CSAS), p. 55

The think-tanks, including EPGs, do produce knowledge that inform the policy making process at the ASEAN level. Though it is tacit, this knowledge must be produced through learning process. However, from knowledge-based governance point of view, it is necessary to make this tacit process to be explicit.

Though it might be need further thorough elaboration, there is also tendency of the think-tanks and ASEAN in general, to be elitist and state dominated.<sup>40</sup> The case of studies related to ASEAN in Indonesia may provide us with some clues. Universities as the institutionalization of knowledge center and the learning process that produce it are the hub of the criss-crossing discourses and knowledge. Thus, it is not an exaggeration if we expect to find accumulation of knowledge, in this case related to ASEAN, in such institution. However, at least in the case of Indonesia, ASEAN Study Center-ASC was established only around 1-2 years ago and only in, up to this day, some prominent universities in Indonesia.<sup>41</sup>

The existence of this ASC is also somehow dilemmatic. For example, the ASC in the Faculty of Social and Political Sciences, Gadjah Mada University-GMU, was established in 2013 through collaboration between the GMU's Institute for International Studies and the Indonesian Foreign Ministry. Similar institution was also established in the University of Indonesia in Jakarta through similar pattern around the same period. The involvement of the Indonesian Foreign Ministry may give us the impression that knowledge produced by these institutions will have better access to affect the policy process at ASEAN, at least as initiatives from the Indonesian government. Unfortunately, this is not the case. Up to this day, there is no further significant attempt to synchronize policy activities and research activities conducted by the Foreign Ministry and the ASCs respectively yet.

The existence and operation of think-tanks, represented by the EPGs, ASCs and other think-tanks attached to ASEAN, and their role in providing knowledge for policy making process within the ASEAN indicates operation of knowledge-based governance. More detailed observation, however, shows that there are the existing operation of those think-tanks and the overall governance structure still

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<sup>40</sup> Indicated by Lopa's description on ASEAN CSO accreditation mechanism and its product. See Lopa, Consuelo Katrina A., "CSOs' Engagement with ASEAN: Perspectives and Learnings" in Pandey, Nischal N. and Kumar Shrestha, 2012, *Building Bridges and Promoting People to People Interaction in South Asia*, Kathmandu: Centre for South Asian Studies (CSAS), pp.56-57

<sup>41</sup> Officially, these ASCs run the function to produce knowledge and foster further cohesiveness of ASEAN as a community. See: <http://edukasi.kompas.com/read/2013/03/18/20022731/ASEAN.Study.Center.Didirikan.di.Kampus.UI>, accessed on 11 September 2014, and also: <http://www.thejakartapost.com/news/2013/05/01/yogjakarta-gets-asean-study-center.html>, accessed on 11 September 2014.

need further enhancement in order to make well-coordinated knowledge-based governance process, especially in anticipating the coming AEC.

Observation on the operation of EPGs and ASCs presented above shows that the nodes of epistemic community that related to the policy community at ASEAN level are not well connected yet. This does not mean that it is not connected at all. Connections inarguably exist and operate throughout the whole networks of the epistemic and policy communities, however, most of them are still tacit and not tangibly institutionalized.

The fact that the operation of knowledge-based governance has not been explicitly mentioned and recognized indicates that knowledge is not considered as vital within currently operating governance in ASEAN. Its existence and function may be considered necessary but dedicating specific resources for its further development is still considered not among the top-list priority. While the currently existing knowledge-based governance has greatly contributed to the policy process in ASEAN, there are still much potential that could be maximized if the existing knowledge-based governance is systematically further enhanced, especially in anticipating the very soon coming AEC in 2015.

Knowledge-based governance with varying degree of sophistication, in arguably exists and operates within each ASEAN's member states. Besides the currently existing nodes of knowledge that ASEAN already has, it is imperative to consolidate and link the nodes of knowledge at the regional and national level if the AEC is to meet its stated goals.

The case of extractive industry, presented in the next section, illustrates the current state of knowledge-based governance in this sector at ASEAN and national levels. The next section will also elaborates vital issues in this sector and how it should be addressed through consolidated and well-oriented knowledge-based governance at ASEAN and national levels.

### **Bringing Knowledge-based Governance to the Fore: The Case of Extractive Industry in ASEAN**

This section discusses the general application of knowledge-based governance in ASEAN. The elaboration focuses more on the national than regional level. This is because there has been no regional framework that regulates extractive industries sector at the regional level.<sup>42</sup> However, the absence of such framework is another interesting point to portray the operation of knowledge-based governance in extractive industry at regional level. The case of

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<sup>42</sup> Currently Institute for Essential Service Reform-IESR linked with other NGOs in ASEAN countries is engaging in formulation process of a draft for regional framework on EI.

extractive industry provides us an enlightening instance of the vital role of knowledge-based governance, both at national and regional levels.

As briefly mentioned in the first section, most countries in the SEA region are natural-rich countries and relatively dependent on revenue from extractive industries sector. Unfortunately, this dependency is not simultaneous with capacity create significant added value on the extractive commodities. This phenomenon is still pervasive in this region despite the relatively better general performance of SEA countries in comparison to their African counterparts in term of development.<sup>43</sup>

Another important factor that simultaneously affects the correlation between extractive industry and development in SEA countries is the type of ruling regimes. Each country in this region, at various points of their histories as modern states, has been ruled under state-centric and authoritarian regime. Under those regimes, as also noted in Donge et.al.'s work, neo-patrimonialism and rent-seeking practices are pervasive and become the norm in those countries.

One interesting point in Donge et.al's work is the argument that the relatively better economic growth in ASEAN has been due to rural and pro-poor oriented policy and relative success to develop sectors other than extractive industry.<sup>44</sup> This is despite the rampant rent-seeking practices, a feature shared among the African and SEA Countries. Unarguably, this policy decision is a product of knowledge based governance, through centralist-technocratic guided development planning. The work of Donge et.al argues that macroeconomic stabilization has been a crucial link that enables countries in SEA to economically perform better than their African counterparts. The cases presented in their work are policies, especially in rural development and agricultural sectors, which are products of centrally planned development policies.<sup>45</sup>

The trajectories of this knowledge-based governance in each country in SEA region varies from one to another. This model is still intact in countries such as Singapore and Malaysia. Thailand, reflecting from the development of agricultural industry sector, has been undergoing marvelous development. In country like Indonesia, the political transformation that took place in the late 1990s somehow holds the further development of this knowledge-based governance. Fortunately for Indonesia, related to the extractive industry sector,

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<sup>43</sup> See van Donge, Jan Kees, David Henley, and Peter Lewis; "Tracking Development in Southeast Asia and Sub-Saharan Africa: the Primacy of Policy" in *Development Policy Review*, vol 30, February 2012, pp. s5-s25, Overseas Development Institute

<sup>44</sup> van Donge, et.al., op.cit

<sup>45</sup> Ibid. For the role of technocrats in designing the plan for development in Indonesia during the era of New Order see Dhakidae, Daniel, 2003, *Cendekiawan dan Kekuasaan dalam Negara Orde Baru*, Jakarta: Gramedia Pustaka Utama

it relatively succeeds in maintaining the development of other sectors, such as agriculture and manufacture, avoiding the trap of Dutch Disease.<sup>46</sup>

The works of Donge et.al and Dyna and Sothath implicitly show the operation of knowledge-based governance in some SEA countries in managing their respective extractive industry sectors as leverage for development of other sectors. Despite the varying models, state, and the depth of influence of the knowledge-based governance on the domestic policy process in each of the SEA countries, there is an immediate need to collectively up-scale this knowledge-based governance into the regional level. The fact that AEC will be soon initiated next year in 2015 further increase the urgency to develop the knowledge-based governance at regional level.

Why is knowledge-based governance important to ASEAN? Knowledge-based governance is, basically, another term to refer the phenomenon of knowledge politics. Thus, we have one single phenomenon that is referred with two different terms. As a political phenomenon, knowledge politics is related to the phenomenon of power and power relations. Thus, at ASEAN level this knowledge politics refer to the power and power relations between ASEAN and other entities, between its member states, between governance actors in each member states, and between governance actors and the ASEAN itself.

In the extractive industry sector, the importance of knowledge based governance becomes more obvious. As aforementioned, most of the countries in the SEA region are endowed with rich natural resources and relatively dependent on revenue from that sector to finance the development policies in their respective country. It is noteworthy that this revenue mostly comes through sale of the extractive industry products as raw commodity. The countries in the SEA regions have been lacking the necessary knowledge and technology to further process their natural resource products and, thus, to create added value on them. Discrepancies on knowledge and technology between the extractive products producer and the more developed countries that have the technology to process them create unequal power relations leading to unjust governance.

The knowledge and technological gap have produced unequal risk and benefit distribution, especially in the extractive industry sector. The process of extraction of natural resources takes place in the SEA countries. This process inevitably produces multiple impacts that many of them potentially dangerous, even disastrous, when not properly managed.<sup>47</sup> People in the SEA countries are

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<sup>46</sup> Dyna, Heng and Ngo Sothath, 2013, *Extractive Industries Revenue Management: A Tale of Six Countries*, Research Report 4, Pnom Penh: Cambodian Economic Association-CEA and Cambodians for Resource Revenue Transparency-CRRT, p. xvi and p.50

<sup>47</sup> See Symon, Andrew, "Petroleum and Mining in Southeast Asia: Managing the Environmental and Social Impacts" in *Southeast Asian Affairs 2007*, pp. 77-100

relatively more exposed to these potentially dangerous impacts related to extractive industry activities.

The dependency of the countries in SEA region is so severe that even in order to be able to extract their natural resources most of them need technologies and knowledge from the more developed countries. Symon mentions in his work that investment and operation in this sector in most SEA countries have been dominated by foreign companies.<sup>48</sup> Due to their more advanced technologies and knowledge, the processing of these extractive industry's products into consumer goods also take place, mostly, in the more developed countries.

It is noteworthy though they are rich in natural resources, these natural resources are rarely ready to use as consumer products immediately after they come out from the extraction process. For them to be consumer goods, they have to undergo long processing chain. In each link of this chain there is value added to their baseline value, the so called added-value. The longer the chain each of these products undergoes the more added value it has.

Through their advantage in knowledge and technology, the production chain takes place in the more developed countries.<sup>49</sup> Ironically, some, if not most, of these natural resource products return into the domestic market of its producer as raw material as consumer products with prices much above when they were initially sold as raw material to the more developed countries. The price difference represents the value added to those materials and most of them go to the more developed countries since where most of the processes in production chain take place. In ASEAN context, the description above matches the fact in oil industry sub-sector in Indonesia and Vietnam. Regionally, though some of them are prominent oil and gas producers, countries in SEA region is a net importer for oil and gas.<sup>50</sup>

Another common situation that the countries in SEA region have to face due to their lack of knowledge is exposure to huge social and environmental risks related to extractive industry activities. Symon's work discusses how petroleum and mining have caused some social conflict and environmental degradation in SEA countries like the Philippines and Indonesia.<sup>51</sup>

Related to this risk of social and environmental impacts, actors involved in the extractive industry governance at global level has been proposing a framework which is claimed intended to reduce those risks, so called Extractive Industry Transparency Initiative (EITI). The emergence of this framework discursively is related with recognition that extractive industry has intertwined

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<sup>48</sup> Ibid, p. 78.

<sup>49</sup> Ibid., p.81

<sup>50</sup> Symon, op.cit., pp. 79-81

<sup>51</sup> Ibid.

relations with broader governance and development issues.<sup>52</sup> This framework has been endorsed globally by prominent petroleum and mining companies and countries in Africa, South America, and Asia.<sup>53</sup> This framework has been a mainstream discourse within the circle of extractive industry governance actors in SEA countries for the last couple years. More countries have ratified it, such as Timor Leste, Indonesia, the Philippines, and Myanmar. One factor that contributes to the fast spread and emergence of this framework as mainstream discourse worldwide is the involvement of international financial and developmental agencies such as World Bank and International Monetary Fund-IMF. These agencies incorporate the EITI framework into their assistance programs for the ASEAN countries.<sup>54</sup>

The emergence and growing of EITI as mainstream discourse that regulate the extractive industry governance, from one standpoint could be seen as a positive development. It provides various extractive industry governance actors with standards that serve as common reference. However related to the issue of knowledge politics discussed in the previous paragraph we have to be cautious and respond it strategically.

One of the main roots of our problem with knowledge politics is the process of epistemological subjugation that has been taking place in the SEA countries and other post-colonial countries for so long. EITI can be seen as another strategy for this epistemological subjugation.

Let us take a closer examination on this EITI. EITI is a framework that projects a collaborative policy process involving extractive industry governance actors, the government; the corporate; and the civil society, according to certain values and principles. These values and principles are presented in the concept of value chain. This concept of value chain incorporates the values and principles which are purported to direct extractive industry, assumed to be related with extraction of non-renewable resources, toward sustainable development. It covers phases starting with award of contracts and licenses; regulation and monitoring of operations; collection of taxes and royalties; revenue management and allocation; to implementation of sustainable development policies and projects.<sup>55</sup>

Though many of the proponents of EITI acknowledge that this EITI does not pretend to address all critical aspect of extractive industry but to provide common practical framework to regulate the related governance process, it is

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<sup>52</sup> Proposed for the first time by British Prime Minister, Tony Blair, in 2002,

<sup>53</sup> Symon, op.cit., pp. 96-97

<sup>54</sup> Symon, op.cit. p.97

<sup>55</sup> See Alba, Eleodoro Mayorga, 2009, *Extractive Industries Value Chain: A Comprehensive Integrated Approach to Developing Extractive Industries*, a working paper by the Oil, Gas, and Mining Policy Division and the Africa Poverty Reduction and Economic Management Department, The World Bank, p.3

necessary for us to be aware the epistemological construction behind this framework. EITI focuses on the aspect of revenue management. It is obvious in the phases and steps incorporated in the framework. Inclination to revenue management implies that in this framework, extractive industries and its products are treated as production in merely its economic sense that is to produce commodity. We need to be aware that this framework potentially misleads us in understanding the phenomenon of extractive industry.

When we are epistemologically led to think of and treat extractive industry as merely process of producing commodity and managing the revenue it yields, simultaneously we have enclosed our mind to think only within this framework. It puts a constraint for us to explore other possible alternatives.

For example, extractive industry sector does not relate to mining products and commodities. It also includes materials which serve as sources of energy such as oil, gas, coal, geo-thermal, and many others. Mining products within this category cannot be treated merely as commodities. They have broader strategic value and closely affect the well-being of the people in where they are extracted. Their use-value cannot be measured merely within the framework that considers them as revenue.

This paper does not intend to discredit EITI and accuse it as totally irrelevant. The point is, EITI is a useful instrument to provide commonly shared standard in extractive industry governance. The institutionalization of this framework has double-edged impacts that we need to be aware of. On one hand, it provides the extractive-industry governance with common frameworks and reference to better organize the process in order to reach the stated goals. On the other hand, however, it also puts constraint on how we think and behave on issues related to extractive industry governance.

It is the implied constraining effect of the institutionalization of EITI framework that we need to be continuously cautious and always open our mind to explore further alternative ideas. Otherwise, EITI would become hegemonic instrument that verify and reproduce the subordinate positions of the SEA countries and the less-developed natural resources-rich countries in general in the field of knowledge politics.

The intensity and severity of this process may vary from one SEA country to another. This process, however, takes place simultaneously in those countries. This is a challenge that needs to be addressed, not only at national level but also at regional level. The coming AEC provides the required opportunity for the countries in SEA region to coordinate their policy in knowledge politics, in order to create more equitable governance, especially in extractive industry sector.

## **Frame for Engaging in Knowledge Politics**

The description of the state knowledge based governance on extractive industry sector in ASEAN gives us an illustration on the general position of SEA countries, more specifically ASEAN, in the global knowledge politics. Still related to the case above, the coming AEC and the collectivity within ASEAN provide as with precious opportunity to be more actively engage in knowledge politics at global level.

The works of van Donge et.al. and Symon mention the development and relative success of extractive industries in ASEAN countries that have enable growth in other sectors of agriculture and manufacture. Due to this relative success, there has been growing internal demands among the member states of ASEAN on extractive industry products, especially related to energy.<sup>56</sup>

In this regard, Singapore, arguably one of the least natural resources endowed ASEAN countries, have a remarkable comparative advantage in term of knowledge and technology. This country possesses the knowledge and technology required for further refining process of the raw extractive products. Thus, there have been complementary relations among the ASEAN member states and broader SEA countries.

The formation of AEC in next year in 2015 means that these countries, at least the ASEAN members, will merge themselves as a single economic entity. The existing complementary networks related to extractive industry and other sectors and nodes of knowledge based governance both at the ASEAN and within each of the member states should be consolidated and linked in order to fit with the projection of ASEAN as a single economic entity.

In doing so, it is necessary to set more specific common goals, derived from what has been stated in the formal document regarding the objectives of the formation of ASEAN and AEC. Reflecting from the relatively subordinate of ASEAN member states and broader countries in SEA region depicted in the previous section, restating the position of ASEAN as a single collectivity among other actors in global governance should be set as the top priority.

In doing so, to further foster the cohesiveness of ASEAN as a community through knowledge-based governance, it is necessary to ensure that the knowledge produced, shared, and commonly referred is available and accessible to the growing numbers of stakeholders in ASEAN. As stated previously, the governance structures in each ASEAN member states and in ASEAN itself have undergone paradigm shift that positions non-state actors as active partners in policy process.

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<sup>56</sup> van Donge et.al., op.cit.; see also Symon, op.cit., p.79

The new mode of governance envisions power relations that resemble the governance in ASEAN that is equality among its members, without superior authoritative body, thus every decision in ASEAN has to be made through deliberative process relying on commonly shared knowledge. As mentioned in the earlier section, commonly shared knowledge becomes vital factor, besides willingness among the stakeholders to engage in long; sometimes heated deliberation process that enables this group of equal stakeholders to reach consensus.

Connecting and managing knowledge nodes in such scale of ASEAN will be a giant and laborious enterprise. However, it is inevitable, especially when we put the factor of the coming AEC into our consideration. There are so many nodes of knowledge each linked to each other, either directly or indirectly, through crisscrossing discourses and issues in every governance domain. Institutionalizing a center as a hub that connects all of these nodes will be a strategic measure to manage the knowledge based governance.

ASEAN has recognized the need to link the scattered nodes of knowledge, especially as part of the attempts to anticipate the coming AEC. One attempt to materialize the idea of linking the scattered knowledge nodes and transform them into collective endowment is the project to formulate ASEAN Community Statistical System-ACSS which is scheduled to be ready by 2015.<sup>57</sup> This is a strategic measure to prepare the knowledge infrastructure that is expected to facilitate the execution of the AEC plan.

In order to create firmer foundation for the coming AEC, similar strategies such as the ACSS should be deployed to cover other sectors and involve broader stakeholders beyond the state actors. Establishment of ASEAN University is one strategic way this paper recommends to link the scattered nodes of knowledge and transforms them into common endowment for all of ASEAN. Academic circles and academic institutions enjoy strategic position. *First*, academicians and academic institutions bridge the state, the business, and civil society agents. Considering the situation of the still relatively strong suspicion among state, business, and civil society actors in ASEAN, academicians and academic institutions are still relatively more acceptable to all stakeholders. *Second*, the universities in ASEAN countries have long been involved in various collaborative activities institutionalized as networks. Third, the main role and occupation for academicians and academic institutions is to produce, disseminate, and manage

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<sup>57</sup> Similar pattern and mechanism, relying on group of experts on the addressed issue, are utilized by the ASEAN to formulate this ACSS. It was started the adoption of ASEAN Framework for Statistical Cooperation-AFSC 2010-2015. As part of the implementation of this framework, ACSS Committee was established in 2011. This committee is comprised of experts and prominent persons in this field. ACSS Asean Community Statistical System, *A Stronger Mandate on ASEAN Statistical Cooperation*, Jakarta: ASEAN Secretariat, November 2012, p.3

knowledge covering broad spectrum of disciplines, thus using networks of academician and academic institutions to consolidates scattered nodes of knowledge is the most plausible and logical option.

The nodes of knowledge-based governance and the common framework for its development at ASEAN level then could be further reactivated and re-oriented to the achievement of the intended common goals. These common goals, on its turn, are also set based on thorough and well-informed process based on the common knowledge produced. This common framework should also be used as guidance in determining strategies and roles of each member states, maximizing and developing complementary pattern that already exist based on the principles of mutual-benefits among the member states.

As the governance landscape has changed, it is imperative to adapt the knowledge networks with the new landscape. The knowledge-based governance in this new landscape should be up-scaled to include nodes of knowledge not only from among either state or business actors but also among the civil society.

While how the shape of this common framework is deserves much deeper research, it is necessary to bear in mind that governance process is basically political. As a player that involves in political interplay with other governance at global level, it is important for us as part of the ASEAN, both as regional body and as a community, to be aware of the political nature of the governance process and, thus, play accordingly. The moment of the formation of AEC must be maximized in order to wrestle the initiative in broader global governance and thus set ASEAN's position as equal among other global actors.

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**TRANSNATIONAL ADVOCACY FOR  
ADVOCATING GOVERNANCE REFORM IN  
EXTRACTIVE INDUSTRIES IN ASEAN: MAKE  
TRANSPARENCY WORKS**

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# **TRANSNATIONAL ADVOCACY FOR ADVOCATING GOVERNANCE REFORM IN EXTRACTIVE INDUSTRIES IN ASEAN: MAKE TRANSPARENCY WORKS<sup>58</sup>**

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## ***Transnational Advocacy & New Norm in Region***

In the last few decades, there has been a significant increase in the role of transnational civil society in promoting extractive industries governance reform in many resource-intensive based countries, including Southeast Asia region. This can be seen mostly from the emergence of transnational advocacy networks and coalition such as Publish What You Pay (PWYP), Affiliated Network for Social Accountability, Sharing on Governance of Extractive Industries (GOXI), the Southeast Asia Partnership for Better Governance in the Extractive Industries (SEA BGEI)<sup>61</sup>, and so forth.

Following Keck and Sikkink's (1999) argument, by building new links among actors in civil society, states, and international organizations, these transnational advocacy proliferate opportunities for dialogue, exchange and coordination, particularly in the issue areas of extractive industries governance reform. Thus, this paper aims to identify the basic norms, shared values of network/coalition and the way to share and institutionalize the norms within policy advocacy. Instead of identifying the ruling actors in transnational advocacy, this paper also aims to discuss the most important sources, channels,

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<sup>61</sup>This network is part of the IKAT-US project, a project funded by USAID that enhances learning for innovation among the CSO in Southeast Asia countries.

opportunities and limits of influence of transnational actors in promoting extractive industries governance reform.

### ***Transnational Advocacy: A Theoretical Framework***

In recent years, there has been an increase in the demand for better governance in extractive industry. This can be seen from the fact that many countries have been undertaking mining and hydrocarbon laws reform over the last two decades in responding to that demand. One of the reasons behind this trend is the significant role of transnational civil society in promoting extractive industries governance reform in many resource-intensive economies.

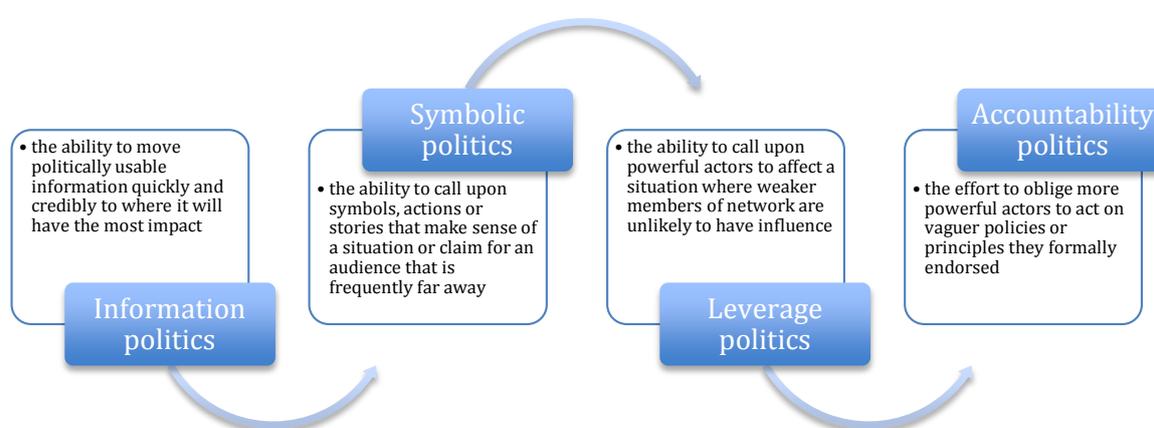
Transnational civil society involving in various policy changes can perform in various patterns or types (Risse-Kappen, 1995: 1; Khagram, Riker, Sikkink, 2002: 6-8), i.e.: *First*, international nongovernmental organizations (or transnational nongovernmental organizations) that have a decision-making structure with voting members from at least three countries, and their aims are cross-national and/or international in scope. *Second*, transnational advocacy networks that refers to interaction between entities which are situated across state borders and at least one actor in the network is a non-state agent or does not act on behalf a state. Some networks are formalized but most are based on informal contact. Furthermore, Keck and Sikkink (1998:1) state “transnational advocacy network includes those actors working internationally on an issue, who are bound together by shared values, common discourse, and dense exchanges of information and services”. *Thirds*, transnational coalitions or sets of actors linked across country boundaries that coordinate shared strategies or sets of tactics to publicly influence social change. *Fourth*, transnational social movements or sets of actors with common purposes and solidarities linked across country boundaries that have the capacity to generate coordinated and sustained social mobilization in more than one country to publicly influence social change.

This paper, therefore, intends to understand how civil society organizations built and extended new links and managed to proliferate the importance of transparency and civil society engagement in the development of extractive industry. The development of such alliance according to Keck and Sikkink (1999) has been regarded as the emergence of transnational advocacy. Following Keck and Sikkink’s argument (in Park, 2004:83), “transnational advocacy form campaign which are “activities that are combined to further an aim or goal which members from diffuse areas undertake collectively, usually based on a norm or principle and focused on policy change, and whose actions are often not based on rational interest explanations”. The main difference between such transnational advocacies with other transnational activities rests on “the centrality of principled ideas and values in motivating their formation or in other words the network is motivated by values rather than by material concerns or

professional norms” (Keck and Sikkink, 1998: 1). In this context, ties of activists are different from ties of scientists and experts that are driven more by their professional ties of firms which are driven more by their economic motivation.

In order to understand how the transnational advocacy, Keck and Sikkink (1999) provide a framework on the typology of the tactics of this ties: information politics, symbolic politics, leverage politics, and accountability politics.

**Diagram 1: Tactics of Network**

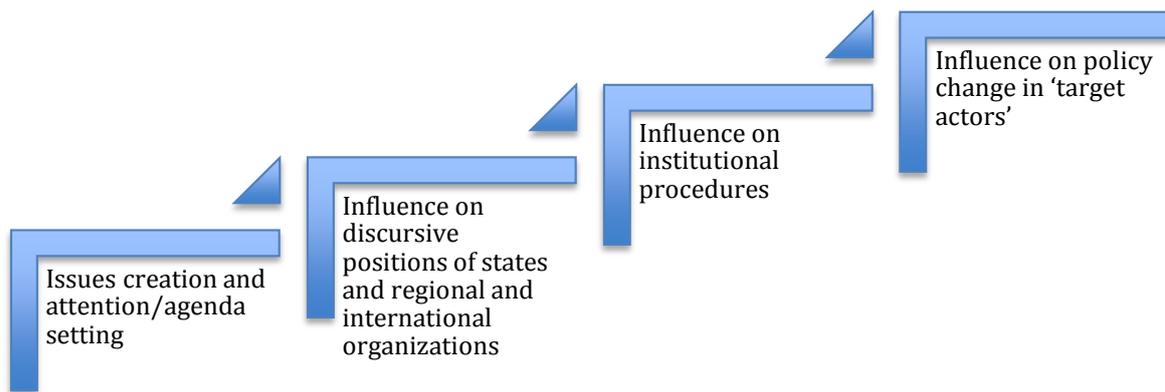


Source: Keck and Sikkink (1998 & 1999)

Based on previous explanation, it is clear that information politics is related to both information creation and information distribution. Symbolic politics is related to the ability of transnational advocacy to frame issues to make them comprehensible to target audience, to attract attention and encourage action and to fit with favourable institutional venues (Keck & Sikkink, 1998). Leverage politics is related to material and moral leverages and accountability politics deals with monitoring and litigation.

In addition to that, in order to assess the influence of advocacy, Keck and Sikkink (1999) identify the types or stages of influence as follows:

**Diagram 2: Stages of Network Influence**



Source: Keck and Sikkink (1998 & 1999)

The role of transnational advocacy is mostly prevalent on the issues on human rights, environment, women’s rights, development, peace, and poverty. However, a few studies focus on the role of transnational advocacy in extractive industry. The rest of this article discusses this by analyzing why and how the transnational advocacy in extractive industry emerges? What are the underlying values and ideas motivated behind the formation of the ties? What are the enabling conditions for the exercise of influence by transnational advocacy?

### ***Enhancing Open Government (Transparency) as New Norm in Region***

The discourse of global governance has been coloured by the idea of open government emerges as new norm<sup>62</sup> in recent global politics. Open government express the idea that citizens should be ensured to have access to government (information, data, processes) in order to engage governments more effectively and that governments have the willingness and ability to respond to citizens and to work collaboratively to solve difficult governance issues. It facilitates an active dialogue between government and its citizens regarding, for example budget allocation and utilization and provision of social services. Citizens have improved access to their leaders and mechanisms in place to demand better services, and government has the capacity to respond.<sup>63</sup>

For civil society activist and academician who are working and engaging at transnational advocacy in extractive industries in ASEAN countries and the rest

<sup>62</sup> Norm here refers to standard of appropriate behavior for actors with a given identity. Some scholars use term of institution with similar meaning and definition. For further discussion on see Finnemore and Sikkink (1998: 891).

<sup>63</sup> <http://wbi.worldbank.org/wbi/content/supporting-open-governance>. Accessed July 20, 2014.

of the world, the very crucial and strategic values in open government is transparency for some reasons, i.e. First, good institution will help the government to overcome the resource curse<sup>64</sup>. When good institution then was interpreted into more practical recommendations, many deemed that transparency as breakthrough and key point. Paul Collier (2007: 178), for example, put emphasize that international norms and laws should be used to institutionalise the transparency and accountability, such as charter for resource wealth (as revised and deeper version of Extractive Industries Transparency Initiatives) to overcome the resource curse. Terry Lyn Karl (2007: 276-277) underlined that we need political solution for ensuring fairness since the resource curse is fundamentally a political problems about the efficient, transparent, and just distribution of the cost and benefits from the world's most valuable commodity.

Second, Transparency is less political and more acceptable rather than accountability. As Triwibowo and Hanafi (2014:1) emphasize that transparency is technocratic and relatively neutral idiom appealing to government and companies that want to respond governance problem without being viewed as hardliner. It also attracts to civil society activist, especially in more repressive states, due to its potential to address accountability problem "within conceptual framework tolerated by their rules". In other words, in case of Southeast Asia countries that have varying type of political regimes, from democratic to less democratic country, the idea of transparency is more reasonable to be introduced.

It also can be proven by the endurance and acceptability of transparency that has been introduced for more two decades through collaborative works between government and civil society in various contexts of political regimes in the world. In the past twenty years, issues relating to governmental transparency have risen to the top of the agenda of civil society in all parts of the world. A number of new civil society institutions operating globally, especially Transparency International, Global Witness, and the International Budget Partnership, etc. were established in the 1990s to campaign in different ways for enhanced transparency and against corruption. They were followed in the first decade of this century by the formation of a host of additional civil society institutions that have identified and focused on particular aspects of government transparency. The rapidly growing identification of civil society with the cause of open government during this period has been backed by a significant number of

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<sup>64</sup>"Resource curse" refers to condition describing the country with large endowments of natural resources, such as oil, gas, and minerals; often perform worse in term of economic development and good governance than do other country with fewer resources. Paradoxically, despite the prospects of wealth and opportunity that accompany the discovery and extraction of oil and other natural resources, such endowment all too often impede rather than further balanced and sustainable development (Humphreys, Sachs, and Stiglitz, 2007:1). In short, resource becomes "curse" when natural resources are bad for development and governance.

leading philanthropic institutions, which have recognized that transparency is the key to advances in other areas of concern. In the same era, generally in response to strong pressure from civil society, a large number of governments have adopted new laws to further government transparency. The great majority of the approximately 90 countries that now have freedom of information laws, for example, have adopted them since 1990.<sup>65</sup>

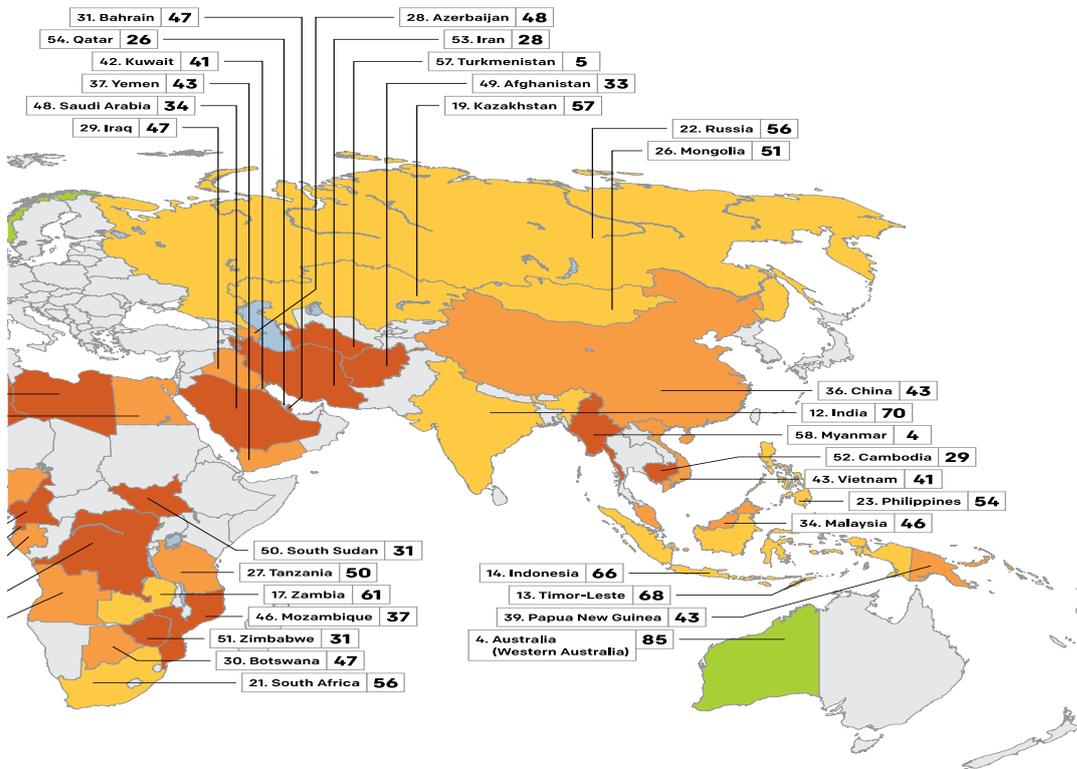
However, the fact among ASEAN member countries shows that most countries remain keeping their information and not interested strongly to promote the transparency in governance affairs. For instance, there are only two ASEAN' members countries that has passed the law on freedom of information, i.e. Indonesia (in 2008) and Thailand (in 1997). Furthermore, only Indonesia and Philippines that is willing to joint Open Government Partnership (OGP).<sup>66</sup>

Particularly in case of resource governance, most ASEAN member countries did not show good performance. Natural Resource Governance Institute's Resource Governance Index assessing 4 basic elements (institutional setting, reporting practices, safeguard and quality control, and enabling environment) among 58 resource-dependent countries in the world shows various achievement, i.e.: Indonesia (14<sup>th</sup>) Philippines (23<sup>rd</sup>) with partial good performance, Malaysia (34<sup>th</sup>) and Vietnam (43<sup>rd</sup>) with weak performance, and finally Cambodia (52<sup>nd</sup>) and Myanmar (58<sup>th</sup>) with failing performance. In other words, none ASEAN member countries has satisfactory performance (see the picture below)

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<sup>65</sup>[http://www.ssireview.org/articles/entry/building\\_a\\_global\\_norm\\_on\\_open\\_government](http://www.ssireview.org/articles/entry/building_a_global_norm_on_open_government). Accessed July 26, 2014.

<sup>66</sup>The Open Government Partnership is a multilateral initiative that aims to secure concrete commitments from governments to promote transparency, empower citizens, fight corruption, and harness new technologies to strengthen governance. In the spirit of multi-stakeholder collaboration, OGP is overseen by a Steering Committee including representatives of governments and civil society organizations. To become a member of OGP, participating countries must endorse a high-level Open Government Declaration, deliver a country action plan developed with public consultation, and commit to independent reporting on their progress going forward. The Open Government Partnership formally launched on September 20, 2011, when the 8 founding governments (Brazil, Indonesia, Mexico, Norway, the Philippines, South Africa, the United Kingdom and the United States) endorsed the Open Government Declaration, and announced their country action plans. In just two years, OGP has welcomed the commitment of 56 additional governments to join the Partnership. In total, OGP participating countries have made over 1,000 commitments to make their governments more open and accountable. <http://www.opengovpartnership.org/about>. Accessed July 7 2014



Note: Ranks appear in front of country names and composite scores after country names.

## ***Extractive Industries Transparency Initiatives as Breakthrough Instrument of Advocacy***

In order to make transparency being adapted and institutionalized either at national government or local government, Extractive Industries Transparency Initiatives (EITI) standard then has been promoted. This standard come into global discourse in 2002 in order to respond the Publish What Your Pay (PWYP), one of leading transnational CSO advocacy in extractive industries, that demanded and called for more greater transparency in extractive governance in order to overcome the resource curse. The assumption shared by PWYP and the EITI is that concerned citizens, often (but not exclusively) meaning civil society activists, can use this information to hold governments and companies to account for the generation and use of the revenues, as a way of mitigating such problems (O’ Sullivan, 2013: 4).

EITI standard basically is voluntary mechanism within which the government and the companies of extractive industries must publish what they get (public revenue) and what they pay (tax, royalties, and so forth). It also can read as the global coalition of governments, companies and civil society working together to improve openness and accountable management of revenues from

natural resources.<sup>67</sup> In fact, The EITI is not a mechanical process for generating data *per se* but an institution whose rules, history and self-presentation have been shaped by continuous negotiation among participants with diverse worldviews and sometimes conflicting interests (for example, civil society groups and oil companies) (Ibid).

Unfortunately, only a few countries in Southeast Asia concerning on EITI. Until the end 2013, East Timor is the only one country in Southeast Asia region that has been the EITI compliant. Indonesia and Philippines remains candidates of EITI countries. Myanmar also interested to joint EITI.

### ***Critical Engagement in Cross Border Field of Advocacy***

Because most ASEAN member countries less concern on issue transparency, including transparency in extractive industries, many CSO in southeast Asia joining the transnational civil society advocacy and concerning on transparency in extractive industries. They concern on improvement or the making of better resource governance in each countries.

Promoting transparency, especially EITI mechanism becomes their strategic issues. They endorse their countries to comply with EITI standard and voluntarily take part as EITI compliant country. Furthermore, in more decentralised countries such Indonesia and Philippines, they enhance the local government to adopt sub national EITI standard and implement transparency mechanism with some adjustments. They also promote additional issues such as resource funds, local content, revenue sharing between central and local government and socio-environmental impact in order to make sure that extractive economy benefiting to all.

They involve within critical engagement. The term of critical engagement here usually used by the CSO activist to describe the partnership among stakeholders, especially between CSO and government to make sure that the governance reform has been well institutionalized in governance relations. A multi stakeholder's forum and organisation usually established by them to promote transparency of government activities. Here the government have to commit themselves to practices the norms and opening the opportunities for civil society organisation to work with the government together to endorse access of citizen, transparency and responsive capacity of government.

They work under various strategies. Starting from campaign for getting public awareness, stimulating discourse for policy, to capacity building especially for oversight actors and affected communities surrounding the extractive field. Furthermore, they also assist the government and local government to establish

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<sup>67</sup> <http://eiti.org/eiti>. Accessed April 8 2012.

multi stakeholder's forum (MSG) and regulate the transparency principles in governance affairs (see Triwibowo & Hanafi (ed.), 2014; IESR, 2014).

What interesting point is they engage within an alliance-based advocacy in their own countries as well as CSO network in Southeast Asia region. One of prominent CSO alliance concerning on the extractive industries is Publish What You Pay (PWYP). Publish What You Pay (PWYP) is a global network of civil society organizations united in their call for an open and accountable extractive sector, so that oil, gas and mining revenues improve the lives of women, men and youth in resource-rich countries. PWYP's global network is made up of more than 800 member organisations across the world, including human rights, development, environment, and faith-based organizations.<sup>68</sup> In this alliance, they not only share the information and expertise but also coordination of strategies and sharing of experience among the members.

This regional alliance also is tightened by Revenue Watch Institute (RWI)<sup>69</sup>-led policy advocacy to foster better governance and fair sharing for extractive industries revenue called Southeast Asia for Better Governance in Extractive Industries (SEA BGEI).<sup>70</sup> SEA BGEI (South East Asia Better Governance for Extractive Industries) is a unique IKAT US partnership that aims to improve transparency in extractive industries especially in countries where the majority deals or negotiation between the state and extractive industries are mostly unfair and done in secrecy. Led by RWI (that working with Department of Politics and Government, Gadjah Mada University as co-implementer), the nine (9) sub-partners with different backgrounds work together in three different levels; regional, national and sub-national; Regional—led by IESR responsible for partner's capacity building; National—with support from Inter Parliamentary Centre (IPC) for increasing awareness at national level; Subnational—with support from Article 33 for replicating success cases and conducting action research on feasible and success cases especially in Conpostella Valley, Philippines and Vietnam (Hidayat, 2013: 23).<sup>71</sup>

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<sup>68</sup> <http://www.publishwhatyoupay.org/about>. Accessed August 23 2014.

<sup>69</sup> Since 2014, Revenue Watch Institute has merged with Natural Resource Charter and renamed they organization into Natural Resource Governance Institute (NRGI).

<sup>70</sup> This activity is funded by USAID under the IKAT-US project. IKAT-US project is designed to promote partnerships among Indonesian, US and third-country or regional CSOs to expand and deepen the sharing of Indonesia's experiences and expertise in the region. The approach of IKAT-US program is by facilitating the strengthening of the Indonesian CSOs to utilize their expertise and experiences outside Indonesia, cooperate with and learn from their counterparts from other Southeast Asian countries aiming to contribute to the enhancement of democratic development, better governance, and heightened respect for human rights in the region. The long-term goal is sustained South-South partnerships between Indonesian CSOs and their counterparts throughout the region to advance human rights and democracy. See <http://www.ikat-us.org/file-download/ikat-us>. accessed September 8, 2014.

<sup>71</sup> <http://archive.ikat-us.org/component/better-governance-extractive-industries>. Accessed August 23, 2014.

As mentioned above, this alliance also put strong concern to develop ASEAN regional framework in extractive industry. This framework should not only be basic guide of resource governance in the region but also “top-down” instrument to enhance better governance of extractive industry in each ASEAN member country. However the process is still on going and really depends on consensus among the countries.

Furthermore, the fact also shows that varying political system of ASEAN member countries also coloured the advocacy strategies taken by CSO and its effectiveness. State-civil society relations, the commitment for reforms, strategies, types of CSO and so forth do not work in “empty space”. In short, political structure does matter (See the table below).

**Table 1: Political opportunity structures and civil society strategies in some ASEAN member countries**

	<b>Philippines</b>	<b>Cambodia</b>	<b>Vietnam</b>
Political system	Full fledged democracy	Pseudo-democracy	One-party control
State-civil society relation	Mediated relationship	Tacit understanding	Tacit understanding
State commitment towards norm	Strong	Weak	Moderate
Decentralisation	Big-bang	Cautious	Incremental
Civil society alliance	Broad-base	Narrow, NGOs only	Hybrid, involvement of GONGOs
Civil society strategy	Direct advocacy, bad cop-good cop role	Persuasion	Collaboration
Perception towards ASEAN	Effective but not a priority	Ineffective	Effective
Influencing factors	Game-changer	Regime change	Fence breaker
Projected trajectory	Flat track	Steep climbing	Winding road

Source: Triwibowo& Hanafi, 2014:8

### ***From Scaling Up to Horizontal Learning:A Lesson Learned***

Southeast Asia CSO experience shows they have transform from inward looking advocacy to regional-based advocacy by scaling up their alliances, strategies and area of advocacy. Broadening the alliance by not only between CSOs but also inviting more stakeholders with various backgrounds really gives more benefit since the extractive industry is really complex sectors. Tightening the alliance with other CSO in the region also increase not only their knowledge but also possibly their bargaining position in policy reforms either in their own country or in the region.

Bringing regional-oriented advocacy in their works also open the opportunity for enhance horizontal learning among the countries in promoting governance reforms, including in resource governance. The experience of SEA BGEI, especially in case of Bojonegoro (Indonesia) and Compostella Valley (Philippine) shows that horizontal communication and knowledge sharing either among government or other stakeholders also accelerate the commitment to reform.

However, the advocacy for better governance in ASEAN region needs to bring between technocratic and political strategies together. It should be noted that transparency and accountability of governance really depend on, in one hand, extent of democratic spaces, the presence of committed agents and strong state capacity, and other hands, the strong and capable civil society organisation. In addition, strong and active citizens also needed. By these efforts, the technocratic strategies, such as implementing EITI template, initiating multi stakeholders forum, enhancing various capacity building of technical skill, and so forth will be meaningful and matter (cf. Bria, 2014:92).

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# **TRANSNATIONAL CIVIC ENGAGEMENT AND CAMPAIGN FOR EITI IN SOUTH EAST ASIA COUNTRIES: OPPORTUNITIES AND CHALLENGES**

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# **TRANSNATIONAL CIVIC ENGAGEMENT AND CAMPAIGN FOR EITI IN SOUTH EAST ASIA COUNTRIES: OPPORTUNITIES AND CHALLENGES<sup>72</sup>**

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## **Abstract**

*This paper focuses on the role and potential of the transnational civic-engagement in promoting and advocating common issues at regional level, in this case ASEAN. Using theories of discourse analysis, knowledge management, and policy-networks analysis in this paper elaborates and reflect on the experience of advocacy of EITI framework among the ASEAN member states and at regional level to identify the potential of this transnational civic engagement that could be useful to further develop governance process both at the domestic level of each ASEAN member states and at ASEAN level as regional community. The existence of this transnational civic engagement at ASEAN level is crucial especially in anticipating the coming soon AEC in the 2015, as it contribute greatly and will give greater contribution in forging various nations within the ASEAN into a single community*

***Keywords:*** *knowledge, knowledge exchange, learning*

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## **Introduction: Concerted Action Implies a Working Commonly Shared Knowledge**

Through the work of these transnational networks some SEA countries like Timor Leste, Indonesia, the Philippines, and Myanmar, have been encouraged to adopt and comply with the global new norms of Open Government Partnership-OGP and Extractive Industries Transparency Initiative-EITI in extractive industry sector. Consequently, establishment of multiple stakeholders group in these countries grow rapidly. They believe that transparency in the extractive industry sector is a solution to the problems of rent seeking and oligarchy that has been plaguing this sector.

One interesting point is that the extractive industry sector does not exist in a vacuum. In each country this sector must be structured by the interplay of factors so-called social, political, economic, and cultural context. However, despite broadly varying permutations of these factors in each country, interestingly some of the proponents of adoption of transparency in these sectors in some SEA countries manage to push their respective government to adopt the transparency initiative in their extractive industry sector. More interestingly, these networks of CSOs, not only engage advocacy of transparency of extractive industry sector in their own country, but also advocate framework at regional level.

The fact that despite the differences the proponents of transparent governance, especially in the extractive industry sector, have been able to conduct some sort of concerted action is an interesting phenomenon to look upon. This concerted action among some civil society elements in SEA countries, especially on the extractive industry sector, implies the existence of a commonly shared knowledge among the involved parties. This commonly shared knowledge serves as some sort of broad guidance and framework, supposed to be continuously reexamine and adjusted based on the experience of its application in the respective country of the involved parties.

This paper focuses on the process how certain kind of knowledge circulated, examined, and thus accepted as a common platform in the case of adoption of EITI among SEA countries. In its discussion, this paper specifies its observation on the role of transnational civic-engagement through various fora in that process of knowledge sharing and learning. While for those who have been engaging in the advocacy activities the topic of this paper might be something they almost routinely do in various forms, this paper might serve to make explicit the importance of knowledge and knowledge management in the field of advocacy.

## **CSOs in South East Asian Countries**

Before we go further, it is necessary to briefly highlight the commonly shared feature of SEA countries. This is a vital factor that, simultaneously with other factors, shapes the general nature of CSOs in this region. Most countries in this region are or have at some point of their history ruled by a regime that put the state in dominant position. Wave of democratization and paradigmatic shift of governance that swept this region in the 80s and 90s catapulted civil society as important elements (Schmidt). The idea that people should participate in state decision-making processes had emerged since 1980s among the elite figures of SEA countries, as what one of the ASEAN founding father, Adam Malik, stated “the shaping of a future of peace, friendship, and cooperation is far too important to be left to government and government officials [as such, there is a need for] ever-expanding involvement and participation of the people”. Unfortunately, Malik’s idea did not followed by action or even way of accommodating the non-state actors participation both in country’s policy making and SEA regional level track of diplomacy. Until the ASEAN Institutes for Strategic and International Studies (ASEAN-ISIS) established in 1988 and then actualized idea of having “an assembly of the people of ASEAN” in 1995 which became embryo of the first ASEAN People’s Assembly (APA) in 2000, since then the participation of the civil society (as people) finally recognized by ASEAN and its fellow members (Chandra)

It was after the 1997 crisis were limited existence of civil society in SEA countries finally over, washed by democratization that hit the region and CSOs had mushroomed. But we not there yet, one of important matters that need to be underlined is that each SEA countries carries different type of political systems. The countries’ political context then draw map of CSOs political opportunity, which of course lead to their role and affect the nation. Responding to the countries’ political context, Chong and Elies have mapped three types of relationship between civil society and the state in Southeast Asia; (1) ‘tacit understanding’ where is there convergence of interest between CSO and the state, especially in the area of public service delivery; (2) ‘advocacy-oriented and potentially conflictive’ relationship when the CSO take action against government’s policy and intervention; (3) a ‘mediated’ relationship where civil society organizations enjoy same autonomy but operate largely under the political and legal condition set by the state (Chong and Ellies). these three types of CSO by not any means generalizing CSOs in one particular country, by the high number of CSOs growing up every year, each country could have all the three types of CSO, even though the majority type will be affected by the political situation within the country and/or frankly speaking, by the sponsor grantor and donor.

In Indonesia, the era of CSOs started after the step down of Suharto as the New Order regime fell. CSOs sprout responding to the people's disappointment on the New Order's reputation on corruption and its centralist-authoritarian mode of governance. Democratization along with its decentralization then took Indonesia into the whole new level of transparency discourse. This correspond with the demands of CSOs for broader recognition on their rights to involve and participate in the country's policy process, both as decision maker and watch dog, or in any other forms of engagement.

In the Philippines, as country that has most similarities in term of political context and movement with Indonesia among other SEA countries, CSOs and civic movements have a long tradition. Experiencing decentralization within the country after the change of government 1986, Philippine's CSOs have been experimenting with new forms of civil society engagement as government's partner in development and democratization both in national and local level (Fabros).

In Timor Leste, the youngest nation-state in the region, the growth of civil society also becomes the Timorese national development. The CSOs' activism provide the mechanism to contribute in the mainstream of nation-building process (Wigglesworth), not to forget that many Timorese CSOs 'enjoying' help from western government. Myanmar, as the country now in transition process from an authoritarian to a formally more democratic regime after its 2010 election, CSOs are also in transition to be more politically equipped. Seemingly that the CSOs are focused to influence more in term of democracy and good governance (Sang).

CSOs' conditions in Southeast Asia are influenced by many factors, one among them as a respond to their country's political context and transformation. Realizing that political context and transformation also derived by other aspects, such as government type and political issues, like it or not those aspects also drive the CSOs ideology and its daily focus. The wide range of issues that taking care by numerous number of CSOs would push CSO in managing collaboration in order to exchange knowledge among them, one of the way by creating the collaboration and or regional network.

### **Emergence and Spread of EITI Discourse in SEA**

Prior the 1997 crisis in Southeast Asia, the CSOs involvement has been limited to the state and business communities. As the change of political landscape in SEA region after the 1997 crisis, the participation of NGOs and other civil society organizations (CSOs) became more flexible and is occasioned partly by their work at the grassroots and reflects immediate response to public need.

CSOs in general are also “naturally issue oriented or even issue specific” (Chandra).

Transparency has been one major issue in this region, especially after the discourse of “Good Governance” gained prominence. Related to this issue, we believe that each country in the SEA region faces the similar problem on the issues of financial report and budget distributions, considering the similarity of the centralized and state-centric regimes in these countries. High demand on oil and gas product in the region as well as worldwide leads the SEA countries heavily dependant on the oil and gas industries as their biggest revenue, then bring the countries experiencing the ‘resource curse’.

High number of oil and gas upstream activities then bring crucial issues to the government to take care of, which not only in a matter of business, income and wealth of the nation; tax, budgetary, national and local revenue sharing, as well as non-economic issues such as social and environmental impacts, land ownership, local/indigenous people rights violation, and so forth, as what Gillies (2010) said that extractive industries operations are ‘directly related to the wider issues of democracy, conflict and social justice which characterize their mandate (Gillies) Such problems also become put on a highlight since the industries are (legally) run by big multinational company and/or the state-owned company, this system is high on the relationship between government and companies’ that it is become a toll-road to the rent-seeking.

The transparency issue was part of the freedom of information, and initially pushed by CSOs and its coalition in the area of extractive industries, which many among them building international coalition, such as the Transparency International and Publish What You Pay (PWYP) coalition, in order to give themselves ‘bigger’ power to push the government open its financial report and familiarize the non-state actors with the value of ‘transparency is minimizing corruption’. People are becoming more aware of corruption and rent-seeking practices in EI sector within their area, this also bring companies to follow what people wants by supporting the transparency initiative, winning support from international donor, as we know that they are also recommending the implementation of good governance in most of developing countries, many transparency measurement then created.

In the sector of extractive industries, the Extractive Industry Transparency Initiative (EITI) becomes the primary institutional tool for the promotion of extractive industry transparency as an international norm (Gillies). Supported by the state government, companies and donors, its multi-stakeholder involvement also required the CSOs representation to sit on the chair to serve a forum of dialogue among playing actors in the industries to implement the country’s and company’s transparency based on the EITI principles, as it is implemented at the

national level, but supported internationally through the EITI network and coalition.

Launched in 2002 by the UK Prime Minister, at the World Summit on sustainable development in Johannesburg as international standard in assessing oil, gas and mining resource rich countries. EITI works is quite simple, it is based on voluntary participation from the resource-rich countries government to publish information on their revenues from the extractive industries in comparison to its payments (taxes, royalties, duties, etc) that companies made to the government. This activities of reporting is overseen by multi-stakeholder group (MSG) of government officials, representatives from the companies and CSOs, the EITI report then found any gaps on the payments and revenues, the MSG then make it published to attracts debates and allow on the government accountability (Ölcer).

As it stated before, the implementation of EITI as transparency measurement of a resource rich countries is much count on active involvement of the in-country CSOs in holding its country's transparency in all local, national, regional and international level, as watch dog. Realizing that the matters not only regarding the revenues in numbers, collaboration and coalition of multiple CSOs who focused on wide range of issues that could occur in EI sector, will lead them to the knowledge exchange as a power in building stronger coalition for the transparency in EI governance. CSOs of some SEA countries, with support from international donors and think-tank on EI sector, start their fora of knowledge exchange in coalition. The Revenue Watch (changed to Natural Resource Governance institute) IKAT-US project is a partnership with three Indonesian non-governmental organizations—Institute for Essential Services Reform (IESR), Indonesian Parliamentary Center (IPC), Article 33 (previously Pattiro Institute)—and civil society counterparts from Southeast Asia: Bantay Kita in the Philippines, Luta Hamutuk in Timor Leste, Cambodians for Resource Revenue Transparency (CRRT), Pan Nature and CODE in Vietnam and Research For Social Advancement (REFSA) in Malaysia. Partners work together to promote effective transparency and accountability campaigns focused on the oil, gas and mining industries, and targeting regional, national and subnational authorities (About the Revenue Watch IKAT-US Project).

The unique form of EITI which consist of the state government, companies and civil society has been mesmerized the resource rich nation to implement this international form in order to what so-called fighting the corruption within their government and avoid the resource curse. This new form of concern then bring some policy trend among the resource rich nation's government on the revenue management, especially to improve its allocation to the national budget that affect the development all across the country, by this means that the country's income on the extractive industries on a specific resource rich area will be enjoyed

by all the people. But the great potential this holds for accelerated economic and social development can only be realized if countries can resolve the special macroeconomic and governance challenges that are associated with an abundance of natural resources (Kato).

In countries that implement decentralization that also cede some of its financial management to the local government, EITI form need to be adapted on some different system implemented within the country. Indonesia, as such a wide nation that implement the decentralization on its subnational government, where it is also implement such policy revenue on the subnational level, especially on mineral revenue; mineral mining revenues which fully under the local government, while oil and gas revenues are collected at national level and then assigned to sub national level. Therefore, by expanding the scope and outreach of the EITI to the local level with a significant resource-revenue-sharing system, will provides the SEA countries a clear opportunity to address governance and lack of trust issues in their key producing regions (Fabros).

Yet, the extractive industries in the local level is not merely about transparency that publish by the company to the people, digging up someone's land and extract what is in it requiring more matter to be taking care of. Budget's earmarking to certain issues on the local matters could be more conflicting, if what people get is not as sufficient enough as what they loss. This high trend of conflicts on the EI producing area bring another concern to several CSOs and movement to draw their attention on the subnational transparency, other than the earmarking, access to revenue resources through direct payments from the operating companies need to be overseen by the CSOs, both who involved in the EITI MSGs chair, and those of who act as the watchdog. Fortunately, The establishment of Local and national CSOs along its regional coalition on extractive industries issues, such as Bantay Kita of The Philippines with Article 33 of Indonesia who focus on sub national issues on EI put the transparency matter as not the only important thing on the subnational EI activities, social and community resilience, environmental degradation, as well as the important role of local content through FPIC, which will be discussed later during the next chapter, on EI are also need to be put on a highlight within the industries.

In other hand, EITI as form of transparency measurement plays another action in distributing the knowledge and information, since The citizens of many resource-rich countries are poorly informed about their government's revenues from the extractive industries as well as the actual value of the resources (Macartan Humphreys), at least the country's willingness to participate in the EITI reporting could be the first step towards people's capacity building on public awareness of the country's revenues from EI sectors.

### **Advocacy, Knowledge Exchange, and Learning among CSOs in SEA**

## **a. Impacts of Transnational Civic-engagement: Policy Community**

Knowledge and knowledge management has been becoming more prominence among the CSOs circles and policy circles in general. In the case of EITI, its emergence as a mainstream policy discourse in extractive industry sector in SEA could be contributed to its appeal, namely broadening the access on extractive industries, so far denied to most of the stakeholders. For the state and private actors involved in this sector, more knowledge means more efficiency. For the civil society it means more control over public matters. Thus, despite the fact that not all of SEA countries are ruled by democratic regimes, most of them show relatively high interest to adopt EITI.

Among the CSOs circles, as a discourse EITI serves as a framework that becomes common reference among the participants. Discussions evolved around the value chain introduced in this framework of EITI. Two other discourses emerge as part of the discussions on this EITI framework, namely participation and making good-investment. Active engagement of multiple-stakeholders group in policy process related to extractive industry sector as manifestation of participatory principle often becomes main topic in discussions related to EITI. So does investment made using the revenue gained from the extractive industries.

These topics, alongside with the topics of ensuring transparency in extractive industry sector, becomes the nodal points in the discourse developed related to EITI. CSOs involved in the transnational for a, especially at regional level, make use of the knowledge gained from their foreign counterparts and adapt it with their experience and the situation in their respective home-country. In country where the ruling regime is less willing to comply with participatory principle, the idea that transparency would enhance efficiency could be used to soften their stance and cite their interest in adopting EITI. Anchoring their engagements on the discourse of EITI, transnational civic engagement where these CSOs in SEA countries get involved enables them to share knowledge, adjusting and experimenting with strategies and tactics in advocacy.

The Philippines' case, shows how engagement of local CSOs in regional fora enable them to push "siege" the government and force it to adopt and implement EITI principles and standard. Simultaneously using their networks at grass-root level and within the government itself alongside international pressure, local CSOs are able to ensure the compliance of its government with EITI standard, not only on the issue

of transparency but also on the issue of participatory policy process, including prior-and-informed-consent principle (Besmanos).

In other case in different country, with totally different context, such as Malaysia transnational civic-engagement serves as sources from where their activists tapping knowledge and experience from their foreign counterparts on how they should make deal with the government and the corporations in their home-country. Besides, their continuous engagement in such fora also serves to maintain potential back-up of international pressure in time of needs (Yeoh).

Other important beneficial impact of their involvement in the transnational fora, one of the activist said, is rejuvenation of the spirit to keep advocating the issue they concern. Through this fora, CSOs activists from various SEA countries form a community with a set of commonly shared values and through it various ideas are shared, discussed, learned, adjusted, and implemented in continuous cycle.

By doing so, the CSOs may gain leverage for their bargaining position before their respective government and corporations involved in the extractive industry sector. This leverage comes from two sources. *First*, the more the knowledge shared through the trans-national fora, the more the CSOs have the potential to come with clear-cut, well-articulated alternative framework. In short, it increases their expertise in this sector of EI, thus they can face both their respective government and the corporations in more equal term.

Second, as aforementioned, their involvement in the transnational fora gives the CSOs huge potential ally that will support their advocacy through what the so-called international pressure. When their respective government and the corporates realize this, they will be more willingly to give their ears to what the CSOs say and adopt their agendas.

In the SEA region, this community has moved even further. It has been working on a draft, based on the EITI framework that they plan to offer as a regional framework. This measure greatly signifies the existence of this transnational for a as a policy community or at least it is looking forward to be one.

## **b. The Nodal Point: EITI**

The existence of EITI framework is vital for the formation of the policy community discussed in the previous section. As a common reference, it provides operable yet flexible framework. These two features are important due to the necessity of the CSO communities in this region for equally operable alternative framework to the existing framework and the varying specific context of each country in SEA region.

The EITI framework also sounds “politically neutral” both for the government and the corporations. This is of course relative to the broader field of discursivity of extractive industry sector. However, bearing in mind that radical discourses that stand against mining activities are not something uncommon nowadays, EITI offer much more moderate alternative.

In this situation, EITI creates broader space for maneuver. It halts the total division of the field of discursivity of extractive industry into two diametrically opposing camps of Pro-mining against Anti-mining. By doing so, it enables negotiation to take place on how this framework could be adopted in a specific country’s policy on extractive industry sector. It is in this room for maneuver knowledge exchange and learning take place as many ideas, experience, and practices are continuously put forward and tested before the empirical reality of extractive industry and the policy process that surrounds it.

As an initiative, EITI has been rolling like a snowball, at least in the SEA region. The space it creates will ensure the flow of new ideas and practices related to extractive industry as long as it can maintain its flexibility yet without compromising its practicality. This factor also crucially affects the sustainability of the policy community. Once it is frozen and turn into an orthodoxy, it will lose its vitality and entering the decaying phase.

One way to sustain the vitality that EITI has generated is to start producing strategic ideas regarding the extractive industry. EITI does enable the stakeholders of the extractive industry sector to come into more opened space for negotiation and provide common reference among the stakeholders to come up with new ideas and experience. However, as any other discourse, EITI implies dislocation of other aspects that might be related to extractive industries.

One dominant feature of EITI is its focus on the issue of “Revenue Management”. Other issues such participatory policy process and investing the revenue toward more sustainable sector are incorporated in the EITI’s value chain. However, the ‘revenue management’ aspect has

been the more appealing aspect of this framework. This tendency reduces interpretation of transparency in extractive industry sector to refer merely to transparency revenue management. Thus, as it enables more stakeholders to participate in the policy process related to extractive industry sector, EITI also set constraints upon what extractive industry should mean.

Awareness of this tendency as a challenge for reform in extractive industry governance is crucial. It is noteworthy that extractive industry does not mean merely revenue from mining commodities. Many of these commodities are also strategic goods, especially those which are widely used as energy sources such as oil, natural gas, and coal. The strategic value of these goods distinguishes them from the rest of mining goods and therefore they should not be treated merely as mining commodities.

This does not mean that transparency in extractive industry sector, more specifically in the revenue management aspect, is unnecessary. The transnational policy communities from among the civil society on extractive industry sector in SEA region are taking its form, thanks to EITI. However, beyond the relative initial success in mainstreaming the discourse of transparent extractive industry governance lays bigger challenge of ensuring that policies taken in this sector lead to more sustainable development in the future. What this paper is trying to argue is that it is necessary to broaden the discourse related to extractive industry sector that EITI has initiated by making use the policy community in the SEA region to venture into more strategic framework beyond revenue management.<sup>75</sup>

### **c. Transnational Civic Engagement as Channel for Multiple Track Diplomacy: Underdeveloped Potential**

The policy communities formed through the process of mainstreaming EITI in the SEA region connect many people with various nationalities. The topic of discussions focuses on something that often become source of inter-states disputes and conflicts, namely natural resources. This pattern is not uncommon among SEA region either. However, the transnational civic engagement conducted by the CSOs activists from SEA countries shows that this issue can be discussed openly, in totally different way than just merely claim over possession of natural resources. This phenomenon shows us other opportunities

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<sup>75</sup> Other paper in this panel, presented by Poppy S. Winanti and Hasrul Hanif elaborates the formation of this policy community and its transformation into political coalition .

offered by such transnational fora as an alternative channel for diplomacy.

This potential is correlated with the growing discourse of multiple-track diplomacy. However, in order to realize this potential, there are many preconditions that have to be met. *First*, it is necessary to ensure the ability of the CSOs to perform their in carrying their function as representatives of diverse interests of the elements of the civil society well. Thus, their claim to represent the interests of the civil society in their respective country is justifiable. *Second*, this ability is equally shared among the CSOs in the countries involved (Besmanos).

Thus, the moment promises great opportunity to make transnational civic engagement more firmly institutionalized. The existing governance scheme favors more active engagement among the civil society, not only at the sub-national and national, but also at transnational levels. However as aforementioned above, there are necessary preconditions that have to be met before the projected image of this transnational civic engagement can maximally function as alternative channel for diplomacy.

Related to the other paper in this panel, regarding the further transformation of the policy community into a political coalition addressing specific issues, the idea of transnational civic engagement inspires us to envision networks of such coalition to address broader and more diverse issues. These networks work collaboratively with other governance actors at both at domestic and regional levels not only to address issues emerging in the engagement of ASEAN as a single entity with other actors of global governance but also within each of the ASEAN member states.

There are various domestic issues which are equally demand immediate response both from within the related member state and from regional level. Such as the issues of democracy in Myanmar, political crisis in Thailand, justice process for Khmer Rogues war crime in Cambodia, settlement of human rights violations in Indonesia and many others. In order to properly address these issues, collaboration between elements of civil society in the respective country with their counterparts from other ASEAN member states is necessary. It is possible to further develop the existing networks and policy community into political coalition to address those issues.

As we know, however, one of major challenges in forging the collaboration of various elements of ASEAN has been the diversity and discrepancy among its member states regarding the capacity of the civil society, the political regime and legal framework, and comparative advantages relative to each other ASEAN

member states. The transnational civic engagements that already took place during the discussion of EITI and policy community produced at regional level have provided as with basic general knowledge about each other issues of concern; especially other than extractive industries, domestic situation, and networks.

These basic knowledge and linkages are valuable potential to be further developed into civil society coalitions that serves bring and linked crucial issues either at domestic or regional level with other stakeholders within the ASEAN community. Such arrangement would be strategic since we already know that ASEAN as an institution has been largely dominated by state actors, and now corporate or business actors. With them as dominant actors, there are number of issues that very less likely to be addressed through the formal policy agenda, either at the ASEAN or domestic level. This is especially true as ASEAN works based on the principles of consensus and non-intervention.

Government to government engagements within the ASEAN are bound by these principles. Thus, there are certain issues that are very less likely to enter intergovernmental discussion agendas. The civil society elements are relatively less bound by these principles, thus discussions for addressing those critical issues can take place and advocacy strategies can be formulated and coordinated at regional level.

The transnational civil society networks can also be useful as part of the advocacy strategies. Linkage of advocacy measures at the domestic level with broader networks at regional level will produce the so-called boomerang effect that will further enhance the pressure to the related state's government to properly address the advocated issues.

Simultaneous with the trend of steady, though relatively slow, growth of civil society involvement in the policy process at ASEAN level, the elements of the civil society should also start to consolidate themselves in regional wide networks to match the networks of the governments and business entities (Lopa). By doing so, transnational civil society elements can present themselves as equal partner and stakeholder in the governance at ASEAN level.

While the trans-national civil society networks at ASEAN level promises huge potentials for further development, there are certain pre-conditions that have to be met in order to materialize these potentials. *First*, the networks should be able to think strategically beyond the issues at hand. As presented in the case of dealing with EITI discourse, the stakeholders should be able to think beyond the EITI framework in order to explore other alternatives that might further enhance the role and capacity of the civil society and effectiveness of the governance process as a whole.

*Second*, shared knowledge and experience produced through various transnational civic engagement *fora* should be well managed. This will facilitate the process of knowledge processing and retrieval when needed. Over time, this process will further facilitate the construction of common-understanding among the transnational civil society elements on each other's situations, concerns, and knowledge. In short this process is crucial to institutionalize the knowledge scattered among the particular stakeholders and transform them into collective endowment.

*Third*, crucial for meeting the second point mentioned above, is the horizontal learning among the involved stakeholders. This is also to address the challenge of discrepancy of capacity among the elements of civil societies among the ASEAN member states. Over time, this horizontal learning will equalize the capacities among elements of the civil society in Southeast Asia countries. Simultaneous with the second point above, this horizontal learning process will contribute to forge the sense of community among the elements of the civil society in ASEAN countries.

*Fourth*, it is necessary to further decrease the gap between the state and business or corporate actors and the civil society. As noted in Lopa's work, the relations among these governance stakeholders in ASEAN environment have been dominated with suspicion to each other (Lopa). The current situation where the engagements among them have been intensified should be put into good use to further solidify the relations and consolidate the next steps anticipating the coming AEC and interplay with other governance actors at the global level.

## **Conclusions**

The transnational civic engagement related to advocacy of EITI both at regional and domestic level have produce networks of civil society element bound together by common vision and political goals. Along with the general trend in ASEAN and its member states that give more explicit recognition on the roles and existence of civil society as partner in governance process, the emergence of these transnational policy networks on the issue of extractive industry opens new horizon of further develop these networks to include more elements among the civil society in order to cover broader issues. Materializing this potential, however, is easier to say than to do. There are preconditions that have to be met before the various elements of civil society in ASEAN countries come up as equal and active governance actors at regional level, alongside the states and the corporate entities.

Sustaining the transnational civic engagement, however, is vital to keep the elements of civil society in ASEAN to be linked to each other, thus keeping the opportunity open. The networks formed with the knowledge and experience

shared, developed and accumulated through these engagements will serve as important base for further development of formation of civil society community in ASEAN and, on its turn, greatly contribute to the envisioned ASEAN community.

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**EQUIPPING THE MARGINALIZED GROUPS FOR  
JUST SOCIAL BENEFIT OF EXTRACTIVE  
INDUSTRIES IN ASEAN: FREE, PRIOR,  
INFORMED CONSENT (FPIC)**

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# **EQUIPPING THE MARGINALIZED GROUPS FOR JUST SOCIAL BENEFIT OF EXTRACTIVE INDUSTRIES IN ASEAN: FREE, PRIOR, INFORMED CONSENT (FPIC)**

*Longgina Novadona Bayo & Wigke Capri Arti*

## **A. Introduction**

Generating natural resources revenues in almost part of the world, including in ASEAN countries, are taking place in indigenous peoples' territories which is richly endowed with timbers, minerals, oil and gas. This endowment has attracted extractive industry companies to start and continue exploitation of indigenous peoples' territories. These activities have displaced and destroyed indigenous people communities along with violating indigenous peoples' rights and leading to environmental degradation. In this point, natural resources endowment does not bring welfare but curse to indigenous peoples' community.

The emerging of civil rights movement has brought international attention to indigenous peoples' rights in terms of civil, political, and cultural rights. Started with the Convention on the Elimination of all Forms of Racial Discrimination (CERD) in 1965 then followed by the International Covenant on Economic, Social, and Cultural Rights in 1966, and the International Covenant on Civil and Political Rights (ICCPR) in 1976, indigenous peoples' rights became an international discourse even without particular discussion on indigenous peoples' right in extractive industries.

More than a decade struggling, the transnational advocacy, namely the World Council of Churches, "Mining and Indigenous Peoples Consultation" was held in London in May 1996 stated international commitment on indigenous peoples' right to be empowered to make decisions on whether mining should take place in their communities or not. In Southeast Asia, Philippines is the first country that expresses their commitment of its transnational advocacy and put it into legal basis by declaring indigenous people rights in a law so called "Indigenous People Rights Acts" in 1997, as a result of multi-stakeholders advocacy by churches, non-government organizations, and government. In the following years, a new approach "Free, Prior and Informed Consent" has been endorsed to be implemented in the whole process of natural resources related to indigenous peoples' territories as well as communities.

It can be concluded that *first*, transnational advocacy has been played a key role in advocating indigenous peoples rights and shaped it into

particular issue such as in indigenous peoples rights in extractive industries; *second*, this issue has emerged from local into international concern; *third*, the emerging issues on indigenous peoples in extractive industries due to massive shared experience in a regional basis and beyond the border.

This paper will discussing on how free, prior and informed consent is implemented and equipped indigenous peoples in order to struggling and maintaining their properties by advocating in a regional basis. An optimistic thinking over FPIC approach across Southeast Asia is quite high because FPIC stands on under democracy and open governance umbrellas which massively implemented in ASEAN Countries.

## **B. The Emergence of FPIC: International and Domestic Legal Framework on Indigenous People**

### ***B.1. International Laws Related to Indigenous People***

FPIC as an indigenous right derives from ILO Convention 169 and, more recently, the UNDRIP. Convention 169 calls for states to obtain the consent of indigenous communities before resettlement, although if states do not receive indigenous peoples' consent they may relocate them in accordance with national law. The UNDRIP calls for states to obtain FPIC from communities in several instances, including relocation, as well as to consult with indigenous peoples in order to obtain their FPIC before approving projects affecting indigenous land and resources. The UNDRIP is not legally binding, dibut is increasingly used by UN specialized agencies and domestic courts to interpret state obligations and, according to legal experts, will likely influence national laws and jurisprudence over time.

**Table 1: International Laws Related to Indigenous People**

<b>International Law/Instrument</b>	<b>Date of Ratification</b>	<b>Article</b>
Convention on the Elimination of All Forms of Racial Discrimination (CERD)	January 4, 1969	
International Covenant on Economic, Social and Cultural Rights (CESCR)	January 3, 1976	

International Covenant on Civil and Political Rights (ICCPR)	March 23, 1976	
International Labor Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries	April 2, 1993	Article 7: indigenous peoples have the right to “decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development.”
Convention on Biological Diversity (CBD)	August 26, 1994	
UN Declaration on the Rights of Indigenous Peoples (UNDRIP)	September 13, 2007	Article 10: “No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned ...”  Article 28: “Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands,

		<p>territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.”</p> <p>Article 29: “States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.”</p> <p>Article 32: “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of</p>
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		mineral, water or other resources.”
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From the side of the private sector, in 2012, the International Finance Corporation (the private-sector lending arm of the World Bank Group) endorsed FPIC as best practice when it issued a new FPIC requirement for clients with projects that stand to impact indigenous peoples under certain circumstances. Then, the concept of FPIC is gaining momentum is its inclusion in the revised Performance Standard #7 (see table 2) of the International Finance Corporation’s Sustainability Framework, which was released in August 2011 and will come into effect in January 2012. The new Performance Standard requires IFC clients to obtain the FPIC of indigenous communities under “special circumstances,” including mineral resource development projects involving adverse impacts. As a result of this revision, FPIC will also become part of the policy of the more than 70 banks that are signatories to the Equator Principles (EP). (Reference: Irene Sosa (License to Operate, 2011))

**Table 2. Performance Standard of the International Finance Corporation**

<p><b>Performance Standard #7 of the International Finance Corporation:</b> The recently revised Performance Standard #7 will come into effect in January 2012. Its terms include:</p> <ul style="list-style-type: none"> <li>• “Circumstances Requiring Free, Prior, and Informed Consent ...If the client proposes to locate a project on, or commercially develop natural resources on lands traditionally owned by, or under the customary use of, Indigenous Peoples, and adverse impacts can be expected...</li> <li>• Relocation of Indigenous Peoples from Lands and Natural Resources Subject to Traditional Ownership or Under Customary Use ....</li> <li>• Where significant project impacts on critical cultural heritage are unavoidable, the client will obtain the FPIC of the Affected Communities of Indigenous Peoples....”</li> </ul>
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***B.2. Domestic Laws Related to Indigenous People (Free, Prior, and Informed Consent)***

FPIC has also been incorporated into a few domestic laws:

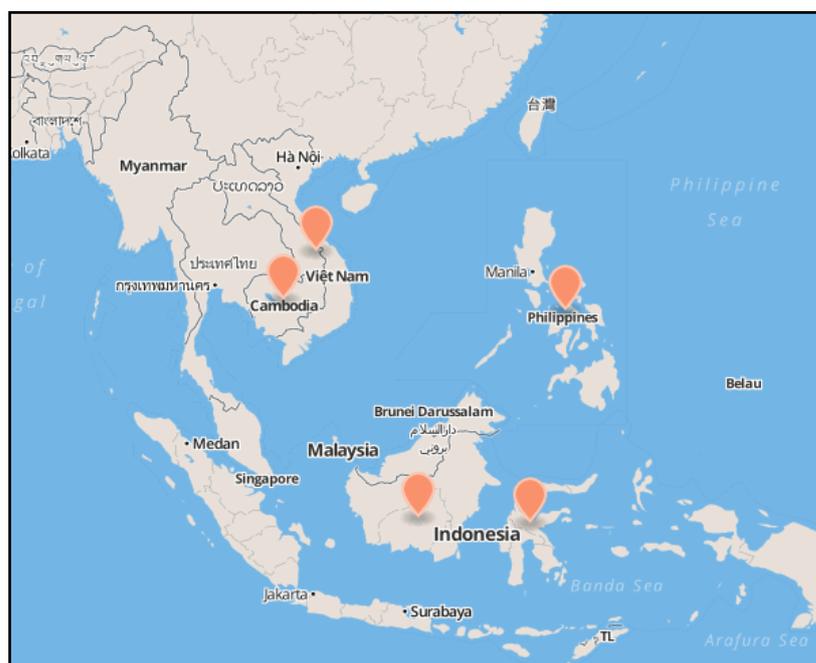
- The Philippines has legislation requiring FPIC for mining projects and regulations dictating the procedures to record

consent, although these regulations have been criticized for turning FPIC into a formality that is “no longer based on customary laws.”

- In Canada, the *Yukon Oil and Gas Act (2002)* requires the government to obtain the consent of First Nations before issuing licenses authorizing any oil and gas activity in their traditional territory.
- The *Australian Aboriginal Land Rights (Northern Territory) Act (1976)* gives aboriginal land owners the right to consent to or veto explorations on their land, as well as the right to negotiate agreements and time frames for such exploration
- Indonesia:
  - The bill has not passed the Protection of Indigenous Peoples.
  - National Court Decree No.X2012 No.35PUU of customary forest is no longer a State
  - At national and local level, although the existing legislation does not expressly mention FPIC, there are often legal instruments relating to human rights, the right to information, the Environmental Impact Assessment (EIA), and others, which imply the need to respect people's right to FPIC.

### **B3. FPIC Countries Implementor in Southeast ASIA**

#### **Map of Country FPIC Implementor in ASEAN**



There are four of ten states members; Indonesia, Cambodia, Vietnam and Philippine, in ASEAN who implement the FPIC and three of them implemented as an international mandate of the climate change mitigation scheme, Reducing Emissions from Deforestation and Forest Degradation (REDD) programme through transnational advocacies.

**Table 3. FPIC activities in Indonesia, Cambodia, Vietnam, and Philippine**

<b>Country</b>	<b>FPIC REDD+ Activities</b>
Indonesia	<ul style="list-style-type: none"> <li>• Indonesia has no national FPIC guidelines.</li> <li>• The guidelines prepared by UN-REDD programme with the National Forestry Council, and followed by Provincil REDD+ Working Group.</li> <li>• The guidelines tested in two villages in Central Sulawesi, Lembah Mukti and Talaga</li> </ul>
Cambodia	<ul style="list-style-type: none"> <li>• Cambodia has no FPIC guidelines both in national and sub-national level.</li> <li>• In order to established the guidelines, Seima REDD+ Demonstration Project working on the guidelines supported by the Wildlife Conservation Society</li> </ul>

Vietnam	<ul style="list-style-type: none"> <li>• Vietnam has no national FPIC guidelines but has the most experience in conducting FPIC because the country served as a pilot project in 2010 in two district, Lam Ha and Di Linh withing Lam Dong Province.</li> </ul>
Philippines	<ul style="list-style-type: none"> <li>• FPIC has already established under IPRA (national level), the detailed process of FPIC is set out by Administrative Orders (in subnational level).</li> </ul>

Source: (Tan, et al. 2010) (FAO, UNDP, UNEP 2012)

Unfortunetaly, the FPIC implementation through REDD programme in three states; Indonesia, Cambodia and Vietnam, has giving the same messages; lack of grievance and review mechanism made by local people, lack of time for internal discussion in the village, and there are some information was not able to be provided to local people. Based on these findings, the ASEAN community 2015 will have opportunity to reduce the weakness of the early FPIC implementation and dismissed it in the future.

Dealing with indigenous people issues, the ASEAN community has five common local issues to endorse the FPIC to be regional concern. *First, non-recognition as Indigenous Peoples* as some of the countries rejected UNDRIP declaration because all its citizen are equally indigenous. None of the ASEAN countries has any explicit assimilation policy anymore, but many government programs are powerfully forces the lead to the loss of the culture and identity and the assimilation into mainstream society. *Second, Violation to indigenous peoples right to indigenous land, teriritories and resources* such as develepment aggressor. *Third, Non-recognition of indigenous*

*traditional livelihood practices* such as migration and forced resettlement. *Fourth*, violations to the rights of indigenous women. *Five*, Threats and violence against indigenous humans rights defenders (AIPP, IWGIA, Forum-ASIA 2010). All of these local commons becomes a “normal” patterns that actually happen in ASEAN coutries at any level.

Related to ASEAN Community, these local commons should become one of the ASEAN priorities. Through horisontal learning in a regional level, these local commons urgently need to be scale up and become regional concerns. Sharing values and sharing experiences will be beneficial for all the states, and the most important thing is strengthening ASEAN Countries into indigenous people issues which will expose ASEAN profile in international level.

## C. **Free, Prior and Informed Consent: A Strategic Tools to Empower and Equip Indigenous People**

### ***Free, Prior and Informed Consent: As an Concept***

Indigenous Peoples have fought for the recognition by their national governments, the international community and by companies of their right to give or withhold consent for project development. The right relates directly to the right for Indigenous Peoples to control their own future and the future of their people. It has been stated as the right “to give or withhold the2wqir free, prior and informed consent to actions that affect their lands, territories and natural resource”.

This is shortened to the right to Free, Prior and Informed Consent, or FPIC.

This right is often violated when there are large-scale development projects - like a mine, dam, highway, plantation or logging. Often Indigenous Peoples and other community members are left out of the planning and decision-making process in these projects. The outcome can be devastating. Indigenous Peoples and project-affected communities risk a permanent loss to their livelihoods and cultures. Lands can be damaged or taken without their consent.

Resettlement is often forced on communities with inadequate compensation offered. This should not happen. Indigenous Peoples are protected from this situation under International law and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Safeguards also exist for other project-affected communities. Indigenous Peoples have the right to be involved in any decision that affects their lands, resources or territories.

They have the right to give or withhold their Free, Prior and Informed Consent. They have the right to reach a collective decision through processes defined and determined by themselves. For non-indigenous project-affected communities, their full and effective participation in project negotiation and planning must be supported.

### ***Prinsip: Free, Prior, Informed, Consent.***

Free refers to a consent given voluntarily and absent of “coercion, intimidation or manipulation.” Free refers to a process that is self-directed by the community from whom consent is being sought, unencumbered by coercion, expectations or timelines that are externally imposed:

- Stakeholders determine process, timeline and decision-making structure;
- Information is transparently and objectively offered at stakeholders' request; Process is free from coercion, bias, conditions, bribery or rewards;
- Meetings and decisions take place at locations and times and in languages and formats determined by the stakeholders; and all community members are free to participate regardless of gender, age or standing.

Prior means “consent is sought sufficiently in advance of any authorization or commencement of activities.” Prior refers to a period of time in advance of an activity or process when consent should be sought, as well as the period between when consent is sought and when consent is given or withheld. Prior means at the “early stages of a development or investment plan, not only when the need arises to obtain approval from the community.”

Prior implies that time is provided to understand, access, and analyze information on the proposed activity. The amount of time required will depend on the decision-making processes of the rights-holders; Information must be provided before activities can be initiated, at the beginning or initiation of an activity, process or phase of implementation, including conceptualization, design, proposal, information, execution, and following evaluation; and the decision-making timeline established by the rights-holders must be respected, as it reflects the time needed to understand, analyze, and evaluate the activities under consideration in accordance with their own customs.

Informed refers mainly to the nature of the engagement and type of information that should be provided prior to seeking consent and also as part of the ongoing consent process.

Information should:

- Be accessible, clear, consistent, accurate, constant, and transparent;
- Be delivered in appropriate language and culturally appropriate format (including radio, video, graphics, documentaries, photos, oral presentations);
- Be objective, covering both the positive and negative potential of REDD+ activities and consequences of giving or withholding consent;

- Be complete, covering the spectrum of potential social, financial, political, cultural, environmental impacts, including scientific information with access to original sources in appropriate language;
- Be delivered in a manner that strengthens and does not erode indigenous or local cultures;
- Be delivered by culturally appropriate personnel, in culturally appropriate locations, and include capacity building of indigenous or local trainers;
- Be delivered with sufficient time to be understood and verified;
- Reach the most remote, rural communities, women and the marginalized; and
- Be provided on an ongoing and continuous basis throughout the FPIC process.

Consent refers to the collective decision made by the rights-holders and reached through the customary decision-making processes of the affected peoples or communities. Consent must be sought and granted or withheld according to the unique formal or informal political-administrative dynamic of each community.

Consent is:

- A freely given decision that may be a “Yes” or a “No,” including the option to reconsider if the proposed activities change or if new information relevant to the proposed activities emerges;
- A collective decision determined by the affected peoples (e.g. consensus, majority, etc.) in accordance with their own customs and traditions;
- The expression of rights (to self-determination, lands, resources and territories, culture); and
- Given or withheld in phases, over specific periods of time for distinct stages or phases of REDD+. It is not a one-off process.

While the objective of consultation processes shall be to reach an agreement (consent) between the relevant parties, this does not mean that all FPIC processes will lead to the consent of and approval by the rights-holders in question. At the core of FPIC is the right of the peoples concerned to choose to engage, negotiate and decide to grant or withhold consent, as well as the acknowledgement that under certain circumstances, it must be accepted that the project will not proceed and/or that engagement must be ceased if the affected peoples decide that they do not want to commence or

continue with negotiations or if they decide to withhold their consent to the project.

### ***Free, Prior and Informed Consent: As a Tools***

- The elements of FPIC:
  - The elements of FPIC is related to each others: ‘Free (Bebas),’ ‘Prior (Didahulukan),’ ‘Informed (Diinformasikan),’ and ‘Consent (Keputusan)
  - Free: implies that there is no coercion, intimidation or manipulation
  - Prior: implies that consent is to be sought sufficiently in advance of any authorization or commencement of activities and respect is shown to timerequirements of indigenous
  - Informed: implies that information is provided that covers a range of aspects, including the nature, size, pace, reversibility and scope of any proposed project or activity; the purpose of the project as well as its duration; locality and areas affected; a preliminary assessment of the likely economic, social, cultural and environmental impact, including potential risks; personnel likely to be involved in the execution of the project; and procedures the project may entail. This process may include the option of withholding consent.
  - Consent: Consultation and participation are crucial components of a consent process. Consultation and participation are the components that are very important in the approval process. Consultation needs to be done with good intentions. The parties should establish a dialogue allowing them to find the appropriate solution in an atmosphere of mutual respect in good faith, and full and equal participation. Consultation requires time and a system that stakeholders can communicate effectively. Indigenous peoples should be able to participate through representatives and traditional institutions or other organizations of their own choosing freely. The entry of a gender perspective and the participation of indigenous women is needed, as well as participation of children and youth who see fit. This process may include the option to not give consent. Approval for any deal needs to be translated into a language that can be understood by the public.

- The pre-requisite of FPIC implementation: democracy (participatory) & good open governance
  - FPIC interpreted as a strategic tool to empower and equip indigenous people, because:
  - FPIC as the rights of indigenous people
  - The right of indigenous peoples to give or withhold their consent to development affecting their territory is part of their collective right to determine their own fate, as well as the right to determine the type of consultation and decision-making process that is suitable for them. So one of the first steps to respect the right to FPIC is agreement with the relevant communities associated process itself. (Patrick Anderson, Free, Prior, and Informed Consent in REDD + Principles and Approaches for Policy and Project Development, 2011, p. 10-11. Published by RECOFTC - The Center for People and Forests and GIZ)
  - FPIC is not a linear process that led to the signing of an agreement with society. FPIC should be understood as a right of people who require project developers to implement a process of continuous communication with the public, and obtain approval for each key stage in the process. (Patrick Anderson, Free, Prior, and Informed Consent in REDD + Principles and Approaches for Policy and Project Development, 2011, p. 11. Published by RECOFTC - The Center for People and Forests and GIZ)
  - Based on the definition above (FPIC as the right), FPIC have to define as rights, process, output, and principle.
  - FPIC as a process and output: FPIC is not a participatory meeting, not a negotiation, nor consultation. On the contrary, these things are a way to achieve FPIC. FPIC can be described as the formation of a state that allows people to exercise their basic right to negotiate the content of policies, programs and activities that are brought in from outside the direct impact on their livelihood or well-being, and give or not to give a decision on such matters (Patrick Anderson, 2011: 15).
  - FPIC as a principle: the elements of FPIC are the basis for all activities related to resources owned IP. They will be the spirit of the principle in the management of IP resources.

- FPIC as "social license":
  - Because FPIC is seen as the rights of the IP, so FPIC must be guaranteed internationally. In this context, FPIC is defined as "social license"
  - FPIC should be seen as the principal determinant of whether there is a 'social license to operate' and hence is a major tool for deciding whether to support an operation. It specifies that FPIC is an internationally guaranteed right for indigenous peoples and part of □“obtaining social license and demonstrable public acceptance for the project□” in the case of (non- indigenous) local communities. (Fergus MacKay, 2004:6, *Indigenous Peoples□' Right to Free, Prior and Informed Consent and the World Bank□'s Extractive Industries Review* → Volume IV, Issue 2, Summer 2004 of *Sustainable Development Law & Policy*, the journal of the American University's Washington College of Law (WCL) and the Center for International Environmental Law (CIEL))
  - FPIC as social licence: is a process that enables indigenous peoples, local communities, governments and companies to reach a mutual agreement in a forum that provides enough power for the affected communities to negotiate the agreement that allows them to continue to live and become more prosperous.
  - Watak FPIC: 'approval which continues to live', which require monitoring, maintenance, and reinforcement continuously at all stages of a project (Patrick Anderson, 2011:18).

## **D. FPIC in Practices: Case Study in Indonesia**

### ***a. The Condition of Indigenous People in Indonesia***

- Population of Indigenous People in Indonesia
  - Government through the office of Directorate General for Remote Indigenous Communities [KAT] officially recognizes 365 ethnic groups and sub-ethnic with the number of population 1,192,164 people.
  - Aliansi Masyarakat Adat Nusantara (AMAN) estimated there are 50 – 70 million people who could categorized as indigenous people. Indigenous people in Indonesia spread

almost in all provinces, with a different number of populations and groups.

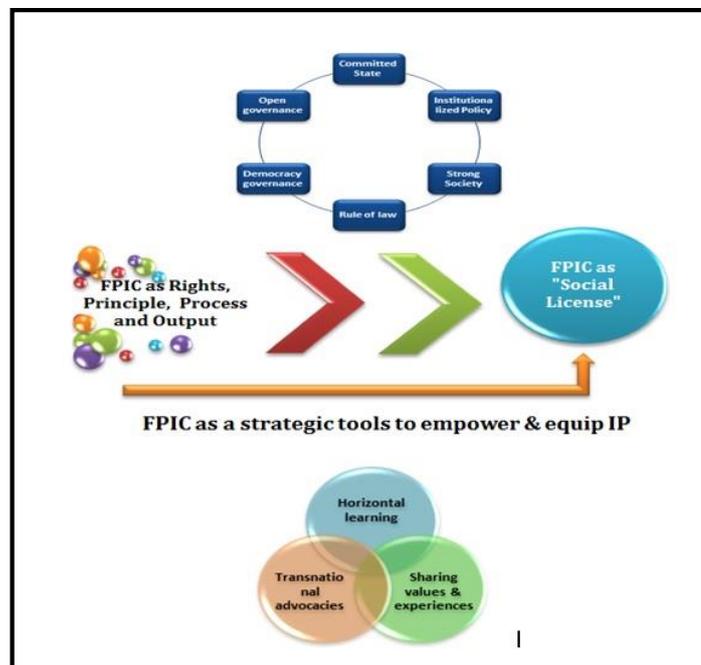
- Badan Registrasi Wilayah Adat/Indigineous Territory Registration Board (BRWA): is a body that established by AMAN in cooperation with the Forest Watch Indonesia (FWI) and Jaringan Kerja Pemetaan Partisipatif/Participatory Mapping Network (JKPP), to collect indigenous people data that has not been consolidated and well managed. The purpose is to reinforce the land rights.

### ***b. The Implementation of FPIC in Indonesia***

1. FPIC in Mining
2. FPIC in Forestry

### ***c. The weakness of FPIC Practices in Indonesia***

- Informed → Manipulative (only the positive impact that informed): pressure from outside to exploit these resources is done by providing information that is false or misleading local people, either intentionally or not.



## **E. Lessons Learnt**

### **Lessons learnt from the Implementation of FPIC in Philippine**

As a part of ASEAN communities, Philippines is one of the country we should proud of due to its acknowledge to indigenous people rights in extractive industries not only by Philippine Constitution of 1987 but also a particular act on indigenous peoples right. While in another ASEAN countries, indigenous peoples right was struggling to defense their rights, the Philippine constitution has already protect and guarantee indigenous peoples right to their ancestral domains and land. Through six article which stated clearly on how the state recognise, respect, and protect the rights of indigenous cultural communities and measuring sustainable development for its communities. The acknowledgment of indigenous peoples rights can be seen on Section 22 of article II, Section 17 of Article XIV, and Section 6 of Article XIII. Meanwhile, the political rights of indigenous people stated on Section 5 of Article VI which allocated seats of a representative of indigenous peoples in the congress in order to express and represent indigenous people interest both in local and national context.

For about a decade, The Philippine Constitution had accomodating the rights of indigenous people until Former President Fidel V. Ramos decided the needs to institutionalized indigenous rights through certain acts and government agents in order to protect and empower them. By doing sharing experience and horisontal learning through consensus building and consultative collaboration process between government and civil society, Fidel V. Ramos established certain acts to enhance democratic process in Philippine in a programme so called Social Reform Agenda (SRA). The programme was actually a strategy to protect democracy process in Phillipine by citizen-led assessment due to uncertainty political process in regional level. By 1997, Fidel V. Ramos enacted the Indigenous Peoples' Right Act of 1997 or IPRA with a strong spirit of participatory democracy and a high political confidency to implement FPIC. Along with IPRA, Fidel V. Ramos also established a National Commision on Indigenous People (NCIP), and agency under the president, who has a mission to protect and promote the interest and well being of the indigenous people due regards to their beliefs, customs, traditions, and institutions.

Related to indigenous peoples' properties, IPRA has introduced two key concept which is called ancestral domain and ancestral lands. Ancestral domains are refers to all areas generally belonging to ICC or IPs comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/Ips. While ancestral lands are refers to land occupied, possessed and utilized by individual, families, and clans who are members of the ICCs/IPs since time

immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership. Through IPRA, indigenous peoples in Philippines also has a right to redemption in cases where land/property rights have been transferred without their consent.

In detailed, Free, Prior and Informed Consent in IPRA is understood as a consensus of all members of indigenous people to be determined in accordance with their respective customary laws and practices, free from any external manipulation, interference, and coercion, and obtained after fully disclosing the intent and scope of the activity, in a language and process understandable to the community. In a simple way, indigenous people has a power in deciding to extract and making a good deal to their properties and communities as well as has a freedom from any constraint. Prill-Brett (2007) stated that IPRA is actually become a challenged the notion that the state had a monopoly on the exercise of the law, and abandoned the perception that indigenous peoples caused the degradation of forest—a perception which still can be addressed to indigenous people in several countries in ASEAN such as Indonesia—. The IPRA has given a legitimate policy for artisanal miners which already operated by indigenous people for centuries. For example, artisanal miners in Benguet which is operated by indigenous Ibaloi people (Whitmore 2012, 21).

### ***The Free, Prior and Informed Consent (FPIC) in Philippines: Challenge and Reality***

A strong state, rule of law and institutionalized system to support and secure FPIC implementation become important factors to limit manipulation and sustain FPIC policy. The challenge of IPRA implementation is not only coming from companies, but also coming from government and the state itself. After being acted, IPRA had an open filed by retired Supreme Court Justice, Isagani Cruz and lawyer Cesar Europe questioning about the constitutionality of the new law and claimed that its violating state's rights for having control over natural resources. The Chamber of Mining of the Philippines had also addressed the same issue, violating the constitution and stressed over IPRA flawed. A side from the government, the Mining and Geosciences Bureau representatives stated that the state is surrendering its control by giving indigenous people a right over mineral resources on their land (OXFAM America 2013). The state is taking indigenous people interest beyond the national and development framework.

The flaws-claimed over IPRA was answered by the Secretary of Environment and Natural Resources and the Supreme Court of the Philippines which made a clear stand point of IPRA as a non-violating act

due to an acknowledge on ancestral domain as a private lands and there is no right for the State to make any interest on and within the land. This decision was an open air for indigenous people to be free from being displaced and raised their trust to the state.

Unfortunately, the indigenous peoples' trust has been degraded along with political changes in Philippines and elected Gloria Macapagal-Arroyo (2001-2010) as Philippines' president. The indigenous peoples had been betrayed by national development framework since then systemic manipulation had began. For gaining national revenue and searching for a better of macroeconomics, Arroyo promoted mining as a national development source, and transferred the National Commission on Indigenous Peoples (NCIP) from an agency under the President to Department of Agrarian Reform. Arroyo revoked NCIP's authority to develop and implement policies and program to protect and promote indigenous peoples rights.

Arroyo's mining development platform became serious and systemic threats in a certain level after NCIP moved under the control of the Department of Environment and Natural Resources. NCIP as a institution for issuing certificates of ancestral domain titles and certification as a pre-condition to the award of any permits, leases, or grants (to companies, government, or any other entity) for use of any portion of an ancestral domain was under the controlled of the Department who has responsibility to issue mining concessions. It was clearly created an over layered conflict of interest, and a way to dismissed NCIP authority at the same time. In more structured way, Arroyo gave indigenous peoples a message that their rights no longer became presidential concern.

The most appealing fact on structured political decay on indigenous peoples' right is how a bonded collective action by indigenous people, in collaborated with non governmental advocacy, are able to fight back for their rights and postponed drilling process in their ancestral domain. One of the case is in Baay-Licuan in Abra province in the Cordillera region of the Philippines which involves the Binongan indigenous peoples. The Binongan indigenous people is successfully struggling and continue resistant over the Canadian mining company, Olympus Pacific Minerals and the State through horizontal learning, consensus building, education, advocacy, decision making and struggle (Whitmore 2012, 118).

It was begin in 1998 when two Mineral Product Sharing Agreements issued on the Binongan's ancestral domain without FPIC. In 2006, two local companies; Jabel and AMIC collaborated with Canadian Olympus Pacific Minerals entered Memorandum of Agreement to drill in the 4,300 hectare of the Binongan's ancestral domain. The Binongan indigenous communities

began by making petition against Olympus and prompting it to the NCIP to comply with legal requisite of acquiring the FPIC. The community continued its protest by doing horizontal learning process in 11 barangays, except in two barangays who accept the exploration; Nalbuan and Bunglo, doing a ritual to symbolize the ownership of the land, organizing Cordillera Peoples Alliance (CPA), and endorsing NCIP to do protect their rights.

In 2007, NCIP and the Olympus implemented FPIC process after the company drilled for a month then process was rejected by the community due its manipulation to undergo drilling process on the ancestral domain. The rejection followed by militarism action and labelled Cordillera Peoples Alliance as “terrorist fronts”. By this oppression, the CPA is continuing to educate indigenous people on human rights, advocating them including sending a protest to the head of Olympus in Canada and the president as well, strengthening the community, and sustaining horizontal learning amongst indigenous peoples.

#### ***F. Conclusion***

Based on the experiences of the Philippines, implementing FPIC requires supporting instruments and factors to achieve certain goals. *First*, a strong state who committed to protect indigenous people rights. *Second*, an institutionalized system who have a stand point to respect, and protect indigenous people rights. *Third*, strong society and non-governmental organizations who becomes a watchdog and advocacy institution in terms of advocating and educating indigenous people. *Fourth*, rule of law to protect political uncertainty. *Five*, democratic governance who become a fundamental instruments to implement a participatory spirit in FPIC and maintaining citizen-led assessment. *Six*, open governance as a global intervention to push the government to be attached to the citizen by disclosing information, implementing accountability and transparency, and to prevent state-centered approach on managing natural resources. Started from 2011, Philippine has become one of the founding fathers of Open Government Patnership which bring consequences to implement open government plans such EITI, and promotes deepened citizen participation which can strengthen the FPIC implementation.

Oxfam (2013, 9) has noted several flaws of FPIC process such as required once at the commencement of a project, no procedure for impugning consent once given or for suspending a project which has not complied with the rules for securing FPIC, only consent from indigenous people required even when the project can affect non-indigenous populations, non monitoring mechanisms on violations committed during FPIC process, and signing MoA outside the communities can contribute to

mistrust by communities of their leaders/designated signatories. Based on field research done by Aspac Hub on December in Compostella Valley Province, Philippines, the flaws also related to knowledge gap between indigenous people, the government, and the company.

In order to tackle the flaws, FPIC required three factors to strengthening and achieving a good deal for indigenous people. *First*, sustaining horizontal-learning amongst marginalised communities who dealing with the impact of extractive industries. *Second*, sharing values and experience amongst stakeholders in order to shaped marginalised communities in extractive issues into certain issues as well as educating them to manage knowledge gap between indigenous people, the state, and the company. Non-government organization has stepping a head on this matter with educating indigenous people into grassroots level. *Third*, transnational advocacy to scaling up local issues into regional issues to become an regional concerns.

### **Lessons learnt from Indonesian case:**

- Not only indigenous peoples but also the local communities around the industry TSB
- Need advocacy at regional level/transnational networks at the regional level (transnational) study of JPIC vertical pressure Flores (from regional level) from the top is vital. That is, the need to create pressure from below (local / from various local networks) and pressure from above (regional and international networks)
- With the exception of the Philippines, which already has a law on Indigenous Areas (Ancestral Domain) and regulation of FPIC, laws and regulations in the countries of Southeast Asia provide little protection of the rights of indigenous peoples to their communal land. Many indigenous communities, even in the Philippines though, were unable to control the mining and other development on their traditional territories due to abuse regulations FPIC.

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# **RISK SENSITIVE INVESTMENT IN ASEAN: PROBLEMS AND OPTIONS**

**DIAN LESTARININGSIH & HENING KARTIKA NUDYA**  
ASIA PACIFIC KNOWLEDE HUB



# **RISK SENSITIVE INVESTMENT IN ASEAN: PROBLEMS AND OPTIONS**

**Dian Lestariningsih<sup>76</sup> & Hening Kartika Nudya<sup>77</sup>**

## **Abstract**

*The Asia Pacific region has the potential sources of oil, gas mineral and coal. Indonesia is the largest coal exporter in the world, while Malaysia is the largest producer of tin and the Philippines is 5th largest mineral resource in the world. Currently the oil, gas and minerals sector has contributed significantly to state revenues, such as in Indonesia, mining, oil and gas sector contributed 23% of total national revenue in 2013.*

*Nowadays, Southeast Asia become a spotlight ahead of the enactment of the ASEAN Economic Community on 2015. In 2013, ASEAN countries member Gross Domestic Production reach 5,1% and become market target with total population around 617.165 million, in other hand, indeed growth of population will raise energy consumption in ASEAN.*

*On this paper, we using Risk Reduction Formulato examine existence of Extractive Industries in ASEAN. Twigg (2007), describes the framework;  $R = H \times V / C$ ; R is Risk, H is a Hazard, V is Vulnerability, and C is Capacity. Risk is defined as the frequency of an event happening and its impact, A Hazard is a physical or human-made event that can potentially trigger a disaster, Vulnerability is 'Susceptibility to harm' of those at risk, Capacities are the qualities & resources of community ( or individual) to anticipate, cope with, resist and recover from the impact of hazards.*

*Keywords : Risk, Risk Reduction, Extractive Industries*

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## 1. **Brief of Extractive Industries in ASEAN : Contributions and Impacts**

One of the most attracting international attention from South East Asia (SEA) is the existence of the abundant natural resource like oil, gas, and mineral. United State's Geologist Survey on 2010 predicted that Southeast Asia regional has 26,1 million barrel oil reserve and 299 trillion meter square of natural gas. In addition there are another mineral resources, suvh as, copper, platinum, gold, nickel, posphor, and pewter (USGS, 8-15).

International investment in Asociation of South East Asia Natioan (ASEAN) on mining sector is increasing, according to World Bank (2012), Foreign Direct Investment (FDI) reach 28% until 63% of total foreign investment in ASEAN. The ASEAN secretariat's data mentions, FDI in 2013 amounts to 119.55,6 million US\$, increasing from 114.082,2 million US\$ and 2011 amounts to 97.536,9 US\$. In the period of 2010-2012 recorded that 7 out of 29 mega deal merger and acquisition over US\$ 500 million was from mining and crude oil sector. Merger and acquisition transaction in these two sectors accounted for 23% of the total transaction.

In Indonesia, the number of foreign investment project in 2010 is 227 worth around 2.200,5 million US\$ increased to 820 project worth 4.816,4 US\$ in 2013 specific to mining sector. Myanmar is exploring 17 oil block, 5 onshore gas block, and 2 offshor gas block. In 2011, Myanmar has signed a contract with foreign company and offering another 23 block. Mining sub sector investment in Malaysia reach 28,7% of 12.297,4 million US\$ and targeting to be oil and gas industry hub in 2017. Whereas, Singapore wanted to retain the title as the largest oil storage service providers (UNESCAP, 63-69).

Extractive industries (EI) played an important role in the economy of SEA, such as the oil and gas contribution have accounted for up to 30% for annual budget of Indonesia, in Malaysia it has accounted 50% for annual budget and 80 % for annual budget in Brunei Darussalam. Meanwhile the utilization of mineral resource has become the main income for other country such as Laos, Vietnam, and Cambodia.

EI presence in the local level context usually will following with an infrastructures development like roads, bridges, public services, open job opportunities and Corporates Social Responsibility (CSR) program implementation to improve welfare on surrounding area.

The precense of EI in SEA also giving opportunities for some contries such as Myanmar, Phillipines, Indonesia, Cambodia and Timor Leste to promotes a transparancy inittatives, better governance at national and

regional context also an opportunities for CSO to get capacity building on EI issues (Triwibowo & Ahmad, 4-10). Extractive Industries Transparency Initiatives (EITI) becomes a fora for fostering multi-stake holder engagement to deliberate area of concern from each perspective.

Looking closely at data above, ASEAN economic development sustained by the extractive resource exploitation that serves as a source of country income. This is definitely a positive thing for all country when they can utilize extractive resources as a main income resource for the country. But, to be noted that the increasing of extractive sector industrialization, will be followed by the potential of negative impact. The negative impact that appears in the middle of industrial activity commonly called as negative externalities. The form of negative externalities can be seen in the presence of environmental degradation for examples; pollution, action arbitrariness, air pollution, radiation, and so forth. Negative externalities ultimately lead to social problems such as the emergence of conflicts between people, society and the state, community and private sector, or all three conflicts.

Negative externalities that arise from the activities of extractive industries can be seen in almost all countries that doing extractive industry activities. For examples, one of the copper mine in Myanmar commonly called the Monywa Project, considered the most destructive mining activities for polluting the soil and water with high level of sulfuric acid which cause the people are no longer able to cultivate the farm. Still in Myanmar, in other areas, there is a gas pipeline project (Shwe Pipeline Project) which transport the gas to China. Activities around the gas pipe disturbing activities of farmers and fishermen because the pipes has been buried under agricultural land and the sea. In Indonesia, open pit mining conducted by PT Newmont Nusa Tenggara produce waste that disrupt agricultural and fishing activities (the number of fish production was declining due to polluted water by trailing). Those problems cause public discontent and reduce public trust towards the company, so in the end, it will be a conflict. Based on the short story of the cases above, the negative externalities could be the trigger of a disaster.

The data above shown us, the existence of extractive industries giving significant contribution on national revenue and improving governance in EI, furthermore EI and its impact potentially raising a risk.

## **2. Industrial Disaster in ASEAN and Surrounding Area**

This section will discuss some of the industrial activity in the region and its surroundings which have become industrial disasters and potentially cause cross-border industrial disaster. The first case is the case of the

Montara Oil Spill in the Timor Sea which impact spread to parts of Indonesia, then, the case of industrial disasters that could potentially lead to be cross-border industrial disaster, Gas Pipeline Project Shwe is Myanmar.

a. **Montara Oil Spill**

Montara oil spill happen on 21 August 2009. More than 2 million crude oil spewed into the Timor Sea for over two months. It was an offshore oil platform in the Australian Montara oil field. The oil platform is owned by a Thai-based company PTTEP Australasia. The cause of the leak is unknown but is believed occurred in wells up to 3500 metres below the rig. The oil spill forming 2000 square kilometre slick, The Australian Maritime Safety Authority (AMSA) mobilised aircraft to try to break up growing oil slick and to stop the oil from contaminating shoreline habitats. It was one of the worst oil spills in Australia (Li, 2010).

The oil spill that occurred in the northern coast of Western Australia raises serious environmental impact. Some areas near Indonesia in the Timor Sea experienced the impact of the oil spill. Direction of the wind carrying the oil spill towards Indonesian waters. An area of 70341.76 kilometers square of the Timor Sea which borders the province of NTT, contaminated by 40 million liters of crude oil. Oil spill was contaminating the traditional fishing waters that relied on by thousand of coastal residents. Thousands of fish found dead in the Timor Sea near the Oesapa, Kupang, East Nusa Tenggara. The leaking Montara well that occurred during the 70 days, reduced fish stocks in the territory of Indonesia. It disrupted the economic activities of the community particularly fishermen.

To solve these problems the Indonesian government established a National Team for Emergency Mitigation of Spill in Sea. The team negotiate with Thailand's PTTEP Australasia regarding compensation for the incident. The Government of Indonesia requested compensation of \$ 2.4 billion after taking into account any direct or indirect loss suffered, such as, the fishermen losses, the general economic losses, damage coral reefs But the demand is not directly addressed by PTTEP Australasia. The signing of the MoU on compensation has been delayed until the Thai government completed the election process and overcome the flood disaster in the country. Earlier the MoU had been scheduled to be signed in Jakarta on 3 August 2011 than delayed until late August 2011, later it was delayed again to 6 September 2011 Signing of MoU compensation continues to be delayed again since there was

a change in the Australian energy and mineral resources minister's post (Fardah, 2011).

After a delay of many times, the amount of compensation to be paid was agreed, but it was not accordance with Indonesian government request. After some time carried on negotiations, PTTEP agreed to provide compensation of 5 million dollars, much less than that requested by the Indonesian government, 2.4 billion dollars. The amount received by the government and given to the fishermen 3000 as compensation. Although it was too little, fishermen continue received it and not to sue the company. Known on 31 August 2012, PTTEP Australasia accepted fines totaling A \$ 510,000 (USD \$ 536.010) handed down by the Darwin Magistrates Court for its responsibility in the 2009 Montara incident (The Jakarta Post, 2013).

b. **The Shwe Oil and Gas Pipeline Project**

The Shwe Oil and Gas Pipeline Project is an consortium dari empat state owned company dan swasta asal India dan Korea Selatan. Daewoo International (South Korea) is the largest consortium stakeholder with a 60 % share, others stakeholder are; Korean state-owned company holds a 10% share, The oil and Natural Gas Corporation (ONGC) from India holds 20% share, and the 10% remaining share is holded by The Gas Authority of India Ltd. The consortium lead by Daewoo International comprise project offshore production platform or an underwater pipeline and an onshore gas terminal in Kyauk Phyu Township on the Arakan Coast. The pipeline will transport the gas form Myanmar to southwest China melalui 2800 km pipa gas yang akan dibangun oleh China National Petroleum Corporation (CNPC).

CNPC also plans to build a sister oil pipeline alongside the gas pipeline. It wil allow CNPC to ship oil from Africa and the Middle East to China bypassing a slower shipping route through the MalaccaStrait (Bank Track, 2014). The 771 km-long oil pipeline may transport up to port 22 million tons of oil per year to China's southwest Yunan Province. CNPC also plans to build a sister oil pipeline alongside the gas pipeline. It wil allow CNPC to ship oil from Africa and the Middle East to China by passing a slower shipping route through the Strait of Malacca. The 771 km-long oil pipeline may transport up to 22 million ports tons of oil per year to the southwest China's Yunan Province. From the project, CNPC holds a 50.9% stake in the pipeline project, Myanmar's military

regime's Oil and Gas Enterprise (MOGE) holding 49.1%. This large-scale project provides great benefits for all parties involved, but the negative impact of the project activity arises from either a social or environmental. Negative impact on the social life of the community can be seen from the occurrence of forced relocation. Thousands of villagers were relocated to make room for the pipelines. In addition, there is no guarantee for the public to obtain compensation from the project, there are no reports or plans to drain some of the funds from the project to key sectors for the community, such as health, education, and social development.

A villager from Katha Pyay, sent a letter to the Paramey company headquarters in late 2011 demanding return of the land. After 5 months they did not receive the reply, then he appealed to the District and Township authorities with two new letters- one demanding restoration of the land and another on behalf of the entire population of the two villagers tracts affected, demanding return and use of the land (Shwe Gas Movement, 2013), but they still did not receive any reply or compensation. A group of farmers representing the Northern Shan Farmers Committee also did similarly act, they submitted a letter to the office of Shan State Chief Minister. They demanded full immediate payment for all lost land, repairment of broken parts of the pipeline, and jobs for people from northern Shan State, but they never received any kind of confirmation from the company (Shwe Gas Movement, 2013).

In addition to the social impact, pipeline installation activities under water damaging the marine ecosystem due to clearing the pipeline route, they dynamiting coral reefs. Forest ecosystems are also disturbed because of the activities of this project. Construction of the pipeline corridor destroyed habitats, increase of wildlife poaching, segment ecologically sensitive areas and animal passageways, also increased deforestation and soil erosion. The company is not disclosing assessment or preparation for the worst case scenario of the project such as the destruction of the rig, which could cause an explosion or spills of oil or gas under the sea. Whereas, if that happens the impact can be widespread and become a common problem, not only for Myanmar and the countries that are part of stakeholders, but also the neighboring countries.

Moreover, there are big plans in the future related to extractive industry activities among ASEAN members are outlined in the ASEAN Economic Blueprint Community to accelerate the development of the ASEAN Power Grid and the Trans-ASEAN Gas

Pipeline which makes 11 bilateral connection with a 3020 km pipeline connection.

The case studies give an examples how EI caused economic losses, enviromental degradation and social impact. Referring to the UNISDR terminology, described the disaster as a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, the which exceeds the ability of the affected community or society to cope using its own resources.

During this time, when talk about disasters, what immediately arises is natural disasters, such as floods, earthquakes, tsunamis, landslides, and so forth. In fact, looking at the data, the increasing of investment in the extractive industries sector also followed by increasing of the chances for increasing risk, considering the nature of the industries is could be the trigger of a human made or man made disasters.

### **3. Brief Review of Economic, Social, Political Cooperation Framework and Disaster Management Framework in ASEAN**

This section will discuss a brief review of the economic cooperation framework and the framework of disaster to see how far the issue of extractive industries and potential disasters that may result discussed in these frameworks. Here are some documents that will be discussed:

#### **a. 2005 Ministerial Understanding on ASEAN Cooperation in Minerals**

The objectives of this document are to developes the minerals sector to be the engine for greater economic growth and social progress in the ASEAN region; Enhance trade and investment in the ASEAN minerals sector; and promote environmentally sound and socially responsible mineral development practices in the sustainable management and optimum utilization of minerals resources. Each member state that signed the document agreeing to promoting environmentally sound and socially responsible mineral resources management and development.

**b. Declaration on The ASEAN Political-Security Community Blueprint**

The APSC main objectives are to bring ASEAN's political and security cooperation to a higher plane and to ensure that the peoples and Member States of ASEAN live in peace with another and with the world at large in a just, democratic and harmonious environment. In order to achieve these objectives, in the document there are various efforts to strengthen cooperation among the member countries. Strengthening cooperation in disaster management to be one of the existing efforts. Some of the action plans that have been applied are activate the ASEAN disaster management arrangements to assist affected countries in the event of a major disaster; enhancing civilian-military coordination in providing effective and timely response to major natural disasters; finalize the SOPs for the regional standby arrangements and coordination of joint disaster relief and emergency response operation for establishing a joint operations in providing relief to disaster affected areas said of Members States in line with the ASEAN Agreement on Disaster Management and Emergency Response (AADMER).

**c. Declaration on The ASEAN Economic Community Blueprint**

Declaration on the ASEAN Economic Community Blueprint made to Achieve higher levels of economic Dynamism, prosperity sustained, inclusive growth and integrated development of ASEAN. A description about the economic cooperation in the extractive sector, contained at points 54 and 56. Points 54 stated about the development of the ASEAN Power Grid (APG) and the Trans-ASEAN Gas Pipeline (TAGP), while the points 56 stated about cooperation in mining sector. Only in points 56 expressly said that the need for action to promote environmentally and socially sustainable mineral development.

**d. Declaration on The ASEAN Socio-Cultural Community Blueprint**

The ASEAN Socio-Cultural Community Blueprint bertujuan to contribute to realising an ASEAN Community that is people-centered and socially responsible with a view to achieving enduring solidarity and unity among the nations and peoples of ASEAN by forging a common identity and building a caring and sharing society which is inclusive and harmonious where the well-being, livelihood, and welfare of the people are enhanced. Dalam dokumen ini

dijelaskan dengan cukup jelas mengenai Corporate Social Responsibility. This document ensure that Corporate Social Responsibility is incorporated in the corporate agenda and to contribute towards sustainable socio-economic development in ASEAN.

The action of these objective is to make refrence on Corporate Social Respnsibility for Member States with international standard such as ISO 26000 “Guidence on Social Responsibility”.

**e. The ASEAN Comprehensive Investment Agreement (ACIA)**

The main objectives of this document is to support a free, open, transparent, and integrated investment regime in the Association of Southeast Asian Nations (ASEAN) region in line with the goal of achieving an ASEAN Economic Community by 2015. This document focuse on howto create “a liberal, facilitative, transparent, and competitive investment environment in ASEAN”.

**f. ASEAN Minerals Cooperation Action Plan**

Aiming to create a vibrant ASEAN minerals sector by enhancing trade and investment and strengthening cooperation and capacity for sustainable mineral development in the region. To achieve the goal,AMCAP using 3 strategies: facilitating and enhancing trade and investment in minerals; promoting environmentally and socially sustainable mineral developmet; strengthening institutional and human capacities in the ASEAN minerals sector.

**g. ASEAN’s Response Strategy in Addressing Transboundary Haze Pollution**

Established on 2002, thisis a very spesific agreement that will address policy and technical measures with regard to monitoring, assessmet, and prevention, technical cooperation and scientific research, mechanism for coordination, lines of communication, simplified customs and immigration procedures for immediate deployment of people and good accross borders in the event of transboundary haze pollution.

**h. ASEAN Agreement on Disaster Management and Emergency Response**

ASEAN Agreement on Disaster Management and Disaster Response (ASEAN Agreement on Disaster Management and Emergency Response (AADMER). This agreement is a regional

policy that legally binding for cooperation, coordination, technical assistance, and resource mobilization in all aspects of disaster management in the 10 Member States of ASEAN. Here is the mapping content of these documents:

<b>Document</b>	<b>Objective</b>	<b>Signed</b>	<b>Implementation</b>
2005 Ministerial Understanding on ASEAN Cooperation in Minerals	<p>The objectives of Ministerial Understanding on ASEAN Cooperation in Minerals are to:</p> <p>a. Develop the minerals sector to be an engine for greater economic growth and social progress in the ASEAN region;</p> <p>b. Enhance trade and investment in the ASEAN minerals sector; and</p> <p>c. Promote environmentally sound and socially responsible mineral development practices in the sustainable management and optimum utilisation of minerals resources.</p>	Kuching, Sarawak, Malaysia , 4 August 2005,	To the extent permitted by their respective national laws, rules, regulations and policies, Member Countries shall undertake cooperation in information exchange and development of the ASEAN Mineral Database; Promotion and facilitation of intra-and inter-ASEAN trade and investment; Promotion of environmentally and socially responsible mineral resources management and development; intensifying private sector participation and public private sector collaboration in ASEAN mineral cooperation programmes, projects and activities; fostering cooperation with ASEAN dialogue partner countries and relevant international and regional organisations in the promotion of scientific and technological research and development in mineral resources development and geosciences, as well as cooperative programmes on technology transfer; coordination of development policies and programmes on mineral resources; exchange of technical information, experience and best practices; strengthening cooperation and joint approaches in addressing international and regional issues and concerns of common

			interest; all other areas of cooperation as may be deemed necessary.
Declaration on The ASEAN Political-Security Community Blueprint	APSC will bring ASEAN's political and security cooperation to a higher plane. The APSC will ensure that the peoples and Member States of ASEAN live in peace with another and with the world at large in a just, democratic and harmonious environment. The APSC shall promote political development in adherence to the principles of democracy, the rule of law and good governance, respect for and promotion and protection of human rights and fundamental freedom as inscribed in the ASEAN Charter.	Singapore, 20 November 2007	<p>...</p> <p>Strengthen ASEAN Cooperation on Disaster Management and Emergency Response</p> <p>Action:</p> <p>a. Enhance joint effective and early response at the political and operational levels in activating the ASEAN disaster management arrangements to assist affected countries in the event of major disasters;</p> <p>b. Enhance civilian-military coordination in providing effective and timely response to major natural disasters;</p> <p>c. Finalise the SOP for Regional Standby Arrangements and Coordination of Joint Disaster Relief and Emergency Response Operations for establishing joint operations</p>

			<p>in providing relief aid to disaster affected areas of Member States in line with the ASEAN Agreement on Disaster Management and Emergency Response (AADMER);</p> <p>d. Work towards effective interface on disaster management between ASEAN and other ASEAN-related bodies such as the ASEAN Regional Forum (ARF), ASEAN Plus Three and East Asia Summit (EAS) in a manner that will enhance ASEAN's disaster management capacities; and</p> <p>e. Develop ARF strategic guidelines for humanitarian assistance and disaster relief cooperation.</p>
Declaration on The ASEAN Economic Community Blueprint	<p>To achieve higher levels of economic dynamism, sustained prosperity, inclusive growth and integrated development of ASEAN.</p> <p>To transform ASEAN into a region with free movement of goods, services, investment, skilled labour, and freer flow of capital.</p>	Singapore, 20 November 2007	<p>Mining cooperation. Enhance trade and investment and strengthen cooperation and capacity</p> <p>in geological and mineral sector for sustainable mineral development in the ASEAN region.</p> <p>Actions:</p> <p>i. Facilitate and enhance trade and investment in minerals;</p>

			<p>ii. Intensify institutional and human capacity building in ASEAN geological and mineral sector;</p> <p>iii. Promote environmentally and socially sustainable mineral development; and</p> <p>iv. Encourage the participation of the private sector in mineral development.</p>
Declaration on The ASEAN Socio-Cultural Community Blueprint	To contribute to realising an ASEAN Community that is people-centered and socially responsible with a view to achieving enduring solidarity and unity among the nations and peoples of ASEAN by forging a common identity and building a caring and sharing society which is inclusive and harmonious where the well-being, livelihood, and welfare of the people are enhanced.	Singapore, 20 November 2007	<p>Promoting Corporate Social Responsibility (CSR)</p> <p><i>Strategic objective:</i> Ensure that Corporate Social Responsibility (CSR) is incorporated in the corporate agenda and to contribute towards sustainable socio-economic development in ASEAN Member States.</p> <p>Actions:</p> <p>a. Develop a model public policy on Corporate Social Responsibility or legal instrument for reference of ASEAN Member States by 2010. Reference may be made to the relevant international standards and guides such as ISO 26000 titled “Guidance on Social Responsibility”;</p>

			<p>b. Engage the private sector to support the activities of sectoral bodies and the ASEAN Foundation, in the field of corporate social responsibility;</p> <p>c. Encourage adoption and implementation of international standards on social responsibility; and</p> <p>d. Increase awareness of Corporate Social Responsibility in ASEAN towards sustainable relations between commercial activities and communities where they are located, in particular supporting community based development.</p>
The ASEAN Comprehensive Investment Agreement (ACIA)	To support a free, open, transparent, and integrated investment regime in the Association of Southeast Asian Nations (ASEAN) region in line with the goal of achieving an ASEAN Economic Community by 2015. And to create “a liberal, facilitative, transparent, and competitive investment environment in ASEAN”	Cha-am, thailand, 26 February 2009	<p>This agrrement shall create a liberal, facilitative, transparent and competitive investment environment in ASEAN by adhering to he following principles:</p> <p>Provide for investment liberalisation protection, investment promotion and facilitation; progressive liberalisation of investment with a view towards achieving a free and open investment based in ASEAN; maintain and accord preferential treatment</p>

			among Member States; no back-tracking of commitments made under the AIA Agreement and the ASEAN IGA; grant special and differential treatment and other flexibilities to Member States depending on their level of development and sectoral sensitivities; reciprocal treatment in the enjoyment of concession among Member States , where appropriate; and accommodate expansion of scope of this Agreement to cover other sectors in the future.
ASEAN Minerals Cooperation Action Plan	To create a vibrant ASEAN minerals sector by enhancing trade and investment and strengthening cooperation and capacity for sustainable mineral development in the region.	Malaysia, 4 August 2005	AMCAP Strategies: <ol style="list-style-type: none"> <li>1. Facilitating and Enhancing Trade and Investment in Minerals</li> <li>2. Promoting Environmentally and Socially Sustainable Mineral Development</li> <li>3. Strengthening Institutional and Human Capacities in the ASEAN Minerals Sector</li> </ol>
ASEAN's Response Strategy in Addressing Transboundary Haze Pollution	Guiding the process of strengthening the region's capacity to address its transboundary haze pollution problem.  The primary objectives are to: <ul style="list-style-type: none"> <li>• prevent land and forest fire through better management policies and enforcement;</li> </ul>	Malaysia, 10 June 2002	The agreement will address policy and technical measures with regard to monitoring, assessment, and prevention, technical cooperation and scientific research, mechanism for coordination, lines of communication, simplified customs and immigration procedures for immediate deployment of people and goods across borders in the event of transboundary haze pollution. The agreement

	<ul style="list-style-type: none"> <li>• Establish operational mechanism to monitor land and forest fires;</li> <li>• strengthen regional land and forest fire-fighting capability with other mitigation measures.</li> </ul>		<p>commits AMC to take specific action to prevent and monitor land and forest fires and the resulting haze on a sustained basis. It also intensifies the current regional and sub-regional arrangement through provisions of technical co-operation and procedures for joint emergency response.</p>
ASEAN Agreement on Disaster Management and Emergency Response	<p>The objective of this Agreement is to provide effective mechanisms to achieve substantial reduction of disaster losses in lives and in the social, economic, and environmental assets of the Parties, and jointly respond to disaster emergencies through concerted national efforts and intensified regional and international co-operation. This should be pursued in the overall context of sustainable development and in accordance with the provisions of this Agreement.</p>	Vientiane, 26 July 2005	<p>In pursuing the objective of this Agreement, the Parties shall:</p> <ol style="list-style-type: none"> <li>a. co-operate in developing and implementing measures to reduce disaster losses including identification of disaster risk, development of monitoring, assessment and early warning systems, standby arrangements for disaster relief and emergency response, exchange of information and technology, and the provision of mutual assistance;</li> <li>b. immediately respond to a disaster occurring within their territory. When the said disaster is likely to cause possible impacts on other Member States, respond promptly to a request for relevant information sought by a Member State or States that are or may be affected by such disasters, with a view to minimising the consequences;</li> </ol>

			<p>c. promptly respond to a request for assistance from an affected Party; and</p> <p>d. take legislative, administrative and other measures as necessary to implement their obligations under this Agreement.</p> <p>Each Party shall take appropriate measures to identify disaster risks in its respective territories covering, among others, the following aspects:</p> <ul style="list-style-type: none"> <li>a. natural and human-induced hazards;</li> <li>b. risk assessment;</li> <li>c. monitoring of vulnerabilities; and</li> <li>d. d. disaster management capacities.</li> </ul>
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From the brief review of those documents, in general showed that ASEAN has efforts to balance the investment growth, especially in the extractive industries sector to sustainable development. But none of them specifically discusses about how to response the emergence of transboundary industrial disasters rise by the existence of EI in ASEAN. Considering the broad impact of transboundary industrial disaster that potentially happen, ASEAN EI framework to response it should be considered.

We also must considered ASEAN principles on Consensus and No Intervention, means establishing a regional framework will not guarantee its implementation. Each nation will remain to practice 'local wisdom' and contextualization based. We must realize ASEAN consist from mid-developed country like Singapore to 'newly open' government like Myanmar.

#### **4. Building a Culture of “Risk Sensitive”**

Countries in the ASEAN region has constantly suffered disasters caused by floods, hurricanes / typhoons, earthquakes, tsunamis and others. In the case of large-scale natural disasters, every enterprise has its limitations and they are struggling to resume their business, primarily due to malfunctioning of the basic infrastructure for distribution, lack of basic needs such as electricity, water and information, and disrupt the supply chain. Specifically in 2011 some disaster occurred that opens private businesses eyes. The Great East Japan Earthquake resulting unpredictable disaster in the Tohoku region, Japan. Many private companies suffered heavily and was forced to cease operations or to lower operating rates because of supply shortages or other reasons. Flooding from the Chao Phraya River in Thailand caused direct damage to industrial enterprises and a large negative impact on the national economy of Thailand and have an impact in the region. From the above two examples remind us of the high risk of termination of business, as well as natural disasters that can cause blow national, regional and world economy.

Since the 2004 Indian Ocean tsunami, the Asia Pacific region experienced a metamorphosis of paradigm in disaster management, from crisis reactive approach to disaster risk reduction approach. The government and the public also realizes that the factors that affect the level of impact is not purely natural.

So far, the development work has focused on efforts to reduce poverty and alleviate the marginalized groups to achieve minimum welfare. Development

approach with mainstreaming disaster risk reduction not yet massive implemented, even deliberation on damages and losses raise tripled in three decades and impacted to development has started (GAR, 7-12).

Wheels of development are characterized by the increasing amount of investment, particularly in the extractive industries sector has the potential to increase the risk of disaster. Exploitative practices of extractive industries generally will give emphasis on the environment, both natural and occupants. The exploitation process will significantly change the shape of the topography of the land, whether of land that becomes hilly and flat shape and large hole in the ground surface is particularly true of the type of surface mining. On the other hand, the interaction with the extractive industry is also to be noted that the community cannot be separated; community livelihoods in the transition area where industry, extractive, special land conversion from agriculture to other sectors, changes in the social order, the intersection of policy makers with domestic and foreign investors, high level of corruption, the inability of government revenue management, or a clash of cultures. Social interaction can lead to social conflict, inequality of access and negligence on the fulfillment of rights.

International Federation of Red Cross (2009) define, Vulnerability in this context can be defined as the diminished capacity of an individual or group to anticipate, cope with, resist and recover from the impact of a natural or man-made hazard. The concept is relative and dynamic. Vulnerability is most often associated with poverty, but it can also arise when people are isolated, insecure and defenceless in the face of risk, shock or stress. People differ in their exposure to risk as a result of their social group, gender, ethnic or other identity, age and other factors.

Wisner (2006) emphasize that the vulnerability is strongly influenced by economic, social and political. Economic aspects can be seen on livelihood security, diversity of revenue opportunities, access to land and resources, a stable market, etc. The social aspect can be seen in a wide ekistensi and social networking, membership in associations that provide mutual assistance in situations of crisis, family networks, which provide local knowledge of self or community protection, etc. Seen political aspects of access to information, participation in decision-making, access to local government services, infrastructure and assistance in times of crisis.

It is clear that the efforts to build governance has also become one of the pillars to ensure risk sensitive investment. Governance expected to build capacity at the national level to translate the basic principles that have been

agreed at the ASEAN level with specific contextualization in each country. Also very important to build a knowledge-based governance that are currently in practice provide opportunities for both the cross-border sharing of experience, information and knowledge. An example, the initiation of the program provides an opportunity exposure IKAT US civil society in Indonesia, Philippines, Cambodia, Vietnam, Myanmar, Malaysia and Timor Leste to share and advocate at the regional level (Hidayat, 22-23).

On July 26, 2006, there was a consensus AADMER aims to provide an effective mechanism for the realization of the reduction of casualties and loss of assets of social, economic and environmental, and to jointly emergency response through national efforts are integrated and regional and international cooperation enhanced. Referring to the ASEAN Minerals Cooperation Action Plan 2011-2015, there is an agreement to promote the Development of environmentally and socially sustainable as well as strengthening institutional and human resource capacity. In the Joint Press Statement the 4th ASEAN Ministerial Meeting on Minerals (AMMin), stated that in order to achieve measurable success in efforts to sustainable mineral development, ASEAN to facilitate the private sector as the main source of investment and encourage the private sector to engage in the process of drafting regulations discussion and participating in decision making.

All three of the above, indicating the commitment of ASEAN to ensure there is synergy between the development of the extractive industry sector with the realization of sustainable development. However, very important in order to establish the ASEAN Economic Community by 2015, ASEAN prepare a joint framework to measure the commitment, build knowledge-based governance to ensure the sharing of information, knowledge and experience in EI to foster solidarity and enhancement of governance; defining the role of government, community and private sector as well as each contributes for control function. These things are in order to build a culture of risk-sensitive investments to support mainstreaming of disaster risk in development planning in particular, the presence of extractive industries in ASEAN.

The combination of all the strengths, attributes and resources available within a community, society or organization that can be used to achieve agreed goals. Capacity may include infrastructure and physical means, institutions, societal coping abilities, as well as human knowledge, skills and collective attributes such as social relationships, leadership and management (UNISDR, 1).

## **5. Conclusion**

Development work may increase the potential threat and could lead to disaster if not addressed vulnerability and capacity was increased. This reality then growing acceptance of the concept that is based on the analysis that as a consequence of natural disasters or social danger and is a human action. Disasters only occur when certain individuals and groups are not able to cope with the threat of the events in this case the presence of extractive industries.

Here then we look at the opportunities of the importance of ASEAN formulate a regional EI Framework to ensure the basic principles with the value and character of ASEAN investment in the sector to respond to the Extractive Industries. This framework can be developed to become a benchmark of accountability of the existence of the Extractive Industries and processes that enveloped him. However, the existence of ASEAN EI framework will not ensure accountability in EI because the basic principle of ASEAN cooperation is Consensus and No Intervention.

Governance Reform became one of necessity. The main actors, governments, private sector and the public should be able to define the role and willing to participate. So it will awaken control over the relationships between the actors. And a commitment to build the Knowledge-based governance becomes very relevant.

Looking at the context of ASEAN, the respon to a industrial disaster, either mitigation or post-disaster management seems to not be a major concern both at the domestic level and the regional level of ASEAN, whereas the impact of industrial disasters can extend across borders. ASEAN framework in Extractive Industries is urgently needed to respond industrial disasters considering the start of the ASEAN Economic Community in 2015.

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## **Interviews:**

- Email Interview with Nelson Miranda, CSO activist with “Luta Hamutuk”, the Philippines, September 10, 2014
- Email Interview with Tin Su Su Mar, CSO activist and “MEITI CSO Coalition”, Myanmar, September 5, 2014

# **ASEAN ECONOMIC COMMUNITY: HALAL AS NEW INTERNATIONAL TRADE REGIME**

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# ASEAN ECONOMIC COMMUNITY: HALAL AS NEW INTERNATIONAL TRADE REGIME

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## Abstract

Halal products is a major requirement for Muslim consumers. There have been many countries although not a majority Muslim population began to encourage halal certification to get a positive response on Muslims and non-Muslim consumers. Not all ASEAN member countries have halal certification agency that has been recognized internationally. While the significance of the role of halal certification institution has been seen in Malaysia in their the export-import activity in some commodity trade. This is going to make the difficult fluency of free trade barriers in the era of ASEAN Economic Community 2015. Due to the halal certification would create regional and international trade regimes that do not originate from a separate intergovernmental agreement. This paper will discuss the opportunities and constraints when ASEAN has halal accreditation body for the region, which aims to overcome the obstacles that appear on ASEAN member countries which still haven't an institution of halal certification. This paper use world trade theory to analyze the implication towards the existence of halal certification institution.

**Keywords:** *halal certification, international trade, ASEAN Economic Community.*

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## 1. ASEAN Economic Community: Halal as New International Trade Regime

Halal is a concept that originally comes from Arabic language which means something permissible or unbounded. This term then become a foundation in Islamic law. Halal being understood as thing that being allowed by religion. Generally, halal contains daily life activities such as food and drink. Thus, the concept of halal becomes an important matter. Things that really need to be noted in halal concept are hygiene, efficiency of food material and nutrition level which affects the health condition. Halal also follows the basic principle in Koran to eat the food which comes from good substances and free from disease with balance proportion are part of faith.<sup>78</sup> The impact of religion on food consumption pattern relates to the restriction of certain foods and beverages, for example Muslims and Jews do not eat pork, and Hindus do not eat beef.<sup>79</sup>

Countries in South East Asia region are heterogenic country with rich diversity of culture, religion and custom. Majority population in South East Asia is Muslim, thus affect policy making within the region. With the upcoming ASEAN Economic Community 2015, it is really clear that trade prospect will be major discussion and attract foreign investors in entering ASEAN community trade. Precaution and self-awareness of Muslim to avoid non-halal product need the existence of halal legal institution in ASEAN. Japan for example, its economy is oriented to target market object, even though Muslim is minority in here, but japan realize that Muslim population is continuously growing along with consumptive lifestyle. It's become a major reason for Japan to create halal institution and attract Muslim tourist in enjoying the product.<sup>80</sup>

Japan's new policy in halal products still not change ASEAN member's policy in regulating halal products, even though ASEAN is a market object of halal trade products. The problem is creating halal institution in ASEAN need conditions that need to be fulfilled such as the existence of halal institution in each ASEAN countries. But halal institution is not a major priority compared to ASEAN Food Security Network issues. In 2015 ASEAN will face free trade zone which make each country reconsider every food security that entering its region, especially since each ASEAN members have very different consumptive

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<sup>78</sup>Kitabsucialquran surat-2 Al-baqarahayat 173

<sup>79</sup>Jusmaliani, HannyNasution. Religiosity Aspect in Consumer Behaviour: Determinants of Halal Meat Consumption. ASEAN Marketing Journal. Faculty of Economics, University of Indonesia and Philip Kortler Center for ASEAN Marketing. 2009. pg 5

<sup>80</sup>Alamsyah Ichsan E. Standar Pariwisata Syariah RI Lebih Baik. Republik 12/02/2014. <http://www.hdfj.org/en/assets/images/news3/D.pdf>. (7 September 2014)

pattern and country will protect the quality of food product that being exported and imported. Thus, the idea of Asean Food Security Network becomes more interesting rather than discussing halal labeling product which did not have the legal institution yet. Moreover, halal products are still being considered unimportant thing, even though halal guarantee is important. It is of course become important question that need to be answered. Especially considering the number of population, Muslim is a majority within ASEAN region.

Muslim inhabited five continents, and about 60% of Muslim population lived in Asia and 20% of it inhabited Middle East and North Africa. However, Middle East and North Africa have the highest presentation number compared to another Muslim Majority country. More than a half of 20 countries and territories in that region have 95% and above total Muslim population<sup>81</sup>. The data above shows the differentiation in 2009 and 2010 toward 2030 predictions. Islam population is continuously increasing each year. The data show that Islam is not only distributed in Asia region, but also in almost one fifth world population. Even Europe and America which have high presentation of non-Muslim population also have consistent number of Muslim in its region. This data shows that Islam population is being distributed regardless similar history and culture.

This paper analyze about the importance of forming an institution of halal certification in trade of ASEAN region. In this section which to be highlighted is what kind of commodity which can compete in halal industry towards ASEAN Economic Community. The explanation below will emphasize international system which can facilitate economy industry in Southeast Asia region. ASEAN is an organization which built by South East Asia Countries where the majority of its population are Muslim. ASEAN society is well known as consumptive society especially toward food product. Therefore, the need of export and import are inevitable to fulfil society demand within ASEAN region. In the global era and advance international trading system, market investor is searching for interesting opportunity, and halal product could be new reference point considering the increasing number of Muslim population in the world. And, demand for halal product will also significantly increase along with its population. Halal product is not only being consumed by Muslim majority country, the demand for this product also comes from Muslim minority country. In another hand increasing number of Muslim tourist also

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<sup>81</sup> Esposito John L and Dalia Mogahed. Press Release for Who Speaks for Islam? What a Billion Muslims Really Think, 7 Feb 2008. <http://www.gallup.com/press/104206/WHO-SPEAKS-ISLAM.aspx> ( 4 September 2014)

contributing in inspired many restaurants and food court to seek halal certification.

The first halal certification in Africa comes from South Africa. MJC (Muslim Judicial Council) established in Cape Town in 1945. This is the first halal authority which certified halal product for more than 50 years.<sup>82</sup> The facts that Islam is even minority in this country need to be noted. Chamber of commerce and industry Brussels (BECI) issue its first halal certificate on Sunday (07/03). This certificate is facilitating export for non-alcoholic party drinks.<sup>83</sup> The first product that being certified came from Liege, a non alcoholic drinking party made from white wine. A popular soya sauce brand from Japan, Marujiyu became the first soya sauce which passes halal certification in Japan.<sup>84</sup> Marujiyu Soy Sauce & Seasoning Corporation is intended to export its product in Muslim majority country and expand its market. Halal certification becomes essential condition in expanding the market reach.

## **2. The Possibility of Uniformity on Halal Standards in ASEAN**

ASEAN economic community will open a way to close the gap between Muslim culture and non-Muslim groups. A new kind of innovation in economy will lead a big advantage for halal product. Halal is standardization about integrity and belief toward product that being consumed. Halal always being referred as religion matters, thus the idea to discuss it often being seen as a taboo. In fact, halal concept is important structure in everyday life. It is related to ritual in consuming meat and mechanism to cook it. So far, the implication of halal only comes from religion which of course determine by Islamic religion.<sup>85</sup>

For Muslim especially, the advantage of halal labelling is to provide sense of security and spiritual conformity in consuming and using those products.

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<sup>82</sup> Banan. Afrika Selatan Muncul Sebagai Pemimpin Industri Halal, 17 March 2013.  
<http://www.arahmah.com/news/2013/03/17/afrika-selatan-muncul-sebagai-pemimpin-industri-halal.html> (4 September 2014)

<sup>83</sup> Rin, Suara Media. Swedia Rilis Sertifikat Halal Pertama di Eropa, 8 March 2010.  
<http://www.suaramedia.com/dunia-islam/2010/03/08/swedia-rilis-sertifikat-halal-pertama-di-eropa> (4 September 2014)

<sup>84</sup> Ajeng, Ratna Tejomukti. Marujiyu Kecap Jepang Halal Pertama, 30 May 2014  
<http://www.republika.co.id/berita/dunia-islam/islam-mancanegara/14/05/30/n6dogi-marujiyu-kecap-jepang-halal-pertama> ( 4 September 2014)

<sup>85</sup> Vanezza, Edlen Bayaton-Obispo. Why the Business of the ASEAN, 29 July 2014.  
<http://moneysense.com.ph/whats-up/why-the-business-of-halal-is-the-business-of-the-asean/07/2014>  
(3 September 2014)

Consumer will get certainty and guarantee that the product is safe whether it is in the term of quality or the way to produce it. Halal certifications will not only benefiting for Muslim, but also general consumer since the label provides certainty in general healthy food standard.<sup>86</sup>

Halal aspect also becomes one of international quality standard by *Codex Alimentarius Commission* (CAC) which established by FAO and WHO in 1997.<sup>87</sup> Since then, halal product become more popular and attracts international consumer, for both Muslim and non-Muslim. Halal product is produced according to sharia law. Halal standard include safety, health, environment, justice and also nature balance. Thus, halal product, especially food will guarantee consumer safety in eating the product and this standard also accepted by international society generally, and Muslim countries especially.

Halal certification has the same prospect as ASEAN food security and eco-labelling product. In some of ASEAN countries, the idea to have halal certification institution to develop halal product standardization is already come into existence. The urge and hard work in creating halal culture is starting to be accepted by international society. Sooner ASEAN will be a centre of halal standard certification in the world. Several possibilities are come to existence in realizing One Halal ASEAN standard.<sup>88</sup> The probability in agreement is the first step to achieve the goal in establishing ASEAN economic community.

### **3. Preparation of ASEAN countries in encounter Halal commodity traffics**

#### **3.1. Myanmar**

Myanmar is a country with lowest rank of GDP compared with another ASEAN member which only USD 875. However, Myanmar export volume continuously increased in the beginning of 2013 from USD 4,69 to USD 5,68.<sup>89</sup> Right now Myanmar is creating national

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<sup>86</sup>Balai Besar POM Palembang. Penguatan Lintas Sektor Dalam Rangka Sertifikasi dan Labelisasi Halal, 24 June 2013. <http://www.pom.go.id/mobile/index.php/view/berita/3754/Penguatan-Lintas-Sektor-Dalam-Rangka-Sertifikasi-Dan-Labelisasi-Halal.html> ( 1 September 2014)

<sup>87</sup>Dita, Wike Herlinda. Kemendag Fasilitasi UKM Halal di MIHAS 2014, 10 April 2014. <http://industri.bisnis.com/read/20140410/12/218433/kemendag-fasilitasi-ukm-halal-di-mihas-2014> (31 August 2014)

<sup>88</sup>Fischer, Johan. Religion, science and markets. Modern halal production, trade and consumption, 8 August 2008. <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2529358/> ( 1 September 2014)

<sup>89</sup>*The China Post*. Myanmar prepares for ASEAN economic integration, 27 Dec 2013. <http://eu-myanmar.org/myanmar-prepares-asean-economic-integration/> ( 31 August 2014)

strategy to increase export volume and establish competitive market advantage. Halal commodity market becomes big opportunity to increase export volume and achieve national development plan. The new strategy that being implemented is prioritizing export product such as farm product and forestry. This priority export sectors is expected to creating new halal product that attracted both Muslim and non-Muslim consumer.

The strategy that being implemented by Myanmar is targeting the development of small and medium enterprise, give more financial access, and information regarding export and logistic. As a developing country, Myanmar national income is really depending on export activity. The opportunity will be bigger if country expands the export priority into value-add product. The rise of halal product market will be perfect way for Myanmar in expanding its economy activity. However, Myanmar still did not have halal certification standard that can generally be accepted by Muslim society. Moreover, Myanmar still has not enough resources such as infrastructure, labour, and qualified expert. It is due the effect of isolation, internal conflict and economic struggle under the military regime. Thus, the idea to developing halal commodity product in Myanmar still face several difficulties since the economical stability is not well prepared.

### **3.2. Laos**

Laos is a country with only 0,02% Muslim population from its total 6.4 million Buddhist citizen.<sup>90</sup> The fact above made Laos become a country with smallest number of Muslim population among ASEAN members. This condition will be big disadvantage in developing halal product in Laos. However, if Lao succeed in using AFTA, it can implement reverse investment. This investment is focused in take as much as profit from cheap production cost and big market sales.

### **3.3. Cambodia**

Even though Cambodia is Buddhist majority country, but Cambodia still have potency in developing halal product. This will lead

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<sup>90</sup>Faiz. World Muslim Population 2010 Stats By Country, 28 December 2011.  
<http://majesticislam.wordpress.com/page/2/> (1 September 2014)

the way in establishment of halal certification authority in Cambodia. Since the establishment of halal certification authority will bring advantage for Cambodia in upcoming ASEAN Economic Community.

In the status quo, Cambodia still did not have any halal certification authority in managing halal product. This condition leads to slow growth in developing and promoting halal product. In effort to design process and halal standard, Cambodia needs to make collaboration with another halal certification authority. This partnership can give Cambodia access in promoting halal product with international halal certificate. Thus, Cambodia needs to market and promote halal product in order to understand public respond. After public respond, Cambodia can start to prepare the production of halal product.

#### **3.4. Thailand**

Thailand has 7 million Muslim populations within its society. The number of Muslim population led into big demand in halal food product. Domestic consumption of halal product is contributing 5% of total production. Food production also sees promising market potencies for Non-Muslim consumer. Food producer sell its product to non-Muslim consumer as away to solve trust issue and create branding for halal product. Thailand producer create halal logo in their product after pass the test from halal certification unit in Sheikhu Islam office. The certification process is first established in 1948, but then due some technical difficulties the process is being discontinued. Islam division is working as halal certification authority and listed as brand trading certification. So far, Thailand is already has legal halal commodity product.

Thailand has big potency to produce and export more halal food into international market, especially for ASEAN countries. Halal food export for ASEAN countries in Thailand reach about six billion dollar each year. Aside of ASEAN countries, Thailand also export halal product into another market such as Nigeria, Oman and Middle East. Thailand has the potency to become larger part in world food industry, considering its advantage in the farm sector. Halal is not only about food industry, but also life style. Some of ASEAN members such as Brunei Darussalam, Indonesia, and Malaysia have Muslim majority

within its society. High quality product of Thailand food industry will be another advantage. In 2020, Muslim population is expected to reach two billion people, it is about 25% of world total population, Based on 25% calculation of world population.<sup>91</sup> Halal food production and export sure will attract more interest.

### **3.5. Philippine**

According to The Center for International Trade Expositions and Missions (CITEM), Philippine has the popularity as much as USD 632 billion to be global business platform and gateway for halal food market.<sup>92</sup> With acceptance from international society, halal concept consumption is being valued as alternative standard. Philippine halal industry has prospect to encourage halal standardization trade product in ASEAN. It is not only united ASEAN countries but also ASEAN industry in the food, tourism, service, health and beauty sector. <sup>93</sup>

Significant development in halal products, so far already changed local halal label into international quality of market symbol. It is proven with recommendation of halal food for 1.8 billion Muslim which create annual global market about 20% of total global food market. And, as the food exporter, Philippine aiming to be major producer of halal product in ASEAN Economic Community (AEC).

Meanwhile, in the term of halal certification institution in Philippine, National Commission of Muslim Filipinos (NCMF) is working in promoting and developing Philippine halal industry and also Halal Entities Accreditation Certificate.<sup>94</sup> NCMF also has special agency named Halal council which has purpose to regulate criteria and guidance for halal accreditation institution. In order to have product and service with United halal Philippine logo, producer need to follow

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<sup>91</sup>The Potentials Of Islamic Economic Of Muslim Minority In Thailand. Tosaporn Mahamud Centre Of Islamic Studies, Kasem Bundit University, Bangkok

<sup>92</sup>Macarambon, Jun. Philippines Gateway to Halal Market, 24 February 2013.  
<http://www.halalville.asia/2013/02/24/philippines-gateway-to-halal-market/> (2 September 2014)

<sup>93</sup>Vanezza, Edlen Bayaton-Obispo. Why the Business of the ASEAN, 29 July 2014.  
<http://moneysense.com.ph/whats-up/why-the-business-of-halal-is-the-business-of-the-asean/07/2014>  
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<sup>94</sup>Macarambon, Juan. NCMF Halal Board – Philippine Halal Authority, 11 February 2013.  
<http://www.halalville.asia/2013/02/11/ncmf-halal-board-philippine-halal-authority/> (2 September 2014)

halal test standard which determined by Philippine halal council NCMF.

Process in obtaining halal certification under Halal council Philippine including: registering Muslim organization (certification) with Securities and Exchange Commission, Syariah expert or Religious Organization, pharmacy or microbiology, laboratory (government or private) which has capacity in detecting haram content, and budget which verify that the organization has halal certification.<sup>95</sup>

### **3.6. Brunei Darussalam**

Brunei is developing an innovation in producing halal certified product for regional and international market. In Brunei, halal food product become major commodity since 67% of its population is Muslim. Government target to encounter AEC is by establishing a strong and diverse industry and produce sharia way of product and service to help fulfill the need of halal product commodity.<sup>96</sup>

Brunei credibility in halal certification will bring trust not only from Muslim consumer, but also non-Muslim consumer regarding hygiene and quality halal product since certification process is very detailed. Religious ministry authority provide halal commodity service for food and drinks sector, including: packaging and additional value, raw material, import regulation (import permission, packaging, labeling, testing), custom duty procedure, halal accreditation and food safety control and quality.<sup>97</sup>

This project provides opportunity for investment whether it is domestic or foreign investor. It is also strengthen bilateral relation between Brunei with partner countries through halal certificate and branding service which offer opportunity in joint-venture and foreign investment.<sup>98</sup> Basically, Brunei's halal brand already aiming to be a major player in halal global industry, for both of food production and

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<sup>95</sup><http://www.luwaran.com/index.php/welcome/item/410-halal-certifying-bodies-seek-accreditation-by-government-agency>

<sup>96</sup>Economic Update. Brunei Darussalam looks to its labs for growth, 7 Oct 2013. [http://www.oxfordbusinessgroup.com/economic\\_updates/brunei-darussalam-looks-its-labs-growth\(1 September 2014\)](http://www.oxfordbusinessgroup.com/economic_updates/brunei-darussalam-looks-its-labs-growth(1%20September%202014))

<sup>97</sup>Australian Government. ASEAN Food and Beverage markets - Updates and insights from the region, 25 March 2014. Page 21-23

<sup>98</sup>Brunei Halal, 2 September 2014.

[http://www.industry.gov.bn/index.php?option=com\\_content&view=article&id=81&Itemid=102](http://www.industry.gov.bn/index.php?option=com_content&view=article&id=81&Itemid=102)

certification. The goal of Brunei Halal Brand is to increase the number of halal food that being consumed by Muslim due increasing number of product variety with non-halal material.

### **3.7. Malaysia**

Malaysia is the only country in the world where the government gives full support in promoting halal certification process for product and service. So far, halal certification institution in another country only developed by NGO, province or state. JAKIM is government institution in Malaysia which creates Malaysia halal logo and determines halal certification system. This institution manages halal certification matter for domestic and export market. All the procedures and process need to pass halal guidance. Malaysia certification procedure and Malaysia halal standard MS1500:2009 and MS2200: chapter 1:2008 continuously used due the broader acceptance in maintaining superiority in fulfilling halal sector. Thus, Malaysia Halal Logo is well known and accepted by international society.<sup>99</sup>

Right now, Malaysia is one of major exporter for halal world product with annual export about USD 11 billion. The total value of halal food reaches RP. 36 billion (MohdRaimee,HDC 2012). Considering the fact, there is potency to use the high demand of halal food and drinking product in the future. Malaysia estimated that global need in halal certified product will reach USD 600 billion each year. In order to fulfill global demand, JAKIM has made standardization of halal certified product. Food and material product which already being certified will be accepted internationally.<sup>100</sup> Halal certification will guarantee all Muslim consumers in fulfilling sharia law. For non Muslim consumer, halal product is a quality product since the product need to pass hygiene and health standard. As HDC is really recommended to all halal applicants to fulfill GMP and HACPP regulation. Thus, halal certified product from JAKIM will be safe to consumed, used, nutritious and quality.

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<sup>99</sup>Halal Agencies in Malaysia. Halal Industry Development Corporation (HDC), 2013.  
[http://www.hdcglobal.com/publisher/certification\(2](http://www.hdcglobal.com/publisher/certification(2) September 2014)

<sup>100</sup>Australian Government.ASEAN Food and Beverage markets - Updates and insights from the region, 25 March 2014. Pge 14-16

### 3.8. Indonesia

As a country with the fourth largest Muslim population in the world, Indonesia should be centre of halal certification product in ASEAN. Indonesia Halal food product continuously increased about 20-130% in the last few years.<sup>101</sup> Analysis of food and Medicine Institution MUI certify 47.575 halal food products in 2013.

Halal product will help domestic player in identify market potency in international level. Food industry starts to see the real advantages in obtaining halal certificate. However, Indonesia stills a way behind neighboring countries. Comparing to Malaysia and Thailand, total Indonesian export for food product only reach \$200 million in 2011, Malaysia reach \$1.1 billion and Thailand reach amount \$5 billion.<sup>102</sup>

## 4. Implications towards trade in ASEAN members

### 4.1. Halal Intra-Trade ASEAN Prospect

According to religious condition, all Muslim need to eat, drinks and use halal medicine, this concept then trigger the rise demand of halal product. Considering the increasing number of population and income, it is estimated that in the future, halal food will be major commodity in world food trading. The increasing income in key market of ASEAN is due the high-level of consumption. This provides broader opportunity for producer to produce halal food.

Johan Fischer in his book 'Halal Frontier, 2011': "Muslim consumer in global market remind that in contemporary Muslim world, halal label is not only a religious expression regarding what permissible or not, but also relation between Muslim world and expanding global market production, trade and consumption. Domestic Halal certification institution needs to act as gateway to enter halal business potency with 2 billion consumers around the world."<sup>103</sup>

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<sup>101</sup>Lutfia, IsmiraTisnadibrata. Something to chew on , 1 September 2014. <http://focus-asean.com/halal-products-indonesia-focus-asean/> (7 September 2014)

<sup>102</sup>Lutfia, IsmiraTisnadibrata. Something to chew on , 1 September 2014. <http://focus-asean.com/halal-products-indonesia-focus-asean/> (7 September 2014)

<sup>103</sup>Nurish, Amanah. *Halal labeling: The next gold mi*, 2014. <http://www.thejakartapost.com/news/2014/02/28/halal-labeling-the-next-gold-mine.html> (4 September 2014)

In south East Asia, halal certification emerges as potential market for industry product and business.

South East Asia becomes important regional market and competitive for halal product, with big market consumer about more than 236 million Muslim, it leads to production development prospect for halal food and halal certification.<sup>104</sup> With total ten countries, products marketing of halal food will continuously increased considering rapid growth of Muslim population. Islam is the largest religion in ASEAN, in 2012 about 40% from 590 million ASEAN populations is Muslim. Globally, Muslim population will continue to grow and increase into 8.3 billion or 26.4% of total world population in 2030.<sup>105</sup>

#### **4.2. The prospect of Halal extra-trade in ASEAN**

Aside of interesting prospect within ASEAN region, halal product also offer interesting opportunity in global trading. World Muslim population is reaching 1.6 billion and it is the market object of halal product. Along with the prospect from non-Muslim consumer which start to consume halal certified product. Globally, Muslim population will continue to grow and increase into 2.2 billion or about 26.4% in 2030.<sup>106</sup> Right now, 1 billion or 60% of Muslim population in the world lives in Asia Pacific, meanwhile 321 million or 20% of it lives in Middle East and North Africa. Positive trend also happen in sub-Sahara Africa, the number of Muslim population reach 242 million. Muslims are still minority in Europe with total 44 million populations and in America with only five million people. From distribution data above, it is expected will be promising market for halal product since halal product is obligation and need of Muslim population.

The problem is the lack of halal product certification institution that manages the flow of halal commodity standardization. Thus, the

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<sup>104</sup>Mahamud, Tasaporn. *The potentials of Islamic of Muslim Minority in Thailand*, 2012. <http://majesticislam.wordpress.com/page/2/> (September 2014)

<sup>105</sup>Rise of the halal food market, 2014. [http://www.retailasiaonline.com/magazine/archive/2014/mag2014-03\\_story08.html](http://www.retailasiaonline.com/magazine/archive/2014/mag2014-03_story08.html) (4 September 2014)

<sup>106</sup>The Pew Forum on Religion & Public Life. *The Future Of The Global Muslim Population, Projections for 2010–2030*, 27 January 2011. <http://pewforum.org/The-Future-of-the-Global-Muslim-Population.aspx> , (7 September 2014)

need of single halal certification institution will provide solvency of basic need of Muslim population in ASEAN region or even global.

## **5. Challenge and Opportunity towards ASEAN Halal Certification Institution**

### **5.1. Opportunity**

In ASEAN intra-region trade, the policies in easing the trading between countries already exist such as non trade barrier. But thing that need to be realized by ASEAN policy makers are certain consumer preference in such product. In the previous explanation, it is proven that consumer interest toward halal product show significant result. Thus, if halal product has less attention from government, then it will become another disadvantage for countries with no halal accreditation institution. With the idea of single institution in managing halal certification in ASEAN, it will create fair intra-region trading regime for ASEAN members.

In September, 17-18 1998 ASEAN Ministers of Agriculture and Forestry held a meeting in Ha noi, Vietnam. This meeting was established to discuss regarding increasing number of halal product in ASEAN trade Zone. The high of demand of certified halal product is due the number of Muslim population in ASEAN which trigger the government to realize the importance of an institution in manage halal trade commodity. As part of efforts to intensify coordination and for ASEAN to have common position on Halal Food in the international level, the "ASEAN General Guidelines in the Preparation and Handling of Halal Food "together with "ASEAN Halal Logo" were published with objective to provide a practical guidelines for the food industry on the preparation and handling of Halal food and to serve as a basic requirement for accreditation of food processing establishments for intra-ASEAN trade in Halal food. <sup>107</sup> The guideline contains basic sharia law regarding halal product and mechanism in consuming animal.

As a follow-up of guideline implementation, ASEAN working group on halal food was established in 2000. This team is created to promote the idea of partnership, transfer information and balancing

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<sup>107</sup>ASEAN Halal Food, 2008 <http://www.aseanfoodsafetynetwork.net/aseanhalal/> (7 September 2014)

regulation regarding different interpretation of halal concept in each country. Among activities have been conducted and implemented by the Working Group are: registration and compilation of Halal Food additives, capacity building programme of Halal Food activities (i.e. trainings of Halal Inspectors, Halal Food Auditors, and Laboratory Analyst), and implementation of ASEAN Guidelines on Halal Food for both intra- and extra-ASEAN trade.<sup>108</sup>

To create a standard, then will be created an understanding regarding standardization, thus this meeting also agree of establishment of website to transferring information not only for member of ASEAN, but also public consumption. Working group team also held partnership with another ASEAN institution such as ASEAN Task Force on Codex (ATFC), ASEAN Export Group on Safety Food (AEGFS), ASEAN Food Safety Network (AFSN), and also Strengthening ASEAN Risk Assessment Capability to Support Food Safety Measures Project. This partnership is intended to prepare the formation of legal halal certified institution, and also ease the new halal certification institution in managing ASEAN trade especially in food product market.

In November 2009, working group held a meeting as the first step in implementing effort to unify the halal regulation and standard in LPOM MUI Jakarta. This effort also aiming to learn halal certification system in Indonesia since LPOM MUI already has good credibility among ASEAN members.<sup>109</sup> ASEAN working group on Halal's Food include eight countries from ASEAN active members and those are Indonesia, Malaysia, Philippine, Cambodia, Brunei Darussalam, Vietnam, and Thailand.

Halal commodity trade is shown its prospect as big international trade regime. And with four foundations in ASEAN Economic Community such as ASEAN single market, ASEAN Developing Economy, Equitable economy within ASEAN members, and also increasing the members' competitiveness in facing global challenge. With the existence of CEPT (Common Effective Preferential Tariffs) that being implemented in four ASEAN member countries i.e.

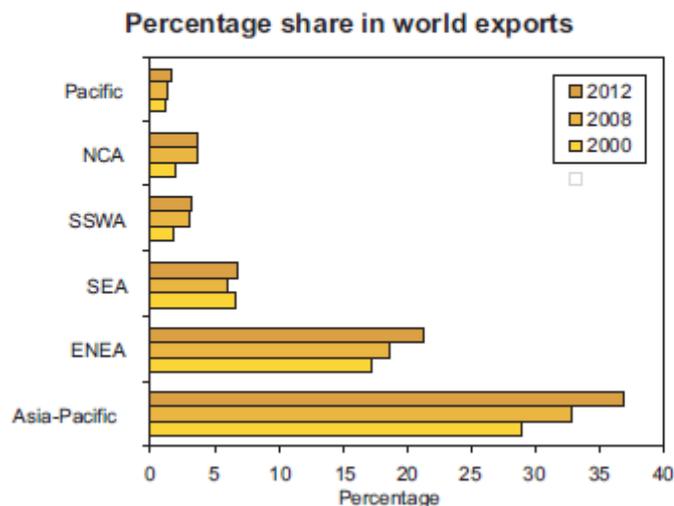
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<sup>108</sup> *ibid*

<sup>109</sup> *Republika Online. LPPOM MUI: 'One Halal ASEAN Standard' Segera Terwujud, 30 November 2009* <http://www.republika.co.id/berita/dunia-islam/info-halal/09/11/30/92304-lppom-mui-one-halal-asean-standard-segera-terwujud> (4 September 2014)

Cambodia, Laos, Myanmar and Vietnam, it could be used as an opportunity in establishing single halal certification institution in ASEAN. Since the institution is part of protection system toward free-flow goods from outside ASEAN. ASEAN halal logo will have more legitimacy in selecting trade commodity outside ASEAN. And, more importantly Muslim consumer will prefer to choose halal certified product which being accepted by halal certification institution. Thus, the implication from protection system will help the growth of economy for unstable ASEAN members.

**Asian and Pacific region's merchandise trade share in global trade, total and by subregion, 2000, 2008 and 2012**

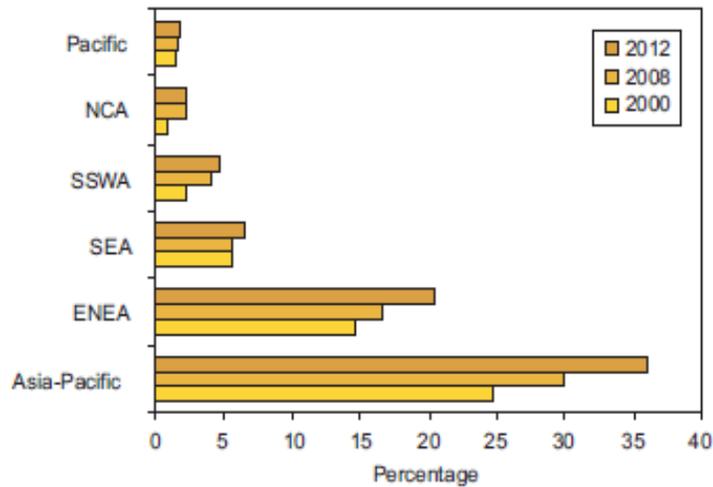


Source: ASEAN Statistical Year Book 2013.

With ASEAN competitiveness which shown in the trade volume of ASEAN countries in global market, the number of import capacities is increasing about 7% compared to few years ago. Halal logo that will be issued by ASEAN Halal Certification Institution has a legitimacy to select trade commodity from outside ASEAN. Thus, the implication from protection system will help the growth of economy for unstable ASEAN

ASEAN Economic Community in 2015 will provide chance to transform ASEAN countries to be more competitive not only in region

Percentage share in world imports



but also global market. In the previous 2012 graphic, ASEAN export capacity in global market is turning stagnant. With single halal certification institution, it will increase competitiveness of ASEAN countries since the product has more added values. This value have big prospect considering the growth of Muslim population in the world.

## 5.2. Challenge

There are several matters that need to be involved in the establishment of halal certification institution. The first step is unified an understanding regarding halal standardization that could be accepted by all members. This problem rise since several ASEAN members already has their own halal certification institution. The establishment of unified halal certification also will encourage country which doesn't have any halal authority to increase their ability in competing in free-flow of goods era.

In the halal product standardization level, the implementation of halal product is comes from Koran. This will need long process to achieve an agreement. And, it will be challenge for each government in the free-flow of goods era. For the instance Indonesia have more than 55 million unit of small medium enterprise in domestic food industry, it will complicate the process of halal certification. Economy integration in ASEAN always motivated from requirement to make the region as a production region base which interesting companies both

of local or foreign.<sup>110</sup> Especially since halal certification process manage every single detail from the preparation of raw material to the cooking process and storage mechanism. Meanwhile the small medium enterprise in ASEAN will have a hard time since the business still has no capacity, facility or technology in fulfilling the production criteria process. Studies show that the consumers are alert toward the information about the Halal food and any information about the misuse, modification and halal standard can cause the loss of confident of consumer and affect the purchasing decision (Golnaz, 2008).

If socialization is not really intensive, it will create misunderstanding and misinterpretation toward those industries. The different credibility in determining halal product in several ASEAN halal institutions will make producer confused to ask legitimacy regarding halal label. If there is no agreement between ASEAN members, there will be confusion between food producers. And, even though they could apply local halal labelling, but commodity export will be delayed if the certification is not accepted by the other ASEAN members.

The idea to establish an institution could be seen as a progress, even though it's not significant enough in encounter ASEAN Economic Community 2015. But if the unification of halal standard product is not being discussed by ASEAN members, there will be hegemony from multinational company which has more technology and production ability, thus obtaining halal certification will be easier compared with small medium enterprise.

Aside from economical factor, there are several factors which affect the existence of halal institution in ASEAN countries which don't have halal authority mechanism yet. For the instance cultural pattern and religion within ASEAN society which affect the demand toward halal product. Now, the halal markets are basically been fragmented into three parts such as ethnicity, location, income based on that particular country requirement.<sup>111</sup> Different geographical area and

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<sup>110</sup> CPF Luhulima. *Dinamika Asia Tenggara Menuju 2015*. Pustaka Pelajar. Yogyakarta. 2010. hal 40

<sup>111</sup> Golnaz, R. 2008. Consumers' confidence in Halal labeled manufactured food in malaysia. PhD thesis, University Putra Malaysia, on. <http://www.ukessays.com/essays/economics/the-reasons-of-harmonization-halal-food-trade-economics-essay.php#ixzz3COFw5P7Z> (4 September 2014)

degree of the ethnicity may lead to the differences in halal concepts accepted by Muslims in ASEAN.<sup>112</sup>

Consumer demand in halal certification from every country also becomes triggering factor. Muslims presentation in Laos is only 1% from total population.<sup>113</sup> Meanwhile Myanmar only has 15% Muslim within its society.<sup>114</sup> Both of the countries are Buddhist majority country. Thus, minority Muslim is struggling to fulfil their need in halal product.

The idea to form a single institution is starting to show some progress, even though it still not significant enough in encountering ASEAN Economic Community 2015. The stagnancy is caused by ASEAN character which still dependent in inter-governmentalism. Not only in the idea to create halal accreditation in ASEAN, but also stagnancy in implementing other policy.

The character of organization which erases legitimacy and creates single decision for all members is still causing different implementation in each country. The formation of halal accreditation will lead to big prospect but in another hand the implementation of standardization and also institution structure will create long discussion. Thus, it needs more attention, not only from government, but also expert and academic which directly involved in formation process. Especially since some of halal accreditation institution in ASEAN is independent non-governmental organization such as in Indonesia.

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<sup>112</sup>ibid

<sup>113</sup>Muslim Population in the world. Asia Muslim Population in 2014 (*in million*)  
<http://www.muslimpopulation.com/asia/>(2 September 2014)

<sup>114</sup> ibid

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# **UNITING THE UNUNITED ASEAN: THE CALL FOR A RADICAL MOVE**

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# UNITING THE UNUNITED ASEAN: THE CALL FOR A RADICAL MOVE

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With 2015 approaching, one of the most challenging yet unanswered questions is: is ASEAN on the right track toward building a single economic community? Such question arises as ASEAN comprises too many different things from its members. While the focus is mostly economic, it cannot deny the very fact that other factors matter. Building a single community requires more commonalities than differences and ASEAN simply misses this condition.

This paper will identify and look more closely at the basic building blocks of ASEAN Community and evaluates their reliability in supporting the establishment of one single economic community. While the focus is mostly economic, it will also look at non-economic aspects which have the potential to sustain or destroy that very community. Based its analysis on these variables, this paper argues that unless a radical move is taken, ASEAN community is everything but a mission possible. That radical move includes especially initiatives to close the gap among countries using compensation-like measures. While such move could be achieved in the long run, it is extremely important to initiate it since the very beginning. That said, 2015 should also be a momentum to start translating the already long-discussed community solidarity into more concrete actions as ASEAN governments have too long focused more on discourse than action.

**Keywords:** *ASEAN, community, solidarity, compensation*

Solidarity fund.

Solidarity compensation: the more developed help the under developed while the under developed initiate reform

## **Introduction**

While 2015 is right in front of our door ready to knock every single member country of ASEAN, controversies sustain as to how feasible it is for ASEAN to be an economic community. The controversies involve at least two main issues. The first refers to the timing ASEAN has chosen to kick off its dream. Supposed that ASEAN economic community is more a must than a choice, 2015 is argued to be too soon to start this big initiative, though there is no agreeable timetable for such kick off. The other one questions the very concept of community as ASEAN member countries share more differences than commonalities. These ranges not only from economic aspect but also social and political aspects which serve as the building block of economic integration.

This paper is developed on the assumption that ASEAN Community is more a must than a choice given that there are still controversies on what we mean by community, the feasibility toward such community and the timing of its realization. Though the author himself does not fully agree with the idea, it is time to have a closer and more critical look to that very idea and try to identify some pressing agenda for 2015 onward.

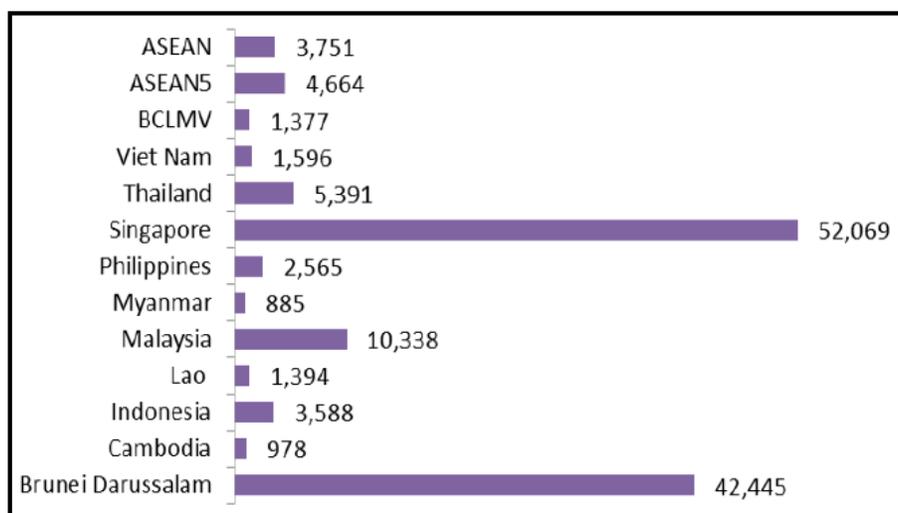
## **Poor Community Bricks**

Talking about community, ones need to consider the conditions under which certain group of people can be labeled a community. To start with, Oxford Dictionary defines community as “a group of people living in the same place or having a particular characteristic in common” or “a group of people living together and practicing common ownership”, or “a body of nations or states unified by common interests”. Cambridge Dictionary defines community as “the people living in one particular area or people who are considered as a unit because of their common interests, social group or nationality”. Depart from this concept, one of the most critical conditions for a community is commonality. This ranges from a variety of issues in social and cultural aspects to economic and political dimensions later on. Therefore the easiest way to check the viability of ASEAN (Economic) Community is to look through the degree of commonality among its member countries. To start with, let’s look at a more instrumental or economic aspect of ASEAN.

While there are many ways to measure economic conditions, one can start with some conventional measurement. For example, one can use GDP Percapita in each respective country. Graph 1 and table 1 imply that ASEAN is such an economically diverse region. Some countries like Singapore and Brunei have income as high as

fifty times compared to Myanmar or Cambodia. Even if one compares those figures based ASEAN average income, the gap is still too apparent to hide.

**Graph 1. GDP Per Capita among ASEAN Countries (US\$), 2012**



Source: ASEAN Secretariat, 2014

**Table 1. ASEAN GDP Percapita (PPP)**

Country	2005	2006	2007	2008	2009	2010	2011	2012
Brunei Darussalam	48,998	51,803	52,816	52,262	51,116	52,208	54,357	55,405
Cambodia	1,450	1,632	1,809	2,114	2,030	2,157	2,308	2,516
Indonesia	3,199	3,447	3,716	3,986	4,174	4,354	4,664	4,971
Lao PDR	1,815	1,755	2,052	2,213	2,350	2,522	2,648	2,904
Malaysia	12,035	12,925	13,814	14,523	14,165	14,813	16,028	16,976
Myanmar	788	894	1,055	942	1,099	1,195	1,406	1,490
Philippines	3,061	3,260	3,550	3,661	3,664	3,920	4,069	4,339
Singapore	45,369	49,120	52,735	52,329	50,812	58,063	61,068	61,461
Thailand	6,839	7,365	7,905	8,227	8,053	8,742	8,902	9,609
Viet Nam	2,163	2,391	2,630	2,859	3,108	3,289	3,442	3,706
ASEAN	3,917	4,230	4,581	4,822	4,901	5,221	5,520	5,869
ASEAN5	4,785	5,154	5,561	5,845	5,887	6,264	6,606	7,010
BCLMV	1,711	1,885	2,093	2,202	2,382	2,530	2,708	2,906

Source: AMSs submission as of 17 October 2013 and IMF WEO April 2013 to compute GDP per Capita in PPPs

The other route to look at the economic performance of ASEAN's individual member country is GDP growth rate. In this stance, some countries perform relatively extremely well while others have to struggle very hard as shown in table 2 and graph 2. As new comers -even to ASEAN-, Vietnam, Cambodia and Myanmar

performed consistently well with some exceptions in 2009 followed comparably by Indonesia and Malaysia. One exception applies to Singapore which recorded high economic growth despite some decline during 2008-2009. While these figures could be deceitful as they hide the real absolute figure of GDP growth, it at least shows different potential each country has to take the advantage of economic openness in this region.

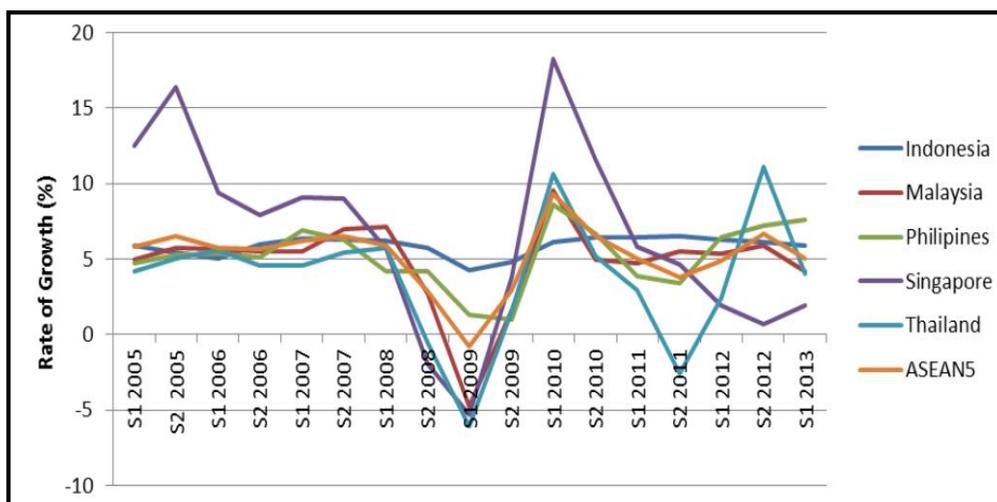
**Table 2. ASEAN's GDP Growth Rate at Constant Price**

Country	2005	2006	2007	2008	2009	2010	2011	2012
Brunei Darussalam	0.4	4.4	0.2	-1.4	-1.8	2.6	3.4	1.0
Cambodia	13.6	10.8	10.2	6.7	0.1	6.0	7.1	7.0
Indonesia	5.7	5.5	6.3	6.0	4.5	6.3	6.5	6.2
Lao PDR	7.3	8.3	6.0	7.8	7.5	8.1	8.0	7.9
Malaysia	5.3	5.6	6.3	4.8	-1.5	7.4	5.1	5.6
Myanmar	13.6	13.6	13.1	12.0	10.3	10.6	10.2	5.9
Philippines	4.8	5.2	6.6	4.2	1.1	7.6	3.6	6.8
Singapore	7.4	8.6	9.0	1.7	-0.8	14.8	5.2	1.3
Thailand	4.6	5.1	5.0	2.5	-2.3	7.8	0.1	6.5
Viet Nam	8.4	8.2	8.5	6.3	5.3	6.8	6.0	5.0
ASEAN	5.9	6.1	6.7	4.7	1.7	7.8	4.7	5.7
ASEAN5	5.4	5.7	6.4	4.3	1.1	7.9	4.4	5.8
BCLMV	9.1	9.1	8.9	7.0	5.6	7.3	6.8	5.3

Source: AMSs submission as of 17 October 2013

Notes : ASEAN, ASEAN5 and BCLMV growth rate are calculated as a weighted average using PPP-GDP share of the World Total as used in the IMF-WEO Database of April 2013

**Graph 2. ASEAN-5 Rate of GDP Growth semester growth**



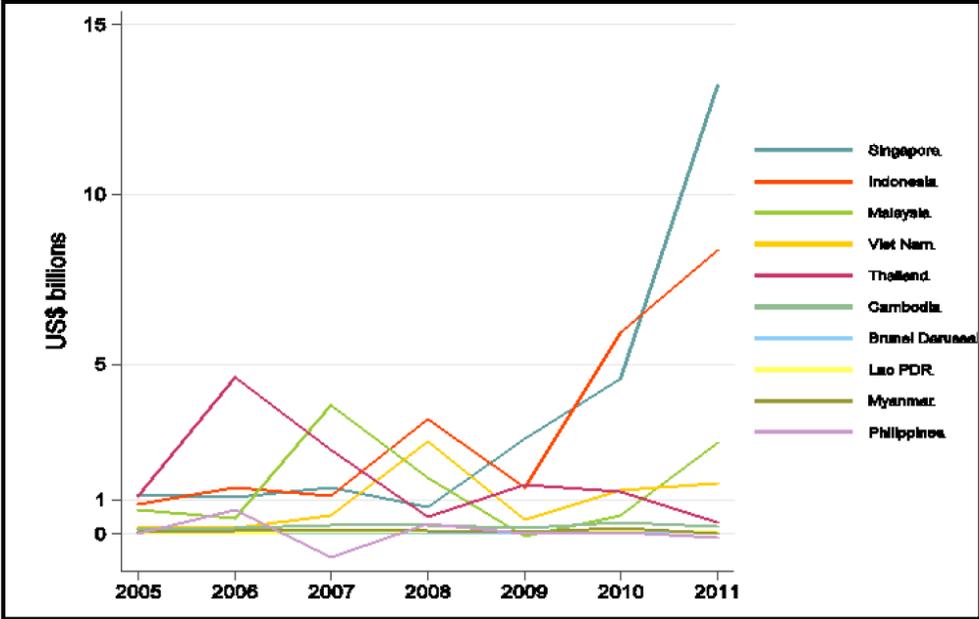
Source: ASEAN Secretariat, 2013

As if to justify those figures, each country enjoyed different slice of the economic pie in this region. The flow of foreign direct investment to this region has overall increased very significantly since 2000, especially those coming from intra

ASEAN countries. ASEAN Secretariat (2013) indicates that the inward flow of FDI in each country has considerably increased particularly in Singapore, Malaysia and Indonesia (see Graph 3). Intra-ASEAN inward FDI grew fantastically from US\$ 0.85 billion in 2000 to US\$ 26.3 billion in 2011, largely on account of the combined share of Singapore and Indonesia of more than 80% of intra-ASEAN inward FDI in 2011. This is also to say that these three countries are the true winners of a new open investment regime in this region while the contribution from other countries remains to be seen.

In conclusion, ASEAN is an economically diverse region where each country has different level and capability to develop itself. Countries like Singapore and Brunei have reached economic level far above other countries. These are the economically “first class” of ASEAN. Then come the “late comer” countries like Malaysia, Indonesia, Thailand, the Philippines, and, to some extent, Vietnam. The rest of the countries need to struggle more to catch up with the development of more established countries and this includes Laos, Cambodia and Myanmar. It is this last category that really needs extra care from ASEAN in general and from more developed countries specifically.

**Graph 3. Intra ASEAN inward Foreign Direct Investment**



Source: ASEAN Secretariat 2013

While economic performance is an important reference to measure and compare the level of development, it is not necessarily a reliable tool to capture the

true development of a country or region. To really uncover the achievement of certain country or regional, the development of development theories requires one to be more careful and comprehensive in applying development indicators. This is to say that even if one sticks on economic indicators, he/she also needs to consider other non-economic measurement. This is especially important for a specific context like ASEAN community. Therefore, it is extra important to also take social and political indicators into account such as poverty, equality, human development, social and political rights, et cetera.

In terms of poverty, Table 3 shows very clearly the condition of each country. As is in economic indicators, Singapore and Brunei are two poverty-free countries if we use conventional indicators to measure it. Meanwhile, Cambodia, Indonesia, Lao, and the Philippines are four countries with extreme poverty though there is clear indication that the figures have declined consistently. The figures of poverty are even more dramatic if we also take the absolute figure. In this sense, for example, the number of Indonesian people living below poverty line is even bigger than the total population of Singapore and Brunei altogether.

**Table 3. Proportion of People Living Under Poverty**

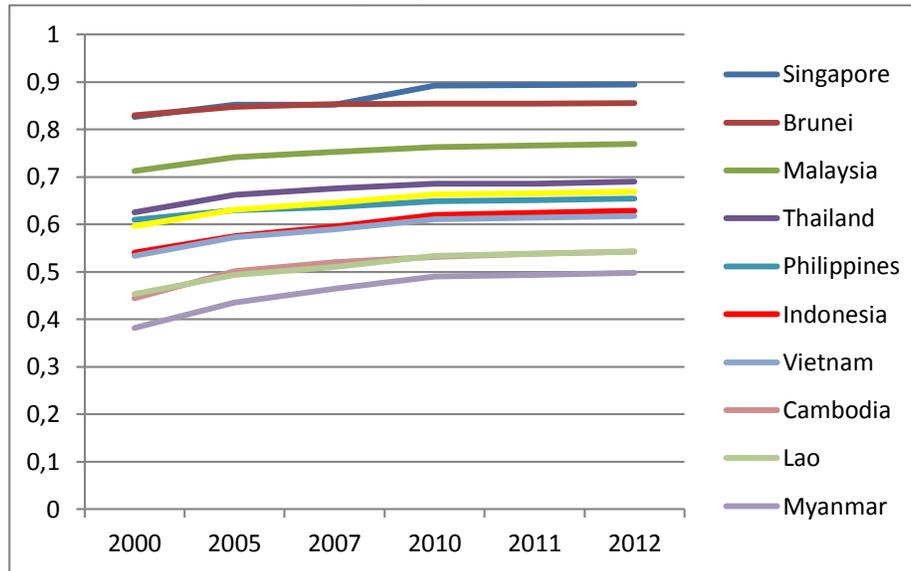
Country	2000		2005		2010	
	PPP\$1.25/ day	National poverty line	PPP\$1.25/ day	National poverty line	PPP\$1.25/ day	National poverty line
Brunei Darussalam	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Cambodia	44.0	37.0	36.0	33.0	28.0	26.0
Indonesia	41.0	19.0	21.0	16.0	18.1	13.3
Lao PDR	46.0	36.0	39.0	30.0	31.0	24.0
Malaysia		8.0		6.0		4.0
Myanmar						
Philippines	22.5		22.0		23.0	
Singapore	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Thailand	1.0	21.0	0.0		0.0	7.7
Viet Nam	45.0	35.0	23.0	19.0	14.0	13.0
<b>Mean</b>	<b>33.2</b>	<b>26.0</b>	<b>23.5</b>	<b>20.8</b>	<b>19.0</b>	<b>14.7</b>
<b>Std. Deviation</b>	<b>18.1</b>	<b>11.8</b>	<b>13.8</b>	<b>10.9</b>	<b>11.2</b>	<b>8.7</b>

Notes: n.a. Not applicable  
 Brunei Darussalam and Singapore do not have an official poverty line  
 No available data on Myanmar

*Source: ASEAN Secretariat 2013*

The other non-economic measure of development is human development index. Paying attention not only to income, this index also indicates very clearly the gap among ASEAN countries. As shown in Graph 4, two countries – Singapore and Brunei – performed extremely well as among the countries with very high HDI followed by Malaysia, Thailand and the Philippines as high HDI countries, then Indonesia, Vietnam and Cambodia as the medium HDI countries and finally Lao and Myanmar as the low HDI countries.

**Graph 4. ASEAN HDI**



Source: UNDP 2013

ASEAN member countries also achieved different level of political development. As the region with a very dynamic economic growth, ASEAN also becomes the region which attracts international attention given its notorious history of undemocratic practices. Now, though some countries have progressed toward democracy, others are still continuing their history amidst struggle toward democratic transition. As indicated by the Freedom House, only Indonesia has already achieved the status of being Free in terms of political and civil rights while others are muddling through the status of being either Partially Free or even Not Free (see Table 4). This implies that ASEAN still has to undergo a long road toward a democratic region despite its long-declared commitment toward this. While the nexus between democracy and economic performance is still inconclusive, many scholars believe that democracy is one of the underpinning brick of economic development.

**Table 4. Index of Political and Civil Rights**

	2010			2011			2012			2013			2014		
	2009			2010			2011			2012			2013		
Countries	PR	CL	Stat us												
Brunei	6	5	NF												
Cambodia	6	5	NF												

Indonesia	2	3	F	2	3	F	2	3	F	2	3	F	2	4	PF
Lao PDR	7	6	NF												
Malaysia	4	4	PF												
Myanmar	7	7	NF	7	7	NF	7	6	NF	6	5	NF	6	5	NF
Philippines	4	3	PF	3	3	PF									
Singapore	5	4	PF	5	4	PF	4	4	PF	4	4	PF	4	4	PF
Thailand	5	4	PF	5	4	PF	4	4	PF	4	4	PF	4	4	PF
Viet Nam	7	5	NF												

*Source: Freedom House 2014*

To make things worse, most of ASEAN countries have not finished their nation building. Horizontal and communal conflict involving different ethnic groups and vertical conflict conflicts between state and sub-national identities are still commonplace in this region. This is especially true for Indonesia, Thailand, the Philippines, Myanmar and Malaysia to some extent. The absence of senses of nationality will make the establishment of other community identity beyond border even more difficult. This is also a critical point to be considered thoroughly and followed by more systematic yet concrete agenda.

What I can conclude up to this point is that ASEAN member countries share more differences than commonalities and this pose difficult challenge for the establishment of a community. In other words, if ASEAN economic community is a rather must than a choice, there must be radical steps undertaken to especially bridge or even close the gap among countries. This requires a radical shift from the one ASEAN usually pursues its agenda.

### **A Radical Shift: Compensation Mechanism**

Amidst all these differences, governments from ASEAN countries prefer to stick on the plan. Cure (2008) reminds us that ASEAN viability depends on three conditions: the acceptance of the efficacy of the single market, overcoming of administrative barriers to bring about economic integration by, for example, bringing down tariff barriers and integrating tax and foreign direct investment regimes, and dealing effectively with the problems faced by low income and transitional member countries. There are progresses in the first two instances but none have been reached in the last issue. This means that economic integration will be pushed further amidst different economic level and capacity. And if this trend sustain, conceptually, ASEAN does not meet the very basic condition for an economic community. More importantly, progressing toward this end amidst high economic variety implies that ASEAN has a very loose and vulnerable building block to realize economic community. It is a matter of time that at some point after 2015,

these underpinning bricks will call for more serious attention, the implication of which is at least drawback or even community breakup.

Taking this worst scenario into mind, something radical has to be undertaken in this very limited time which must be sustained during the initial period after AEC implementation. For at least five years or so, ASEAN would have to bridge or close the economic among member countries. How unlikely is this proposal depends on the political will of each and every member country and this could take time given the very nature of decision making process which is based on unanimous consensus. But the basic idea is this: ASEAN needs to implement a compensation-like mechanism to sustain the real working of AEC.

Compensation mechanism works quite simple actually. Economically speaking, those of the most developed countries must share their responsibilities in easing the burden of the least developed countries like Laos, Cambodia and Myanmar. This is a very rational call given that each member country, developed or under-developed has all agreed to “liberalize” its economic regime despite different capacity each country has. This can be dubbed as a compromise for under-developed countries and a win for developed countries. If the current development pattern sustains, then there would be no significant change occurring in under-developed countries. These countries have given their ways to other members only to see that they progress much more slowly than developed countries. Being part of AEC could even mean the worsening of their economic conditions. Therefore, more developed countries have to lift some of their burden as a compensation for their willingness to join the AEC. This is not simply an economic “win-lose” calculation but more as the heart of a true community. While we cannot deny the fact that more developed countries would still outpace other less developed countries, that gap must be narrowed and closed even better.

Toward this end, ASEAN has actually formulated two important documents: Initiative for ASEAN Integration (IAI) and Narrowing the Development Gap (NDG). The first IAI Work Plan (2002-2008) was enacted in 2002. It addressed priority issues such as infrastructure (transport and energy), human resource development (public sector capacity building, labour and employment, and higher education), information and communication technologies (ICT), and regional economic integration (trade in goods and services, customs, standards, and investments). Also included are tourism and poverty alleviation (ASEAN 2014). This was followed by the second IAI Work Plan (2009-2015). This first Work Plan was implemented covering 134 projects/programs mostly on capacity building and regulatory/policy reform which attracted a total investment of USD 191 million from ASEAN-6

(Singapore, Brunei, Malaysia, Thailand, the Philippines and Indonesia) and about USD 20 million by dialogue partners, development agencies and other partners

(see [http://www.asean.org/images/2012/Economic/AIA/IAI%20Work%20Plan%202%20\(2009-2015\).pdf](http://www.asean.org/images/2012/Economic/AIA/IAI%20Work%20Plan%202%20(2009-2015).pdf)).

The second Work Plan gives priority to 4 AEC cornerstones, namely, single market and production base, competitive economic region, equitable economic development, integration into the global economy. The funds needed for these agenda are to be mobilized from different sources such as ASEAN, ASEAN Dialogue Partners and Sectoral Partners, and Development Partners (ASEAN Partners); regional and international financial institutions; and private sector, foundations, and non-governmental organizations (NGOs). As for ASEAN, the document states very clearly that "ASEAN-6 shall continue to support and provide assistance and resources through ASEAN-6 contribution to the IAI Work Plan, and through bilateral initiatives. In addition, ASEAN-6 promoting joint projects with partial funding, in line with their more developed status, will be an attractive proposition to dialogue partners and other partners. By its very nature, projects sponsored by ASEAN-6 would acquire greater coherence and a higher degree of organization, strengthen ASEAN solidarity and present an image of doing something for itself and of other ASEAN countries as helping one another, and therefore attract outside funding and support." The document also set up the ASEAN Development Fund used "to leverage funding of regional cooperation programs and projects from dialogue partners and other donors, provide seed funding for initial activities of large scale projects, and to provide full funding support to small and short-term projects of a confidential or strategic nature"

(see [http://www.asean.org/images/2012/Economic/AIA/IAI%20Work%20Plan%202%20\(2009-2015\).pdf](http://www.asean.org/images/2012/Economic/AIA/IAI%20Work%20Plan%202%20(2009-2015).pdf)).

This is quite an achievement, yet it is not sufficient. As most if not all of the funds are disbursed for the AEC agenda, the scheme is not sensitive enough to capture the real interest of the less developed countries (Cambodia, Lao, Myanmar, and Vietnam). These multilateral and also bilateral measures must be able to really compensate the loss and the risk these countries have to face following their commitment to AEC. Therefore, there must be a specific scheme for each country coming not only from ASEAN sources but also from individual ASEAN-6 country. While it might be difficult to really calculate the loss and the risk faced by CLMV, the scheme can learn from carbon trade program. In this sense, countries like Singapore or Malaysia must have an obligatory financial scheme to compensate the CLMV based on the benefits they enjoy from these countries. Economically speaking, this should be a very realistic and likely proposal. Scheme like this shall be implemented

in line with the IAI Work Plan in such a way that a more equitable ASEAN could be accomplished.

## **Epilogue**

What I call as a radical proposal as described above is actually a very normal way of doing business in a humane and sustainable way. Open and liberal regime would benefit only limited actors should there still be capacity gap. If ASEAN is really consistent with its agenda toward an economic community – not simply an economic integration – there should be a sense of solidarity among its members. Economically, that sense should be made actual through financial scheme to help less developed countries to progress when liberalization might cause them economically. Without concrete measures such as this, AEC will lose its essence and its future is uncertain.



# **GEARING UP FOR ASEAN ECONOMIC COMMUNITY: SME RESPONSE AND PREPAREDNESS TO REGIONAL MARKET INTEGRATION**

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UNIVERSITAS GADJAH MADA



## **GEARING UP FOR ASEAN ECONOMIC COMMUNITY: SME RESPONSE AND PREPAREDNESS TO REGIONAL MARKET INTEGRATION**

*Dyah Ratih Sulistyastuti, Muhammad Prayoga Permana and Nisa Agistiani Rachman<sup>115</sup>*

ASEAN Economic Community (AEC) is aimed to accelerate transformation of Southeast Asia region into a more stable, prosperous, and highly competitive area with equal distribution of economy development, reduced gap of social-economy and poverty. The creation of AEC, which was then embodied in the blueprint, consists of free trade of goods and services, investment, asset, and mobility of skilled human resource in service sector. In a nutshell, AEC eliminates most of intra-ASEAN trade barriers, creates trade facilitation and policy harmonization programs. An effective AEC implementation ideally facilitates efficient process for production of goods or service beyond national borders regionally.

Problems arise when the short term reality of Small and Medium Enterprise (SME) development are way from the vision of AEC. Lim Jock Hoi in Basu Das (2012) identified challenges such as how regulation can balance the massive flow of direct investment with SME growth. The other challenge is the heightening competition in product efficiency when local product and imported one are facing each other. In fact, there are some problems faced by SME in Indonesia. Human resources problem, low access to capital, and limited market access seem far from being resolved. This fact is certainly concerning; because the number of SME in Indonesia is much higher than large enterprises. The percentage of SME consistently stands at 99% of the total enterprises in Indonesia since 2009. In terms of employment contribution; SME utilizes more than 97% of the total number of employees working in private sectors.

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**Table 1. The Comparison between SME and Large Enterprise in Indonesia**

	2009	2010	2011	2012
<b>BUSINESS UNIT</b>				
SME	52.764.603 (99,99%)	53.823.732 (99,99%)	55.206.444 (99,99%)	56.534.592 (99,99%)
Larger Enterprise	4.677 (0,01%)	4.838 (0,01%)	4.952 (0,01%)	4.968 (0,01%)
<b>CONTRIBUTION TO NON-OIL AND GAS EXPORT</b>				
SME	162.254,5M (17,02%)	175.894,9M (15,82%)	187.441,8 (16,44%)	166.626,5 (14,06%)
Larger Enterprise	790.835,3 (82,98%)	936.825 (84,19%)	953.009,3 (83,56%)	1.018.764,5 (85,94%)

Source : The Ministry of Cooperatives and SME of the Republic of Indonesia, 2013 (data processed)

The stumbling blocks in terms of resources, capital and access could be some variables determining the low SME contribution to export. It is interesting to note that even though the number of SME is higher than large enterprise, their contribution to export is not significant compared to their large counterparts. Figure 2 illustrates the total SME contribution to export has never accounted more than 9% of total non-oil exports from Indonesia. This figure also shows more concerning issue; Indonesia's SME contribution seems much lower than other ASEAN Six such as Malaysia (28%), The Philippines (33%), Thailand (35%) and additionally, Vietnam (17%).

**Figure 1. Comparison of total exports of large enterprise and SME in Indonesia and Southeast Asian countries.**



Source : Wignaraja (2012) in Sato (2013)

The problems faced by Indonesian SME potentially hinder this sector to be able to compete regionally. On the other hand, *negative Spillover Effect* or the challenge of incoming cheaper imported product is inevitable. Indonesia has experienced implementation of the ASEAN-China Free Trade Area (ACFTA) in 2010. It is general knowledge that Chinese product were able to compete in Indonesia's domestic market. Regardless its quality, Chinese product offered cheaper option with wide range of varieties that are favorable to wide segment of local customers.

As the implementation of AEC is approaching near, various institutions were involved in measuring domestic market preparedness to the new regional economic landscape. One example, national government approach to measure preparedness is mapping policy liberalization list that complies AEC Blueprint. It shows how far Indonesia's policy accelerates its market liberalization to catch up with regional requirements. Yet, this approach does not illustrate domestic stakeholders' preparedness to AEC. Therefore, it is intriguing to question: *How are the capacities of SME to face AEC? How are they responding the change?*

Data collecting was conducted by a survey interviewing 410 SME located in Yogyakarta Special Provinces of Indonesia. Specifically, this study focuses on food processing and clothing based SME. The following section covers the rationale of selecting those two kinds of SME.

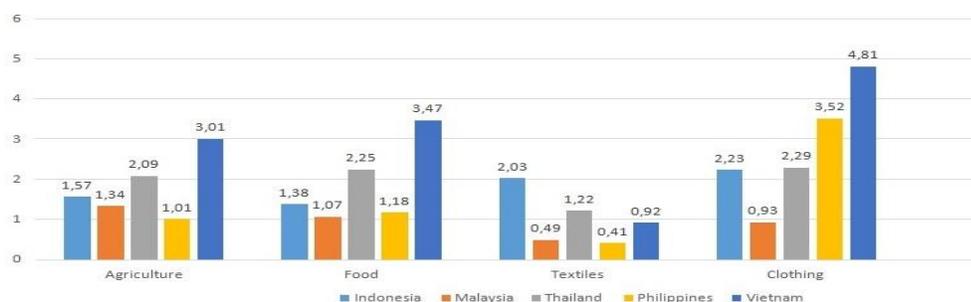
### **SME in Yogyakarta Special Province of Indonesia: Clothing and Processed Food Based SME**

Yogyakarta Special Province of Indonesia (DIY) is one the provinces in the country that generates its economy from the SME businesses. The number of SME in DIY continues to increase every year. This study focuses in SME based in clothing and food processing because these are where the production process took place, also where the creativity and innovation of product development are done. With the innovations developed in the industrial sector, value-added and competitiveness of a product will increase. In addition, small and medium industries should be supported because they have great export potential.

Clothing industry, especially the textile apparel commodity, becomes a product that was ranked first in DIY exports with total value US\$ 74,96 million in 2013. On the other hand, the food processing products are also significant contributor. This is because food-processing industry has the largest number of business unit with 38.291 SME. It is predicted to become one of the high competitive sectors in ASEAN market.

Further, food and clothing industries are on the top of products with the highest RCA (Revealed Comparative Advantage) for Indonesia. RCA is one of the popular methods that are used to measure product competitiveness. Based on the report of Chandran (2010) in *Complementary and Similarity in Trade Between India and ASEAN Countries in the Context of the RTA*, Indonesian products with the highest RCA products were clothing (clothing and textiles) and agricultural also food products (agriculture and food). In ASEAN context, we attempted to bring RCA data to a comparison. It reveals that Indonesian food products are less competitive than Vietnam, as well as in clothing. The latter products are still lagging behind Thailand, Philippines and Vietnam.

**Figure 2. RCA of Indonesian product compared to similar product from ASEAN countries**



Source : WTO, 2010 (data processed)

## **Strengthening The Role of SME in Times of Regional Economic Integration: A Literature Review**

In both developed and developing country, SME plays an important role in economy. In developed countries and newly industrialized countries (NICs), SME contributes as a subcontractor that provides a wide range of inputs for large-scale enterprises. However, the role of SME in developing countries is somewhat different from that in developed countries. The role of SME in developing countries is often more associated with government's efforts to overcome the economic and social problems, namely: reducing unemployment, poverty eradication, and the equitable distribution of income.

SME has complementary roles with large companies in the creation of employment opportunities and economic growth (Giaoutzi et.al, 1988, Armstrong et.al, 2000, Tambunan, 2000, Sudarto, 2001). Urata (2000) who had observed the development of SME in Indonesia revealed that SME played some important roles in Indonesia. Some roles are: (1). SME is the key player in economic activity in

Indonesia, (2). Provider of employment, (3). Important player in local economic development and community development, (4). Creator of the market and innovation through flexibility and sensitivity and dynamic linkage between corporate activities, (5). Contributes to the increase in non-oil exports. Meanwhile, Tambunan (2001) stated that SME were also able to reduce income inequality, especially in developing countries.

Modern theory considers the importance of the existence and the development of SME related to flexible specialization in production and export. Piore and Sabel (1984) emphasized that SME was very important in the production process with the ability to specialize. With the ability to specialize, then there is a linkage between SME and large enterprises. It is very important for the development of SME and large industries and the economy as a whole. A linkage is a pattern of relationships among companies with mutual benefit. In this case, SME highlight their position as providers of spare parts and inputs for large-scale businesses through subcontracting pattern. The experience of developed countries such as Europe, the United States also recently industrialized countries (NICs) such as Korea, Japan, where SME is very important as supporting industries that provide inputs, spare parts and other components needed for large-scale industrial production processes.

The role of SME in Indonesia is more associated with the classical roles that are related to overcoming unemployment and equitable distribution of income. In addition, SME in Indonesia still has a strategic position that can't be ignored. First is the capital aspect. SME does not require a huge number of capital as large company so that the formation or the entry to this kind of business is not as difficult as large company. Second, in the aspect of skills and education small industries do not require certain high/formal education (Tambunan, 2000). Most of the human resources required by small industries are based on experience (learning by doing) that related to historical factors or path dependence. It is often found in crafts, carving, and *batik* industry. Third, their locational aspect. Most of the small industries is located in rural area and does not require infrastructure as large companies (Rietveld, 1987, Weijland, 1999). Fourth is the aspect of endurance. It has been proven that small industry has survival against economic crisis (Sandee, 2000).

In the context of AEC, the blueprint of AEC considers important role of SME as the backbone of regional economy. SME is considered to bridge development gap among others through employment. In addition to the human resources factor, the East Asian Summit in 2011 emphasized the importance of the role of SME as a vehicle to accelerate the growth of the ASEAN region, balancing domestic and regional needs including inclusive growth catalyst.

The vision of SME development in ASEAN APBSD (ASEAN Policy Blueprint for SME Development) framework is *"The Blueprint aims to facilitate the emergence of an ASEAN SME sector that is entrepreneurial, outward looking, competitive and resilience"*. Strengthening the role of SME in the ASEAN Community is directed through two contexts. First, through their participation in regional production networks as part of the production chain of a multinational company and second, through the inclusive way that is developing capacity of SME that is expected to work together with community development.

Levy, Berry and Nugent (1999) stated that SME are in a less favorable condition to participate in regional production network. SME faced constraints in information, financial, managerial capacity and technology so that the probability of SME participation in regional production networks becomes smaller than their counterparts such as large companies. Such condition applies to SME in ASEAN as well; SME in ASEAN are not be able to participate in regional production networks. The data shows, only SME in Malaysia and Thailand are quite competitive. SME participation rates in the two countries reach 60%, while Indonesia is only 14%. Besides the capacity factor, Lim and Kimura (2010) argued that SME lies on its network to be able to participate in regional and international networks. From the networks they acquire market knowledge and reaching more opportunities. Basically SME that attempts to engage in a regional network must understand the market where they will operate.

The low participation of SME in the regional production networks provides context that development capacity of SME via inclusive path becomes crucial. Sato (2013) argued that the SME in ASEAN generally had micro-scale and located in rural areas that based around agriculture. Small business units are mostly constrained by the problems of access to finance and the broader market. SME in ASEAN, especially Indonesia is also categorized as a missing middle (Sato, 2013). Missing middle describes the conditions where SME can absorb a lot of human resource as they work with low productivity without high technology. Therefore, the first phase of APBSD before the implementation of AEC in 2015 decided to focus in developing SME through direct and indirect support. The role of government in supporting SME in ASEAN directed through the following policies:

1. Direct support for the development of SME through capacity development programs.
2. Indirect support in creating a conducive business environment for SME development

3. Formulating policies that match ASEAN regulation to support the implementation of effective policies.

Aldaba (2013) further emphasizes the classical role of government, especially in increasing SME capacity to prepare for AEC 2015 is not enough. The government needs to improve promotion and regulation that encourages SME participation in regional production networks. In addition, to prepare for SME in times of regional economic integration, the government needs to do a series of policies such as:

- a. Formulating coherent and multi-sector policies.
- b. Increasing the awareness of SME to be involved in regional production networks, including providing an understanding about the subcontracting process if necessary.
- c. Resolving problems related to capital access by changing the mindset of financial institutions. Traditionally, the mindset of financial institutions is stuck in the view that SME have a low rate of loan repayment.
- d. Specific training to enhance the managerial and financial capabilities, especially for export capacity.

The vision of SME participation to regional production network could be too good to be true for some experts. In 2010, Tambunan (et al) envisioned AEC and its impact to SME in four scenarios, both positive and negative. *First*, through regional competition. Tambunan suggested that tariff and barrier removal might increase competition. This situation will encourage local player to enhance their competitiveness through product efficiency. In long term, competitive player will survive while inefficient player will be eliminated. Tewari (2001) described a similar pattern in India. He stated that 15 years after liberalization some textile based SME were declining in terms of their production capacity and capital. *Second*, AEC will impact SME when prices of their products go down. Import fee elimination for raw materials and intermediate goods will help SME that relies on imported raw materials or goods to stay competitive. *Third*, through export meaning that removal of trade barriers will stimulate business to contribute for export. *Fourth*, when export has increased local players will face difficulties to access local based raw materials and intermediate goods.

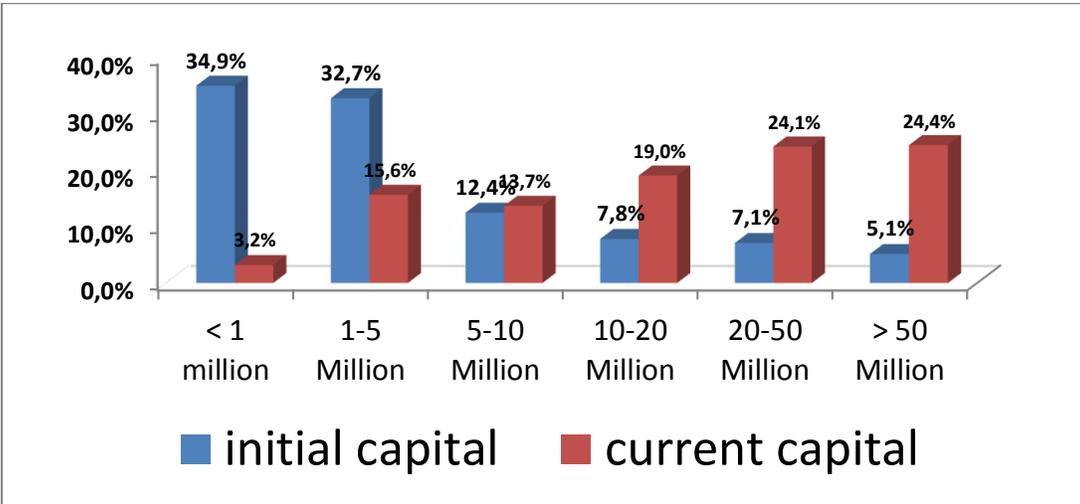
Tambunan (2010) further argues that the key challenge of SME to survive in times of market liberalization relies on their capacities to compete with imported products. SME capacities depend on their production capacity, human resources, innovation, the use of technology, and willingness to improve their product quality. He sets several variables determining SME competitiveness. Internally, managerial capacity, strategy, corporate culture, access to capital and availability of raw material

are mentioned to be the variables. In external box, Tambunan pointed out to infrastructure, location, regulation, access to raw materials and market, marketing strategy and institutional capacity.

**Local SME Capacities: Access to Finance, ICT Utilization and Market Access (Linkages)**

SME that we observed in survey demonstrated impressive growth. This indicates that their financial capacities were accelerating from time to time (see figure 3). At the initial phase, SME were grouped at the left side, which means that they started their businesses from small amount of finance. On the contrary, current development shows the SME has been transformed as they grouped on the right side. When starting up, most of SME stated they spent their initial capital in less than one million rupiahs, the proportion of them is 34,9%. Meanwhile, 32,7% of them had initial capital around 1,5 million rupiahs. From these two conditions, it can be inferred that to start up a business, one does not require considerable amount of money.

**Figure 3. SME Financial Capacity: Initial and Current Development**

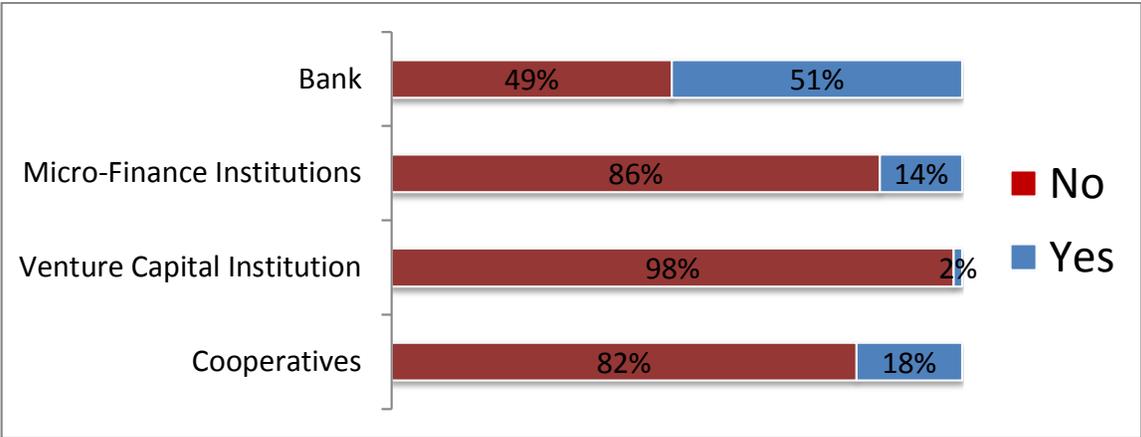


Another strategic issue related to finance is certainly SME access to finance. IFC (International Finance Corporation) report during The G20 Summit in Seoul 2010 described that the major constraint for financing the SME in developing nations was their access to major source of finance.

Various data indicates that SME relied on internal financing rather than financial institution. The similar pattern appeared in our data, the major source of

finance came from internally generated funds. Specifically their own savings or loans from relatives. Figure 4 depicts that only 51% of respondents said that they obtained loan from bank, 18% from cooperatives, 14% from micro-finance insitutions, and the least from venture capital institution which accounted only 2%.

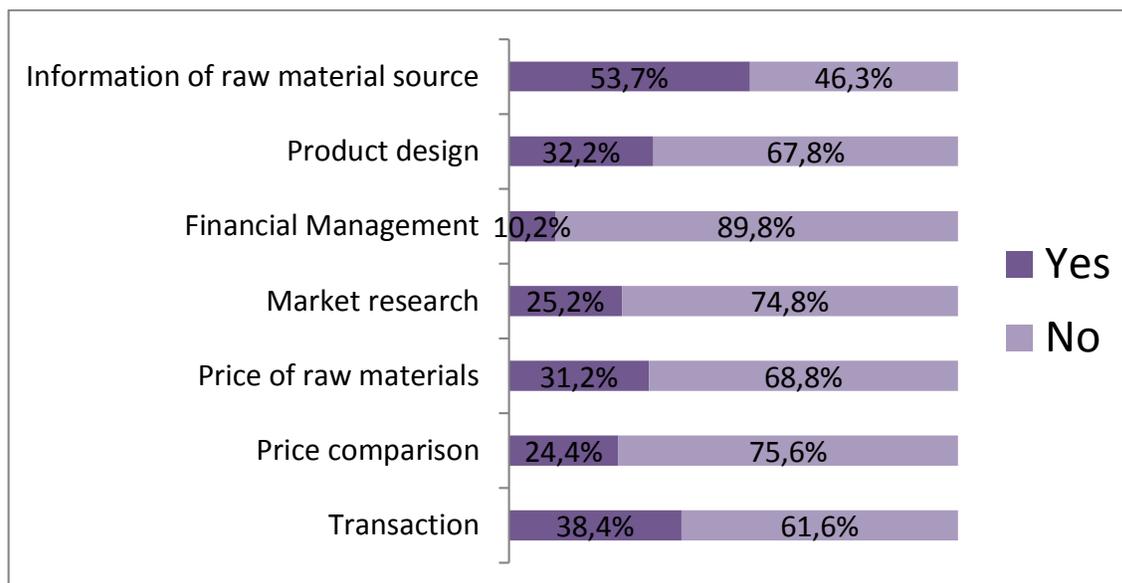
**Figure 4. Major Sources of Finance**



SME finance gap to access formal financial institution was due to their traditional characteristics. Some SME do not possess business license for their legal status. Such condition hinders SME to access formal financial institution. 63% of 410 respondents revealed that their business are not legally registered while 91% of them have unclear legal status. Consequently, they are not eligible for bank loans.

In terms of innovation, capacity of SME to innovate is important determinant of SME participation in production networks. One of the main factor is ICT utilization that facilitates SME to innovate, aside from the innovative managerial capacity and human resources. Some research found that ICT is important to SME because it helps them to develop organization performance and effectiveness. Schubert and Leimstoll (2007) conducted a quantitative study regarding the co-relationship between ICT usage and SMEs business objectives and the result was positive. The figure below shows the use of technology by SMEs.

**Figure 5. ICT Utilization Among SME**



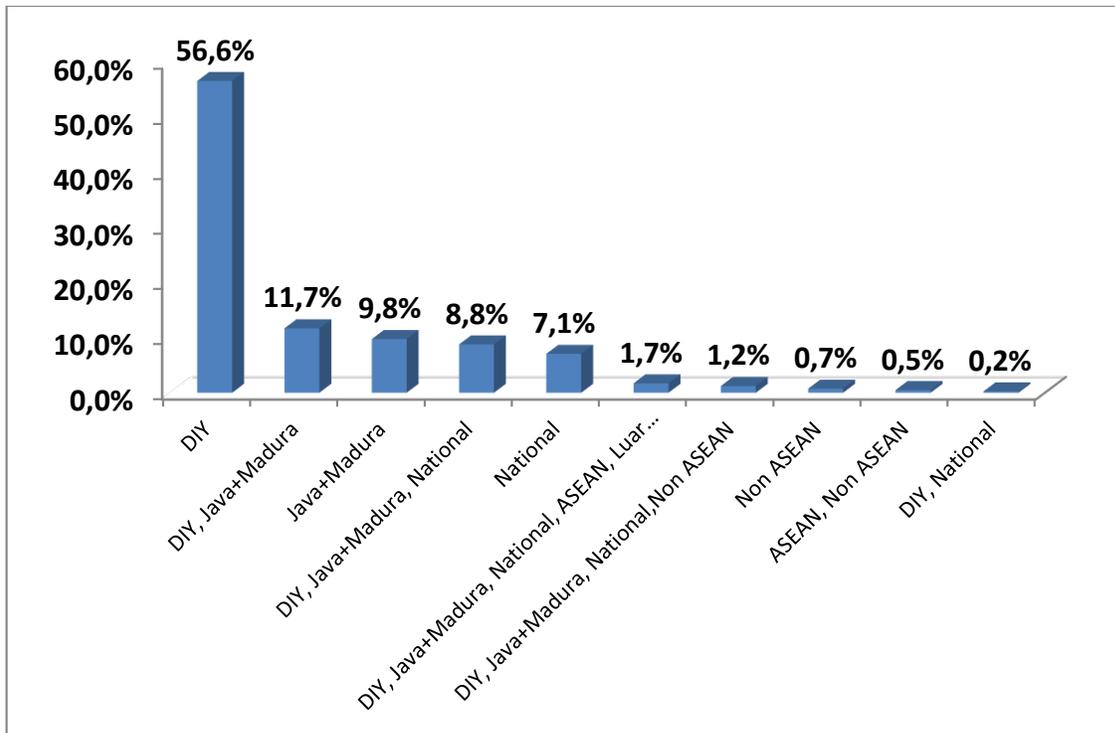
The above figure shows the low utilization of ICT among the SMEs. The most frequent use according to them was ICT utilization to browse information of raw materials source. Meanwhile, the utilization of ICT in some SME provide some reasons for optimism. SME are heading to maximization of e-commerce opportunity particularly through social media. Social media according to them provides a room for efficient method of marketing. They dont spend specific amount of money to publish their products. However, they assign part-time employer to keep their social media account updated and being responsive for customer demand.

Lastly, another crucial indicator to assess SME capacity is their linkages. Linkage may involve the production process and as well, marketing linkage. Marketing linkages related closely to product quality. The basic assumption is that the broader linkages SME possess, the better product quality they provide. According to McGrath, Helen (2008) Market orientation is the organizational culture that creates the necessary behaviors for the creation of superior value for buyers and thus continuous superior performance for the business.

For the case of food processed and clothing industry based SME in Yogyakarta, it can be seen that most of them has domestic oriented market. That means these two kinds of product are currently not bound for export. According to the figure 56,6% of them bound for local (provincial scope) market whereas for national level it accounted for less than 9%. There are several obstacles hindering SME for a broader market. The most crucial problem is product standard and certification that is crucial for export requirements. Among 410 respondents, 46% are not certified yet. Therefore, the lack of SME capacity to meet the standards has to be addressed

by government by capacity building program.

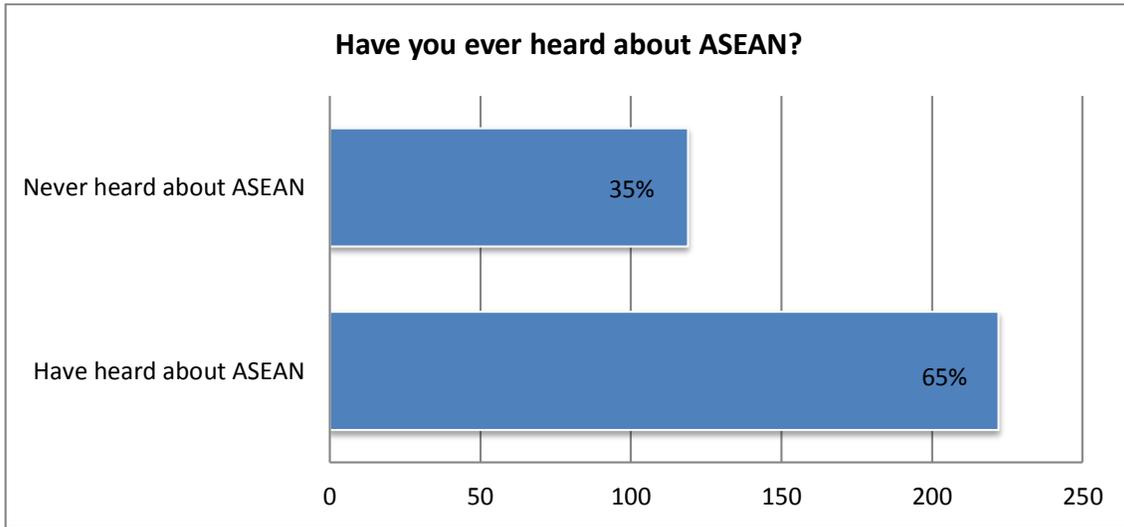
**Figure 6. SME Market Orientation/Destination**



### **Local SME Response and Preparedness to ASEAN Community**

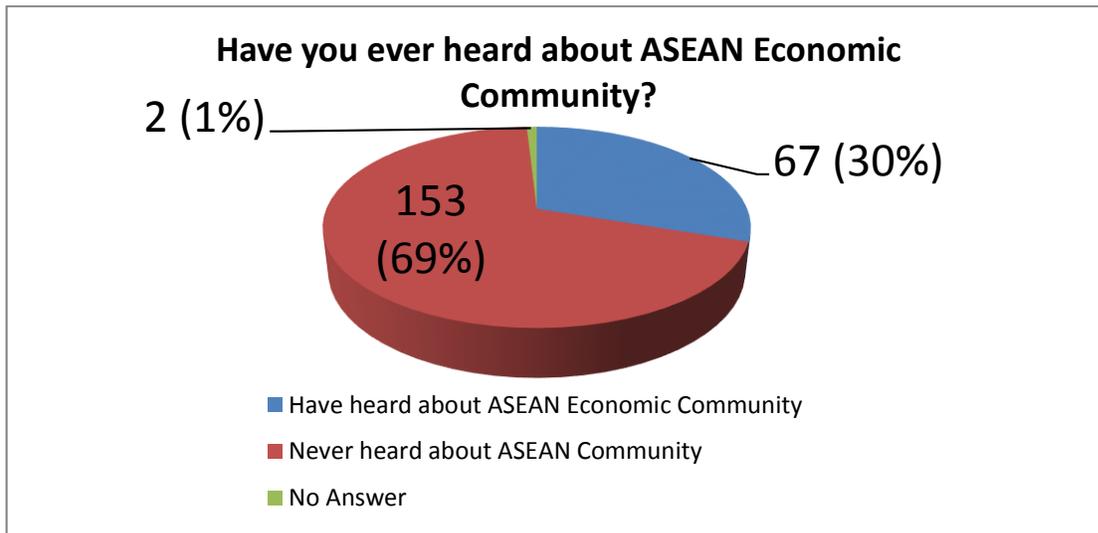
Understanding of 'what ASEAN is' plays crucial role in shaping SME response to ASEAN Community. Amongst 410 respondents that have been interviewed, it is evident that most of the respondents has heard ASEAN as regional entity. The figure below depicts 65% of SME owner are familiar with the term 'ASEAN'. This fact is not surprising, Indonesian education curriculum has introduced the knowledge on ASEAN since elementary school. Such curriculum has been implemented nationwide in social science particularly for history or geography classes. Yet, this ASEAN awareness building program is mere introducing ASEAN itself and its basic organizational structure, members and founding fathers in 1967.

**Figure 7**



Awareness building of ASEAN and its current development might be the most important area to be improved. Figure 7 captures that even though 65% of SME owner know ASEAN, 69% of them are not familiar with ASEAN community. Government and ASEAN Secretariat for instance has various programs to disseminate the blueprint of AEC. However, this effort must be accelerated as the implementation of AEC blueprint is approaching near. ASEAN Studies Center has hold a focus group discussion involving several government units to discuss local government preparation to AEC in Yogyakarta. The discussion brought up a reality that some representatives never heard of AEC such as officer in Agricultural and Farming Authority at the provincial level. The officer told us that even though agricultural industry plays a very significant role in shaping Indonesia's comparative advantage in regional context, the dissemination of such new economic landscape was minimum.

**Figure 8**

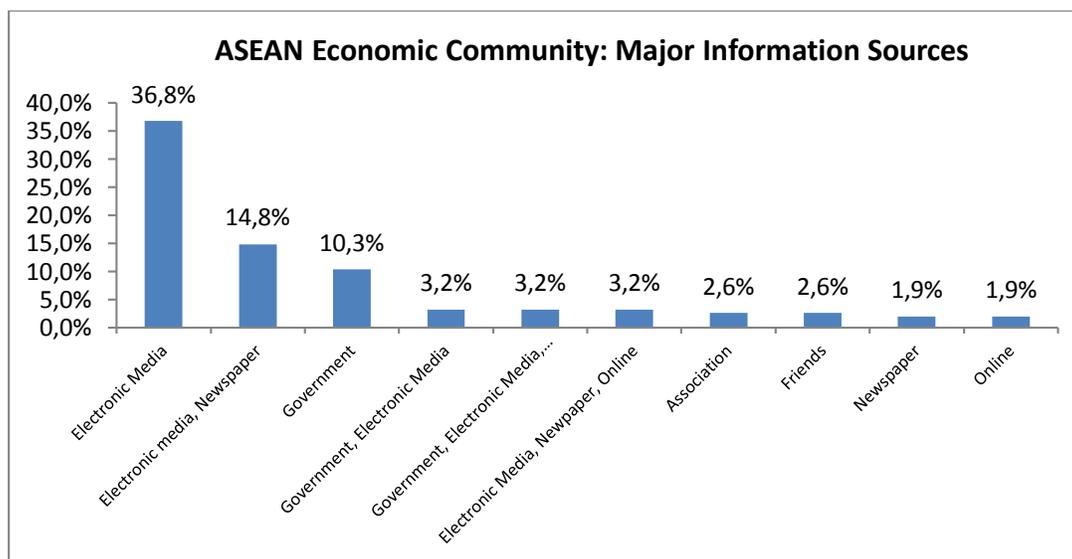


This lack of awareness among the public servant, may partly affect the level of SME awareness on AEC Issues. In a decentralized Indonesia, local government dominates program activities in their areas. Moreover, depending on central government support for AEC-related activities sounds impossible. The limit of central government authority and coverage at the entire cities are the reasons. Consequently, without sufficient knowledge of AEC and its significance to local economy, dissemination program delivered by public sector would not be priority. The know-how of AEC might not be disseminated largely among the SMEs. As a result, SMEs are not equipped well to face AEC.

Addressing this issue, local government argued that their focus for ASEAN Community related program are in SME owners with handicraft products due to their high contribution for export. According to public officials, Handicraft based SME owners have been approaching local government agency for industry, commerce and cooperative to conduct training before the beginning of AEC in 2015. SME owners perceived that capacity building program for know-how of AEC is crucial as such program has never been implemented. Government strategy to disseminate the know-how of ASEAN Community here seems right by trying to put effort on SME that possess export capability to compete in regional market. However, learning from the implementation of ASEAN-China Free Trade Area which came into effect in January 2010. Indonesia's market faced challenges as imported products continuously entered local market. Local garment product, textile and processed food began to compete with cheaper Chinese product. One might argue that this condition possess challenge such as negative spillover effect.

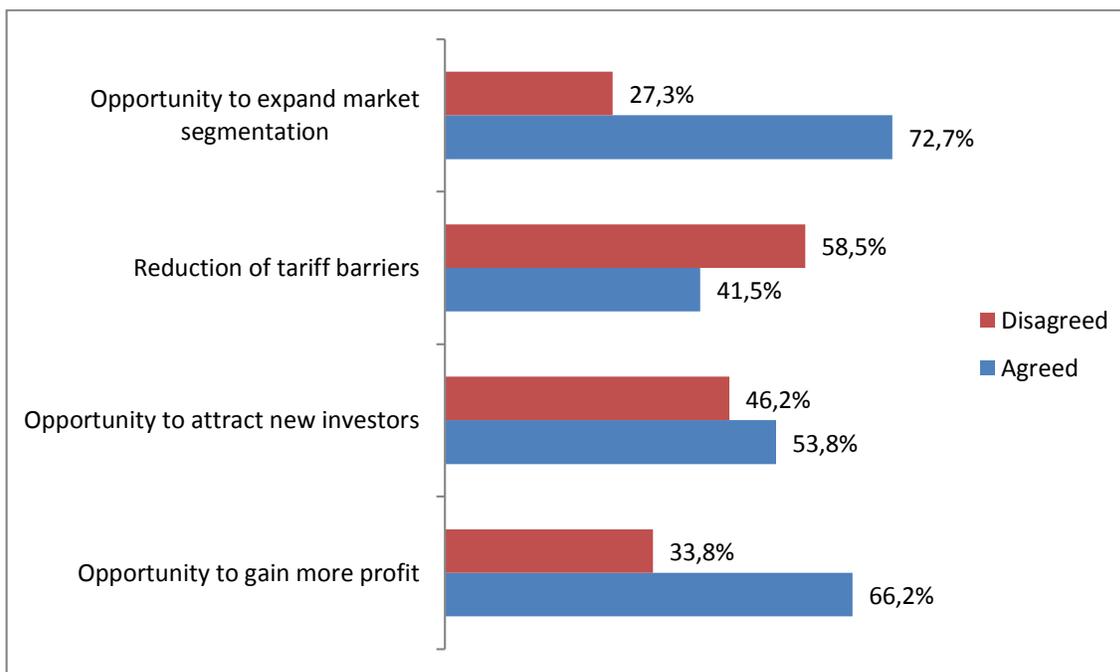
Recently in late August 2014, Ministry of SME and Cooperative released an advertisement sounding the challenge of AEC and their support in terms of institutional capacity building and SME loans. This could be the only public campaign through electronic media (such as TV and radio while internet was classified differently) on AEC in Indonesia. Government sees electronic media effectiveness to disseminate their programs. In June 2014 or two months before the campaign was launched, we further interviewed respondents who have heard about AEC. As it depicted in figure 9, nearly 37% of the respondent said they knew AEC from electronic media while 15% of them heard from both electronic and printed media (newspapers, magazines and etc), and only 10% knew from the government. This result seems in line with previous assumption that local government effort to introduce the new regional economic landscape was minimum.

**Figure 9**



Aside from information dissemination program, it is interesting to question SMEs perception of AEC. We divided the questionnaire into two different answers that enable SME to perceive ASEAN Community as opportunity and challenges. In terms of opportunity, major SMEs perceived AEC in positive ways. They grasped the new economic landscape as a chance to gain more profit, to attract more investors and to expand their market segmentation. However, tariff elimination for export remains a stumbling block. It is true that ASEAN 6 countries (Indonesia, Malaysia, Singapore, Thailand, Philippines and Brunei) has reduced their tariffs to nearly 90% to comply ASEAN integration scorecard but domestic challenges could be another obstacles. Added value tax, export tax imposed by government and complicated procedures are some obstacles that hinder SME to export according to the SME owners.

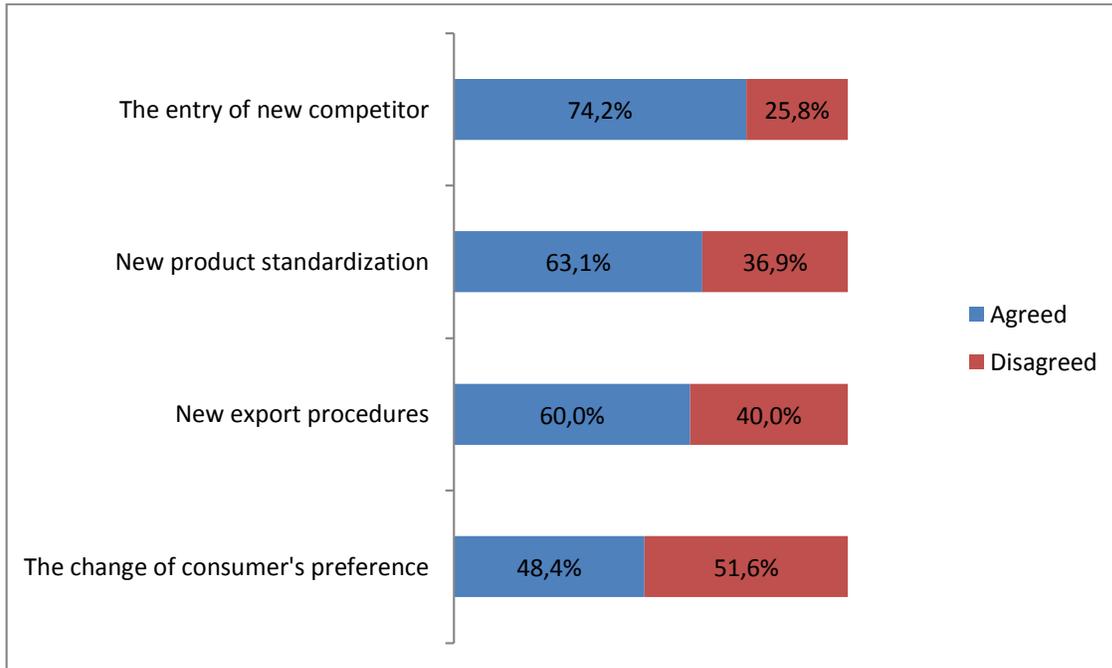
**Figure 10. SME Perception of Opportunity in AEC**



In the other hand, SME owners confirmed that AEC itself possess challenges. shows 75% of the respondent affirmed the entry of new competitor from their neighboring countries as a challenge. They also believed that there are some new product standardization applied for export with different procedures. This perception signifies a condition where SME owners are aware with fundamental change in 2015. The awareness of new competitor entry ideally implies that SMEs could not operate on the same way. In order to compete, innovation and proper strategy is necessary.

Nevertheless, SME did not predict consumer preference change would take place significantly. This perception appears due to local characteristics and contents in products they sell. Batik product for example, its traditional pattern and handmade production mechanism are difficult to be replicated by competitors in regional market. As well as Batik, traditional food industries perceived in similar pattern. Despite the need of upgrading their packaging and complying HACCP standards, local SME appears to be confident that 'local taste' prevails as their comparative advantage. Such confidence indicated more in further question, 67% of SME stated that they did not specifically prepare themselves to face the challenges of AEC.

**Figure 11. SME Perception of AEC Challenges**



## **Conclusion**

A year before AEC (for ASEAN 10 free trade area) is fully implemented, it can be concluded that there are many areas for SME to be improved. SME in Yogyakarta were generally enjoying periods of massive growth. Yet, in terms of capacity, lack of access to formal financial institution was concerning. The issue of legal license as primary requirement for accessing loans must be first addressed. In addition, public sectors are suggested to encourage ICT utilization. As the regional market opened and people connected each other closely, SME product marketing should embrace new ways to approach the new regional landscape. This approach could also support SME to reach market beyond their limits. The survey illustrates that SME with domestic market oriented are dominated.

SME low awareness to ASEAN Economic Community is another crucial issue. Despite the popularity of ASEAN as regional entity, most of the SME was not exposed to AEC and its current development. Those who understand the challenge of AEC perceived a little opportunity behind trade barriers elimination and facilitation. Local barriers such as infrastructure, value added tax and little incentive for export contribute to decreasing benefit of tariff elimination. Furthermore, some SMEs are gearing up for more changes as they aware of several changes occur as inevitable consequences of AEC. They aware of new competitors entry to domestic market, new

product standardization and new export procedures. However, they don't perceive consumer's change as some products they market possess local contents.

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# **ASEAN INTRA-REGIONAL TRADE: TRENDS AND ISSUES AHEAD OF THE ASEAN ECONOMIC COMMUNITY**

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# **ASEAN INTRA-REGIONAL TRADE: TRENDS AND ISSUES AHEAD OF THE ASEAN ECONOMIC COMMUNITY<sup>116</sup>**

**RA, Hee-Ryang<sup>117</sup>**

## **Abstract**

This study examines the trends and issues of intra-regional trade of ASEAN ahead of ASEAN Economic Community in 2015. For comparative study we examine the cases of EU, NAFTA, and MERCOSUR as well. ASEAN has achieved the economic development through trade liberalization and export-oriented strategy. Furthermore, intra-regional trade of ASEAN has been accelerated along with the launch of a regional free trade agreement AFTA in 1993, and free trade agreement (FTA) with China, Korea, Japan, India, and EU since the mid-2000s. For example, ASEAN's trade volume has increased sharply and the intra-regional trade share has increased gradually during last 30 years (1980~2012).

However, the quantitative growth like increase in the scale and share is not sufficient condition for the improvement of level of trade of qualitative growth. For ASEAN, intra-regional trade intensity index and regional trade introversion index have decreased in spite of the increase of the volume and share of intra-regional trade. On the contrary for EU, NAFTA, MERCOSUR, the intra-regional trade intensity index and regional trade introversion index have increased gradually meaning of the advance of intra-regional economic integration in these economic area.

In particular, in order to successful launch of the ASEAN Economic Community by 2015 the strengthening of the linkage of production line and supply chain among ASEAN countries are necessary. Therefore, for the development of more comprehensive intra-regional trade development and a high level of regional economic integration, the liberalization of intra-regional trade should be advanced and the orders and norms for the trade need to be sought. In addition, intra-regional trade needs to be oriented toward final goods, especially consumer goods. The deepening of inherent and qualitative intra-regional trade with a quantitative growth

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of trade in the region would be the one of the essential factors for the successful realization of the ASEAN Economic Community.

**Keywords:** intra-regional trade of ASEAN, intra-regional trade share, intra-regional trade intensity index, regional trade introversion index, EU, NAFTA, MERCOSUR

## I. Introduction

ASEAN is one of the most outstanding, newly emerging regions that have achieved dynamic economic growth and development. Despite the economic depression worldwide after the global financial crisis and European fiscal crisis, ASEAN has stably maintained 5~6% economic growth rates since 2009. After the formation of AFTA in 1993 and the East Asian economic crisis during 1997-1998, it has accelerated the entry into the global economic system, expanding its trade liberalization through FTA with China(2005), Korea(2007), Japan(2008), India(2010), and Australia/New Zealand(2010) in 2000s. Thereafter, its economic liberalization and integration, both in and out of the region, has been accelerated more rapidly.

The economic integration over ASEAN started in full scale with the establishment of AFTA with intra-regional CEPT(Common Effective Preferential Tariff) in 1993. As AFTA promoted liberalization of intra-regional commodity trades mainly through tariff negotiations, its characteristics and level of integration were different from those of EU and NAFTA, which sought economic integration through a high level of liberalization in goods, service, capital, labor, etc. Also, in that it sought export-oriented growth strategies through open marketpolicies, FDI, and processing trade, ASEAN was also quite different from MERCOSUR which promoted import substitution growth strategies and domestic consumption-oriented trade policies.

However, as the regional economic integration progressed, the share of intra-regional trade in the total trade would naturally increase regardless of the characteristics and level of economic integration. One of the commonly used indexes to measure the level or extent of economic integration is the intra-regional trade. For example, the intra-regional trade share of ASEAN was 22.1% in 2012, which is higher than 13.2% of MERCOSUR but significantly lower than 59.1% of EU and 39.3% of NAFTA. Such gap results from the difference in characteristics and levels of economic integrations. In other

words, while the intra-regional trade share of ASEAN was lower than those of EU and NASFTA where the level of economic integration has greatly advanced, it was higher than that of MERCOSUR which sought domestic consumption-oriented trading policies.

Since the establishment of WTO in 1995, regional trade agreements (RTA) including FTA have rather drastically increased. After the global economic crisis in the year of 2008-2009, negotiations for large-scale 'Mega FTA' such as TPP, RCEP, and TTIP are now in progress, which is one of the signals that economic integration based on the regionalism expands and is strengthened. In that regard, ASEAN further intensifies existing AFTA, and at the same time, it endeavors to maximize intra-regional welfare by participating in TPP and RCEP negotiations while maintaining its ASEAN centrality. Despite its leading position in terms of regional economic integration, ASEAN seems to reach the limit of the intra-regional trade advancement qualitatively and inherently due to the high extra-regional dependency, fiercer competition among intra-regional nations in the world market, and low level of fragmented trade liberalization (Austria 2012).<sup>118</sup>

To overcome this limitation, ASEAN has consistently made efforts for the establishment of ASEAN Economic Community (AEC hereafter) by 2015.<sup>119</sup> To establish AEC as a substantial economic integration, it has set up for major objectives: 'single market and production base', 'competitive economic region', 'equitable economic development', and 'integration into the global economy.' For the successful fulfillment of each goal, it has established and implemented necessary policies accordingly. For example, the progress of economic integration involves various items regarding the 'single market and production base', such as commodities, service, investment capital, and labor movement

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<sup>118</sup> For example, the details of 5 FTAs that ASEAN has concluded (Korea, China, Japan, Australia/New Zealand, and India) show that their level of market opening is much lower than that of FTAs that Korea has concluded with the U.S. and EU.

<sup>119</sup> ASEAN Economic Community is one of three pillars of ASEAN Community and the other two pillars are ASEAN Political-Security Community, ASEAN Socio-Cultural Community. The intra-regional economic cooperation of ASEAN for the establishment of economic community already began with 'ASEAN Vision 2020' adopted in the ASEAN summit meeting held in Kuala Lumpur, Malaysia, in December 1997. 'Declaration of ASEAN Concord II' adopted in Bali, Indonesia, in October 2003 officially announced the foundation of ASEAN Economic Community as a pillar of ASEAN Community. The 12<sup>th</sup> ASEAN summit meeting held in Cebu, the Philippines, in January 2007, determined that the foundation of ASEAN Economic Community would be brought forward from 2020 to 2015. The objective and specific plans of ASEAN Economic Community were discussed by the Meeting of the ASEAN Economic Ministers and specified further by 'ASEAN Economic Community Blueprint' in the ASEAN summit meeting held in Singapore in November 2007 (ASEAN Secretariat 2008, Sanchita 2012, Sanchita *et al.* 2013a, Sanchita *et al.* 2013b, Siow 2013).

liberalization. It is reported that from 2008 to October 2011, 79.7% of the process was achieved.<sup>120</sup> Besides, the intra-regional trade of ASEAN increased about 20 times during the last 30 years (from USD 23.46 billion in 1980 to 515.27 billion in 2012); and the annual increase rate is more than 10% on average. The growth rate is higher than those of EU and NAFTA in general. Based on this, the intra-regional economic integration of ASEAN would be expected to be accomplished by the time of AEC establishment.

However, whether or not such a quantitative expansion of intra-regional trade and the establishment of a governmental institution have substantially contributed to economic integration is another matter. If not, the establishment of AEC may lose its significance in terms of economic welfare. In this respect, this study examines current conditions and issues of ASEAN economic integration focusing on intra-regional trade. More specifically, the current conditions and characteristics of the structure of ASEAN intra-regional trade are analyzed to demonstrate that the increase and advancement in its intra-regional trade does not necessarily correspond to the enhancement or reinforcement of inherent economic integration. In addition, the characteristics and involved issues of ASEAN intra-regional trade are examined by comparatively analyzing it with other major economic blocs, such as, EU, NAFTA, and MERCOSUR, to clarify the significance of the qualitative and quantitative expansion of ASEAN intra-regional trade in terms of economic integration. With the foundation of AEC just ahead, the findings of this study are expected to present the guideline for the facilitation and qualitative development of intra-regional trade. ASEAN has been struggling to establish its economic community by 2015 internally, and needs to respond to the rapidly changing order of international trade externally. Hence, it is quite timely to discuss its economic integration through intra-regional trade.

This study consists of the following sections: The next chapter reviews the researches on ASEAN intra-regional economic integration and presents the data and analysis methods of intra-regional trade; Chapter 3 specifies related factors of ASEAN including its intra-regional trade volume, intra-regional trade share, intra-regional trade intensity index, and regional trade introversion index order to examine the structure, characteristics, and changes of its intra-regional trade; Chapters 4 and 5 analyze the structures and characteristics of EU, NAFTA, and MERCOSUR, major economic blocs, in

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<sup>120</sup> AIMO (ASEAN Integration Monitoring Office), a division of ASEAN executive office, checks the progress of the economic community project by means of score cards, through which it is investigated whether the governments of each member country of ASEAN implements various specific policies and regulations agreed upon for the establishment of AEC.

comparison with those of ASEAN examined in Chapter 3. In addition, we perform the time series and correlation analysis to confirm the results of Chapter 3. Chapter 6 discusses the significance regarding the establishment of AEC will be discussed and lastly, summarizes the points brought across in previous chapters and points out the limitations of this study as well as the directions for the future study.

## II. Literature review and Data

### 1. Literature review

The researches on ASEAN economic integration and intra-regional trade have usually analyzed the progress and current conditions of ASEAN economic integration and intra-regional trade. These studies make it possible to understand the general aspects of ASEAN economic integration (Lee 2014, Park 2013, Kim 2011, Won 2012, Kwon et al. 2003, Yu 1996, Yang 1994, Chirathivat 1991, James 1986, DeRosa 1986, Langhammer 1985, Naya&Hiemenz 1985, Lutkenhorst 1984). Especially, in 2005 ASEAN Economic Bulletin (Volume 22, No.1) released a special edition that included articles on ASEAN individual country's commercial and trade policies in respect of ASEAN economic integration (Sally & Sen, Southeast Asia; Soesastro&Basri, Indonesia; Athukorala, Malaysia; Tongzon, the Philippines; Liang, Singapore; Talerngsri&Vonkhorporn, Thailand; Vo, Vietnam). Recently, various investigations and evaluations of ASEAN economic integration are actively conducted, home and abroad, as the foundation of AEC in the year of 2015 is coming near (Lee 2014, Linda 2014, Park 2013, Chia 2013, Das *et al.* 2013a, 2013b, Pomfret 2013, Podok&Thoumrungroje 2013, Basri 2013, Noland 2013, Park-Kim 2012, Austria 2012, Das 2012).

In addition, some studies touch upon the economic effects of ASEAN economic integration, for instance, the economic development through elimination of non-tariff sanctions and trade facilitation (Ra 2014), possibilities of ASEAN financial market integration (Lee 2011), the economic effect of ASEAN intra-regional trade in application of a gravity model (Kubo 2012, Warr 2011, Nguyen 2009, Kim 2009, Sen & Srivastava 2009, Widodo 2008, Koh 2004). Several studies on the effects of AEC on economic benefits are also conducted. For example, a general equilibrium analysis reported that when tariff and non-tariff barriers are eliminated, the economic benefits are significant including the 5.3% increase of

ASEAN GDP (Petri, Plummer, and Zhai 2012). Also, as intra-regional economic integration as well as inter-state or inter-regional economic integrations such as China-ASEAN FTA and Korea-ASEAN FTA progressed, the economic effects of the FTA were also examined (Kim 2011, Won 2010, 2002, Ra, 2009, Ko 2007, Kwon 2006, Park 1998).

Particularly, the evaluation and analysis of intra-regional economic integration are actively conducted in relation to the establishment of the AEC. However, the studies on ASEAN intra-regional trade, examine mostly general and comprehensive aspects of ASEAN economic integration, and the details regarding the structure, changes, and characteristics of ASEAN intra-regional trade are insufficient in general. In short, many studies on ASEAN intra-regional trade are a partial, fragmental, and one-time analysis, and there has yet to be a thorough and systematic examination. In this respect, this study investigates the specific characteristics of ASEAN intra-regional trade through the comprehensive and thorough analysis. This study is of significance in that it discusses the inherent development and intensification of ASEAN intra-regional trade in line with more qualitative and inherent development for intra-regional economic integration.

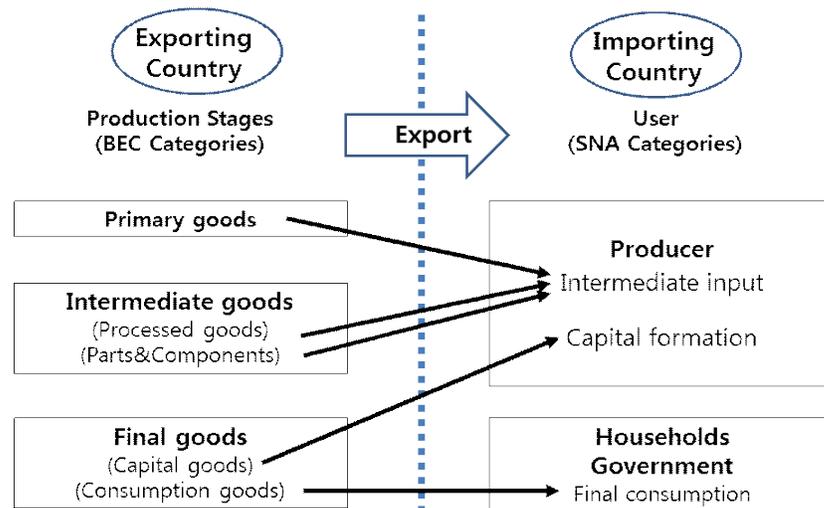
## 2. Data

For the analysis of ASEAN intra-regional trade, we utilized TID (Trade Industry Data Base), a database of trade industry provided by RIETI (Research Institute of Economy, Trade and Industry) in Japan. RIETI-TID is advantageous in that it is a database of trade statistics that reflects international specialization especially useful for the analysis of intra-regional trade. Based on CIF standards, RIETI-TID currently provides trade statistics of 59 countries from 1980 to 2012 including 14 Asian countries, 3 in North America, 30 in Europe, 10 in South America, and 2 in Oceania, which is quite appropriate for the analysis of East Asia economic integration. In consideration of BEC (Broad Economic Categories) and SNA (System of National Accounts), RIETI-TID classifies UN Comtrade SITC (Standard International Trade Classification) statistics into three categories: primary goods, intermediate goods, and final goods. Intermediate goods are sub-categorized to processed goods and parts & components, and final goods to capital goods and consumption goods. Including primary goods, there

are five sub-categories.

Primary goods include industrial raw materials and processed food products (groceries that are directly consumed excluded). These products may be converted into intermediate goods through a certain type of processing. Intermediate goods mean processed primary goods used for final goods to be produced. Based on BEC standards, they are divided to processed goods and parts & components. The manufacturing processes and weights of processed goods and products are varied depending on the industry sector. In general, processed goods are items that are in the medium stage between the first raw material processing and the reprocessing. Threads and textures for clothing, steel plates for vehicle production, etc. are the examples. Parts & components are finished goods as they are but may be used for production of finished goods in a greater scale. Tires and glass for vehicle production are examples. Final goods mean items that a producer uses in a production process or a consumer and the government consume as end-users. The former is capital goods, and the latter consumption goods respectively. <Figure1> shows international trade structure by commodity classification stated above.

**<Figure 1> International trade structure by commodity classification**



Note. RIETI-TID 2012, <http://www.rieti.go.jp/en/projects/rieti-tid/index.html>, Rearranged by author.

### 3. Analysis method

To analyze ASEAN intra-regional trade, this study examines such factors as intra-regional trade volume, intra-regional trade share, intra-regional trade intensity index, and regional trade introversion of the total trading amount and categories of intermediate goods (processed goods and parts & components), and final goods (capital goods and consumption goods) for 33 years (1980~2012). We examine the changes and causes, characteristics, and significance of ASEAN intra-regional trade. First of all, the intra-regional trade share indicates the weight of intra-regional trade of a certain economic bloc in the total trade. This is the most basic indicator for evaluation and analysis of intra-regional trade. The intra-regional trade share is calculated with equation (1):

$$\begin{aligned} \text{Intra-regional trade share}(X) &= A/B \text{ or intra-regional trade} \\ \text{share}(X) &= (A/B) \times 100 \quad (\%) \quad (1) \\ A &= A \text{ certain economic bloc's intra-regional export} + \text{intra-} \\ &\text{regional import} \\ B &= A \text{ certain economic bloc's export} + \text{import to the world total} \end{aligned}$$

To analyze the extent of orientedness of intra-regional trade, the intra-regional trade intensity index may be utilized. This indicates the weight of a certain intra-regional trade in the world trade and can be referred to for comparison. In other words, the intra-regional trade intensity index indicates the intensity of intra-regional trade more objectively and precisely than the intra-regional trade share. The intra-regional trade intensity index is calculated with equation (2); as the value is larger than 1, it indicates a higher level of intra-region oriented; as the value is smaller than 1, it is more extra-region oriented.

$$\begin{aligned} \text{Intra-regional trade intensity index}(Y) &= (A/B)/(B/C) = \\ X/(B/C) \quad (2) \\ X &= A/B \text{ (intra-regional trade share)} \\ C &= \text{World's total export} + \text{total import} \end{aligned}$$

In addition, to analyze the extent of orientedness of intra-regional trade, the regional trade introversion index could be utilized as well. It is theoretically possible that in time series, the intra-regional trade intensity index and extra-regional trade intensity index move in the same direction, and thus increase in the intra-regional trade intensity index may not be a sufficient condition that indicates the advancement of the intra-regional

trade. To overcome this problem, the regional trade introversion index may be utilized as it takes into consideration of the intra-regional inclination of a certain economic bloc as well so as to evaluate intra-regional trade more objectively. The regional trade introversion index is calculated with equation(3). As the result is close to 0, it is geographically neutral; as the value is larger than 0, it is more intra-region oriented.

$$\text{Regional trade introversion index (Z)} = (R_i - R_e) / (R_i + R_e) \quad (3)$$

$$R_i = (A/B) / (O/T)$$

$$R_e = [1 - (A/B)] / [1 - (O/T)]$$

O = A certain economic bloc's extra-regional export + extra-regional import

T = A extra-regional total export + total import

Further, for comparative investigation of ASEAN intra-regional trade and other systems of economic integration intra-regional trade, this study includes a time series analysis of changes over time in the intra-regional trade share, intra-regional trade intensity index, and regional trade introversion index of ASEAN, EU, NAFTA, and MERCOSUR; the correlation of the intra-regional trade share, intra-regional trade intensity index, and regional trade introversion index of ASEAN with those of EU, NAFTA, and MERCOSUR is also examined in order to clarify whether each index of ASEAN intra-regional trade is oriented in the same direction with those of other economic integration. For instance, when the correlation coefficients of ASEAN intra-regional trade share and EU intra-regional trade share are negative(-), it indicates that while ASEAN intra-regional trade share increases, EU intra-regional trade share decreases, or that while ASEAN intra-regional trade share decreases, EU intra-regional trade share increases. By analyzing correlations among the indexes, it is possible to clarify the common factors and difference between the intra-regional trade of ASEAN and those of EU, NAFTA, and MERCOSUR. It is also possible to calculate the correlation coefficients of the intra-regional trade share and intra-regional trade intensity index, and the correlation coefficients of the intra-regional trade share and regional trade introversion index of ASEAN and those of EU, NAFTA, and MERCOSUR. The results would show whether the correlation between

the intra-regional trade share and the intensity of the intra-regional trade or the intra-regional trade share and the intra-regional inclination are positive or negative. In general, it may be assumed that the intra-regional trade share has a correlation coefficient positive(+) to the intensity of the intra-regional trade and inclination of the intra-regional trade. Whether the intra-regional trade of ASEAN and other economic integration also corresponds to it could be confirmed as well.

### **III. Analysis of ASEAN Intra-regional Trade**

#### **1. Trend of the intra-regional trade**

As shown in <Figure 2>, the total trade volume of ASEAN was USD 2.33 trillion in 2012. The volume of extra-regional trade was USD 1.82 trillion, and that of intra-regional trade 515.27 billion. The intra-regional trade accounted for about 22% of the entire volume. The volume of intra-regional trade 22 times increased than that in 1980, USD 23.5 billion. The annual increase rate from 1980 to 2012 is 10.1% on average, which indicates that except the period of the East Asian economic crisis in 1998 and IT Bubble Collapse in 2001, and the global financial crisis in 2009, the scale has continued to increase. As AFTA was initiated and CEPT was applied since 1993, intra-regional tariffs gradually decreased, and the annual increase rate of intra-regional trade from 1993 to 2012 was 9.4% on average. This is higher than 9.0% in the period from 1980 to 1992. Hence, it is certain that AFTA and tariff decrease facilitated intra-regional trade to some extent.

The volume of primary goods was USD 52.41 billion in 2012, 5.4 times greater than 9.75 billion in 1980. The average annual increase was 11.4%, which is higher than the total intra-regional trade increase stated above. It is noteworthy that as shown in <Figure 3>, the average intra-regional trade increase of primary goods from 1980 to 2002 was 0.7%, almost in stasis. In contrast, that for the recent 10 years from 2003 to 2012 drastically increased up to 17.2%. This is because Cambodia, Laos, and Myanmar joined ASEAN early in the 2000s and started playing a role as a new supplier of primary goods in the regions. Besides, the industrialization over these newly joined member countries of ASEAN including CLMV(Cambodia, Laos, Myanmar, and Vietnam) since the 2000s resulted in rapid increase in demands for intra-regional primary goods.

The intra-regional trade of intermediate goods (processed goods and parts & components) was USD 347.11 billion in 2012, 32.1 times greater than 10.82 billion in 1980. The average annual increase was 11.4%, which is higher than the increase rate of the total intra-regional trade. As shown in <Figure 4>, the average annual increase of in intra-regional trade of intermediate goods was 12.2% and 10.8% before and after AFTA establishment respectively. Even before the foundation of AFTA, intra-regional trade of intermediate goods was rapidly expanding. Among intermediate goods, processed goods were carried as much as USD 231.94 billion in 2012, 25.3 times greater than 9.18 billion in 1980 and the average annual increase was 10.6%. The average annual increase of intra-regional trade of processed goods was 8.6% and 12.1% before and after AFTA respectively, which indicates that the increase rate after AFTA was far higher. The volume of intra-regional trade of parts & components was USD 115.16 billion in 2012, 70.1 times greater than 1.64 billion in 1980. The average annual increase was 14.2%, the highest. The average annual increase of intra-regional trade of parts & components, in contrast, was 22.3% and 8.9% before and after AFTA respectively, which indicates that after AFTA, the increase rate became far lower. This is probably because ASEAN went beyond simple parts & components assembly and production and related intra-regional trade. Instead, ASEAN expanded to processed goods production and related intra-regional trade which is advantageous in terms of added value creation.

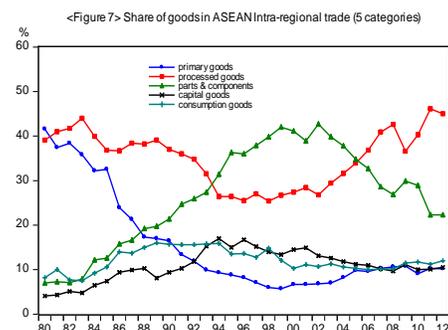
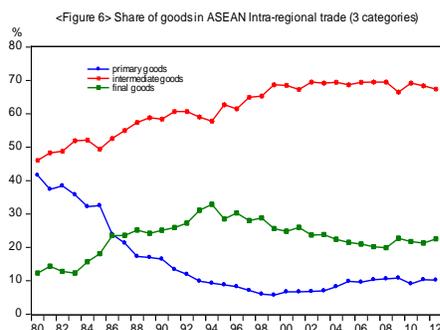
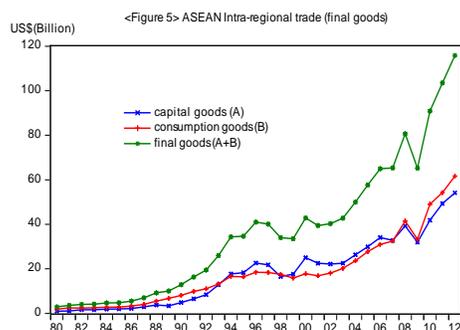
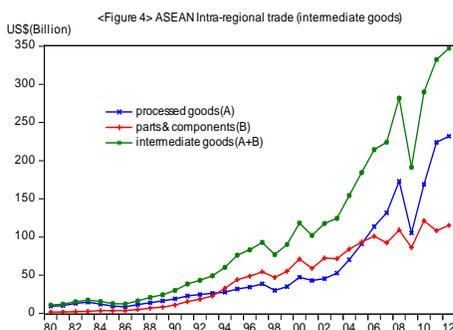
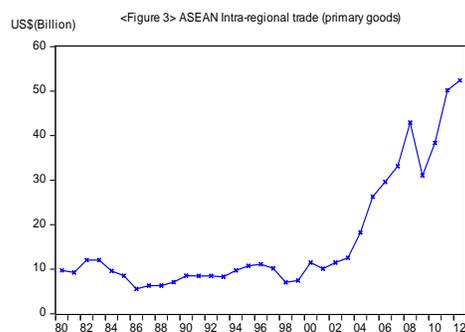
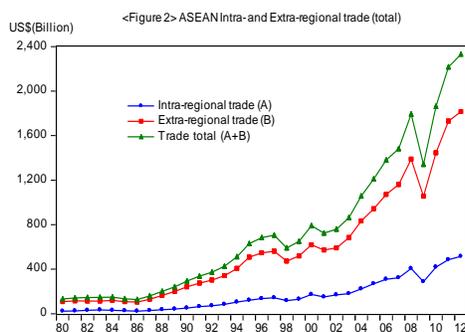
Also, the specialization among ASEAN countries and expansion of the regional supply chains facilitated intra-regional trade of intermediate goods. As shown in <Figure 4>, the volume of intra-regional trade of processed goods in the 1990s was smaller than that of parts & components. Since the 2000s, however, the gap decreased, and the scale of intra-regional trade of processed goods exceeded that of parts & components in 2006. Thereafter, the gap has become greater over time. Such changes indicate that the characteristics of intra-regional production of ASEAN changed in the 2000s: While in the 1990s, ASEAN intra-regional countries focused on the production and export of finished goods based on parts & components import from offshore, they went beyond such simple production method and have developed more effective production and export methods for added value creation since the 2000s.

As to intra-regional trade of final goods(capital goods and consumption goods), the volume was USD 115.75 billion in 2012, 40.0 times

greater than 2.89 billion in 1980. The average annual increase was 12.2%. The average annual increase of final goods intra-regional trade was 17.2% and 8.2% before and after AFTA respectively. It may indicate that after AFTA, the increase rate of final goods intra-regional trade rather decreased probably because the scale of intra-regional trade of intermediate goods exceeded that of final goods. Among final goods, the volume of capital goods in intra-regional trade was USD 54.15 billion in 2012, 55.6 times greater than 0.97 billion in 1980. The average annual increase was 13.4%. The average annual increase of capital goods intra-regional trade was 19.6% and 7.9% before and after AFTA respectively, which indicates that the increase rate of intra-regional trade of capital goods rather decreased after AFTA. Thus, it is certain that the reliance of ASEAN on inter-regional import of capital goods increased when it comes to capital investment for economic growth. The volume of consumption goods in intra-regional trade was USD 61.6 billion in 2012, 32.1 times greater than 1.92 billion in 1980. The average annual increase was 11.5%. The average increase rate of consumption goods intra-regional trade was 15.7% and 8.4% before and after AFTA respectively, which indicates that the increase rate rather decreased after AFTA. Thus, it is certain that as in the case of capital goods, ASEAN relied highly on inter-regional import of consumption goods when it comes to final consumption as well. The scale of final goods intra-regional trade increased over ASEAN to a large extent, but in line with the growth of the processing trade—importing parts & components and processed goods from extra-regional countries, processing and assembling them in the region, and re-exporting the finished goods to extra-regional countries, intra-regional trade of final goods such as capital goods and consumption goods rather decreased after AFTA.

<Figure 6> shows the share of primary goods, intermediate goods (processed goods and parts & components), and final goods (capital goods and consumption goods) in ASEAN intra-regional trade. As to the three major categories of goods—primary goods, intermediate goods, and final goods, the intra-regional trade of primary goods accounted for 41.6% of the total intra-regional trade in the year of 1980, which drastically decreased down to 10.2%. In contrast, intermediate goods accounted for 46.1% in 1980, and the percentage continued to increase up to 67.4% in 2012. Final goods accounted for 12.3% in 1980 and reached the peak up to 32.9% in 1994, decreased again down to 19.9% in 2008, and then turned to rise up to 22.5% in 2012.

<Figure 7> shows the 5 categories of goods—primary goods, processed goods, parts & components, capital goods, and consumption goods. As to the share of processed goods and parts & components in intra-regional trade, the trend is of top and bottom symmetrical with 30% level, which is because processed goods and parts & components are a sort of alternatives for finished goods. From the 1990s to early 2000s in the economic development of ASEAN during which simple assembly and production of parts & components was the mainstream, the share of parts & components was greater than that of processed goods. In the mid-2000s, however, the share of processed goods started to exceed that of parts & components, and the gap became greater over time. This is because ASEAN went beyond simple assembly and production of parts & components and their export and adopted more effective production methods of processed goods for more added value creation. The share of capital goods and consumption goods, both of which are final goods, in intra-regional trade were 17.0% and 15.9% in 1994 respectively. After the peak in this year, the percentages gradually decreased and have remained stable as low as 10% (10.5% and 12.0%) in the year of 2012. This indicates that the reliance of ASEAN on the extra-regional market for final goods has remained almost the same.



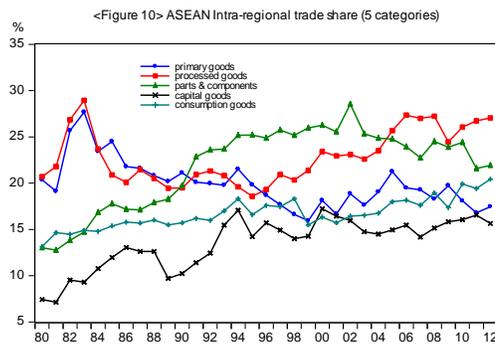
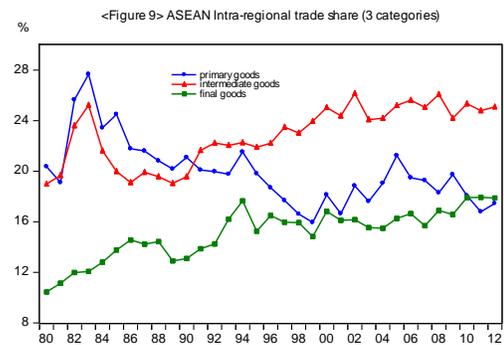
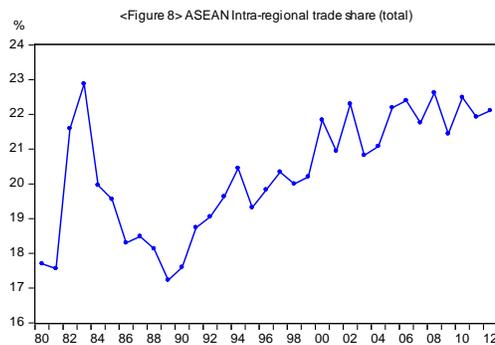
## 2. Intra-regional trade share

As to changes in the intra-regional trade share (IRTS hereafter), <Figure 8> shows that the drastic increase and decrease in the 1980s started bouncing back in the 1990s (although there were some ups and downs).<sup>121</sup> The increase in IRTS of ASEAN resulted mainly from the increase of intra-regional trading along with the increasing intra-regional demands for intermediate goods after specialization in intra-regional production. As to the IRTS of primary goods, intermediate goods, and final goods, <Figure 9> shows that primary goods accounted for 20.4% in 1980, which was the

<sup>121</sup>The rapid increase in the IRTS in the early 1980s was due to the oil shock in 1979-1980 and the reduction in world trade, but it seems to be temporary.

peak, and thereafter, the percentage gradually decreased since the 1990s down to 17.5% in 2012. As to primary goods, as the demands for primary goods and reliance on primary goods import increased in line with the economic growth of ASEAN, the IRTS continued to decrease. In contrast, the IRTS of intermediate goods, which was lower than that of primary goods, which was 19.0% in 1980, continued to increase up to 25.1% in 2012. The IRTS of final goods was 10.4% in 1980, which was far lower than that of primary goods and intermediate goods, but it later continued to increase up to 17.9% in 2012, exceeding the IRTS of primary goods.

More specifically, <Figure 10> shows that the IRTS of processed goods, among intermediate goods, remained around 20% until the mid of 1990s. Since then, however, it continued to increase up to 27.0% in 2012. In contrast, the share of parts & components gradually increased from 13.0% in 1980 to 28.5% in 2002, which was the peak, and then turned back to decrease down to 21.9% in 2012. The IRTS of processed goods was quite different from that of parts & components, although both belonged to intermediate goods, because of the changes in the production methods of ASEAN as mentioned above. In other words, the IRTS of processed goods, advantageous in terms of added value creation, increased while the IRTS of parts & components, the alternatives, decreased. The IRTS of capital goods, among final goods, increased from 7.4% in 1980 to 12.6% in 2012; that of consumption goods increased from 13.1% in 1980 to 20.4% in 2012. However, those of capital goods and consumption goods, which increased from the 1980s to the early 1990s, remained around 15% and 17% respectively from the mid-1990s to the early 2000s, but bounced back in the mid-2000s.



### 3. Intra-regional trade share of ASEAN individual countries

The IRTS of ASEAN changed over time, but in general, has continued to increase. More specific details of changes in the intra-regional trade among ASEAN individual countries are presented in <Figure 11>: The share of Malaysia in 2012 was 26.7%, Singapore 24.6%, Indonesia 24.0%, the Philippines 19.1%, Thailand 16.9%, Cambodia 15.5%, Brunei 12.9%, and Vietnam 12.2%; countries that joined ASEAN earlier showed a higher IRTS than those that joined it later.<sup>122</sup>For later-joined countries, such as Cambodia and Vietnam, the rapid integration into the global economy through the reform and open policy led to the increase in foreign direct investment and trade with world markets instead of being part of the intra-regional supply chains and specialization for intra-regional production. The IRTS of Malaysia and Singapore remained stable around 25% and that of Thailand around 15~20%. In contrast, that of Indonesia and the Philippines remained around 10% in the 1980s while it continued to increase from the 1990s up to 20% recently, the highest among ASEAN countries. This change indicates that the increasing IRTS of ASEAN is led mainly by Indonesia and the

<sup>122</sup>Laos and Myanmar were excluded from the analysis due to lack of statistics. The intra-regional trades of Brunei, Cambodia, and Vietnam were limited to exporting items due to lack of import statistics.

Philippines. The IRTS of Brunei went through rapid fluctuations probably because the amount of foreign trade changed greatly depending on the prices of oil, a major export item of Brunei. The IRTS of Cambodia and Vietnam was under 15%, the lowest among ASEAN countries since the 2000s. This seems to result from the rapid integration into the global economy after the reform and open market policy.

The IRTSs of goods for individual ASEAN countries are presented in <Figure 12>~<Figure 19>. <sup>123</sup> As to the intra-regional trade (export) share of Brunei shown in <Figure 12>, the range of fluctuation was comparatively great except processed goods whose intra-regional export was quite insignificant, because the scale of economy was small, its reliance on oil exporting was high, and the industrial foundation was weak. As to Cambodia, <Figure 13> shows that the intra-regional trade(export) share of primary goods and consumption goods was less than 10%, while that of processed goods, parts & components, and capital goods was high around 70%. Since the export of consumption goods to the world market is of great importance in Cambodia economy, the intra-regional trade would not be quite significant even if the intra-regional trade (export) of intermediate goods and capital goods is crucial for the economy. In the case of Vietnam as well, <Figure 14> shows that the IRTS of goods accounted for 10~15%, relatively low. This well reflects the current condition that the reliance of Vietnam, as in Cambodia, on the trade with extra-regional markets is higher than that on the intra-regional trade.

For Indonesia, <Figure 15> shows the IRTS increases for all 5 goods. The IRTS of parts & components increased outstandingly from the late 1990s and that of processed goods from the mid-2000s. This indicates that as the expansion of the global supply chains and their integration by actively attracting foreign investments since the 1990s, Indonesia's role is growing as a supply base of intermediate goods for final goods production in the regional structure of specialization. The IRTS of consumption goods has been rapidly growing since the early 2000s, which indicates that the consumption sectors as well as production sectors of Indonesia are being rapidly integrated into the regional market. The IRTS of the Philippines as well, as shown in <Figure 16>, is growing in all of the 5 goods as in the case of Indonesia. Likewise, the IRTS of capital goods has remained almost the

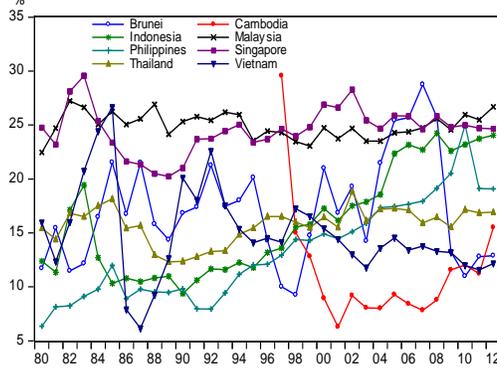
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<sup>123</sup> Here, we do not report the statistics and graphs of the 3 categories of goods—primary goods, intermediate goods, and final goods, because the results or implications are not significantly different.

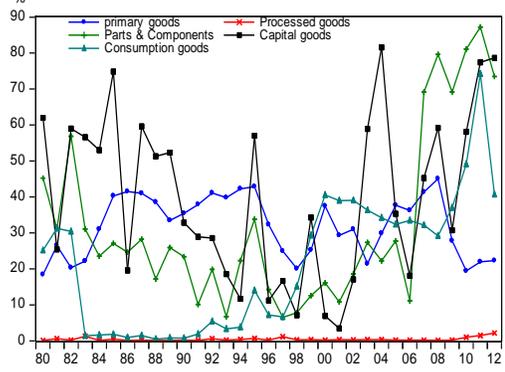
same since the 2000s, while that of processed goods and parts & components is increasing at a relatively high rate. This indicates that the role of the Philippines is growing as a supply base of intermediate goods for final goods production in the regional structure of specialization just as in the case of Indonesia. Besides, the IRTS of consumption goods is also growing fast as the integration of consumption sectors of the Philippines into the regional market rapidly.

As to countries that joined ASEAN earlier such as Malaysia, Singapore, and Thailand, as shown in <Figure 17>~<Figure 19>, the IRTS has remained the same in general. This implies two aspects: First, these countries have played an important role as a supply chain for final goods production and as a production base for the intra-regional market since the 1980s; second, the IRTS of these countries has remained stable because their integration into the intra-regional market has made little progress. As the weight of these countries in the economy and trade of ASEAN is of great significance, the stagnation of these countries in terms of intra-regional trade may results in the stagnation of the economic integration as well.

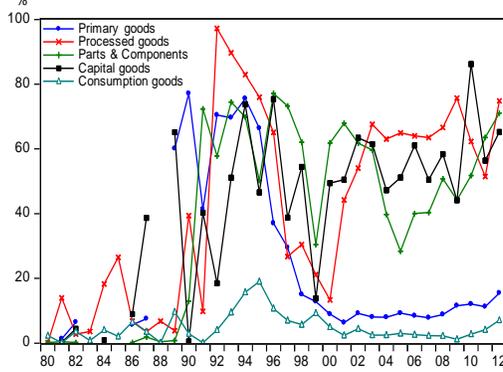
<Figure 11> Intra-regional trade share (ASEAN countries)



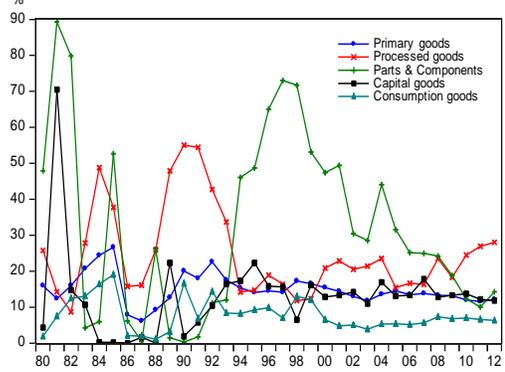
<Figure 12> Intra-regional trade share (Brunei)



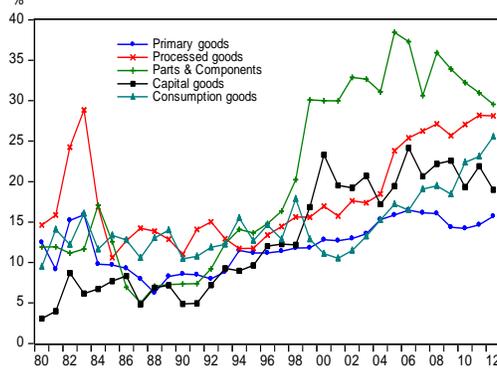
<Figure 13> Intra-regional trade share (Cambodia)



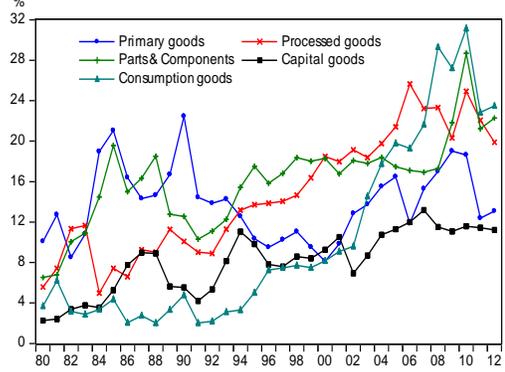
<Figure 14> Intra-regional trade share (Vietnam)

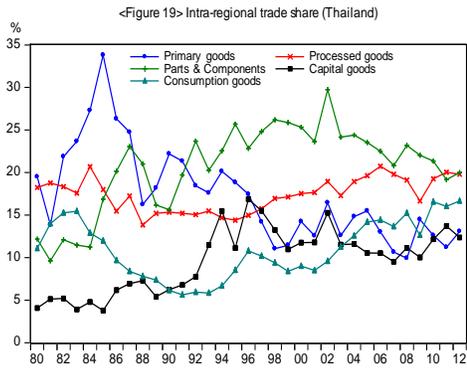
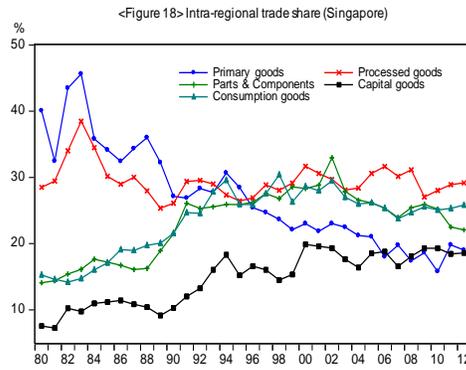
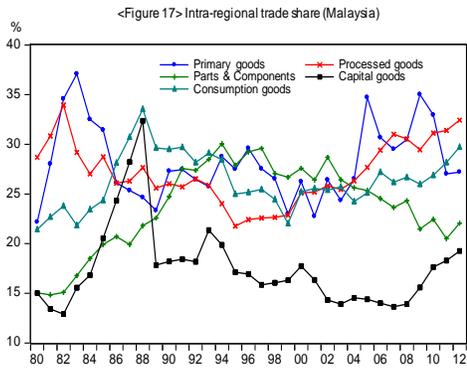


<Figure 15> Intra-regional trade share (Indonesia)



<Figure 16> Intra-regional trade share (Philippines)





#### 4. Intra-regional trade intensity index

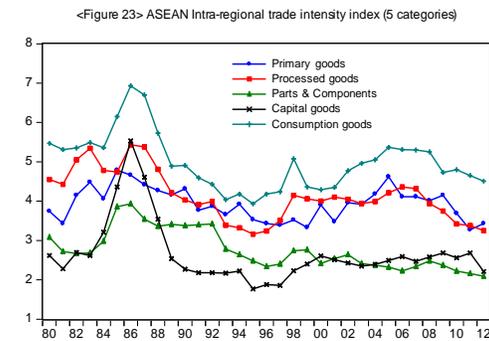
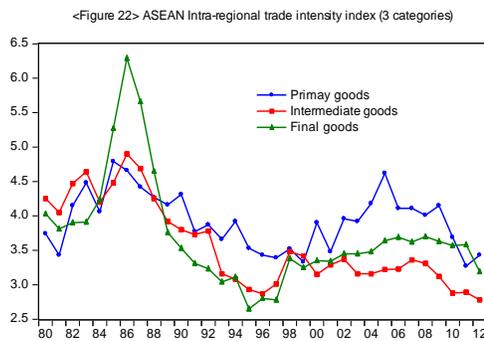
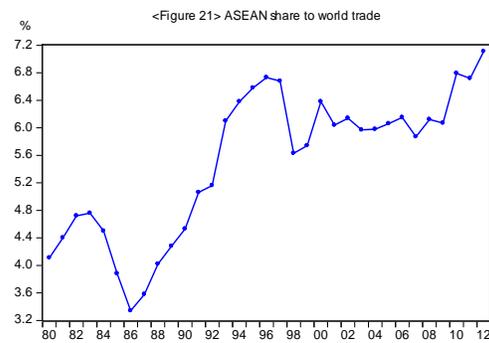
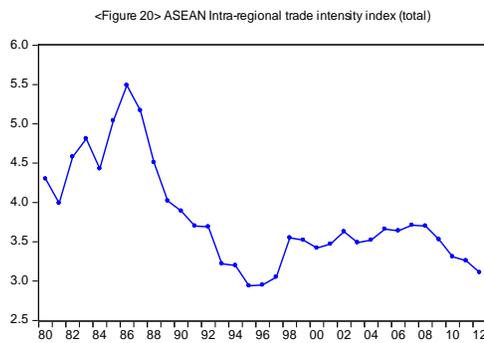
The intra-regional trade intensity index (IRTII hereafter) is an indicator of the intra-regional or extra-regional orientedness. The index is the IRTS divided by the share of the intra-regional trade in the world trade. Thus, if the result is larger than 1, it is intra-region oriented; if the result is smaller than 1, it is extra-region oriented. As shown in <Figure 20>, the IRTII of ASEAN is high above 1, between 3.5 and 5.5, which indicates that ASEAN intra-regional trade is intra-region oriented to a large degree. The IRTII of ASEAN increased from 4.30 in 1980 to 5.49 in 1986, which was the peak. Since then, it decreased down to 2.94 in 1995. Thereafter, the gradual increase turned back to decrease from 2009 down to 3.11 in 2012. In general, such fluctuation of the IRTII of ASEAN is somewhat different from the consistent increase of the IRTS and the scale of intra-regional trade discussed above. It means that although the volume of ASEAN intra-regional trade increased, the weight of ASEAN in the world trade, that is, the volume of extra-regional trade, increased more significantly. As shown in <Figure 21>, the volume of trade over ASEAN accounted for 4.1% of the world trade in 1980 and increased up to 7.1% in 2012.

In terms of 3 categories of goods, <Figure 22> shows that the IRTII of primary goods was 3.74 in 1980 and reached the peak—4.79—in 1985. Thereafter, it continued to decrease until the late 1990s, down to 3.33 in 1999. From then on to the mid-2000s, it bounced back and increased up to 4.62 in 2005. Again, the index drastically decreased thereafter down to 3.43 in 2012. The IRTII of intermediate goods was 4.25 in the 1980s and reached the peak—4.90—in 1986. Thereafter, it continued to decrease until it reached the lowest—2.87—in 1996. Again, it bounced back and reached 3.36 in 2007 but turned back to decrease down to 2.78 in 2012. The IRTII became half compared to that in the 1980s. It means that the intra-regional trade of intermediate goods did increase, but at the same time, its weight in the world trade, that is, the extra-regional trade of intermediate goods increased more significantly. Final goods showed a similar phase: the IRTII of final goods was 4.03 in 1980 and reached the peak—6.29—in 1986. It continued to decrease until it reached 2.65, the lowest, in 1995. Thereafter, it bounced back until it reached 3.70 in 2008, and then turned back to decrease down to 3.19 in 2012. This is contrasting with the gradual increase of the IRTS; although the intra-regional trade of final goods increased, but at the same time, its weight in the world trade, that is, the extra-regional trade of final goods increased more significantly.

In brief, ASEAN showed a relatively high level of intra-region orientedness in the 1980s, but in general, the level decreased thereafter (although there were some exceptions during the period). It is especially noteworthy that despite the consistent increase of the IRTS, the intra-region orientedness either decreased or remained standstill. As ASEAN has held fast to the actively opening and export-oriented strategies for growth since the 1990s, the intra-regional trade did not catch up with the increasing weight in the world trade. As a result, the weight of extra-regional trading in the entire trade of ASEAN increased accordingly.

For the case of the 5 categories of goods, <Figure 23> shows that the IRTII of processed goods was 4.55 in 1980 and reached the peak—5.43—in 1986. Thereafter, it continued to decrease until it reached the lowest—3.16—in 1995. It bounded back until it became 4.36 in 2006, and then decreased again and became 3.25 in 2012. The decrease of the IRTII of parts & components was more distinctive because of the significant decrease of the IRTS of parts & components. The IRTII of capital goods was the lowest among the goods while that of consumption goods was the highest. In other words, capital goods have been extra-region oriented while consumption

goods have been most intra-region oriented. As to the fluctuation phases, the index was relatively high in the 1980s, decreased up to the mid-1990s, increased to some degree and remained stable, and then decreased again since the late 2000s. In this case, however, the IRTS of both capital goods and consumption goods consistently increased, which indicates that despite the increase of the intra-regional trade of capital goods and consumption goods, the increase of the extra-regional trade was more significant.



## 5. Regional trade introversion index

As mentioned earlier, the IRTII may be utilized as a more objective indicator of intra-regional trade than the IRTS. However, there is a limitation in utilizing the IRTII as a sufficient condition to determine the orientedness of intra-regional trade, because the IRTII and extra-regionaltrade intensity index may move in the same direction in terms of time series theoretically. To complement this limitation, the regional trade introversion index (RTII hereafter) that considers intra-regional orientedness and extra-region orientedness at the same time could be

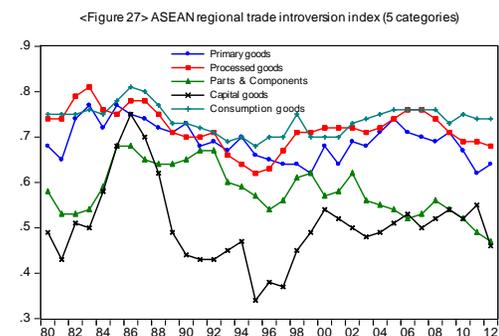
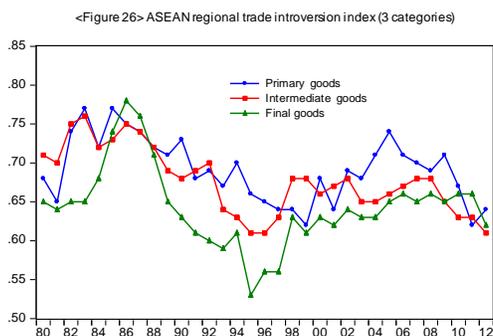
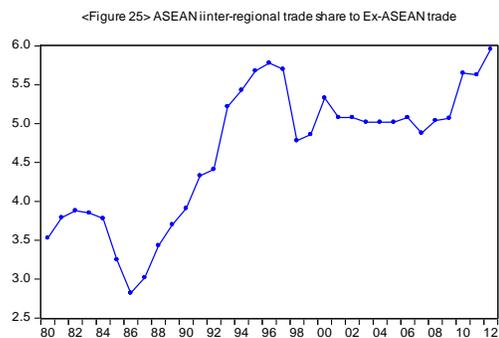
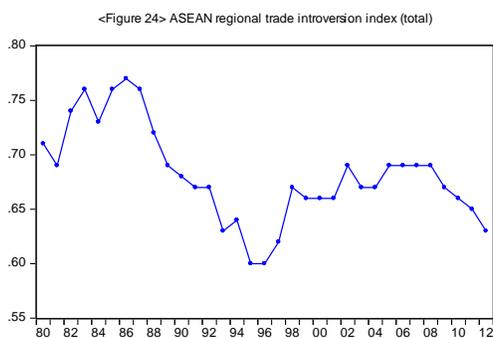
adopted. As the value of the RTII is closer to 0, intra-regional trade is geographically neutral; as it is bigger than 0, the level of intra-region orientedness is higher.

The RTII of ASEAN intra-regional trade fluctuated as shown in <Figure 24> below; it decreased after the peak—0.77—in 1986, and reached the lowest—0.60—in 1995 and 1996. It bounced back in the late 1990s, maintained the level of 0.69 from 2005 to 2008, and turned back to decrease after 2009 down to 0.63 in 2012. In general, along with the extent of concentration on intra-regional trade, two cycles were repeated: rise up to the mid-1980s and fall from the late 1980s to the mid-1990s; the second rise from the mid-1990s to the mid-2000s and the second fall from the late 2000s. In other words, intra-region orientedness of ASEAN intra-regional trade was strengthened since the mid-1990s, when AFTA was established, and then weakened after the global financial crisis in 2008. This is in contrast with the consistent increase of the IRTS. It means that while ASEAN intra-regional trade increased, the weight of ASEAN extra-regional trade in the entire trade volume among extra-regional countries except ASEAN increased; its growth was greater than that of the entire trade among the extra-regional countries. As shown in <Figure 25>, the percentage of ASEAN extra-regional trade in the entire trade volume among ASEAN extra-regional countries increased from 3.53% in 1980 to 5.96% in 2012.

In terms of 3 categories of goods, <Figure 26> shows that the RTII of primary goods increased from 0.68 in the 1980s to 0.77 in 1985, which was the peak. It continued to decrease to the late 1990s and reached the lowest—0.62—in 1999. Thereafter, it bounced back up to the mid-2000s and reached 0.74 in 2005. In 2012, it decreased down to 0.64. The RTII of intermediate goods increased from 0.71 in the 1980s to 0.76 in 1983, which was the peak. Thereafter, it continued to decrease down to 0.61 in 1995 and 1996. It bounced back up to 0.68 in 2007 and 2008 and decreased again down to 0.61 in 2012. That of final goods showed a similar pattern: it increased from 0.65 in 1980 to 0.78 in 1986, and then continued to decrease down to 0.53 in 1995, which was the lowest. Thereafter, it bounced back and remained stable around 0.65 in the late 2000s. In 2012, it decreased again down to 0.62. Despite the increase of the IRTS and intermediate goods and final goods, the RTII showed a contrasting pattern. This indicates that while the volume of intra-regional trade in the sectors of intermediate goods and final goods increased, the percentage of ASEAN extra-regional trade in the entire trade volume over extra-regional countries except ASEAN increased, and the growth rate of ASEAN extra-regional trade was greater than that of

the entire trade among extra-regional countries. In brief, ASEAN showed a comparatively high level of intra-region orientedness in the 1980s, but thereafter, it decreased up to the mid-1990s in general. After the establishment of AFTA in the mid-1990s, however, intra-region orientedness was consistently strengthened up to the mid-2000s. Since the late 2000s, it was weakened again.

In <Figure 27>, the RTII of processed goods increased from 0.74 in 1980 to 0.81 in 1983, which was the peak. Thereafter, it continued to decrease down to 0.62 in 1995, which was the lowest. It bounced back up to 0.76 in 2006 and decreased again down to 0.68 in 2012. The IRTII of parts & components showed a more distinct decrease pattern: After its peak—0.68—in 1985, the index continued to decrease until it bounced back for awhile in the late 1990s. It decreased again down to 0.47 in 2012. The RTII of capital goods was the lowest among the goods while that of consumption goods was the highest. This indicates that the level of intra-region orientedness of capital goods was the lowest while that of consumption goods was the highest. While the weight of capital goods including machines and facilities, necessary for finished goods production, was low in intra-regional production and consumption, the intra-regional production and consumption of consumption goods for households, that is, end-users, were quite active. The level was relatively high in the 1980s, decreased until the mid-1990s, bounced back a bit and remained stable thereafter, and decreased again since the late 2000s. In particular, the fluctuation of capital goods was quite significant. Still, the contrast was outstanding in that the IRTS of both capital goods and consumption goods increased, and this means that the intra-regional trade of capital goods and consumption goods failed catching up with the increase of the trade volume among extra-regional countries.



## IV. Comparison with EU, NAFTA, and MERCOSUR

### 1. Intra-regional trade share: trade in total

This chapter compares AFTA with other major economic blocs—EU, NAFTA, and MERCOSUR for the comparative evaluation of ASEAN intra-regional trade. First of all, <Table 1> summarizes the changes in the volume of intra-regional trade of ASEAN, EU, NAFTA, and MERCOSUR. During the same period of time(1980~2012), the volume of intra-regional trade among ASEAN, EU, NAFTA, and MERCOSUR increased 22.0 times, 6.2 times, 10.3 times, and 35.6 times respectively, and the average annual increase rates are 10.1%, 5.9%, 7.6%, and 11.8% respectively. ASEAN intra-regional trade recorded a higher increase rate than those of EU and NAFTA, advanced countries' economic blocs, but a lower increase rate than MERCOSUR, developing countrys' economic blocs.

**<Table 1>Description of intra-regional trade of four economic blocs**

	Intra-regional trade(USD Billion)		2012/1980	Average annual growth rate (1980~2012)
	1980	2012		
ASEAN	23.5	515.3	22.0	10.1
EU	973.6	6,058.2	6.2	5.9
NAFTA	196.2	2,019.7	10.3	7.6
MERCOSUR	2.7	96.0	36.6	11.8

In addition, IRTS of ASEAN was around 20%, which is 1/3 of EU's, 1/2 of NAFTA's, and just 1.5 times of MERCOSUR's as shown in <Figure 28>. The volume of ASEAN intra-regional trade was USD 515.27 billion (22.1% of total trade) in 2012. The intra-regional trade volumes of EU and NAFTA are about USD 6.06 trillion (59.1% of total trade) and 2.02 trillion (39.3% of total trade) respectively. In general, we could assume that the economic integration of ASEAN falls behind that of EU and NAFTA because as the economic integration is intensified, the trade among member countries replaces that among extra-regional countries. It is noteworthy that IRTS of ASEAN has remained stable from 17.7% in 1980 to 22.1% in 2012, while that of EU has fluctuated from 68.4% in 1992, the peak, down to 59.1% in 2012, and NAFTA from 45.1% in 2000, the peak, down to 39.3% in 2012. That of MERCOSUR has fluctuated from 21.3% in 1998, the peak, down to 13.2% in 2012. This implies that the increase in the extra-regional trade was greater than the intra-regional trade among EU, NAFTA, and MERCOSUR.

In terms of 3 categories of goods, <Figure 29> shows that the IRTS of primary goods in ASEAN was 17.5% in 2012, lower than 35.7% of EU and 42.7% of NAFTA and higher than 4.3% of MERCOSUR. Having been around 30% up to the mid-1990s, the primary goods IRTS of NAFTA exceeded 40% in 1998, higher than that of EU, and the level is the highest among all until now. This is because the three member countries of NAFTA—the U.S., Canada, and Mexico—produce crude oil that accounts for a large portion among primary goods, and the percentage of the primary goods export from Canada and Mexico to the U.S. is high. In the case of EU, the share was high

up to 46.0% in 1988 and then consistently decreased down to around 30% in the late 2000s. The IRTS of primary goods in ASEAN has continued to decrease probably because the reliance on extra-regional countries for primary goods increased due to the rapid industrialization over ASEAN countries. For MERCOSUR, as the tariff elimination and mutual opening policies were initiated in 1995, the trade diversion effects increased the IRTS of primary goods although it has consistently decreased since the late 1990s. Currently, the share is the lowest among the four economic blocs.

As shown in <Figure 30>, the IRTS of intermediate goods in ASEAN was 25.1% in 2012, which was lower than 64.1% of EU and 41.1% of NAFTA but higher than 14.2% of MERCOSUR. That of EU was high up to 71.6% in 1992 and then gradually decreased. That of NAFTA was high up to 48.8% in 1999 and has decreased thereafter. In contrast, that of ASEAN was 19.0% in 1980 and has gradually increased. This reflects that as regional production specialization progressed, the demands for intra-regional intermediate goods increased accordingly. As mentioned earlier, the IRTS of intermediate goods in MERCOSUR rapidly increased owing to the trade diversion after tariff elimination and mutual opening policies initiated in the mid-1990s. However, it turned to decrease again since the mid-2000s. The share is around 15%, the lowest among the four economic blocs.

Among intermediate goods, as shown in <Figure 31>, the IRTS of processed goods in ASEAN was 27.0% in 2012, which is lower than 64.9% of EU and 41.5% of NAFTA but higher than 13.1% of MERCOSUR. That of EU was high up to 72.5% in 1992 and has gradually decreased. That of NAFTA was high up to 48.8% in 2002 and has decreased. In contrast, the IRTS of ASEAN was 20.7% in 1980 and decreased down to 18.6% in 1995, but thereafter, it has gradually increased. This is because of the increasing demand for intra-regional processed goods along with the progress of free-trade and intra-regional specialization after the establishment of AFTA. The increase of the IRTS of processed goods was outstanding in that the added value creation of processed goods would be greater than that of parts & components. MERCOSUR showed a relatively fast increase in the IRTS of intermediate goods owing to the trade diversion of the tariff elimination and mutual opening in the 1990s. Since the mid-2000s, the share has somewhat decreased down to around 15%, the lowest among the four economic blocs.

As to parts & components, <Figure 32> shows that the IRTS of ASEAN was 21.9% in 2012, lower than 62.4% of EU and 40.5% of NAFTA but higher than 17.9% of MERCOSUR. The share in EU has been stable around 60%

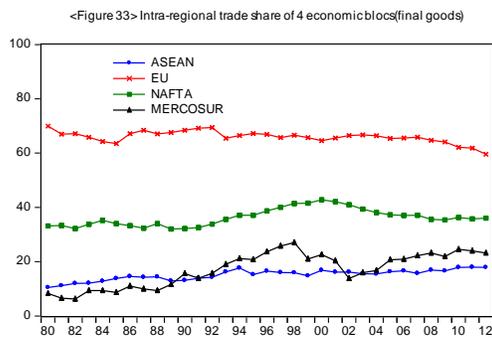
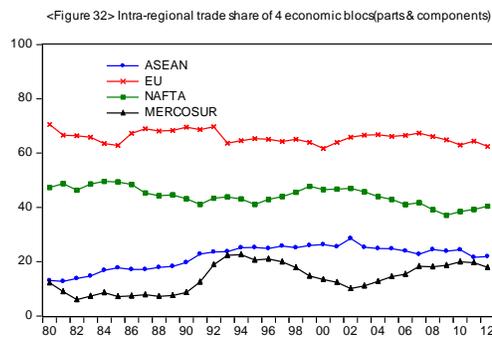
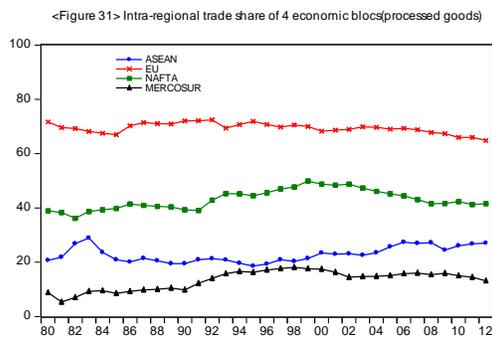
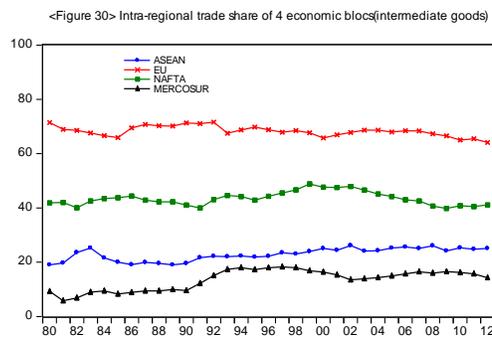
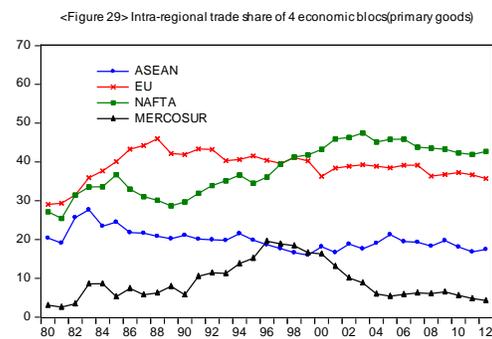
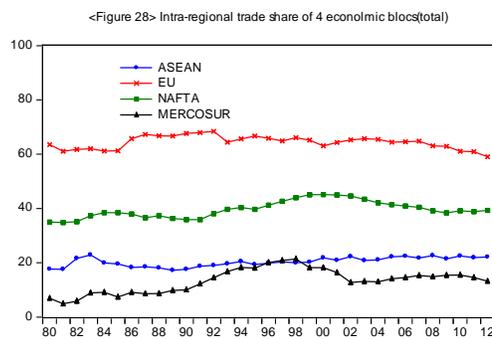
while that of NAFTA reached the peak—47.0%—in 2002, continued to decrease for a while, and then bounced back recently. That of ASEAN reached the peak—28.5%—in 2002 and then has gradually decreased. As the added value creation of parts & components is not as great as that of processed goods, the pattern is different from the increase in the IRTS of processed goods. Although the share of MERCOSUR is increasing after the lowest—10.1%—in 2001, it is still the lowest among the four economic blocs.

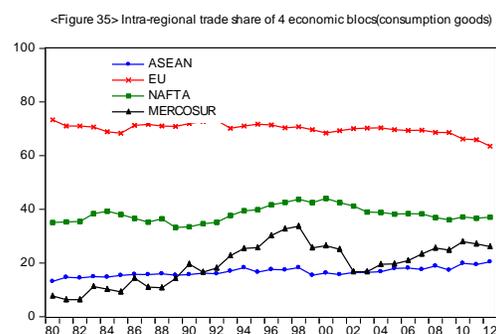
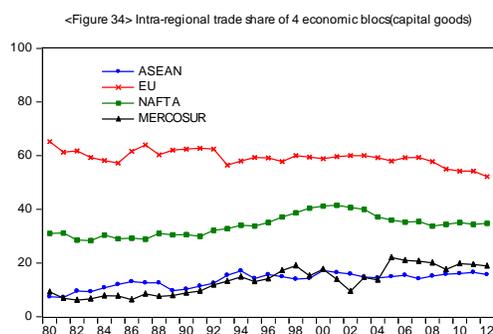
As shown in <Figure 33>, the IRTS of final goods in ASEAN was 17.9% in 2012, lower than 59.6% of EU, 36.1% of NAFTA, and 23.2% of MERCOSUR. That of EU reached the peak—69.4%—in 1992 and then has gradually decreased. That of NAFTA reached the peak—42.8%—in 2000 and then has decreased. In contrast, that of ASEAN was 10.4% in 1980 and has gradually increased in general probably because of the increasing demand for intra-regional final goods along with the production specialization over ASEAN countries. MERCOSUR showed a relatively fast increase in the IRTS of final goods owing to the trade diversion through the tariff elimination and mutual opening policies in the mid-1990s. After the peak—27.1%—in 1998, the share dropped down to 13.8% in 2002 and has increased thereafter. The IRTS of final goods in ASEAN was the lowest among the four economic blocs, which reflects that the gap between intermediate goods and final goods was great in ASEAN intra-regional trade.

Among final goods, IRTS of capital goods in ASEAN was 15.6% in 2012 as shown in <Figure 34>. This is lower than 52.2% of EU, 34.8% of NAFTA, and 18.9% of MERCOSUR. That of EU was high up to 60.0% in 1998 and then has gradually decreased. After the peak in 2001—41.6%, that of NAFTA has gradually decreased. In contrast, that of ASEAN was 7.1% in 1980 and has gradually increased or remained stable thereafter. The IRTS of capital goods in MERCOSUR rapidly increased owing to the trade diversion through tariff elimination and mutual opening policies in the mid-1990s. After reaching the peak—19.0%—in 1998, its share drastically decreased down to 9.4% in 2002 and then has increased thereafter. The IRTS of capital goods in ASEAN was the lowest among the four economic blocs, which indicates that the reliance of ASEAN on capital goods from outside was greater than others.

As shown in <Figure 35>, the IRTS of consumption goods in ASEAN was 20.4% in 2012, which was lower than 63.6% of EU, 37.1% of NAFTA, and 26.1% of MERCOSUR. That of EU reached the peak—73.1%—in 1992 and then has gradually decreased. That of NAFTA reached the

peak—44.1%—in 2000 and then has gradually decreased. In contrast, that of ASEAN was 13.1% in 1980 and then has gradually increased or remained stable probably because of the increasing demand for intra-regional consumption goods along with the growth of ASEAN economy and its purchasing power. The IRTS of consumption goods in MERCOSUR rapidly increased owing to the trade diversion through tariff elimination and mutual opening policies in the mid-1990s. After it reached 33.7%, the highest, in 1998, the share drastically decreased down to 16.7% in 2003 and then bounced back. Among the four economic blocs, the IRTS of consumption goods in ASEAN was the lowest which may imply the heavy reliance of ASEAN on consumption goods from outside.





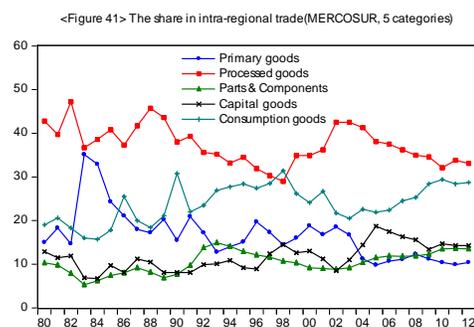
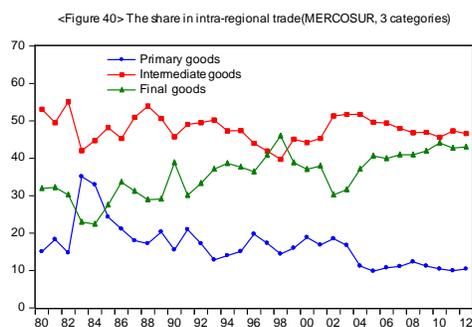
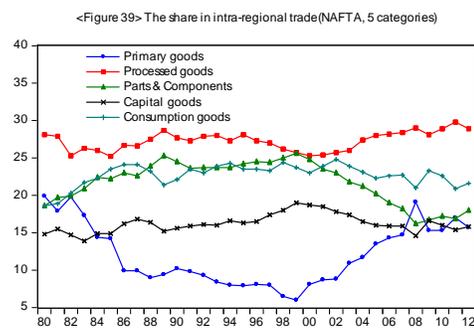
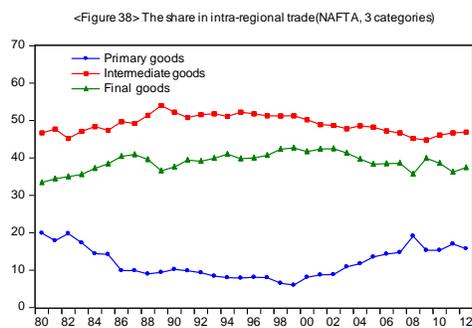
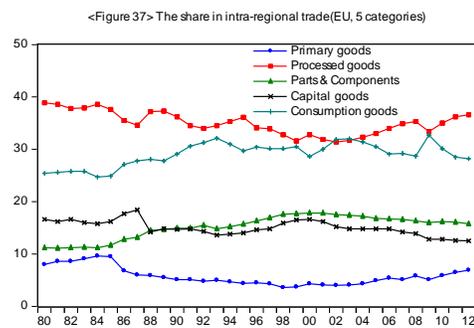
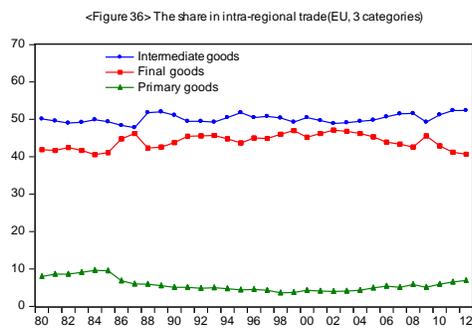
## 2. The share in the intra-regional trade of goods

For EU, as shown in <Figure 36> and <Figure 37>, primary goods accounted for less than 10% of intra-regional trade while intermediate goods and final goods accounted for 50% and 40% respectively. In 2012, primary goods, intermediate goods, and final goods accounted for 6.9%, 52.4%, and 40.7% of intra-regional trade, which are not much different from 8.0%, 50.1%, and 41.9% in 1980. While EU relied highly on extra-regional countries such as Russia and Central Asia for fuels including crude oil and natural gas, intermediate goods and final goods are supplied mainly by the intra-regional market. Among intermediate goods, processed goods accounted for 36.6% of the intra-regional trade in 2012, while parts & components accounted for 15.8%, which indicates that intra-regional trade of processed goods was more active than that of parts & components. Among final goods, capital goods and consumption goods accounted for 12.5% and 28.2% of the intra-regional trade in 2012.

For NAFTA, as illustrated in <Figure 38> and <Figure 39>, primary goods accounted for about 20% in 1980 and decreased down to 6.0% in 1999 but bounced back to 15.7% in 2012. Intermediate goods and final goods accounted for 45% and 35% of the intra-regional trade respectively, which were lower than those of EU but higher than that of ASEAN. In 2012, primary goods, intermediate goods, and final goods accounted for 15.7%, 46.9%, and 37.4% of the intra-regional trade, which were not significantly different from 19.9%, 46.7%, and 33.4% in 1980. This may indicate that just like EU, the intra-regional market of intermediate goods for industrial production and final goods for consumption in NAFTA are large enough and well-developed. Among intermediate goods, processed goods accounted for 28.9% of the intra-regional trade in 2012, while parts & components accounted for 18.0%, which shows that as in EU, the share

of processed goods was higher than that of parts & components. In 2012, capital goods and consumption goods accounted for 15.8% and 21.6% of the intra-regional trade. The intra-regional market of consumption goods seems to be well-developed compared to that of ASEAN but inferior to that of EU.

As illustrated in <Figure 40> and <Figure 41>, primary goods in MERCOSUR accounted for 10~20% of the intra-regional trade, while the share of intermediate goods and final goods fluctuated irregularly 40~50% and 30~40% of the intra-regional trade respectively. The share of intermediate goods and final goods in the intra-regional trade were lower than those in EU and NAFTA while those of final goods were higher than the share in ASEAN. In 2012, primary goods accounted for 10.4% of the intra-regional trade, lower than 15.0% in 1980. In the same year, intermediate goods and final goods accounted for 46.6% and 43.0%, lower than 53.1% and 31.9% in 1980 while the share of final goods in the intra-regional trade increased. This indicates that MERCOSUR intra-regional market of final goods continued to grow better than ASEAN's. While processed goods accounted for 33.1% of the intra-regional trade in 2012, parts & components accounted for 13.5%, which indicates that as in EU, the percentages of processed goods in the intra-regional trade were far higher than those of parts & components. Among final goods, capital goods and consumption goods accounted for 14.3% and 28.7% of the intra-regional trade in 2012. This indicates that the intra-regional market of consumption goods is better developed than that of ASEAN.



### 3. Intra-regional trade intensity index

<Figure 42> shows the IRTII of the four economic blocs. The IRTII of MERCOSUR is the highest and then ASEAN, NAFTA, and EU in the order, which indicates that MERCOSUR is most intra-region oriented and EU is most extra-region oriented. This is not surprising because the percentages of NAFTA and EU in the world trade are far superior to those of ASEAN and MERCOSUR; thus, the trade volumes of NAFTA and EU in comparison with the total world trade volume, which is the denominator of the calculating formula of the IRTII, were greater than those of ASEAN and MERCOSUR. For instance, the trade volumes of EU and NAFTA in 2012 were as large as 31.3% and 15.7% of the world trade volume while those of ASEAN and MERCOSUR were just 7.1% and 2.2%.

It is noteworthy that the IRTII of ASEAN, which had maintained stable around 3.5 after the late 1990s, reached the peak—3.7—in 2007 and decreased thereafter down to 3.1 in 2012 while the IRTII of EU and NAFTA have gradually increased. The IRTII of MERCOSUR reached the peak—10.7—in 1999 but continued to decrease thereafter down to 6.0 in 2012. While the IRTS of ASEAN increased, the IRTII decreased. In contrast, the IRTS of EU and NAFTA decreased while their IRTII rather increased. Such contrasting phases of ASEAN and EU/NAFTA indicate that while the intra-regional trade of ASEAN increased, the extra-regional trade also increased in a greater scale, and that the weight of ASEAN in the world trade has increased which results in the decrease of IRTII accordingly.

As to the IRTII of primary goods, <Figure 43> shows that the index of ASEAN was unstable around 4.0 and decreased from the late 2000s down to 2.3 in 2012. In contrast, the IRTII of primary goods in EU and NAFTA were 1.8 and 3.4 in 2012 and gradually increased. The IRTII of MERCOSUR reached the peak—5.5—in 1996 and then decreased down to 1.1 in 2012. While the IRTS of ASEAN increased, the IRTII decreased. In contrast, the IRTS of EU and NAFTA are decreasing while their IRTII are increasing. Such contrasting phases show that while the intra-regional trade of primary goods in ASEAN increased, the increasing demand for extra-regional primary goods increased along with industrialization had greater effects and thus the weight of ASEAN primary goods trade in the world trade volume relatively increased.

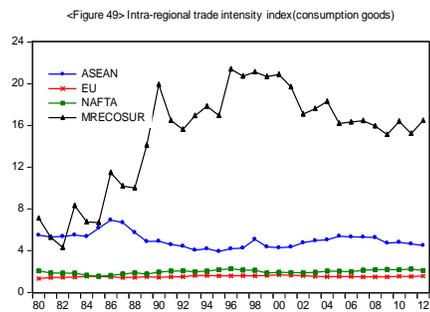
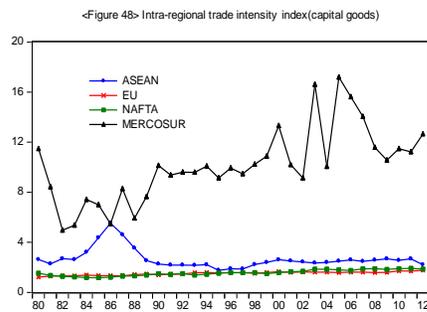
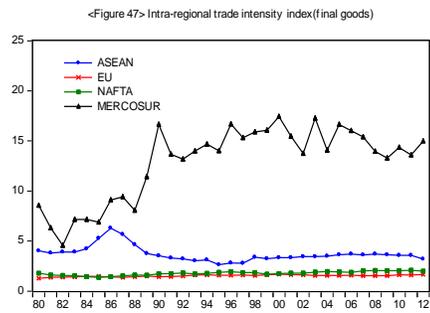
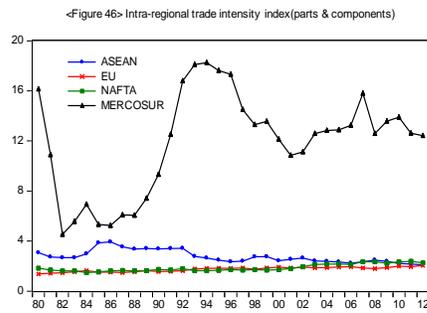
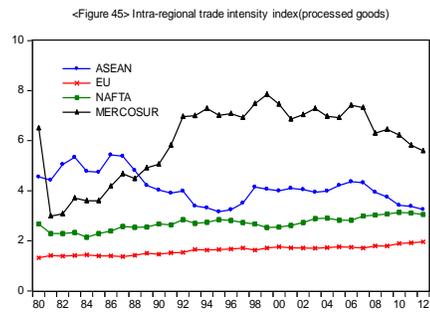
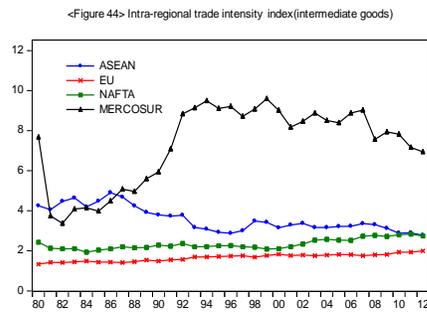
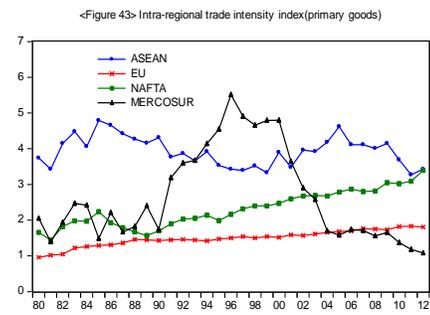
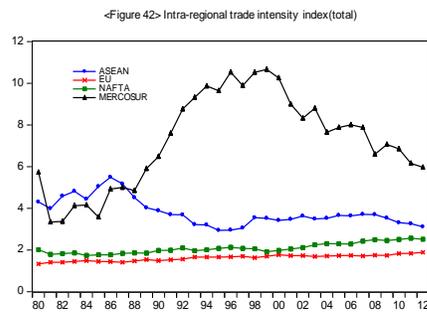
As to the IRTII of intermediate goods, illustrated in <Figure 44>, that of ASEAN fluctuated unstably around 4.0, increased up to 3.4 in 2007, turned back to decrease down to 2.8 in 2012. In contrast, the IRTII of intermediate goods in EU and NAFTA were 2.0 and 1.7 in 2012, gradually increasing. The IRTII of MERCOSUR reached the peak—9.6—in 1999 and then continued to decrease down to 6.9 in 2012. While the IRTS of intermediate goods in ASEAN is increasing, the IRTII remains the same or is decreasing. In contrast, the IRTS of intermediate goods in EU and NAFTA are decreasing while their IRTII are increasing. Such contrasting phases show that while ASEAN intra-regional trade of intermediate goods increased, the increasing demand for extra-regional intermediate goods increased at the same time, and the extra-regional trade of intermediate goods expanded in a greater scale. As a result, the weight of ASEAN in the world trade volume increased in general. As

shown in <Figure 45>, the share of processed goods in ASEAN reached the peak—4.4—in 2006 and then continued to decrease down to 3.3 in 2012. In contrast, the index in EU gradually increased from 1.3 in 1980 to 2.0 in 2012 while that in NAFTA rapidly increased in the 2000s from 2.5 in 1999 to 3.1 in 2012. As illustrated in <Figure 46>, parts & components showed a similar phase with processed goods: the index in ASEAN reached 3.9 in 1986, decreased gradually, bounced back up to 2.8 in 1999, and then continued to decrease down to 2.1 in 2012. In contrast, the index in EU gradually increased from 1.4 in 1980 to 2.0 in 2012 while that in NAFTA reached the peak—1.5—in 1984 and then continued to increase up to 2.3 in 2012.

As shown in <Figure 47>, the IRTII of final goods in ASEAN was 4.0 in 1980, reached the peak—6.3—in 1986, and continued to decrease down to 2.8 in 1997. Thereafter, it increased up to 3.7 in 2008 but turned back to decrease down to 3.2 in 2012. In contrast, the IRTII of final goods in EU and NAFTA were 1.3 and 1.8 in 1980 and then remained stable or gradually increased around 1.7 and 2.0 in 2012 respectively. While the IRTS of final goods in ASEAN increased, the IRTII remained the same or somewhat decreased. In contrast, the IRTSs of final goods in EU and NAFTA decreased while their IRTII increased. Such contrasting phases indicate that while the intra-regional trade of final goods in ASEAN increased, the increasing demand for extra-regional final goods along with the increasing purchasing ability resulted in expanding the extra-regional trade of final goods in a greater scale; the weight of ASEAN in the world trade increased accordingly.

Among final goods, the index of capital goods in ASEAN was 1.9—the lowest—in 1997 as shown in <Figure 48>, bounced back up to 2.7 in 2009, and then decreased again down to 2.2 in 2012. In contrast, That of EU gradually increased from 1.2 in 1980 to 1.8 in 2012 while that of NAFTA rapidly increased in the 2000s, reached the lowest—1.2—in 1985, and then continued to increase thereafter up to 1.9 in 2012. Parts & components showed similar phases with capital goods as shown in <Figure 49>: The index of ASEAN in this sector reached the peak—6.9—in 1986, gradually decreased thereafter, bounced back up to 5.4 in 2005, and then decreased again down to 4.5 in 2012. That of EU gradually and consistently increased from 1.2 in 1985 to 1.8 in 2012 while that of NAFTA reached the peak—1.6—in 1985 and then continued to increase up to 2.1 in 2012.

In analysis of the IRTII as above, the expansion of ASEAN intra-regional trade and the increase of the IRTS overwhelmed those of EU and NAFTA, but the intra-region orientedness rather decreased. This is because the increase of the IRTS did not catch up with the increasing weight of ASEAN in the world trade volume owing to the expansion of extra-regional trade. The volume of extra-regional trade increased faster than that of intra-regional trade in the entire trade of ASEAN. As the intra-regional economic integration of ASEAN through AFTA progressed, the reliance on the extra-regional market grew on the other hand. In contrast, as the weights of EU and NAFTA in the world trade are gradually decreasing, the volume of intra-regional trade is decreasing to a smaller degree with the concentration on intra-regional trade remaining high.



#### 4. Regional trade introversion index

<Figure 50> shows the RTII of the four economic blocs. The RTII of MERCOSUR was the greatest in 2012, and then EU, NAFTA, and ASEAN in the order, which indicates that in this case MERCOSUR was most intra-

region oriented while ASEAN was most extra-region oriented. It is noteworthy here that the RTII of ASEAN, which had been stable around 0.68 after the late 1990s, reached the peak—0.69—in 2007 and then decreased down to 0.63 in 2012 while the RTII of EU and NAFTA have gradually increased. The IRTII of MERCOSUR remained stable around 0.88 until the late 1990s, but thereafter it continued to decrease down to 0.77 in 2012. The IRTS of ASEAN is increasing, but the RTII of ASEAN is lower than those of MERCOSUR and EU and similar to or higher than that of NAFTA although it decreased down to the lowest in 2008. In contrast, the IRTS of EU and NAFTA are decreasing, but the RTII are stable or increasing. This result indicates that while the IRTS of ASEAN increased, the RTII is actually lower than that of EU, NAFTA, and MERCOSUR. It would imply that while the intra-region orientedness of EU and NAFTA became strengthened, that of ASEAN is rather weakening.

As shown in <Figure 51>, the RTII of primary goods in ASEAN was around 0.7. ASEAN was most intra-region oriented in the 1980s, but as the RTII of NAFTA drastically increased, it became second intra-region oriented next to NAFTA in the late 1990s. The RTII of primary goods in EU and NAFTA were 0.04 and 0.38 in 1980 and increased gradually thereafter up to 0.50 and 0.78 in 2012. The RTII of primary goods in MERCOSUR showed drastic change: after the peak—0.75—in 1997, the index rapidly decreased down to 0.04 in 2012. The IRTS of primary goods in ASEAN showed a steady tone while the RTII gradually decreased after reaching 0.74 in 2005. In contrast, the IRTS of EU and NAFTA are decreasing while their RTII are rather increasing. Although the RTII of primary goods in ASEAN is the second highest next to NAFTA, the intra-region orientedness of ASEAN is weakening, while the RTII of EU and NAFTA are increasing.

As shown in <Figure 52>, the RTII of intermediate goods in ASEAN was most intra-region oriented in the 1980s, but it drastically decreased in the 1990s. After the increase in the late 1990s for a while, the index continued to decrease after 2008 down to 0.61 in 2012 and became the lowest among the four economic blocs. In contrast, the RTII of intermediate goods in EU and NAFTA were 0.67 and 0.68 in 1980 respectively and fluctuated in the 1980s although they gradually increased thereafter up to 0.79 and 0.71 in 2012. The RTII of intermediate goods in MERCOSUR drastically increased in the 1980s and has maintained the highest level up to 0.8 since 1990. The IRTS of intermediate goods in ASEAN is the highest among the four economic

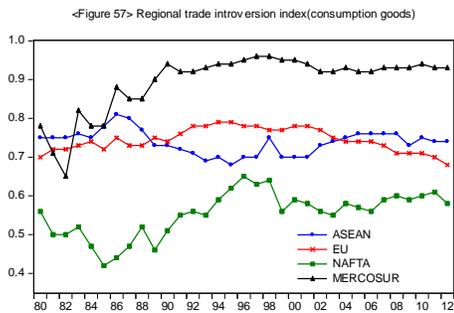
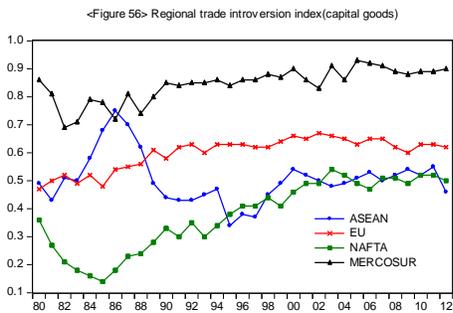
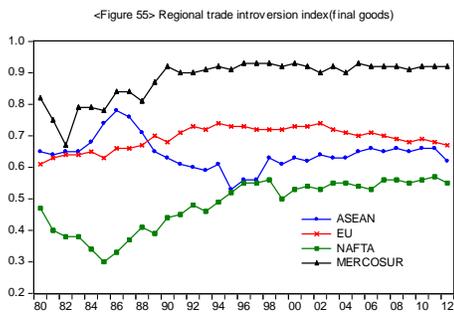
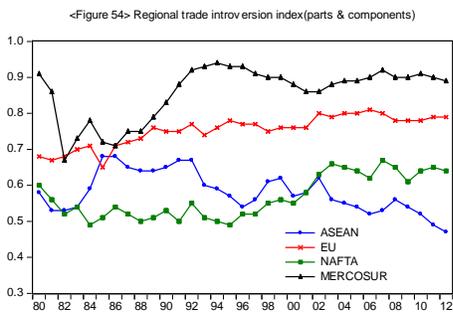
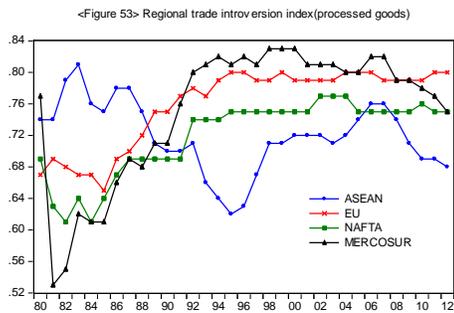
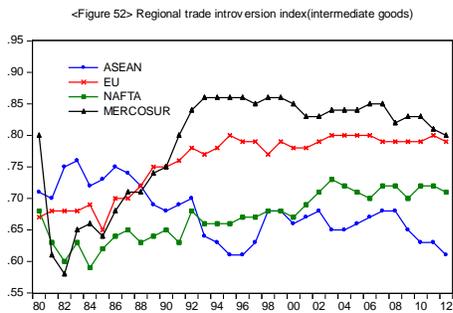
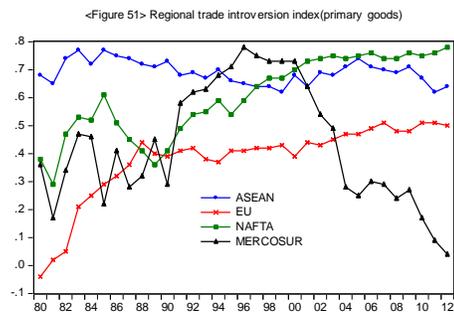
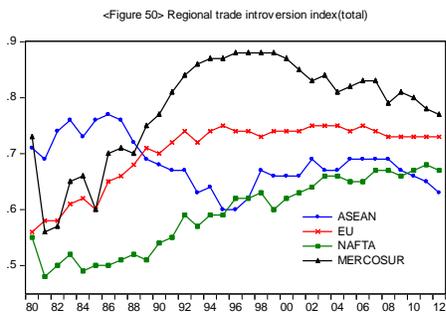
blocs, but its RTII is gradually decreasing since it reached 0.68 in 2008. The IRTS of intermediate goods in EU and NAFTA are decreasing while their RTII are rather increasing. In other words, the intra-region orientedness of EU and NAFTA regarding intermediate goods is advancing while the intra-region orientedness of ASEAN regarding intermediate goods is weakening. This analysis result indicates that the increase of the IRTS of intermediate goods in ASEAN does not guarantee the development of intra-region orientedness. As to processed goods and parts & components too, the RTII of ASEAN, as shown in <Figure 53> and <Figure 54>, was the lowest. The RTII of ASEAN regarding processed goods and parts & components has been decreasing distinctively since 2008, but those of EU and NAFTA are rather increasing. As to processed goods and parts & components, the RTII of MERCOSUR drastically increased in the 1980s, and from 1990 on, that of processed goods was 0.8 and that of parts & components 0.9 respectively, which indicates the highest level among the economic blocs. The index of processed goods somewhat decreased from 2008 while that of parts & components remains stable. While the intra-region orientedness of EU, NAFTA, and MERCOSUR develops or remains stable, that of ASEAN is weakening. This indicates that the increase of the IRTS of ASEAN regarding processed goods and parts & components does not guarantee the development of intra-region orientedness either.

As to the RTII of final goods, <Figure 55> shows that ASEAN was the second most intra-region oriented next to MERCOSUR in the 1980s, but the index drastically decreased in the 1990s, bounced back in the late 1990s, decreased again from 2008 on down to 0.62 in 2012, the third among the four economic blocs. In contrast, the RTII of final goods in EU and NAFTA was 0.61 and 0.47 in 1980, and although that of NAFTA somewhat fluctuated in the 1980s, both of them continued to increase or remained stable, reaching 0.79 and 0.71 respectively in 2012. The RTII of final goods in MERCOSUR drastically increased in the 1980s and reached the peak—0.8—in 1990, maintaining stable thereafter. The IRTS of final goods in ASEAN was the highest and continues to increase while its RTII has gradually decreased since 2008 when the index was 0.68. In contrast, the IRTS of final goods in EU and NAFTA are decreasing while their RTII are increasing. The intra-region orientedness of EU and NAFTA regarding final goods is developing while the intra-region orientedness of ASEAN regarding final goods is weakening. This analysis result indicates that the increase of the IRTS of final goods in ASEAN does not guarantee the

development of intra-region orientedness.

As shown in <Figure 56> and <Figure 57>, the RTII of ASEAN regarding capital goods and consumption goods as well is the lowest among the four. The RTII of ASEAN regarding capital goods and consumption goods has been distinctively decreasing since 2008 while those of EU and NAFTA are rather increasing. The RTII of MERCOSUR regarding capital goods and consumption goods drastically increased in the 1980s and has maintained higher than other economic blocs after 1990 on: 0.8 regarding capital goods and 0.9 regarding consumption goods. That of final goods is somewhat decreasing since 2008 while that of consumption goods is stable. While the intra-region orientedness of EU, NAFTA, and MERCOSUR is developing or stable, that of ASEAN is weakening. This indicates that the increase of the IRTS of ASEAN regarding capital goods and consumption goods does not guarantee the development of intra-region orientedness either.

In general, the RTII of EU and NAFTA is more intra-region oriented than ASEAN. As the result of IRTII analysis shows, although the intra-regional trade of ASEAN increased in volume and share, the introversion index was rather low. As to intermediate goods, ASEAN showed higher intra-regional orientedness than regarding primary goods and final goods although the level is still low. The intra-regional orientedness of processed goods is higher than that of parts & components, which indicates that the production based on processing traded is advancing. The intra-regional orientedness of final goods is low and the difference from other economic blocs such as EU and NAFTA is significant accordingly. The comprehensive analysis of the IRTII and RTII shows that the intra-regional trade of ASEAN still centers on the processing production of intermediate goods among intra-regional countries and then exporting to extra-regional countries.



## V. Time Series & Correlation Analysis

### 1. Time Series Analysis

This section includes a time series analysis to objectively examine fluctuations of the IRTS, IRTII, and RTII over time. To this end, as illustrated in equation (4), such factors as IRTS, IRTII, and RTII are dependent variables, and time  $T$  is an independent variable. How time  $T$  affects each dependent variable is examined as below:

$$Y_T = C + \alpha T + \varepsilon_T \quad (4)$$

$Y_T$  means the IRTS, IRTII, and RTII of time  $T$ , and  $\alpha$  is the coefficient of time  $T$ ; when  $\alpha > 0$ , dependent variable  $Y$  increases over time, but when  $\alpha < 0$ , dependent variable  $Y$  decreases over time. The sign of coefficient  $\alpha$  and the statistical significance are analyzed to determine if it is possible to statistically demonstrate the phenomenon that as the IRTS of ASEAN increases, the IRTII and RTII decreases. <Table 2>~<Table 4> show the value of coefficient  $\alpha$  and its statistical significance.

<Table 2> shows coefficient  $\alpha$  and its statistical significance over time in relation to the IRTS. In all categories of goods in ASEAN except primary goods, coefficient  $\alpha$  is positive (+) and statistically significant. This indicates that as the IRTS of ASEAN is increasing over time. Overall, in the case of EU and NFATA coefficient  $\alpha$  is negative (-) and statistically significant, which indicates that the IRTSs of EU and NFATA decreased over time. For MERCOSUR, coefficient  $\alpha$  is positive (+) for all categories of goods and statistically significant, which indicates that the IRTS of MERCOSUR increased over time.

<Table 3> shows coefficient  $\alpha$  and its statistical significance over time in relation to the IRTII. In contrast with the IRTS, coefficient  $\alpha$  is negative (-) for all categories of goods in ASEAN and statistically significant, which indicates that the IRTII of ASEAN decreased over time. In contrast, coefficient  $\alpha$  is positive (+) for all categories of goods in the case of EU, NFATA, and MERCOSUR (except the primary goods) statistically significant, which indicates that the IRTII of EU, NFATA, and MERCOSUR increased over time.

Lastly, <Table 4> shows coefficient  $\alpha$  and its statistical significance over time in relation to the RTII. In contrast with the IRTS stated above, coefficient  $\alpha$  is negative (-) for all categories of goods in the case of ASEAN and statistically significant, which indicates that the RTII of ASEAN decreased over time. In contrast, coefficient  $\alpha$  is positive (+) for all categories of goods in the case of EU, NFATA, and MERCOSUR(except consumption goods for EU, and primary goods for MERCOSUR) and statistically significant, which indicates that the RTII of EU, NFATA, and MERCOSUR increased over time.

In the time series analysis above, the IRTS of ASEAN is increasing while the IRTII and RTII are decreasing which may indicate that the quantitative expansion of ASEAN intra-regional trade does not guarantee a substantial advancement of intra-regional economic integration. ASEAN intra-regional trade is different from EU, NAFTA, and MERCOSUR in that while the IRTS of the latter ones are decreasing, the IRTII and RTII are increasing.

**<Table 2> Results of time series analysis on intra-regional trade share**

	ASEAN	EU	NAFTA	MERCOSUR
<b>Total</b>	0.121 <sup>***</sup> (0.023)	-0.039 <sup>***</sup> (0.043)	0.180 <sup>***</sup> (0.047)	0.284 <sup>***</sup> (0.065)
<b>Primary goods</b>	-0.177 <sup>***</sup> (0.036)	0.013 (0.071)	0.578 <sup>***</sup> (0.060)	0.036 (0.090)
<b>Intermediate goods</b>	0.185 <sup>***</sup> (0.027)	-0.108 <sup>***</sup> (0.029)	0.021 (0.049)	0.286 <sup>***</sup> (0.047)
(Processed goods)	0.140 <sup>***</sup> (0.048)	-0.100 <sup>***</sup> (0.030)	0.195 <sup>***</sup> (0.057)	0.271 <sup>***</sup> (0.045)
(Parts & Components)	0.339 <sup>***</sup> (0.053)	-0.092 <sup>**</sup> (0.038)	-0.242 <sup>***</sup> (0.044)	0.331 <sup>***</sup> (0.078)
<b>Final goods</b>	0.178 <sup>***</sup> (0.018)	-0.136 <sup>***</sup> (0.032)	0.178 <sup>***</sup> (0.050)	0.532 <sup>***</sup> (0.067)

(Capital goods)	0.231*** (0.030)	-0.198*** (0.039)	0.274*** (0.055)	0.467*** (0.045)
(Consumption goods)	0.143*** (0.017)	-0.139*** (0.028)	0.091* (0.051)	0.583*** (0.099)

Note. The value in ( ) is standard error. Significance levels are 10% \*, 5% \*\*, and 1% \*\*\*.

**<Table 3> Results of time series analysis on intra-regional trade intensity index**

	ASEAN	EU	NAFTA	MERCOSUR
<b>Total</b>	-0.045*** (0.009)	0.014*** (0.001)	0.023*** (0.002)	0.113*** (0.034)
<b>Primary goods</b>	-0.013* (0.007)	0.022*** (0.001)	0.049*** (0.003)	-0.011 (0.024)
<b>Intermediate goods</b>	-0.052*** (0.006)	0.018*** (0.001)	0.021*** (0.003)	0.132*** (0.028)
(Processed goods)	-0.040*** (0.009)	0.017*** (0.001)	0.023*** (0.003)	0.098*** (0.021)
(Parts & Components)	-0.038*** (0.007)	0.018*** (0.001)	0.025*** (0.003)	0.192*** (0.067)
<b>Final goods</b>	-0.035** (0.013)	0.008*** (0.001)	0.017*** (0.002)	0.283*** (0.046)
(Capital goods)	-0.028* (0.014)	0.013*** (0.001)	0.022*** (0.002)	0.215*** (0.040)
(Consumption goods)	-0.029** (0.012)	0.004*** (0.001)	0.012*** (0.003)	0.338*** (0.069)

Note. The value in ( ) is standard error. Significance levels are 10% \*, 5% \*\*, and 1% \*\*\*.

**<Table 4> Results of time series analysis on regional trade introversion index**

	ASEAN	EU	NAFTA	MERCOSUR
<b>Total</b>	-0.002 <sup>***</sup> (0.001)	0.005 <sup>***</sup> (0.001)	0.006 <sup>***</sup> (0.000)	0.006 <sup>***</sup> (0.001)
<b>Primary goods</b>	-0.002 <sup>**</sup> (0.001)	0.012 <sup>***</sup> (0.001)	0.013 <sup>***</sup> (0.001)	-0.004 (0.004)
<b>Intermediate goods</b>	-0.003 <sup>***</sup> (0.001)	0.004 <sup>***</sup> (0.000)	0.003 <sup>***</sup> (0.000)	0.006 <sup>***</sup> (0.001)
(Processed goods)	-0.002 <sup>*</sup> (0.001)	0.004 <sup>***</sup> (0.000)	0.004 <sup>***</sup> (0.000)	0.006 <sup>***</sup> (0.001)
(Parts & Components)	-0.003 <sup>***</sup> (0.001)	0.004 <sup>***</sup> (0.000)	0.005 <sup>***</sup> (0.001)	0.005 <sup>***</sup> (0.001)
<b>Final goods</b>	-0.001 (0.001)	0.002 <sup>***</sup> (0.001)	0.007 <sup>***</sup> (0.001)	0.005 <sup>***</sup> (0.001)
(Capital goods)	-0.001 (0.002)	0.005 <sup>***</sup> (0.001)	0.012 <sup>***</sup> (0.001)	0.005 <sup>***</sup> (0.001)
(Consumption goods)	-0.001 (0.001)	-0.000 (0.001)	0.004 <sup>***</sup> (0.001)	0.006 <sup>***</sup> (0.001)

Note. The value in ( ) is standard error. Significance levels are 10% \*, 5% \*\*, and 1% \*\*\*.

## 2. Correlation Analysis

The time series analysis above is to examine the increase or decrease of the IRTS, IRTII, and RTII over time. This section is to analyze the correlation between IRTS of ASEAN, IRTII, and RTII and those of EU, NAFTA, and

MERCOSUR, aiming at comparing the characteristics of ASEAN intra-regional trade with other economic blocs. <Table 5> shows the correlation coefficient between the IRTS of ASEAN and those of other economic blocs; negative correlation coefficient with EU and positive correlation coefficient with NAFTA and MERCOSUR. This indicates that the IRTS of ASEAN moves in the opposite direction of EU and in the same direction of NAFTA and MERCOSUR. <Table 6> shows the correlation coefficient between the IRTII of ASEAN and those of other economic blocs. EU, NAFTA, and MERCOSUR all show a negative correlation coefficient, which indicates that the IRTII of ASEAN moves in the opposite direction of the other economic blocs. <Table 7> shows the correlation coefficient between the RTII of ASEAN and those of other economic blocs. As in the case of the IRTII, the correlation coefficient of EU, NAFTA, and MERCOSUR are all negative (-), which indicates that the RTII of ASEAN moves in the opposite direction of those of other economic blocs.

<Table 8> shows the correlation coefficient between the IRTS and IRTII, and <Table 9> that between the IRTS and RTII. In the case of ASEAN, both have a negative (-) correlation coefficient, which means, as mentioned above, the increase of the IRTS and the decrease of both the IRTII and RTII. In the case of EU as well, both have a negative (-) correlation coefficient, which indicates that unlike ASEAN, the IRTS decreases while the IRTII and RTII increase. Both NAFTA and MERCOSUR show a positive (+) correlation coefficient, which indicates that while the IRTS increases, the IRTII and RTII increase as well. The correlation coefficient analysis demonstrates that the increase of IRTS of ASEAN is not directly linked to the increase of the IRTII and RTII, and that the quantitative expansion of intra-regional trade is not a sufficient condition in which the intra-regional trade substantially develops.

**<Table 5>Correlation coefficients between IRTS of ASEAN and other economic blocs**

	Total	Primary goods	Intermediate goods	(Processed goods)	(Parts & Components)	Final goods	(Capital goods)	(Consumption goods)
EU	-0.49	-0.06	-0.62	-0.71	-0.39	-0.60	-0.63	-0.66
NAFTA	0.49	-0.50	0.19	-0.16	-0.44	0.57	0.70	0.19
MERCOSUR	0.36	-0.36	0.58	0.02	0.67	0.85	0.73	0.74

**<Table 6>Correlation coefficients between IRTII of ASEAN and other economic blocs**

	Total	Primary goods	Intermediate goods	(Processed goods)	(Parts & Components)	Final goods	(Capital goods)	(Consumption goods)
EU	-0.78	-0.19	-0.91	-0.73	-0.78	-0.61	-0.46	-0.63
NAFTA	-0.60	-0.19	-0.57	-0.69	-0.64	-0.63	-0.46	-0.60
MERCOSUR	-0.76	-0.47	-0.80	-0.63	-0.51	-0.62	-0.40	-0.64

**<Table 7>Correlation coefficients between RTII of ASEAN and other economic blocs**

	Total	Primary goods	Intermediate goods	(Processed goods)	(Parts & Components)	Final goods	(Capital goods)	(Consumption goods)
EU	-0.70	-0.24	-0.81	-0.64	-0.36	-0.60	-0.37	-0.63
NAFTA	-0.60	-0.27	-0.61	-0.60	-0.57	-0.58	-0.37	-0.56
MERCOSUR	-0.75	-0.30	-0.77	-0.58	-0.36	-0.45	-0.37	-0.45

**<Table 8>Correlation coefficients between IRTS and IRTII**

	ASEAN	EU	NAFTA	MERCOSUR
Total	-0.33	-0.20	0.26	0.92
Primary goods	0.71	0.29	0.90	0.97
Intermediate goods	-0.60	-0.63	-0.37	0.91
(Processed goods)	0.12	-0.56	0.31	0.91
(Parts & Components)	-0.50	-0.59	-0.69	0.89
Final goods	-0.36	-0.57	0.40	0.84
(Capital goods)	-0.17	-0.70	0.63	0.80

(Consumption goods)	-0.32	-0.30	0.14	0.87
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**<Table 9>Correlation coefficients between IRTS and RTII**

	ASEAN	EU	NAFTA	MERCOSUR
<b>Total</b>	-0.13	-0.38	0.63	0.91
<b>Primary goods</b>	0.85	0.59	0.97	0.92
<b>Intermediate goods</b>	-0.40	-0.22	0.17	0.92
(Processed goods)	0.46	-0.07	0.78	0.92
(Parts & Components)	-0.11	-0.12	-0.39	0.86
<b>Final goods</b>	-0.22	0.04	0.66	0.86
(Capital goods)	-0.04	-0.31	-0.79	0.86
(Consumption goods)	-0.09	-0.47	0.51	0.85

## VI. Conclusion

During last three decades (1980-2012) the volume of ASEAN intra-regional trade has been 22 times enlarged, and the IRTS increased from 15.7% to 22.5%. This is an outstanding growth compared to that of EU and NAFTA. However, ASEAN intra-regional trade seems to be facing its limitation in terms of substantial integration of the regional economy. While the intra-regional trade has been growing in scale and share, the level of intra-regional orientedness and introversion of ASEAN was lower than those of EU and NAFTA, and the level of introversion was lower than even MERCOSUR. For instance, since the global financial crisis in 2008, the introversion of EU and NAFTA has grown while that of ASEAN has reduced.

As to phases of ASEAN intra-regional trade over time, the level of intra-region orientedness was the highest in the mid-1980 and then continued to

decrease thereafter. After the establishment of AFTA in 1993, however, it bounced back until the mid-2000s when the orientedness reduced again. In other words, after the establishment of AFTA, the intra-region orientedness of intra-regional trade seemed to be strengthened, but it was weakened again during the mid and late 2000s. Thus, there should be a new momentum or strategy to strengthen the intra-regional trade through. In this sense, it would be vital to make and practice innovative plans to develop the intra-regional trade so that the foundation of AEC could be an ignition point or threshold of the substantial development of ASEAN intra-regional trade. For the development of intra-regional trade, more comprehensive and a higher level of intra-regional economic integration is required through the corresponding order and regulations with specific plans and practical efforts for its realization. Furthermore, to maximize the effect of intra-regional trade liberalization, the trade liberalization needs to go beyond the boundary of intermediate goods and expand to final goods, especially consumption goods. As the liberalization of intra-regional trade is realized, its quality would be enhanced and then the successful foundation of AEC would be also possible based on the expansion of the intra-regional market as well. In this respect, the establishment of AEC is of great significance in that it can be a momentum for the qualitative and substantial growth of ASEAN intra-regional trade.

Besides, our study shows that among intermediate goods, the IRTS, IRTII, and RTII of processed goods were higher than those of parts & components, and among final goods, those of consumption goods were higher than those of capital goods. The IRTS of parts & components and capital goods is relatively low, and the intra-regional orientedness is weak. In other words, as ASEAN relies highly on the supply of the capital goods from the extra-regional market, it is necessary to strengthen the export competitiveness of the capital goods. On the other hand, the IRTS of processed goods and consumption goods is high and highly intra-region oriented. Thus, to increase the market share of processed goods and consumption goods, it is required to open and expand the market of ASEAN through promoting the direct investment. The fact that the IRTS of consumption goods is the highest indicates the need to develop strategies aiming at the consumption goods market in consideration of the rapidly increasing demands for consumption goods among middle classes in ASEAN. In particular, low-price consumption goods produced domestically and exported abroad are less price-competitive compared to commodities from China. Thus, it is advantageous to take local production and direct investment strategies. It is also necessary to come up with mid/long term strategies in consideration of the economic integration and

intra-regional trade of ASEAN including differentiation of middle/high price commodities consumed mainly by middle classes.

This study includes an analysis of intra-regional trade over ASEAN specifically regarding the five categories of goods. The future study also needs to examine individual countries of ASEAN, their roles and positions in intra-regional trade, and classification of more categories of goods for more thorough and comprehensive analysis of intra-regional trade.

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# **ASEAN ECONOMIC COMMUNITY: SUCCESS OR FAILURE?**

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# **ASEAN ECONOMIC COMMUNITY: SUCCESS OR FAILURE?**

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## **Abstract**

*While ASEAN has achieved a very remarkable achievement in the process of building ASEAN Economic Community, many market participants across the ASEAN Member States still think that its build by the deadline of 2015 is questionable. To understand this surprising result, we examine three cases of integration process listed AEC blueprint such as ASEAN Single Window, banking market integration and consumer protection. We find four distinct reasons such as difference of interpretation of AEC building deadline, ASEAN-x principle, very short preparation period and lack of resource and expertise on the integration may explain this contradictory survey result. Since all of these elements are structural ones, ASEAN have to prepare for it now. If not, ASEAN have a massive negative public response at the date of AEC establishment.*

Keywords: ASEAN Economic Community, ASEAN Single Window, Blueprint, Survey

## **I. Introduction**

Since ASEAN summits declared to build ASEAN Economic Community in Bali, Indonesia in October, 2003 and to accelerate it by 2015 in January, 2007, a quite remarkable progress has been made in ASEAN. Especially in 2007, AEC Blueprint, which included the principles and detailed strategic schedule, was published and afterwards many practical cooperation activities were initiated by ASEAN member states.

After the blueprint was published, remarkable progress was made. Numerous ASEAN-wide committees and working group are organized and many outcomes such as agreements and harmonization rule have been made in many field. According to scorecard of ASEAN secretariat, about 82.1 percent of the target was achieved at the end of 2013.(ADBI, ASEAN 2030, ASEAN 2014)Furthermore, several economic indicators also show that actual economic integration are undergoing for several years.(ADB 2013, ASEAN and World Bank 2013)

Despite of all these affirmative signs on the development of AEC building, there is a still wide-spread gloomy skepticism on it. According to recent several survey, many responders reply that AEC may not reach its goal at its deadline of 2015 or that its integration process speed is too late. It is a very contradictory result.

In this paper, we try to fill up this discrepancy and to provide a rational explanation on it. For this purpose, we extensively investigate some cases of integration listed in the AEC blueprint such as such as ASEAN Single Window, banking market integration and consumer protection. In each case, we extensively study how the integration process has been conducted for the past 10 years or so.

This paper has four sections. The first section is an introduction and the second one shows what the AEC is and how the market participants understand the AEC recently. It included several survey results on the question of successful launching of AEC on 2015. The third section gives three practical cases of AEC building process and the fourth section explains why market participant have so much gloomy expectation on the building AEC on time applying three case examples. The final section is am concluding remark on this paper.

## II. ASEAN Economic Community

### 1) Recent Development of Building AEC

For the past 10 years or more, ASEAN has very actively advanced to build a regional economic integration. At the Bali Summit in October 2003, ASEAN Leaders declared that the ASEAN Economic Community (AEC) shall be the goal of regional economic integration (Bali Concord II) by 2020. And at the 12th ASEAN Summit meeting in January 2007, the ASEAN Leaders affirmed their strong commitment to accelerate the establishment of an ASEAN Community by 2015 as envisioned in the ASEAN Vision 2020 and the ASEAN Concord II, and signed the Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015. As a result, the establishment of the ASEAN Economic Community transforming ASEAN into a region with free movement of goods, services, investment, skilled labor, and freer flow of capital was planned to be accomplished by 2015.

Subsequently, the ASEAN Economic Ministers Meeting (AEM) held in August 2006 in Kuala Lumpur, Malaysia, agreed to develop a blueprint to concretely define the ASEAN economic community and at November of 2007, ASEAN summits announced the blueprint of AEC, by which ASEAN has to take for the next 8 years up to 2015. With this blueprint, governments and regulatory agencies of ASEAN member states become more actively engaged into a practical activity without ambiguity.<sup>124</sup> First, it did more clearly describe the principles of AEC and second it provided the detailed list of elements of AEC. Lastly, it showed a strategic schedule for these elements.

According to blueprint, AEC aimed to create a four important economic region of a single market and production base, highly competitive economic region, region of equitable economic development and region fully integrated into the global economy.

After the blueprint was announced, governments of ASEAN member states began to move very actively. Numerous ASEAN-wide committees and working group are organized and many outcomes such as agreements

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<sup>124</sup>Blueprint is “a single and coherent blueprint for advancing the AEC by identifying the characteristics and elements of the AEC by 2015 consistent with the Bali Concord II with clear targets and timelines for implementation of various measures as well as pre-agreed flexibilities to accommodate the interests of all ASEAN Member Countries.”(ASEAN, 2007)

and harmonization rules have been made in various fields. For example, during January to July of 2013, more than 74 meetings and conferences were made by working group and committee of ASEAN member states under the area of AEC.<sup>125</sup>

According to scorecard report of ASEAN Secretariat, about 82.1 percent of the 229 AEC key deliverables targeted for completion by 2013 indicated in blueprint were achieved (ADB, 2014, ASEAN 2014)<sup>126</sup> Furthermore, several economic indicators also showed that actual economic integration are undergoing. (ADB 2013, ASEAN and World Bank 2013). For examples, the average Intra-ASEAN Preferential Tariffs has been reduced to 0 percent among ASEAN 6 countries and to below 2.5 percent in 2013. 9 (ASEAN and World Bank 2013). Undoubtedly, it is expected that several core elements of AEC will be in place by 2015. (ADB, 2014)

## 2) How does the Market understand AEC?

Recently, several surveys were conducted to check the understanding of the market participants in ASEAN on the building of AEC. While AEC is initiated by government of AMS, it is the market participants such as firms and consumers who will receive the main benefit and bear a cost from it.

Surprisingly, most survey results showed that a negative answer has dominated on the question of the success of the AEC launching by 2015. Many respondents said that either building AEC could not be completed by 2015 or that its performance, if succeeding in launching, would be less than planned by the blueprint.

For example, the American Chamber of Commerce in Singapore (AmCham Singapore) and the U.S. Chamber of Commerce, in cooperation

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<sup>125</sup>They are made under ASEAN Economic Community (AEC) Council, ASEAN Economic Ministers Meeting, ASEAN Free Trade Area (AFTA) Council, ASEAN Finance Ministers Meeting (AFMM), ASEAN Ministers Meeting on Agriculture and Forestry (AMAF), ASEAN Investment Area (AIA) Council, ASEAN Ministers on Energy Meeting (AMEM), ASEAN Ministerial Meeting on Science and Technology (AMMST), ASEAN Telecommunications and Information Technology Ministers Meeting (TELMIN), ASEAN Transports Ministers Meeting (ATM), Meeting of the ASEAN Tourism Ministers (M-ATM) and ASEAN Mekong Basin Development Cooperation (AMBDC). (ASEAN 2013)

<sup>126</sup> While almost 90% of measures in Phase I in the blueprint were already in place, the implementation rate for Phase II and Phase III measures was only slightly above 70%. (ADB, 2014).

with AmChams throughout the ASEAN region, surveyed 475 business leaders on building on AEC from May 10, 2013 to June 10, 2013.<sup>127</sup> The majority (52%) of respondents did not think that the AEC's goals would be realized by 2015, and only 23% believed that they would be done as scheduled. In addition, of the respondents who answered that it was "unlikely" for the AEC's goals to be met by 2015, 59% thought that ASEAN would not reach the AEC's goals until 2020 or later.

The ASEAN Business Advisory Council conducted a regular the *2013 ASEAN-BAC Survey* cross all ten ASEAN countries between May and August 2013 to check the understanding of ASEAN business firms selected by ASEAN-BAC Council Members and Secretariat, national business organizations and local research assistants.

It showed that 23percent of the respondents considered the likelihood to be high or very high on the question of the likelihood that ASEAN would reach its goal of realizing the AEC by the end of 2015. The majority felt that the prospect of anAEC by end-2015 was of medium likelihood (45 percent) or low or very low likelihood (32percent).

According to the analysis of JWT and A.T. Jearney which conducted an in-depth study by way of conversation with 50 corporate leaders across the ASEAN from July 14 to September 22, 2013, the impact of the AEC and its free-trade initiatives will be felt by 2018.

Miliman, one of the large consulting companies in the world also conducted an online survey on the AEC building during the end of 2013 and early of 2014. When it asked a question on successful launching timing of AEC, only 28 percent said that it would be made by December, 2015, as planned. 26 percent and 19 percent answered that it would be made by 2016 and 2017. Another 26 percent said that it could be built after 2018.

Despite of these negative responses on the successful launching of AEC on time, all of these surveys indicated that economic integration over ASEAN is inevitable and AEC is an important step to accelerate a regional economic growth. Furthermore, it claimed that if firms in this region did not prepare for it, their future would be very uncertain.

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<sup>127</sup>The survey covers several topics from U.S. companies on their investment plans, outlook for the region, and perceptions of some of the key challenges and opportunities in the 10 ASEAN countries.

### III. Three Cases of AEC

#### 1) Building ASEAN Single Window

Customs modernization implies the simplification of border crossing procedures of export and import. National Single Windows (NSW) is a kind of custom modernization allowing traders to complete all of their regulatory requirements through a nationwide border control system. It allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export, and transit-related regulatory requirements. If information is electronic, then individual data elements should only be submitted once. (UN/CEFACT - Single Clearing Facility for Trade Declaration) <sup>128</sup>Having NSE promotes the external trade by reducing the burdens on both importers and exporters and improving the transparency on the border trade. A regional single window is the one in which groups of trading nations connect their national single windows as a collaborative form. Governments and the private sector in a certain region exchange and share cross-border information with each other to reduce the time and cost to pass the customs of member countries.

The ASEAN Single Window (ASW) is a regional initiative that connects and integrates National Single Windows (NSWs) of Member States.<sup>129</sup>The object of the ASW is to expedite cargo clearance within the context of increased economic integration in ASEAN. ASW implementation ensures compatibility of Member States NSWs with international open communication standards while also ensuring that each of those Member States can then exchange data securely and reliably with any trading partners that use international open standards. Simpler and faster processing time, and a more transparent way of doing business – these are the main goals of the ASEAN Single Window initiative.<sup>130</sup>

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<sup>128</sup> The National Single Window is a system which enables:(1)single submission of data and information; (2) a single and synchronous processing of data and information and (3) a single decision-making for customs release and clearance. A single decision-making shall be uniformly interpreted as a single point of decision for the release of cargoes by the Customs on the basis of decisions, if required, taken by line ministries and agencies and communicated in a timely manner to the Customs.(WTO, 2006)

<sup>129</sup>The European Union, the Asia Pacific Economic Cooperation (APEC), the Economic Community of West African States (ECOWAS) and the Association of South East Asian Nations (ASEAN) take this type of initiative to build a regional single window.

<sup>130</sup> This definition is from ASEAN Single Window website <http://asw.asean.org/>

The formal process of building ASW begins in December 2005 when the ten Minister of ASEAN member States signed an “Agreement to Establish and Implement the ASEAN Single Window” (“ASW Agreement”). When ASEAN finance ministers signed on the document of “Protocol to Establish and Implement the ASEAN Single Window” (“ASW Protocol”) in December 2006, several things are more clearly determined such as the objectives, scope and coverage model and process, roles ad function of ASW.

According to it, establishment of ASW was made of two important steps. In the first step, the ASEAN member States operationalized their own NSWs by specified agreed deadlines and in the next step AMS connected individual NSW by computer network. As a result, the first step was done by individual member states but the second one was extensively discussed and processed by ASEAN member states.

According to the Agreement of 2005, AMS should develop and implement their NSW in a timely manner for the establishment of the ASEAN Single Window. Brunei Darussalam, Indonesia, Malaysia, Philippines, Thailand and Singapore should operationalize their NSWs by 2008, at the latest. At the same time, Cambodia, Lao PDR, Myanmar, and Viet Nam should do their NSWs no later than 2012.<sup>131</sup> Furthermore, it said that member countries should ensure that their line ministries and agencies co-operated with, and provided necessary information to their lead agency in accordance with their national laws in the development and implementation of their NSWs.

However, things did not go as expected. Singapore was the only Member State to meet the original target completion date of 2008 and other six countries did not succeed. Indonesia, Malaysia, Myanmar, the Philippines and Thailand only set up respective national working bodies to implement their NSWs<sup>132</sup> Without establishment of NSWs of ASEAN Member States; Building ASW cannot be advanced since ASW was a connection of their NSWs.

Despite of this disappointed result, ASEAN was not discouraged. They analyzed their problems and try to find a new solution. Especially, In the ASWSC meeting in September 8, 2011, AMS agreed to establish

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<sup>131</sup>It is also indicated in AEC blueprint of 2007.

<sup>132</sup>Malaysia began to operate its ASW in 2009 and revamped it in 2012. Indonesia officially launched it in 2010. Philippines and Thailand takes their respective systems from 2009 and 2008. Thailand revamped it in 2011.

their respective National Single Windows (NSWs) by 2012 and to connect them through a regional Single Window by 2015.

At the end of August, 2014, seven countries (Brunei Darussalam, Indonesia, Malaysia, Philippines, Thailand, Singapore, Vietnam) have implemented their NSWs window with the connection of each country's own custom system while three of them (Cambodia, Lao PDR and Myanmar) do not complete.

Lao PDR only completed the blueprint of the implementation of Lao PDR NSW (LNSW) in June 2014 with the technical assistance of the World Bank. According to it, Lao PDR plans to complete building its NSW and to join into ASW by 2017.

Cambodia has been working with the World Bank to establish her own since October 2013. It intended to inform and educate stakeholders and to develop a practical implementation blueprint for the Cambodia NSW.

Myanmar is working on a NSW development project with the assistance of Japanese government. It intends to install NSW in Myanmar and to transfer knowledge and skills for its operation and management.<sup>133</sup>

**Table 1: Status of National Single Window Systems in ASEAN Member States (At June, 2014)**

	Current NSW Status	NSW linked to Custom System	NSW interface with custom	ASEAN Pilot-ATIFGA Form D
Brunei Darussalam	Yes	Yes	Yes	Yes
Cambodia	No Status	No NSW	Unknown	NO
Indonesia	Live	Yes	Yes	Yes
Lao PDR	No Status	No NSW	Unknown	NO
Malaysia	Live	Yes	Yes	Yes
Myanmar	No Status	No NSW	Unknown	NO
Philippines	Live	Yes	Yes	Yes

<sup>133</sup>The deadlines of the installation of NSW for Cambodia and Myanmar are not announced yet.

Singapore	Live	Yes	Yes	Yes
Thailand	Live	Yes	Yes	Yes
Vietnam	Live	Live	Live	Yes

Source: Koh, Jonathan and Andrea F. Mowerman, "Towards a Truly Seamless Single Windows and Trade Facilitation Regime in ASEAN Beyond 2015," *ERIA Discussion Paper Series 2013-29*, October 2013

ACCP website, <http://aseanconsumer.org/news/>

The one of the first activities on this issue was to make an IATFASW (Inter-Agency Task Force (the Task Force) in 2004 which was later extended into ASEAN Single Window Steering Committee (ASWSC). Its main agenda was standardization of processes, data, information parameters and documentation in line with internationally recognized standards to be used in ASW.<sup>134</sup>

In 2005, the ASEAN Single Window Technical Working Group on Data Harmonization under ASWCC S requested technical assistance to establish a harmonized ASEAN Data Set based on the latest and most relevant international standards available. The project was conducted as a part of the ASEAN-EU Program for Regional Integration Support (APRIS) by the EU experts. In March 2006 the ASW Technical Guide, which clearly stated the vision and perspectives of the ASEAN Single Window was published by the ASEAN Secretariat.

USAID was involved into ASW project as it is selected as element of ASEAN Development Vision to Advance National Cooperation and Economic Integration (ADVANCE) Project.<sup>135</sup> In 2006, USAID initiated the high level workshop among ASEAN member states and supported the technical workshops continuously. Furthermore, it reviewed the related laws and regulation of AMS and suggested practical ways of harmonizing these laws.

In July 2011, AMSs signed a Memorandum of Understanding on the Implementation of the ASEAN Single Window Pilot Project which was

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<sup>134</sup>ASW SC made two working group to initiate its main assignment: ASW Technical Working Group (Chaired by Royal Malaysian Customs) and ASW Legal Working Group (Chaired by Philippines Customs)

<sup>135</sup>ADVANCE) Project is a ASEAN wide assistant program which is made of four major elements such as Technical Assistance and Training Facility (the Facility), ASEAN Single Window Program (ASW), Valuing Economic Linkages Under Economic Integration (VALUE).

financed and technically assisted by USAID. It aimed to develop the Technical Prototype for the ASW Project and to test the technical features of the Technical Prototype for the ASW Pilot Project. It also intended to study and develop a simulated legal and regulatory framework in a controlled and simulated environment. Main assignments of USAID were three: (1) establishing the ideal network architecture to conduct the ASW pilot, (2) setting up the agreed infrastructure to implement the ASW Pilot Project and (3) Evaluation and viability analysis of the pilot project. In 2012 a scaled-down pilot program was implemented on seven ASEAN countries as in Table 1 and some of the connectivity tests conducted by seven participating AMS were successfully completed.<sup>136</sup>

## 2) Integration of ASEAN Financial Market

Regional financial integration means a phenomenon in which financial and industries of neighboring countries in a certain region are linked together. It covers a very large spectrum from simple information sharing among regional financial institution to perfect capital mobility within the region. As a result, we may say that a more mature form of financial integration can also be achieved from the elimination of restrictions pertaining to cross-border financial operations to allow (a) financial institutions to operate freely, (b) permit businesses to directly raise funds or borrow and (c) equity and bond investors to invest across the state line with fewer or no restrictions.

The advantage of the regional integration of financial market and industry is to exploit the economies of scale effect. Regional firms, in particular those small and medium-sized ones that face credit constraints, may have better access to broader financial or capital markets. In addition, individual risks could also be minimized by way of portfolio diversification effect.

Financial integration among AMS is one of the important aspects of AEC. The blue print said that member States liberalized progressively any restrictions in sub-sectors or modes as identified by each member country by 2015. In addition, it indicated that member states should strengthen

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<sup>136</sup>It tested the exchange of ASEAN Customs Declaration Document (ACDD) and ASEAN Trade in Goods Agreement (ATIGA) Form D data among the participating AMS and it was successfully done.

their capital market development and integration and allow greater capital mobility.

The blueprint included achieving greater harmonization in capital market standards in ASEAN. It suggested that the liberalization of capital movements should be done consistent with member countries' national agenda and readiness of the economy on condition that adequate safeguard against potential macroeconomic instability and systemic risk are provided.

ASEAN has a long history to improve the financial accessibility among member states. It began when The ASEAN Economic Ministers (AEM) signed the ASEAN Framework Agreement on Services (AFAS) on 15 December 1995 during the 5<sup>th</sup> ASEAN Summit in Bangkok, Thailand. After the Working Committee on ASEAN Financial Services Liberalization under AFAS was established at the 4<sup>th</sup> ASEAN Finance Ministers Meeting (AFMM) held on 25-26 March 2000, more activities were made.

Ministries of Finance and central banks of ASEAN Member States organized several working groups and committees and continuously took actions on it.<sup>137</sup> In 2009, they built a special task force team with outside experts to build a more detailed milestone report on banking market integration and made a very comprehensive report named as "The Road to ASEAN Financial Integration: A Combined Study on Assessing the Financial Landscape and Formulating Milestones for Monetary and Financial Integration in ASEAN" (Combined Study).<sup>138</sup>

The Combined Study aimed to critically and comprehensively assess financial sector regimes and the policy landscape in ASEAN. It gave a detailed financial integration milestones blueprint that should lay out a comprehensive program to achieve ASEAN financial integration by 2015, and recommended institutional and policy reforms to be implemented in 2011–2020. (Combined Study, 2013).

It suggested that the member states should agree to facilitate some qualified ASEAN banks (QABs) to access to their respective domestic

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<sup>137</sup>Currently, there are four working committees to enhance ASEAN financial integration: Working Committee on Financial Services Liberalization (WC-FSL), Working Committee on Capital Account Liberalisation, Working Committee on Capital Market Development (WC-CMD) and the Working Committee on Payment and Settlement Systems (WC-PSS)

<sup>138</sup>Only summary report is open to public. Since the project was financed by ADB, the summary report was jointly published by ADB and ASEAN Secretariat.

banking markets. In addition, it indicated that QABs should be allowed to provide cross-border banking activities, which are subject to the relevant types of banking licensing category granted by the host country. To prepare for it, the banking regulation should be harmonized and financial infrastructure should be provided.

According to Combined Study, some qualified ASEAN banks will be able to take cross border activity in some AMSs by 2015 and all AMSs by 2020.<sup>139</sup>

After the combined study was accepted at the ASEAN Central Bank Governors' Meeting held on 7 April 2011, ASEAN financial authorities began to take actions. For example, they tried to make more detailed definitions or requirements on a qualified ASEAN bank. In addition to it, more liberalization has been made in the ASEAN financial service market. In May, 2011, AMS completed the fifth package of commitments of financial services within ASEAN Framework Agreement on Services and has worked to make the sixth package on financial services liberalization in 2014. Furthermore, ASEAN Capital Markets Infrastructure (ACMI) blueprint was endorsed for the establishment of clearing, settlement and depository linkages among the ASEAN capital markets in the 5<sup>th</sup> of April, 2014, at the 18<sup>th</sup> Finance Ministers' Meeting. It also announced that ASEAN would advance its integration process and it will finally achieve its target as scheduled.

### 3) Establishing Consumer Protection

Consumer protection is defined as a group of laws and organizations designed to ensure the rights of consumers as well as fair trade, competition and accurate information in the marketplace. Usually, consumers often face imbalances in economic terms, educational levels and bargaining power. In addition consumers should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development and environmental protection. (UN 2003) Generally, laws and regulations are designed to prevent businesses that engage in fraud or specified unfair practices from gaining an advantage over competitors. The consumer protection law and regulation generally covers many topics such as fair

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<sup>139</sup>It did not indicate any specific deadline which any ASEAN qualified banks are allowed to enter all Member States or which all banks are allowed to enter into some Member States.

trade, fair competition, privacy right, product safety and fraud etc. Under a good practice of consumer protection law and regulation, social welfare will be able to be maximized.<sup>140</sup>

Although having a law or regulation on consumer protection is quite an advance into a more fair economy and society, it is not enough unless those are not practiced properly. Some consumer protection measures, such as those banning misleading advertising, apply as blanket rules across all markets. In specialized industries, such as telecommunications, financial services and pharmaceuticals, more tailored and specific obligations on traders are often necessary. As a result, it is very important for the related authority and people to have substantial experience and knowledge on it. Strong enforcement by regulators is one of several strategies that are essential to promoting compliance. Codes of conduct, trader education, industry-based complaints schemes and other mechanisms can contribute to increased compliance but, when push comes to shove, a rules-based system cannot work without effective application of sanctions.

AMS also recognized the importance of the consumer protection to transform it into a competitive economic region quite long time ago. The blueprint clearly declared that consumers cannot be precluded in all measures taken to achieve this integration and that consumer protection is an essential tool in building up a people-oriented ASEAN Community.

Following the guideline in the blueprint, several important systematic instruments were introduced in ASEAN. AMS established the inter-governmental ASEAN Coordinating Committee on Consumer Protection, later renamed as the ASEAN Committee on Consumer Protection (ACCP), was established in August 2007. Under its guidance, three Working Groups such as (1) Working Group on Rapid Alert System & Information Exchange, (2) Working Group on Cross Border Consumer Redress, (3) Working Group on Capacity Building serve as the focal point for the implementation and monitoring of regional arrangements and mechanisms on, and to foster the sustainable development of, consumer protection in ASEAN. In addition, it made a network of consumer protection agencies to facilitate information sharing and exchange.

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<sup>140</sup>UN guide line indicates of seven area of consumer protection in the developing countries of physical safety, economic interests, standards, essential goods and services, redress, education and information, specific areas concerning health and sustainable consumption

Furthermore it asked to organize regional training courses for consumer protection officials and consumer leaders in preparation for an integrated ASEAN market.

In June 2008, the first meeting of ACCP was held where each country presented their statues of consumer protection laws, regulation and activities and in the second meeting of ACCP in 2009, it endorsed the Terms of Reference (TORs) and work programs of all three ACCP Working Groups: a) Development of a notification and information exchange mechanism, (b) Development of a cross border consumer redress website, (c) Development and implementation of a capacity building roadmap.

It was evitable for ACCP to get assistance from advanced country because ASEAN did not much experience on it. For this purpose, ACCP closely worked with Australian government to enhance the ASEAN wide consumer protection program.<sup>141</sup>For example, Australian experts reviewed the current consumer protection laws and practices of ASEAN member states and made a concrete regional development program on it in 2011.(Austailia 2011)

It is true that some AMSs have emphasized the significance of consumer protection in their national development plans while other did not. Thailand, for instance, enacted its principal Consumer Protection Act as early as in 1979 (Table 1). When AEC blueprint was announced in 2007, seven AMSsof Indonesia (1999), Malaysia (1999), Philippines (1992), Singapore (2003), Thailand (1979), and Viet Nam (1999)already had a major consumer protection laws while Brunei Darussalam, Cambodia, Lao PDR and Myanmar did not.

However, a substantial progress was made in the area of consumer protection in ASEAN afterwards. Lao PDR and Brunei Darussalam had made their own laws in 2010 and 2011 respectively and very recently, Myanmar also passed the consumer protection law in March, 2014. Currently, Cambodia is working on it.

More progress was made in the field of harmonization of regional comprehensive consumer protection law and regulation. ACCP made a regular meeting to review the consumer protection laws and program of each member state and tried to build a harmonized program.

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<sup>141</sup>It is done under the ASEAN-Australia Development Cooperation Program.

It is known that AMSs accomplished to build over 90 percent harmonized agreement on the consumer protection laws and regulation in April 2014 (Manila Bulletin 2014) and that soon they would announce it. If then the commitment on blueprint is done on schedule.

**Table 1: Status of Principal Consumer Protection Laws in AMSs**

Country	Principal Consumer Protection Act
Brunei Darussalam	Consumer Protection Order 2011
Cambodia	Under construction
Indonesia	Consumer Protection Act No 8/1999
Lao PDR	Law on Consumer Protection 2010
Malaysia	Consumer Protection Act 1999
Myanmar	The Consumer Protection Law 2014
Philippines	Republic Act No. 7394 - The Consumer Act of 1992
Singapore	Consumer Protection (Fair Trading) Act 2009
Thailand	The Consumer Protection Act 1979
Vietnam	Ordinance of Protection of Consumer's Interests 1999

Source: ASEAN Australia Development Cooperation Program, ASEAN Consumer Protection: Essential actions towards a single market in Roadmapping in Capacity Building Needs in Consumer Protection in ASEAN, 2013

Despite of all of substantial progress of ASEAN in the area of consumer protection, it is still known that consumer protection in ASEAN is on the stage of early development. In order to protect the consumer rights well, markets need effective mechanisms to promote and protect them. Developing the skills of consumers to improve their understanding of goods and services will be required to increase the consumer confidence and to promote healthy competition. This needs to be undertaken through consumer education and empowerment programs which are forward-looking whilst addressing the concerns of sustainable

development. Still AMSs do not have enough expertise or practice experiences now.

#### **IV. Why Are There a Such Discrepancy?**

##### **1) Difference of Interpretation of Deadline of AEC building and Policy Lag**

From the beginning, it is quiet natural that the policy makers and politician and market participants do not have the same interpretation on the definition of AEC. AEC definition is very clear as indicated in the section 1. However, the assignment of policy makers and politicians for building AEC and acknowledgement by market participants are different.

Policy makers think that their job to build AEC is completed when they make an environment which market participants are able to do the business with the region. Deregulation of unnecessary domestic law and harmonization of domestic laws and regulations across the region will be one of important their main assignments. The building infrastructure including both hardware and software may be another one.

However, the market participants think that market is integrated when they can access member states market like their own domestic market. If anything seriously disturbs their economic activity within the member states, then they will not regard that AEC is successfully launched.

If the government deregulates a certain law to prevent the foreign company to penetrate into domestic market, it will take quite a time for any foreign company to do business in this country. A company has to examine the market conditions or possible other regulations. Even if it finished it successfully and determine to open a new business in one the member states, it will take another period for it to impleme.t it. It has to hire the people and to rent an office. Probably, long time later, a normal consumer will realize the effect of AEC.

Suppose that ASEAN declares that ASW is successfully launched at the date of December, 2015. Required hardware for ASEAN single window is equipped in all member countries and harmonization of related regulation is made. Is it enough for the importers and exporters to realize the success of ASW? Probably not. Still it will take quite times for the related government officers such as custom officers to be used to this new

system. Especially, local custom officers of the border area in less developed countries of ASEAN may take more time to understand this new advanced system. At the same time, it will take time to the importers and exporters to be trained to this new system.

As for the banking market integration, this problem may be more serious. Even if the banking market integration plan such as QAB system is adopted in 2015, opening a new branch or a subsidiary of QAB in the ASEAN member states will be made several years later. Generally, it take quite time for a bank to open a new branch or a subsidiary. First, it has to make an extensive market research on the candidate places of ASEAN member states and to determine whether to open or not there. Second, even if opening of new office is determined, it will take another several months to prepare for it because it has to find a suitable office space and to recruit the people.

In the case of consumer protection area, making law is not enough to protect the right of the consumers. If people and related organization are not well trained and they do not have expertise on it, then it may not be realized. Especially in the developing countries, consumer protection is a relatively new concept and most people do not have clear understanding. To appeal their right into a law is not an easy job. As a result, we may conclude that it will take more times for a normal consumer to realize the fact that his right is protected.

## 2) ASEAN-x principle

Another reason for the discrepancy between the policy makers and politician and market participants is that ASEAN is taking the ASEAN-x principle in major decision making According to it, if all member states are in agreement, a formula for flexible participation may be used so that the members who are ready may go ahead while members who need more time for implementation may apply a flexible timeline.<sup>142</sup>

AEC covers all 10 ASEAN member states. However, launching AEC does not necessary means that all 10 ASEAN member states take the same

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<sup>142</sup>The primary mode of decision-making in ASEAN is consultation and consensus, a tradition that ensures that ASEAN initiatives have the full support of its members and that no member state will feel discriminated against. However, the Charter enshrines the principle of ASEAN-X in implementation. In cases where consensus cannot be reached, the Charter provides for the ASEAN Summit to decide on an alternative method of decision-making

degree of integration in all aspects. Because of ASEAN-x principle, some countries may take all the necessary measures to be required by AEC blueprint while others may not. Some sectors will be more integrated while other will not. As a result, some market participants will feel that AEC has launched in December, 2015 while others do not. Currently, it is expected that ASEAN 6 will successfully join AEC by 2015 while CLM may have problems on it. For example, ASEAN 6 and Vietnam are successful equipped NSW and complete ASW pilot test. They will be able to implement ASW by 2015 as expected. However, CLM do not their NSW now and it is uncertain that they will have NSW by 2015.

The same story applied into banking market integration. The qualification condition of QAB is determined by the central banks of ASEAN. Some of the most important conditions are asset sizes, prudential ratios and past business record etc. There is a possibility that only banks in ASEAN 5 or 6 may be qualified and no bank in CLMV is included. If this is true, then there is no reason that CLMV take the banking market integration activity. Only the banking market of ASEAN 5 or 6 are integrated.

Currently, it is expected that ASEAN will achieve partial form of AEC by 2015. Not all member states will satisfy the conditions explicitly stated in AEC blueprint by 2015. As a result, it is known those economic agents feel that AEC will not be successfully launched by 2015.

### 3) A very Short Preparation Time

When we examine the integration process of the above three sectors, we find that the blueprint is too ambitious at the planning stage. A good blueprint should be made in detail and it should clearly describe the milestones and object of the project.

When we look as the blueprint and try to follow it, we find several problems on it. Frist, it is too ambitiously made. It is true that there is a wide disparity in the state of development or economic and social and political system. Therefore, if ASEAM member states like to make AEC, then more research and study should be done to make a more concrete plan.

For example, when AEC blueprint in 2007 indicated that ASEAN 6 and CLMV should make their NSE by 2008 and 2012, respectively and make ASW by 2015, expert knew that it was almost impossible to achieve

it on time. The blueprint maker did not understand how hard it is for developing countries like ASEAN member states to make NSW by themselves.

ASEAN central bankers did not know the structure of financial market and industry of ASEAN by 2011 when combined study report was completed by consulting team. The blueprint was made without understanding of the financial market and industry of ASEAN. The strategy and milestone of the integration are accepted in the central bank governor's meeting of 2011.

Consumer protection was a relatively new conception to several ASEAN member states when a blue print was made. It was not easy for ASEAN member states to practice consumer protection by the dead line of 2015. It may be possible that all member states have a reasonable form of consumer protection law and regulation by 2015 but it is not easy to practice it. Training and exercising will cost long time of works.

#### 4) Lack of Resource and Expertise

It is quite natural to assume that lots of financial resources and expertise are required to implement to measures required to build AEC and that ASEAN may have trouble to hold it.

There are several steps to follow in general for ASEAN to share common comprehensive systems for economic community. First, each country should be equipped with its national system and second, the comprehensive harmonized framework should be designed for Each ASE to follow and third, AMSs should modify their own systems to fit into this common framework and fourth a pilot project should be successfully complete. If all of these processes are done successfully, then a new ASEAN-wide system can be launched. Of course, some steps may be skipped in cases.

We may simply assume that substantial of resources – both financial and non-financial resource - are required for each of these steps to be completed. For example, it has taken about two years to design the framework of ASW. The consulting team should review and analyze current statues of NSW of ASEAN member states and had to derive a reasonable form of regional single windows. In this process, quite expertise and experience in this field are required. Financial resources were also very important. It is known that ADB had to spend more than a

million dollars to develop the framework of ASEAN commercial banking market integration. More than two years of extensive research and cooperation between consulting team and ASEAN financial market regulators has been done. It might take quite times that some of domestic banks of CLMV were entitled to be a Qualified ASEAN Bank.

In the actual installation or implement of the ASEAN-wide system, more resources are required. For examples, installing computer systems required for ASW to each member states will cost millions of dollars. If a qualified ASEAN bank likes to upgrade its computer to be useful in this new environment, more than tens of million dollars may be required. To taking cross-border payment may require a complete new system.

Most ASEAN member states are developing countries which cannot pay all these expenses by themselves. Especially, low income countries of CLMV may have large trouble either to prepare its own domestics system or to modify their system into this new environment. As a result, it may not be clear that CIM may be able to complete building their NSWs by 2015. While they are working very hard on it by launching several projects, still they are behind the schedule. It is true that they had to finance most of these projects by aid of advanced countries.<sup>143</sup>

Another example is installing a modern electronic payment and settlement system in the foreign exchange market. It is very important of commercial banks of AMS to establish the integration of banking market. Currently, most ASEAN member states central are sticking on the traditional correspondent system and will not change into more advanced one such as CLS for the time being because of the high installation and managing cost.<sup>144</sup>

## **V. Conclusion**

After the blueprint was announced, lots progresses were made in building AEC. Many committees were organized and many reports have been published. In some area, a new harmonized rule and regulations were announced and new systems were installed. Common tariff rate reduced up to null percent in some AMSs in 2014.

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<sup>143</sup>The projects of building NSW of Vietnam and Myanmar are assisted by Japanese government while that of Lao PDR is currently done with the cooperation with USAID and the government of Lao PDR. Cambodia is working on it with ADB and World Bank.

<sup>144</sup>Only Singapore is using more advanced one such as CLS now.

Despite of all these efforts and affirmative signs, there is a still wide-spread gloomy skepticism on it. Several survey results said that AEC might not reach its goal at its deadline of 2015 or that its integration process speed might be too late.

In this paper, we try to fill up this discrepancy and to provide a rational explanation on it by examining three cases of AEC of ASEAN Single Window, ASEAN banking market integration and ASEAN-wide consumer protection.

We find that there are several reasons for it. First there is a wide-spread discrepancy in the meaning of deadline of AEC building between AMS governments and market participants. Usually, policy makers think that their job to build AEC is completed when they make an environment which market participants are able to do the business with the region. On the contrary, the market participants consider that market integration is completed when they can access member states market like their own domestic market. Unless more clear definition is provided, this discrepancy cannot be narrow down.

Second, ASEAN-x principle allowed some ASMs or some industries to be excluded from joining to the AEC or not to keep the deadline of 2015. In all three cases in the second section, some countries are always exempted from the program. For example, three counties of Cambodia, Lao PDR and Myanmar are expected to have NSW by 2015, not to mention of joining to ASW.

Third, the blueprint of AEC or plan of integration for each element was made too hasty. We do not say that the quality of these report are poor or they are ill prepared. At first, AEC was supposed to be built by 2020 but suddenly the deadline has changed into 2015. As a result, everything had to be done very quickly and hasty and too less time and resources have been put into making blueprint or designing an integration plan. For example, while blueprint indicated that ASEAN-6 (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) should operate their National Single Windows by 2008 but only Singapore was able to complete it by the deadline.

Fourth, ASEAN has a substantial shortage in expertise and resource during the formulation of AEC. To take care of financial resources, AMSs has to ask assistance to international organization or advanced countries. In all three cases mentioned, financial assistance from outside was very crucial. To design the framework of elements of blueprint, expertise and experiences of advanced countries are adopted.

For the past decade, ASEAN has achieved a very remarkable achievement in economic cooperation. Making AEC can be very important momentum for

further economic cooperation in this region. Currently, it is becoming one of the important models for the regional economic cooperation.

Despite all of these positive ones, still many market participants think that AEC will not be made by 2015 or the performance of AEC will be less than planned. At the date of deadline of 2015, there may be large amount of discourage and complains among market participants. Even there will be an argument that AEC has failed.

We try to clarify the reasons for the discrepancy and find that all of reasons are very structural and these cannot be solved instantly. So ASEAN should prepare for it.

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**MAPPING AND ROLE OF INDONESIAN SKILLED  
WORKERS AND ASEAN SERVICES  
LIBERALIZATION FOR CREATING STRATEGIC  
VALUE DIFFERENT SECTORS IN THE MUTUAL  
RECOGNITION AGREEMENT (MRA) FRAMEWORK**

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# **MAPPING AND ROLE OF INDONESIAN SKILLED WORKERS AND ASEAN SERVICES LIBERALIZATION FOR CREATING STRATEGIC VALUE DIFFERENT SECTORS IN THE MUTUAL RECOGNITION AGREEMENT (MRA) FRAMEWORK**

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## **Abstract**

The service sector is an increasingly important sector to the Indonesian economy. Both in terms of its contribution to national income and in terms of employment. In this context into force of the ASEAN Economic Community in 2015 and the liberalization of the services sector is becoming one of the important elements is expected to drive the growth of the services sector and provide benefits to the Indonesian economy. Indonesia has so far witnessed the liberalization of the services sector is still plenty of ASEAN which will benefit especially for Indonesian workers. Through MRA (Mutual Agreement Recognize) in ASEAN countries signed and support the liberalization of the services sector be fair and AEC Blueprint in regulating the freedom of mobility of skilled labor in ASEAN.

In this study focuses on eight sectors have also agreed uniformity in terms of quality, quantity and governance aspects of the skilled workers, the problems in one sector with regard to various other relevant factors. There are various alternative mapping and role of Indonesian skilled workers, one of the alternative view that effective and efficient is through policy recommendations are intended for government, associations and media that are specific in each service sector, so that would put the national interests of Indonesia as a primary consideration.

Keyword: "*The Role of Skilled Workers, ASEAN services liberalization, Sector Strategy, Sector Policy Recommendations.*"

## INTRODUCTION

### A. Background

Although trade liberalization at the global level obstacles which began in 2001, the process of trade liberalization experienced significant developments with the emergence of free trade agreements at the level of the region. In South East Asia, ASEAN has managed to agree on the ASEAN Free Trade Area which requires ASEAN countries to reduce rates of up to 0.5% for goods traded in ASEAN countries with deadlines in 2015.

However, recorded at the beginning of trade liberalization, the focus is more preferred in goods (goods) than services (service). Only in the 1970s liberalization of services sectors gain attention and has increased significantly as part of an effort to increase international investment.

Terminology of Mutual Recognition Arrangement has been around since the 1980s, and the WTO was the first to formalize the terminology Mutual Recognition

This arrangement. MRA (Mutual Recognition Arrangement), is an agreement of mutual recognition of certain products between two or more countries to facilitate the import and export activities without going through two or more times of testing. Thus, MRA has the objective to facilitate trade and stimulate economic activity between the various parties through the acceptability in terms of one standard, one test, one certification and, where appropriate, the tagging.<sup>145</sup>

In an effort to improve the improvement of services liberalization, the WTO then formed GATS (General Agreements on Trade in Service) that regulates the trade liberalization of the services sector 12. GATS embraces several key principles, namely; principle of non-discrimination which consists of most favored nation principle (Principle MNF) and national treatment, market access liberalization principle, and the principle of transparency.

The rules in the GATS is the main reference in the implementation of the liberalization of the services sector performed not only be done but also done at the level of international regional and bilateral. At the level of ASEAN, AFTA agreed in 1992 began to focus attention on the transfer of services sector liberalization was initiated with the approval of AFAS (ASEAN Framework

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<sup>145</sup>[http://www.dephut.go.id/Halaman/STANDARDISASI & LINGKUNGAN KEHUTANAN/INFO III01/IX III01.htm](http://www.dephut.go.id/Halaman/STANDARDISASI_&_LINGKUNGAN_KEHUTANAN/INFO_III01/IX_III01.htm) accessed on August 23, 2014 at 4:25 PM.

Agreement on Trade in Services) in 1995 Due to the economic crisis in 1997 managed to destroy the economy and give birth changes political disebagaian ASEAN countries, including the main motors such as Indonesia and Thailand so that negotiations on the liberalization of the services sector in the ASEAN level does not take place effectively at the time.

After ASEAN countries began to recover from the shock of the Asian crisis, ASEAN countries began to see the potential of ASEAN to promote the welfare of each country. In this context began to emerge of new initiatives to make ASEAN a more effective and integrated. The initiative is then led to the declaration of ASEAN Concord II (Bali Concord II) in October 2003, the ASEAN leaders agreed to create an ASEAN community that has three pillars; 1) ASEAN Security Community, 2) ASEAN Economic Community, and 3) ASEAN Social- Cultural Community. Since then, the liberalization of the services sector in ASEAN find new momentum, the Bali Concord II also stated clearly that the liberalization of the services sector is one of the important elements in the integration of ASEAN.

13th ASEAN Summit in November 2007 agreed on the adoption of the Blueprint for the ASEAN Economic Community (AEC Blueprint) as a comprehensive planning document to guide the realization of the ASEAN economic community security in 2015 The document states that ASEAN will not only be a single market but also into single production base which requires the factors of production that are free, including capital and skilled labor. This blueprint is a milestone in the liberalization of the services sector in ASEAN as a turning point to make approaches and make clear targets and measurable when in the process of liberalization of ASEAN services sector.

In an effort to support the liberalization of the services sector, particularly related to skilled labor, ASEAN member countries signed the MRA (Mutual Recognition Agreement) on 19 November 2007 MRA becomes an absolute thing that is done to support the liberalization of the services sector beraskan justice / fairness.

In addition to the MRA as the main reference in ensuring mobility of skilled labor, then as an effort to maximize the implementation of the liberalization of the services sector has been agreed in the AEC, ASEAN move quickly with the approval of Agreement on the Movement of Natural Persons (MNP) in November 2012. this agreement provides for the protection of the integrity of national borders and the protection of members of ASEAN domestic workers and permanent workers in countries of ASEAN members.

The important thing to note is that the foreign policy, including the Indonesian agreement on treaty to liberalize the services sector, which are not negotiations at one level only. The government not only negotiates with other ASEAN member states, but also with its own people. There are interests in the country that should be consulted in the implementation of the liberalization of the services sector in Indonesia.

## **RESULT AND DISCUSSION**

### **A. Present Condition**

Currently, Indonesia's readiness to face the AEC had 83 percent of the condition of the AEC. Roughly we still have to fix this in 1 year more around 15-17 percent and is the most dominant services sector. Admittedly, fix the service sector is not an easy thing, especially transaction services are gradually enlarged as in line with economic growth so there needs to be coordination on an ongoing basis. One of the technical efforts being conducted by the government is creating profesi. Its standardization and certification is one of the challenges to be faced.

In fact, in the face of the AEC in 2015, has not been a lot of preparation means from Indonesia. Based on the report of the Coordinating Ministry for the Economy, revealed various facts. Balance of Trade of Indonesia to ASEAN countries since 2005 have always had a deficit that is increasing annually. Export Indonesia has been dominated by the goods in the form of natural raw materials (raw materials) such as coal, edible oil, gas, and petroleum (40% of all Indonesian exports). The competitiveness of Indonesian products in general is relatively weaker than the major industrialized countries of ASEAN such as Singapore, Malaysia and Thailand.

In the field of services, the level of tourist arrivals to Indonesia is relatively low compared to other ASEAN countries even though Indonesia has a huge potential for tourism in the form of natural resources, cultural and historical heritage. In terms of investment, foreign investment flows into Indonesia compared with the total amount of FDI into ASEAN is relatively low compared to that flowing into Singapore, Thailand, and even Vietnam. Similarly, from the support sector, the Indonesian budget for infrastructure spending is low, only 2% of GDP (with an ideal level of infrastructure spending 5%). In comparison, Vietnam has a fund infrastructure spending to 8%, and China reached 10%. Similarly, the condition of road infrastructure in Indonesia is the worst in

ASEAN. In addition, the length of roads in Indonesia is also the shortest in the ASEAN (ADB, 2011). Approximately 36% of the road networks are reported damaged or suffered severe damage, inadequate and low-quality (ADB 2007).

With these conditions, a clear industrial and economic competitiveness Indonesia is still below the major countries of ASEAN others. "Excellence" in the form of pseudo-population, strategic location and abundant natural resources merely a "sweetener" to sell Indonesia to the international markets and investors, especially the ASEAN countries who do not have the population, markets, and natural resources.

Moreover, the weakness of Indonesia in the service sector and labor can be fully utilized by other ASEAN countries. Through the ASEAN Framework Agreement on Services (AFAS), has opened liberalization for professional accountants, doctors, dentists, engineers, nurses, and architects. Even in the preparation packet-8 commitments to AFAS year in 2010, explicitly stated that the practice of Indonesian labor markets have opened lower class (low level) for countries such as Malaysia, Singapore, and Brunei.<sup>146</sup>

The service sector is becoming an important sector in the Indonesian economy, which accounts for about 60-80% in the reduction of poverty programs in Indonesia. If the offender services sector in Indonesia a little off guard and did not make a breakthrough then Indonesia will only be treated as a market or markets in the country so that Indonesia's commitment AFAS, giving an advantage to foreign. Domestic service sector also needs to be supported by a highly skilled work force; this has facilitated the movement of labor agreements Movement of Natural Persons (MNP). Agreement MNP goal is to provide the rights and obligations associated with the movement of skilled labor among ASEAN member countries. This opportunity should be used as opportunities for skilled labor in Indonesia to penetrate the labor market in the ASEAN region, this is the opportunity to use the service sector actors in Indonesia to improve the quality in order to enter the country in the ASEAN region, if the offender of the service sector cannot improve before AEC then the potential of the service sector to foreign control of Indonesia will be more wide open.<sup>147</sup>

Before discussing more specific service sector in the next section, it is important to get a general overview of the services sector in Indonesia. Sector

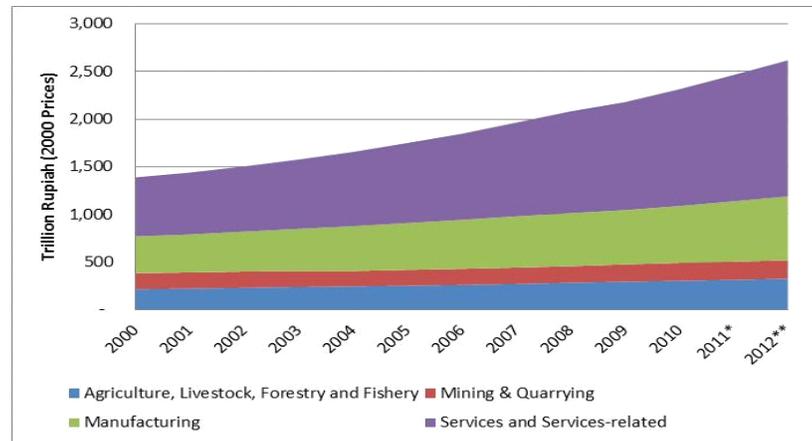
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<sup>146</sup>[http://www.fajar.co.id/metromakassar/2898248\\_5662.html](http://www.fajar.co.id/metromakassar/2898248_5662.html) accessed on August 24, 2014 at 3:15 PM.

<sup>147</sup><http://www.beritasatu.com/ekonomi/139543-isei-sektor-jasa-dan-industri-harus-jadi-sektor-unggulan-indonesia-di-mea.html> accessed on August 24, 2014 at 3:15 PM.

which is growing very rapidly, especially in the last decade that its contribution to national income is recorded continuously increasing in services sector. Service sector has accounted for 44% of GDP. In 2012 the growth of the services sector has reached more than 50%. This development can be seen from the following graph:

**Graph 2.1 GDP composition by Sector**



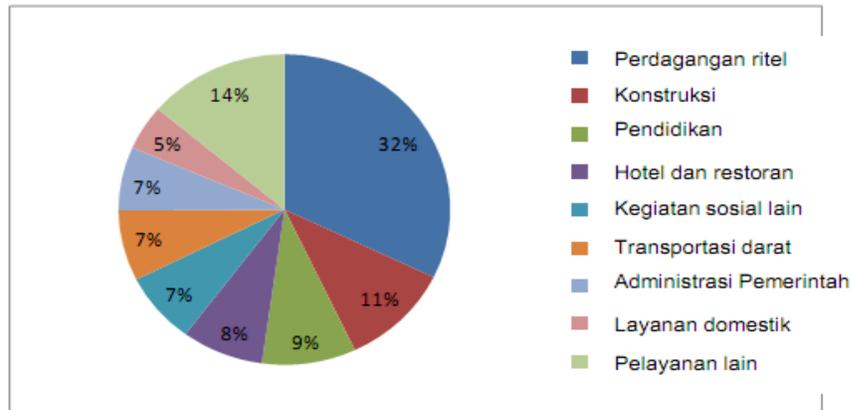
*Source: Chris Manning and HaryoAswicahyono, "Trade and Employment in the Service Sector in Indonesia," Report of the International Labour Organization (ILO), July 12, 2012*

Even so many people who also see this with caution because of the growth of the services sector, together with the decline in the field of industry sectors. Indonesia experienced the phenomena that differ from other countries in the Southeast Asian region comparison between the growth of the service sector and the manufacturing sector. After the massive economic crisis in 1997/1998, services sector recorded a growth much faster than the manufacturing sector. The situation is different when compared to Thailand and Malaysia where the manufacturing sector is growing as fast as the service sector in both the neighboring countries.

The growth of the services sector is also evident from the number of people working in the sector increased by leaps and bounds. There are about 7, 1 million jobs provided by the service sector related to export activities and only 5 million jobs provided by all sectors of manufacturing (lightly processed food, light industry and heavy). In the services sector, there are several major service sector activities that absorb labor at most. The retail trade sector is the sector absorbing labor at most by 32%, followed by construction (11%), education

(9%), and hotels and restaurants 98%). The composition of the details can be seen in the following graph:

**Graphs 2.2 Distribution of Work in the Main Service Sector Activity**



Source: Chris Manning and HaryoAswicahyono, "Trade and Employment in the Service Sector in Indonesia," Report of the International Labour Organization (ILO), July 12, 2012

Thus we can see that the service sector is an increasingly important sector to the Indonesian economy, both in terms of its contribution to national income and employment. In this context, the enactment of the AEC in 2015 and the liberalization of the services sector is becoming an important element in it is expected to drive the growth of the services sector and provide benefits to the Indonesian economy.

Despite this we still see that many people who are still dubious liberalization of the services sector as the implementation of the ASEAN Economic Community in 2015 ASEAN will benefit Indonesia, especially the workers in Indonesia. ASEAN services sector liberalization will cause a negative impact to the services sector actors in the country. This concern is not without reason, if you see Indonesia's trade balance deficit continue to experience great. Indonesian imports of services in case the value of the larger double the exports of services, so that the deficit reached more than 10 billion USD. This deficit has consistently lasted until 2012.

Among the main services sectors, only one sector of travel services communications, and government services that are stable have a surplus. One

was encouraging news is that the construction services sector has increased since 2011 and the trend increased until now.

Indonesia in the global Aging power index increased from rank 50 in 2012 and is now ranked 38 in the year 2013 In the year 2012/2014 Indonesian index is below Singapore (world rank 2), Malaysia (ranked 25), Brunei (28 ratings ) and Thailand (ranked 38). Although Indonesia is still far away with these countries, Indonesia ranked fairly significant increase. Indonesia right under one rank below Thailand.

**Table 2.1 Rating ASEAN Member States in the Global Competitiveness Index**

<b>Countries</b>	<b>Rank</b>
<b>Singapura</b>	2
<b>Malaysia</b>	24
<b>Brunei</b>	26
<b>Thailand</b>	37
<b>Indonesia</b>	38
<b>Filipina</b>	59
<b>Vietnam</b>	70
<b>Laos</b>	81
<b>Kamboja</b>	88
<b>Myanmar</b>	139

Source: Data compiled from <http://reports.weforum.org/the-global-competitiveness-report-2013-2014/#> accessed on August 24, 2014

Increased ratings surge Indonesia was also met with skepticism, many businessmen and economists were surprised by the increase in Indonesia's ranking was primarily due to an increase in the infrastructure sector to see that development is still stalled.

## **B. Discussion on Service Sector in Each Field**

### **1. Engineering Services**

The goal of the MRA engineering services sector is to facilitate trade and economic activity as a stimulant among parties through HR competencies in terms of standards, qualifications, certifications and licenses. In the engineering sector MRA is explained that the purpose of the MRA in the field of engineering is to facilitate the movement of professional engineering services as well as a means of exchanging information in order to pursue the

adoption of best practices on the implementation of standards and qualifications. Without the engineering sector, sectors of the economy will not be able to walk. In Indonesia, based on the engineering services in the field of science in engineering from the existing curriculum. Indonesia know there are 12 types of fields in engineering, among others; 1) Civil Engineering, 2) Mechanical Engineering, 3) Electrical Engineering, 4) Engineering Physics, 5) Petroleum Engineering, 6) Industrial Engineering, 7) Geodesy, 8) Marine Engineering, 9) Chemical Engineering, 10) Environmental Engineering, 11) Mining Engineering, 12) aeronautical engineering.

Meanwhile, if compared with other ASEAN countries, the nomenclatures in the field of Indonesian engineers are very different. One of the indicators in determining the problems engineers in Indonesia is the fulfillment of engineers in the country to see the growth of engineering graduates produced each year in Indonesia. The root of the problem is in the engineering education in Indonesia as a whole. Quality engineers in each country is a major factor. Moreover the duration of education is becoming standardized education in Indonesia also contributed to the quality of the output. Meanwhile, if you are talking about a matter of quantity in terms of meeting the needs of engineers in the country Indonesia is still a shortage of engineers. Data obtained from PII mention that undergraduate engineering population in Indonesia compared to Malaysia is still quite far exceeded. Graphs like this.

**Graph 2.1 Diagram Population Countries in Year 2008**

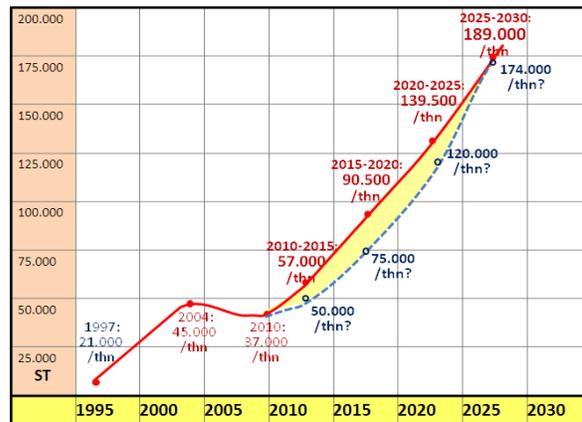


Source: PII 2013

From the graph above can be explained that in terms of the ratio of undergraduate engineering population in Indonesia per 1 million population is still very small compared to Vietnam, Malaysia and Thailand. Indonesia is still a shortage of about 1.2 million engineers; ideally Indonesia has 2 million engineers. While currently fulfilling only 600-700 thousand. If the projected demand in the coming years engineering degree in Indonesia will increase but growth will decrease. Indonesian engineers Unity projecting that by 2030 if no policy changes that could encourage the rapid growth of the engineering degree for each year approximately 15,000 Indonesian shortage of engineers and the shortfall will be filled by foreign workers.

**Graph 2.2 Diagram of Engineers Indonesia needs Projections 2015-2030**

Kebutuhan dan Pemenuhan Sarjana Teknik



Source: PII 2013

Data above diagram is an analysis of the quantity on meeting the needs of engineers in Indonesia, when viewed in the quality of the limited number of teachers in public universities are graduating to doctoral also be a useful indicator of the problems on which to base Indonesia shortage of engineers today.

## 2. Architecture Services

Architect is someone who designs buildings and provide implementation advice as well acted as supervisors and executors of the building. The essence of the architect is designing or designing, architectural services or construction services contribute to the distribution of service sector jobs.

Since the early 1970s, economic conditions in Indonesia is getting better, the impact on the need for planning and architectural design services is growing rapidly. Therefore, there are an emerging architectural bureaus that handle project governing bodies, state enterprises, and the "new rich". Unfortunately, the architect's professionals in Indonesia are not ready to accept such a big challenge. Who do not have the choice of functional doctrine of modern architecture handcuff unique character development in contemporary architecture of its time.<sup>148</sup>

Architectural services sector has its own economic value Indonesia. Sector architecture services in Indonesian economy has good competitiveness, while skilled workers based on national qualification consists of a technician / foreman / welder. While qualifying for experts are divided into three main categories, namely primary expert, intermediate and expert young experts. The ASEAN-related classifications are divided into two categories for the services of architects called ASEAN architect (AA), while for engineers called the ASEAN Chartered Professional Engineer (ACPE). As related to the quantity of the services of architects can be said to be still inadequate, refers to the number of Indonesian Architects Association (IAI) only 14,842 people. This amount is already full duty / death / not active.

As related to the quantity of the services of architects can be said to be still inadequate, refers to the number of Indonesian Architects Association (IAI) only 14,842 people. This amount is already full duty / death / not active.

For this architecture sector there are some important notes that need to be observed. First, that the quality of architectural education is not evenly distributed. There are only about 140 colleges spread from Jakarta to the north Moluccas and spreading

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<sup>148</sup>[http://atelierriri.com/blog/?page\\_id=33](http://atelierriri.com/blog/?page_id=33) accessed on August 24, 2014

centered on the island of Java, then the gap is also very different. Secondly, the duration of 4 years of education architecture is not compatible with the requirements of the applicable national (5) years. Associated with the duration of the study period needed government regulation to make adjustments to the coordination efforts between Ministry of Education with IAI as the agency responsible for the certification process. It is also necessary to review the educational institution where the distribution so that all regions have the same opportunity to get the education services of an architect. However, it is important to pay attention to the quality rather than quantity as the quality factor can be decisive for the success of ASEAN and globally competitive market.

### **3. Nursing Services**

The nurse is someone who has expertise in the field of service that they formally and administratively has received recognition and licenses from authorities designated by each country. Only nurses who have high competitiveness that has the opportunity to be able to compete in the "market" nurse services. In addition, the State's role becomes particularly important point in determining and improving nursing personnel qualifications to be able to make optimum use of nursing services at the level of implementation of liberalization of ASEAN. In Indonesia there is an overlap in the profession define a nurse. The term nurses still do not have a basic standard so that the professional nurse position often equated with the services of the nurses who put more emphasis on skills.

Nursing profession has the largest share in the percentage of health workers, not only in Indonesia but also globally. In Indonesia, the proportion of nurses in the amount of 173,948 people, followed by a midwife. Furthermore, along with the development and global dynamics, noted that the nurse is one profession that is experiencing an increasing trend in the last decades the need is not only at the level of ASEAN but also globally. The rapid growth of the elderly who jumped drastically to be one factor high demand for nurses. Based on data from the Ministry of Health, estimates of health workers from abroad increased rapidly and nurses occupy the largest portion of the needs of the estimated increase in the level of demand continues to soar in 2014 as many as 9,280, as many as 13,100 in

2019 and 2015 as many as 16,920. refer to the figure it can be said there is a big opportunity for Indonesia in the ASEAN market power.

**Table 2.2 Estimates of Indonesian Health Workers from outside the State**

<b>No.</b>	<b>Health Workers</b>	<b>2014</b>	<b>2019</b>	<b>2025</b>
1.	Nurse	9280	13100	16920
2	Physician Specialist	1440	1800	2160
3	General Practitioners	400	500	600
4	Dentist	40	50	60
5	Midwife	400	500	600
6	Medical technician	400	500	600
7	SKM	200	250	300

*Source: Center for Planning and Utilization SDMKes, BPPSDMK, Ministry of Health, 2011*

Regarding the readiness of Indonesia to achieve the benefits of the liberalization of the services sector nursing, some key things to note is the quantity and poor quality of human resources including language skills and qualifications of nurses, and government regulations are needed to support the strengthening of Indonesian nursing services in order to compete in the market of ASEAN .

The data in the following table shows the estimated increase in demand and a shortage of nurses in Indonesia in 2014, 2019 to 2025 which showed that despite an increase in the number of nurses but has not met the required quantity.

**Table 2.3 Estimated Needs and Lack of Nurses in Indonesia**

<b>No</b>	<b>Year</b>	<b>Needs</b>	<b>Lack</b>
<b>1.</b>	2014	60022	0
<b>2.</b>	2019	140137	87618
<b>3.</b>	2025	183684	64568

*Source: Center for Planning and Utilization SDMKes, BPPSDMK, Ministry of Health, 2011*

In addition, the Higher Education Research (DIKTI) report says that although nursing educational institutions grew rapidly, it is not able to guarantee the availability of sufficient nurses for two reasons. First, many of the nursing graduates who are not working in their field. Second, the proliferation of nursing educational institutions that is not followed by an increase in the quality of institutions that will correlate directly and indirectly correlated to the graduates. In other words, the low quality of the nursing staff to be part of the problem of availability of qualified nurses.

In an effort to increase the quality and quantity of services sector liberalization in optimizing nursing, supporting infrastructure contribution will inevitably always be needed, not only the physical infrastructure but the physical regulation becomes an important part that can not be separated. In this case the indicator is important to examine the number of colleges that provide nursing education and the number of students who attend the education. Until now, universities are organized for all levels of nursing education is still based on the island of Java. As for areas of Bali, Papua, Kalimantan and Nusa Tenggara implementation of nursing education is still very low and only focused on the level of S1 and D3.

The imbalance between demand and availability of human resources, a problem which is not only related to the needs of the increasing competitiveness but also to meet domestic needs. In addition, in terms of quality, the quality standards of the nursing profession is not standard, such as the nursing profession is too common and overlapping policies made by the government such as

the certification process and nursing education are minimal and only concentrated on the island of Java. Further lack of support facilities associated availability of nursing education institutions contributed minimal challenge to compete in the market of Indonesia in ASEAN.

#### 4. Medical Practitioners

Medical practitioner services sector is one of the health services sector also needs increasing trend. Noted, practitioners need doctors around the world are expected to continue to increase to 14%. In Indonesia, the number of requests of doctors from abroad are expected to continue to rise until 2160 specialists and 600 general practitioners in 2025.

**Table 2.4 Estimated Demand for Indonesian Doctors from Overseas**

No.	Health Workers	2014	2019	2025
1	Physician Specialist	1440	1800	2160
2	General Practitioners	400	500	600
<b>Total</b>		1840	2300	2760

Based on data from the International Centre for International Trade of Thailand (2012) the quality of professional medical practitioners (doctors) Indonesia placed on medium quality, and must compete with the Philippines and Vietnam. This situation is exactly the situation faced by the nursing profession. Here is a table ratio of some specialist doctors ASEAN region.

**Table 2.5 Specialist Doctors in ASEAN Countries**

<b>No.</b>	<b>Country</b>	<b>The Number of Dentists Per 10,000 Population</b>
1	Singapore	180
2	Philippines	120
3	Brunei Darusalam	> 80
4	Malaysia	> 60
5	Vietnam	> 40
6	Myanmar	> 20
7	Cambodia	> 20
8	Laos	20
9	Thailand	20
10	Indonesia	8,14

Based on the data in the table above it can be concluded that based on the data of healthy Indonesia 2010, the ideal ratio of 40 physicians per 100,000 population. While the report noted that the umu doctors registered in Indonesia by the medical council in 2010 as many as 73 585 doctors. This means that the availability of the new general practitioner in Indonesia meet 77.43% of the total needs of physicians. Indonesia is a country that liberalized the medical services sector is quite loose. In Thailand, the government requires foreign physicians to master the local language, while in Indonesia from the business side of healthcare, foreign companies can own shares up to 70% even allowed to set up a hospital on condition of providing 25% quota for underprivileged patients.

While the flow of foreign doctors, the government has made regulation of foreign doctors in Indonesia. Services sector medical practitioners / doctors can be said to have reasonably good governance, cooperative relationships between KKI and institutions such as the Ministry of Health is doing quite well. However, the liberalization of health services and medical sectors stressed the importance of participating countries "involved". First with the argument that the health services sector is a vital sector related to state security, the second that the health sector needs to be protected from the business sector.

As through technology, medical education in Indonesia can be said to be lagging behind when compared to Malaysia, the Philippines and Singapore where the government gives full authority of mastery in the field of technology in medical education. The Indonesian government allocated only 2.2% of total health expenditure is far behind when compared to Malaysia, the Philippines, Singapore and Vietnam are putting the health sector budget allocations in order to run effectively and efficiently.

**Table 2.6 Health financing Allocation In Some Countries**

Indicator	Indonesia	Philippines	Thailand	Malaysia	Cambodia	Vietnam
<b>Total health expenditure (THE) as % of GDP</b>	2.2	3.3	3.5	4.3	6	6.6
<b>General government expenditure on health as % of THE</b>	50	40	64	45	26	32
<b>Private expenditure on health as % of THE</b>	50	60	36	55	74	68

Source :<http://www.indonesiainancetoday.com/read/25071/Pasar-Alat-Kesehatan-Diperkirakan-Capai-Rp-7-Triliun> accessed on August 24, 2014

Consequently Indonesia still import oriented in procurement both high- tech medical technology and standards, so that almost 90% of medical equipment that circulated in Indonesia still have to be imported from abroad. In addition to the issue of human resources both in quality and quantity remains a challenge. In addition, the fact also reveals that the distribution of physician services is still centered on the Island of Java and Sumatra can be a challenge for the government in an effort to equitable development. As for the services sector in terms of the quality of Indonesian doctors noted to have a different standard of competence with other ASEAN countries. This is a challenge in the service sector medical practitioners / doctors to seek Indonesian physician competency level equivalent to doctors from other ASEAN countries.

## 5. Dental Practitioners

In terms of economic magnitude, dentistry sector may not be large when compared to other sectors such as tourism or construction. In 2011 it is estimated that the total expenditure per capita Indonesia is at number 127 USD. Thus the contribution of the health sector as a whole is 2.7 percent of the total GDP. Of course, dentistry sector is smaller than that number, but the implementation of national health insurance in 2014 is improving the health sector's contribution. Gait dentist must be highly correlated with other aspects of society, because health is one important element in human development. Not only that, the health sector will also impact poada economic and social development. In connection with this result, the health sector should be seen by considering the national demand for health workers.

When compared with other ASEAN countries, Indonesia is lagging behind in terms of dentists per 10,000 population. Indonesia has a ratio of the number of dentists per 10,000 population under some ASEAN countries like Myanmar. Indonesia is in a position that is parallel to the laos 0.4 dentists per 10,000 population. Here is a table of the above explanation:

**Table 2.7The Number of Dentists Per 10,000 Population**

<b>Country</b>	<b>The Number of Dentists Per 10,000 Population</b>
Singapore	3,3
Brunei Darussalam	2,1
Malaysia	1,4
Myanmar	0,5
<b>Indonesia</b>	<b>0,4</b>
Laos	0,4
Cambodia	0,2
Philipine	not available
Thailand	not available
Vietnam	not available

*Source : WTO, 2013*

In addition to the general requirements, be interesting to assess the need and shortage of dentists in the various health facilities in Indonesia as follows:

**Table 2.8 Needs and Shortage Dentist in various health facilities in Indonesia in 2014, 2019, and 2025**

Health facilities	2014		2019		2025	
	needs	shortage	needs	shortage	needs	shortage
<b>General Hospital Owned by Ministry of Health and Local Government</b>	978	-	1.785	929	2.524	1,007
<b>Health Facility / Hospital Indonesia National Army (TNI)</b>	600	50	700	140	800	90
<b>Facilities / Hospitals Police Bhayangkara</b>	13	13	26	26	39	39
<b>PHC (Public Health Centers)</b>	9.005	3.479	8.558	679	8.111	837

*Source: Ministry of Health, Police Pusdokkes 2010, Health Ministry of Defense and Armed Forces 2010*

From these data it can be seen that the dentist needs will continue to increase in line with population growth and life expectancy of the target set by the government. Thus it would be predicted dentist shortage tone aka dating future if no steps are carried out in anticipation. Quality dentist Indonesia can compete with dentists from other countries including the country-ASEAN

countries. This is also indicated by the increasing demand for Indonesian dentists from abroad.

**Table 2.9 Estimates of Indonesian Workers Overseas  
Doctors 2014, 2019 and 2025**

<b>NO</b>	<b>Health Workers</b>	<b>2014</b>	<b>2019</b>	<b>2025</b>
1	Nurse	9.280	13.100	16.920
2	Physician Specialist	800	1.000	1.200
3	General Practitioners	1.440	1.800	2.160
<b>4</b>	<b>Dentist</b>	<b>400</b>	<b>500</b>	<b>600</b>
5	Midwife	40	50	60
6	Medical technician	400	500	600
7	Radiographers	400	500	600
8	SKM	200	250	300

*Source: Center for Planning and Utilization of HRH, PPSDM Ministry of Health, 2011*

In the aspect of governance, dentistry sector is quite well established. Because of the characteristics of this sector, including exclusive for those who sought to practice as a doctor must go through a long education. Cooperation among relevant institutions and with professional associations are also going well.

## **6. Tourism Services Professionals**

Tourism is one sector that is set as a priority in the service sector liberalization of ASEAN. Together with air transport, e-ASEAN, healthcare and tourism sector is one sector that is agreed to be the beginning of the implementation of the package of services sector liberalization ASEAN with deadlines in 2010 the tourism sector is a very important sector in the world. Globally, it is estimated that the tourism and travel sector (tourism and travel) accounted for about 9% of GDP and jobs around the world. Because of distinctive character, this sector is a sector that is able to absorb labor from many in the community. In the member countries of ASEAN itself, tourism is one of the excellent. The ASEAN Tourism and Travel Competitiveness Report 2012 published by the World Economic Forum estimates that the contribution of tourism to the combined GDP of ASEAN countries reached 4.6 percent.

In terms of employment, the tourism sector is expected to directly employ about 9.3 million people across ASEAN. In percent,

that amount form about 3.2 per cent of total employment. Indirectly, this sector also have an impact on the 25 million jobs in the ASEAN countries.

One of the important issues in the services sector liberalization ASEAN is the limited number of tourism professionals who have formal certification. However in terms of the quality of Indonesia has been quite good in this field. Another advantage, in relation to the competition for the domestic market in Indonesia is closely related to that of tourism attractions. Of course the Indonesian people naturally have a better knowledge of the own country compared to countries other ASEAN. Of course this also applies to tourism industry players in each of ASEAN member countries. Infrastructure is the biggest problem in the tourism, that the Indonesian land transport infrastructure is still far behind. It is important to remember that the MRA -TP associated with mode 4 in the services sector is tourism, which is to encourage the mobility of skilled labor in the field of tourism, it means, that the actual Indonesian tourism professionals the opportunity to increase their competitiveness if they are able to take advantage of the infrastructure supporting tourism and tourism favorably with other countries. For example, open a tourism business in Singapore are ranked better then integrated with the Indonesian tourism (tourist misalnyapaketASEAN) to the need to support the government to map out opportunities in this sector in many other ASEAN countries.

## **7. Surveying Services Sector**

Surveyors are citizens of ASEAN member countries who have completed undergraduate education at a university or college in the surveying program that has been recognized by the authority of competence. Second, professional surveying refers to the surveyor who has experience or technical expertise in accordance with the provisions specified by the authority of competence.

This surveying sector in all ASEAN countries held by government agencies, while at other MRA sector delegated to professional associations in coordination with relevant government agencies. One of the reasons why this is so is because the field

mapping surveys directly related to the geographic authority of a country other words also related to state sovereignty in terms of geography.

In Indonesia, which is a representation of Indonesian authorities in the field of surveying the MRA framework delegated to the Board of Geospatial Information (or previously known as the Coordinating Agency for Surveys and Mapping Agency). Moreover, not all information held by the agency geospatial field of geospatial information can be published. In Indonesia, the field of surveying and mapping is vital because of the geographical situation of Indonesia is an archipelago with more than seventeen thousand islands stretching in Indonesian territory. The need for high quality surveyors to be able to provide a comprehensive mapping products in Indonesia. Geospatial Information Agency (BIG) as the national body in charge of mapping the field.

**Table 2.10 Competency Map Surveyor**

Education		Qualification	Training / Experience
Academic	Vocational		
S3		IX VIII	Expert 3 Expert 2
S2		VII	Expert 1
S1	D4	VI	Technician / Analyst 3
	D3	V	Technician / Analyst 2
SM / high school	D2	IV	Technician / Analyst 1
	D1	III II	Operators 3 Operators 2
SD / elementary school		I	Operators 1

*Source: BIG 2013*

There are several interesting things to note as a general overview of the survey in Indonesian worker competence. First, in general the quality of Indonesian workers in the survey was very good. If visits by survey workers categorization competence, levels in Indonesia are generally above qualifications VII, which means that on average, already at the level of Expert 1 upwards. In fact, when compared with the quality of the survey with other ASEAN countries, the quality of the survey in Indonesia is much better. However, unfortunately there is no quantitative data to support this explanation.

There are some problems that arise in the surveying sector in Indonesia is quite crucial. These problems include the lack of association of survey workers to government regulations.

First, the absence of primary data that includes the number of skilled workers or experts in Indonesia about the survey, which includes: power needs annually over the survey - if we lack or have enough manpower, the number of college graduates who are engaged in such a survey of the field of geography , geology, earth, and other related sciences.

Second, uncertainty about the Indonesian surveyors professional associations. If seen from the government's policy, especially in terms of the organization of the profession in the fields of mapping, is quite unfortunate that the absorption of graduates from undergraduate sciences related surveys in Indonesia is not high. This causes the least opportunity for scholars from related sciences to develop themselves in accordance with the education and skills acquired while in college education. One result is that many scholars of geography, such as, who actually worked in the non-mapping due to the absorption of energy in the field mapping is not as much available experts. Inadequate infrastructure is also a problem in the quality of professional development survey in Indonesia. This is a big problem because the vast Indonesian landscape, a big budget is needed to meet the infrastructure needs and the level of technology in the mapping.

## **8. Accountancy Services**

Accounting services is one of the services sector is important not only because he was instrumental in the production of other goods and services, but also because accounting is very important for the implementation and enforcement of regulations related to finance. For example, through the audit process conducted by accountants, we can find out whether an institution or company has a sound financial condition or not, or whether there is a leak in the state budget or the company. Indonesia among accountants who are members of IAI tend to view the liberalization of the services sector in the ASEAN accountant in 2015 with a view negatif.<sup>151</sup> Responding to this view, the government would encourage the

Indonesian accountants to not just "survive," but also "attacked" by exporting their services to ASEAN countries to another.

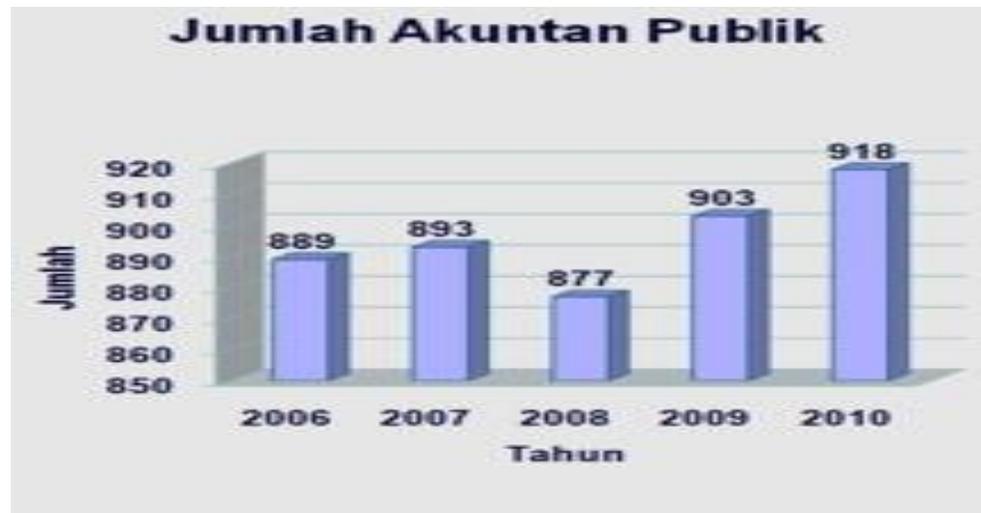
To be able to compete in ASEAN, let alone expand to other ASEAN countries, Indonesia accountants would have to have a competitive edge. However, if we look at the data number of accountants Indonesia, this great opportunity can not be met by a number of accountants' homeland. With a population of over 240 million, Indonesia is far behind in the number of accountants who joined the national accounting associations (in Indonesia is IAI). In 2013, Indonesia has recorded 13 933 accountants as members of IAI. In terms of nominal amount, the amount is about half of the number of accountants who joined the association in the accounting profession in Singapore to reach 25 842. This amount is recorded under Malaysia 29 413 accountants as members of the national association of accountants in the country. This amount is also far less than the second largest economy in ASEAN, namely Thailand, the number of 51 298 accountants who are members of the association. Indonesia will soon enter the ASEAN Economic Community (AEC) in 2015, where at that time in the labor market is wide open all ASEAN countries and the easier it is to be able to work in the country which includes the region. Especially for those who have an international professional certification. This applies also to the accounting profession. To meet the potential demand and the labor market, the financial services sector professionals need to improve itself in order not to be a guest in their own country. Required collaboration between professional education institutions, government, industry associations profession, private and well-coordinated to increase the interest of young labor force, making the accountant as profession ogled and aspirational.

Indonesia will need a qualified accountant professionals in the financial field that has the ability to support economic activity. As part of the new economic powers MINT group, Indonesia should increase confidence in the international business world to make Indonesia as an investment destination, capacity building and nation building are the two key words.<sup>149</sup>

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<sup>149</sup><http://ekbis.sindonews.com/read/877716/34/indonesia-kekurangan-akuntan-profesional> accessed on August 24, 2014

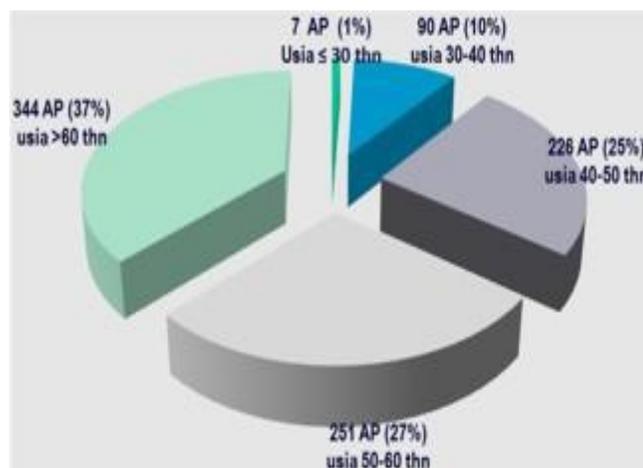
**Graph 2.3 The growth of Indonesian Public Accountant (latest)**



Source: Ministry of Finance

In addition to the amount, the other thing that is a challenge is the age structure of the Public Accountant in Indonesia. Based on data from the Ministry of Finance, 62% of our Public Accountant over 50 years. Aged 40-50 years is 25% of the total Indonesian Public Accountant. There are only 97 in Indonesian Public Accountant under the age of 40 years.

**Graph 2.4 Structure of Indonesian Public Accountant Age**



Source: Ministry of Finance

In the future, the accounting services sector is expected to grow in line with economic growth. This is also coupled with the prospect of Indonesia's efforts to uphold good governance, so that the need for accounting services will be even greater.

Nevertheless, large-growing sector does not mean that all the perpetrators will get the part. Accounting services sector in Indonesia is now a large, but many Indonesian firms to be competing for a small market because most of the market has been dominated by the firm that is affiliated with the Big 4.

In general, Indonesian accounting services sector has been quite liberal, as indicated by the large role of the Big 4 in the market these services. The liberalization of the services sector in the form of Mode 4 is supported by MRA, if later approved, will increase the level of competition in the sector.

In terms of human resources, the quantity and quality of accountants Indonesia is still to be boosted again. Competitiveness of Indonesian accountants not only at the level of ASEAN but also at the global level. Nonetheless, it is important to note also that the uniqueness of accounting standards in Indonesia is actually also a distinct advantage for Indonesian accountant, so this convergence process should also be considered carefully. In this regard, the lack of infrastructure of education, especially professional education, must be immediately addressed. In terms of regulation and governance, the general condition is quite good accounting services sector and is considered to increase.

## **Conclusions and Recommendations**

### **A. Conclusions**

In the field of services, the level of tourist arrivals to Indonesia is relatively low compared to other ASEAN countries even though Indonesia has a huge potential for tourism in the form of natural resources, cultural and historical peninggalan. In terms of investment, the flow of foreign direct investment (Foreign Direct Investment) (FDI) to Indonesia than the total FDI into ASEAN is relatively low compared to that flowing into

Singapore, Thailand, and even Vietnam. Similarly, the support sector, the budget for infrastructure spending most low Indonesia, only 2% of GDP (Idengan ideal level of infrastructure spending 5%). In comparison, Vietnam has a fund infrastructure spending to 8%, and China reached 10%. Similarly, the condition of road infrastructure in Indonesia is the worst in the ASEAN. Selain, long way in Indonesia is also the shortest in the ASEAN (ADB, 2011) .Sekitar 36% of the road network are reported damaged or suffered severe damage, inadequate and low-quality (ADB 2007).

With these conditions, a clear industrial and economic competitiveness Indonesia is still below the major countries of ASEAN others. "Excellence" in the form of pseudo-population, strategic location and abundant natural resources merely a "sweetener" to sell Indonesia to the international markets and investors, especially the ASEAN countries who do not have the population, markets, and natural resources.

Moreover, the weakness of Indonesia in the service sector and labor can be fully utilized by other ASEAN countries. Through the ASEAN Framework Agreement on Services (AFAS), has opened liberalization for professional accountants, doctors, dentists, engineers, nurses, and architects. Even in the preparation packet-8 commitments to AFAS year in 2010, explicitly stated that the practice of Indonesian labor markets have opened lower class (low level) for countries such as Malaysia, Singapore, and Brunei.

The service sector is an increasingly important sector of the Indonesian economy, both in terms of its contribution to national income and in terms of employment. In this context, the entry into force of the ASEAN Economic Community in 2015 and the liberalization of the services sector to be one important element in it is expected to drive the growth of the services sector and provide benefits to the Indonesian economy.

Nevertheless, we also see that many people still doubt that the liberalization of the services sector in line with the implementation of the ASEAN Economic Community 2015 ASEAN will benefit Indonesia, especially Indonesian workers. The service sector actors who are members of professional associations were invited to the focus group discussion for this study generally expressed their concern that the liberalization of the services sector will have negative impacts for players in the domestic service sector. This concern is not without reason. If we

look at the balance of trade in services, Indonesia continues to large deficits. The import value of our services approximately twice that of exports of our services, so that our deficit reached more than 10 billion USD. This deficit occurred consistently until 2012.

Exposure focused on eight sectors in the agreement MRA and MRA Framework discovered diverse images, but also to have some uniformity. In general, in terms of the quantity of human resources, almost all sectors (engineers, architects, nurses, doctors, dentists, and accountants) have a shortage of professionals in the field. In the tourism sector, open character of the tourism sector which makes it difficult to provide an assessment of the gap between the needs of the availability. Nevertheless, we know that many players do not look important certification, so that it can also reduce the competitiveness, at least formally, in the application of MRA. In terms of this quantity, the distribution aspect has also become an important issue. In almost all sectors, the majority of the human resources available are concentrated in Java.

In the aspect of governance, images obtained were varied. There are sectors that are relatively well established such as doctors, dentists, and accounting. However, there are also sector governance is still filled with problems such as overlapping regulations or inter-agency coordination is not good as the service sector of nursing. One of the common thread is the lack of coordination among the services sector actors with the parties that the motor ASEAN liberalization of services sectors and the absence of a joint strategy to take advantage of the liberalization of ASEAN services for the benefit of Indonesia.

## B. Recommendations

**Table 3.1 Specific Recommendations for Each Sector**

Service Sector	Recommendations		
	Government	Association	Media
<b>Engineers</b>	<p>1 There is an urgent need to immediately pass the bill so that the regulation of the engineering profession engineers are more qualified than ever before that there are no laws that govern them.</p> <p>2 Coordination with the government in terms of quantity and quality of education that undergraduate engineering could increase, along with improving the quality of college education providers technique.</p> <p>3 The government's policy is not oriented to the sale of raw natural resources obtained from Indonesia with the aim of creating greater employment opportunities for undergraduate engineering.</p> <p>4 Need for incentives from the government to the professional</p>	<p>1 To encourage member associations to certify professional engineers ASEAN.</p> <p>2 Together with the government prepared a curriculum to improve the quality of undergraduate engineering techniques.</p> <p>3 Establish communication with other professional associations to ensure that the liberalization of the services sector of ASEAN to consider the interests of skilled workers / professionals Indonesia.</p>	<p><i>(Recommendations for the media to be generally applicable to all sectors of the services provided in this study)</i></p> <p>1 To disseminate to the public the 2015 ASEAN Economic Community</p> <p>2. dissemination to the public and government about the existence and professional associations need to be entered into the ASEAN Economic Community.</p> <p>3 Critically oversee the readiness of the government in the face of the ASEAN Economic Community in 2015.</p>

	<p>engineer who has obtained a certificate of ASEAN. because if engineer has obtained a certificate of ASEAN but no more awards or incentives from the government, then the impetus for engineers to take a certification ASEAN will not be realized.</p>		
<b>Architects</b>	<p>1 Adjust the duration of the architects of the national education standard that is compatible with the ASEAN.  2 Improving the quality and quantity of education of architects.  3 Provide additional requirement in architects practice across ASEAN countries such as the regulation of local content in any work produced in accordance with the typical character of culture in Indonesia.  4 Promoting national cultural identity, including the choice of architectural styles.</p>	<p>1 Encouraging Indonesian architect to certify the ASEAN Architect.  2 Together with the government prepared a curriculum to improve the quality of undergraduate engineering architecture.  3 Establish communication with other professional associations to ensure that the liberalization of the services sector of ASEAN to consider the interests of skilled workers / professionals Indonesia.</p>	
<b>Nurse</b>	<p>1 Assessing the back several policy-related nursing services in sectors such as the definition of the nursing profession, overlapping the certification</p>	<p>1 Encourage the government to immediately pass the bill so that the Nursing Council of Nursing in Indonesia could be established.</p>	

	<p>process, and levels of nursing education. Nurse Education Regulation primarily on vocational education pathways there are multiple policies between the Ministry of Health and Ministry of Education.</p> <p>2 Setting up a scenario or planning the placement of Indonesian nurses tanaga strategically. This needs to be done considering the issue of the needs of nurses is also a domestic issue. Strategies to align the interests of domestic and free-market commitments agreed urgent to be done.</p> <p>3 Keeping the nursing bill can be passed, so it can function as an independent regulatory body of nursing in Indonesia to set up the system credentials for nurses.</p>	<p>2 More about the professional nurse actively socialize with other medical professions in order to avoid misunderstandings about the nursing profession.</p> <p>3 Together with the Ministry of Health, Ministry of Education and Culture, and nursing associations related to synchronize the nursing education curriculum, both at the high school level to college.</p> <p>4 Encourage nurses who have not been certified to immediately certify the nursing profession.</p>	
<b>Doctor</b>	<p>1 The need to improve the competitiveness of Indonesian doctors through increased competency standards, while seeking to pursue uniformity competence shared among ASEAN countries.</p> <p>2 Reviewing regularly competency standards that</p>	<p>1 Encourage members of the medical profession to align the competence and quality of the medical profession both at domestic level, as well as at the regional level with ASEAN countries.</p> <p>2 Together with the Ministry of Health, Ministry of Education and</p>	

	<p>have been made in order to follow the development of competence standards in other countries;</p> <p>3 Increase the number of physicians by multiplying institutions of medical education. In addition, the need to re-map the distribution of physicians and medical institution that had been piled on the island of Java.</p> <p>4 Strengthening infrastructure support in terms of medical technology and medical education institutions adequate.</p> <p>5. In relation to the practice of foreign doctors, the government needs to think to use a loophole in the MRA to position the Indonesian doctors to be more competitive than foreign doctors, for example through local language proficiency requirements.</p>	<p>Culture, and associations related to the competence of physicians tighten the exam along with the increasing number of medical school in Indonesia.</p> <p>3 Establish communication with other professional associations to ensure that the liberalization of the services sector of ASEAN to consider the interests of skilled workers / professionals Indonesia.</p>	
<b>Dentist</b>	<p>1 Improve the quality and quantity of higher education institutions that provide dental education program by considering the distribution of the region.</p>	<p>1 Encourage members of the medical profession to align the competence and quality of the dental profession both at domestic level, as well as at the regional level with ASEAN countries.</p>	

	<p>2 Affirming that the health sector, including dental health, not purely economic. He must be seen as something that is essential for human development so that special attention must be paid to ensure that liberalization will not have a negative effect on society.</p>	<p>2 Together with the Ministry of Health, Ministry of Education and Culture, and related associations to strengthen the competency exam dentist along with the increasing number of medical school in Indonesia.</p> <p>3 Strengthen coordination between PDGI, Ministry of Health, and the Ministry of Trade KKI through the involvement of representatives of dentists in the processes related to the liberalization of the services sector of ASEAN.</p>	
<p><b>Tourism Professionals</b></p>	<p>1 Harmonization governance of tourism in Indonesia, for example by establishing a "one door" for a license / permit at the national level with the involvement of local government.</p> <p>2 The Indonesian tourism professional real opportunity to improve their competitiveness if they are able to take advantage of the infrastructure supporting tourism and tourism in other countries well, such as opening a business in Singapore or Malaysia tourism that rank better, and then</p>	<p>1 Strengthening coordination between associations in the tourism sector to improve the quality of performance of tourism in Indonesia.</p> <p>2. socialization among associations in the tourism sector of the ASEAN Economic Community in 2015.</p> <p>3 Establish communication with other professional associations to ensure that the liberalization of the services sector of ASEAN to consider the interests of skilled workers / professionals Indonesia.</p>	

	<p>integrated with the Indonesian tourism (eg: Package ASEAN Tourism). For that, it needs the support of government to map out opportunities in this sector in other ASEAN countries.</p> <p>3 Improvement of tourism infrastructure and supporting infrastructure such as road and air transport infrastructure.</p> <p>4 Encouraging tourism professionals in Indonesia to have a certification. Because many of the perpetrators are still not considered it important, the government must be proactive with these professionals do not wait "comes to be tested." Governments can go to the places where many of these professionals get together and do a certification process in place (such as "Certification Roving Tourism professionals")</p>		
<b>Surveying</b>	<p>1 Clarify the intra-sector coordination.</p> <p>2 Establishing an association that has full legitimacy as a national professional association.</p>	<p>1 Establish surveying professional associations and independent of government.</p> <p>2 Collecting data about graduates in the field of surveying related sciences.</p>	

	<p>3 In terms of utilization of human resources, the absorption of college graduates in the fields of earth above equals, geography, geology, and the like need to be improved considering the geographical conditions of the vast Indonesian.</p>	<p>3 Together with the government develop and improve the curriculum design education or related terrestrial surveying sector  4 Together with the government harmonize with the National Land Agency, BIG, and related agencies.  5. Establish communication with other professional associations to ensure that the liberalization of the services sector of ASEAN to consider the interests of skilled workers / professionals Indonesia.</p>	
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# **ASEAN-5'S CAPITAL MARKET CO-MOVEMENT ANALYSIS: MINIMUM SPANNING TREE METHOD**

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# **ASEAN-5'S CAPITAL MARKET CO-MOVEMENT ANALYSIS: MINIMUM SPANNING TREE METHOD**

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## **Abstract**

*Association of South East Asia Nations (ASEAN) is now being one of the most powerful regions in the world and has huge population and also huge economy. Because of the stability and development of its financial market, ASEAN is one of the most attractive regions by investors, especially for ASEAN-5, which are Indonesia, Malaysia, Singapore, Thailand, and Philippines. Increasing demand for investing in ASEAN makes this research is important. One of the analysis' that usually used is co-movement analysis to know the movement of the market. Co-movement analysis uses Minimum Spanning Tree, which is based on correlation coefficient between the markets between periods. As result, there is a tendency to be intergrated between the markets in ASEAN-5. This shows that the markets in ASEAN-5 are not efficient and there is less advantage of diversification between ASEAN-5's stock markets.*

Keywords: ASEAN, Co-movement, Minimum Spanning Tree

## Introduction

ASEAN is now becoming one of the strongest regional in the world. If ASEAN is a country, the economy of ASEAN is the biggest number 8<sup>th</sup> in the world (Foreign and Commonwealth Office, 2013). Average economic growth in ASEAN is in 2013 sekitar 5 – 5,5% (Foreign and Commonwealth Office, 2013). ASEAN's growth is 'bertolak belakang' from developed countries' growth. Drivers of economic growth in ASEAN are Indonesia and Philipines, then Malaysia, Thailand, Vietnam, and Singapore. ASEAN also shows high consumption and its investment is becoming the driver of economy.

Because of unstability of the economy of United States and Europe makes financial markets in the third world are more attractive. Foreign investors invest in financial investment in ASEAN and relatively so liquid. Because of that, financial products in ASEAN are called hot money. Flows of this hot money tend enter fixed income market because there are trust in domestic economy.

Investors can benefit this condition to diversify his or her portfolios. Diversification needs low correlation between financial entities. Because correlation in opposite direction between two financial entities makes the risk of holding this entities will be optimal. Active investors will find appropriate composition to invest his or her money to safe countries and relatively unsafe countries.

Development of stock market has been increasing since 1980s. This development makes financial activities deeper and broader. Furthermore, capital market has important roles in a country. Main role of capital marker is wealth allocation as the ownership of stocks (Fama, 1970). Mankiw (2010, pp. 534-535) said that the fluctuation of capital market as the indicator of the economy of a country and he said the reason why capital market can be an indicator of economy condition of a country. First, wealth of society will decrease as the decreasing of capital market index (Mankiw, 2010, pp. 535). Second, the decreasing of capital market index indicates bad news of technology progress and long-term economy growth (Mankiw, 2010, pp. 535). Capital markets that influence the economy of a country are proved with the crisis in few years ago such as Asia crisis in 1997-1998 and Subprime mortagage 2008 as Dow Jones Index decreased 19%.

ASEAN as one of the biggest economy in the world and the experiences during crises make the researchers want to know how the integration between financial markets in ASEAN. The indices that the research uses are stock indices in ASEAN since January 2003 until October 2013. This research may help the readers to picturize the behavior of stock prices in ASEAN as the basic analysis to make decision.

This article is compiled as introduction, literature review, research method, findings and discussion, and conclusion.

## Literature Review

Researcher and practitioner have been researched about co-movement analysis and stock market's interdependence in this world. The results of the study varied in accordance with the type of data and the method that the each researcher used (Ali, Butt dan Rehman, 2011). Palac-McMiken (2007) examined *co-movement* of capital market in five countries of ASEAN, such as Indonesia, Malaysia, Singapore, Thailand, dan The Philipines. Palac-McMiken (2007) examined *co-movement* with Engle-Granger's cointegration analysis. Palac-McMiken (2007) found long term relationships among stock market in Malaysia, Singapore, Thailand, dan the Philipines. Indonesia had its pattern that had not long-term relationship among other countries. It is an indicator that capital markets of Malaysia, Singapura, Thailand, dan the Philipines from 1987 – 1995 are not effiecient. Daly (2001) found a cointegration relationship in ASEAN-5. Degree of interdependence in capital market is getting stronger after Asia's crisis 1997. Daly (2001) did not find significant difference between cointegration before crisis and after crisis. Daly (2001) used Johansen cointegration analysis. Gupta dan Guidi (2012) analyzed *co-movement* India's capital market with developed countries' capital markets in Asia and showed that there is no cointegration between India' stock market and Asia developed countries' stock market. Gupta dan Guidi (2012) said that there is a benefit from portfolio diversification in India's stock market and developed countries' capital market. Furthermore, Gupta dan Guidi (2012) found weak interdependence relationship between India, United States, and Asia developed countries. After crisis in 2008, Gupta dan Guidi (2012) found a contagion effect in every market that has relationship. Maneschiöld (2006) examined the integration of stock market in Baltic. He described the long-term relationship in Baltic and international stock market. He used bivariate cointegration and multivariate cointegration. Furthermore, this research found that Germany has dominance the long-term relationship between Baltic and other international stock markets.

Setiawan (2014) used different analysis to examine whether the markets is getting integrating or not and moved in the same direction or not. Setiawan (2014) used minimum spanning tree to examine how the trend of correlation between markets and between times.

The researcher chooses analysis of minimum spanning trees to analyze this research because there are few researches using this method in analyzing ASEAN.

## Research Method

This research uses data from Bloomberg Database. This data has an interval from January 2<sup>nd</sup> 2003 until October 31<sup>st</sup> 2013. The scope of analysis is ASEAN-

5, such as Indonesia, Malaysia, Singapura, Thailand, and the Philipines. From daily data, researcher transformed the daily data to weekly data. Weekly data is an average of daily data within a week. After that, researcher classifies the weekly data to four-month basis to see the correlation between variables. Data interval from January 2003 until October 2013 produces 32 four-month<sup>150</sup>.

Analysis starts with descriptive statistics, minimum spanning tree analysis, and unit root test.

### **Minimum Spanning Tree**

Minimum spanning tree (MST) is one of technique to analyze the network that connects all nodes in a network that has shortest path (Render, Stair, and Hanna, 2012, pp. 450). Setiawan (2014) explained that MST is a set of acyclic edges that connect all nodes in an undirected graph. Application of MST is not only for operation management, but MST can be used for analyzing correlation between stock market.

Setiawan (2014) used MST to analyze integration of stock market in twenty-two countries in Asia, America, and Europe. Researcher tried to replicate what Setiawan (2014) did to analyze MST to see whether ASEAN's stock market is getting integrated or not. This illustration below explains the properties of MST.

A network has  $N$  nodes. Every node is connected by connector. Number of connectors is  $(N - 1)$ . Each connector between  $i$  and  $j$  can be notated as  $d_{i,j}$ . Setiawan (2014) used correlation coefficient as basic calculation  $d_{i,j}$  that is called pseudo distance. Pseudo distance can be calculated with the formulation below,

$$d_{t,ij} = \sqrt{2(1 - \rho_{t,ij})^2}$$

with  $-1 < \rho_{t,ij} < 1$ ,  $\rho_{t,ij} = \rho_{t,ji}$ , if  $i = j$ ,  $\rho_{t,ij} = 1$  and fulfill axiom  $d_{ij} = 0$  if  $i = j$  or if  $\rho_{t,ij}$  when  $i \neq j$ ;  $d_{t,ij} = d_{t,ik} + d_{t,kj}$ .

MST is used for calculating shortest distance from every node that are connected in a network. The shortest distance every network can be notated in  $D$ .

Hillier and Lieberman (2001, pp. 416) summarize flow of thinking MST that can be explained below,

1. Every network has nodes that do not connect. That network has potential connections in a network,

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<sup>150</sup>First four-months, known as catur wulan in Indonesia, is January, February, March, and April. Second four-months is May, June, July, and August. Third four-months is September, October, November, and December.

2. Every network has few combination connection that can connect every node. Every node will be connect two nodes,
3. Main goal is looking for minimum distance for every combination in every network.

In this research, notation that is used is  $D_t$  such as shortest distance when  $t$ , then  $t = 1, 2, 3, \dots, T$ . The shortest distance between time will ease dynamic analysis whether stock market of ASEAN is getting integrated or not. Research uses algorithm method to find the smallest value of  $D_t$ . After the shortest value of  $D_t$  has been known, research tries to test the stationarity of the value of  $D_t$  to see how the integration of the financial entities.

### **Unit Root Test**

Unit root test is a method to test the stationarity from time-series variables. Stationarity is a condition that a variable has constant mean and variance, then covariance that is 'ditentukan' by lag between periods.

This unit root test uses *Augmented* Dicky-Fuller (ADF) test. ADF model has three kind of model, first without intercept and trend, without trend, and with intercept and trend.

$$\Delta y_t = \mu + \gamma t + \psi^* y_{t-1} + \sum_{i=1}^{p-1} \psi_i^* \Delta y_{t-1} + u_t \quad \text{Persamaan 5}$$

This model has a trend and intercept component. Significance test for intercept and trend is done with t-test. Stationarity test uses  $\psi^*$  coefficient as an indicator to stationarity. Formulation of hypothesis is explained below,

$$H_0: \psi^* = 0$$

$$H_a: \psi^* < 0$$

If  $H_0$  is rejected, the variable has unit root that is meant nonstationarity, vice versa.

Stationarity test will be done to test the value of  $D_t$  from the first four-months 2003 to the thirty-second four-months 2013. This test will know the value of  $\psi^*$  and the value of  $\gamma$  as trend coefficient. If the value of  $\psi^* < 0$  and  $\gamma < 0$ , that shows trend coefficient, the markets are getting integrated.

## **Findings and Discussion**

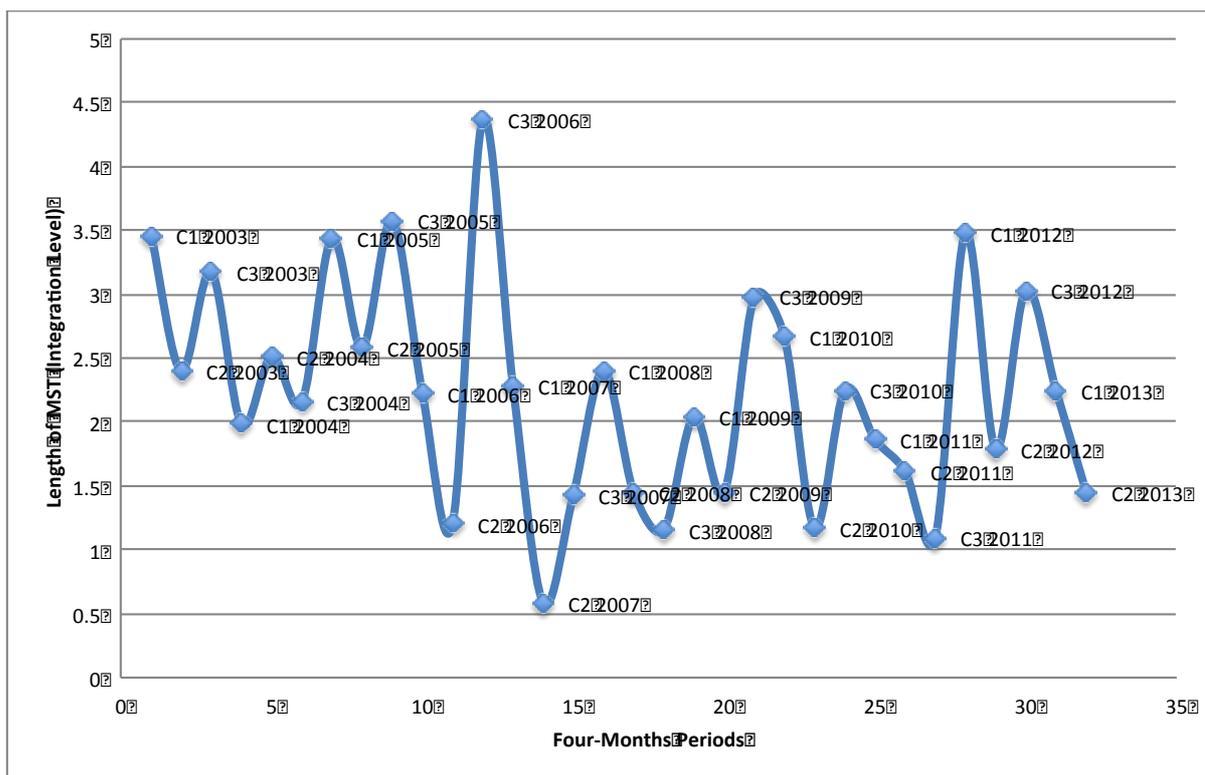
### **ASEAN's Integration**

MST method succeeds to reveal correlation between markets each period dynamically. This dynamics benefit researcher and reader to understand how far

the integration is in ASEAN. This method does not prove ASEAN's market has been integrated or not, but this method reveal whether the markets are getting integrated or not. Thus, MST method can be used to analyze co-movement of ASEAN-5's markets.

The finding shows the graphics below,

**Graph 1. Periodically MST's Distance Graph**



Source: calculation from the researcher using EVIEWS 7

The graph above shows few significant phenomenons that influence the fluctuation of the integration of the market. Subprime mortgage crisis first came out publically in August 2007, or in second four-months 2007. Degree of market's integration is 2.2 in first four-months then the degree is becoming to be 0.5 in second four-months 2007. Significantly, the markets were so integrated, were moving in the same direction. This condition occurred because capitals from developed countries drew out from ASEAN and indices fell down. Every stock market got the effect of subprime mortgage crisis.

The other lowest point is on third four-months 2008. December 2008, Lehmann Brothers announced its bankruptcy. American Insurance Group (AIG) was on the edge of bankruptcy. Markets were so panic and crisis was getting worse because there was no trust on that kind of companies. This situation affected ASEAN-5. Indices fell down and were moving in the negative direction.

The graph above shows the trend is negative. This indicates that the smaller the degree of integration, the more integrated the markets in ASEAN-5. Graph analysis may be bias from the researchers and the readers. Next analysis is to test the stationarity of length of  $D_t$  using *Augmented* Dicky-Fuller (ADF) test. The graph shows the trend and the intercept is no zero then ADF test that the researcher use is startionarity test with trend and drift.

$$\Delta D_t = \mu + \gamma t + \psi^* D_{t-1} + \sum_{i=1}^{p-1} \psi_i^* \Delta D_{t-1} + u_t$$

The result of ADF test represents below,

**Table 1. The Result of Stationarity Test of The Length of MST**

MST	$\mu$	$\gamma$	$\psi^*$
$D_t$	2.877681	-0.027620	-1.100943
t-stat	4.826461	-1.522815	-5.927437
Prob.	0.0000	0.1390	0.0000

*Source: Calculation from the researcher using EVIEWS 7*

Null hypothesis for  $\psi^*$  is zero,  $D_t$  is not stationer. Other expectation is shown by alternative hypothesis, that  $\gamma < 0$  which shows the trend is negative. The result answers the expectations of stationarity test, such as  $\gamma$  dan  $\psi^*$  are negative. These findings show that over years, stock market or capital market in ASEAN-5 is getting integrated.

The result of MST's analysis above shows that stock markets in ASEAN-5 will move in the same direction. It means that the markets are not efficient. Fama (1991) said that efficient market shows the return that cannot be predicted by the past return. Fama (1970) classifies this kind of market to be market in the weak form.

Markowitz found modern portfolio theory that spoke about efficient portfolio. Efficient portfolio is a portfolio that has the lowest risk in accordance to a certain risks or that has certain risks in accordance to the highest return (Jones, 2010). Tool of analysis of efficient portfolio is efficient frontier curve. Efficient frontier curve uses correlation over markets as variables in the risk model. If the correlation over markets is +1, the portfolio has not the benefit of diversification. If the correlation over markets is -1, the portfolio is fully diversified. Based on analysis above, investors and analysts try to find the entities that have negative or small correlation. If the ASEAN's market is getting integrated, the benefit of diversification is getting smaller.

## **Conclusion and Feedback for Future Research**

### ***Conclusion***

This research wants to reveal the degree of integration and the existing of integration in stock markets in ASEAN-5. The method is minimum spanning tree (MST) that has been adapted to analyze time series data. This analysis is using correlation coefficient as a proxy of the distance between markets and using MST algorithm, the shortest distance over markets in ASEAN-5 can be traced dynamically.

The dynamic of the degree of integration of stock markets in ASEAN-5 shows how far the ASEAN-5's market has been integrated. This research does not answer whether the markets is integrated or not.

The finding of the research is the markets in ASEAN-5 are getting integrated. Strong integration occurs when shock occurs in another country, such as United States. The movement of markets that has the same direction is a tendency to be co-movement phenomenon. The more integrated the markets make the markets in ASEAN-5 are not efficient because future return can be predicted by current return. Benefits of diversification in ASEAN-5 is getting smaller because of the correlations over the markets time to time are getting larger and positive.

### ***Feedback for Future Research***

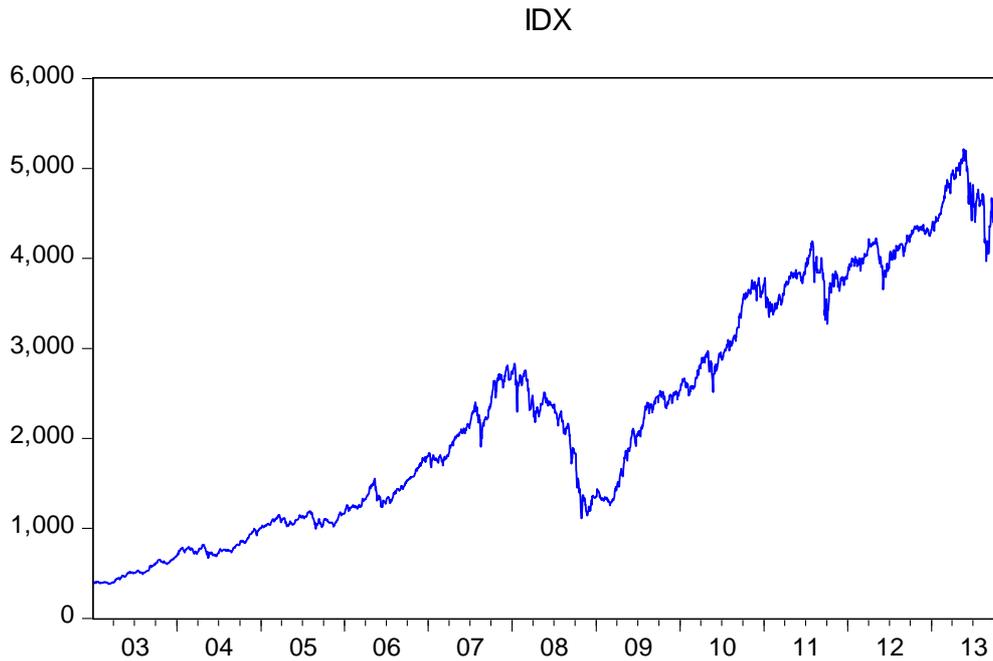
This research has not answered whether the markets are integrated or not. The future researchers need to analyze more about law of one price by testing the premium of each market over basic market. MST analysis can be used to other financial topics, such as financial institution, etc.

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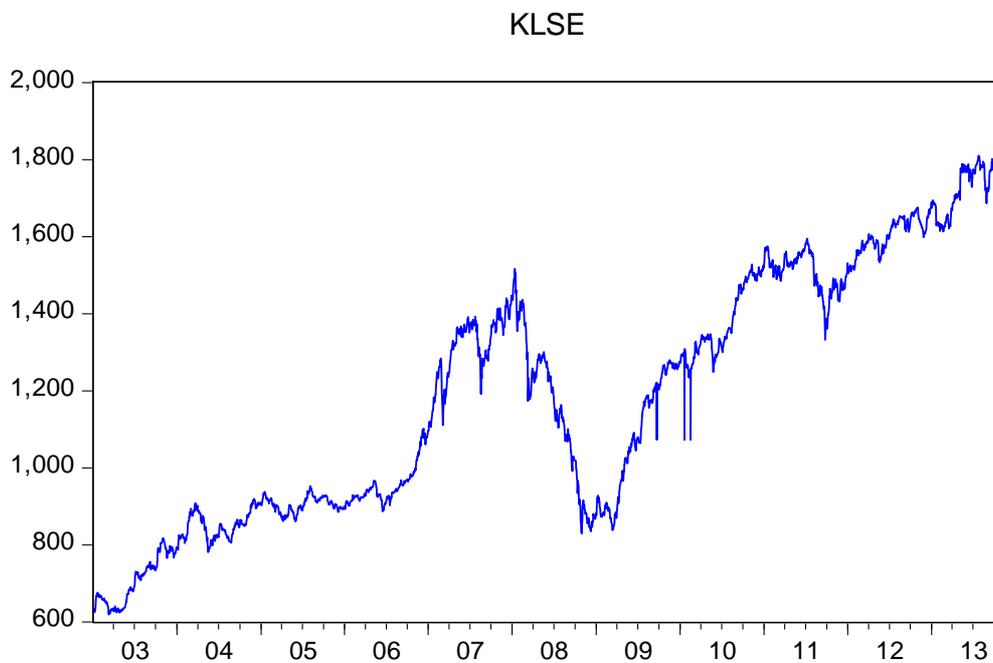
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## Graphs and Tables



**Graph 2<sup>151</sup>. Indonesia Stock Price Index Graph from January 2003 – October 2013**

Source: calculation from the researcher using EViews 7

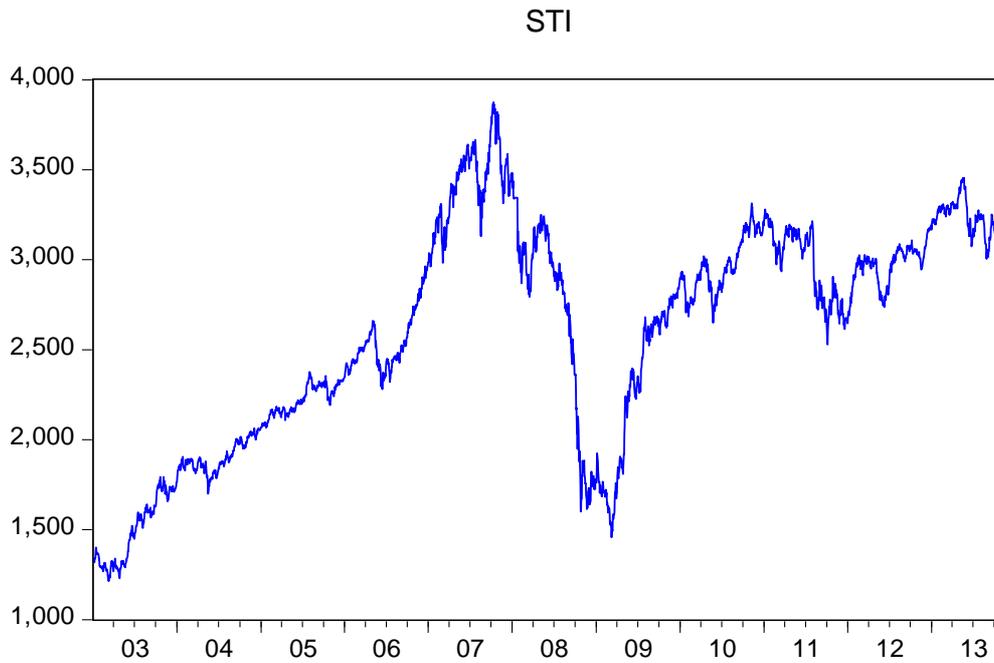


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<sup>151</sup> IDX is Indonesia, KLSE is Malaysia, STI is Singapura, SET is Thailand, and PSI is the Philippines

**Graph 3. Malaysia Stock Price Index Graph from January 2003 – October 2013**

Source: calculation from the researcher using EVIEWS 7



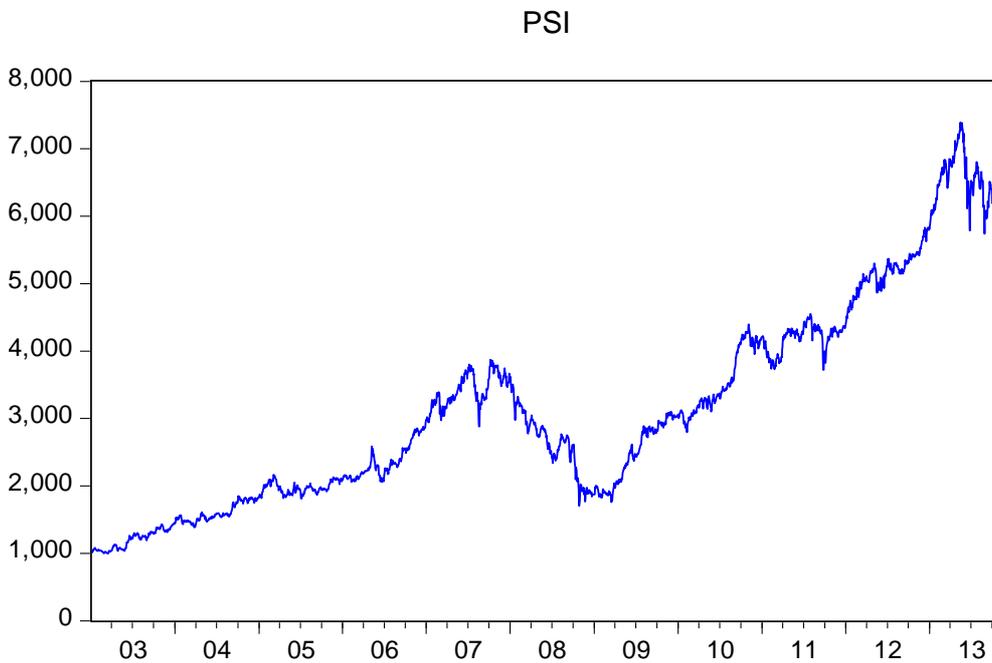
**Graph 4. Singapore Stock Price Index Graph from January 2003 – October 2013**

Source: calculation from the researcher using EVIEWS 7



**Graph 5. Thailand Stock Price Index Graph from January 2003 – October 2013**

Source: calculation from the researcher using EVIEWS 7



**Graph 6. The Philippines Stock Price Index Graph from January 2003 – October 2013**

Source: calculation from the researcher using EVIEWS 7

**Table 2. Correlation Coefficient of ASEAN-5 Table over for Four-Months**

Korelasi	2003			2004			2005		
	C1	C2	C3	C1	C2	C3	C1	C2	C3
IDX-PSI	0.198	0.343	0.467	0.830	0.327	0.160	0.176	0.634	-0.446
IDX-STI	0.045	0.628	0.482	0.789	0.322	0.649	0.612	0.542	0.322
IDX-SET	0.374	0.033	-0.077	0.426	0.484	0.384	0.457	0.348	0.100
IDX-KLSE	0.193	0.151	0.210	0.474	0.476	0.786	-0.214	0.518	0.351
PSI-STI	0.341	0.729	0.173	0.723	0.229	0.221	0.315	0.340	0.217
PSI-SET	0.455	0.436	0.429	0.236	0.458	0.048	0.117	0.363	0.148
PSI-KLSE	0.351	0.073	0.280	0.498	0.434	0.340	0.229	0.121	-0.130
STI-SET	0.353	0.205	0.447	0.366	0.361	0.724	0.184	0.337	0.239
STI-KLSE	0.396	-0.008	0.357	0.553	0.650	0.743	-0.161	0.639	0.260
SET-KLSE	0.371	0.508	0.253	0.070	0.632	0.550	0.146	0.210	0.580

2006			2007			2008		
C1	C2	C3	C1	C2	C3	C1	C2	C3
0.699	0.728	0.148	0.368	0.911	0.686	0.576	0.228	0.690
0.544	0.835	-0.333	0.384	0.912	0.656	0.044	0.407	0.784
0.666	0.841	0.148	-0.138	0.691	0.711	0.235	0.480	0.790
0.315	0.579	0.491	0.312	0.911	0.708	0.744	0.631	0.867
0.414	0.731	-0.148	0.834	0.641	0.514	0.371	0.552	0.661
0.461	0.749	0.041	0.247	0.833	0.785	0.490	0.563	0.627
0.344	0.746	-0.041	0.814	0.833	0.785	0.490	0.563	0.627

0.592	0.782	0.195	0.206	0.653	0.643	0.274	0.358	0.698
0.471	0.540	-0.064	0.920	0.929	0.786	0.363	0.612	0.808
0.447	0.691	0.374	0.197	0.773	0.540	0.150	0.440	0.817

2009			2010			2011		
C1	C2	C3	C1	C2	C3	C1	C2	C3
0.485	0.498	0.250	0.575	0.863	0.422	0.795	0.704	0.848
0.670	0.743	0.447	0.644	0.928	0.511	0.674	0.853	0.680
0.414	0.698	0.488	0.360	0.233	0.336	0.669	0.628	0.727
0.449	0.678	0.451	0.349	0.746	0.667	0.392	0.339	0.807
0.380	0.710	0.329	0.342	0.319	0.279	0.639	0.663	0.594
0.487	0.679	0.382	0.417	0.635	0.403	0.679	0.686	0.667
0.487	0.679	0.382	0.417	0.635	0.537	0.560	0.538	0.783
0.570	0.616	0.286	0.319	0.293	0.693	0.636	0.647	0.780
0.618	0.707	0.648	0.479	0.700	0.437	0.540	0.467	0.789
0.780	0.814	0.408	0.259	0.621	0.227	0.568	0.616	0.709

2012			2013	
C1	C2	C3	C1	C2
0.461	0.505	-0.022	0.534	0.537
0.298	0.754	0.060	0.222	0.571
0.035	0.646	0.091	0.520	0.795

0.042	0.470	0.284	0.568	0.656
0.582	0.545	0.444	0.458	0.625
0.454	0.228	0.349	0.681	0.777
-0.029	0.739	0.090	0.439	0.493
0.401	0.825	0.631	0.626	0.664
-0.053	0.612	0.496	0.032	0.509
-0.091	0.431	0.268	0.094	0.739

Source: calculation by the researcher



**BUILDING A SUSTAINABLE ASEAN  
COMMUNITY: IS THERE ANY LEGAL  
SIGNIFICANCE ON SUSTAINABLE  
DEVELOPMENT IN ASEAN?**

**PAT NIYOMSILP**

CHULALONGKORN UNIVERSITY



# **BUILDING A SUSTAINABLE ASEAN COMMUNITY: IS THERE ANY LEGAL SIGNIFICANCE ON SUSTAINABLE DEVELOPMENT IN ASEAN?**

**Pat Niyomsilp**

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## **Abstract**

Economic growth and social development that humanity is enjoying is not sustainable. Today's prosperity leads to ecosystem degradation. Our children will surely face the results of our ignorance. To correct the wrong economic development model, principles of sustainable development have been introduced to integrate three pillars of development namely economic development, social development and environment protection. As environmental problems do not respect any national border, it requires a crucial system of global governance to tackle the problems effectively. On the global stage, the United Nations Environment Programme (UNEP) was established to monitor and to set world's environmental agenda. On the regional stage, the European Union leads the governance on sustainability. ASEAN is another regional organisation that has a potential to lay down sustainable development foundation and transform global agenda to sustainable development policy for Southeast Asia.

This paper attempts to find out whether there is any legal significance on sustainable development in ASEAN. It begins by setting the background and providing the basic understanding of sustainability and sustainable development. It also explores the emergence of sustainability trend by examining the contrast concepts between economic growth, human development and ecological preservation through international instruments such as the Brundtland Report, the Rio Declaration and the Earth Charter. It further investigates the relationship between regionalism and sustainable development as well as regional organisations' roles in promoting sustainable development, particularly through soft law and hard law. After the legal foundation of global sustainable development has been projected, this paper then examines the recognition of sustainable development on ASEAN instruments starting from 1977 until now in order to identify the legal ground of sustainable development in ASEAN. Lastly, this paper goes through the effectiveness of regional sustainable development agenda by comparing the sustainability model between ASEAN and European Union on four criteria: institutional structure and decision making procedure, constitutional framework, monitoring and reporting system, and public participation and people's right to know. This paper argues that sustainable

development notions and principles have already been placed as soft law in ASEAN. However, ASEAN should not rely only on soft law where member countries focus strongly on reaffirming the sovereign right rather than achieving sustainable development goals. Thus, ASEAN needs a more constructed institutional structure and a better decision making procedure on environmental issues which, as a result, create legal significant on sustainable development in ASEAN.

## I CONCEPTUALISE SUSTAINABLE DEVELOPMENT

The term of ‘sustainable development’ and ‘sustainability’ can be used very varyingly and ambiguously according to the user’s perspective and benefit. In general, ‘sustainability’ is usually referred as ‘*the ability of human society to persist in the long term in a manner that satisfies human development demands but without threatening the integrity of the natural world*’.<sup>152</sup> Another close and relate term is ‘sustainable development’ which usually defined as ‘*development allowing the present generations to meet their needs without undermining the ability of future generation to meet theirs*’.<sup>153</sup> It is worth noting that some scholars argue that ‘sustainability’ is not a synonym of ‘sustainable development’.<sup>154</sup> One reason is that ‘sustainability’ transforms unsustainable development into ‘sustainable development’.<sup>155</sup> Despite all efforts to define it at international level, many of the definitions of sustainability today are vague, incoherent and mutually opposed by nations. Many developing countries claim that they have ‘right to development’ and it should prevail over the western concept of ecological sustainability.<sup>156</sup> So far, the term ‘sustainability’ has not been defined universally. Yet the clear distinction between ‘sustainability’ and ‘environmental’ has been clarified.<sup>157</sup> However, in this paper, ‘sustainability’ includes ecological concern as a key requirement for ‘sustainable development’.

Sustainable development notion starts from believing that the economic growth humanity enjoys today is not sustainable. The Ecological Footprint analysis, introduced by the Global Footprint Network, shows that humanity has already exceeded the earth’s regenerating capacity. In 2007, we used the earth’s capacity of 1.5 planets. This means that in 2007, it took the Earth one year and six months to regenerate resources that human used.<sup>158</sup> Obviously, the size of the global ecological footprint in 2007 has

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<sup>152</sup> Stephen Dovers, *Environment and sustainability policy : creation, implementation, evaluation* (Annandale: Federation Press, 2005) 7.

<sup>153</sup> Ronnie Harding, Carolyn M Hendriks and Mehreen Faruqi, *Environmental decision-making : exploring complexity and context* (Federation Press, 2009) 5, quoting World Commission on Environmental and Development, *Our Common Future* (Oxford University Press, 1987).

<sup>154</sup> Björn Bischoff, ‘Sustainability as a Legal Principle’ in Klaus Bosselmann and J Ronald Engel (eds), *The Earth Charter : a framework for global governance* (Amsterdam, The Netherlands : KIT Publishers, 2010) 176.

<sup>155</sup> Klaus Bosselmann, *The principle of sustainability : transforming law and governance* (Aldershot, England ; Burlington, VT : Ashgate., 2008) 52.

<sup>156</sup> Ibid; For example the ASEAN Declaration on Environmental Sustainability (2007) states: ‘*Acknowledging that the fossil fuels will continue to be part of the energy landscape, and that ASEAN Member Countries, who are at different stages of economic development, will face various environment challenges and levels of resources needed to effectively address global environmental issues without compromising competitiveness or social and economic development*’.

<sup>157</sup> Dovers, above n 1, 7.

<sup>158</sup> Global Footprint Network, ‘World Footprint: Do we fit on the planet?’,

double the amount of what it was in 1966.<sup>159</sup> With the current population growth rate, it is estimated that by 2030 humanity will need twice as much as the earth's capacity only to absorb carbon dioxide emission.<sup>160</sup> When considered specifically on carbon emission on the regional scales between 1961-2007, the Carbon footprint of ASEAN countries increased by more than 100 times. This made ASEAN became the most rapidly increased economy out of the four political groups: OECD, BRIC, ASEAN, and African Union.<sup>161</sup> The OECD increased by ten times while BRIC countries increased 20 times and African Union increased by 30 times.<sup>162</sup> As a result of generating economic growth, the collapsing of ecosystem posts serious threats such as climate change, diminishing biodiversity, food shortages and starvation, and other severe natural disasters to humanity. The challenge humanity is facing now is to give a solution on closing the gap between human ecological footprint and biocapacity<sup>163</sup>; the term 'biocapacity' specifically includes land for agriculture and farming, fishing grounds as well as forests which absorbing carbon dioxide.<sup>164</sup> The Earth provides us with fresh water, food, shelters and medicine. Today it can be easily observed that these four basic needs are not contributed fairly among earth's population. What is worst is when these resources are insufficient, the rich can resource their needs from other places but those low-income people who cannot effort to seek resources from somewhere else are affected greatly.<sup>165</sup>

The Brundtland report or '*Our Common Future*', published in 1987 by the United Nations World Commission on Environment and Development (WCED), introduced the notion of sustainable development and sustainability to governments and businesses around the world.<sup>166</sup> Although the concept of sustainable development has been known much earlier, but it was not regarded as world agenda until the report was published.<sup>167</sup> The report provided an overview of the global environmental crisis and gave some suggestion to solve problems. The strategy suggested was to promote

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< [http://www.footprintnetwork.org/en/index.php/GFN/page/world\\_footprint](http://www.footprintnetwork.org/en/index.php/GFN/page/world_footprint)>

<sup>159</sup> WWF International, *Living Planet Report 2010 Biodiversity, biocapacity and development* (2011) <<http://www.footprintnetwork.org/press/LPR2010.pdf>> 35.

<sup>160</sup> Global Footprint Network, 'How Big is the Human Footprint on Earth?' <[http://www.footprintnetwork.org/en/index.php/GFN/page/2010\\_living\\_planet\\_report/](http://www.footprintnetwork.org/en/index.php/GFN/page/2010_living_planet_report/)>.

<sup>161</sup> OECD - The Organisation for Economic Co-operation, BRIC – Brazil, Russia, India and China, ASEAN – Association of Southeast Asian Nations.

<sup>162</sup> WWF International, above n 8, 40.

<sup>163</sup> WWF International, above n 8.

<sup>164</sup> Ibid 45.

<sup>165</sup> Ibid.

<sup>166</sup> Secretary-General, 42<sup>nd</sup> sess, UN Doc A/42/427 annex '*Report of the World Commission on Environmental and Development: Our Common Future*'.

<sup>167</sup> Sustainable Cities, '*Brundtland Report: Our common Future*' <<http://sustainablecities.dk/en/actions/a-paradigm-in-progress/brundtland-report-our-common-future>>.

harmony among human being and nature. It was also an attempt to promote awareness of the conflicts between human development and the natural environment, especially in from the institutional, economic and social aspects.<sup>168</sup> *'Our Common Future'* has named the core objectives for sustainable development policies that include:

- a) Reviving growth
- b) Changing the quality of growth
- c) Meeting essential needs for jobs, food, energy, water, and sanitation
- d) Ensuring a sustainable level of population
- e) Conserving and enhancing the resource base
- f) Reorienting technology and managing risk
- g) Merging environment and economics in decision making.<sup>169</sup>

The Brundtland report also notices that industries which pollute our environment may get away from their responsibility just because people who are affected are too poor or unable to complain effectively.<sup>170</sup> Government may not able to effectively overcome their political benefits provided by these economic contributors. Therefore, rule of law and good governance become uncompromising principles. The report further lists out some requirement to achieve sustainable development in its conclusion:

- a) a political system that secures effective citizen participation in decision making.
- b) an economic system that is able to generate surpluses and technical knowledge on a self-reliant and sustained basis
- c) a social system that provides for solutions for the tensions arising from disharmonious development
- d) a production system that respects the obligation to preserve the ecological base for development
- e) a technological system that can search continuously for new solutions
- f) an international system that fosters sustainable patterns of trade and finance, and

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<sup>168</sup> Ibid.

<sup>169</sup> *'Report of the World Commission on Environmental and Development: Our Common Future'*, UN Doc A/42/427 annex para 28.

<sup>170</sup> Ibid para 16.

g) an administrative system that is flexible and has the capacity for self-correction.<sup>171</sup>

Although there is no consensus from nations in taking the report seriously, the report and the concept of sustainability live on and later became one of the foundations for the Rio Declaration on Environmental and Development 1992 (Rio Declaration), Agenda 21, as well as contribute significantly to the establishment of the UN Commission on Sustainable Development.<sup>172</sup> The Rio Declaration institutionalised the concept embedded in Brundtland report to 27 principles guiding governments towards sustainable development while Agenda 21 established an action plan for sustainable development for the 21<sup>st</sup> century. These documents were made to ensure that environmental agenda would remain on the main stream and being concerned globally.<sup>173</sup> What is more is that the Brundtland report further called for the making of the universal declaration on sustainable development to guide states' behaviour in a form of a new charter. This new charter should lay new foundations and norms to maintain our ecosystem.<sup>174</sup> Later, the Earth Charter was proposed and became a more constructed international agenda for sustainable development.

#### A. *The Earth Charter and the Four Principles*

The Earth Charter was drafted in the late 1990s to promote a global dialogue on shared values and principles in the area of environmental protection and sustainable development. The process of drafting was participated by both states and non-governmental bodies which comprised of expert groups in international law, faith traditions, science, etc. It later was accepted as a declaration of fundamental ethical principles for environmental conservation and sustainable development.<sup>175</sup> The Earth Charter addresses clearly that the dominant patterns of production and consumption that we are using today are causing environmental devastation. The benefits from the development are not equally share between the rich and the poor. The widening of development gap, injustice, ignorance, and violent conflict are causing great suffering to humanity.<sup>176</sup> These

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<sup>171</sup> Ibid para 81.

<sup>172</sup> Sustainable Cities, above n 16.

<sup>173</sup> Harding, Hendriks and Faruqi, above n 2, 26.

<sup>174</sup> Klaus Bosselmann and J Ronald Engel (eds), *The Earth Charter : a framework for global governance* (Amsterdam, The Netherlands : KIT Publishers, 2010) 17.

<sup>175</sup> Ibid.

<sup>176</sup> The Earth Charter preamble.

problems are not only affect human being, but also overburdened ecological and social systems. Therefore, to create a sense of universal responsibility and to lay down principles for a sustainable way of life as a common standard, the Earth Charter lists out four main concerned areas: respect and care for the community of life, ecological integrity, social and economic justice and democracy, nonviolence and peace.<sup>177</sup> The Charter was designed to point out the fundamental ethical values and choices that are needed in order to achieve sustainability. Obviously, the foundation commitments for the whole charter were listed earlier in the first four main principles in section I of the Earth Charter, ‘Respect and care for the community of life’:

- a) Respect Earth and life in all its diversity.
- b) Care for the community of life with understanding, compassion and love.
- c) Build democratic societies that are just, participatory, sustainable, and peaceful.
- d) Secure Earth’s bounty and beauty for present and future generations.<sup>178</sup>

Unlike Agenda 21, the Earth Charter, despite having been adopted by over 2,000 organisations worldwide, has yet formally been internationally endorsed by states as a soft law document.<sup>179</sup> Many rather see the status of the Charter as being ‘beyond soft law’ or ‘a soft normative instrument’.<sup>180</sup> However, it illustrates a broader consensus by the world community and introduces concept such as ecological integrity, environmental sciences and environmental ethic to international law. These new values and principles help to develop international law and global governance.<sup>181</sup>

## B *Relationship between Regionalism and Sustainable Development*

Regional grouping has potential to play a vital role in promoting sustainable development. By overlooking the

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<sup>177</sup> The Earth Charter Principle I-IV.

<sup>178</sup> Bosselmann and Engel (eds), above n ,17.

<sup>179</sup> Imke Sagemüller, ‘The International Recognition and the Legal Status of the Earth Charter’ in Klaus Bosselmann and J Ronald Engel (eds), *The Earth Charter : a framework for global governance* (Amsterdam, The Netherlands : KIT Publishers, 2010) 41.

<sup>180</sup> Ibid.

<sup>181</sup> Bosselmann and Engel (eds), above n 23, 22.

mainstream issues on environmental issues, the environmental problems are usually trans-boundary issue. It is because the ecological problem contains transnational characteristic, no single nation can solve the problem on its own, but being together as a global partnership for sustainable development can overcome national interests and protect common benefits internationally.<sup>182</sup> In addition, regional integration based on functional cooperation turns down the race of nations to a pool of common benefits. It also fixes the problem of equal sovereignty.<sup>183</sup> Moreover, regionalism minimises world's environmental agenda to be fitted and implemented in a regional scale. This is because the Westphalia's model does not give much commitment to environmental protection goal.<sup>184</sup> Regional institutions become significant subordinate tools of global governance; normally they are formed after the United Nation Charter and its principles.<sup>185</sup> The international bodies such as the United Nations Environment Program (UNEP), the United Nations Conference on Environment and Development (UNCED) and the Commission on Sustainable Development (CSD) have been making policies and guidelines for international community. As a consequence, national governments hardly deny the responsible for environmental degradation and ignore sustainable development trends.<sup>186</sup>

Regionalism allows countries to make their own regional policies and implementation strategies that suit their behaviours and cultures. For example, the European Union responded to the 1992 Earth Summit by imposing norms of sustainability to its constitutional framework: the Environment Action Programme (EAP) and the Amsterdam Treaty on the European Union (TEU). The Amsterdam Treaty straightens the status of sustainability principle to the quasi-constitutional status.<sup>187</sup> The EU released

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<sup>182</sup> Agenda 21 Preamble.

<sup>183</sup> Wakana Takahashi, 'Formation of an East Asian Regime for Acid Rain Control: The Perspective of Comparative Regionalism' (2000) 1(1) (Summer2000) *International Review for Environmental Strategies* 97, 99.

<sup>184</sup> Richard Falk, 'Regionalism and World Order: The Changing Global Setting' in Fredrik Soderbaum and Timothy M Shaw (eds), *Theories of New Regionalism: a Palgrave Reader* (Palgrave Macmillan, 2003)69.

<sup>185</sup> Ibid 76.

<sup>186</sup> Elliott Lorraine, 'ASEAN's environmental regime: pursuing sustainability in Southeast Asia' (2000) 10(3) *Global Environmental Change* 237.

<sup>187</sup> Klaus Bosselmann, J Ronald Engle and Prue Taylor, *Governance for sustainability : issues, challenges, successes*, IUCN environmental policy and law policy paper: no. 70 (Gland, Switzerland : IUCN ; Bonn : in collaboration with the IUCN Environmental Law Centre, 2008) 22.

the EU Strategy for Sustainable Development (SDS) to enhance the effectiveness of environmental policies.<sup>188</sup> The EU did not only establish regional environmental law and policy, but also set up the LIFE Programme in 1992 aiming at monitoring the implementation, updating and developing EU environmental policy and legislation.<sup>189</sup>

Another comparable regional organisation is ASEAN. ASEAN adopted the aims of the World Summit on Sustainable Development (WSSD) and the UN Millennium Development Goals (MDGs) by releasing the ASEAN Declaration on Environmental Sustainability in 2007.<sup>190</sup> This led to the Joint Declaration on the Attainment of the Millennium Development Goals in ASEAN in 2009 and the ASEAN Roadmap for the Attainment of the Millennium Development Goals in 2011. Moreover ASEAN agreed to create ASEAN Socio-Cultural Community (ASCC) by 2015. The community is aimed to lift the quality of life of its peoples through cooperative activities that are people-oriented and environmentally friendly as well as geared towards the promotion of sustainable development.<sup>191</sup> According to the ASCC blueprint, the ASCC contains six main characteristics: human development, social welfare and protection, social justice and rights, environmental sustainability, creating ASEAN identity, and narrowing the development gap in the region.<sup>192</sup> In short, as a result of globalisation, regionalism becomes an available approach in dealing with transnational issues, both locally and globally.

### *Paradox of sustainable development*

Ecological notions and current economic growth contradict each other in their nature. Economic rationality has been shaping the world since industrial revolution. The 'European Cosmology' is regarded as the root of modernity.<sup>193</sup> This cosmology has been accumulated by a distinctive set of notions such as dualism,

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<sup>188</sup> Ibid 24 citing Commission of the European Communities, *A Sustainable Europe for a Better World: A European Strategy for Sustainable Development* (2001).

<sup>189</sup> European Commission, 'The LIFE Programme'  
<<http://ec.europa.eu/environment/life/about/index.htm>>.

<sup>190</sup> ASEAN Declaration on Environmental Sustainability, 20 November 2007, preamble.

<sup>191</sup> ASEAN Secretariat, *ASEAN Socio-Cultural Community Blueprint* (2009)  
<<http://www.aseansec.org/5187-19.pdf>> 1 [5].

<sup>192</sup> Ibid [9].

<sup>193</sup> Klaus Bosselmann, *Losing the Forest for the Trees: Environmental Reductionism* (2010)  
<[www.mdpi.com/journal/sustainability](http://www.mdpi.com/journal/sustainability)> 2430.

anthropocentrism, materialism, atomism, greed, and economism.<sup>194</sup> The idea of anthropocentrism projects human being as the centre, and separates human society from the Mother Nature. Human has ability to create suitable environment through science. Instead of living in harmony with the nature, human create their environment through technology and knowledge. Unsurprisingly, the capitalist culture created a belief that the prosperity and economic growth are the most desired achievement. Consumerism is perceived as the developed life style. A healthy environment is less desired than individual well-being. Nature is seen as raw material for economic-technological progress instead of the circle of lives.<sup>195</sup> Under economic model that we are using today, growth depends heavily on natural resources, especially fossil fuel. The more growth we need, the more environmental impacts we create. A mistake hiding behind the environmental management now is the belief that the ecological crisis we are facing can be solved under the current economic, political and legal system without changing the core value and the decision-making method.<sup>196</sup>

According to the Brundland Report, we are borrowing environmental capital from the future generation without any intention or prospect of repaying them.<sup>197</sup> People today dismiss ecological problems irresponsibly just because they argue that it is impossible to know what the future generation will need. Furthermore the future generation cannot vote and have no political or financial power to challenge today's decisions. Without any voice, they can only be the object of today actions.<sup>198</sup> Therefore, it can be assumed that sustainability and sustainable development notions are the means to ensure that the Earth's ecological integrity is the priority and be considered together with economic and social development.<sup>199</sup> To do so, the concept of sustainability should be perceived the same status and value as other legal principle such as freedom, equity, and justice.<sup>200</sup> Global governance through regional organisations is a means to achieve this.

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<sup>194</sup> Ibid.

<sup>195</sup> Ibid 2431.

<sup>196</sup> Ibid 2433.

<sup>197</sup> Ibid 2437 nn 43.

<sup>198</sup> Ibid.

<sup>199</sup> Ibid.

<sup>200</sup> Ibid 2438.

### C *Legal Approach to Sustainable Development*

There are two approaches in achieving sustainability development: strong approach and weak approach. The strong approach aims to preserve the Earth's ecological and set limits to human activities economically and socially. On the other hand, the weak approach, especially among governments and business corporations, projects sustainability as a concern which standing apart from social and economic sustainability. Therefore, the sustainability of ecological system must be the bottom-line.<sup>201</sup>

The principle of sustainability can be emphasised in both soft law and hard law. To this point, soft law usually refers to international norms that do not contain any binding character but have legal relevance.<sup>202</sup> Soft law may be created by a consensus of the international community of states.<sup>203</sup> The term 'soft law' is paradoxical because the rule of law is normally regarded as compulsory according to the orthodox point of view.<sup>204</sup> Besides, soft law can be categorised in between law and politics. For example resolutions, plan of action or codes of conduct released by international organisations are soft law. In contrast, 'hard law' contains binding obligations. It requires legal commitments which normally been described specifically and literally. When there is any ambiguity, it will require an agreed authority or proscribed third parties to give interpretation and implementing the law.<sup>205</sup>

Unsurprisingly, soft law is more popular in the area of sustainable development. Without having binding effect, it has had little impact on international or national decision-making. Sustainable promises are usually neglected when they face with economic interests. Nevertheless, soft law still has it bright

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<sup>201</sup> Ibid 2437 citing Bosselmann K, *The Principle of Sustainability: Transforming Law and Governance*; (Ashgate: Aldershot, 2008).

<sup>202</sup> J B Skjoerseth, O S Stokke and J Wettestad, 'Soft Law, Hard Law, and Effective Implementation of International Environmental Norms' (2006) 6(3) *GLOBAL ENVIRONMENTAL POLITICS* 104.

<sup>203</sup> Bosselmann, above n 42, 2438.

<sup>204</sup> Sigrud B Schwalbe, 'The Importance of Soft Law in Global Environmental Governance' in Klaus Bosselmann and J Ronald Engel (eds), *The Earth Charter : a framework for global governance* (Amsterdam, The Netherlands : KIT Publishers, 2010) 95.

<sup>205</sup> Kenneth W Abbott and Duncan Snidal, 'Hard and Soft Law in International Governance' (2000) 54(3) *International Organization* 421.

function because it is expanding the boundary of sustainability through global governance.<sup>206</sup>

*Formulating principle of sustainability in global governance through soft law*

The global environmental governance has been done fundamentally through soft law. Therefore, it is worth to investigate how soft law has been shaping global governance strategy, especially in putting sustainable development on global agenda. As already explained roughly above, soft law may be regarded as ‘gentleman’s agreements’ where there is not any binding agreement involve.

Soft law contains some characteristics that are useful in global governance. Firstly, it is easier for a state to accept a proposal on environmental issue. Usually, states are willing to address problems in the area of sustainability but do not feel comfortable to commit themselves to legal obligations.<sup>207</sup> They may have lack of confidence in complying with proposed legal commitments. Binding agreements not only limit sovereignty but also post difficulty in implementation when parties to an agreement use different domestic mechanism, legally economically and politically.<sup>208</sup> Secondly, soft law allows some governments to bypass lengthy process of ratification which many has to be approved by national parliaments. Non-binding agreement do not challenge parliamentary supremacy. Therefore, it is much easier and faster for the executives to adopt and implement soft law.<sup>209</sup> Thirdly, soft law has quick and flexible character that suitable for laying down new principles and rules to global governance. These flexibility and freedom to manoeuvre benefit states to correct mistakes rather than drop their unimplemented agreements altogether.<sup>210</sup> Last but not least, soft law accommodates non-state actors to enter into international negotiation. It is undeniable to accept today that Non-governmental Organisations (NGOs) play vital role in influencing global environmental governance. The traditional international law methods do not offer standing ground for such

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<sup>206</sup> Bosselmann, above n 42, 2438.

<sup>207</sup> Schwalbe, above n 53, 96.

<sup>208</sup> Ibid.

<sup>209</sup> Patricia W Birnie and Alan E Boyle, *International law and the environment* (Oxford : Oxford University Press, 2nd ed, 2002) 12.

<sup>210</sup> O’Connell M E, ‘International Legal System Challenges’ in Dinah Shelton (ed), *Commitment and compliance : the role of non-binding norms in the international legal system* (Oxford ; New York : Oxford University Press, 2000) 110.

actors to negotiate directly on agenda setting.<sup>211</sup> A global consensus document such the Agenda 21 is a good example. It has been endorsed by both states and international organisations as well as has received widespread recognition from legal and environmental academics.<sup>212</sup>

For the effectiveness of the soft law, despite its litigable capability, it creates some expectations which contain legal significant internationally.<sup>213</sup> According to Joseph Gold, *'The essential ingredient of soft law is an expectation that the states accepting these instruments will take their content seriously and give them some measure of respect'*.<sup>214</sup> Soft law can be considered as a part of any legal framework governing relation among actors when these actors expect compliance and comply with commitments contained in soft law instruments similarly to the norms contained in their treaties and customs.<sup>215</sup> Overall, soft law gives four impacts to legal system.<sup>216</sup> First it creates immediate legal effect when the executive implements directly through by-law. Second, it affects the pre-existing norm which will lead to modification and development of domestic norms. Third, soft law reinforces and influences hard law when it comes to interpretation. Some soft measures can be regarded as an accepted international standard or even being guidelines to define the meaning of hard law. Fourth, soft law brings problem issues into international sphere when there is any accuse of non-compliance to soft law. It opens an option to challenge the authority whom in charge.<sup>217</sup>

In most cases, non-compliance with soft law does not give the same result as hard law; it neither leads to compensation nor reprisals. Sigrid B Schwalbe notes: *'[t]he concept of soft law is shaped by a good faith commitment and states usually comply with what they have agreed upon so far as they are capable'*.<sup>218</sup>

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<sup>211</sup> Schwalbe, above n 53, 105.

<sup>212</sup> UNESCO, The Rio Declaration on Environment and Development (1992)  
<[http://www.unesco.org/education/information/nfsunesco/pdf/RIO\\_E.PDF](http://www.unesco.org/education/information/nfsunesco/pdf/RIO_E.PDF)>.

<sup>213</sup> Schwalbe, above n 53, 98.

<sup>214</sup> Joseph Gold, 'Strengthening the Soft International Law of Exchange Agreements' (1983) (77) 3 *The American Journal of International Law* 443 cited in Paul J Davidson, 'The role of law in governing regionalism in Asia' in Nicolas Thomas (ed), *Governance and Regionalism in Asia* (Routledge: New York, 2009) 234.

<sup>215</sup> Paul J Davidson, 'The role of law in governing regionalism in Asia' in Nicolas Thomas (ed), *Governance and Regionalism in Asia* (Routledge: New York, 2009) 234.

<sup>216</sup> Schwalbe, above n 53, 99.

<sup>217</sup> *Ibid* 99-101.

<sup>218</sup> *Ibid* 99.

As long as states desire to be active in international community, they still have motivation to comply and to cooperate. No state wants to be regarded as an unreliable partner on the international community. In other words, they volunteer to do so because they need recognition from others. Diplomatic sanction and moral pressure, under the sphere of international law and political relationship, are the cores of soft law enforcement mechanism.<sup>219</sup> Nevertheless, when the mutual understanding and political willing are formed, an international community should process further to hard law scheme because it will mature the community and constitute a stronger foundation.

## II SUSTAINABLE DEVELOPMENT LAW AND GOVERNANCE IN ASEAN

The Association of Southeast Asian Nations (ASEAN) includes 10 nations out of 11 nations in Southeast Asia. It was established in 1967 by signing of the Bangkok Declaration to promote cooperation among the five original members: Indonesia, Malaysia, Philippines, Singapore and Thailand. Brunei joined the association a week after resuming her full independence in 1984. Then after the end of the hostile cold war in the late 1990s, Viet Nam, Lao, Myanmar, and Cambodia joined ASEAN.<sup>220</sup> Obviously, ASEAN is one of the most dynamic region and the largest regional markets in the world. In 2009, the ten member states had total population almost 600 million people and the Gross Domestic Product(GDP nominal) was around US\$ 1,500 trillion.<sup>221</sup> The ASEAN average GDP per capita has been increased significantly from US\$ 1,606 in 2005 to US\$ 2,582 in 2008.<sup>222</sup> In term of national resources and environment, ASEAN has rich and diverse natural resource endowments. Forest cover is over 48 per cent of land mass and the mangrove forests contribute around 35 per cent of the world's total, not including 30 per cent of the world coral reef. Not only three of the seventeen mega biodiversity countries are located in ASEAN but the marine environment and the aquatic ecosystems are highly productive and rich in species.<sup>223</sup>

### A. *The Development of Sustainable Development in ASEAN*

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<sup>219</sup> Hartmut Hillgenberg, 'A fresh look at soft law' (1999) 10(3) *European Journal of International Law* 499, 511.

<sup>220</sup> ASEAN Secretariat, 'About ASEAN' <[http://www.aseansec.org/about\\_ASEAN.html](http://www.aseansec.org/about_ASEAN.html)>.

<sup>221</sup> ASEAN Secretariat, 'Selected Key Indicators' <<http://www.asean.org/19226.htm>>.

<sup>222</sup> Ibid.

<sup>223</sup> ASEAN Secretariat, *ASEAN Report to the World Summit on Sustainable Development* (Public Information Unit, 2002) 24.

Although the principle of sustainability as we understand today has yet arrived when ASEAN was established in 1967, its environmental issues were put on ASEAN agenda a decade later. Starting from 1977, a complex web of soft-law comprising declarations, resolution, plans of action, issue-specific programmes and agreements has been developed.<sup>224</sup> To this point, Lorraine has divided the development of ASEAN environmental regionalism into three phases: 1977-1980s, 1980s-1990s and 1990s – now.

The first phase emphasized the environmental asset and national resilience. The ASEAN Subregional Environmental Programmes (ASEP) was established by ASEAN Ministerial Meeting on the Environment (AMME) in 1981 to overcome poverty and improve quality of life by ensuring the continuous availability of natural resources. The second phase, from the late 1980s until late 1990s, gave more attention to environmental problems such as regional pollution problems. Sustainable development was noted as an essential component to a better quality of life in AMME in 1992. Then, eco-efficiency and environmental concerns began to integrate into economic agenda.<sup>225</sup> The third phase moved ASEAN cooperation to a more formal mode of community-building. A series of ambitious environmental objectives has been released. At the last phase, the cooperation networks have expanded including trans-governmental networks, knowledge networks, consultation networks and compliance networks. These networks have influences over policy-makers as well as assist their governments to draw up policy agenda.<sup>226</sup>

It was in 1987 when ASEAN, then comprised of five members, resolved the Jakarta Resolution on Sustainable Development. This resolution recognised that the development process could only be sustained if the availability of natural resources was sustained. The 1978 resolution recognised the sustainability notion by stating: ‘...[m]indful that it utilizing our natural resources to meet the needs of the present generation, the ability of future generations to meet their needs should not

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<sup>224</sup> Elliott Lorraine, 'ASEAN and environmental governance: rethinking networked regionalism in Southeast Asia' (2011) 14(0) *Procedia - Social and Behavioral Sciences* 61, 62.

<sup>225</sup> Ibid.

<sup>226</sup> Ibid.

*be imperiled,...*<sup>227</sup> By affirming the resolution, members agreed to establish a regional body on the environment whose tasks were to:

- a) recommending policy guidelines on the implementation of the principle of sustainable development;
- b) facilitating the incorporation of environmental considerations into the programmes and activities of ASEAN committees;
- c) monitoring the quality of the environment and natural resources to enable the periodic compilation of ASEAN state of the environment reports; and
- d) enhancing the cooperation on environmental matters.<sup>228</sup>

Overall, the ASEAN ministerial Meeting on the Environment (AMME) has been the responsible body as well as the main decision-making for environmental and sustainability issue. It has also been holding informal meetings annually since 1994. All most all of the resolutions and declarations on sustainability are non-binding. During the early days, agreements mainly focused on conservation. For example, ASEAN National Heritage Park and Nature Reserves 1984 and ASEAN Agreement on the Conservation Plan on the Conservation of Nature and Natural Resources 1985. These initiatives was aimed to sustaining natural resources to ensure continued development which was seen as a mean to eradicate poverty and improve the quality of life.

Then, in the 1990s, it moved to tackle pollution problem in the region.<sup>229</sup> Later, a number of cooperation initiatives were released: the 1995 ASEAN Cooperation Plan on Transboundary Pollution, the 1996 Regional Haze Task Force and the Regional Haze Action Plan, the ASEAN Urban Air Pollution Monitoring and Control Programme, the ASEAN Contingency Plan for the Control and Mitigation of Marine Pollution. The later initiatives show stronger commitment, especially by affirming and raising the awareness of ecological principles.<sup>230</sup>

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<sup>227</sup> ASEAN Secretariat, Jarkarta Resolution on Sustainable Development  
<<http://www.aseansec.org/6081.htm>>.

<sup>228</sup> Ibid.

<sup>229</sup> Elliott Lorraine, above n 35, 238.

<sup>230</sup> Ibid 239.

The ASEAN Strategic Plan on the Environment 1994-1998 (ASPEN) is one of the indicators showing a shift in the notion of sustainable development.<sup>231</sup> It called for a more effective framework for integrating environment and development concerns in the decision-making process.<sup>232</sup> The more strengthened institutional and legal capacities to implement international agreements on environment were also put into the regional strategy.<sup>233</sup> Sustainable development goal was put on agenda by aiming to further create strategic plans of action that would strengthen the role and participation of major group on environmental management and decision making.<sup>234</sup> By having an operational system at the ASEAN Secretariat to monitor and facilitate the implementation ASEAN would be able to counter environmental issue.<sup>235</sup> As a result, ASEAN came out with Jakarta Declaration on Environment and Development in 1997 affirming the ideal of a single Southeast Asian ecosystem.<sup>236</sup> An incident that made ASEAN member realised 'the single ecosystem' is the regional haze problem: the air pollution caused by fires lit by private companies to clear land for palm-oil plantations in Indonesia. The haze does not affect only Indonesia but also posts ecological threat to its neighbours such as Malaysia, Singapore, Brunei and Thailand.<sup>237</sup>

The ASEAN Vision 2020 was later launched in December 1997 envisioning to create a caring community and a concert of Southeast Asian Nations. It forms the sustainable development framework to collectively lead ASEAN to the goals targeted in the vision by the year 2020.<sup>238</sup> The vision emphasises the economic development strategies which base on sustainable and equitable growth.<sup>239</sup> It also proposes a clean and green ASEAN with fully established mechanisms for sustainable development to ensure the protection of the region's environment, the sustainability of its natural resources, and the high quality of life of its peoples.<sup>240</sup> Obviously, the ASEAN Summit decided the goals of Vision 2020

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<sup>231</sup> ASEAN Secretariat, Strategic Plan of Action on the Environment 1994-1998 <<http://www.asean.org/8950.htm>>.

<sup>232</sup> Ibid, strategy 1.

<sup>233</sup> Ibid, strategy 4.

<sup>234</sup> Ibid, strategy 9.

<sup>235</sup> Ibid, strategy 10.

<sup>236</sup> Elliott Lorraine, above n 35, 239.

<sup>237</sup> Ibid.

<sup>238</sup> ASEAN Secretariat, above n 72, 2.

<sup>239</sup> ASEAN Vision 2020 <<http://www.aseansec.org/1814.htm>>.

<sup>240</sup> Ibid.

would be achieved by using a series of medium-term action plans in which contained means of implementation and mid-term review mechanisms. These action plans are the Hanoi Plan of Action (HPA), the Vientiane Action Programme (VAP) and the Roadmap for an ASEAN Community (2009-2015). In addition, ASEAN considers the Vision 2020 and its action plans as part and parcel of the international effort to promote and implement sustainable development activities in Southeast Asia. ASEAN vision 2020 was drawn, with heavily consideration, upon the Rio Resolutions, Agenda 21 and other various multilateral instruments to ensure that Southeast Asian is able to meet the needs of the present without compromising the ability of the future generations to meet their own needs.<sup>241</sup>

#### *B. Forming a Sustainable Community in ASEAN*

The idea of creating ASEAN Community was officially started in the ASEAN Vision 2020. It was later reaffirmed and further described in the Declaration of ASEAN Concord II, signed on 7 October 2003. The declaration affirmed that the ASEAN Community would establish three pillars involving in three different areas of cooperation: political and security, economic, and socio-cultural.<sup>242</sup> In general, the objective for having an ASEAN Community would be to promote greater cooperation among the member states in the three pillars, namely ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC) and the ASEAN Socio-Cultural Community (ASCC).

ASEAN Community has been shaped under the series of action plans or programmes adopted to guide towards the realization of the ASEAN Vision 2020 namely The Hanoi Plan of Action (HPA), the Initiative for ASEAN Integration (IAI) and the Vientiane Action Programme (VAP). The current document that guiding this matter is the Roadmap for an ASEAN Community (2009-2015) which has replaces the VAP since March 2009.<sup>243</sup>

According to the Roadmap for an ASEAN Community (2009-2015), sustainable development idea is emphasised

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<sup>241</sup> ASEAN Secretariat, above n 72, 2-3.

<sup>242</sup> Declaration of ASEAN Concord II (Bali Concord II) <<http://www.asean.org/15159.htm>>.

<sup>243</sup> ASEAN Secretariat, 'Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015)'

<<http://www.aseansec.org/publications/RoadmapASEANCommunity.pdf>>.

mainly in the ASEAN Socio-Cultural Community, especially those issues involving with environmental concern. The Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community, adopted on 1 March 2009, lays down the ASCC Blueprint which sets up 11 thematic areas:

1. addressing global environmental issues;
2. managing and preventing transboundary environmental pollution (transboundary haze pollution, and transboundary movement of hazardous wastes);
3. promoting sustainable development through environmental education and public participation;
4. promoting environmentally sound technology;
5. promoting equality living standards in ASEAN cities/urban areas;
6. harmonising environmental policies and databases;
7. promoting the sustainable use of coastal and marine environment;
8. promoting sustainable management of natural resources and biodiversity;
9. promoting the sustainability of freshwater resources;
10. responding to climate change and addressing its impacts; and
11. promoting sustainable forest management.<sup>244</sup>

Sustainable development in ASEAN is not limited to the ASEAN Socio-Cultural Community, but the ASEAN Political-Security Community (APSC) also responsible for some sustainable development principles such as promoting good governance and principles of democracy protecting human rights, and preventing corruption as these are the essential values in order to create a sustainable community. Hence, the three characteristics of the APSC are:

- a) a rules-based community of shared values and norms;
- b) a Cohesive, peaceful, stable and resilient region with shared responsibility for comprehensive security; and
- c) a dynamic and outward-looking region in an increasingly integrated and interdependent world.<sup>245</sup>

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<sup>244</sup> ASEAN Secretariat, 'ASEAN Socio-Cultural Community Blueprint' (Public Outreach and Civil Society Division: 2009) 14-20 (D.1)-(D.11).

<sup>245</sup> The Roadmap for the ASEAN Community (2009-2015) 6.

The primary goal of the ASEAN Socio-Cultural Community is to lift the quality of life of its people. The means is to cooperate in activities that are people-oriented and environment friendly geared toward the promotion of sustainable development. It contains characteristics that are:

- a) human development;
- b) social welfare and protection;
- c) social justice and rights;
- d) ensuring environmental sustainability;
- e) building the ASEAN identity; and
- f) narrowing the development gap.<sup>246</sup>

While the principle of sustainable development has been addressed in two communities, the ASEAN Economic Community Blueprint, on the other hand, fails to mention the principle of sustainability directly along its economic action plan. It rather focuses on the economic growth and generates compatibility on the global stage without referring to ecological concern. Its key characteristics are: a single market and production base, a highly competitive economic region, a region of equitable economic development and a region fully integrated into the global economy. Therefore, it is still unclear whether sustainability and sustainable development principles have any influence in shaping ASEAN Economic Community.<sup>247</sup>

### C. *ASEAN Agreements and Declarations on Sustainability*

In 2007, ASEAN leaders signed the ASEAN Charter which transformed the loose-organisation established by Bangkok Declaration to a more legal and rules-based entity as well as a more effective institutional framework. The Charter entered into force on 15 December 2008. The ASEAN Charter emphasised the need to promote sustainable development to ensure the availability of its natural resources, fertile environment, cultural heritages and the high quality of life of its people.<sup>248</sup> This led to the development theme called 'Green ASEAN'. To its significant, Surin Pitsuwan, ASEAN Secretary-General, noted that the theme of 'Green ASEAN' illustrates the ASEAN Green economy; the green economy means focusing on building a sustainable and resilient economic from its rich natural resources while ensuring

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<sup>246</sup> Ibid 68.

<sup>247</sup> Cf Ibid [55] 35.

<sup>248</sup> ASEAN Charter art 1 (9).

social development and environmental sustainability.<sup>249</sup> The Green ASEAN highlights the economic opportunities from ecosystem services and trade in environmental goods. A win-win solution through greening its economy and environmental sustainability will enhance the economic opportunities.<sup>250</sup> The Green ASEAN was inspired by the United Nations Environment Programme (UNEP) called for ‘Global Green New Deal (GGND)’<sup>251</sup>; it is opposite to the traditional ‘Brown Economy’ which depends on fossil fuel and oil.<sup>252</sup> This is the new economic development model based on the knowledge of ecological and green economics. To this, President Jacob Zuma noted at the South African Green Economy Summit that the Green Economy is an opportunity to respond to the notion that there is a trade-off to be made between faster economic growth and sustainable development, and the preservation of our environment.<sup>253</sup> Besides, the model urges for the green industrial revolution by focusing on factors such as ecosystems, clean and efficient technology, renewable energy, biodiversity-based products and services, chemical and waste management, mitigation technologies, and green cities with construction and transport systems friendly to environment.<sup>254</sup> Therefore, the Green ASEAN theme can be seen as a part of the world agenda on sustainable development.

Indeed, there are currently four ASEAN documents laying down the foundation of the policy framework for sustainable development cooperation: the ASEAN Vision 2020 (15 December 1997), ASEAN Concord II (7 October 2003), ASEAN Charter (15 December 2008) and Roadmap for an ASEAN Community (1 March 2009). For the strategic objectives and actions in the area of sustainability and environment, ASEAN follows the ASEAN Socio-Cultural Community Blueprint (2009-2015) which is accompanied by ten most recent, and still active, declarations and resolutions namely:<sup>255</sup>

1. Yangon Resolution on Sustainable Development (2003) (ASEAN Environment Ministers);

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<sup>249</sup> Surin Pitsuwan, forward note in ASEAN Secretariat, *Fourth ASEAN State of the Environment Report 2009* (2009) iii.

<sup>250</sup> ASEAN Secretariat, *Fourth ASEAN State of the Environment Report 2009* (2009) 144.

<sup>251</sup> United Nations Environment Programme, *Global Green New Deal Policy Brief* (2009).

<sup>252</sup> Ibid.

<sup>253</sup> United Nations Environment Programme, *Annual Report 2010 a Year in Review* (2011) <[www.unep.org/annualreport](http://www.unep.org/annualreport)> 16.

<sup>254</sup> ASEAN Secretariat, above n 99, 148.

<sup>255</sup> Ibid, 118.

2. The Cebu Resolution on Sustainable Development (2006) (ASEAN Environment Ministers);
3. The ASEAN Declaration on Environmental Sustainability(2007) (ASEAN Summit);
4. The ASEAN Declaration on the 13<sup>th</sup> Session of the Conference of the Parties to the UNFCCC; and the 3<sup>rd</sup> Session of the CMP to the Kyoto Protocol (2007)(ASEAN Summit);
5. The Singapore Declaration on Climate Change, Energy and the Environment (2007) (EAS Summit);
6. The Cha-Am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009 – 2015) (ASEAN Summit);
7. Joint Statement to the 15<sup>th</sup> Meeting of the Conference of Parties to the UN Framework Convention on Climate Change and the 5<sup>th</sup> Meeting of the Parties to the Kyoto Protocol (2009) (ASEAN Summit); and
8. Singapore Resolution on Environmental Sustainability and Climate Change (2009) (ASEAN Environment Ministers)
9. Bangkok Resolution on ASEAN Environmental Cooperation (2012) (ASEAN Environment Ministers)
10. ASEAN Environmental Education Action Plan, AEEAP, 2014-2018 (2013) (ASEAN Senior Officials on Environment: ASOEN)

These ASEAN documents show that ASEAN has been developing and reaffirming sustainable development principle for many years through consensus and the function of soft law. It has also been put on agenda via the form of a roadmap and action plans. For example the Roadmap for ASEAN Community 2015 envisages a clean and green environment of the region. Then, The ASEAN Environmental Education Action Plan (AEEAP) 2000-2005, AEEAP 2008-2012, and AEEAP 2014-2018 were adopted to realise a clean and green ASEAN with citizens through environmental education and public participation.

*D. Where is Sustainable Development circle in ASEAN?*

Generally, sustainable development requires integration of three goals from different areas, namely economic, social and environmental. If an achievement in environmental criteria fails to meet economic and social goals, for example it fails to comply

with justice or equity, this achievement is not considerable to be sustainability. Ian Lowe proposes a contrast illustration between a weak sustainability and a strong sustainability interpretation.<sup>256</sup> The weak form of sustainability is the overlapping between social, economic and ecological circles. Each circle has most of its space standing apart from other circles. Therefore, the sustainability area, which is the integrated part of the three circles, is small and does not make much significant. On the other hand, the more effective form must place ecological circle as its base. Then it builds up its social circle within the ecological circle and further places economic circle within the social circle. In other words, any social aspect must base on ecological aspect and any economical aspect must base on social and ecological aspect.<sup>257</sup>

If use this interpretation form as a parameter to label ASEAN sustainable development initiative, ASEAN is of course using the weak interpretation. Evidently, it is easily notice that ASEAN places the sustainable development concern into Socio-Cultural Community road map but rarely state any concern on sustainable development in the Economic Community road map. Nonetheless, it has been known that environmental concern in ASEAN was limited to only functional cooperation; a weak form of institutionalism without centralized regional bureaucracy.<sup>258</sup>

Particularly, the decision making method, known as the 'ASEAN Way' which requires consensus from all members and non-confrontational diplomacy, clearly shows that the priority of ASEAN matter still depends on national sovereignty. Sustainability and other environmental matters have yet been placed as the top priority above generating economic growth and poverty eradication in the region. Nevertheless, after signing of the ASEAN Charter, ASEAN Way has been criticised heavily by many scholars, both from private sectors and government sectors. This traditional decision making method should be modified as the environmental problems are becoming more common.<sup>259</sup>

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<sup>256</sup> Ronnie Harding and Australia. Dept. of the Environment Sport and Territories., *Sustainability : principles to practice : Fenner Conference on the Environment 1994 : outcomes. Canberra, 13-16 November, 1994* (Dept. of the Environment, Sport and Territories, 1996)

<sup>257</sup> Harding, Hendriks and Faruqi, above n 2, 28-9.

<sup>258</sup>Lorraine, above n 73, 62.

<sup>259</sup> Ibid.

### III LEGAL SIGNIFICANCE ON SUSTAINABLE DEVELOPMENT IN ASEAN

Since the establishment of the United Nation, international cooperation, including international law, has been gaining their role in global governance. In particular, the expanded area of international environmental law becomes key instruments for humanity to deal with environmental challenge.<sup>260</sup> There are several characteristics derive from the evolution of international law towards sustainable development.<sup>261</sup>

First characteristic is that international law has begun to take socio-economic dimension into account. International environmental law has been developed beyond the law that focuses strictly on physical parameters of which clearly indicating wrong doing. The socio-economic dimension, although it rather bases on self-evident, requires parties to concern more on associated development factors involving sustainable development notion. The second characteristic is that legal instruments, despite the need for high degree of precision, are being negotiated in circumstances of scientific uncertainty. The Climate Change Convention is one of the many examples showing that the law must be flexible enough to accommodate the changes when clearer scientifically evidences emerge after the negotiation.<sup>262</sup> The third characteristic is the rising concept of partnership. Both nations and peoples are fully responsible for environmental issue and sustainable development scheme. The state actors do not solely responsible for implementing sustainability policies but private sector such as NGOs, civil society organisations, business, academics, and intergovernmental organisations are also the relevant stakeholders as well.<sup>263</sup> The recognition of the Earth Charter is one of the examples showing that the number of parties on the table has been expanded. The fourth characteristic is that much more attention has been given to the institutionalisation in order to enhance implementation capacity. It is normal to see more and more efforts on implementation mechanism are put into negotiation. Having ambitious goal without a provision of supportive means for the achievement became an old fashion.<sup>264</sup> Overall, these characteristics help international legal instruments become more realistic and more effective as the law develop. To this point, Elizabeth Dowdeswell further argues that formal treaties and

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<sup>260</sup> Elizabeth Dowdeswell, 'Sustainable Development: The Contribution of International law' in Winfried Lang (ed), *Sustainable development and international law*, International environmental law and policy series (Graham & Trotman, 1995) 3.

<sup>261</sup> Ibid 4.

<sup>262</sup> Ibid.

<sup>263</sup> Ibid.

<sup>264</sup> Ibid.

conventions in the area of sustainable development may not be the most effective mechanism suit all circumstance. A non-legally binding regime which emphasises on code of ethics and self-regulating mechanism may develop a powerful instrument for sustainable development. She believes that in dealing with sustainable development, a more holistic approach is more preferred than a fragmented instrument, especially in the area where free trade principles collides with environmental concern.<sup>265</sup>

#### A. *Legal Significant in ASEAN*

After the fast economic growth and its expansion during the 1990's, the idea of sustainable development and environmental management posted new demands and challenges to the region. Environmental challenges were redefined as transnational problems.<sup>266</sup> The issues of energy, innovation, and sustainable development have become the most pressing concern for ASEAN. For example, ASEAN needs to strike a balance between short-term energy needs and long-term environmental sustainability, between economic and political development of member states individually and ASEAN collectively.<sup>267</sup> However, the cooperation under ASEAN scheme has been facing difficulties, mostly are associated with its well-known characteristics: weak compliance, few sanctions, the priorities of generating economic growth and the limited financial support and resources.<sup>268</sup>

In spite of the fact that the ASEAN Charter has become organisation's constitution, it does not give a clear provision on the possibility of the direct legal effect to member states.<sup>269</sup> The Charter imposes obligation on members: *'to take all necessary measures including the enactment of appropriate domestic legislation, to effectively implement the provisions of this Charter and to comply with all obligation of membership.'*<sup>270</sup> In the case of a serious breach of the Charter or non-compliance, the Charter refers the matter to

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<sup>265</sup> Ibid 6.

<sup>266</sup> Lorraine, above n 73, 62.

<sup>267</sup> Surin Pitsuwan, 'Keynote Speech by Dr Surin Pitsuwan' (Speech delivered by S Pushpanathan, Deputy Secretary-General of ASEAN for ASEAN Economic Community on behalf of Secretary-General of ASEAN at the 2011 Asia Public Policy Forum on Energy, Innovation and Sustainable Development, Jakarta, 10 May 2011) <<http://www.aseansec.org/26285.htm>>.

<sup>268</sup> Ibid.

<sup>269</sup> Diane A Desierto, 'ASEAN'S Constitutionalization of International Law: Challenges to Evolution Under the New ASEAN Charter' (2011) 49(2) *Columbia Journal of Transnational Law* 268, 299.

<sup>270</sup> ASEAN Charter Art 5 (2).

ASEAN Summit for decision.<sup>271</sup> Although The ASEAN Summit decisions are binding on the members, there is still doubt on what measure or implementation the ASEAN Summit will use. This problem largely depends on the constitutional or statutory mechanisms within each member state; whether it regards ASEAN Summit decisions and other international law as self-executing or non-self-executing.<sup>272</sup> There is also a doubt whether ASEAN member states can invoke domestic constitutional procedure to suspend or delay compliance with ASEAN agreements or ASEAN Summit decisions which definitely weakening the effectiveness of the organisation.<sup>273</sup>

B. *Cohesion with World's Environmental Agendas*

The ASEAN Socio-Cultural Community Blueprint addresses that, in ensuring environmental sustainability, '*ASEAN will actively participate in global efforts towards addressing global environmental challenges, including climate change and the ozone layer protection, as well as developing and adapting environmentally-sound technology for development needs and environmental sustainability.*'<sup>274</sup> ASEAN member countries have shown a significant degree of commitment to the world by ratifying major multilateral environment agreements. Many of them received 100 per cent ratification from all members. The chlorofluorocarbons reduction in ASEAN was one of a successful example showing impact in the regional scale involving with ratification of Kyoto Protocol and United Nations Framework Convention on Climate Change (UNFCCC). The use of chlorofluorocarbons dropped from 9,000 tonnes per year in 1995 to less than 1,000 tonnes per year in 2006.<sup>275</sup> The table below shows the percentage of ASEAN members ratified multinational environmental agreements.

**Table 1 : ASEAN Members' Participation in Multilateral Environmental Agreement**

**Participation in Multilateral Environmental Agreement (ratified or acceded)**

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<sup>271</sup> ASEAN Charter Arts 5 (3), 20(4).

<sup>272</sup> Desierto, above n 118 , 299.

<sup>273</sup> Ibid.

<sup>274</sup> ASEAN Secretariat, *ASEAN Socio-Cultural Community Blueprint* (2009), above n 40, [30].

<sup>275</sup> ASEAN Secretariat, above n 99, 103.

<b>Agreements</b>	<b>ASEAN members (in percentage)</b>
Vienna Convention	100
Montreal Protocol	100
UNFCCC	100
Kyoto Protocol	100
Convention of Biological Diversity	100
CITES	100
Stockholm Convention	80
Cartagena Protocol	80
World Heritage Convention	80
Basel Convention	80
Ramsar Convention	70
Rotterdam Convention	50

**Source: Secretariat, ASEAN, *Fourth ASEAN State of the Environment Report 2009 (2009)* 104.**

#### **IV COMPARING ASEAN MODEL TO EU MODEL ON SUSTAINABILITY LAW AND GOVERNANCE: BENCHMARKING LEGAL SIGNIFICANT AT REGIONAL LEVEL**

European Union (EU) comes on top of the list when considering the most effective regional integration model at this moment. In the area of sustainable development and regional governance, EU has been well responding to the globally call for sustainability. It must be noted that comparing EU to ASEAN in term of sustainability model for making legal significant seems like comparing a formula-1 racing car to a station wagon. However, by doing so will locate where ASEAN is on the sustainable development map as well as will indicate strengths and weaknesses of the two different modes of governance.

There are four criteria being used to benchmark legal significant in regional governance. The first is whether the institutional structure of the regional organisation is able to give legal responds to sustainability issues. This includes environmental decision making method and impact of regional governance on national law and policy. The second is whether there is any provision affirming sustainability or sustainable development principle in constitutional document or any other legal document. The hierarchy and the level of document will indicate the seriousness and the clarity of the document will give more substantial effects when it comes to implementation. The third is whether there is any effective system to monitor or to submit sustainability issue to decision-makers. The last is the

public participation and citizen rights to influence sustainable development agenda.

#### A. *Institutional Structure and Decision Making Method*

Sustainable development requires an integrated and strong decision-making mechanism because the stronger the mechanism is, the more capability it will be. Most importantly, it will enable the organisation to deal with environmental, social and economic interests altogether at the same time.<sup>276</sup> Furthermore, these interests naturally conflict each other. For the EU, the system of sustainable development governance clearly shows a process of integrating environmental policies into other policy areas. Legal instruments ranging from national constitutions to municipal strategies are used to uphold the principle of sustainability.<sup>277</sup>

The EU is a supranational organisation where its institutions are formed and operated independently. The main institutions are the European Commission, the Council of the European Union, The European Council, the European Court of Justice and the European Central Bank. There are three main institutions involved in EU legislation: The European Parliament, the Council of the European Union and the European Commission.<sup>278</sup> The law-making starts when the European Commission propose a draft EU law to the European Parliament, whose members are elected directly from EU citizens. Then the European Parliament approves EU legislation with the Council of the European Union comprising of representatives of the governments from all members. Worth noting that during the drafting process of an EU law, the Commission needs to assess the potential economic, social and environmental consequences that the proposal may affect. It needs to prepare impact assessments which point out the advantages and disadvantages of each possibility option. In addition, the Commission also consults interested parties such as NGOs, local authorities, businesses, civil societies, and academics to ensure that the proposal legislation will fully respond to the need of its people and diminish the bad effects.<sup>279</sup> In addition, the European Commission is the body that represents the interests of the Union as a whole. In other

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<sup>276</sup> Bosselmann, above n 4, 23.

<sup>277</sup> Ibid 24.

<sup>278</sup> Communication Department of the European Commission, *EU institutions and other bodies* <[http://europa.eu/about-eu/institutions-bodies/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/index_en.htm)>.

<sup>279</sup> Communication Department of the European Commission, *How EU decisions are made* <[http://europa.eu/about-eu/basic-information/decision-making/procedures/index\\_en.htm](http://europa.eu/about-eu/basic-information/decision-making/procedures/index_en.htm)>.

words, the common benefit of the European Union is being looked after by an independent organ.<sup>280</sup> Nonetheless, the decision-making is finalised by voting system according to the Treaty of Nice and the treaty of Lisbon.<sup>281</sup>

In contrast, ASEAN is not a supranational organisation. ASEAN has no central parliament like the EU. It rather operates under a highly decentralised structure with numbers of institutions in the field of cooperation.<sup>282</sup> Under the ASEAN Charter, there are seven main organs involving in decision-making process. The most important is the ASEAN Summit, comprising the head of state or government of the member states. The ASEAN Summit is the supreme policy-making body.<sup>283</sup> Then ASEAN Coordinating Council, comprise of the members' Foreign Ministers, has the authority to prepare ASEAN Summit meetings and coordinate the implementation of its agreements and decisions.<sup>284</sup> Next, the ASEAN Community Councils, which comprise of three community councils, works with ASEAN Sectoral Ministerial Bodies in the area involved.<sup>285</sup> There are also two important organs: ASEAN Secretariat acts as the administrative office of ASEAN, based in Jakarta, and ASEAN National Secretariats in every member state.<sup>286</sup> Last, the Committee of Permanent Representatives to ASEAN, comprise of appointed representative with the rank of ambassador based in Jakarta, has the duty to support coordinate and liaise between other organs as well as external partners.

Overall, the organisation structure of ASEAN still remains intact with the national authorities. There is not any organ to represent and to protect regional common benefits as what we can see in the European Commission. Besides, The ASEAN Charter reaffirms 'the ASEAN Way' which is a consensual decision-making based on the principles of sovereignty and non-intervention.<sup>287</sup> The Chapter VII clearly states the decision-making method for ASEAN. It stresses that otherwise being addressed specifically in ASEAN legal instruments, decision making in ASEAN shall be based on consultation and

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<sup>280</sup> Ibid.

<sup>281</sup> Communication Department of the European Commission, *Qualified majority* <[http://europa.eu/legislation\\_summaries/glossary/qualified\\_majority\\_en.htm](http://europa.eu/legislation_summaries/glossary/qualified_majority_en.htm)>.

<sup>282</sup> Lin Chun Hung, 'ASEAN Charter: Deeper Regional Integration under International Law?' (2010) 9(4) *Chinese Journal of International Law* 821, 823.

<sup>283</sup> ASEAN Charter art 7.

<sup>284</sup> ASEAN Charter art 8 (2).

<sup>285</sup> ASEAN Charter arts 9-10.

<sup>286</sup> ASEAN Charter arts 11-13.

<sup>287</sup> Lian Koh Kheng and Lovleen Bhullar, 'Governance on Adaptation to Climate Change in the Asean Region' (2011) 5(1) *Carbon & Climate Law Review* 82, 84.

consensus.<sup>288</sup> If members cannot reach consensus, the Charter refers the matter to the ASEAN Summit to decide how a specific decision can be made.<sup>289</sup> Worth noting that consensus is a default decision-making procedure in international relation especially in the region that members have low level of trust and commitment. It is because consensus does not leave the minority feel antagonised. The consensus decision making method always comes with a strong veto option which can be perceived as ‘the law of the least ambitious party’. In other words, the collective action will be limited by the least enthusiastic party. Therefore, consensus can be a stumbling block and give no go to any sustainable development policy.<sup>290</sup>

To this point, the decision making method posts a very high difficulty to the organisation in order to effectively deal with environmental issues. ASEAN has been cooperating on environment for many years. The impression on environmental issues have not yet put on top of ASEAN agenda.<sup>291</sup> With such decision-making method allows any wrong doing to block or delay environment agendas when they are threatening the national interests. On the contrary, the voting mechanism allows EU to move forwards environmental concerns.

To illustrate, taking the fact that road transport has been responsible for 17.5 per cent of overall greenhouse gas emissions in Europe. From 1990 - 2009, the emission in Europe increased almost a quarter. Then, The EU proposed the EU carbon dioxide standards for new cars to tackle this problem.<sup>292</sup> As a result, the automobile industry, especially in France and Germany, opposed the EU Commission by arguing that the costs would be too high at a time of economic crisis. The French president and the German chancellor accepted the argument and supported the weaker proposal. In contrast, a coalition of EU member states namely the Netherlands, Belgium, Denmark, Finland, Sweden, and United Kingdom opposed the two giants’ proposal and gave a firm support to the Commission’s proposal. At the end, France and Germany had to bow to the majority. Then the EU released a regulation to reduce carbon dioxide emission

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<sup>288</sup> ASEAN Charter art 20.

<sup>289</sup> ASEAN Charter art 20 (2).

<sup>290</sup> Arid Underdal, ‘One Question, Two Answers’ in Edward L Miles et al (eds), *Environmental Regime Effectiveness* (MIT Press, 2002) 3-35 cited in Henriette Litta, *Regimes in Southeast Asia An Analysis of Environment Cooperation* (Springer Fachmedien Wiesbaden, 2012) 68.

<sup>291</sup> Karin Dokken, ‘Environment, security and regionalism in the Asia-Pacific: is environmental security a useful concept?’ (2001) 14(4) *Pacific Review* 509, 521.

<sup>292</sup> European Environment Agency, ‘Most carmakers must further improve carbon efficiency by 2015’ (24 January 2012) < <http://www.eea.europa.eu/highlights/most-carmakers-must-further-improve>>.

for new light-duty vehicles effective as of January 2012.<sup>293</sup> This example illustrates the usefulness of the voting system in term of environmental policy making in regional organisation. If ASEAN had faced the same scenario, the answer would unsurprisingly benefit the car industries instead of moving to a new standard. Under this circumstance, the EU exercises its regional hard law to achieve a sustainable development policy while ASEAN has yet any mechanism to manoeuvre hard law in the area.

## B. *Constitutional Framework on Sustainability*

Sustainable development has been a European issue since the early 1990s. It started influencing the European politic when the Brundtland report was published in 1987. The first visible legal legislation piece which contains integrated cross-sectional environmental protection provision was the Single European Act.<sup>294</sup> In responding to the Earth Summit in 1992, the EU added sustainability norms to its constitution framework.<sup>295</sup> The two important documents are the Fifth Environmental Action Programme (5<sup>th</sup> EAP) and the Amsterdam Treaty on the European Union. The Amsterdam Treaty integrated sustainability norms and granted quasi-constitutional status to the notion of sustainability.<sup>296</sup> Particularly, Article 3 and Article 6 strengthened the requirement of environmental considerations over economic policies as well as place sustainability notion as a basic principle of the EU.<sup>297</sup> Moreover, the treaty, regarding as a quasi-constitutional treaty, established a constitutional framework which contained direct affected to all members.

Another key document is the Fifth Environmental Action Programme. It clearly addresses the issue in its titled *'Towards Sustainability: A European Community programme of policy and Action in Relation to the Environment and Sustainable Environment'*.<sup>298</sup> The Fifth EPA was aimed to transform patterns of

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<sup>293</sup> Regina S Axelrod, Miranda A Schreur, and Norman J Vig, 'Environmental policy-making in the European Union system' in Regina S Axelrod, Stacy D VanDeveer and David Leonard Downie (eds), *The global environment : institutions, law, and policy* (CQ Press, 3rd ed, 2011), 220-1.

<sup>294</sup> Rob Atkinson, Georgios Terizakis and Karsten Zimmermann, *Sustainability in European environmental policy: challenges of governance and knowledge* (Routledge, 2011) 14.

<sup>295</sup> Bosselmann, K, 'The Environmental Governance of the European Union: Institutional and Procedural Aspect of Sustainability' in Lilly I K and Bosselmann K, *Repositioning Europe: Perspectives from New Zealand* (University of Canterbury - National Centre for Research on Europe, 2003) 11.

<sup>296</sup> Ibid 13.

<sup>297</sup> Ibid.

<sup>298</sup> Atkinson, Terizakis and Zimmermann, above n 143.

growth in the EU community towards sustainability.<sup>299</sup> It laid down a strong foundation for the following EAP. Later, the sixth EAP went on focussing on better integration of environmental concerns into other policy areas. For the meaning of sustainability, the Fifth EPA expresses the meaning of sustainable development accordingly to the Brundtland report.<sup>300</sup> It gives the meaning: *'sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs'*.<sup>301</sup> It is important to access the meaning of sustainability because the scope and its integrative character depend largely on how they are legally defined. The weakness of definition of sustainability and the vagueness of the concept of sustainable development are common problems to every commitment on sustainable development.<sup>302</sup>

In Southeast Asia, the statement on sustainability in the ASEAN Vision 2020 can be regarded as the pre-constitutional framework in term of promoting environment and sustainable development. It states a vision of: *'...a clean and green ASEAN with fully established mechanisms of the region's environment, the sustainability of its natural resources, and the high quality of life of its people.'*<sup>303</sup> The ASEAN Charter, as the constitutional document, addresses sustainable development as a purpose in article 1(9); *'to promote sustainable development so as to ensure the protection of the region's environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its people.'*<sup>304</sup>

However, the Charter does not provide any exact meaning for sustainable development but it is stated in the preamble: *'[resolved] to ensure sustainable development for the benefit of present and future generations and to place the well-being, livelihood and welfare of the peoples at the centre of the ASEAN community building process'*. To this, it can be implied from the ASEAN Report to the World Summit on Sustainable Development 2002 that ASEAN has taken the same meaning of sustainability after the Brundtland report.<sup>305</sup> Moreover, the ASEAN Declaration on Environmental Sustainability preamble states: *'REITERATING the need to build an ASEAN Community that*

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<sup>299</sup> Bosselmann, Engle and Taylor, above n 36, 22.

<sup>300</sup> Ibid.

<sup>301</sup> Brundtland Report.

<sup>302</sup> Atkinson, Terizakis and Zimmermann, above n 143, 13.

<sup>303</sup> ASEAN Vision 2020 < <http://www.aseansec.org/1814.htm>>.

<sup>304</sup> ASEAN Charter art 1(9).

<sup>305</sup> ASEAN Secretariat, above n 70, iii.

*is economically vibrant and environmentally friendly, so that the present and future generations can enjoy a clean and sustainable environment.*<sup>306</sup>

In short, both ASEAN and EU currently have constitutional documents which contain sustainable development policy in their agenda. However, one of the distinguish differences is the hierarchy of these documents. The Amsterdam Treaty is place on top over national constitutions in the EU, while the ASEAN Charter status is regarded differently according to its members' legal system. Therefore, sustainable development objective in the ASEAN is interpreted accordingly to the national constitutions, rather than holistically defined. Therefore, ASEAN members may not interpret sustainable development policy in the same meaning; it depends on political ideology and economic behaviour operating in each nation.

### C. *System to Monitor and Report on Sustainability Issue.*

In the EU, the Directorate-General for the Environment, as a part of the European Commission, has duty to protect, preserve and improve the environment for present and future generations. The Directorate-General makes sure that all EU member states apply EU environmental law appropriately. He also responsible for investigating complaints made by private sector and take legal action against the national authority if he find that EU law has been violated.<sup>307</sup> Additionally, the European Environment Agency (EEA), established in 1990, is another agency under the European Union responsible for providing sound and independent information on the environment. It acts as a pool of information source for others who involving in policy making. In other words, its core objective is to produce regional integrated environmental data and indicator set, assessments and analyses which will influence policy makers.<sup>308</sup> This organ ensures that the decision-makers and the public aware of their environment status. The current EEA 2009-2013 strategy aims to bring environmental concern into the mainstream of economic and social

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<sup>306</sup>ASEAN Declaration on Environmental Sustainability (20 November 2007)  
< <http://environment.asean.org/asean-declaration-on-environmental-sustainability/>> Para 6.

<sup>307</sup> European Commission, 'Environment Electorate-General'  
<[http://ec.europa.eu/dgs/environment/index\\_en.htm](http://ec.europa.eu/dgs/environment/index_en.htm)>.

<sup>308</sup> European Environment Agency, 'What we do' (11 January 2012) <<http://www.eea.europa.eu/about-us/what>>.

policy making.<sup>309</sup> In addition, the EEA has been extending and building its networks and developing ‘the Shared Environmental Information System’ to provide a broad range of global to local environmental monitoring service.<sup>310</sup>

In ASEAN, the ASEAN Socio-Cultural Community Blueprint emphasises implementation and review. It places the ASCC council to be the responsible organ for ensuring implementation and coordination with other two pillars. Most of the ASEAN members also have specific domestic agencies responsible for environmental management such as Ministry of Development, Ministry of Environment, and Ministry of Natural Resources and Environment. Therefore, the national offices, ASEAN Socio-Cultural Community, and the ASEAN Secretariat are considered the main engine for ASEAN cooperation on environment. In addition, ASEAN publishes State of the Environment Report once every three years, started from 1997 in order to monitor environmental issues. The Report is prepared by the ASEAN Secretariat. The Fourth Report addresses the process and development involving with environment and sustainability development.<sup>311</sup> The Report utilises information from national authorities as well as ASEAN institution such as ASEAN Stats, ASEAN Centre of Biodiversity, ASEAN Centre for Energy, ASEAN Specialised Meteorological Centre and the ASEAN Wildlife Enforcement Network. Nonetheless, The ASEAN Secretariat is currently developing indicators to monitor the implementation of the ASCC blueprint. Another step in monitoring ASEAN implementation was the introduction of a ‘scorecard’ under the Charter.<sup>312</sup> The scorecard is regularly presented to the ASEAN Summit to indicate the agreement implementation directly to the heads of member states.

It is clear that EU and ASEAN are using different monitoring systems. While the EU has a specific unit dealing with environment database and analysis, ASEAN cooperates through national offices and through functions of ASEAN secretariat. Lacking of a regional specific unit makes the ASEAN’s monitoring system less effective when compare to the monitoring system of EU. With limited resources and funds, ASEAN has yet developed a regional organ to deal with this

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<sup>309</sup> European Environment Agency, ‘EEA Strategy 2009-2013 – Multi-annual Work Programme’ <<http://www.eea.europa.eu/publications/eea-strategy-2009852013-multi-annual-work-programme>>.

<sup>310</sup> European Environment Agency, ‘New ways of working’ <<http://www.eea.europa.eu/multimedia/eea-strategy/main>>

<sup>311</sup> ASEAN Secretariat, above n 99, 4.

<sup>312</sup> Lian Koh Kheng and Lovleen Bhullar, ‘Governance on Adaptation to Climate Change in the Asean Region’ (2011) 5(1) *Carbon & Climate Law Review* 82, 86.

matter effectively. Its State of Environmental Report is released once every three years while the ASEAN Charter states that the ASEAN Summit meetings will be held twice a year.<sup>313</sup> This means that the up-to-date information may not be available for the ASEAN leaders to considerate environmental impact carefully before making any decision during the ASEAN Summit. Moreover, without a specific regional office means that ASEAN do not have readiness to tackle trans-border environmental threats which may occur while EU has the European Environment Agency (EEA) to monitor and report promptly.

D. *Public Participation and the People's Right to Know*

Under democratic regime, participatory from its citizens is needed to ensure transparency, accountability and participation in decision-making. This requirement also applies to the sphere of ecological sustainability as well. The Earth Charter Principle 13 urges to '[s]trengthen democratic institution at all levels, and provide transparency and accountability in governance, inclusive participation in decision-making access to justice'.<sup>314</sup> In the same way, Agenda 21 and the Rio Declaration Principle 10 recognise that public participation is the fundamental requirement for the achievement of sustainable development.<sup>315</sup> At present, corporation, professional networks, states and NGOs are the main actors in global community who cause the worldwide sustainability movement.<sup>316</sup> The governance of sustainability must include these actors.

In Europe, the significant legal document is the Aarhus Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters which entered into force on 30 October 2001.<sup>317</sup> The sixth Environmental Action Programme addresses the Convention as a means to promote better understanding and participation of European

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<sup>313</sup> ASEAN Charter art 7 (3)(a).

<sup>314</sup> Earth Charter Principle 13.

<sup>315</sup> Bosselmann, above n 4, 117.

<sup>316</sup> Klaus Bosselmann, 'Earth Democracy: Institutionalizing Sustainability and Ecological Integrity' in

J Ronal Engel, Laura Westra and Klaus Bosselmann (eds), *Democracy, Ecological Integrity and International Law* (Cambridge Scholars Publishing, 2010) 102.

<sup>317</sup> United Nations Economic Commission for Europe, 'The Aarhus Convention' <<http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>>.

citizens.<sup>318</sup> By the end of 2007, the convention was signed and ratified by 40 parties, both the EU members and non-EU members in Europe and Central Asia.<sup>319</sup> The aim was to strengthen the Principle 10 of the Rio Declaration. It states the objectives:

“In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.”<sup>320</sup>

The Aarhus Convention introduces a number of rights to the public, both individuals and their associations. The parties to the convention are required to make the necessary provisions ensuring their public authorities respect the newly established rights.<sup>321</sup> First is the right of everyone to receive environmental information that is held by public authorities without having to state any reason for the request.<sup>322</sup> The second is the right to participate in environmental decision-making.<sup>323</sup> Public authorities have duty to invite the public affected including NGOs to give comment on their projects, plans, programmes relating to the environment. Third, the Aarhus Convention established the right to review procedures to challenge public decisions before the court of law or another independent and impartial body established by law.<sup>324</sup> To respond to this Convention, the EU released Directive 2003/4/EEC (2 January 2003) and Directive 2003/35/ECC (26 May 2003) to enable public access to environmental information as well as public participation in the drafting of certain plans and programmes involving with environment.

In addition, private litigants are able to use the EU legal system to challenge and influence their domestic policies under the jurisdiction of the European Court of Justice (ECJ).<sup>325</sup> The legal enforcement mechanism in the EU allows citizens, local authorities,

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<sup>318</sup> *Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme* [2002] OJ L 242/1, art 3(9).

<sup>319</sup> Bosselmann, above n 4, 117.

<sup>320</sup> The Aarhus Convention art 1.

<sup>321</sup> European Commission, *The Aarhus Convention: What is the Aarhus Convention?* <<http://ec.europa.eu/environment/aarhus/>>.

<sup>322</sup> Aarhus Convention art 4.

<sup>323</sup> Aarhus Convention art 5-8.

<sup>324</sup> Aarhus Convention art 9.

<sup>325</sup> Karen J Alter, 'The European Union's Legal System and Domestic Policy: Spillover or Backlash?' (2000) 54(3) *International Organization* 489, 490.

businesses, or interest groups to make inquiries and lodge complaints on the inappropriate implementation of EU law directly to the European Commission. If the Commission finds that the EU law has been violated, it will issue a formal notice to the responsible state. If the responsible state fails to obey, then the matter can be brought before the ECJ.<sup>326</sup> The Maastricht Treaty gave the ECJ the authority to impose a fine to any member who fails to comply with EU law.<sup>327</sup> This is because all states are legally bound to uphold the *acquis communautaire*. The ECJ has also declared that European Law creates direct effects in domestic law and allows individuals to invoke European law in national courts.<sup>328</sup>

The recent example to show the influence from public participation is the ECJ ruling on the aviation activities in the scheme for greenhouse gas emission allowance trading within the Community. This matter was challenged by three U.S. airlines over the legality of EU's aviation emissions trading system in 2009. It invoked the private sector to become defendants in this case; there were six environmental groups, namely Center for Biological Diversity, Earthjustice, Environmental Defense Fund, Aviation Environment Federation, Transport & Environment, and WWF-UK being defendants. Their aim was to uphold the EU law to reduce carbon pollution from airplanes.<sup>329</sup> These NGOs wanted EU to keep its promise to reduce greenhouse gas emission according to the objective of the United Nations Framework Convention on Climate Change (UNFCCC) which will transform Europe in to a low greenhouse gas-emitting economy.<sup>330</sup> The ECJ on 21 December 2011, ruled that the Aviation Directive is fully compliant with international law and applicable. This ECJ ruling clearly show the important role of public participation in supporting environmental policy of the European Community. Without it, the foreign aviation industries and lobbyists would have altered the emission policies or even discharged the EU Emissions Trading System for Aviation.<sup>331</sup>

As describe previously that ASEAN is not a supranational organisation, it has neither any power to give any direction to national government nor any authority to establish a regional court of justice. Unlike the European Union, public participation under ASEAN

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<sup>326</sup> Axelrod, Schreur and Vig, above n 142, 223.

<sup>327</sup> Ibid.

<sup>328</sup> *Costa v ENEL* (C-6/4) [1964] ECR 585.

<sup>329</sup> EU Directive 2008/101/EC (19 November 2008) amending Directive 2003/87/EC.

<sup>330</sup> European Community Council Decision 94/69/EC.

<sup>331</sup> WWF, *Environmental groups hail historic court decision upholding European law to curb airplane pollution, address climate change* (21 December 2011) <[http://www.wwf.org.uk/what\\_we\\_do/press\\_centre/?unewsid=5558](http://www.wwf.org.uk/what_we_do/press_centre/?unewsid=5558)>.

sustainable development scheme, in action, is much relied on domestic circumstances. However, public participation principle was realised in the ASEAN Socio-Cultural Community Blueprint.<sup>332</sup> The blueprint emphasizes the participation in (D.3) '*Promoting sustainable development through environmental education and public participation*', pointing its strategic objective to ensure the sustainable development of the region by making its people recognise their cultural traditions and values that are in accordance with the rhythm and harmony of nature. The blueprint further gives out 20 actions concerning with public participation. Almost all of the actions involve with promoting environmental education and sustainable development training as well as establishing networks of NGOs, schools, universities, media, religious leaders and those who are able to influence the local societies.<sup>333</sup> Moreover, the blueprint reaffirms the need to implement the ASEAN Environment Action Plan (AEEAP) 2008-2012 and AEEAP 2014-2018.<sup>334</sup>

Public participations between the two models are different. On one hand, the European can influence national agenda directly through available legal channels either under domestic legal system or the EU legal system. The European Court of Justice has the authority to rule over national courts. On the other hand, there is no legal mechanism available for ASEAN citizens to participate regionally. The participation can only been done accordingly to national governments which many are considered as authoritative governments. Much of this problem relates to the level of rule of law and style of governance. While there are not much differences between European Union members, rule of law and good governance are interpreted and treated differently between ASEAN members.<sup>335</sup> For instant, the people's right to know, as the most important aspect of public participation, has not yet fully grant in Southeast Asia. Many states' documents are often classified as 'confidential' or 'secret'.<sup>336</sup> Mega projects such as the Nam Choan dam in Thailand, Tembeling dam in Malaysia, and Chico dam in the Philippines have never clearly showed how many forest or wetland areas would be submerged. Moreover, businessmen trend to

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<sup>332</sup> ASEAN Seretariat, *ASEAN Socio-Cultural Community Blueprint* (2009), above n 40, 15 [33].

<sup>333</sup> ASEAN Socio-Cultural Community Blueprint D.3. Actions i-xx.

<sup>334</sup> ASEAN Environmental Education Action Plan < <http://www.aseansec.org/8957.htm>>; ASEAN Environmental Education Action Plan 2014-2018 <<http://environment.asean.org/wp-content/uploads/2013/09/AEEAP-2014-2018-ADOPTED.pdf>>.

<sup>335</sup> Nobuyuki Yasuda, 'Law and Development in ASEAN countries' (1993) 10(2) *ASEAN Economic Bulletin* 144, 151-2.

<sup>336</sup> Amado S Tolentino Jr, 'Improving Environmental Governance and Access to Justice' (2011) 41(2) *Environmental Policy & Law* 95, 96.

firmly argue that revealing environmental information would prejudice their industrial process and commercial secrets.<sup>337</sup>

Poverty, illiteracy and inadequacy of political mechanism are the critical factors for the fail of public participation in ASEAN. According to Human Development Report 2009 and Asian Development Back Key Indicators 2010, there are more than a half of citizens in four member countries namely Cambodia, Indonesia, Lao PDR, and Myanmar living under US\$ 2 a day in 2008. Beside, 45 per cent in the Philippines and 48.8 per cent in Viet Nam also live under the poverty line. What is worst, roughly around 20-40 per cent of ASEAN population even live under US\$ 1.25 a day.<sup>338</sup> Therefore, while the people are still struggling with day to day effort to survive, they have no time or capacity to fight against the development threat.<sup>339</sup> However, it should be noted that there is still an enormous development gap between ASEAN citizens and EU citizens.

## V. CONCLUSION

Sustainable development policy has long been developed in ASEAN. There are a number of declarations and action plans realising the principle and the necessity to move towards sustainability. The global challenges such as depleting of natural resources, increasing of poverty, widening gap of development between the rich and the poor have become a concern in ASEAN development plan. The ASEAN Charter, which is hoped to transfer ASEAN to a more rules-based regime, states clearly in its preamble, setting an ambition to ensure sustainable development for the benefit of present and future generation through community building. Although one might argue that international environmental law, treaties, and conventions may not be the most effective mechanism in putting sustainable development to regional agenda, the mechanism of hard law still has its virtual role in shaping a constructed legal binding regime which implement its sustainable development seriously. On one hand, soft law is good for getting nations on an agenda. On the other hand hard law is another step towards effective implementation. The comparison between ASEAN and EU in term of legal significant in sustainability governance shows that the EU mechanism is much more advance. This is because the members' commitment on ecological concern has already governed every area of policy, by the legal

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<sup>337</sup> Ibid.

<sup>338</sup> ASEAN Secretariat, *ASEAN Community in Figures (ACIF) 2010* (Public Outreach and Civil Society Division, 2010) 46.

<sup>339</sup> Tolentio, above n 185, 97.

effect of constitutional treaties such as Amsterdam Treaty and Lisbon Treaty. While the foundation documents have been put in place and mutually agreed, ASEAN needs to put more effort to ensure their implementation. Consensus and respect of national sovereignty are still major drawbacks when dealing with ecological management. Some areas of regional interests or global interest should be made as exceptions to the rule of consensus under the ASEAN Charter. Another issue not to be forgotten is the public participation and democracy values. Democracy deficit has been well known in Southeast Asia region. Although some ASEAN member states such as Brunei, Laos, Vietnam do not use democracy as their political means, public participation and rights to know should not be denied as they are the fundamental requirement of sustainable development. The legal system of the EU allows citizens to influence sustainable development policy directly while sustainable development policy in ASEAN is the government business. People still being excluded from the policy making process. Lacking of environmental dispute settlement mechanism is also another missing mechanism. To this point, the ASEAN Charter opens an option in the Article 22 (2) which states: '*ASEAN shall maintain and establish dispute settlement mechanisms in all field of ASEAN cooperation*'. Therefore, ASEAN is able to specifically design dispute settlement mechanism for sustainability and sustainable development field of cooperation that suit its people character and budgets. Having effective sustainable development policy and enforceable mechanism in ASEAN is not an unreachable ambition. It needs only a strong political commitment and a well support from civil society.

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# **THE INFLUENCE OF BRAIN CIRCULATION TO REINFORCE LABOR MARKET'S STABILITY IN ASEAN**

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# **THE INFLUENCE OF BRAIN CIRCULATION TO REINFORCE LABOR MARKET'S STABILITY IN ASEAN**

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## **Abstract**

ASEAN Community 2015 is one of the products created by leaders of the region as a way for opening more access in a variety of sectors, such as economic, political, social, cultural, defense, and also security. With the implementation of ASEAN Community 2015, it is hoped that ASEAN member countries can utilize it by creating a more active goods and services transfer not only among ASEAN member countries, but also foreign countries outside the region. One of the potential problems that ASEAN member countries can face is as a result of a more wide open, free, and aggressive competition in the market, and with an influx of high skilled, foreign labor, it can result in a large unemployment problem. Through a phenomenon called Brain Circulation, born as a result of the evolvement from the previous Brain Drain vs. Brain Gain theory, if utilized properly it can strengthen a variety of sectors which support a country's capability to compete in the open market. In order to be able to implement Brain Circulation effectively, a country's government must allocate a substantial amount of fund for research and development purposes and also to create policies that will be beneficial for a country's diaspora and their homeland. If all of that is executed well, it will surely help strengthen ASEAN member countries' capability and also stabilize the labor market.

*Keywords: ASEAN Community 2015, Competition Imbalance, Brain Circulation, R&D, Labor market*

## I. INTRODUCTION

ASEAN Community 2015 is, without a doubt, one of the biggest agenda that the people of Southeast Asia is going to face, where they have to achieve unity within the regional area and also to form a united community which is able to strengthen and benefit each other be it on the aspect of politics, economy, social and culture, defense, and also security. *ASEAN Community 2015* in itself also acts as a benchmark in order to create a bigger platform to encourage the growth of economy and development from Southeast Asian countries.

For that very reason, ASEAN member countries gradually tried to fully integrate through strategic steps, for example on the 14<sup>th</sup> ASEAN Conference in Thailand on December of 2008, where they all came to an agreement, ensuring that all ASEAN members ratify the ASEAN Charter and agreeing on the creation of ASEAN Community 2015 that has three main pillars which are; ASEAN Political Security Community, ASEAN Economic Community, and ASEAN Socio-Cultural Community that represents the variety of aspects to ensure sustainable development and achieving welfare for the people in the Southeast Asia region<sup>340</sup>.

In relation with that, ASEAN Community 2015 also becomes a product that the region hope will be useful for achieving economic independence by achieving people welfare for the people within the ASEAN region. In accordance with that, one of the aspects that will be discussed in this research is the economic aspect, which with the existence of ASEAN Economic Community 2015 will surely enable market to be open more widely so as the people living in the ASEAN region will get access to a variety of product from other countries in the ASEAN region, opening a wider labor market, enabling exchange in the field of science and technology, opening the field for export and import access in ASEAN and also enabling an economic competition among ASEAN member countries, which in turn will increase the stability of development in each of the ASEAN member countries.

By knowing and analyzing all the different advantages from ASEAN Community 2015, it will surely provide a special motivation to create an improved mechanism that will allow all the parties involved to receive benefits and minimize all the weakness that exists with the opening of a free market, marked with the exchanges of service, goods, labor, capital, and technology. Because of that, it is also necessary to review the success that several other countries have achieved on their way to becoming a group of

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<sup>340</sup> Association of Southeast Asian Nations. 2009. *Roadmap for an ASEAN Community 2009 - 2015*. Jakarta: ASEAN Secretariat. p.108-115

countries that is referred to as The Emerging Powers<sup>341</sup> to use as an example, where those countries have successfully consolidate all the different aspects that can support their economy.

One of the mechanisms that have been successfully applied is by creating strong connection and relation with a country's very own diaspora which is spread in different countries. The implementation of this mechanism means that diaspora are able to execute technology and knowledge transfer to their homeland countries. Based on that, a slew of new phenomenon emerged from all the different activities of international migration which are then named as 'Brain Drain', 'Brain Gain', and 'Brain Waste'. These new phenomenon are then studied by scientists which then led to the birth of a new theory known as 'Brain Circulation' that can explain all those different elements and it is also one of the factor that can strengthen the mechanism which will in turn support the internal economy of a country.

For that reason, one of the things that should be a fundamental question to ask is the readiness of all ASEAN member countries in relation with the creation of ASEAN Community 2015 and also all the other parts related with the mechanism in recruiting labors in an ASEAN member country. The reason that this is important is because there are several weaknesses that need to be taken care of first before ASEAN Community is implemented in the upcoming year of 2015 in order for people of the ASEAN member countries to gain as much benefit as possible from the upcoming massive project.

## II. IMBALANCE OF LABOR IN ASEAN

Labor becomes one of the main factors in moving the wheel of economic development in a country. Not only that, but labor also plays a very important role for a country's development, and this also applies to ASEAN member countries. With that, there's definitely a close relation with the upcoming creation of ASEAN Economic Community in the year 2015. The existence of ASEAN Economic Community in 2015 will surely opens a lot of chances to reap as large of a benefit as possible from the flow of goods and services in the ASEAN region in the future.

The opening of market and the market's liberalization becomes a very fundamental challenge that stems as a result of the impending ASEAN

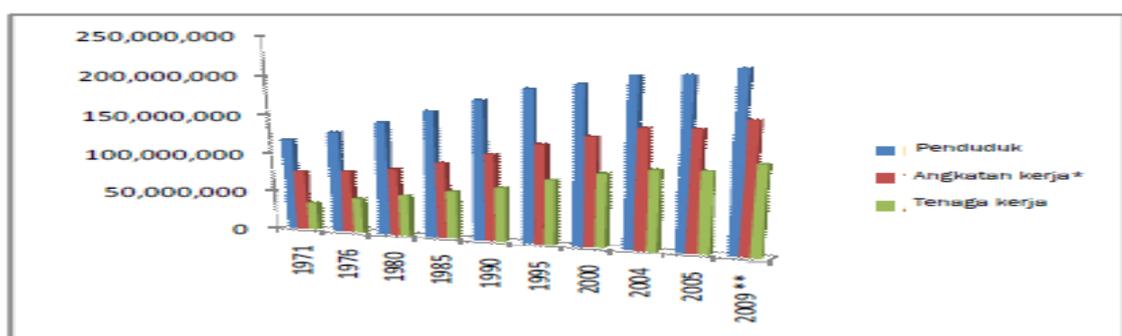
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<sup>341</sup>Starr, Pamela. 2010. *Globalization, Interdependency and Public Diplomacy*. Retrieved on August 30<sup>th</sup> 2014. Available at: [http://usepublicdiplomacy.org/pdin\\_monitor\\_article/globalization-interdependency-and-public-diplomacy](http://usepublicdiplomacy.org/pdin_monitor_article/globalization-interdependency-and-public-diplomacy)

Economic Community 2015. The reason for that is because a number of different ASEAN member countries faces similar problems in preparing for it, such as the amount of productive labor working on different informal sectors, and the proportion between the number of productive labor with the small amount of work opportunity which becomes a problem in itself that causes unemployment, not to mention the existence of what can be viewed as a tradition within the local ASEAN member countries, that gives privilege to foreign labors to work in their countries, resulting in the diminishing number of vital positions in a labor market. These are some of the factors that must be paid attention to and given special efforts so that these problems can be minimized.

One of the ASEAN member countries that can be used as an analogy for explaining these problems more clearly is Indonesia. When viewed from several different parameters, such as the size of the area and the number of population among ASEAN member countries, it is, then, the biggest country. Based on that knowledge, it can also be found that the amount of labor in Indonesia can be seen as the biggest, and keeps growing every year. To prove that point, by looking at the available data, it shows that in the year 2010 the total amount of labor reached 116 million people, an increase of 2.26 million people compared to the previous year, and the amount of citizen working also experience a spike; in the year 2010, it reached 107.41 million people, an increase of 2.92 million<sup>342</sup>. To better understand the numbers, take a look at this chart<sup>343</sup>:

**Table 1. An estimation of total of Indonesia's citizen and labor class 1971-2009**



\*\* Penduduk di atas usia 15 tahun  
 \*\* Estimasi  
 Sumber: Survei Angkatan Kerja 2005

<sup>342</sup> Kementerian Tenaga Kerja dan Transmigrasi. 2011. *Perkembangan Ketenagakerjaan di Indonesia*. Jakarta: Kantor ILO Indonesia. hlm.26

<sup>343</sup> *Ibid*

*Explanation: blue bar represents total citizen; red bar represents labor class (citizen over the age of 15; green bar represents working labor.*

Based on the data shown, the problem that arises is that the growth in labor opportunity simply can't keep up with the growth of labor class. This causes the number of unemployment to continue growing, while the number half-unemployment stays high. Level of unemployment also rise, from 1.7% in the year 1980 to 6.08% in the year 2000 and reached 10.3% by the year 2005. On the other hand, the number of open unemployment in Indonesia in the year 2010 was 7.41%, a decrease from the previous year (2009) which reached 8.14%<sup>344</sup>.

The creation of ASEAN Economic Community 2015 should not be seen as only a positive step that can provide opportunities, but with it also brings new challenges, all at the same time. The reason for that is ASEAN Economic Community 2015 covers a variety of economic sectors in order to create integration in the region of ASEAN. One of the problems that arise from the creation of ASEAN Economic Community 2015 is the different state of readiness each country is currently at to face the stiff competition ahead where each ASEAN member countries try to get a decent job. This is the topic that needs revisiting.

This is important because if the data about Indonesia is analyzed, it can be found that based on the number of people in productive age range that can compete in ASEAN Economic Community 2015, it has, then, fulfilled the necessity, but if we analyze it further, looking at all the schemes and rules used in ASEAN Economic Community 2015, then it became clear that the emphasize is put on the liberalization of high level professional labor, which only exists in formal sectors such as skilled labor, doctors, lawyers, etc., while also demanding a high quality and capability in order to compete with the incoming slew of foreign labor, which is to be expected with the creation of ASEAN Economic Community 2015. Meanwhile, if we analyze the data from Indonesia, which also can be used to describe the condition in other ASEAN member countries because of the similarities, around 70% of Indonesian which amounted to 73.67 million people, work in the informal sector, with only roughly 30% of them who work in the formal sector as mentioned above<sup>345</sup>.

This becomes a problem in itself, because the government must be able to create an effective mechanism to anticipate and deal with the amount of unemployment that will continue to increase every single year if they are unable to compete with foreign labor, be it coming from other ASEAN member countries or several other countries outside the region. Not only

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<sup>344</sup>*Ibid*

<sup>345</sup>*Ibid, hlm. 29-30*

that, other problem also appears in the form of the decidedly low number of entrepreneur possessed by ASEAN member countries which lead to a low productivity in terms of export activity. This, then, becomes an important aspect for the government of ASEAN member countries to revalue their readiness in these sectors, so that they will be able to create a good mechanism related to labor recruiting system, which in turn, will enable the creation of a strategy which can be sustained.

### III. BRAIN CIRCULATION

International migration becomes a unique phenomenon in the development of the history of the world. The reason being that international migration is very closely related with the dark history that the world as a whole owns, which is the long history of wars between one country and another that plays a factor in causing a desire by a country's citizen, especially those severely affected by wars, to migrate to another country with a better condition and prospect where they can build their lives.

International migration is also recognized as one of the key factors in the spread of diaspora that have become a global activity in the world today<sup>346</sup>. The fast development of the world as a result of the birth of globalization creates an unique pattern because of diaspora spreading through international migration, which is the effect caused by failure to achieve welfare for the people, reflected by the unsuitable amount of earning and a quite high level of poverty in its homeland<sup>347</sup>, which becomes one of the biggest reason that diaspora is spread from one country to another. The birth of this phenomenon, which then grows to become a worldwide trend, reaching countries from Africa, Europe, America, Asia, all the way to Australia, really starts after the end of war, which in itself an important happening in the annals of international history.

Based on the explanation above, about the phenomenon of international migration which then causes diaspora spread has developed a new phenomenon in the international world. It is called Brain Drain, Brain Gain, and Brain Waste, which describes how diaspora spread, driven by international migration has a huge effect on the loss of citizen who possesses quality skill from their homeland to host land, where these transfer of human resources give positive impact for the destination country, or even negative impact when the skills that these diaspora possess end up unused. Along with the development of times, the term Brain Drain vs. Brain Gain

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<sup>346</sup>Hear, N.V. (1998). *New Diasporas: The mass exodus, dispersal and regrouping of migrant communities*. London: UCL Press Limited. p. 17-21.

<sup>347</sup>Özden, C dan Schiff, M. (2006). *International Migration, Remittances, and The Brain Drain*. A copublication of The World Bank and Palgrave Macmillan. p.20.

has evolved in new analysis logic, and it is now called Brain Circulation, a result of developing and altering the phenomenon of Brain Gain and Brain Drain.

Brain Circulation is a phenomenon which fundamentally replaces the Brain Drain vs. Brain Gain phenomenon in a global sphere, a knowledge-based world. Qualified people who move from country to different country and organization to different organization, enabling them to earn, share, and spread their knowledge. Brain Circulation is one of the most important factors that affect a country's economic development and with that, it also contributes to the growth of competitiveness.

The emphasize on the combination of industrial structure, trust, study and entrepreneurship, and the availability of monetary infrastructure for start-up purpose, also the role of a country in facilitating technology transfer can be seen as a key to achieve temporary success in stimulating Brain Circulation. Conceptual understanding of the Brain Circulation phenomenon is interpreted as a result of the evolution of the Brain Drain and Brain Gain phenomenon<sup>348</sup>.

Brain Circulation is a distinct phenomenon where immigrants who possess high level of skill is beneficiary for both sides and global circulation for high skilled labor from poor countries to rich countries or vice versa, and it also opens a new possibility for economic development<sup>349</sup>. This is one of the new understandings that emerge in relation with diaspora and the aforementioned Brain Circulation phenomenon. Analyzing the following table will help in understanding the Brain Circulation phenomenon<sup>350</sup>.

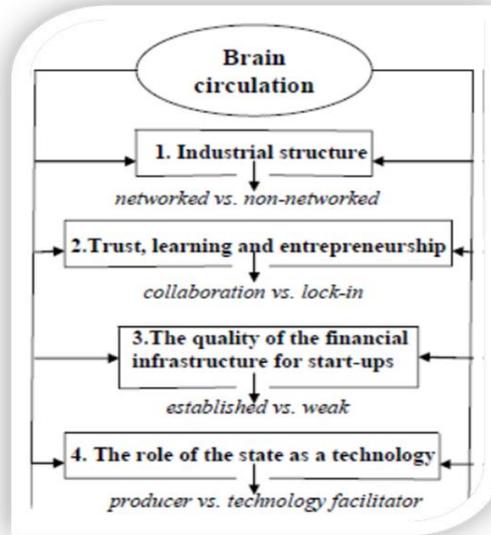
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<sup>348</sup> Daugeline, Rasa and Marcinkeviciene, Rita. (2009). *Brain Circulation: Theoretical Considerations*. Kaunas University of Technology. p.55

<sup>349</sup>Saxenian, A. (2002). *Brain Circulation: How High-Skill Immigration Makes Everyone Better Off*. The brookings review (1), 28 – 31. Available at: [http://people.ischool.berkeley.edu/~anno/Papers/brain-circulation\\_brookings-review-2002.pdf](http://people.ischool.berkeley.edu/~anno/Papers/brain-circulation_brookings-review-2002.pdf)

<sup>350</sup>Yun-Chung, C. (2007). *The Limits Of Brain Circulation: Chinese Returnees And Technological Development In Beijing*. Available at: <http://www.cctr.ust.hk/articles/pdf/WorkingPaper15.pdf>

**Table 2. Brain Circulation Phenomenon**



From the table, it can be understood that first, there must be a decentralized industry system with a strong division of work and innovation between network companies. Second, agglomerated economy between two places, an organization must push for entrepreneurship and inter-company learning on a regional level. Third, capital plays a very important role in technology start-ups. Fourth, a country must play a significant role in facilitating technology transfer. The government must help in funding the private sector, because they put more emphasize in activities related to innovation, and as a result, it stimulates the country's economic development and its competitiveness. To summarize it all up, it is important to highlight that the combination of the four structure elements can become a key of temporary success in stimulating the Brain Circulation phenomenon.

#### **IV. THE SUCCESS IN IMPLEMENTING BRAIN CIRCULATION IN IMPROVING AND STRENGTHENING THE ECONOMIC SECTOR: LESSONS FROM SOUTH KOREA AND CHINA**

Brain Circulation becomes a unique phenomenon that can support the economy in a country if it is used more effectively and efficiently by countries around the world. It's already been proved by the proof of success that a number of countries have earned, the countries that are now known as The Emerging Powers, because these countries has been able to stimulate all the different aspects that it is able to reach the highest hierarchy of

international economy. The phenomenon of being successfully stimulate Brain Circulation can be analyzed using the strategy used by South Korea, from here on referred as Korea, and China to accelerate all the different aspects of economy so that as a result it was able to reach the highest level of economy in the international sphere.

The Korean government realized that they have the largest diaspora group in America, consisted of university students going to college in America. There's an increase on the amount of scientists and engineers returning to their homeland, as a result of booming economy and an improvement in the living condition. There are several factors that played a key part in pushing Brain Circulation in Korea, which are<sup>351</sup>:

- a. The economic development in Korea has improved dramatically over the past three decades, and it still continues to improve.
- b. The percentage of Korea's GDP spent in relation with research and development has increased, from .25% of the total GDP in the year 1963 to 2.61% of the total GDP by the year 1994.
- c. A change in the country's industrial structure: Korean Industrialization.
- d. The Korean government has adopted policies that enables them to utilize the skills needed from outside the country, example; programs such as Brain Pool, Korea Scientists, and Engineer's Organization Abroad.
- e. The support from large Korean companies such as Samsung, Hyundai, and Daewoo. They have gathered all the necessary resources and capital to invest in research and development and basic infrastructure.

These are the several steps that the Korean government took, who very thoroughly see a chance behind the Brain Circulation phenomenon, and not only that, recently the Korean government has also tried not only to attract the highly skilled Korean professional from abroad, but also to encourage Brain Circulation, and with that try to push foreign scientists into a permanent research position by introducing the green card system. The main step that the Korean government took was to stimulate the Brain Circulation process to solidify the communication between the government, private sector, and the academic sector. This is an example of success by the

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<sup>351</sup>Suntharasaj, P., & Kocaoglu D. F. (2008). Enhancing A Country's Competitiveness through "National Talent Management Framework". *Management of Engineering & Technology*, 314 – 327.

Korean government in relation with consolidating all these different aspects to improve the country's economic strength in the global sphere.

Another country that has been able to implement the Brain Circulation system is China. It all started when the Chinese government recognized the existence of Brain Drain phenomenon there, which happened massively in 1992, and as an effect, the Chinese government suffered a loss in the economic sector, with people who possesses high skill and or professional to other countries that provide a benefit for those Chinese diaspora<sup>352</sup>. By recognizing that, the Chinese government tried to keep and maintain their relation with their diaspora through flexible policies intended for their diaspora around the globe.

Here are some of the examples of policies that the Chinese government implements in relation with Brain Circulation<sup>353</sup>.

- a. Chinese government tries to attract attention from the skilled workers with the creation of post-doctoral center, creation of research fund, and refunding for all Chinese professional diaspora, creation of world class universities, creation of work introduction place that includes preferential treatment to increase the living and working condition for diaspora returning to their homeland, China.
- b. The existence of a legislation system application that benefits researchers, the application of the 'Serving the Country without Returning to the Country' program which is a policy to encourage Chinese diaspora living abroad to participate in seven different categories of activities that can help China.
- c. Creation of rules that ease highly talented Chinese diaspora and investors who hold foreign citizenship to enter and exit the country, and the creation of technological park to return abroad.

Here are some of the Chinese government's policies to maintain their relationship with their diaspora across the world, considering the Brain Circulation factor as one of its guidelines.

These Chinese diaspora also have a variety of connectivity and closeness in both business network and kinship that can help those Chinese diaspora to survive outside the Chinese border. Brain Circulation itself is closely related with the growth of competitiveness and economy. One of the

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<sup>352</sup>Zweig, D., Fung C. S., & Han D. (2008). *Redefining the Brain Drain: China's "Diaspora Option"*. Science, Technology & Society. p.15-16

<sup>353</sup>*Ibid*, Zweig, D.Fung. p.25-33

mechanisms that Chinese diaspora uses in order to achieve wealth and at the same time also contributes in China's national building are as follows.

a. Facilitating international trade and investment

A network of kin and language relationship that Chinese diaspora use contributes in making the business easier to cross borders. These relationship networks have quickly build reliability and trade data flow within the network. Other than that, the knowledge of local culture contributes on collaboration trading between developing countries with weak commercial rules. In terms of foreign direct investment, or FDI, China has become the target of investment from all over the world ever since they opened their country up to the capitalist system. Data shows that, from 2001-2011, the amount of FDI in China had increased by an average of 10.6% per year and global investment grew by 8% because of the role played by those Chinese diaspora.

b. Creating an efficient business for competition's sake

In the past, a majority of Chinese migrants around the world are low level workers/labor. These migrated Chinese workers, especially those who were from the colonial era, contributes to economic and industrial building for hostland countries that are lacking in labor class. But, one of the main characteristic of Chinese ethnic is to become entrepreneurs. Most of the Chinese migrants, who are poor and uneducated, are able to form a strong, large-scale business. Important information for worldwide business leaders to take note of is that ten of the richest people in Thailand, Indonesia, Malaysia, and Singapore, eight of them are of Chinese descent.

c. Chinese government policies that enable them to strengthen relations, be it from the cultural side, business side, or else that creates a sense of bonding between China and its diaspora so that they can work together to increase economy for the sake of strengthening the development.

Some of these things become a discussion topic in itself where the government is able to more thoroughly see all the various opportunities and then make them a stimulus to improve income which will surely be very beneficial for the people's well being and sustainable development in both Korea and China.

## V. CONCLUSION & SUGGESTIONS

Understanding the Brain Circulation phenomenon in relation with the upcoming ASEAN Economic Community 2015 can turn into a momentum for the governments in ASEAN member countries to apply a similar system, with careful preparation. Labor problems in various ASEAN member countries has been analogized through the labor problems in Indonesia, where it serves an example because of the similar problem faced by the rest of the region, where the proportion of labor working in the informal sector are much larger than those who work in the formal sector, and the imbalance between foreign and domestic labor recruiting because of the existing tradition for giving privilege to foreign labor, and also the fact that there hasn't been any potential sector mind mapping in every area which will enable an area's potential to be developed as one of the main tool in helping the economy by creating entrepreneurship opportunities, small and medium businesses, and many more.

For that reason, a new mechanism is needed, one that is able to attract all the different components in ASEAN so that together they can overcome the weaknesses and shortcomings that they will face as a result of the implementation of ASEAN Economic Community 2015, by using Brain Circulation as one of the independent step to creating an economic environment based on inter-diaspora connection for technology and knowledge transfer so that the government are able to anticipate things such as unemployment and imbalance of foreign and domestic labor that will be a major factor in different vital sectors in the region.

But, in order to do that, governments in ASEAN member countries must already prepare a new policy that will be able to attract diaspora's attention so that they will have a sense of bonding to do benefit sharing. One of the steps in preparing it is by allocating a certain amount of fund for the diaspora to do research in order to develop research and development that has become one the key supporting factor for a country's independence in innovating and reaping as large as possible of a benefit, and then, the government must also possess a stricter labor recruiting system to anticipate labor imbalance in ASEAN, the standards in teaching and learning must also be increased in order to compete with foreign labors, there must also be a special activity to promote knowledge about developing business in ASEAN and also businesses for the variety of ASEAN diaspora spread all around the world. These are the phases that, if taken and implemented properly, will enable ASEAN to stabilize and prevent all the negative effects that will come with the impending ASEAN Economic Community 2015, and more specifically, the liberalization of labor in ASEAN.

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**WORKFORCE READINESS OF INDONESIA IN  
THE FACE OF ASEAN ECONOMIC COMMUNITY:  
BASED ON COMPETITIVENESS OF HUMAN  
RESOURCES**

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# **WORKFORCE READINESS OF INDONESIA IN THE FACE OF ASEAN ECONOMIC COMMUNITY: BASED ON COMPETITIVENESS OF HUMAN RESOURCES<sup>354</sup>**

Cinintya Audori Fathin<sup>355</sup>

## **Introduction**

The Association of Southeast Asian Nations (ASEAN) has evolved remarkably since its inception in 1967. Geopolitically, the group has expanded from five member nations comprising Indonesia, Malaysia, Philippines, Singapore and Thailand; to include Brunei (1984), Vietnam (1995), Lao PDR (1997), Myanmar (1997) and Cambodia (1999).

ASEAN has set a goal to integrate its member countries' economics further and faster as a way to enhance the region's competitiveness. In the 9<sup>th</sup> ASEAN Summit that was conducted in Bali (2003), ASEAN Leaders agreed to establish an ASEAN Economic Community (AEC).

The legal framework for ASEAN norms, rules and values is established in the ASEAN Charter that was signed in 2007 and came into force the following year. By setting clear targets to be achieved by ASEAN members for the ASEAN Community, the Charter was used as a basis for accountability and compliance. In 2009, ASEAN further adopted the ASEAN Political-Security Community and ASEAN Socio-Cultural Community Blueprints to achieve an ASEAN Community by 2015.

The AEC is a form that comprises four key interrelated and mutually reinforcing characteristics: (i) a single market and production base, (ii) a competitive economic region, (iii) equitable economic development and (iv) integration into the global economy. This paper will explain specifically about the AEC characteristic as a single market and production base, which is the liberalization of skilled labour. In 2015, ASEAN will begin to impose the ASEAN Economic Community agreed by all member countries of ASEAN in the 13<sup>th</sup> ASEAN Summit in Singapore, 2007. Implementation of the AEC ASEAN trade liberalization will be very broad, not only the traffic of goods and capital will be more open, but also the skilled labor.

Regarding the implementation of the AEC on labor mobility, Indonesia will be affected by the influx of labor from ASEAN countries as set out in the Mutual Recognition Arrangement (MRA). Services in the context of ASEAN economic

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<sup>354</sup> Working paper. This working paper is aimed to elicit some feedback through ICONAS forum, not only conceptually but also to get some relevant data to finish this article.

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community, MRA is an agreement to recognize educational qualifications, professional qualifications and experience. MRA is used to facilitate the movement of professionals between ASEAN countries, particularly in the context of market integration while maintaining the specificity of each country. This deal is also used to exchange information on best practices in standards and qualifications. With the MRA agreement, the countries will gain several advantages: cost reduction, market access certainty, increased competitiveness, and trade flow more freely. Indonesia also has the opportunity to send certified workforces in service sector to seize the employment opportunities in the ASEAN countries to another.

ASEAN had set the quality standards that must be met by their current workforce which will be working in the AEC. One of the challenges facing Indonesia today is the lack of a professional workforce that is capable to meet the standards set by AEC. With the lack of professional workforce, the various job vacancies in Indonesia would be an easy target for professional job seekers from other ASEAN countries, such as Singapore, Malaysia, and Thailand.<sup>356</sup>

Meanwhile, other data shows that the competitiveness index of Indonesia is lower than some countries in ASEAN. Indonesia is in the 83th position in the world of the global knowledge competitiveness index. It looks very apprehensive if we look at Singapore and Malaysia, who get the 6th and 56th position in the world, but contrary Indonesia has lower position compared to Philippines and Thailand who get the 58th and 64th position.<sup>357</sup>

Therefore, this paper will discuss about how much the workforces in Indonesia by looking more into the competitiveness power of the human resources. This paper will utilize secondary data. The analysis which will be done is a descriptive analysis to see the comparison between the competitiveness power of workforces in Indonesia and the other ASEAN member countries. This article is a working paper which will discuss about an evolving issue, with the result that the aim of this writing is to receive some advices in this forum and the writer will make a consideration about the opinions or suggestions to finish this paper.

As it was already stated that this paper will only discuss about the competitiveness power of human resources in Indonesia to prepare themselves to face the liberalization of the labor skill as a result of the implementation of the AEC. The urgency of this paper is related to the availability of increasing numbers of foreign workforces in Indonesia. The fact about the issue will be illustrated through the data below:

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<sup>356</sup>Pemetaan Pekerja Terampil Indonesia dan Liberalisasi Jasa ASEAN. (Laporan penelitian ASEAN Studies Center Universitas Indonesia bekerja sama dengan Kementerian Luar Negeri RI, 2013)

<sup>357</sup><http://knowledge.insead.edu/talent-management/global-talent-competitiveness-index-2932>

The following data illustrates the amount of labor from several foreign countries in the world and in South-East Asia region in different perspectives:

**Table 1. Foreign labor based on the country origin**

<b>Country/Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Asia non ASEAN	30682	44269	49909
ASEAN	15714	11876	12216
Amerika	5358	6192	6303
Uni Eropa	4708	5455	5980
Eropa	3962	4121	4423
Afrika	614	702	732
Australia	3421	3827	3640
Oseania	653	718	735

Source: *Statistika Mobilitas Penduduk, BPS, 2013.*

Table 1 describes three aspects that are important to concern:

- The dynamics of foreign labor that come into Indonesia has generally been increased.
- In 2010-2012 it can be seen that there was a consistent escalation of the number of foreign workforces in Indonesia, dominated by those who came from Asia (non-ASEAN country), United State, European Union, Africa, and Oceania.
- The number of foreign labor from ASEAN member countries has been decreased in 2011 compared to the data in 2010. There was also a slight increase in 2012 from 11.876 to 12.216.

**Table 2. Foreign labor based on job position**

<b>Position/Year</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Professional	25912	34716	37441
Commissioner	497	734	909
Directors	4933	6503	7468
Manager	10499	12477	13569
Supervisor	6392	4731	4978
Technician	9646	5253	4339
Consultant	7233	12746	15236

Source: *Statistika Mobilitas Penduduk, BPS, 2013.*

There are two important points to be underlined from Table 2.

- Only the number of supervisors and technicians that are declining from 2010 to 2013.
- The other strategic positions were increased each year.

**Table 3. Foreign labor based on business sector.**

Sector/Year	2010	2011	2012
Agriculture	2806	2576	2683
Mining	5970	6626	7031
Industry	1635	20862	23918
Electricity, water, and gas	7230	5509	6050
Property	7214	8374	8146
Trade	10677	13541	15245
Warehouse transport & Computing	3490	4611	7572
Finance	1045	1688	921
Others	10294	13406	12374
Intangible-limit Activities	61	-	-

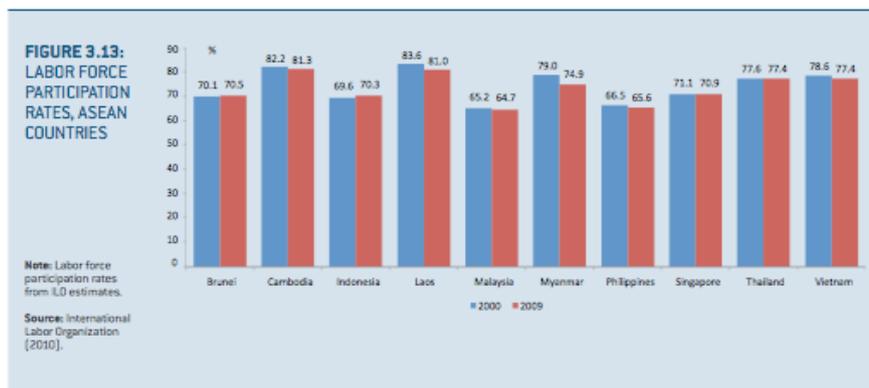
Source: Statistika Mobilitas Penduduk, BPS, 2013.

Table 3 above illustrate that foreign labor rise in industrial sector and the agricultural sector experienced deceleration

In general, an increase in foreign workers whocome to Indonesia is considered as a threat. Especially the foreign workers that occupy strategic positions. These circumstances will be more apprehensive when we are facing the liberalization of ASEAN.

Another fact that could aggravate the work opportunities condition in Indonesia is that this country is one of the ASEAN member countries with low participation of labor forces.

**Figure 1. Labor Force Participation Rates in ASEAN, 2000 and 2009**



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Source: Asean Competitiveness Report, 2010

The non-optimal hiring process of the employment by the work opportunities is proved by the high level of unemployment in Indonesia. Indonesia considerably has high unemployment level among the ASEAN member countries. In the year of 2012, Indonesia reached the second rank based on the unemployment rate.

**Table 4. Unemployment Rate ASEAN countries, 2012**

Country	Unemployment rate 2012
Brunai Darussalam	1,7
Cambodia	0,6
Indonesia	6,1
Lao PDR	1,9
Malaysia	3,0
Myanmar	4,0
Phillipines	6,8
Singapore	2,8
Thailand	0,5
Vietnam	3,2

Source:<http://www.asean.org/news/item/selected-key-indicators>

According to the fact that has been explained by the data above, then the only important thing is to recognize or to detect how prepared the workforces in Indonesia based on its competitiveness power of human resources. The competitiveness power of human resources that will be observed in this paper is the index that defines the human resources quality.

Even though the index above is not able to describe in detail, it is considerably representative enough to depict the general condition of the issue. At least, through the index we are able to understand the position of human resources quality in Indonesia compared to the other ASEAN member countries.

### **Theoretical Discourse and Descriptive Analysis (initial)**

This section will discuss about both theoretical framework and also a descriptive analysis which based on the condition of human resources in Indonesia, through several index.

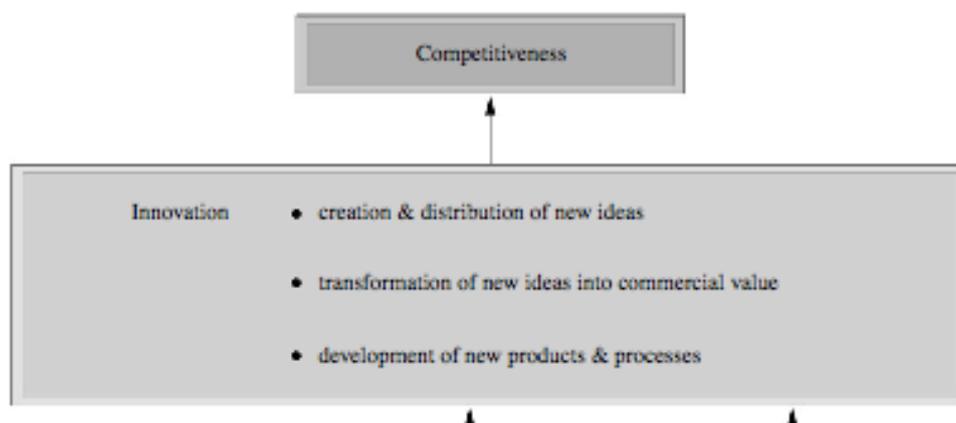
The increasing number of foreign labor in Indonesia can be used to indicate that the human resources in Indonesia less competitive than the other countries. Indonesia is not only attained by foreign labor, but also Indonesia have to face the skilled foreign labor which has a strategic position which can be seen on the table 2. The positions are professionals, commissioners, directors, managers and consultants or labor skill categories. In connection with the liberalization of the labor skills of a country's comparative advantage is no longer featured as an economic power. But the paradigm of competitiveness which should be a reference. Michael Porter introduces a theory which states that the global importance of the concept of competitiveness has increased rapidly in recent years. We define such competitiveness as referring to the capability of an economy to attract and maintain firms with stable or rising profits in an activity,

while maintaining stable or increasing standards of living for those who participate in it<sup>358</sup>.

National competitiveness as an outcome of a nation's ability to innovate in order to achieve, or maintain an advantageous position over other nations in a number of key industrial sectors. Further work by Lester Thurow determined that it is primarily knowledge-based industries within which a nation need specialize in order to obtain a world-class standard of living for its citizens. The condition is known as knowledge base of an economy (WKCI, 2008).

The knowledge-base of an economy is the capacity and capability to create and innovate new ideas, thoughts, processes and products, and to imply these into economic value and wealth. Huggin and Izushi analyze the knowledge-base of regional economies, as shown by the figure below.

**Figure 2.**



*Source: Competitiveness Review: An International Business Journal Vol. 18 No. 1/2, 2008*

Knowledgeeconomic compete on value and innovation, rather than costs alone. As regions make the transition to knowledge economies, we would expect increases in the number and proportion of knowledge-based businesses and employment. In general terms, higher levels of R&D activity most often define knowledge-based sectors. Consequently, knowledge-based sectors have a higher potential for innovation and competitive advantage. We consider that due to their requirements for R&D and innovation, these sectors have a higher propensity for developing a knowledge-driven economy, and that the outputs from these sectors

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<sup>358</sup>Robert Huggins, HiroIzushi et al, World Knowledge Competitiveness Index, Centre for International Competitiveness Cardiff, School of Management, University of Wales Institute, Cardiff

are more likely to generate knowledge spillovers for the rest of the regional economy. High activity rates and managerial density are also considered strong indicators of the strength of the human capital stock in a region. The measure of a country's competitiveness knowledge economy based on the indicators described in a composite index called World Knowledge Competitiveness Index (WKCI).

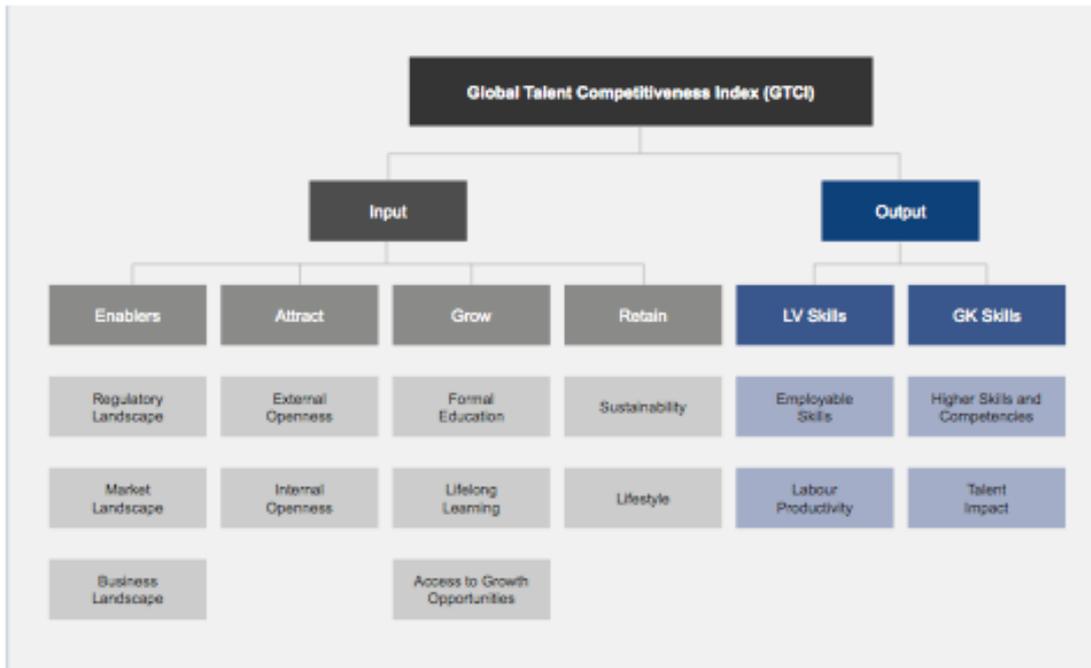
Knowledge economic compete on value and innovation, rather than costs alone. As regions make the transition to knowledge economies, we would expect increases in the number and proportion of knowledge-based businesses and employment. In general terms, higher levels of R&D activity most often define knowledge-based sectors. Consequently, knowledge-based sectors have a higher potential for innovation and competitive advantage. We consider that due to their requirements for R&D and innovation, these sectors have a higher propensity for developing a knowledge-driven economy, and that the outputs from these sectors are more likely to generate knowledge spillovers for the rest of the regional economy. High activity rates and managerial density are also considered strong indicators of the strength of the human capital stock in a region. The measure of a country's competitiveness knowledge economy based on the indicators described in a composite index called World Knowledge Competitiveness Index (WKCI).

Another indicator to measure the competitive advantage of human resources is Global Talent Competitiveness Index. Today, countries are competing globally to grow better talents, to attract the talents they need, and to retain those that bring them competitiveness, innovation and growth. And then educational institutions cannot ignore their role to supply the employable skills that the new global knowledge economy demands.

In the context of national competitiveness, attracting talent should be viewed in terms of the growth of the talent pool – external attraction involving encouraging appropriate immigration, and internal attraction focused on removing the barriers to enter the talent pool for groups such as those with an underprivileged background, women and elderly. Growing talent has traditionally meant education but should be broadened to include apprenticeships, training and continuous education, as well as the access to experience or grow opportunities.

The GTCI attempts to offer an approach to talent competitiveness issues that is comprehensive, action-oriented, analytical and practical. The GTCI is a composite index, relying on a simple but robust input-output model composed of six pillars. Figure 2 describe the component of GTCI.

**Figure 3.**



Source: The Global Talent Competitiveness Index 2013

The GTCI is an input-output model that combines an assessment of what countries do to produce and acquire talents (input) and the kind of skills that are available to them (output). On the output side, the GTCI differentiates between two levels of talent, which can be broadly thought of as mid-level and high-level skills. Mid-level skills, labeled Labour and Vocational Skills (or LV skills) describe skills acquired through vocational training and skills relevant to technical roles in the workforce. The economic impact of LV skills is measured by labour productivity and by the relationship between pay and productivity. High-level skills, labeled in the GTCI as Global Knowledge Skills (or GK skills) deal with knowledge workers in professional, managerial or leadership roles; their impact is evaluated by indicators related to innovation and entrepreneurship. With its focus on talent, we do not measure a third type of human capital, unskilled labour, although discussions will sometimes embrace lower-level skill. Together, LV skills and GK skills constitute the two output pillars of the GTCI. We can see the position of Indonesia in ASEAN such GTCI comparison table below.

**Table 5 Global Talent Competitiveness Index, 2013**

Country	Score (0-100)	Ranking (number of countries: 103)
Singapore	61,41	6
Japan	52,82	21
Korea	48,55	28
china	38,80	40
Philippines	30,16	68
Thailand	28,12	75
Vietnam	27,24	80
Indonesia	23,75	90
Cambodia	17,53	98

From the table 5, it can be seen that Singapore ranked 6<sup>th</sup> among the 103 countries, and automatically got the first position in ASEAN region. Furthermore, the table also informed that Indonesia ranked 90<sup>th</sup> and reached the 5<sup>th</sup> place among the six ASEAN member countries on the list.

### **Global Innovation Index**

Globalization has altered the mobility of people across geographic. Mobility has been redefined. Ideas, know-how, and innovative and entrepreneurial people routinely cross borders and generate value locally and globally; projects involve people collaborating across different continents, all of whom are living outside their respective countries of birth. The engine of this global and mobile world is talent<sup>359</sup>.

Therefore, the competitive predominance is also determined by the ability of one nation to innovate in various aspects of life. There are several arguments about how important an indicator that measure the innovation level is. According to the publication of INSEAD et al., there are three arguments that form the basis of the importance of measuring the level of innovation in a country are as follows.

First, innovation is important for driving economic progress and competitiveness— for both developed and developing economies. Many governments are putting innovation at the center of their growth strategies. Second, the definition of innovation has broadened—it is no longer restricted to R&D laboratories and to publish scientific papers. Innovation could be and is more general and horizontal in nature, and includes social innovations and

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<sup>359</sup>The Global Innovation Index 2014:6

business model innovations as well as technical ones. Last but not least, recognizing and celebrating innovation in emerging markets is seen as critical for inspiring people—especially the next generation of entrepreneurs and innovators.

The Global Innovation Index (GII) helps to create tools in which innovations in a country are under continual evaluation, and it provides a rich database for refining innovation policies. The Global Innovation Index (GII) relies on two sub-indices—the Innovation, Input Sub-Index and the Innovation Output Sub-Index—each built around pillars. Four overall measures are calculated: the GII, the Input and Output Sub-Indices, and the Innovation Efficiency Ratio. The Innovation Input Sub-Index consists of five input pillars capture elements of the national economics that enable innovative activities: (1) Institutions, (2) Human capital and research, (3) Infrastructure, (4) Market sophistication, and (5) Business sophistication. The Innovation Output Sub-Index consists of Innovation outputs are the results of innovative activities within the economy. There are two output pillars: (6) Knowledge and technology outputs and (7) Creative outputs. And the overall GII score is the simple average of the Input and Output Sub-Indices. Whereupon the Innovation Efficiency Ratio is the ratio of the Output Sub-Index over the Input Sub- Index. It shows how much innovation output a given country is getting for its inputs.

The comparison between the GII values in some neighbor countries of Indonesia could be seen in the table below.

**Tabel6: Global Innovation Index, 2014ASEAN plus**

Negara	Score GII	Ranking (number of countries: 143)	Efficiency Ratio
Singapore	59,24	7	0,61
Korea	55,27	16	0,78
Jepang	52,41	21	0,69
Cina	46,57	29	1,03
Malaysia	45,60	33	0,74
Thailand	39,28	48	0,76
Vietnam	34,89	71	0,95
Indonesia	31,81	87	0,96
Philipina	29,87	100	0,81
Kamboja	28,66	106	0,74
Myanmar	19,64	140	0,71

According to the GII table above, Singapore is considerably the most competitive in the Southeast Asia region; moreover Singapore was placed in a higher rank in GII compared to NICs in Asia, such as Korea and Japan.

Meanwhile, Malaysia ranked second following Singapore in Southeast Asia region.

Furthermore, the indicator which measure the quality of human resources more generally is the HDI and World Knowledge Competitive Index (WKCI). The Human Development Index (HDI) is a composite statistic of life expectancy, education, and income indices used to rank countries into four tiers of human development. World Knowledge Competitiveness Index (WKCI) identify the relative strengths and weaknesses of regional economies in terms of their knowledge capacity, capability and utilization.

WKCI is an integrated and overall benchmark of the knowledge capacity, capability and sustainability of each region, and the extent to which this knowledge is translated into economic value, and transferred into the wealth of the citizens of each region. As such, the competitiveness of a region will depend on its ability to anticipate and successfully adapt to internal and external economic and social challenges, by providing new economic opportunities, including higher quality jobs. Index which has been portrayed in WKCI could be seen in the GKCI (Global Knowledge Competitive Index) table.

**Table 7. HDI and GKCI**

Country	HDI	GKCI
Brunei	30	-
Kambodia	138	102
Indonesia	121	83
Lao PDR	138	-
Malaysia	64	56
Myanmar	149	-
Philippines	114	58
Singapore	18	6
Thailand	103	64
Vietnam	127	88

In the table it can be seen that Indonesia's position both in the HDI and GKCI is very apprehensive. The position of Indonesia is still very inferior to Singapore, Brunei and Malaysia, which occupied the top position.

Besides the various index that explain the comparison between the human resources quality in Indonesia and the other countries. This paper will also provide several related data of human resources development. This includes the average of schooling years completed, Research and development expenditure, Public Spending on Education.

**Tabel8: School Enrollment on Tertiary Education (%)**

	1995	2000	2005	2010
Brunei	6	13	18	18
Cambodia	1	2	3	14
Indonesia	12	15	18	25
Lao PDR	2	3	8	16
Malaysia	11	26	28	37
Myanmar	5		10	14
Philippines			28	28
Singapore				
Thailand	20		44	50
Vietnam				22
Korea	45	79	93	101
China	5	8	18	23
India	12	10	12	18
Jepang	19	49	55	58

*<http://data.worldbank.org/indicator/SE.TER.ENRR>*

The percentage of people who complete tertiary education in the ASEAN countries can be seen that Thailand is always placed in the highest position every year. Meanwhile, Indonesia ranked 4<sup>th</sup> after Malaysia and the Philippines.

### **Research and Development Expenditure**

Human capital has an overriding influence on the development of new innovations, as well as the R&D of new technologies (Tullao, 2012). A country's labor force should have sufficient human capital to conduct research that will contribute to the nation's knowledge capital. Such nation's capacity to innovate will eventually determine its competitiveness. This covers technological improvements such as the development and diffusion of new products and services, and organizational and institutional innovations such as new marketing strategies, management, policies, new services, and improved approaches to internal and external communications positioning (Tullao, 2012)<sup>360</sup>.

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<sup>360</sup>Education and Human Capital Development to Strengthen R&D Capacity in the ASEAN

**Tabel 9. Research and Development Expenditure as Percent of GDP in Asean+4**

Country	2000	2001	2002	2003	2004	2005	2006	2007
<b>Brunai Darussalam</b>	-	-	0,016	0,018	0,037	-	-	-
<b>Cambodia</b>	-	-	0,050	-	-	-	-	-
<b>Indonesia</b>	0,068	0,048	-	-	-	-	-	-
<b>Lao PDR</b>	-	-	0,036	-	-	-	-	-
<b>Malaysia</b>	0,469	-	0,653	-	0,600	-	0,635	-
<b>Myanmar</b>	0,113	0,071	0,162	-	-	-	-	-
<b>Philippines</b>	-	-	0,137	0,130	-	0,111	-	0,110
<b>Singapore</b>	1,851	2,057	2,098	2,048	2,132	2,195	2,169	2,372
<b>Thailand</b>	0,252	0,263	0,244	0,262	0,255	0,235	0,249	0,214
<b>Vietnam</b>	-	-	0,193	-	-	-	-	-
<b>China</b>	0,903	0,951	1,070	1,134	1,223	1,325	1,388	1,396
<b>India</b>	0,771	0,748	0,737	0,729	0,744	0,779	0,767	0,758
<b>Japan</b>	3,043	3,123	3,165	3,199	3,167	3,323	3,405	3,444
<b>Korea</b>	2,296	2,473	2,404	2,486	2,683	2,792	3,009	3,210

Source: World Bank in Education and Human Capital Development to Strengthen R&D Capacity in the ASEAN

Table 9 shows that among the ASEAN nations, only Singapore registered significant R&D expenditures over the past decade. That is, it has 2.37 percent of its GDP spent on R&D as of 2007. Other ASEAN members' spending on R&D pale in comparison to Singapore's, and this may reflect poorly on their capacity to generate knowledge capital and hence, to innovate. In fact, only Singapore comes close to the values of the Plus-4 countries.

Among the Plus-4 countries, Japan and Korea have R&D spending in 2007 accounting for 3.4 percent and 3.2 percent of GDP, respectively. Meanwhile, China spends 1.39 percent and India spends 0.75 percent of their GDP for R&D. Although R&D expenditures in China and India are relatively small as compared to Japan and Korea, theirs are still a lot larger than the average across ASEAN members except Singapore.

**Tabel 10 Public Spending on Education (% of GDP)**

	1998	2000	2005	2010
Brunei	5,3	3,7	4,5	2,0
Cambodia	1,3	1,7		2,6
Indonesia	1,1	2,5	2,9	3,0
Lao PDR	2,1	1,5	2,4	2,8
Malaysia	4,6	6		5,1
Myanmar	1,2	0,6		
Philippines	3,8	3,3	2,4	2,7
Singapore		3,4	3,3	3,2
Thailand	4,7	5,4	4,2	3,8

Vietnam				6,3
Korea	3,7	3,8	4,1	5,0
China	1,9	3,5		
India	3,5	4,3	3,1	3,3
Jepang	3,4	3,6	3,5	3,8

Source: <http://data.worldbank.org/indicator/SE.XPD.TOTL.GD.ZS>

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# **TAIWAN'S ECONOMIC STRATEGIES IN THE REGIONAL INTEGRATION BETWEEN ASIA- PACIFIC (TPP) AND EAST ASIA (RCEP)**

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# **TAIWAN'S ECONOMIC STRATEGIES IN THE REGIONAL INTEGRATION BETWEEN ASIA-PACIFIC (TPP) AND EAST ASIA (RCEP)**

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## **Abstract**

Taiwan is East Asia's fourth largest economy and possesses one of the regional most dynamic and innovative business community. Taiwanese firms are at the cutting edge of East Asia's information and communications technology (ICT) sector. But, She has not enjoyed to participate almost any kind of international or regional organizations.

To face the reality, Taiwan has an ambiguous position in East Asia's regional community owing from the People's Republic of China's (PRC) insistence that Taiwan is a Chinese province and not a sovereign nation-state, a view formally accepted by the large majority of foreign governments. Taiwan's contested sovereignty has meant it is unable to become a member of either the ASEAN Plus Three (APT) or EAS regional frameworks. Its FTA options are limited for the same reasons.

This paper will analyze what kinds of Strategies for Taiwan to choose for not losing its economic power in the region, particularly in the regional integration between 2 approaches of Asia-Pacific (TPP) and East Asia (RCEP). And, this paper will also analyze what kinds Strategies in the regional integration that among some East Asia Alternatives, which is the best way for Taiwan?

Keywords : Regionalism, TPP, RCEP, Economic Strategies, East Asia Alternatives

## **Preface**

Taiwan is East Asia's fourth largest economy and possesses one of the region's most dynamic and innovative business communities. Taiwanese firms are at the cutting edge of East Asia's information and communications technology (ICT) sector. The Taiwanese economy also fared the storm of the 1997/98 financial crisis better than any other, recording 6 percent economic growth in 1998 while most East Asian economies experienced a fall in their gross domestic

product. Taiwan has a well-educated, enterprising, and prospering people, and is plugged into many important regionalization processes in East Asia, such as ICT and electronics sector.

International production networks.

To face the reality, Taiwan has an ambiguous position in East Asia's regional community owing from the People's Republic of China's (PRC) insistence that Taiwan is a Chinese province and not a sovereign nation-state, a view formally accepted by the large majority of foreign governments. Consequently, Beijing has strongly objected to any attempts made by the Taiwan government to join international organizations or become signatories to any international agreement that in any way acknowledges Taiwan as an independent nation-state. Taiwan's contested sovereignty has meant it is unable to become a member of either the ASEAN Plus Three (APT) or EAS regional frameworks. Its FTA options are limited for the same reasons. Beijing's opposition to any of China's diplomatic partners signing FTAs with Taiwan has even meant that Taipei has been more or less limited to doing FTA deals amongst the group of twenty-three (see Table 1.) small states with which it still maintains formal diplomatic relations.

**Table 1. Diplomatic Allies of Taiwan**

<b>Europe</b>	<b>Africa</b>	<b>East Asia and Pacific</b>	<b>Central and South America</b>
The Holy See (1942-present)	Burkina Faso (1961-73, 1994-present)	Republic of Kiribati (2003-present)	Belize (1989-present)
	Democratic Republic of Sao Tome and Principe (1997-present)	Republic of Nauru (1980-2002, 2005-present)	Dominican Republic (1957-present)
	Kingdom of Swaziland (1968-present)	Republic of Palau (1999-present)	Republic of El Salvador (1961-present)
	Republic of the Gambia (1968-74, 1995-present)	Republic of the Marshall Islands (1998-present)	Republic of Guatemala (1960-present)
		Solomon Islands (1983-present)	Republic of Haiti (1956-present)
		Tuvalu (1979-present)	Republic of Honduras (1965-present)
			Republic of Nicaragua (1962-85, 1990-present)
			Republic of

			Panama (1911-present)
			Republic of Paraguay (1957-present)
			Saint Christopher and Nevis (1983-present)
			Saint Lucia (1984-97, 2007-present)
			Saint Vincent and Grenadines (1981-present)

Source: Ministry of Foreign Affairs, Republic of China (Taiwan), <http://www.mofa.gov.tw/>

## I. Regionalism in East Asia

As established earlier, East Asian regionalism relates to public policy initiatives and state-led projects of economic cooperation and integration that primarily originate from intergovernmental diplomacy. Although micro-level regionalization has been steadily building in East Asia over many decades, macro-level regional cooperation and integration agreements and frameworks involving East Asian countries as a collective are a relatively new phenomenon. While the ASEAN has been around since the mid-1960s, it took the organization until the 1990s to embark on more substantive regional economic projects, such as the ASEAN Free Trade Area (AFTA).

ASEANism ?

Furthermore, it was only until 1997 that an exclusive East Asian regional economic grouping was formed, the ASEAN Plus Three (APT) framework. Both ASEAN and APT have pursued relatively ambitious regional economic cooperation and integration agendas, the former in a broad sense of the latter particularly in strengthening regional financial governance, with significant assistance from the Asian Development Bank (ADB). Another core East Asian regional grouping was formed in 2005 with the establishment of the EAS framework. In addition to these three core East Asian regional groupings, East Asian countries are party to a number of other regional frameworks and organizations. It should too be noted how the recent proliferation of FTAs in East Asia is shaping the region's trade and investment environment to a significant degree.

## II. The APT and EAS Regional Frameworks

## **1. “ASEAN+N”- East Asianism**

The APT framework was established in December 1997 at an inaugural summit convened in Kuala Lumpur. Its membership comprises the ten ASEAN member states plus the three Northeast Asian states of China, Japan, and South Korea. The inaugural APT summit was of some historic importance as it was the first time the leaders of most East Asian countries had met together as an exclusive regional grouping. APT (and also the EAS, see below) may be considered a regional framework rather than an organization (like ASEAN) because it may be thought of as a system of mostly inter-governmental meetings for fostering regional cooperation and integration. The APT has neither a secretariat nor any other permanent coordinating agency, yet this does not appear to have hindered the quite significant progress made by APT-led cooperation in particular.

The inaugural APT meeting was planned before the outbreak of the region's 1997/98 financial crisis but it was the collective response to the crisis that shaped the initial APT agenda, this being to develop new mechanisms of regional financial governance in East Asia. This remains the main focus of APT-led cooperation, and its advance of East Asia's "financial regionalism" has centered on two main projects, namely the Chiang Mai Initiative (CMI) and the Asian Bond Market Initiative (ABMI). The ADB's Office of Regional Economic Integration (OREI) has been closely involved in their development. Although Taiwan is an ADB member, it has not been permitted to join either the CMI or ABMI arrangements owing to opposition from China. The CMI is also a designated system for APT member states only.

## **2. APT(ASEAN+3)- Moves toward the East Asian Community?**

ASEAN + 1 Type formula. ASEAN extended this formula to summit meetings so that it could easily organized APT Summit and ASEAN + 1 Summits taking advantage of the presence of leaders of partner countries.

ASEAN has taken an initiative in the East Asian cooperation. While started with five countries (Indonesia, Malaysia, Philippines, Thailand and Singapore) in 1967, it had made a few achievements in political and diplomatic negotiation with outside partners but not much in economic areas such as Preferential Trading Agreement (PTA) and Common Industrial Projects. In 1992 ASEAN started to implement a large scale tariff reduction, AFTA, toward an effective regional integration. It has taken an initiative of the APT implementing the Chiang Mai Initiative and

formed a co-centric circle of cooperation, such as ASEAN + 1 and ASEAN +3, around ASEAN as a core and on the driver's seat.

Here ASEAN has taken advantage of its unique formula of ASEAN Post Ministerial Conference (ASEAN PMC). While ASEAN organized its economic and trade ministers meeting every year, it has started since the late 1980s to invite counterpart ministers of such partner countries and Japan, China, ROK, and Australia and to negotiate as a group with individual partners, that is ASEAN + 1 type formula. ASEAN extended this formula to summit meetings so that it could easily organized APT Summit and ASEAN + 1 Summits taking advantage of the presence of leaders of partner countries. This is a big success of ASEAN diplomacy. China, Japan, and ROK have all accepted this ASEAN initiative.

This is a big success of ASEAN diplomacy. China, Japan, and ROK have all accepted this ASEAN initiative. In terms of the driver's seat of APT and EAS, ASEAN perceives well the fact that ASEAN is its weakest member and has moved to strengthen its economy. At the ASEAN Summit in December 2007. It adopted the ASEAN Charter and all ten leaders signed it. The charter has institutionalized ASEAN as an international organization and announced its plan to build Economic Community, Political and Security Community, and Social and Cultural Community by 2015.

The EAS framework may in one sense be considered a spin-off of the APT framework. The idea for establishing an EAS was first raised at the 2000 APT summit in Singapore, and thereafter the East Asia Study Group was charged with examining the proposal and reporting back with its recommendations. These essentially focused on the desirability of transforming the APT into a more coherent and developed regional framework in which any APT member could host a summit, not just an ASEAN country. The EAS also embodied a more holistic regional concept and not just an appendage arrangement to ASEAN, as many view APT. A further perceived advantage of the EAS over APT was that it would potentially confer China, Japan, and South Korea a greater sense of ownership over the East Asia regional community-building process. EAS membership not only comprises the APT group but also India, Australia, and New Zealand. The first EAS was held in December 2005, hosted by Malaysia at Kuala Lumpur, and much of the discussion at the meeting revolved around membership issues and what value the EAS framework could add to the regional community-building process beyond what was already being achieved by the APT.

The diplomatic apparatus of EAS is far less developed than APT's. Aside from its summit meetings, annual EAS Foreign Minister informal

consultations (note, not formal Ministerial Meetings) and EAS Environmental Ministers Meetings have been convened since 2008, EAS Energy Ministers Meetings since 2007, and EAS Economic Ministers Meetings since 2006. Senior Officials Meetings have too been held in these four policy areas, and like APT meetings are tagged on to the end of corresponding ASEAN meetings. The EAS is seen as essentially a Leaders-led forum with the aim of responding "promptly to any emerging challenges and adjust appropriately to the changing regional and international landscape."<sup>24</sup> Probably the most significant achievement of the EAS framework to date occurred in January 2007 at the second EAS meeting, when EAS leaders signed a Declaration on Energy Security. The document committed the EAS group to similar sets of objectives previously agreed with ASEAN and APT, namely to reduce its dependence on conventional fuels, explore options for stockpiling oil and developing renewable energy capacity, and improving energy efficiency.

### **3. East Asia Summit Expanded to include US and Russia**

EAS started as a luncheon meeting at the ASEAN PMC in 2005 and its membership consists of ASEAN plus six. It has been discussing such issues for broader regional cooperation as anti-terrorism, natural disasters, and climate change. In 2009 APEC in Singapore, President Obama expressed the US interest in joining EAS and the United States signed ASEAN Treaty of Amity, which is a pre-requirement for joining agreement with ASEAN. In October 2010, EAS in Hanoi agreed to invite both the US and Russia to EAS in 2011 and the US Secretary of State Hillary Clinton and Russian Foreign Minister Ruslov attended EAS/FM. EAS will become ASEAN plus 8 and the duplication of membership with APEC will be further strengthened. EAS will continue to discuss broader regional cooperation but it will also pick up security issues, taking advantage of the participation of the US and Russia. EAS's defense ministers' meeting was held in Shanghai in early October and they agreed on a principle of not recouring to military power when conflict arises. REI is inevitably constrained by the political and security dimension of the region. Because of this constraint APEC has confined to economic issues. It is only at Leaders' meeting that they have started to discuss occasionally political and security issues such as anti-terrorism taking advantage of the Leaders' presence of major powers in the region. If EAS serves for political and security dimension, it will support the grading up of APEC to a more institutionalized REI. China's trade has expanded immensely with any partners and driven the world economy as a powerful engine. However, in June 2010 the Taiwan current

administration signed the Economic Cooperation Framework Agreement (ECFA) with China, both the US and Russia to EAS in 2011 and the US Secretary of State Hillary Clinton, Russian Foreign Minister Ruslov attended EAS/FM. EAS will become ASEAN plus 8 and the duplication of membership with APEC will be further strengthened.

### **III. TPP Trans-Pacific Partnership Agreement**

The 2005 Trans-Pacific Strategic Economic Partnership Agreement (TPSEP or P4) is a free trade agreement among Brunei, Chile, New Zealand, and Singapore. It aims to further liberalise the economies of the Asia-Pacific region. <sup>361</sup>TPP is a multilateral free trade agreement among APEC forum member economies, New Zealand, Chile, Singapore and Brunei (P4, 2006). TPP has enlarged to P9 (add Australia, Peru, and Vietnam 2008) and then will be P10. It is the only trans-regional trading agreement that builds new strategic and economic links between Asian and Latin American states. Originally, it hasn't aroused sufficient attention after its taking effect in 2006. However, following the initial US decision to join the negotiations in September, within the 21-member APEC forum to forge a Free Trade Agreement of the Asia Pacific.

TPP was formed by four APEC economies of Brunei, Chile, New Zealand, and Singapore in 2006. Its objective in Article 1 states that it aims to establish a Trans-Pacific Strategic Economic Partnership among the parties, based on common interest and deepening of the relationship in all areas of application'. It has taken a 'WTO plus', covering not only commodity and services trade but also such facilitation areas as rules of origin, customs procedures, trade remedies, technical barriers to trade, competition policy, intellectual property, government procurement, and dispute settlement. (TPP 2006).

At APEC 2010 Yokohama Leaders clearly declared to continue TILF as a core activity of APEC for another decade and symbolized the FTA in the Asia Pacific (FTAAP) as its concrete target. FTAAP was proposed to APEC Leaders by ABAC in 2006 aiming at a greater FTA covering the whole APEC economies (ABAC 2006). It promotes the integration and conglomeration of all FTAs mushroomed in the APEC region for the past decade and thus creating a greater single market achieving the maximum scale economy. ABAC/PECC joint report of the same year (ABAC/PECC 2006) included both pros and cons of the FTAAP. Fred Bergsten, Director of Peterson Institute of International Economics, Washington D.C., expressed his

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<sup>361</sup>The 2005 Trans-Pacific Strategic Economic Partnership Agreement, TPP Retrieved 28 January 2012.

concern about the stumbled negotiation of the WTO/DDA and recommended FTAAP as a 'Plan B' in preparation for the failure of the DDA and resulting vacuum of liberalization momentum in the region (Bergsten 2006). He served as the chair of APEC/EPG for 1993-1995 and led actively the liberalization momentum within APEC then.

The momentum heightened to to the Bogor Declaration in 1994 and he planned to achieve it by negotiating an FTA. However, in the following year the Japanese host invented the concept of 'Concerted Unilateral Liberalization' within the Osaka Action Agenda, which disappointed many Americans including Bergsten. The author conjectures he resumed his original proposal together with American ABAC members after ten years. On the other hand, Charles Morrison, the American Chair of PECC, represented a majority view of PECC academics, indicating practical difficulty with conducting liberalization negotiation within APEC and insisting the pragmatic strategy along the Busan Roadmap (Morrison 2006).

Nevertheless, the current studies of FTAAP have not gone into concrete procedures of achieving it. Academic studies focused on the CGE model calculation under specific assumptions, which results in a greater welfare gains of FTA of a greater geographical coverage. Sangkyom Kim (2009) reported that, under the assumption of all tariffs abolished, 10% reduction of services barriers, 5% reduction of transaction cost through trade facilitation, and simplified rules of origin, all APEC economies would gain and APEC's real GDP increase by 1.13%, while the real GDP of EU would decrease by 0.08% and that of rest of the world decrease by 0.06%. Since welfare gains is in the order of 0.1% or less for smaller FTAs, FTAAP would give a greater trade creation but less trade diversion effects. (see Table 2 "ASEAN+N" VS. "TPP"—Market Liberalization)

Table 2 "ASEAN+N" (RCEP) VS. "TPP"—Market Liberalization

## “ASEAN+N” vs. “TPP” Market Liberalization

(EV/GDP%)

	ASEAN+6	TPP 11*	Overlap
Indonesia	1.94	-0.33	1.94
<b>Malaysia</b>	<b>1.67</b>	<b>0.97</b>	<b>1.68</b>
Philippines	0.16	-0.28	0.15
<b>Singapore</b>	<b>1.91</b>	<b>1.36</b>	<b>1.91</b>
Thailand	3.20	-0.47	3.22
<b>Viet Nam</b>	<b>2.23</b>	<b>4.38</b>	<b>2.23</b>
Cambodia	1.38	-0.62	1.38
Lao PDR	0.60	-0.33	0.56
Myanmar	-1.43	-0.25	-1.47

Notes: \*TPP 11 = Brunei, Chile, New Zealand, Singapore, Viet Nam, Malaysia, Peru, Australia, USA, Japan, Korea

Source: Wignaraja and Mirza (forthcoming)

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After all, APEC Leaders agreed to continue to study a possible Free Trade Area of the Asia-Pacific in the long term as stated in the subtitle of its report *The APEC Initiative for Strengthening Regional Integration* (APEC 2007). At Yokohama APEC Leaders upgraded FTAAP to a concrete target of the post Bogor agenda.

Since 2010, negotiations have been taking place<sup>362</sup> for the Trans-Pacific Partnership (TPP), a proposal for a significantly expanded version of TPSEP. The TPP is a proposed free trade agreement under negotiation by (as of December 2012) Australia, Brunei, Chile, Canada, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam.<sup>363</sup> Japan has expressed its desire to become a negotiating partner,<sup>364</sup> but not yet joined negotiations as the TPP became a major issue in Japan's 2012 election.<sup>365</sup> South Korea was asked by the US to consider joining the TPP<sup>366</sup> but declined for the time being.<sup>367</sup>

The TPP is ostensibly intended to be a "high-standard" agreement specifically aimed at emerging trade issues in the 21st century.<sup>368</sup> These

<sup>362</sup>*"On-going Negotiations at a Glance: TPP (Trans-Pacific Partnership)"*. Singapore Government. Retrieved 2012-12-15. "Formal negotiations started in March 2010, and there has been 10 rounds of negotiations as of January 2012."

<sup>363</sup>*"Protests turn violent at trade talks in New Zealand"*. MSN News. Agence France-Presse. 8 December 2012. Retrieved 2012-12-15.

<sup>364</sup>*"Japanese PM Looks to Join TPP"*. The Globe and Mail. Retrieved 5 December 2012.

<sup>365</sup>MAI IIDA (12 December 2012). *"Major parties give themselves wiggle room on thorny TPP"*. The Japan Times. Retrieved 2012-12-15.

<sup>366</sup>*"US Requests Korea Join TPP"*. Donga. Retrieved 5 December 2012.

<sup>367</sup>*"S. Korea prioritizes Asia trade pacts over Pacific partners"*. The Jerusalem Post. Reuters. 17 May 2012. Retrieved 2012-12-15.

<sup>368</sup>*"The US and the TPP"*. USTR. Retrieved 5 December 2012.

ongoing negotiations have drawn criticism and protest from the public, advocacy groups, and elected officials, in part due to the secrecy of the negotiations, the expansive scope of the agreement, and a number of controversial clauses in drafts leaked to the public.

The negotiations initially included three countries (Chile, New Zealand and Singapore), and Brunei subsequently joined the agreement. The original TPSEP agreement contains an accession clause and affirms the members' "commitment to encourage the accession to this Agreement by other economies."

In January 2008 the United States agreed to enter into talks with the P4 members regarding liberalisation of trade in financial services. Then, on 22 September 2008, US Trade Representative Susan C. Schwab announced that the United States would begin negotiations with the P4 countries to join the TPP, with the first round of talks scheduled for early 2009.<sup>369</sup>

In November 2008, Australia, Vietnam, and Peru announced that they would be joining the P4 trade bloc.<sup>370</sup> In October 2010, Malaysia announced that it had also joined the TPP negotiations.<sup>371</sup>

In June 2012, it was announced that Canada and Mexico would join TPP negotiations.<sup>372</sup> Mexico's interest in joining was initially met with concern among TPP negotiators about its customs policies. Two years earlier, Canada became an observer in the TPP talks, and expressed interest in officially joining,<sup>373</sup> but was not committed to join, purportedly because the United States and New Zealand blocked it due to concerns over Canadian agricultural policy—specifically dairy—and intellectual property rights protection.<sup>374</sup> Several pro-business and internationalist Canadian media outlets raised concerns about this as a missed opportunity. In a feature in the *Financial Post*, former Canadian trade negotiator Peter Clark claimed that the Harper Government had been strategically outmaneuvered by the Obama Administration, Wendy Dobson and Diana Kuzmanovic for The School of Public Policy, University of Calgary, argued for the economic

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<sup>369</sup>"*Trans-Pacific Partners and United States Launch FTA Negotiations*". Office of the United States Trade Representative. 22 September 2008.

<sup>370</sup>"*The challenges of regional bodies*". Taipei Times. Retrieved 17 December 2008.

<sup>371</sup><http://www.ustr.gov/about-us/press-office/press-releases/2012/september/tpp-leadership-statement>

<sup>372</sup>"U.S. Trade Representative Kirk Welcomes Mexico as a New Trans-Pacific Partnership Negotiating Partner".

<sup>373</sup>"*Tories consider joining Trans-Pacific trade group*". *CBC News*. 16 November 2010. Retrieved 2 January 2011.

<sup>374</sup>"*TPP Countries Say Canada Not Ready To Join Talks, Press Vietnam To Decide*". Inside U.S. Trade. Retrieved 28 January 2012.

necessity of the TPP to Canada.<sup>375</sup>

Canada and Mexico formally became TPP negotiating participants in October 2012, following completion of the domestic consultation periods of the other nine members.<sup>376</sup>

South Korea expressed interest in joining in November 2010,<sup>377</sup> and was officially invited to join the TPP negotiating rounds by the United States after the successful conclusion of the US-South Korea FTA in late December.<sup>378</sup> The country already has bilateral trade agreements with other TPP members, thus making any further multilateral TPP negotiation less complicated.[citation needed]

Japan joined as an observer in the TPP discussions that took place 13–14 November 2010, on the sidelines of the APEC summit in Yokohama.<sup>379</sup> Japan is regarded as a potential future member but it would have to open its agricultural market in a way it refused to do in previous trade negotiations such as the Doha Development Round. Autos and insurance are also issues of contention. On 11 November 2011, Japanese Prime Minister Yoshihiko Noda announced his nation's interest in joining the treaty negotiations.<sup>380</sup> However, as of mid-2012, Japan was still only an observer, and had not yet formally entered the negotiations. Japan declared its intent to join the TPP negotiations on 13 March 2013 and an official announcement was made by Prime Minister Shinzō Abe on 15 March 2013.

Other countries that have expressed interest in TPP membership are Taiwan<sup>381</sup>, the Philippines, Laos, Colombia, and Costa Rica.

On 20 November 2012, Thailand's government announced that it wishes to join the Trans-Pacific partnership negotiations during a visit by President of the United States Barack Obama and if it follows the process for Canada and Mexico, Thailand will be in the extraordinary position of having to accept any existing agreed text, sight unseen.

#### Trans-Pacific Partnership (TPP): 17th Round of TPP Negotiations Set

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<sup>375</sup>Embassy warned that Canada's position in APEC could be compromised by being excluded from both the US-oriented TPP and the proposed China-oriented ASEAN +3 trade agreement (or the broader Comprehensive Economic Partnership for East Asia).

<sup>376</sup>*Canada Formally Joins Trans-Pacific Partnership* (Press release). Foreign Affairs and International Trade Canada. 9 October 2012. Retrieved 2012-12-13.

<sup>377</sup>Nishikawa, Yoko (13 November 2010). *"South Korea mulling U.S.-led TPP trade initiative: report"*. Reuters. Retrieved 15 November 2010.

<sup>378</sup>*"US requests Korea's joining of regional FTA"*. The Donga-A Ilbo. 18 December 2010.

<sup>379</sup>*"US Government: Japan PM Kan Attended TPP Talks As Observer"*. NASDAQ. 12 November 2010.

<sup>380</sup>Wallace, Rick (12 November 2011). *"Trade boost for Australia as Japan agrees to free-trade negotiations"*. The Australian. Retrieved 24 November 2011.

<sup>381</sup>*"Taiwan aims to join Trans-Pacific Partnership: minister"*. 10 November 2010. Retrieved 13 November 2010. <http://focustaiwan.tw/news/aall/201011100039.aspx>

for Lima, Peru -- May 15-24, 2013<sup>382</sup>

#### **IV. RCEP competes with the TPP?**

Competition appears likely to emerge between ASEAN's Regional Comprehensive Economic Partnership (RCEP), an agreement to launch negotiations for which was reached at the East Asia Summit (EAS) in Phnom Penh on 20 November, 2012 and the Trans-Pacific Partnership (TPP).

The two regional trade pacts have quite similar objectives trade liberalisation and economic integration and competition between the two to be Asia's predominant economic arrangement has the potential to divide the ASEAN countries.

In 2011, the total GDP of TPP countries was US\$20 trillion, with the US accounting for three quarters of this. In line with its pivot toward Asia, the US has led the expansion of the TPP and encouraged other APEC countries to join the negotiations. The US argues that the TPP needs to be broadened in order to cover relevant elements of economic cooperation and to meet the economic challenges of the 21st century. The TPP countries have negotiated on which areas should be covered by the agreement; these now include trade in goods and services, investment, intellectual property rights (IPRs), environmental protection, labour, financial services, technical barriers and other regulatory issues. The 16<sup>th</sup> TPP negotiations will be held in Auckland, New Zealand in early December 2012.

RCEP has a different origin to the TPP. ASEAN has FTAs with non-ASEAN countries, such as China, South Korea, Japan, India, Australia and New Zealand, which are separate from one another. The ASEAN framework for RCEP is an ASEAN initiative to gather all these FTAs into an integrated regional economic agreement. However, it will establish deeper economic cooperation than the existing FTA agreements. RCEP will open up more trade in goods and services, eliminate trade barriers, and gradually liberalize services and provide for greater foreign direct investment in ASEAN and its external trading partners. The GDP of the ASEAN and non-ASEAN negotiating parties is US\$17 trillion.

Given the similarities between the two agreements, RCEP may pose a challenge to the TPP. The TPP calls for deeper integration than RCEP, promoting trade in goods, services and investment, as well as tackling other issues (for example, IPRs). RCEP will be a partial WTO-plus arrangement, which focuses on trade in goods, several types of services and investment. However, the TPP and RCEP may come into conflict due to the tension

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<sup>382</sup> <http://www.ustr.gov/tpp>

between the US and China, as each wants to shape economic cooperation in the Southeast and East Asian regions in order to secure its economic interests. Consequently, rivalry between the US and China might become the predominant factor in how the regional economic architecture develops.<sup>383</sup>

Any competition between these two agreements may divide the ASEAN members. Singapore, Malaysia and Vietnam may be likely to focus on promoting the TPP to other Southeast and East Asian countries, while the rest of the ASEAN countries will likely aim to develop RCEP, so that it is at the centre of economic cooperation in the region.

Such division will profoundly influence the centrality of ASEAN. ASEAN aims to preserve its centrality to economic co-operation within Southeast and East Asia through initiatives such as the EAS and ASEAN+3. If ASEAN does not respond effectively to any potential competition between the TPP and RCEP, ASEAN's role as a driving force in the various regional arrangements is more likely to decline. The rivalry between the US and China could also undermine the crucial role that ASEAN plays.<sup>384</sup> (see Table 3 Trade partnership competition: TPP vs RCEP)

So, in order to maintain its centrality, ASEAN must focus on the creation of RCEP while furthering its regional consolidation through the ASEAN Community. If it does not do this, ASEAN may find that its role as a proactive, central player in fostering political and economic arrangements in East and Southeast Asia declines.

From the United States under the auspices of APEC, the proposed Trans-Pacific Partnership (TPP). From the East Asia Summit (EAS), with ASEAN in the lead, the proposed Regional Comprehensive Economic Partnership (RCEP). Those countries presently involved in negotiations on each are listed below.

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<sup>383</sup><http://www.eastasiaforum.org/2012/11/28/will-rcep-compete-with-the-tpp/>

<sup>384</sup>“Trade partnership competition: TPP vs RCEP” 16 Apr 2013, <http://www.aspistrategist.org.au/trade-partnership-competition-tpp-vs-rcep/>

**Table 3. Trade partnership competition: TPP vs RCEP**

Trans-Pacific Partnership	Regional Comprehensive Economic Partnership
APEC	East Asia Summit
Australia	Brunei
Brunei	Cambodia
Canada	Indonesia
Chile	Laos
Japan	Malaysia
Malaysia	Myanmar
Mexico	Philippines
New Zealand	Singapore
Peru	Thailand
Singapore	Vietnam
Vietnam	China
United States	Japan
	South Korea
	Australia
	India
	New Zealand

It's not simply that the two proposals involve different sets of countries; they also take very different approaches. The TPP aims to be a high quality preferential trade agreement with few exemptions and extensive regulatory alignment in areas such as labour law, environmental protection and intellectual property rights. The RCEP, on the other hand, sets the bar low and accepts that countries will reduce trade barriers at different rates—especially among less developed members—and also makes limited demands for regulatory harmonization.

**RCEP v. TPP: The Real Choices Facing ASEAN Members**

Also, with the start of ASEAN's Regional Comprehensive Economic Partnership (RCEP) talks expected next month, observers have raised repeated concerns about whether the RCEP represents a challenge to the Trans Pacific Partnership (TPP) free trade talks that have been ongoing since 2008. Some are concerned that Asian countries will have to choose between the two sets of talks, a mutually exclusive choice between a China-centric trade agreement in the RCEP and a U.S.-centric trade agreement in the TPP. Others posit that countries can make that choice based on tactical concerns and progress in negotiations. For example, a recent Jakarta Post article claims that Indonesia, currently in the RCEP talks, can join the TPP if RCEP talks do not progress as quickly.

Are the RCEP and TPP really competing for members and agenda items? The two potential agreements do have some broad similarities. The TPP encompasses 11 countries (with Japan and Thailand looking to join the talks soon) with a total GDP of US\$ 20 trillion, but notably without the participation of China. The RCEP encompasses 16 countries with a total GDP of US\$ 17 trillion, but notably without the participation of the United

States. Brunei, Malaysia, Vietnam, Australia, New Zealand, Singapore (and soon Thailand and Japan) are participating in both the TPP and RCEP.

The RCEP is primarily focused on measures imposed at the national borders and how to harmonize those measures. The TPP, on the other hand, is a much more ambitious negotiation in terms of scope because it covers a wide variety of barriers to trade and investment which occur beyond national borders. The TPP also covers issues which ASEAN countries have not yet covered in their intra-ASEAN agreements, such as labor, environment and intellectual property. Hence the TPP presents countries with a different set of issues than the RCEP does, meaning that the two negotiations are not conceptually incompatible.

However, post-border issues are necessarily linked to border issues, but not necessarily vice versa. What that means is that the issues involved in the RCEP are more critical for countries wishing to negotiate in the TPP. In other words, if a country is not able to deal with the RCEP issues, it will not be able to deal with most of the TPP issues. Hence Indonesia and other ASEAN members looking to participate in both RCEP and TPP need to prioritize RCEP issues.

Finally, the negotiating dynamics and timing of the TPP and RCEP also impact how ASEAN members approach the two sets of talks. The TPP talks are supposed to be completed this year, but with the impending addition of Japan, no one seriously expects that to happen. The substantive and procedural issues related to Japan's joining the TPP talks means a delay in TPP's finalization until perhaps the end of the Obama administration in 2015-16. RCEP, in contrast, is supposed to be completed by the end of 2015, which coincides with the initial AEC deadline. Hence Indonesia can complete its RCEP negotiations, and if it deems itself ready to join the TPP, it still can, although the complication would be that the TPP talks would be in their closing stages and Indonesia would have to accept whatever consensus agreements had already been reached.

How ASEAN members approach RCEP and the TPP therefore do not depend on political-security decisions with regard to China and the United States. More prosaically, the practicalities of trade negotiations mean that ASEAN members will have to give priority to their RCEP issues first before considering the TPP. ASEAN members, such as Singapore, who have already done this will find it easier to "walk and chew gum at the same time," to use an American aphorism. Those that haven't will need to follow another American aphorism of "learning to crawl before they can walk." Either way, the work necessary to square these circles has to begin now.

## V. FTAs and Cross-Strait relations

### 1. New FTA Projects in East Asia and the Asia-Pacific

The new FTA trend in East Asia and the Asia-Pacific: FTA activity has expanded substantially over the last decade or so in the global system, and most notably in the East Asia and Asia-Pacific region. What makes this more significant is that East Asia in particular was devoid of any FTA activity up to the late 1990s except for negotiations on the ASEAN Free Trade Area (AFTA) project. The situation was to radically change thereafter, largely in response to a combination of factors, primarily a faltering World Trade Organization (WTO) led multilateral trade order, the 1997/98 East Asian financial crisis, and the imperative felt by many East Asian and Asia-Pacific states to enter into the emerging global game of FTA diplomacy. By 2004, fifteen FTA projects had been initiated in East Asia (six concluded) and in the wider Asia-Pacific region a total of sixty-eight projects initiated and thirty-one concluded. By 2008, a decade on from when the region's new FTA trend took off, nineteen FTA projects had been initiated within East Asia (fifteen concluded) and in the Asia-Pacific a total of eighty-six initiated projects, sixty of which the negotiations being concluded. This is set against the continued expansion of FTA activity globally. From 1997 to 2008, the number of concluded FTAs in the world more than doubled from seventy-two to almost two hundred agreements. The proliferation of bilateral FTA projects has become an important new defining feature of East Asia's regional political economy (RPE) for various reasons.<sup>385</sup> First, it has introduced a series of new significant international economic agreements between the region's states that are likely to increase in number and consequently reconfigure and fortify the structure of regional economic relations in East Asia in both technical policy terms (e.g., by creating new regimes that determine future patterns of commerce, or through new cooperative policy linkages introduced) and relational terms (e.g., through establishing new norms of cooperative economic diplomacy). Second, the new FTA trend will further stimulate regionalization processes through reducing barriers to intra-regional trade and investment, and thus further coalesce the material basis (i.e., technical policy links, intra-regional commerce) of East Asia's RPE. Third, an intensifying bilateral FTA trend could found a sub-

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<sup>385</sup>Christopher M. Dent, "Networking the Region? The Emergence and Impact of Asia-Pacific Bilateral Free Trade Agreement Projects," *The Pacific Review* 16, no. 1 (2003): 1-28; and Christopher M. Dent, *New Free Trade Agreements in the Asia-Pacific* (Basingstoke: Palgrave Macmillan, 2006).

structural basis on which trade regionalism (e.g., an East Asia-wide FTA) and regional economic community-building can be built. Fourth, the proliferation of bilateral FTA projects and the enhanced economic diplomacy interactions these have brought have further highlighted regional distributions of power and influence in East Asia (e.g., Japan and China using FTA projects to realize regional hegemony aspirations), as well as alignments of economic interest between state and non-state actors, e.g., agricultural trade protectionism in Taiwan, Japan, and South Korea.<sup>386</sup>

## **2. The ASEAN— China Free Trade Agreement (ACFTA)**

ACFTA has been the cause of particular consternation to Taiwanese policy-makers and business. The core of the agreement will take effect from 1 January 2010,<sup>45</sup> and has considerable potential to disadvantage Taiwan-based producers exporting to either China or Southeast Asia, especially in key sectors such as electronics, IT, automobile and petrochemical products where close competitive rivalry between all parties exist. This is because import tariffs will still be applied to exports produced in Taiwan but not to those produced inside the ACFTA zone. Although tariff levels in the electronics and IT sectors are relatively low, competition in these industries are so intense that even marginal differences in price can make a significant difference to a firm position. Feasibility studies on creating APT, EAS and APEC membership based regional FTAs are also underway. As things currently stand, Taiwan would only be party to the last of these— the proposed Free Trade Area of the Asia-Pacific (FTAAP)— and this is the least likely to ever be realized given the problematic diversity of APEC's membership.<sup>387</sup>

## **3. Is competition between the TPP and the RCEP ‘good’ or ‘bad’ competition?**

While it's true that the TPP could see some trade diverted away from China, it not going to be of a scale to materially damage their economy. Similarly, the risks to the US economy posed by RCEP are slight at worst.

More importantly, I'd be loath to see the Asian free-trade

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<sup>386</sup> Dent, *New Free Trade Agreements in the Asia-Pacific*, 215-227. 2006, Basingstoke: Palgrave Macmillan, 2006.

<sup>387</sup> Christopher M. Dent, "Full Circle? Ideas and Ordeals of Creating a Free Trade Area of the Asia-Pacific," *The Pacific Review* 20, no. 4 (2007): 447-74.

agenda reduced to its lowest common denominator, with China or the United States having veto on any regional agreement. Where opportunities exist for countries to do a deal to their mutual benefit, they should grasp those opportunities. If other countries are unable or unwilling to make the concessions and domestic adjustments needed, bad luck. The TPP might well be imperfect, but its success or failure should depend on the balance of costs and benefits it delivers, rather than on the perceived affront its existence gives China.

Of course, in a perfect world we'd have a single coordinated approach which took the most efficient path to freer trade. But for the moment at least, there's no agreement on what that path is. All member states have to work with what we've got.

Apparently the Gillard government agrees, having signed up to both the RCEP and the TPP. Now comes the hard part. The low-lying fruit of freer trade have long ago been harvested—which is why trade negotiations seem to take indeterminably long to conclude. Much of what remains will require countries to open up in sectors where the adjustments will be painful and politically difficult.

At least with two proposals under negotiation we have twice the opportunity to make a deal to our benefit. And who's to say?—perhaps the competition between the two proposals will encourage countries to open their markets more than they would otherwise. Let's hope that's the case.

## **VI. TAIWAN'S ECONOMIC STRATEGIES IN THE REGIONAL INTEGRATION BETWEEN ASIA-PACIFIC AND EAST ASIA**

Taiwan's engagement with East Asia's micro-level regionalization is deep, and its economic integration with mainland China is well developed (particularly in the past 2 years). This has posed various economic security predicaments for Taiwan's policymakers. While deepening Cross-Strait economic ties have permitted Taiwanese businesses to remain internationally competitive, it has also made Taiwan increasingly dependent on a singular and "diplomatically. Both the RCEP and TPP regional frameworks have to date proved disappointing as mechanisms for collective action in dealing with the current global financial crisis. Despite these failings, it remains in Taiwan's longer term strategic interests to seek APT and EAS membership, not because of any current imperatives but rather because of how these regional frameworks and their agendas are likely to evolve in the future.

Notwithstanding the scope for transnationalized Taiwanese firms to mitigate and mediate the trade diversion effects of FTAs signed by other countries in the region, Taiwan's business associations have long pressed the government to enter into an agreement with China that could unblock the diplomatic constraints facing Taiwan's FTA policy generally, as well as provide a competitive fillip to the island economy. The Ma Ying-jeou administration started talks with Beijing on an FTA styled Economic Cooperation Framework Agreement (ECFA) has thus been welcomed by the business community but viewed with great caution by the opposition party DPP, labor groups, the farming lobby, and many social welfare organizations on account of the potential threats such an opening up to China this may pose to Taiwan's society. ECFA has been signed in June 2010, it would significantly change the calculus of Taiwan's position in East Asia's regional political economy, albeit it in mostly unpredictable ways. It primarily depends on what kind of ECFA, and whether this would be a precursor to other subsequent developments in Taiwan's bilateral and regional economic diplomacy.

## **CONCLUSION**

Taiwan's omission from RCEP is more a concern for Taiwan than its omission from EAS. This is not just because RCEP has developed a much stronger diplomatic apparatus for regional co-operation but also because it is the more likely to be the vehicle for advancing East Asia's future regional integration owing to two fundamental factors: (i) the RCEP group possesses a much stronger degree of regional economic coherence than the EAS group, and thus a firmer basis of existing regionalized linkages on which to build deeper integration; (ii) regional groups with smaller memberships tend to have a smaller range of national interests to reconcile, and are therefore able to secure a basis for collective action on regional integration, which requires deeper policy-related commitments than regional co-operation.

In sum, Taiwan's marginalization regarding the expansion of FTA activity among East Asian and Asia-Pacific states has been of greater concern for Taipei than its non-participation in both China-led & the US-led regional financial schemes. Either RCEP or TPP which Taiwan may adopt under the currently competitive circumstances, Taiwan would not take sides and hope to join the RCEP or TPP any FTA approach.

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# **ASEAN-INDIA TRADE: AN ASSESSMENT OF NON-TARIFF MEASURES**

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## **Abstract**

ASEAN-India Free Trade Agreement, signed in 2009 and in effect since January 2010, has facilitated successive reduction in tariffs on trade in goods. But significant amount of trade costs are in the form of non-tariff barriers (NTMs), which is one of the major problems hindering the bilateral trade from realizing its potential. The economic integration deepens based on the expansion of coverage, both in terms of policies and institutions necessary for managing harmonized policies (Mikic, M., 2011). In the ASEAN-India context the coverage of non-tariff/trade facilitation measures are “fairly general”. The provisions are said to be “broadly formulated and aspirational and do not commit parties to undertake concrete action or to achieve specific targets or goals” (Wong, M. H. and Pellan, M. I., 2012).

Given the absence of studies addressing NTMs in the ASEAN-India context, this paper conducts a qualitative analysis of the nature and extent of the NTBs to ASEAN-India trade. The analysis uses secondary data such as academic literature, reports by government and international institutions, business surveys and sources descriptive data from UNESCAP – World Bank Trade Costs Database, Global Trade Alert Database among others. The limitations of the study include inadequate empirical evidence and incomplete data to data in support of the arguments.

**Keywords:** Asean-India trade, non-tariff barriers, trade costs

**JEL Classification:** F1, F13, F15

## 1. INTRODUCTION

ASEAN-India Free Trade Agreement (AIFTA), in effect since January 2010, has facilitated successive reduction in tariffs on goods trade between ASEAN members and India. The post-AIFTA (2010-2012) average annual trade growth rate is 24% whereas the pre-AIFTA (2007-2009) figure stood at 14%<sup>388</sup>. However, non-tariff measures (NTMs) continue to restrict trade and are attracting policy attention as reflected by the major concerns raised on both the sides, at policy level<sup>389</sup> and among business groups<sup>390</sup>.

NTMs, due to their changing nature over the years, are gaining significance. Unlike in the past, tackling the NTMs is relatively complex and challenging due to the observed trend of growing relative importance NTMs as means to achieve public policy objectives than to protect domestic producers<sup>391</sup>. As economies grow and incomes increase, public policy concerns expand. As a result, NTMs, unlike tariffs, are becoming more relevant<sup>392</sup> and are drawing policy attention at the multilateral, regional and national levels.

From an economic perspective, in 2010, comprehensive trade costs(CFCs)<sup>393</sup> excluding tariff costs<sup>394</sup> of trading goods between ASEAN-6 and India, on average, involved additional costs of approximately 83% of the value of goods as compared to when they traded within their borders. This is consistent with Duval and Utoktham (2010) finding that tariffs only account for a tiny portion of overall trade costs. Similarly, in 2011, comprehensive trade costs excluding tariff costs of trading in manufactured goods, on average, involved additional costs of approximately 83.2% of the value of goods traded bilaterally. In case of trading in agricultural goods the figure stood 74.6%. These costs are significantly higher compared to those involved between ASEAN and rest of the ASEAN-6 members.

From a policy perspective, taking note of the frequent<sup>395</sup> references made and concerns raised by ASEAN members and India about the non-tariff barriers, the need to devise strategies to tackle the non-tariff measures

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<sup>388</sup> ARIC Database, ADB

<sup>389</sup> "Malaysia says non-tariff barriers hinder Asean-India trade tie"s, The Hindu Business Line, August 31, 2014

<sup>390</sup> Non-tariff barriers in Asean making Indian products uncompetitive: FICCI, The Economic Times, 25 September, 2011

<sup>391</sup> World Trade Report (WTR), 2012, page 3

<sup>392</sup> Ibid.

<sup>393</sup> CFCs refer to all costs involved in trading goods internationally with another partner (i.e. bilaterally)

relative to those involved in trading goods domestically (i.e., intranationally)

<sup>394</sup> CFCs excluding tariffs encompasses all additional costs other than tariff costs involved in trading goods bilaterally rather than domestically

<sup>395</sup> An observation made out of the newspaper reports

is important. With the ASEAN-India FTA in place, further coverage of non-tariff aspects would deepen the economic integration.

Are all non-tariff measures trade restrictive? Not always. Motives behind interventions of non-tariff by governments differ. When aimed at increasing national welfare, trade effects are unintended consequences. When motivated by political economy goals, interest groups are favored and trade is affected at the expense of national welfare. Motives also depend on the intended distributional consequences – whether they benefit consumers or producers (WTR, 2012). However, these motives are less/non-transparent<sup>396</sup> due to information asymmetry<sup>397</sup> between the economic agents. Given the complexity of the measures, tackling them is a challenging task coupled with the differing economic structures of ASEAN countries and India. With the shift from “protection to precaution”<sup>398</sup> distinctions are to be drawn between those non-tariff measures that can be ‘removed’ and those that need to be ‘managed’ in a way that public policy objectives are met without compromising the trade benefits.

It is in this context, the paper discusses the nature and extent of non-tariff measures in Asean-India trade. Also, it puts together the current policy debates and future perspectives on tackling the non-tariff measures. Qualitative methods such as contextual data, drawn from academic literature, reports by government and international institutions and business surveys, national and international databases and expert opinion obtained through interviews are used.

This paper is structured as follows. Section 2 gives an overview of the existing literature on non-tariff measures. Section 3 provides the current status of ASEAN-India trade and non-tariff measures followed a brief note on methodology in Section 4. Section 5 explains the findings under different observed themes. Section 6 suggests policy recommendations and the Section 6 concludes the paper.

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<sup>396</sup> It is not necessary that aggregate welfare should increase with enhanced transparency, refer World Trade Report, 2012, pp. 51-52

<sup>397</sup> A situation where policy makers and relevant economic agents do not have the same information (Geraats, 2002), retrieved from WTR 2012

<sup>398</sup> World Trade Report 2012

## **2. COMPLEXITIES AND EVOLVING NATURE OF NON-TARIFF MEASURE: A CLOSER LOOK**

According to WTR 2012 NTMs refer to “policy measures, other than tariffs, that can potentially affect trade in goods.” UNCTAD defines NTMs as “policy measures, other than ordinary customs tariffs, that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both.”

NTMs lead to different types of economic effects categorized as follows. Firstly, cost raising effect called as “protection effect”, secondly, supply-shifting effects which arise when regulations are used to tackle externalities affecting international goods, for example restricting products that adversely affect health and thirdly, demand-shifting effects to address specific market failures, for example provision of certain compulsory information to consumers (Fugazza, M., Maur, J.C., 2008).

According to the World Trade Report (2012), the motives for government non-tariff measure interventions can be three fold. First, to increase national welfare, the interventions aim to correct market failures and to exploit a country’s or a firm’s market power. The former have trade effects that are unintended consequences of the policy and the latter come at the expense of the one’s trade partners (beggar-thy-neighbor practices). Second, to meet the “politically economy goals” where special interest groups/organized producer groups, civil society, non-governmental organizations exert pressure on politicians on concerns of public interest like health, safety, environment. Here the NTMs can be distinguished as those motivated by public policy objectives and those motivated by competitiveness concerns. There are instances where the two motivations overlap. Third, motivations can depend on the intended distributional effects, that is, whether they benefit consumers of producers.

One of the challenges dealing with NTMs is their distinction from non-tariff barriers. UNCTAD MAST<sup>399</sup> concluded that drawing distinction between NTMs and non-tariff barriers (NTBs) is futile and should be left open<sup>400</sup> as it depends on the motives behind such interventions<sup>401</sup> which are less/non-transparent.

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<sup>399</sup> UNCTAD established the Group of Eminent Persons on Non-Tariff Measures (GNTM). The main purpose of GNTM is to discuss the definition, classification, collection and quantification of non-tariff measures so as to identify data requirements, and consequently to facilitate our understanding of the implications of NTMs. To carry out the technical work of the GNTM, a Multi-Agency Support Team (MAST) was also set up by the GNTM.

<sup>400</sup> History of NTMs, UNCTAD Website

<sup>401</sup> World Trade Report, 2012

Studies on NTMs, particularly the empirical studies have attempted to quantify the effects of NTMs on trade. But the observed limitations include lack of data availability (UNCTAD), incomplete data (Korinek et. al. 2008), crude methods such as frequency ratio or coverage ratio that fail to account for the measures' stiffness<sup>402</sup>. Ferrantino, M. (2006) assesses the existing methods of their measurement. He also answers a set of questions revealing the pros and cons of the available methods. Fugazza, M., Maur, J.C. (2008) focus on assessment of the various treatments of NTBs in CGE models, specifically global trade analysis project (GTAP) standard model by way of discussions, questioning and analysis. Their findings and analysis are very handy for they point out various precautions in estimating and interpreting the results in a CGE context. Dean, J. M. et al (2006) develops a simple differentiated product model of retail prices to specify the direct relationship between NTBs and prices. Using the model, a price gap specification is derived and estimated using retail price data for about 115 cities and 47 consumer products from the EIU City Data for 2001. As a result, both cross-country averages and country-specific estimates of the effects of NTBs, specifically for 4 product groups – fruits and vegetables, bovine meats, processed food and apparel, for more than 60 countries are obtained. The two contributions are estimation of price effects directly for many countries and explicit data in incidence of NTMs drawn from two complementary databases of UNCTAD TRAINS and USITC.

Andriamananjana, S. et al (2004), in a CGE context estimate the global economic effects of eliminating significant categories of NTMs. First, they build a database of instances of NTMs for particular products and countries based on WTO, US govt. and EU sources and compared it with that of UNCTAD. Then the database is concorded to a GTAP-feasible multi-region, multi-sector aggregation. Retail price data from the EIU CityData database is similarly concorded and are, by taking into account systematic deviations, analysed to determine whether and to what extent the presence of NTMs is associated with significantly higher price. The price effects thus obtained are used to simulate to estimate the trade and welfare effects of their removal. The results yield global gains of \$90 billion. These gains are said to arise from liberalization by Japan and EU by region and from liberalization of apparel and machinery equipment by sector. Andriamananjara, S., M. Ferrantino and M. Tsigas (2003) introduce a set of new estimates of NTB price-gaps in a standard simulation model and study economic effects of their elimination. Product groups/sectors considered are footwear, wearing apparel and processed foods using three different techniques – tariff equivalent, export tax and sand-in-the-wheels. For all the groups, NTB

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<sup>402</sup> A Practical Guide to Trade Policy Analysis, WOT, page 76

liberalization results in a large increase in world trade and an improved global welfare. Most of the gains from the elimination of NTBs accrue to the liberalizing regions.

Some studies have shown positive impact of specific NTMs. Jeffee and Hensen (2004) found Kenyan fresh products exporters having improved their EU market access as a result of meeting the EU requirements. Masakure et al. (2009) showed how Pakistan's textiles, leather and agro-food exporters benefited from IS9000 certification. Devadason, E. (2011) using augmented gravity model finds no evidence of adverse impacts of NTMs on intra-ASEAN exports, suggesting NTMs promote intra-regional exports, irrespective of broad commodity types.

Academic literature in the directly addressing the NTMs in the context of ASEAN-India trade are lacking. Saqib, M. and Taneja, N. (2005) conduct a case study on non-tariff barriers faced by Indian exports to Sri Lanka and ASEAN. They find that the incidence of NTMs imposed by Srilanka and ASEAN has increased during 1997-98 to 2002-2003. The study provides some basic insights of a period when trade between ASEAN and India was minimal. But the study consists of limitations such as inconsistent data and sampling problems in exporter survey. UNCTAD business survey (2007) on NTMs from selected countries including India does provide important insights and evidence for India, Thailand and Philippines.

Keeping in perspective the recent trends and patterns of trade growth and the current pace of economic integration between ASEAN and India, NTMs are a potential research area. In this backdrop, this paper does stock taking of nature and evolving trends of NTMs, current policy debates and concerns, future perspectives on tackling the NTMs by using secondary sources and descriptive statistics.

### **3. ASEAN-INDIA TRADE AND NON-TARIFF MEASURES: CURRENT STATUS**

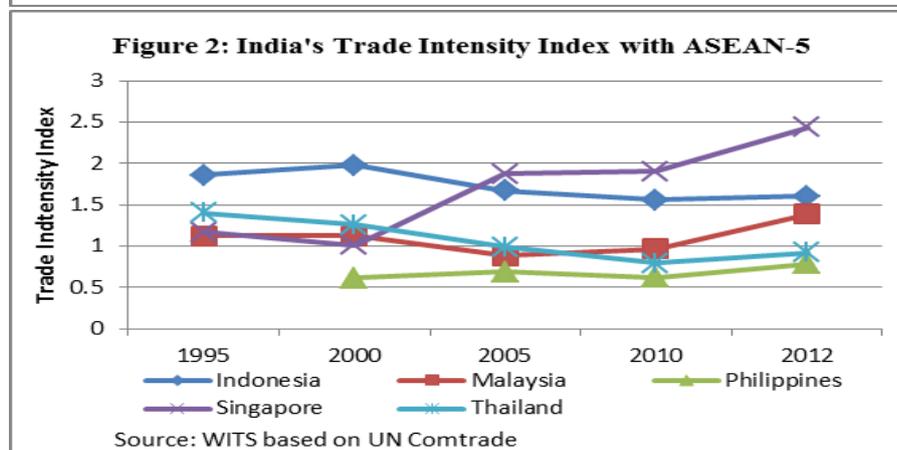
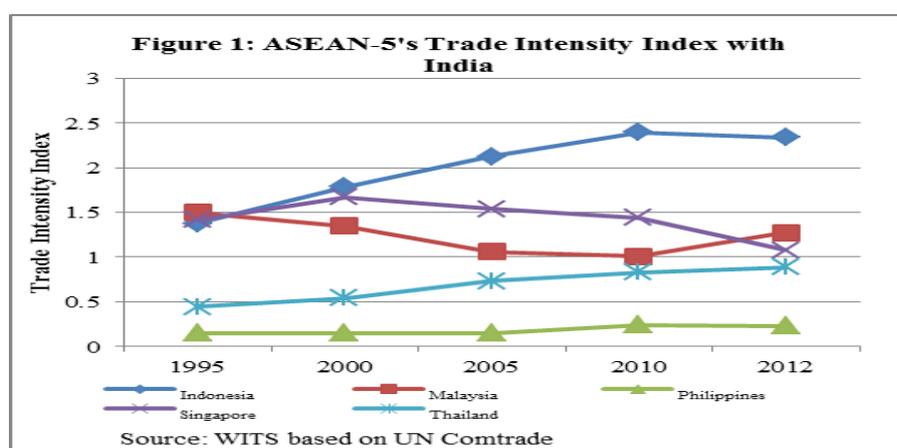
#### **3.1 Rising Trade**

Two decade (2002-2012) long ASEAN-India partnership has gradually evolved along the changing political situation and the structure of their economies. Prior to 1990, ASEAN's pro-western stand and India's ties with the USSR were conflicting<sup>403</sup>. Trade flows didn't flourish as most of the South Asian countries in general and India in particular restricted their imports due to shortage of foreign exchange. ASEAN, which was a club of elites avoided deeper

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<sup>403</sup> Refer Saksena K. P. (1986), pp. 173-174

engagement with poor neighbors<sup>404</sup>. These factors collectively hindered the cooperation between ASEAN and India. However, during the early 1990s, the partnership received institutional stimulus as ASEAN and India actively sought mutual cooperation driven by the growing importance of ASEAN in the region, initiation of market reforms in India and the adoption of Look East Policy. Consequently, trade flow increased manifold. Since the signing of ASEAN-India FTA in 2009 (in effect since 2010) the trend has been encouraging, the recent ASEAN-India Eminent Person's Report to the leaders carries a recommendation to declare a bilateral trade target of US\$ 200 billion by 2022 under the ASEAN-India Free Trade Area<sup>405</sup>.



As shown in Figure 1, during 1995 to 2012, the trade intensity index (TII), which tells whether or not a region exports more to a given destination than the world does on average<sup>10</sup>, of ASEAN with India had registered a positive growth in case of Indonesia, Thailand and to some extent the Philippines, whereas in case of Singapore and Malaysia it is

<sup>404</sup> Ibid.

<sup>405</sup> ASEAN-India Eminent Person's Report to the Leaders, Jakarta: ASEAN Secretariat, October, 2012

negative except between 1995 and 2000 for Singapore and between 2010 and 2012 for Malaysia registering an improvement.

TII of India with ASEAN (see Figure 2) differs, in that, though the index is positive initially, since 2000 for Indonesia and Malaysia it decreases only to improve again from 2010. For Thailand the trend has been negative since 1995 but an improvement is seen in last two years. For Philippines the trend has been positive though slow and uneven. The TII for Singapore has been significantly positive indicating it to the largest ASEAN trading partner of India.

### 3.2 Non-Tariff Measures in ASEAN-India Free Trade Agreement – An Overview

The ASEAN-India Free Trade Agreement (FTA) in goods signed in 2009 and in effect since January 2010 covers limited non-tariff aspects (see Table 1). Deeper integration takes place with the expansion of coverage of policies. Substantial reduction or elimination of import tariffs will not automatically result in reaching the trade potential unless the NTMs or “behind the border measures” that are becoming significant are addressed (Dhar, B. 2012).

Table 1: Provisions of ASEAN-India Free Trade Agreement

TARIFFS	
Article 4; Annex1; 1 (b): Early Harvest: eliminate tariffs from 2004 to 2010. Negative list: Tariff elimination from Jan 2010. 5 categories: Normal track 1 (December 2013 or 2018), normal track 2 (December 2016,2019 or 2021), Sensitive track (reduction to 5% 2016, 2019 or 2021), Special Products (partial reduction of tariffs by 2019), Highly Sensitive Products (reduce tariff to 50%, by 50% or by 25% by 2019, 2022 and 2024). Some exclusions - annual review.	
Rules of Origin Article 7; Annex 2; Rule 4 Local value added: 35% and, CTSH	
Contingency Measures Anti - Dumping : Not mentioned Countervailing Duties : Not mentioned Safeguards : Article 10: As per WTO and, Transitional Safeguard	
Standards : Article 8: SPS and TBT: As per WTO	
SERVICES	
Parties agree to enter the negotiations under the Framework Agreement	
INVESTMENT	
Parties agree to enter the negotiations under the Framework Agreement	
TRADE FACILITATION	
Customs procedures	Yes, Article 14
Customs valuation	No
Trade regulations publication and administration	No

Use of ICT	No
Mobility of business people	No
Freedom of transit	No
Transport and logistics	No
Trade finance	No
Customs procedures	Yes, Article 14
OTHER AREAS	
Government Procurement	No
Investment	No
Competition Policy	No
Intellectual Property	No
Dispute Settlement	Yes, Article 4
Labor Mobility	No
Labor and Environmental Standards	No
Technical cooperation	No, Article 6: Framework Agreement
RULES OF ORIGIN	
Cumulation	Article 7; Annex 2; Rule 4: Partial
Specific Process	Article 7; Annex 2; Rule 6; Appendix B; Product Specific Rules
Heading Change	Not mentioned
De Minimis	Not mentioned

Source: Asia-Pacific Trade and Investment Database (APTIAD)

#### 4. METHODOLOGY

The paper adopts qualitative methods using secondary data – academic literature, reports by governments and international institutions, business surveys and interviews seeking expert opinion.

As a case study on India-Thailand trade, an interview (through email) questionnaire was designed to obtain an overview of current policy aspects through a limited number of experts, particularly drawn from policy making bodies and academic institutions. The questionnaire, consisting five questions, were sent to the interviewees following each of their confirmation to be interviewed through telephone. A few of the interviewees were interviewed in person.

Data used are drawn from Asia-Pacific Trade and Investment Agreement Database (APTIAD), UNCTAD Business Survey reports, ESCAP-World Bank Trade Costs Database, Global Trade Alert Database. The first two are unilateral databases and the last two are bilateral, interpretations of which require caution.

#### 5. FINDINGS

The findings of the study are explained below under specific themes.

## 5.1 The nature and extent of non-tariff measures in the context of India-ASEAN trade

During 2005-2011, comprehensive trade costs (CFCs)<sup>406</sup>excluding tariff costs involved in trade between India and individual ASEAN members are relatively high (when compared to China) and differ significantly (see Figure). The bilateral CFCs excluding tariff costs are relatively lower in case of Thailand, Indonesia, Malaysia and Singapore. The reasons could be geographical proximity, historical commercial ties, higher volume of trade, especially Singapore being one of India's top trading partners. In case of Vietnam the costs have fallen rapidly, whereas with Laos, Cambodia, Philippines are higher.

Among the major non-tariff barriers to trade reported by ASEAN member countries against India include red tape, old rules and redundant regulations<sup>407</sup>, consistent poor ranking in ease of doing business<sup>408</sup>.

Referring to non-tariff barriers reported by India against ASEAN members, Federation of India Chamber of Commerce and Industry (FICCI) Survey (2011) on impact of ASEAN-India FTA on Indian industry, cumbersome registration process of pharmaceutical products and complex custom clearance procedures were said to be making Indian products uncompetitive in the South East Asian countries<sup>409</sup>. In its latest Survey (2013) FICCI finds the impediments to India's business in ASEAN countries. Table 2 below reflects on varying requirements in each member countries of ASEAN and the sectors affected by specific requirements.

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<sup>406</sup> CFCs defined as all costs involved in trading goods internationally/bilaterally relative to those involved in trading goods domestically, User Note, ESCAP-World Bank trade costs database

<sup>407</sup> "Malaysia says non-tariff barriers hinder Asean-India trade ties", The Hindu Business Line, August 31, 2014

<sup>408</sup> Doing Business Report Rankings

<sup>409</sup> Impact of ASEAN-India Free Trade Agreement on Indian Industry, A FICCI Survey, 2011

Table 2: Impediments to India's Business in ASEAN Countries

<b>Indicators</b>	<b>Sectors Affected</b>	<b>Country</b>
<b>A. INITIATING BUSINESS</b>		
Specific quota for your sector	Pharmaceutical, Automotive	Thailand
Bureaucratic hurdles and red-tapism	Plastic	Philippines, Thailand
Licensing process	Plastic, Pharmaceutical, Banking, Insurance and Financial services	Thailand, Malaysia
Registration process	Pharmaceutical, Chemical Product	Malaysia
Technical standards/Qualification norms	Automotive	
Labor norms (Work Visas, Work Permit etc.)	Consulting, Infrastructure and Construction, Textile, Apparel and Accessories, Banking, Insurance and Financial Services	Thailand, Vietnam, Indonesia
Environmental Clearances	Automotive	Malaysia
<b>B. FINANCE AND TAX REGIME ISSUES</b>		
Banking Infrastructure for Letter of Credit	Chemicals	Myanmar, Cambodia
Movement of funds to and fro India	Consulting, Infrastructure and Construction, Automotive, Chemicals	Myanmar, Cambodia
Local Taxes, Double Taxation	Plastic	Thailand, Philippines
<b>C. REGULATORY ENVIRONMENT ISSUES</b>		
Transparency in Policies and Regulations	Automotive, Plastic	Philippines
Enforcing contracts/Agreements – Legal Infrastructure	Others	Indonesia, Philippines, Cambodia, Lao, Myanmar, Vietnam
Local Value Addition Norms	Pharmaceutical	
Rules of Origin	Pharmaceutical, Automotive, Chemical Product	Malaysia, Singapore, Philippines, Vietnam, Thailand
<b>D. SALES/EXPORTS AND IMPORT DISTRIBUTION ISSUES</b>		
Customs Rules and Practices	Healthcare, Plastic, Agriculture Products, Others	Myanmar, Indonesia, Vietnam

Import Duties	Pharmaceutical	Malaysia, Singapore, Thailand, Philippines, Vietnam
Connectivity (Land/Air/Sea)	Chemicals, Textile, Apparel and Accessories, Automotive, Plastic	Philippines, Indonesia, Cambodia, Vietnam, Myanmar
Logistics Cost	Automotive, Chemicals, Mining and Minerals	Myanmar, Indonesia, Vietnam
Packaging Norms	Pharmaceutical	Myanmar, Vietnam

Sources: Business Beyond Barriers, FICCI Survey, October, 2013

## 5.2 Sanitary and Phyto Sanitary (SPS) and Technical Barriers to Trade (TBT) Measures

Consistent with the argument that as economies grow and incomes increase, public policies expand (Mikic, M., 2011), economic growth and development and advancement in technology has resulted in increased consumer demand for the safety and standards goods. This has led to rise in SPS/TBT measures and are the most frequently observed NTMs (WTR, 2012).

UNCTAD Business Survey (2007) of selected developing countries including India, Thailand, Philippines, and the results were consisted with the preceding observation. Referring to India's business survey findings, in the case of exporting companies, the most prevalent NTMs faced were TBT measures, SPS measures, finance measures and other technical measures respectively. In case of importing companies, TBT measures, affecting imports of gems and jewellery, metal and textiles, followed by SPS, affecting imports of food and medical equipment, and para-tariff measures, affecting furniture and engineering equipment, were the most frequently applied NTMs in India. Other NTMs included finance measures, other technical measures and export-related measures. It was also reported were arbitrary implementation in most TBT policies, and outright obstruction in the case of SPS measures.

Among others, products sourced from Myanmar and Malaysia reported SPS measures, products of Thailand reported TBT ruff measures. Products imported from the Thailand and Indonesia, among others, was reported to have faced para-tariff measures. ASEAN members affected by procedural obstacles were Thailand, Myanmar and Singapore and those affected by inefficiency included Myanmar. Product wise, a large number of SPS requirements and TBT

measures were reported on medical equipment, rice and precious stones respectively.

SPS/TBT measures, though have positive implications to advanced economies, do affect developing countries. The majority of importers that reported SPS/TBT requirements indicated that it was financially not feasible for them to comply with the SPS/TBT norms.

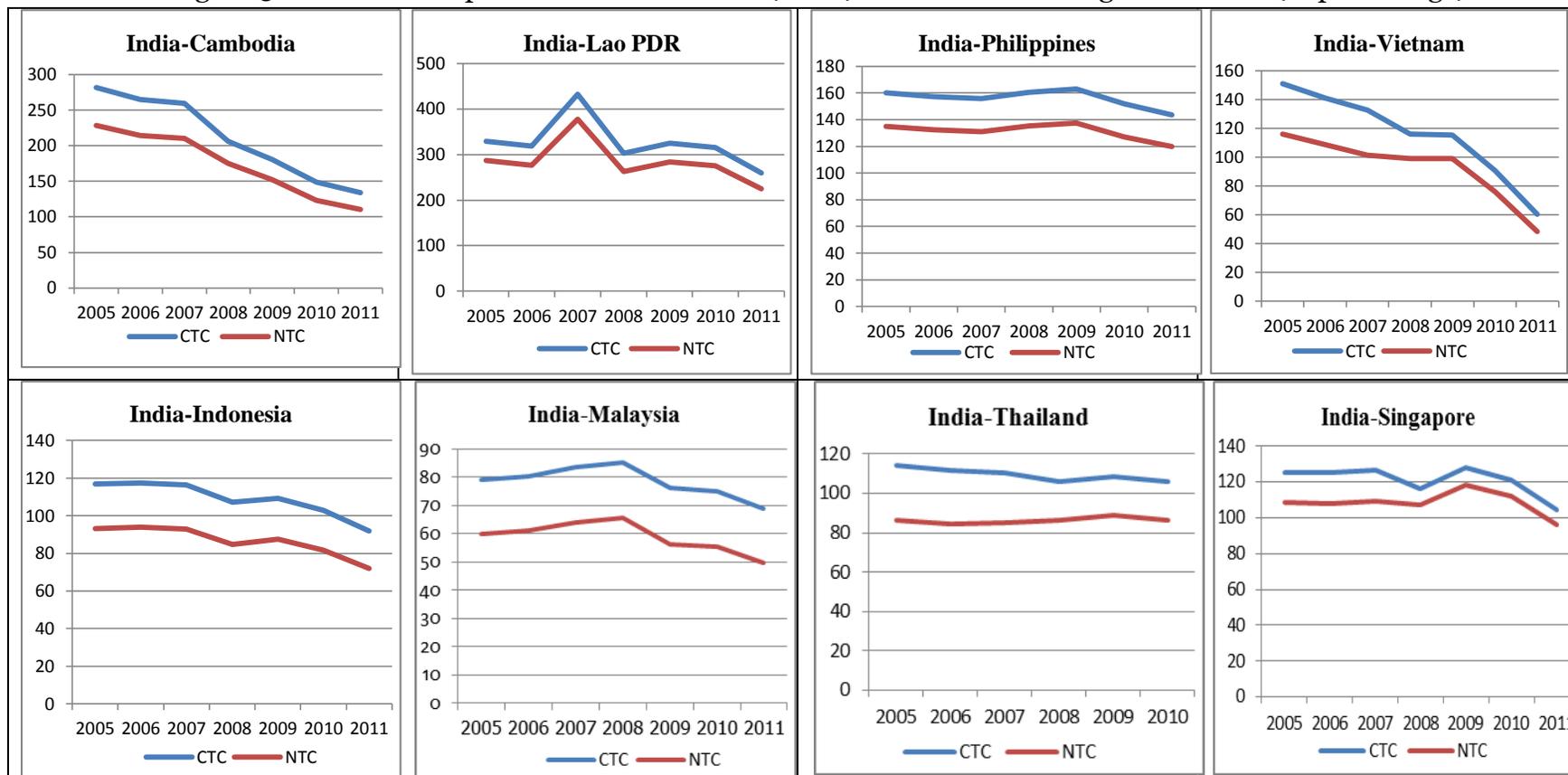
### 5.3 How did non-tariff measures evolve during the financial crisis?

One of the prominent dimensions in which usage of NTMs has evolved is financial crisis management. As a result of multilateral, regional, bilateral and unilateral trade initiations reducing tariffs on trade, tariffs are no longer appeal as a means of protection. According to World Trade Report 2012, NTMs seem to have risen in the mid-1980s, but between 2000 and 2008 they remained flat and rose again after the financial crisis. In order to bailout the crumbling financial institutions advanced countries provide subsidies, special loans and guarantees, funds conditioned on lending towards the home market, subsidies conditional upon purchase of domestically products and so on. NTMs which are less transparent compared to tariffs encourage the governments to go for such measures. These measures carry the threat of “beggar-thy-neighbors<sup>410</sup>”.

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<sup>410</sup> It is a situation where trade-restrictive measures taken by one country can trigger similar actions by other countries, leading to a spiral of ever more threatening restrictions, World Trade Report 2011.

Figure 3: Bilateral Comprehensive Trade Costs (CFCs) and CFCs excluding Tariff Costs (in percentage)



Note 1: CTC – Comprehensive Trade Costs, NTC: Non-Tariff Costs (CTC excluding Tariff Costs)

Note 2: CTCs and NTCs are bilateral, costs associated with importing and exporting good between two countries i and j.

Note 3: Data for Brunei and Lao PDR are incomplete for the period 2005-2011

Source: UNESCAP-World Bank Trade Costs Database

Note

Source:

**Table 3: State Measures<sup>411</sup> Taken during the Current Economic Downturn**

Number of harmful measures (red <sup>412</sup> and amber <sup>413</sup> ) implemented, by type	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	India
Bail out / state aid measure	0	1	4	0	0	0	0	0	1	4	17
Competitive devaluation	0	0	0	0	0	0	0	0	0	1	0
Consumption subsidy	0	0	0	0	0	0	0	0	0	0	0
Export subsidy	0	0	1	0	2	0	0	0	1	1	23
Export taxes or restriction	0	0	15	0	1	2	0	0	2	9	15
Import ban	0	0	8	0	1	0	1	0	0	0	6
Import subsidy	0	0	1	0	1	0	0	0	1	0	1
Intellectual property protection	0	0	0	0	0	0	0	0	0	0	0
Investment measure	0	0	6	0	4	1	1	2	2	3	10
Local content requirement	0	0	3	0	4	0	0	0	0	0	88

<sup>411</sup> Caution need to be exercised while interpreting data as the state measures include – bail out/state aid measure, competitive devaluation, consumption subsidy, export subsidy, export taxes or restriction, import ban, import subsidy, intellectual property protection, investment measure, local content requirement, migration measure, non-tariff barrier (not otherwise specified), other service sector measure, public procurement, quota (including tariff rate quota), SPSs, state trading enterprise, state controlled company, subnational government measure, tariff measure, TBTs, trade defense measures (AD, CVD, safeguard) and trade finance among others. However, tariff measures as a percentage of all the state measures used is very low.

<sup>412</sup> According to Global Trade Alert database, the “red” refers to the measure that has been implemented and almost certainly discriminates against foreign commercial interests.

<sup>413</sup> The “amber” refers to the measure that has been implemented and may involve discrimination against foreign commercial interests; or the measures that have been announced or is under consideration and would almost certainly involve discrimination against foreign commercial interests.

Migration measure	0	0	1	0	2	0	0	12	0	5	3
Non tariff barrier (not otherwise specified)	0	0	12	0	4	0	0	0	2	3	9
Other service sector measure	0	0	3	0	1	0	0	0	1	0	0
Public procurement	0	0	4	0	0	0	0	0	1	1	6
Quota (including tariff rate quotas)	0	0	4	0	0	0	0	0	0	1	2
Sanitary and Phytosanitary Measure	0	0	2	0	0	0	0	0	0	0	0
State trading enterprise	0	0	0	0	0	0	0	0	0	0	0
State-controlled company	0	0	1	0	0	0	0	0	0	0	1
Sub-national government measure	0	0	0	0	0	0	0	0	0	0	0
Tariff measure	0	0	9	0	3	0	1	2	1	24	33
Technical Barrier to Trade	0	0	3	0	0	0	0	0	0	0	0
Trade defence measure (AD, CVD, safeguard)	0	0	15	0	7	0	4	0	11	0	127
Trade finance	0	0	1	0	2	0	0	0	0	2	84
Total	0	1	81	0	18	3	5	16	18	50	321

Source: Global Trade Alert Database, data extracted on 16 September 2014

With reference to ASEAN and India, a number of NTMs were imposed during the recent financial crisis affecting each other's trade (see Table 4). India's usage of NTMs as cover during the downturn is significantly higher than the ASEAN countries.

Table 4: ASEAN and India's Mutually Affecting State Measures

ASEAN jurisdiction's commercial interests affected by India's state measures		ASEAN jurisdictions implementing state measures affecting India's commercial interests	
Thailand	25	Thailand	01
Malaysia	18	Malaysia	03
Singapore	17	Singapore	02
Indonesia	15	Indonesia	16
Vietnam	10	Vietnam	09
Philippines	10	Thailand	01
Cambodia	07	Malaysia	03
Myanmar	06	Singapore	02
Brunei	01		

Source: Country-by-Country Reports, Global Trade Alert Report, 2012

Another indicator of usage of NTMs during crisis is the percentage of NTMs of the implemented state measures that harm foreign commercial interests. The figure for Indonesia is 91.49% and India is 82.72%<sup>414</sup>. During the crisis India, Indonesia and Vietnam have used NTMs extensively, the number of measures were 321, 81 and 50 respectively (see Table 3).

#### 5.4 Policy Perspectives

From the viewpoint of current developments in global trade in general and in those in the context of ASEAN-India economic integration, policy focus is shifting towards the 'reduction' and 'removal' of non-tariff barriers.

(Note: As the interviewees are yet to return the filled in questionnaires, the policy perspectives are yet to be collected and put together).

<sup>414</sup> Source: Global Trade Alert Report 2012. The data is not available for rest of the members.

## 6. FUTURE PERSPECTIVES AND STRATEGIES

Based on the findings, following are the future perspectives and strategies to tackle the non-tariff barriers: (i) Referring to the NTMs/impediments found by the FICCI Survey (2013) corrective steps such as simplified registration processes for chemicals and pharmaceutical products; relaxing restrictions on labor movements are to be taken; (ii) Adequate financing of ASEAN-India connectivity projects, monitoring and completion of on-going railways and road and port projects would cut down the transport costs and help to increase trade between India and Myanmar; (iii) ASEAN and India have been stressing on eliminating or complete removal of NTMs. But not all NTMs are removable. The policies aiming to tackle NTMs should recognize and draw distinction between the NTMs as those that are a) removable b) reducible and c) in need to of careful management. Such distinction would help to see through the complexity of NTMs and deal with them using separate strategies (iv) To promote trade facilitation, expansion of coverage of areas of transparency of laws, regulations, administrative rulings, use of ICT and e-commerce<sup>415</sup> are to be taken up in terms of policies and institutions; (v) Less/non-transparent nature of NTMs lead to excessive trade distortion. Instituting a mechanism to identify motives behind the NTMs will reduce the trade distortion and avoid situations like “beggar-thy-neighbors” during economic downturn.

## 7. CONCLUSION

The significance gained by NTMs in the 21<sup>st</sup> century as more of public policy instruments than that of protection adds to their complexity. This has increased the need to understand and tackle them carefully for the impact they are capable of having on trade flows. After signing the ASEAN-India FTA, the two decade long ASEAN and India economic partnership is set to deepen integration for a shared prosperity. The policy attention is shifting towards NTMs indicated by the increasing concerns raised by both the sides.

In the absence of adequate academic literature, the paper discusses the nature and extent of NTMs in ASEAN-India trade, current status and future perspectives on dealing with NTMs in the backdrop of evolving nature and growing importance of them in the international trade. The paper uses secondary sources and descriptive statistics to arrive at following findings. First, consistent with the general trend, NTMs account for a major portion of bilateral trade costs. Second, with the economic growth and rising incomes the ASEAN and India do use and deal with the challenges of SPS/TBT measures. Third, at the policy level and among business groups

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<sup>415</sup> These provisions are not covered under the ASEAN-India Free Trade Area, Wong, M and Pellan, M. (2011)

focus is shifting on NTMs. Fourth, India and ASEAN, following the trend have used NTMs to cover from economic downturn, mutually affecting each other.

To manage the challenges offered by NTMs both the sides should devise strategies to deepen economic integration by expansion of coverage of non-tariff aspects and bridging the gaps in trade facilitation, infrastructure. Lastly, by facilitating identification of motives behind NTMs, the two sides can reduce the excessive trade distortions. Deeper economic engagements between ASEAN and India are possible by complementing the ASEAN-India FTA with removal, reduction and managing NTMs effectively.

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## APPENDIX

*Interview Questionnaire*  
ASEAN-India Trade: An Assessment of Non-Tariff Measures

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**Why is the study being undertaken?**  
 A part of my PhD on the subject ASEAN-India Trade focuses on assessing Non-Tariff Measures. The assessment is carried on the basis of academic literature, business surveys, reports of government and international institutions and expert views. It is in case of latter your views are requested.

**What does the study aim to learn or determine?**  
 The study aims to assess the extent of non-tariff barriers faced by Thailand in the context of India-Thailand trade and to put together the current policy debates and future perspectives on managing the trade restrictive non-tariff measures.

Questions:

1. What are the major non-tariff measures restricting the India-Thailand trade?
  
2. The sector/products facing non-tariff measures that you think is important and needs to be addressed?
  
3. What steps are being negotiated/debated/discussed at the policy level?
  
4. What are your suggestions to tackle the trade restrictive non-tariff measures?
  
5. Please rate (fill the circle) the below specified types of non-tariff measures in the context of India-Thailand trade on a 0-5 scale.<sup>416</sup>

⓪ No measures, ① Very Low, ② Low, ③ Medium, ④ High, ⑤ Very High

Classification of Non-Tariff Measures			0-5 Scale
<b>Imports</b>	<b>Technical Measures</b>	Sanitary and phytosanitary measures (SPS)	⓪ ① ② ③ ④ ⑤
		Technical barriers to trade (TBT)	⓪ ① ② ③ ④ ⑤
		Pre-shipment inspection and other formalities	⓪ ① ② ③ ④ ⑤
		Contingent trade-protective measures	⓪ ① ② ③ ④ ⑤
		Non-automatic licensing, quotas, prohibitions and quantity control measures other than for SPS or TBT reasons	⓪ ① ② ③ ④ ⑤

<sup>416</sup> UNCTAD classification

	<b>Non-Technical Measures</b>	Price-control measures, including additional taxes and charges	① ① ② ③ ④ ⑤
		Finance measures	① ① ② ③ ④ ⑤
		Measures affecting competition	① ① ② ③ ④ ⑤
		Trade-related investment measures	① ① ② ③ ④ ⑤
		Distribution restrictions	① ① ② ③ ④ ⑤
		Restrictions on post-sales services	① ① ② ③ ④ ⑤
		Subsidies (excluding export subsidies under P7)	① ① ② ③ ④ ⑤
		Government procurement restrictions	① ① ② ③ ④ ⑤
		Intellectual property	① ① ② ③ ④ ⑤
		Rules of origin	① ① ② ③ ④ ⑤
	<b>Exports</b>	Export-related measures	① ① ② ③ ④ ⑤
		Others (please specify below)	① ① ② ③ ④ ⑤



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