

# Impact of the ASEAN Economic Community and implications for Latin America

Deborah Elms



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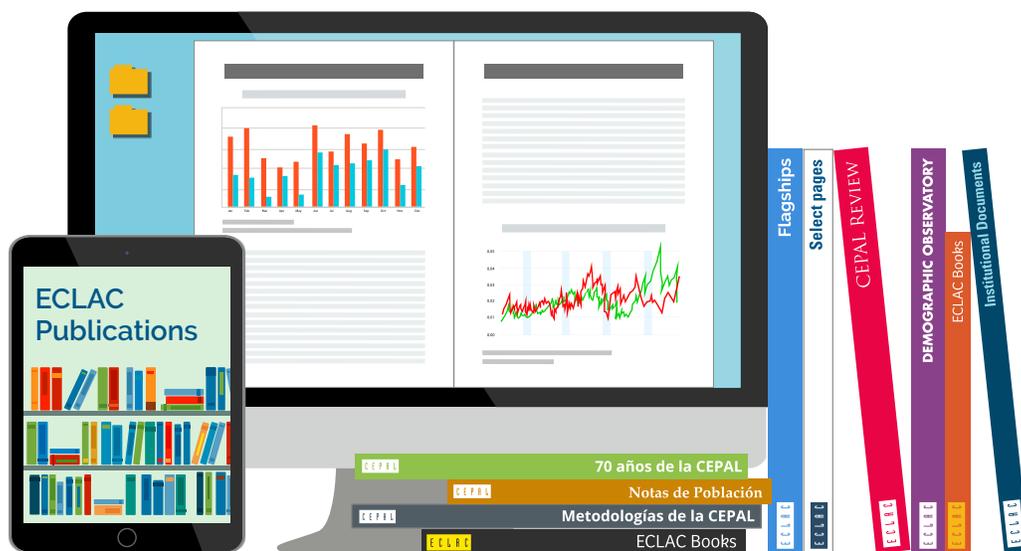
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# Impact of the ASEAN Economic Community and implications for Latin America

Deborah Elms



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## Contents

<b>Resumen ejecutivo</b> .....	7
<b>Executive summary</b> .....	13
<b>Abstract</b> .....	15
<b>Introduction</b> .....	17
<b>I. Overview of ASEAN</b> .....	19
A. ASEAN's history .....	19
B. ASEAN mandate and institutional structure .....	20
C. The ASEAN summit and key committees .....	21
D. ASEAN organizational structure .....	22
E. The "ASEAN way" .....	22
<b>II. Unpacking ASEAN's economic pillar</b> .....	25
A. Overview of the ASEAN economic integration project .....	25
B. From the AEC 2015 to the AEC 2025 blueprints .....	26
C. Evolution of ASEAN's trade with external partners .....	27
1. ASEAN+1 trade agreements .....	27
2. The regional comprehensive economic partnership (RCEP) .....	28
<b>III. Trade in goods</b> .....	29
A. Overview of the ATIGA .....	29
1. Elimination of tariffs .....	30
2. Rules of origin .....	31
3. Non-tariff measures (NTMs) .....	32
B. Goods coverage in other ASEAN agreements .....	33
1. Tariffs .....	33

2.	Rules and paperwork for goods trade .....	34
C.	Assessing ASEAN trade in goods.....	35
<b>IV.</b>	<b>Trade facilitation and non-tariff measures .....</b>	<b>41</b>
<b>V.</b>	<b>Assessment of key trade facilitation initiatives .....</b>	<b>43</b>
A.	ASEAN-single window (ASW) .....	43
B.	ASEAN trade repository .....	43
C.	Self-certification pilot projects .....	44
D.	Mutual recognition agreements (MRA) for goods.....	44
E.	Harmonizing standards, testing and regulations .....	45
F.	Elimination of non-tariff barriers .....	46
<b>VI.</b>	<b>Assessment of trade facilitation outcomes.....</b>	<b>47</b>
A.	Reducing non-tariff measures and eliminating non-tariff barriers.....	47
B.	Logistics and trade performance .....	48
<b>VII.</b>	<b>Trade in services .....</b>	<b>51</b>
A.	Services sectoral coverage .....	52
1.	Flexibilities in implementation of services commitments .....	53
B.	Mutual recognition arrangements (MRAs).....	53
C.	Movement of natural persons (MNP).....	54
D.	Reviewing trade in services in ASEAN .....	55
E.	Services coverage in other ASEAN agreements.....	57
<b>VII.</b>	<b>Investment .....</b>	<b>59</b>
A.	Overview of the ACIA.....	59
B.	Investment commitments in other ASEAN agreements .....	60
1.	Outcomes.....	61
<b>IX.</b>	<b>E-Commerce and digital trade .....</b>	<b>63</b>
<b>X.</b>	<b>Promotion of people-to-people mobility .....</b>	<b>65</b>
<b>XI.</b>	<b>Infrastructure and connectivity .....</b>	<b>67</b>
A.	Physical connectivity.....	67
<b>XII.</b>	<b>Overview of ASEAN practices in other areas .....</b>	<b>71</b>
A.	Government procurement.....	71
B.	Competition policy.....	74
C.	Dispute resolution.....	75
D.	Intellectual property.....	75
E.	Efforts to reduce development asymmetries between members.....	77
<b>XIII.</b>	<b>The path forward for ASEAN.....</b>	<b>79</b>
<b>XIV.</b>	<b>Implications for Latin America .....</b>	<b>81</b>
	<b>Bibliography .....</b>	<b>83</b>
<b>Tables</b>		
Table 1	Sensitive sectors in ASEAN.....	31
Table 2	Tariff coverage of ASEAN+1 agreements.....	33
Table 3	ASEAN ROOs in ASEAN+1 trade agreements.....	35
Table 4	Coverage ratios NTMs in ASEAN 2015 .....	48
Table 5	Investment commitments in ASEAN+1 agreements .....	61

Table 6	Restrictions on foreign investment in ASEAN member states.....	62
Table 7	Physical connectivity report 2016 .....	67
Table 8	Institutional connectivity report 2016 .....	68
Table 9	Barriers to achieving 2010 connectivity agenda for 15 prioritised projects in MPAC 2010.....	69
Table 10	Government procurement laws in AMS .....	72
Table 11	AMS national competition legislations .....	74
Table 12	Summary of ASEAN IP regulatory infrastructure .....	75
Table 13	IAI work plan phases I-III priorities .....	78

## Figures

Figure 1	Average preferential tariffs on intra-ASEAN trade (2005-2017).....	30
Figure 2	Intra ASEAN Exports, (2004 – 2018).....	36
Figure 3	Top 20 product categories in intra-ASEAN trade in goods (2018).....	36
Figure 4	Intra ASEAN trade as percentage of total trade (2004-2019) .....	37
Figure 5	Extra ASEAN Trade Exports and Imports (2004-2018) .....	37
Figure 6	ASEAN top trading partners (2018).....	38
Figure 7	ASEAN imports and exports for top 10 traded product categories, (2018).....	39
Figure 8	Total number of NTMs in ASEAN 2000-2016 .....	47
Figure 9	Logistics performance index in ASEAN-6 countries .....	49
Figure 10	Logistics performance index in CLMV countries.....	50
Figure 11	Intra-ASEAN service exports (2010-2018) .....	55
Figure 12	Intra-ASEAN total trade in manufacturing, financial and insurance services (2010-2018) .....	55
Figure 13	Intra-ASEAN trade in transport, travel and telecommunication services (2010-2018) .....	56
Figure 14	Services trade restrictions index in 5 service sectors in 7 ASEAN economies in 2016.....	56
Figure 15	Flows of Inward FDI into ASEAN by source (2013-2019) .....	61
Figure 16	Top 10 investors in ASEAN (2013-2019) .....	62
Figure 17	Intellectual property filings in ASEAN (2012-2018).....	77



## Resumen ejecutivo

La Asociación de Naciones del Sudeste Asiático (ASEAN) es una organización intergubernamental que comprende diez países del sudeste asiático. ASEAN promueve la cooperación intergubernamental y facilita la integración económica, política, de seguridad, militar, educativa y sociocultural entre sus miembros y otros países de Asia. Sus diez miembros son: Brunei, Camboya, Indonesia, Laos, Malasia, Myanmar, Filipinas, Singapur, Tailandia y Vietnam.

Aunque ASEAN normalmente se presenta como modelo de integración económica y política, esta nunca ha aspirado a crear un ente supranacional con la capacidad de dictar órdenes o controlar las decisiones de sus miembros. ASEAN opera bajo los principios de no-interferencia en los asuntos domésticos de sus miembros y la toma de decisiones basada en consenso. Como resultado, ASEAN es a menudo considerada como modelo para otras regiones que buscan crear una forma más flexible de agrupación regional que gestione iniciativas de carácter económico que generen beneficios para todos sus miembros.

Prueba del éxito de ASEAN se encuentra en la ausencia de conflictos en la región sobre las últimas décadas y su capacidad para ascender en rankings económicos mundiales. Como región, ASEAN es la quinta economía más grande del mundo. Sin embargo, este éxito tiende a ocultar desafíos que han limitado el alcance y la profundidad de iniciativas de integración económica en la región. Estos incluyen diferencias en el desarrollo económico, infraestructura y la falta de coherencia regulatoria entre miembros, limitaciones en el financiamiento de iniciativas y un marco institucional complejo y multifacético han hecho que la implementación de iniciativas sea inconsistente.

Durante los últimos 15 años, la hoja de ruta y las iniciativas de integración económica de ASEAN han sido impulsadas por el establecimiento e implementación del ASEAN Economic Community (AEC) Blueprint 2015 y el AEC Blueprint 2025. Ambos planes simplificaron y pusieron en práctica acuerdos e iniciativas que promueven el flujo de mercancías, servicios, personas e inversiones en toda la región. Hasta la fecha, la región ha logrado algunos avances hacia estos objetivos.

## Comercio de bienes

El logro económico más importante de ASEAN ha sido la eliminación de aranceles sobre bienes comercializados entre sus miembros. Dado el nivel alto de aranceles de Nación Más Favorecida (NMF) impuestos por miembros de ASEAN, la eliminación de aranceles entre sí mismos ha sido un logro importante.

En ASEAN la eliminación de aranceles y la liberalización del comercio de bienes se encuentran en el ASEAN Trade in Goods Agreement (ATIGA). Bajo el marco del ATIGA, ASEAN asumió amplios compromisos para abrir sus mercados y eliminar las barreras al comercio de bienes. Para la eliminación de aranceles, ASEAN adoptó un enfoque incremental en sectores sensibles, el cual proporcionó flexibilidad y plazos más largos a miembros poco desarrollados —Camboya, Laos, Myanmar y Vietnam (CLMV). En 2019, ASEAN había eliminado aranceles en el 98.6 por ciento de productos comercializados entre miembros.

A pesar de numerosos intentos para reducir las barreras al comercio en ASEAN, la mayor parte del crecimiento del comercio en ASEAN se debe al aumento de su comercio con socios externos como Japón, Corea del Sur y China. El comercio de bienes interno en ASEAN se ha mantenido a un 20 por ciento del comercio de la región, mientras que el comercio con el resto del mundo ha seguido aumentando en importancia. Esto demuestra que los esfuerzos para promover mayor integración económica en ASEAN no fomentaron su integración como bloque económico, sino que fortalecieron la capacidad de miembros para incorporarse a redes de producción con otros países en la región.

### Facilitación de comercio y la eliminación de barreras no arancelarias

Aranceles altos no son el único obstáculo que puede obstaculizar el comercio. Algunos miembros de ASEAN han incrementado su número de restricciones no arancelarias como estrategia para minimizar el impacto del comercio libre de aranceles en la región. Como respuesta a la proliferación de barreras no arancelarias, ASEAN ha incorporado la facilitación del comercio y la eliminación de barreras no arancelarias en sus programas. Hasta la fecha, ASEAN ha implementado múltiples programas e iniciativas que buscan la facilitación del comercio en la región. Las más importantes incluyen:

**ASEAN Single Window (ASW):** La ventanilla única de ASEAN o ASW es el elemento más visible de la agenda de facilitación del comercio en la región. La ASW conectará e integrará las Ventanillas Únicas Nacionales de los estados miembros de ASEAN para intercambiar documentos electrónicos relacionados con el comercio de bienes.

**ASEAN Trade Repository (ATR):** El repositorio de comercio de ASEAN enumera todas las reglas aduaneras para el comercio en ASEAN y provee una lista de estándares usados en miembros de ASEAN.

**Mutual Recognition Agreements (MRAs):** Miembros de ASEAN tienen el derecho de diseñar e implementar sus propios estándares y regulaciones. Sin embargo, la proliferación de normas incompatibles puede obstaculizar el comercio. Como solución, ASEAN ha puesto en lugar acuerdos de reconocimiento mutuo que le permitan a sus miembros reconocer la equivalencia y los resultados de procedimientos de evaluación de productos. ASEAN ha firmado 12 MRAs en sectores de bienes y servicios prioritarios.

**Eliminación de Obstáculos no Arancelarios:** La reducción de las medidas no arancelarias ocupan un capítulo del ATIGA. Se suponía que ATIGA eliminaría las barreras no arancelarias en tres fases que concluirían en 2018. Sin embargo, en la práctica, ASEAN ha tenido un progreso limitado y no ha puesto en lugar mecanismos para catalogar eficazmente, simplificarla o comenzar el proceso de eliminación de barreras no arancelarias al comercio.

## **Comercio de servicios**

Desde 1995 ASEAN ha puesto en lugar acuerdos y marcos institucionales para la liberalización de servicios. Estos compromisos se encuentran en el ASEAN Framework Agreement on Services (AFS), firmado en 1995, y en el ASEAN Trade in Services Agreement (ATISA), firmado en 2019.

Dentro del marco de ambos acuerdos, ASEAN asumió compromisos en 15 sectores y alrededor de 65 subsectores. Los sectores cubiertos incluyen: servicios a empresas, servicios profesionales, construcción, distribución, educación, servicios ambientales, salud, transporte marítimo, telecomunicaciones y turismo. Sin embargo, muchos de los compromisos de ASEAN han sido limitados y no van mucho más allá de las promesas que miembros de ASEAN ya han hecho en sus listas de compromisos específicos de la Organización Mundial del Comercio (OMC).

En general, los miembros de ASEAN han abierto mercados principalmente para el Modo 1 (suministro transfronterizo) y el Modo 2 (consumo en el extranjero). Compromisos del Modo 3 (presencia comercial) los cuales son importantes para las empresas, han sido limitados.

La sección de servicios en la ASEAN Economic Community (AEC), permite flexibilidades en la incorporación de compromisos para subsectores totalmente excluidos de la liberalización y subsectores en los que no se cumplían todos los parámetros de liberalización. Estos mecanismos institucionales flexibles han permitido que miembros de ASEAN mantengan su soberanía, pero también han generado obstáculos para alcanzar la meta de el "libre flujo de servicios" en la region.

## **Inversión**

La inversión en ASEAN se ha gestionado a través del ASEAN Comprehensive Investment Agreement (ACIA), que surgió en 2009 después la consolidación de dos acuerdos existentes: el ASEAN investment Guarantee Agreement (IGA) y el ASEAN investment Area (AIA) Agreement.

Cuando el ACIA entró en vigor en marzo de 2012, este cubría la mayoría de las formas de inversión en seis sectores prioritarios: manufactura, agricultura, pesca, silvicultura, minería y servicios relacionados con la fabricación, agricultura, pesca, silvicultura, minería y canteras.

ACIA prometió inversiones libres y abiertas en la región bajo reglas de trato nacional y nación mas favorecida que eliminaron restricciones de inversiones en sectores prioritarios y otorgaron a inversionistas en ASEAN el mismo trato garantizado en otros acuerdos. Sin embargo, algunos países, como Indonesia y Tailandia, obtuvieron exclusiones largas y listas sensibles que impiden que las empresas extranjeras reclamen estos beneficios en varios sectores.

## **Comercio electrónico y comercio digital**

ASEAN se ha involucrado cada vez más en el comercio digital y en su gobernación a nivel regional. Esto se ha manejado a través de diferentes flujos de trabajo, supervisados por diferentes órganos de ASEAN. El programa de trabajo de ASEAN sobre Comercio Electrónico 2017-2025 tiene los siguientes componentes clave: infraestructura, competencia educativa y tecnológica, protección del consumidor, marcos legales, seguridad de las transacciones electrónicas, competencia y logística. El documento fundacional, el ASEAN Agreement on Electronic Commerce, aún no está en vigor, ya que solo lo han firmado cuatro de los miembros.

Todos los organismos institucionales mencionados han sido incorporados en el ASEAN Digital Integration Framework (DIF) de 2018. El Marco se amplió y se renombró como Plan de Acción del Marco de Integración Digital de ASEAN 2019-2025, con un plan de trabajo complejo. El proceso general del plan de acción contiene seis objetivos generales: 1) facilitar un comercio fluido; 2) proteger los datos; 3) permitir pagos digitales sin problemas; 4) ampliar la base de talento digital; 5) fomentar el espíritu empresarial; y 6) coordinar acciones.

## Infraestructura y conectividad

Al inicio del proceso del ASEAN Economic Community (AEC), existían brechas importantes en la infraestructura y conectividad de toda la región. La agenda de la AEC, por lo tanto, incluyó un amplio rango de compromisos para mejorar la situación, comenzando con el primer Plan Maestro en Conectividad firmado en 2010. El plan puso en pie iniciativas para fomentar tres tipos diferentes de conectividad (física, institucional y movimiento de personas físicas).

## Otras áreas de trabajo

ASEAN ha centrado su atención en nuevas áreas de importancia para la creación de una región integrada, como un énfasis renovado en la movilidad de personas, la contratación pública, la política de competencia y los derechos de propiedad intelectual.

**Promoción de la Movilidad de Personas:** Lograr la integración económica también implica un mayor movimiento de personas a través de las fronteras, especialmente si los comerciantes, proveedores de servicios e inversores necesitan estar activos en varios mercados. ASEAN, sin embargo, ha adoptado un enfoque cauteloso con respecto al movimiento de personas. En ASEAN, la movilidad de personas ha sido impulsada principalmente por el Plan Maestro en Conectividad 2025. El plan maestro incluye compromisos que promueven la movilidad de las personas en la región al aliviar las restricciones de viaje entre países, reducir la brecha de habilidades, estandarizar las habilidades y las calificaciones de trabajadores y estudiantes, y aumentar la cooperación entre las universidades de ASEAN.

**Contratación Pública:** La apertura del mercado de contrataciones pública en ASEAN sigue siendo ineficiente y poco desarrollado. Sin embargo, los mercados de contratación pública en ASEAN son relativamente amplios. El tamaño medio de los mercados de contratación pública en ASEAN es aproximadamente 5 al 8 por ciento del PIB. Sin embargo, ASEAN no cuenta con un acuerdo de contratación pública, y por lo tanto cada miembro cuenta con sus propias leyes. A escala mundial a nivel de la OMC, el Acuerdo sobre Contratación Pública (ACP) es uno de los pocos acuerdos plurilaterales firmados en el marco de la familia de acuerdos de la OMC. Entre los estados miembros de ASEAN, solo Singapur es parte del ACP.

**Política de Competencia:** ASEAN no cuenta con un marco institucional sólido para gestionar la política de competencia. Sin embargo, ASEAN ha puesto en marcha una serie de iniciativas para cooperar en el desarrollo de políticas de competencia. Su primer intento para cooperar en el desarrollo de políticas de competencia se remonta a 2010, cuando el bloque regional publicó el primer documento de política sobre las directrices regionales de ASEAN en política de competencia. Posteriormente, ASEAN desarrolló el ASEAN Competition Action Plan (ACAP) 2016-2025 con el objetivo de garantizar que sus 10 miembros contaran con marcos legales y reglamentarios adecuados para abordar desafíos relacionados con competencia.

**Resolución de Disputas:** Los miembros de ASEAN no son litigantes. Si bien ASEAN ha implementado sistemas de solución de diferencias durante décadas, estos no se utilizan. A pesar de la falta de un historial en la resolución de disputas dentro de ASEAN, los miembros mantienen un protocolo sobre el mecanismo para la resolución de disputas que fue puesto en lugar en 2004 y actualizado en 2019. Aunque los miembros no utilicen los mecanismos de ASEAN, estos sí han utilizado el mecanismo de solución de diferencias en otras instituciones, especialmente en la Organización Mundial del Comercio (OMC).

**Derechos de Propiedad Intelectual:** En 1995, Brunei Darussalam, Indonesia, Malasia, Filipinas, Singapur, Tailandia y Vietnam firmaron el Acuerdo Marco de Cooperación en materia de Propiedad Intelectual (PI) de ASEAN. Este fue el primer intento de cooperar en la protección de la propiedad intelectual a nivel regional. El organismo principal que supervisa la protección de la propiedad intelectual a nivel regional es el Grupo de trabajo de la ASEAN sobre cooperación en materia de propiedad intelectual, compuesto por oficinas de propiedad intelectual de todos los estados miembros. Aunque las leyes e instituciones de protección de la propiedad intelectual existen en ASEAN, las estadísticas de registro reales muestran que la implementación de varios tipos de protección de la propiedad intelectual sigue siendo relativamente baja.

Esfuerzos para Reducir las Asimetrías de Desarrollo Entre los Miembros: Desde sus inicios, ASEAN ha puesto en marcha iniciativas para reducir asimetrías el desarrollo económico y social sus miembros. Para reducir estas asimetrías ASEAN formuló y lanzó un plan de trabajo bajo el Initiative for ASEAN Integration (IAI) en 2002. Los programas, actividades y proyectos del IAI han tenido el propósito de fortalecer las capacidades, infraestructura y bienestar económico y social de Camboya, Laos, Myanmar y Vietnam. ASEAN ha desarrollado e implementado tres Fases del IAI hasta la fecha. Las prioridades y el alcance de cada fase se han ampliado para satisfacer mejor las necesidades de los cuatro países y abordar los defectos de fases anteriores.

### **ASEAN y estados asociados**

Un elemento importante de las iniciativas de ASEAN ha sido su vinculación con el sur y este de Asia y Oceanía. Para crear mejores condiciones para el flujo de bienes y servicios de ASEAN en mercados finales, ASEAN ha establecido un conjunto de estados asociados. Actualmente la región cuenta con 10 estados asociados: Australia, Canadá, China, Unión Europea, India, Japón, República de Corea, Nueva Zelanda, Rusia y Estados Unidos. Para continuar y profundizar el compromiso económico con varios de sus estados asociados, ASEAN negocio tratados de libre comercio con China, Corea del Sur, Japón, India, Australia y Nueva Zelanda y Hong Kong —también denominados ASEAN+1.

En 2012, ASEAN consolidó los cinco ASEAN+1 TLC en un nuevo tratado, la Regional Comprehensive Economic Partnership (RCEP). Negociaciones para RCEP iniciaron en 2013 y concluyeron en 2019. El acuerdo va a ser firmado al final del 2020 durante la reunión de ministros de ASEAN.

### **Relevancia para América Latina**

El camino de ASEAN hacia una mayor integración, incluidas las promesas y los obstáculos experimentados a lo largo del camino, proporciona modelos útiles para otras regiones interesadas en crear iniciativas de integración regional. En ASEAN países no han renunciado a los poderes y soberanía los cada uno de los miembros, pero han tratado de crear una visión que toma ventaja de los intereses económicos, políticos y sociales de cada miembro; con algunos aspectos e iniciativas mejor seguidos e implementados que otros.

El resultado neto ha sido un enfoque único para el desarrollo de políticas económicas regionales, que puede ser relevante para países en América Latina y otros continentes que buscan alcanzar un desarrollo mas equitativo e inclusivo.

En primer lugar, dada su ambiciosa estructura institucional, su papel en la economía global y su éxito variado fomentando la integración económica, ASEAN proporciona una interesante red de principios, estructuras institucionales, recursos y experiencias que pueden ser un punto de referencia para los esfuerzos de integración económica en América Latina.

En segundo lugar, una mayor comprensión de las fortalezas institucionales de ASEAN puede informar la conectividad y la coordinación de los esfuerzos de cooperación subregional entre ASEAN y América Latina. Una evaluación crítica de los esfuerzos de cooperación económica y liberalización comercial de ASEAN en las áreas exploradas por este reporte puede convertirse en la base de iniciativas de cooperación subregional que puedan aprovechar las fortalezas institucionales de ASEAN. Un mayor compromiso con ASEAN ofrece una oportunidad única para aumentar y diversificar los flujos comerciales y de inversión entre Asia y América Latina, por lo que es importante que las iniciativas de cooperación económica entre las dos regiones se basen en las fortalezas de ASEAN y aborden sus deficiencias.

En general, los contenidos de este reporte brindan algunas pautas útiles para orientar los esfuerzos de integración económica en América Latina y fortalecen esfuerzos en América Latina para aumentar la conectividad comercial con Asia por medio de ASEAN.



## Executive summary

The Association of Southeast Asian Nations (ASEAN) is a regional intergovernmental organization comprising ten countries in Southeast Asia, which promotes intergovernmental cooperation and facilitates economic, political, security, military, educational, and sociocultural integration among its members and other countries in Asia.

Through more than 50 years of economic, political, security and social integration initiatives, ASEAN has developed a complex and multifaceted institutional and governance framework to carry out its activities. The current institutional structure is based on the ASEAN Charter. ASEAN's increasingly complex organizational structure and principles create a unique set of trade-offs in the development and implementation of initiatives.

While ASEAN is often held up as a model of ever-closer integration, it has never aspired to create a supra-national organization or to allow individual member state sovereignty and control to be handed over to the regional body. ASEAN has, as a result, often been viewed as a potential model for other regions looking to create a looser form of grouping, particularly for managing economic affairs, that might still generate important benefits for members.

Proof of ASEAN's success can be found in both the lack of conflict in the region over the decades as well as ASEAN's ability to rise up economic rankings. Viewed as a collective, the region would be the world's fifth largest economy. Such success has often masked challenges, including a large development gap, a lack of regulatory coherence between member states, a complex and multifaceted institutional structure, and limited use of available enforcement capabilities. These issues have limited ASEAN's ability to develop meaningful economic integration. The institutional flexibilities, monetary limitations and ASEAN's principle of non-interference and consensus decision-making have all established norms for a unique decision-making style which is oftentimes termed as the "ASEAN Way." ASEAN operates under the principles of non-interference in the internal affairs of AMS and consensus-based decision-making: a deliberate decision from ASEAN leaders to avoid creating a strong supranational body.

Over the past 15 years, ASEAN's economic integration roadmap and initiatives have been driven by the establishment and implementation of the ASEAN Economic Community (AEC) Blueprint 2015 and the AEC Blueprint 2025. Both Blueprints streamlined and operationalized agreements and initiatives promoting the flow of goods, services, people and investment across the region.

The AEC famously promised to deliver "free movement of goods, services, investment, skilled labour and freer movement of capital" by 2015. These highly ambitious goals were not achieved, although the region has made strong strides towards many of these objectives. These include:

- extensive commitments to open up and remove barriers to trade in goods, illustrated by the elimination of tariffs on 98.6 percent of intra-ASEAN products;
- facilitating trade at the borders, including attempts to funnel customs and other regulatory paperwork through a series of "national single windows" to be knit together into one ASEAN-wide single window;
- opening up access to a deeper and wider array of services sectors and subsectors, starting with business services, professional services, construction, distribution, education, environmental services, healthcare, maritime transport, telecommunications and tourism sectors;
- improving ASEAN's ability to attract and retain foreign investment from across the region;
- creating new rules for e-commerce and digital trade;
- focusing attention on new areas of importance to creating an integrated region, such as a renewed emphasis on people-to-people mobility, government procurement, competition policy, and intellectual property rights; and
- creating a network of trade agreements to link ASEAN to key neighbouring countries, including China and India, culminating in the upcoming conclusion of the Regional Comprehensive Economic Partnership (RCEP) agreement with 15 countries spanning Asia.

While the original AEC did not achieve all these goals, many of the objectives have been reset in the AEC Blueprint 2025. The Blueprint is ASEAN's latest statement on its aspiration to become a single integrated production base—a goal that has guided policymaking for decades in the region.

ASEAN's path to greater integration, including both the promises and pitfalls experienced along the way, provide useful models for other regions interested in creating stronger regional outcomes. ASEAN members have not given up individual member state powers but have tried to create a better future by harnessing the interests of the ten member states to continue to travel in the same general direction, with some aspects more closely followed than others. The net result has been a unique approach to economic policy that may be especially relevant for many countries in Latin America and elsewhere hoping to achieve more equitable and inclusive development in the years to come.

## Abstract

The Association of Southeast Asian Nations (ASEAN) is a regional intergovernmental organization comprising ten countries in Southeast Asia, which promotes intergovernmental cooperation and facilitates economic, political, security, military, educational, and sociocultural integration among its members and other countries in Asia.

Through more than 50 years of economic, political, security and social integration initiatives, ASEAN has developed a complex and multifaceted institutional and governance framework to carry out its activities. The current institutional structure is based on the ASEAN Charter. ASEAN's increasingly complex organizational structure and principles create a unique set of trade-offs in the development and implementation of initiatives.

While ASEAN is often held up as a model of ever-closer integration, it has never aspired to create a supra-national organization or to allow individual member state sovereignty and control to be handed over to the regional body. ASEAN has, as a result, often been viewed as a potential model for other regions looking to create a looser form of grouping, particularly for managing economic affairs, that might still generate important benefits for members.

Proof of ASEAN's success can be found in both the lack of conflict in the region over the decades as well as ASEAN's ability to rise up economic rankings. Viewed as a collective, the region would be the world's fifth largest economy. Such success has often masked challenges, including a large development gap, a lack of regulatory coherence between member states, a complex and multifaceted institutional structure, and limited use of available enforcement capabilities. These issues have limited ASEAN's ability to develop meaningful economic integration. The institutional flexibilities, monetary limitations and ASEAN's principle of non-interference and consensus decision-making have all established norms for a unique decision-making style which is oftentimes termed as the "ASEAN Way." ASEAN operates under the principles of non-interference in the internal affairs of AMS and consensus-based decision-making: a deliberate decision from ASEAN leaders to avoid creating a strong supranational body.

Over the past 15 years, ASEAN's economic integration roadmap and initiatives have been driven by the establishment and implementation of the ASEAN Economic Community (AEC) Blueprint 2015 and the AEC Blueprint 2025. Both Blueprints streamlined and operationalized agreements and initiatives promoting the flow of goods, services, people and investment across the region.

The AEC famously promised to deliver "free movement of goods, services, investment, skilled labour and freer movement of capital" by 2015. These highly ambitious goals were not achieved, although the region has made strong strides towards many of these objectives. These include:

- extensive commitments to open up and remove barriers to trade in goods, illustrated by the elimination of tariffs on 98.6 percent of intra-ASEAN products;
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- improving ASEAN's ability to attract and retain foreign investment from across the region;
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- focusing attention on new areas of importance to creating an integrated region, such as a renewed emphasis on people-to-people mobility, government procurement, competition policy, and intellectual property rights; and
- creating a network of trade agreements to link ASEAN to key neighbouring countries, including China and India, culminating in the upcoming conclusion of the Regional Comprehensive Economic Partnership (RCEP) agreement with 15 countries spanning Asia.

While the original AEC did not achieve all these goals, many of the objectives have been reset in the AEC Blueprint 2025. The Blueprint is ASEAN's latest statement on its aspiration to become a single integrated production base—a goal that has guided policymaking for decades in the region.

ASEAN's path to greater integration, including both the promises and pitfalls experienced along the way, provide useful models for other regions interested in creating stronger regional outcomes. ASEAN members have not given up individual member state powers but have tried to create a better future by harnessing the interests of the ten member states to continue to travel in the same general direction, with some aspects more closely followed than others. The net result has been a unique approach to economic policy that may be especially relevant for many countries in Latin America and elsewhere hoping to achieve more equitable and inclusive development in the years to come.

## Introduction

The Association of Southeast Asian Nations (ASEAN) has increasingly become one of the most important players in the global trading system. More than 50 years of increasing integration, strong trade connections within the ASEAN bloc, and open economic policies of ASEAN members have made the region a more attractive trading partner and investment destination. Consisting of ten countries with very diverse income levels, ASEAN is now the world's fifth largest economy and will continue to play a key role in global trade.

Despite remarkable progress in integration over this long history, ASEAN does not always match its own soaring rhetoric or expectations. Large development gaps, limited regulatory coherence between member states, a complex and multifaceted institutional structure, and a lack of enforcement capabilities have limited ASEAN's ability to develop meaningful economic integration.

ASEAN Member States (AMS) have built a vast and sprawling institutional structure to manage engagement between members and with the outside world. With each successive year, the institution adds new groupings and committees. Each of these, in turn, creates and approves a set of policy projects, workplans, and recommendations for implementation by member states. With an evolving and sprawling agenda and governance principles that prioritize state sovereignty, ASEAN has struggled to manage this agenda, be transparent about its activities, and implement effective collective action.

More importantly, the extent to which ASEAN can dictate policy outcomes over members varies tremendously. In some contexts, the institution has built an admirable track record. As a headline example, tariffs between ASEAN Member States are now basically zero. In other arenas, even if an ASEAN-level commitment exists, effective implementation in any or all of the AMS can be uneven or non-existent.

Given its ambitious institutional set up, increased role in the global economy and varied success at promoting economic integration, ASEAN provides a rich network of principles, institutional structures, resources and experiences that can be a point of reference for economic integration elsewhere in the world. However, given the bloc's long history and complexity and the contradictions

between its key principles and ambitious goals, it is important to closely examine in detail its strengths, limitations and shortcomings.

A critical overview and assessment of ASEAN's governance structure and economic integration efforts can better inform opportunities and challenges in the development of increased ASEAN and Latin-American sub-regional relations. As initiatives like the Pacific Alliance attempt to increase regional cooperation, it can be helpful to study the ways in which ASEAN works and the challenges it has encountered along the way towards similar objectives.

This paper begins with a review of the history of ASEAN, an overview of its institutions and a look into its unique way of managing ever greater integration and cooperation. ASEAN has three "pillars" of activity that guide its efforts—this paper is largely confined to examining the economic pillar, based on the ASEAN Economic Community (AEC) objectives. Sections track the goals and efforts aligned with various aspects of the AEC, including trade in goods, services, investment and other relevant areas. It concludes by pulling out best practices that might be usefully drawn from ASEAN's experiences that may be relevant to other regional arrangements attempting to pursue similar goals and concludes by directly considering aspects of importance to Latin America's ongoing economic integration pathways.

## I. Overview of ASEAN

The Association of Southeast Asian Nations (ASEAN) is a regional intergovernmental organization comprising ten countries in Southeast Asia, which promotes intergovernmental cooperation and facilitates economic, political, security, military, educational, and sociocultural integration among its members and other countries in Asia. There are currently 10 member states: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.

While ASEAN has worked on ever greater integration across most of its half-century of existence, it is important to note that it has never aspired to pool sovereignty or create formal structures like a customs union that would create a truly “ASEAN” policy applicable to all member states. To understand how and why ASEAN has developed a unique structure and objectives, it is worth starting with a bit of history before diving into the institutional details and governance structure.

### A. ASEAN’s history

The ten-country bloc celebrated its 50th anniversary in 2017. ASEAN’s journey started on August 8, 1967, when the five founding countries (Indonesia, Malaysia, Philippines, Singapore and Thailand) formally set up the organization. The remaining five countries, Brunei, Vietnam, Laos, Myanmar and Cambodia, came on board in 1984, 1995, 1997 and 1999 respectively. The latter four have been generally called the “CMLV” and have been frequently given longer deadlines to implement agreements given their developmental status and later entry into ASEAN.<sup>1</sup>

The original impetus for integration in the late 1960s was to enhance security cooperation in the region, which has remained a key part of the ASEAN agenda along its history. By the 1980s, Asia’s economic growth was booming, largely driven by the large economies in the North like Japan and South

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<sup>1</sup> Note, however, that with the entry into force of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) agreement and the signature of the trade agreement with the European Union (EVFTA), Vietnam appears to have stopped asking for special treatment in ASEAN by the end of 2019. Reference is now made to CML only. East Timor (or Timor Leste) is currently working on accession to ASEAN.

Korea.<sup>2</sup> It looked like prosperity might miss Southeast Asia, particularly given the relatively small size of each domestic economy.

Governments opted to address these challenges by expanding the ASEAN agenda to include an economic pillar. Regional trade integration efforts began in earnest in 1992 with the signing of the ASEAN Free Trade Area (AFTA). AFTA covered trade in goods among the (then) six member states and required members to successively lower tariff barriers to trade in goods with one another over a 15-year time period (subsequently the timeline was compressed to conclude in 2003). Starting in 1995, ASEAN members also began discussions to open their markets for services to one another, with an initial opening at the end of 1997. Over time, the number of sectors covered by the agreement expanded as members gradually allowed greater competition within ASEAN in more service areas. Barriers to investment also began to fall, starting with a limited agreement in 1998.<sup>3</sup>

Beginning in 1997, heads of each member state adopted the ASEAN Vision 2020 as a means for the realization of a single ASEAN community providing peace and stability, closer economic integration, human and sustainable development, cultural heritage and the environment, among other goals. Formalized in 2003, the ASEAN Vision 2020 established three pillars of a single ASEAN community: Political-Security Community (APSC), Economic Community (AEC) and Socio-Cultural Community (ASCC). The bloc has since developed two blueprints under each of the three pillars that outline the goals and principles, institutional bodies and mechanisms and initiatives for the completion of each pillar.

In 2007, the entry into force of the ASEAN Community, initially planned to commence by 2020, was frontloaded to begin on 31 December 2015. After member states were unable to implement all aspects of the blueprints by 2015, in 2017 ASEAN announced the ASEAN Community Blueprint 2025. The 2025 Blueprints, currently in force, aimed to complete key elements under the 2015 Blueprints and strengthen commitments and cooperation in new key areas.

## B. ASEAN mandate and institutional structure

Through more than 50 years of economic, political, security and social integration initiatives, ASEAN has developed a complex and multifaceted institutional and governance framework to carry out its activities. The current institutional structure is based on the ASEAN Charter. Signed in 2007, the ASEAN Charter transformed ASEAN into a legal entity. The charter is a legally binding document that codified norms, rules and values while setting clear targets for ASEAN and creating accountability and compliance mechanisms. The Charter stated ASEAN's purposes and principles, outlined different ASEAN organs and their functions, set decision-making procedures and processes, created a dispute settlement system, and described its relationship with external dialogue partners and other multilateral institutions.<sup>4</sup>

It is important to note that under the Charter, ASEAN maintained the principles of non-interference in the internal affairs of AMS and consensus-based decision-making: a deliberate decision from ASEAN leaders to avoid creating a strong supranational body.<sup>5</sup> This means that ASEAN is not pursuing an integration agenda that would lead to operating as a single unit, including the creation of a

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<sup>2</sup> Nishimura, Hidetoshi. 2017. "Snapshots of the ASEAN Story: ASEAN's Strategic Policy Needs and Dialogue Partners' Contributions." In *The ASEAN Journey: Reflections of ASEAN Leaders and Officials*, by Surin Pitsuwan, Hidetoshi Nishimura, Jr., Ponciano Intal, Chongkittavorn Kavi and Larry Maramis, 315-350. Jakarta: Economic Research Institute for ASEAN and East Asia.

<sup>3</sup> For more details, see also "The ASEAN Trade in Goods Agreement," Minh Hue Nguyen, Deborah Elms and Layana N, in *ASEAN Law in the New Regional Economic Order*, Pasha Hsieh and Bryan Mercurio (eds), Cambridge University Press, 2019.

<sup>4</sup> For the full text of the ASEAN Charter, see here: <https://asean.org/storage/2012/05/The-ASEAN-Charter-14042020-final.pdf>.

<sup>5</sup> Koh, Tommy. 2017. ISEAS Yusof Ishak Institute. August 3. Accessed June 22, 2020. <https://www.iseas.edu.sg/media/video-gallery/asean-lecture-the-asean-charter-at-10-prospects-and-retrospect/>.

customs union with a common external tariff, a common market with harmonized regulations and free movement of people, or, indeed, most measures that would require pooled sovereignty.

The Charter called for the development of an ASEAN Community that was “politically cohesive, economically integrated and socially cohesive.” Launched in 2015, the ASEAN Community is anchored on three pillars:<sup>6</sup>

- i) Initiatives under the Political Security Community allow AMS to pursue closer interaction and cooperation to forge shared norms and create common mechanisms to achieve ASEAN's goals and objectives in the political and security fields.
- ii) Initiatives under the Economic Community allow AMS to strengthen commitments and cooperation in the development of a highly integrated and cohesive economy.
- iii) Initiatives under the Socio-Cultural Community allow AMS to cooperate in the creation of an inclusive community that promotes high quality of life, equitable access to opportunities, human rights, sustainable development, and social and economic resilience.

Each of the pillars’ priorities are guided by Blueprints that outline their main principles, goals and activities and their implementation. To develop, manage and implement initiatives under each of the ASEAN Community pillars, ASEAN has in place a complex institutional process that includes multiple organs and protocols.

### C. The ASEAN summit and key committees

The key goals and priorities within each of the ASEAN Community Pillars are primarily crafted through the annual ASEAN Summit and the work of multiple coordination and work committees.

The ASEAN Summit is the predominant policy making body of ASEAN and is comprised by the Heads of State or Government of the member states. In the Summit, leaders provide policy guidance and make decisions on key issues to achieve the objectives of ASEAN. The Summit addresses important matters of interest to member states and all issues referred by ASEAN councils and sectoral ministerial bodies.<sup>7</sup> ASEAN Summit Meetings are held twice annually and attended by the Heads of all member states. The meeting is hosted by the member state holding ASEAN chairmanship and may be convened whenever necessary as special or unplanned meetings.

The ASEAN Coordinating Council (ACC), established in 2008, comprises the ASEAN Foreign Ministers and is held at least twice annually to prepare for the ASEAN Summit. Functions of the ACC include preparing the meetings for, and coordinating the implementation of agreements and decisions of, the ASEAN Summit.<sup>8</sup>

ASEAN Sectoral Ministerial Bodies implement agreements and decisions of the ASEAN Summit under their respective areas.<sup>9</sup>

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<sup>6</sup> Secretariat, The ASEAN. 2008. ASEAN Economic Community Blueprint 2015. Jakarta: The ASEAN Secretariat.

<sup>7</sup> ASEAN Secretariat. “The ASEAN Charter,” November 2019. <https://asean.org/asean/asean-charter/charter-of-the-association-of-southeast-asian-nations/> [Accessed on January 6, 2020].

<sup>8</sup> ASEAN Secretariat. “The ASEAN Charter,” November 2019. <https://asean.org/asean/asean-charter/charter-of-the-association-of-southeast-asian-nations/> [Accessed on January 6, 2020].

<sup>9</sup> Under the AEC these include the ASEAN Economic Ministers Meeting (AEM), ASEAN Free Trade Area Council, ASEAN Investment Area Council, ASEAN Finance Ministers Meeting, ASEAN Minister Meeting on Agriculture and Forestry, ASEAN Ministerial Meeting on Science and Technology, ASEAN Telecommunications and Information Technology Ministers Meeting, ASEAN Transport Ministers Meeting, Meeting of the ASEAN Tourism Ministers, ASEAN Mekong Basin Development Cooperation, ASEAN Centre for Energy and ASEAN-Japan Centre in Tokyo.

## D. ASEAN organizational structure

ASEAN has in place a complex organizational structure for the implementation of initiatives under each of the three pillars of the ASEAN Community.

ASEAN appoints a Secretary General who is the chief administrative officer of ASEAN and facilitates and monitors progress in the implementation of ASEAN agreements. The Secretary General is appointed by the ASEAN Summit and elected from among nationals of the ASEAN Member States based on an alphabetical rotation for a period of five years. The current Secretary General is Lim Jock Hoi from Brunei, who followed Le Luong Minh from Vietnam.

The ASEAN Secretariat includes the Secretary General and any staff who might be required to support the post. Set up in 1976 in Jakarta, Indonesia, the ASEAN Secretariat is supposed to provide efficiency in the coordination of ASEAN organs and more effective implementation of ASEAN projects and activities. It may be worth noting the relatively small size of the Secretariat—numbering roughly 400 staff members with a limited budget pegged to the contribution of the least developed economy in the grouping (currently Lao PDR).

ASEAN has in place an annual rotating Chairmanship model. An AMS assuming the Chairmanship chairs the ASEAN Summit and related summits, the ASEAN Coordinating Council, the three ASEAN Community Councils, relevant ASEAN Sectoral Ministerial Bodies and senior officials' meetings, and the Committee of Permanent Representatives. The meetings rotate across different member states on a different number of themes at each turn. The themes depend on the priorities and interests of the host member states. For example, Singapore's chairmanship in 2018 emphasized innovation while Thailand's 2019 chairmanship focused on sustainability. In 2020, the chairmanship belongs to Vietnam and its theme is 'cohesive and responsive region.'

For a more detailed explanation of key ASEAN organs and protocols please refer to Annex B of this report.

## E. The "ASEAN way"

ASEAN's increasingly complex organizational structure and principles create a unique set of trade-offs in the development and implementation of initiatives. The institutional flexibilities, monetary limitations and ASEAN's principle of non-interference and consensus decision-making establish a norm for a unique decision-making style which is oftentimes termed as the "ASEAN Way".<sup>10</sup> Under this principle ASEAN has had to constantly balance its commitment to national sovereignty and non-interference with the power and influence of a supranational body.<sup>11</sup>

The "ASEAN Way" approach can make it difficult to negotiate significant commitments in the regulation of regional trade and often forces ASEAN to adopt only those policies which satisfy the lowest common denominator. As a result, it has resulted in sub-optimal and increasingly complex approaches to the development and implementation of economic integration initiatives.

First, the lack of a supranational authority has created a disparity between the work carried at the Secretariat and elsewhere. Even though the Secretariat sits in Jakarta, most of the actual work is done by individual member states from their respective home countries. Meetings are therefore held across the year in a seemingly endless number of different workstreams. The location of these activities also varies. The host country, responsible for the overall agenda for the institution, holds many of the various

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<sup>10</sup> Yukawa, Taku. "The ASEAN Way as a symbol: an analysis of discourses on the ASEAN Norms." *The Pacific Review* 31, no. 3 (2018): 298-314.

<sup>11</sup> Pitakdumrongkit, Kaewkamol. "Beyond the Secretariat: Addressing Governance Issues In ASEAN Economic Community." *The Singapore Economic Review* 62.03 (2017): 741-759.

meetings and workshops, but not all. Even within the host country, meetings typically rotate across the entire country to ensure that benefits in terms of travel bookings and so forth are spread across the largest number of cities.<sup>12</sup>

Second, ASEAN's complex institutional structure can make it difficult to track progress or hold AMS accountable. Items on the ASEAN agenda appear to be resolved without time pressures. Commitments made in the past are often "upgraded" at a later date. No assigned body or institution checks for the implementation of all measures and there are no consequences for failure. No member of ASEAN has ever been held accountable by any ASEAN dispute procedures, although, for example, the ASEAN Comprehensive Investment Agreement (ACIA) includes provisions for investment arbitration and investor-state dispute settlement.<sup>13</sup>

Third, because it is frequently difficult to get all 10 ASEAN members to participate, the organization often follows a formula of "ASEAN Minus X" or "pilot projects" with some subset of member states involved in any given integration arrangement. For instance, the ASEAN Economic Community Blueprint, ASEAN Comprehensive Investment Agreement and ASEAN Trade in Services Agreement allow some member states to implement economic liberalization commitments later than others. Lack of transparency means it can be difficult or even impossible to determine which (if any) of the agreements and commitments have been implemented in any specific AMS or to know when such activities might take place.

There is often a disparity between sprawling and ambitious commitments within the ASEAN Community Blueprints and the implementation and monitoring of related activities across all AMS. A detailed assessment of ASEAN initiatives, their implementation and related institutional and economic outcomes, can therefore provide a clearer understanding of the relevance and effectiveness of the ASEAN economic integration project. The following section provides an overview and critical assessment of ASEAN's economic pillar.

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<sup>12</sup> This policy is designed to help support the third pillar of activity within ASEAN: to create stronger social and cultural exchanges between members.

<sup>13</sup> The ASEAN High Level Task Force was recommending as far back as 2003 that the organization include new institutional mechanisms such as a legal unit for trade disputes and a compliance monitoring body as well as an impartial dispute settlement system. It should also be noted that ASEAN member states have taken one another to dispute settlement at the World Trade Organization (WTO), but not for specific violations of ASEAN commitments that could only be resolved through ASEAN procedures.



## II. Unpacking ASEAN's economic pillar

### A. Overview of the ASEAN economic integration project

ASEAN achieved modest economic integration in the 1970s through preferential trading agreements and other cooperation measures. The bloc started to grow substantially after the establishment of the ASEAN Free Trade Area (AFTA) in 1992.<sup>14</sup> The main mechanism used was a Common Effective Preferential Tariff Scheme (CEPT).<sup>15</sup> This scheme required member nations to apply a tariff rate between 0-5% on imported goods that originated within ASEAN while still allowing members the freedom to impose tariffs based on their own national schedules on goods originating outside the region.<sup>16</sup>

In the 1990s, several other initiatives were undertaken to lay the foundation for AEC. The most noticeable benchmarks of this journey include the establishment of the ASEAN Free Trade Area (AFTA), setting up of the ASEAN Economic Community (AEC) in 2015 with a stronger focus on cross-border trade in goods, formation of the ASEAN Trade in Goods Agreement (ATIGA), and creation of the AEC Blueprint 2025 (see diagram 1).

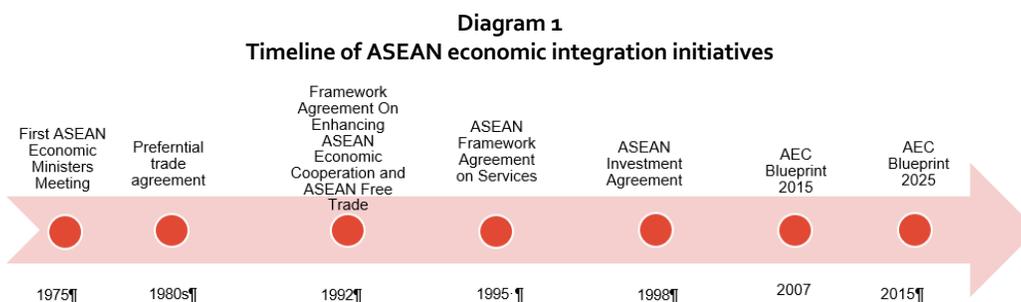
Since their development in 2007 and 2015, the AEC Blueprints 2015 and 2025 provide comprehensive guidelines for the establishment of an economic integration agenda that includes goods, services, investment, skilled labour and capital. The following section will briefly outline key differences between the two.

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<sup>14</sup> Hill, Hall and Menon, Jayant. "ASEAN Economic Integration: Features, Fulfillments, Failures and the Future." Asian Development Bank, no. 69, December 2010. Retrieved from: <https://www.adb.org/sites/default/files/publication/28551/wp69-hill-menon-asean-economic-integration.pdf> [Accessed on August 26, 2017].

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.



Source: Author.

## B. From the AEC 2015 to the AEC 2025 blueprints

In 2003, ASEAN states declared the establishment of the ASEAN Economic Community by 2020. In response to increased competition from countries like China, in 2007 ASEAN accelerated the implementation of the AEC to completion in 2015 with the objective of enabling the “free movement of goods, services, investment, skilled labour, and freer flow of capital”.<sup>17</sup>

However, the AEC’s targets were not fully attained by all the member states. Despite significant progress in the elimination of tariff barriers, states did not meet many of the commitments involving non-tariffs measures and non-tariff barriers, intellectual property protection, service sector liberalization and transport connectivity infrastructure improvements.<sup>18</sup>

As a result, in 2015, AMS adopted the AEC Blueprint 2025, which aimed to strengthen the implementation of incomplete parts from the 2015 Blueprint and defined new areas of cooperation given new changes to the regional trade landscape.<sup>19</sup> The two Blueprints differ from each other in the following factors:

First, the AEC Blueprint 2025 is less ambitious and more realistic than the 2015 Blueprint. For instance, goal one of the AEC 2015—the creation of a single market and production base with free flow of goods, services, capital and skilled labour— became a “highly integrated and cohesive regional economy that supports sustained high economic growth by increasing trade, investment, and job creation” in the AEC 2025.<sup>20</sup>

Second, the AEC Blueprint 2025 strengthens and expands commitments across goals 2 – 4 of the 2015 Blueprint—creation of a competitive economic region, equitable economic development and integration into the global economy. For instance, under goal 2, “a competitive, innovative and dynamic ASEAN,” the AEC 2025 Blueprint contains new commitments on good governance and the development of effective, efficient, coherent and responsive regulations and good regulatory practice. This adjustment came about in part in response to a need to adopt better international standards.<sup>21</sup>

<sup>17</sup> There are many other elements involved in the AEC Blueprint 2015, but the most notable was this statement. See Intal, Jr., Ponciano S. 2017. “Building the ASEAN Economic Community: Progression and Progress.” In *ASEAN and Member States: Transformation and Integration*, by Jr., Ponciano S. Intal and Lurong Chen, 34-61. Jakarta: Economic Research Institute for ASEAN and East Asia.

<sup>18</sup> EU-ASEAN Business Council . 2019. *Non-Tariff Barriers (NTBs) in ASEAN and their elimination from a business perspective*. Jakarta: EU-ASEAN Business Council.

<sup>19</sup> A fundamental difference between the AEC Blueprint 2015 and the AEC Blueprint 2025 is the institutional bodies in charge of their design. The 2015 Blueprint was formulated by top level government officials, while the 2015 Blueprint was based on recommendations provided by three leading think tanks in ASEAN (RSIS, ERIA and ISEAS).

<sup>20</sup> For a more detailed comparison between the AEC 2015 and AEC 2025 Blueprints please see Annex A.

<sup>21</sup> The ASEAN Secretariat. 2015. *ASEAN Economic Community Blueprint 2025*. Jakarta: The ASEAN Secretariat.

Third, the AEC 2025 incorporates brand new objectives promoting enhanced connectivity and sectoral cooperation across 9 key sectors: transport, ICT, e-commerce, energy, food agriculture and forestry, tourism, healthcare, minerals, and science and technology.<sup>22</sup>

Last, the AEC 2025 includes robust implementation and monitoring and evaluation (M&E) frameworks absent from the 2015 Blueprint. The AEC Consolidated Strategic Action Plan (CSAP) serves as a single reference document to inform stakeholders of the key action lines, drawn from the sectoral work plans, which will be implemented in pursuit of the ASEAN economic integration agenda from 2016 to 2025. Last updated on August 14, 2018, the CSAP outlined 153 “key action lines” for 2016-2025.<sup>23</sup> The AEC 2025 Monitoring and Evaluation Framework serves as a key reference for institutionalising and implementing M&E mechanisms across AEC sectors.<sup>24</sup>

As a whole, the AEC 2025 provides a more concrete and comprehensive, but less ambitious, work plan and M&E framework for the economic integration of the region.

## C. Evolution of ASEAN’s trade with external partners

An important element of ASEAN initiatives has been to continuously link ASEAN to the wider South and East Asia and Oceania regions. The creation of ASEAN’s a single market and production base was meant to support supply chain integration with neighbouring countries as well as create improved conditions for ASEAN goods (and later services) into key final markets.

To help drive the engagement strategy, ASEAN put in place a set of Dialogue Partners. The region currently has 10 official Partners: Australia, Canada, China, European Union, India, Japan, Republic of Korea, New Zealand, Russia, and the United States. Dialogue Partnerships involve regular high-level exchanges and dialogue, including ministerial meetings and summit meetings, usually scheduled alongside ASEAN’s own internal calendar. Dialogue Partners have different levels of overall engagement with ASEAN—ranging from deep participation with embedded staff at the ASEAN Secretariat or specific trade agreement commitments to less clearly defined opportunities for cooperation.

### 1. ASEAN+1 trade agreements

To continue to deepen economic engagement with many of the Dialogue Partners (DP), ASEAN started crafting free trade agreements on a so-called “ASEAN+1” basis. Six of the current ten DP are included in five FTA agreements:

- i) China (2005).
- ii) South Korea (2007).
- iii) Japan (2008).
- iv) India (2010).
- v) Australia and New Zealand (2010).
- vi) Hong Kong (2017).

Since several of the ASEAN+1 agreements have now been in force for more than a decade, ASEAN members have been involved in various exercises to “upgrade” existing commitments. The ASEAN China Free Trade Area (ACFTA) was revised in 2015. The ASEAN Australia New Zealand Free Trade Area (AANZFTA) is due for an upgrade in 2020, although this is likely to be delayed as a result of COVID-19.

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<sup>22</sup> The ASEAN Secretariat. 2015. ASEAN Economic Community Blueprint 2025. Jakarta: The ASEAN Secretariat.

<sup>23</sup> See the CSAP document at <https://asean.org/storage/2012/05/Updated-AEC-2025-CSAP-14-Aug-2018-final.pdf> accessed January 7, 2020.

<sup>24</sup> The ASEAN Secretariat. 2015. ASEAN Economic Community Blueprint 2025. Jakarta: The ASEAN Secretariat.

While ASEAN's integration rhetoric may make it appear that the grouping operates as a collective, in trade with outside parties, this is not entirely the case. For ASEAN+1 free trade agreements, negotiations with ASEAN as a bloc required a bilateral approach. In other words, for every ASEAN trade agreement, the individual member countries have their own schedules for goods, services, investment and often other elements. The ASEAN member states do negotiate together with the Dialogue Partners on texts, but they do so as a group of 10, rather than have a single delegation representing the bloc.

## 2. The regional comprehensive economic partnership (RCEP)

In 2012, ASEAN agreed to consolidate the five existing "ASEAN+1" agreements into a new FTA. The 16 member countries (10 ASEAN members plus China, Japan, South Korea, India, Australia and New Zealand) of the Regional Comprehensive Economic Partnership (RCEP) started the first round of talks in early 2013. Over the course of the next seven years, ASEAN and its Dialogue Partners held 29 official negotiating rounds, dozens of "intersessional" discussions, multiple ministerial-level dialogues and even several Leaders' Summits.

The RCEP agreement was concluded under Thailand's watch in November 2019, with 15 of the 16 member countries agreeing to move towards signature in 2020. India explained that it would not be moving ahead with the agreement, unless it was substantially renegotiated to take into account its specific issues and objections.<sup>25</sup> Signature was meant to happen on March 13, 2020, but this date has slipped as members continue to work on getting India to join at the signature stage.<sup>26</sup> Officially, the agreement is now lined up for signature in November at the final ASEAN meetings for the year. Meanwhile, officials are working on resolving any of the final issues in the texts and schedules. The RCEP texts and schedules have not been released, nor, despite years of work, have sections of the deal been leaked.<sup>27</sup>

RCEP has always been ASEAN-led and the final agreement is modelled on the existing ASEAN+1 FTAs. Negotiations took place with each round starting with an ASEAN Caucus on each specific chapter of the final agreement. After the AMS meetings, the Dialogue Partners in RCEP may (or may not) have met separately. Only then did discussions begin in each round with all 16 parties represented at the table. This process helped to ensure that ASEAN could reach the collective sessions with a clearer sense of ASEAN's own objectives for the meetings. It also meant that negotiations were extensive and lengthy.

The final agreement, like ASEAN's own FTAs, contains one set of legally binding text commitments,<sup>28</sup> as well as a series of country-specific commitments for goods, services, investment and others. Many of these commitments, particularly tariff cuts for goods, were actually negotiated bilaterally between members. The RCEP is likely to prove challenging for firms to navigate as a results.

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<sup>25</sup> See the Joint Leader's Statement issued in Bangkok on November 4, 2019, accessed at <https://asean.org/storage/2019/11/FINAL-RCEP-Joint-Leaders-Statement-for-3rd-RCEP-Summit.pdf> on January 13, 2020.

<sup>26</sup> For more information on what the signature of RCEP means without India, see <http://asiantradecentre.org/talkingtrade/rcep-15-1-equals-what>. Most probably, the remaining 15 members will take their cue from the transition of TPP to CPTPP with the withdrawal of the United States. Anything "India specific" will be suspended from the agreement at the time of entry into force and will remain "frozen" until such time as India returns to the grouping.

<sup>27</sup> This report's authors, however, personally attended 17 rounds of RCEP talks and have been actively engaged with trade negotiators since 2014 on a wide range of issues. For the complete list of RCEP materials, including Policy Briefs often distributed directly to officials, see <http://asiantradecentre.org/rcep/>.

<sup>28</sup> Although all elements are legally binding, some were excluded from the dispute settlement mechanism at the outset and much of the final text is written in soft legal language which may make it difficult or impossible to use the dispute system even if it might otherwise appear to apply. In addition, the RCEP agreement has embedded special and differential treatment reserved for developing economies and additional flexibilities allowed for least developed states.

### III. Trade in goods

The RCEP tariff negotiations were especially fraught. Members in ASEAN have had extensive experience working on trade in goods arrangements, going back decades. ASEAN's own most important economic achievement has been the elimination of tariffs on goods. Given the often high Most Favoured Nation (MFN) rates charged to non-ASEAN member imports across the region, the reduction and then duty-free treatment of goods trade remains an impressive accomplishment.

At the core of trade in goods liberalization has been the ASEAN Trade in Goods Agreement (ATIGA) and the ASEAN+1 agreements. This section provides a critical overview and assessment of ASEAN's attempt to strengthen and lower barriers to goods trade.

#### A. Overview of the ATIGA

The ASEAN Trade in Goods Agreement (ATIGA) was signed by the Economic Ministers of all ASEAN member states in 2009.<sup>29</sup> ATIGA was the first comprehensive document that covered multiple areas of trade in goods in the ASEAN region. Some of its distinctive features included:<sup>30</sup>

- The requirement for all ten countries to have full tariff reduction schedules for priority and target sectors completed by 2015.
- It provided a more comprehensive coverage of trade in goods with a stronger focus on issues such as non-tariff barriers, rules of origin, trade facilitation, customs, standards, and sanitary and phytosanitary (SPS) measures.

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<sup>29</sup> The ATIGA enhanced and superseded the Agreement on Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT/AFTA) which was signed in 1992 and its related protocols and arrangements. Hill, Hal, and Jayant Menon. 2010. *ASEAN Economic Integration: Features, Fulfillments, Failures and the Future*. ADB Working Paper Series on Regional Economic Integration, Asia Development Bank.

<sup>30</sup> ASEAN Secretariat. 2007. "ASEAN." ASEAN. November 20. Accessed July 6, 2020. <https://www.asean.org/storage/images/2013/economic/afta/atiga%20interactive%20rev4.pdf>.

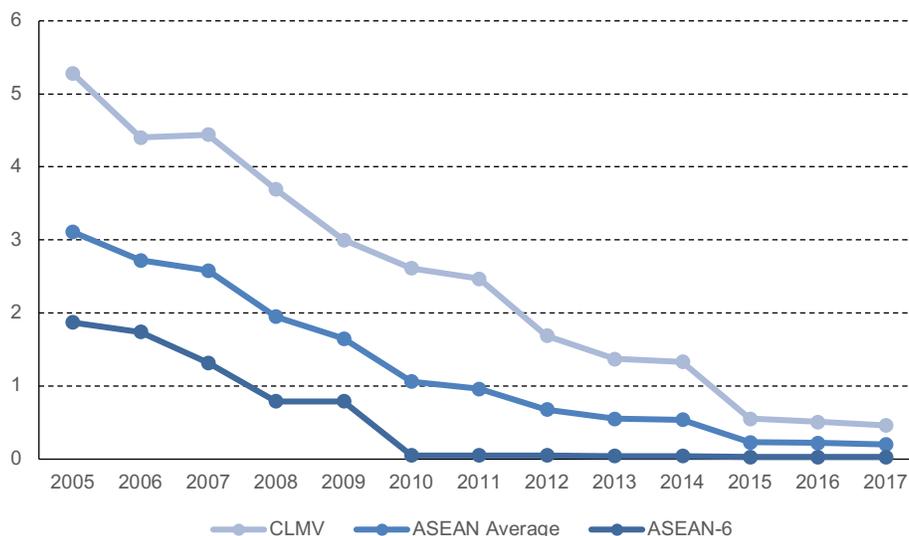
- It defined ASEAN Rules of Origin.
- Improved transparency. For example, member states were obliged to inform all parties of the implementation of any new non-tariff measures or the modification of existing measures.
- Enforced platforms for trade facilitation such as ASEAN Single Window and ASEAN Trade Repository.
- Introduction of a self-certification system that allowed traders to declare that goods met the rules of origin for ATIGA without the need for a customs declaration form.

### 1. Elimination of tariffs

ASEAN adopted a step-by-step approach to tariff liberalization in sensitive sectors that provided flexibility and longer timelines for CLMV countries. The ATIGA included 8 schedules (Schedule A to Schedule H) through which each ASEAN member state was required to liberalize tariffs in order to meet a target tariff rate by a target year.

Tariff rates for ASEAN 6 countries (Brunei, Indonesia, Singapore, the Philippines, Malaysia and Thailand) have been close to zero since 2010, while the average tariff rate in Cambodia, Lao PDR, Myanmar and Vietnam was greatly reduced from over 5% in 2005 to a mere 0.46% in 2017 (figure 1). Collectively, ASEAN had eliminated 98.6% of import duties on intra-ASEAN trade by 2019.<sup>31</sup>

**Figure 1**  
Average preferential tariffs on intra-ASEAN trade (2005-2017)<sup>a</sup>  
(Percentage)



Source: ASEANStats.

<sup>a</sup> ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

ASEAN members' method for dropping tariffs on one another was unusual. In brief, products were only liberalized when both parties put the item in their "inclusive" list. If one party left the product classified as "sensitive" or "highly sensitive" nothing happened to tariff levels between the two sides. The net result was that the process took longer than might have been expected, with some products still on the

<sup>31</sup> As noted in the AEM Joint Statement on September 6, 2019, <https://www.asean2019.go.th/en/news/the-51st-asean-economic-ministers-aem-meeting/> accessed on January 3, 2020.

sensitive list and unavailable for lower tariffs or other types of preferential treatment. This included items like rice<sup>32</sup> and sugar that remain protected, now largely for food security reasons.<sup>33</sup> Table 1 shows sensitive sectors with long phased out periods or where intra-ASEAN tariffs remain.

**Table 1**  
**Sensitive sectors in ASEAN<sup>a</sup>**

Country	Sensitive Sectors with Tariffs Still Imposed on Intra-ASEAN Trade
Brunei	Alcoholic beverages (MFN rate), military weapons (MFN rate)
Cambodia	Live horse; live swine; duck; fish; flower; tomatoes and onions; cabbage, carrots, and beans; corn; coconuts; pineapple, avocados, mango, mangosteen, oranges, watermelons; HS 12.11 products which plants for pharmaceutical use; cannabis; lubricants; diesel fuel; carbofuran; some products under HS 29.33 which include Heterocyclic compounds with nitrogen heteroatoms; some acid under HS 29.34; poppy straws and cocaine
Indonesia	Rice (25%); Cane or beet sugar; Alcoholic beverages (MFN rate); Firearms (MFN rate)
Lao PDR	Live animals, poultry; preserved and frozen meat; Fresh and frozen vegetables; Nuts; Fresh and frozen fruits
Malaysia	Melons, watermelons and papaya; Durians, Rambutan, Lanzones, Jackfruits, Starfruits, Snake fruit, Dragon fruits, Ciku fruits; Rice (20%); Alcoholic beverages (N.O.); Tobacco
Myanmar	Rice (5%); Cane or beet sugar; Paintings, drawings, original sculptures, zoological, botanical ethnographic collections (GE List); Antiques of an age exceeding one hundred years (GE List)
Philippines	Fowls; Fresh and frozen swine; Offal and poultry; Duck; Geese; Rice (35%); Cane or beet sugar
Singapore	None: Singapore imposes no tariffs from HS code 0.01 to HS code 97.05
Thailand	Flowers; Potatoes; Coffee
Vietnam	Fighting cocks, Carcasses, swine, sheep or goats, poultry, meat offal; Milk and cream, Butter, Cheese; Flowers; nuts; Fresh and dried fruits; coffee; tea; Rice; wheat flour; animal fat; vegetable oil; preserved meat; sugary products; pasta; cereals or cereal products; Vegetables, fruit, nuts; preserved fruits, fruit juice; alcoholic beverages; Petroleum oils; Organic surface-active agents (other than soap) HS code 34.02; Refractory cements, mortars; Polymers of styrene, in primary forms; Tubes, pipes and hoses; Floor coverings of plastics; Bath utensils; Paper and paperboard; Paper boxes; Woven fabrics of cotton; Woven fabrics of synthetic filament yarn; Tullies and other net fabrics; Slag wool; Ceramic products; Glass; jewelry, Imitation jewelry and precious metals; engine spare parts; Reception apparatus for radio-broadcasting; Motor vehicles for transport

Source: ASEAN Tariff Finder.

<sup>a</sup>ASEAN Tariff Finder. n.d. "ASEAN." ASEAN. Accessed July 6, 2020. <https://tariff-finder.asean.org/index.php?page=atiga>.

## 2. Rules of origin

In a trade agreement, tariff commitments cannot be viewed in isolation from the accompanying rules of origin (ROOs). This is because it is possible to eliminate all import tariffs in a given market and still create such difficult or onerous rules of origin that hardly any products qualify for the preference granted (the zero-duty rate).<sup>34</sup>

<sup>32</sup> Rice, as an example, remains sensitive today, with the Philippines now imposing tariffs of 35 percent on ASEAN rice imports. The ostensible purpose of collecting tariffs on ASEAN rice (and imports from others) was to support farmers disadvantaged by liberalized trade. See, for example, "Govt earned P12.3B from rice tariffs in 2019," *Philippine Daily Inquirer*, January 11, 2020, accessed at <https://business.inquirer.net/286915/govt-earned-p12-3b-from-rice-tariffs-in-2019> on January 13, 2020.

<sup>33</sup> ASEAN used an extremely complicated system to reduce tariffs to one another with all items placed into four "baskets." In short, goods were liberalized only when other members also liberalized similar items. See Deborah Elms, "Governing Trade: Regional Leadership in the Asia Pacific," *The International Political Economy of Trade*, David Deese (editor), Edgar Elgar, 2016.

<sup>34</sup> A classic example of this problem is the ASEAN-India FTA, which requires firms to meet double rules of origin. This highly unusual approach means that companies need to meet two separate rules (40% Regional Value Content and change in tariff heading) in order to have any shot at getting tariff reductions. In practice, almost no firms can manage to qualify for whatever tariff preferences might be on offer.

Originally, ASEAN used a simple ROO, 40% regional value content (RVC), for everything. This meant that as long as 40% of the value of the item being shipped across an ASEAN border into another ASEAN country came from within ASEAN, it would qualify for ASEAN preferential tariff rates. However, this apparently simple rule is not always easy for firms to use and, over time, ASEAN included new options as well, including change in tariff classification (CTC) and process rules.<sup>35</sup>

The certification process to show that ASEAN ROOs were met before goods crossed borders in the region has also evolved. The ASEAN Certificate of Origin (CO) Form D has slowly been moving online, with the creation of National Single Window (NSW) projects. The NSWs allow traders and others to electronically file documentation, like the e-Form D, with relevant agencies like customs. To really facilitate trade, however, the national-level systems need to be connected across ASEAN to allow traders to submit a form once for shipments anywhere within ASEAN. These NSWs were meant to be bundled into an ASEAN-wide Single Window (ASW) by 2015, but this has not yet happened.

### 3. Non-tariff measures (NTMs)

High tariffs are not the only obstacle that can impede trade. Some ASEAN members have elevated non-tariff restrictions to an art form to keep out potentially duty-free trade from the region.

Not all trade restrictions are equal. Some are legally valid and important, such as rules to ensure safe food or appliances. These are typically called non-tariff measures (NTMs), although a proliferation of NTMs can still impede trade unnecessarily. Some restrictions, however, are crafted, designed or implemented in such a way that they are simply obstacles to trade or non-tariff barriers (NTBs). The former were meant to be reduced in ASEAN while the latter category has been subject to multiple commitments to elimination.

The reduction of non-tariff measures occupies a separate chapter in ATIGA. Article 40 states that "each Member State shall not adopt or maintain any non-tariff measure on the importation of any good of any other Member State or on the exportation of any good destined for the territory of any other Member State, except in accordance with its WTO rights and obligations or in accordance with this Agreement".<sup>36</sup>

ATIGA was supposed to eliminate non-tariff barriers in three tranches:<sup>37</sup>

- i) Brunei, Indonesia, Malaysia, Singapore and Thailand by 1 January of 2008 2009 and 2010;
- ii) The Philippines by 1 January of 2010 2011 and 2012;
- iii) Cambodia, Lao PDR, Myanmar and Vietnam by 1 January of 2013 2014 and 2015, with flexibilities up to 2018.

In practice, however, ASEAN has made extremely limited progress on all non-tariff issues and has few mechanisms to either effectively catalogue measures to streamline them or begin the process of eliminating NTBs.

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<sup>35</sup> RVC can be problematic for firms for several reasons. First, it requires the company to have significant information on all materials, parts and components. Second, these details have to be turned over to customs officials, leaving firms at risk of intellectual property theft. Third, it requires careful tracking of suppliers and sub-suppliers to ensure that ASEAN content has not been exchanged for non-ASEAN content at different parts of the production process. Fourth, RVC is vulnerable to shifts in exchange rates, input material adjustments and changes in the underlying values related to the manufacture of the product. For example, imagine a project that currently qualifies under ASEAN at 42% RVC, but where the effect of a change in the exchange rate on a key raw material drops the overall value of the finished good to 39%. A product that used to qualify for ASEAN preferences no longer does.

<sup>36</sup> ASEAN Tariff Finder. n.d. "ASEAN." ASEAN. Accessed July 6, 2020. <https://tariff-finder.asean.org/index.php?page=atiga>.

<sup>37</sup> ASEAN Secretariat. 2007. "ASEAN." ASEAN. November 20. Accessed July 6, 2020. <https://www.asean.org/storage/images/2013/economic/afta/atiga%20interactive%20rev4.pdf>.

## B. Goods coverage in other ASEAN agreements

Under ASEAN+1 agreements, ASEAN has eliminated or substantially reduced the majority of tariff lines between ASEAN Member States (AMS) and Australia, China, Hong Kong, India, Japan, New Zealand and South Korea. However, differences in the Rules of Origin (ROO) and Certificate of Origin (COO) requirements under each of the agreements affect their usefulness for businesses operating in the region.

### 1. Tariffs

Most of the ASEAN+1 agreements include tariff reductions or elimination on up to 90 percent of the tariff lines between AMS and its dialogue partners (table 2).

**Table 2**  
**Tariff coverage of ASEAN+1 agreements<sup>a</sup>**

Agreement	Coverage at End of Full Implementation
ASEAN-India	Reduction or elimination of 90% of tariffs
ASEAN-China	Elimination of 85% of tariffs
ASEAN-Korea	Elimination of 80% of tariffs
ASEAN-Japan	Elimination of 94% of tariffs
ASEAN-Australia-New Zealand	Elimination of 90% of tariffs
ASEAN-Hong Kong	HK tariffs were already at 0

Source: ASEAN.org.

<sup>a</sup> ASEAN. "Free Trade Agreements with Dialogue Partners." ASEAN, 2019. <https://asean.org/asean-economic-community/free-trade-agreements-with-dialogue-partners/>.

However, like ATIGA, for sensitive tariff lines most ASEAN+1 agreements had longer phaseout periods or did not eliminate or reduce tariffs at all. Given the relatively high concentration of trade in a small number of tariff lines between the parties, it is possible that all (or nearly all) items of particular value for tariff cuts may not have been included in the various ASEAN+1 FTAs. This is especially true for many agricultural tariff lines that have often received limited coverage in various trade deals.

Even though ASEAN approaches dialogue partners as a cohesive unit, negotiations take place at a bilateral level. In other words, for every ASEAN trade agreement, the individual member countries have their own schedules for goods, services, investment and often other elements. Therefore, tariff elimination commitments vary for every AMS and dialogue partner under each of the agreements.

RCEP provided an interesting opportunity for ASEAN to consolidate tariff coverage and provide the highest level of overall coverage (as the original Leader's Statement launching the negotiations demanded)<sup>38</sup>. While it was assumed that negotiations in RCEP would be simple and fast, given the existence of prior trade deals between all the parties, two problems quickly emerged for trade in goods. First, coverage across the existing five ASEAN+1s for goods varied more than anticipated, with up to a quarter of all tariff lines inconsistently included. Second, while ASEAN had agreements with all its Dialogue Partners, the DP's did not have a similar network of agreements between themselves. Thus, RCEP will provide new market liberalization between several important pairs such as India-China and China-Japan<sup>39</sup>.

<sup>38</sup> Note that Hong Kong is not included in RCEP. The original mandate for RCEP required an ASEAN+1 deal with goods, services and investment. Hong Kong's agreement with ASEAN was not reached until very late in the RCEP negotiating process and it is therefore not currently a member.

<sup>39</sup> Even for partners that have an existing agreement, like China and South Korea, RCEP has the potential to expand dramatically on past offers and benefits, making negotiations challenging. RCEP was negotiated with 16 countries, although India is unlikely to be present at the date of entry into force. The presence of India in the RCEP negotiations and the lack of existing links between India and other ASEAN+1 partners, meant extensive negotiations were needed to confirm schedules within the RCEP grouping.

These two problems meant that RCEP talks for tariffs had to be extended even into 2020, after the original agreement was concluded, to wrap up all loose ends. Under RCEP, tariff schedules are going to require specialist advice to be comprehensible to firms. Instead of a single tariff schedule per country for all negotiating parties, all tariff schedules were negotiated bilaterally, leaving firms potentially grappling with 15x15 schedules to unravel.

## 2. Rules and paperwork for goods trade

As noted above, tariff cuts or elimination is important, but the rules and paperwork requirements to show that goods are eligible for such preferential benefits are equally necessary. The existing ASEAN+1 trade agreements can be challenging for companies to use, as the rules of origin for each of the ASEAN+1 FTAs can be different and each comes with a different piece of paperwork or certificate of origin (CO).

RCEP will be an improvement from current operating conditions for firms in the 15 economies, including for ASEAN members. The existing ASEAN+1 deals that link together the various members can be problematic for use. For instance, as Table 3 below shows, the rules of origin that need to be followed in order for a firm to avail themselves of preferential tariff rates are inconsistent across the existing FTAs. This means that a company in ASEAN that wants to trade specific products with all the Dialogue Partners may be unable to do so without extensive reformulation of products to ensure that the various ROOs are met.

The importance of a single rule of origin across trading partners can be best illustrated through a specific case—the manufacturing of a table with a wooden top and wrought iron legs. A company in Malaysia that wants to make and then ship this table across Asia may find it difficult and unnecessarily expensive to do so absent RCEP. While the Malaysian table company has in principle the ability to create and ship a table to all 16 members of RCEP today using the existing ASEAN+1 agreements, the different manufacturing requirements may preclude shipping the table as it is currently manufactured around the region.

If the legs are crafted from iron imported from Korea, the final table may meet the rules of origin under AKFTA. But the same table may not be able to be sent to Japan under AJCEP, because the AJCEP “content” would exclude the legs (which are “non-originating” under AJCEP). The legs may need to be remanufactured with iron sourced from Japan or from another ASEAN member country to qualify for lower tariffs inside AJCEP. The same thing will likely happen under AANZFTA and ACFTA. Unfortunately for goods manufacturers, almost no one can actually use AIFTA, because the rules of origin require what is called “double transformation” to qualify for the (often modest) tariff cuts in the agreement. The table, as a result, needs to not only show sufficient regional value content from ASEAN+India, but it also needs to show a change in tariff heading to qualify. The table will need to include ASEAN and Indian content (most probably not by using Korean legs) and also must be sufficiently transformed from the originating materials to meet the second rule.

Each ASEAN+1 agreement also requires specific certificates of origin (CO) paperwork which are not consistent across agreements. Firms that are used to working with ASEAN's Form D for ATIGA, as an example, may struggle to fill out ACFTA's form. The upcoming ASEAN Single Window system is meant to allow companies to submit trade documentation through the portals, but only the ASEAN e-Form D is currently available for use (and this was implemented in all 10 ASEAN members at the very end of 2019)<sup>40</sup>.

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<sup>40</sup> For a sense of how e-Form D works, see this slide deck prepared by Malaysia's MITI: [https://www.miti.gov.my/miti/resources/Preferential%20Certificate%20of%20Origin/Announcement/SKPI\\_ASW\\_Slides\\_3.4\\_.2019\\_.pdf](https://www.miti.gov.my/miti/resources/Preferential%20Certificate%20of%20Origin/Announcement/SKPI_ASW_Slides_3.4_.2019_.pdf) accessed on January 30, 2020. Note, however, that since the release of this document, the remaining ASEAN members have joined the pilot phase, allowing transmission (in theory at least) of e-Form D's for ATIGA across all member states.

**Table 3**  
**ASEAN ROOs in ASEAN+1 trade agreements<sup>a</sup>**

	RVC	CTC	Process Rule
ATIGA	40%	Tariff Heading, 4-digit level	Not mentioned
ASEAN-China FTA	40%	Not mentioned	Not mentioned
	& Product Specific Rules		
ASEAN-China FTA Upgrade	40%	Tariff Heading, 4-digit level	Not mentioned
	& Product Specific Rules (PSR)		
ASEAN-India FTA	35%	Tariff Sub-heading, 6-digit level <sup>b</sup> (and RVC met)	Not mentioned
	(and CTC)		
ASEAN-Japan CEP	40%	Tariff Heading, 4-digit level	Not mentioned
ASEAN-Korea FTA	40%	Tariff Heading, 4-digit level	Not mentioned
ASEAN-Australia-New Zealand	40%	Tariff Heading, 4-digit level	Being worked on by ROO Sub-committee
ASEAN-HKC FTA	40%	Tariff Chapter, 2-digit level; Tariff Heading, 4-digit level; Tariff Sub-heading, 6-digit level	Not mentioned
	& Product Specific Rules (PSR)		

Source: Ministry of International Trade and Industry Malaysia (MITI). Compiled by authors.

<sup>a</sup> Ministry of International Trade and Industry of Malaysia (MITI). Free Trade Agreements – Regional. Retrieved from: <http://fta.miti.gov.my/> [Accessed on September 25, 2017].

<sup>b</sup> Only in ASEAN-India FTA both RVC and CTC are required. For others, only one criterion is required

Under RCEP, however, firms like the table manufacturer can ship goods to all 16 member countries using the same agreement with one CO that covers all 16 members. While the tariffs in each member state may be different, the rules of origin and CO are the same for every RCEP economy.

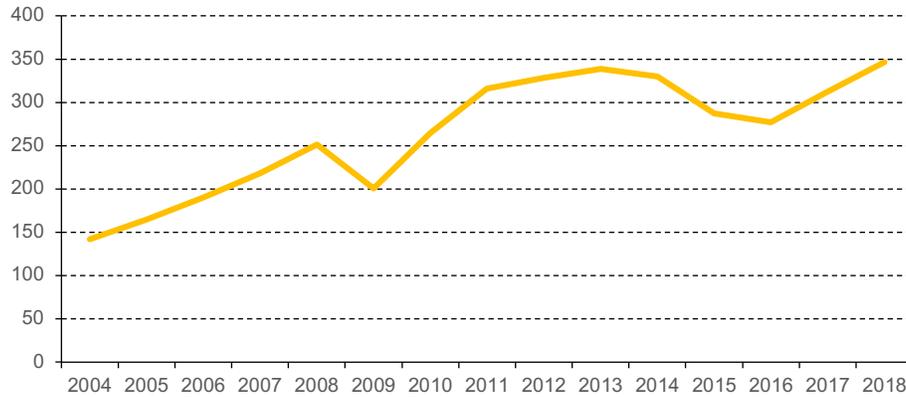
### C. Assessing ASEAN trade in goods

Trade conducted by ASEAN states has increased considerably over the past two decades. However, despite numerous attempts to lower intra-ASEAN barriers to trade, most of ASEAN trade growth has come from increased trade with dialogue partners.

Since the announcement of the AEC 2015 in 2003, intra-ASEAN trade-easured through intra-ASEAN exports —has continued to grow— with the exception of declines in 2008 and 2015 (figure 2).<sup>41</sup> What has not happened, despite years of ever-greater economic integration, is a deepening of intra-ASEAN trade which remains stuck at just under a quarter of all trade in the region. In other words, while ASEAN's trade numbers have gone up since 2003, this is partly explained by a growing volume of trade over the same period, instead of greater trade between ASEAN members.

<sup>41</sup> The figures coming out of the 2020 COVID-19 situation will be significantly worse.

**Figure 2**  
**Intra ASEAN Exports, (2004 – 2018)<sup>a</sup>**  
*(Billion dollars)*

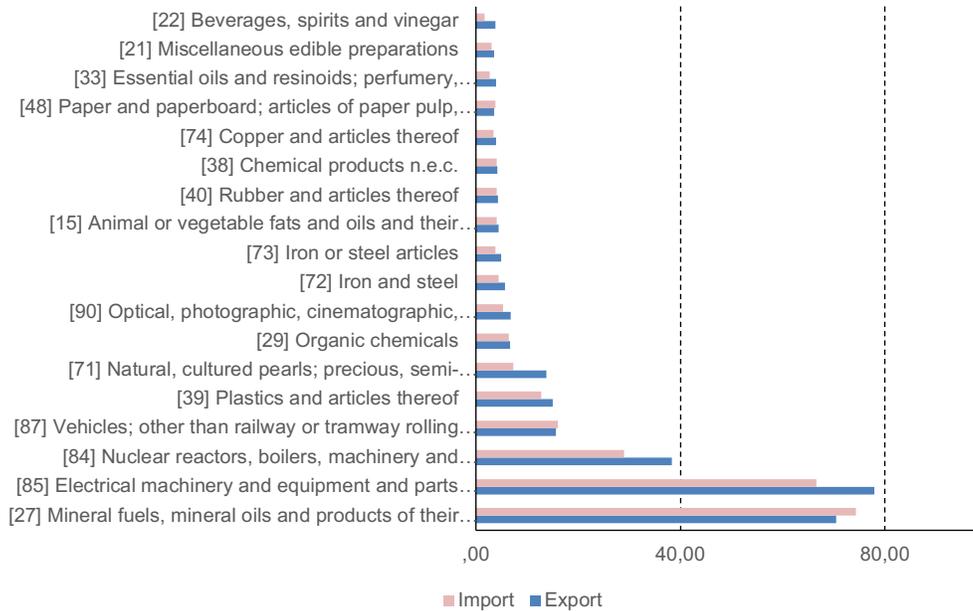


Source: Author.

<sup>a</sup>ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

The majority of products traded between AMS fall under two main product categories: mineral fuels, mineral oils and products of their distillation, and electrical machinery and equipment (figure 3).

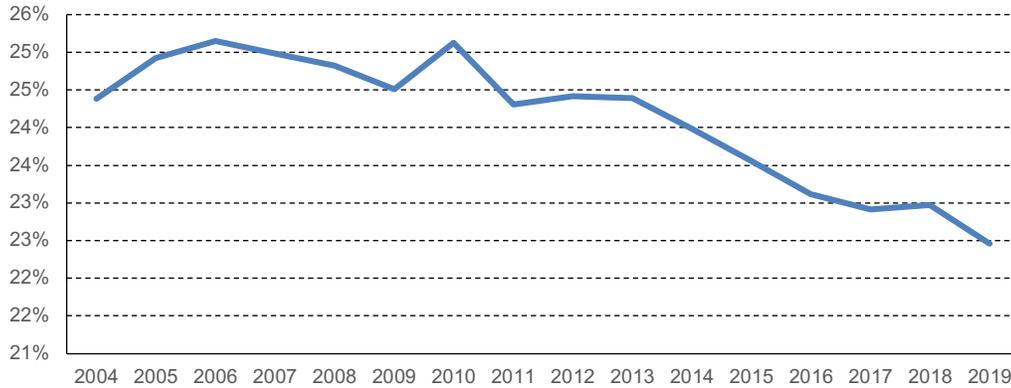
**Figure 3**  
**Top 20 product categories in intra-ASEAN trade in goods (2018)**  
*(Billion dollars)*



Source: ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

However, Figure 5 shows that intra-ASEAN trade, measured as the sum of intra-ASEAN imports and exports, has remained under 25 percent of total trade since 2004 (figure 4).

**Figure 4**  
**Intra ASEAN trade as percentage of total trade (2004-2019)<sup>a</sup>**

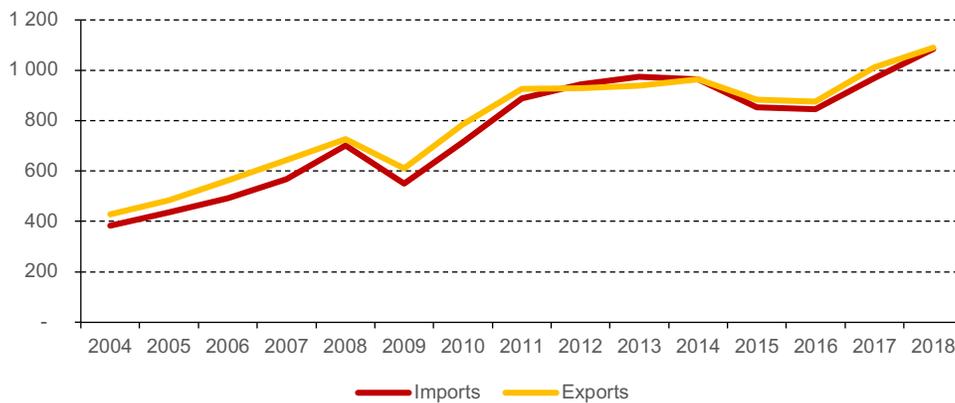


Source: ASEAN Stats.

<sup>a</sup> ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

Conversely, trade with the rest of the world has continued to represent an important component of ASEAN’s overall trade flows. Figure 5 shows considerable growth from 2004 to 2018 (with drops in volume in both 2008 and 2015).

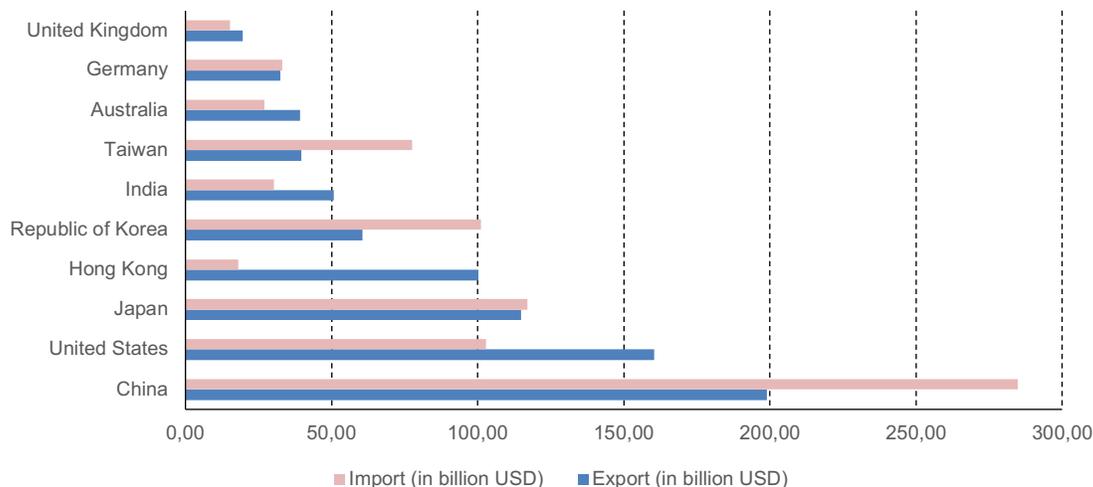
**Figure 5**  
**Extra ASEAN Trade Exports and Imports (2004-2018)**  
*(Billion dollars)*



Source: ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

The largest share of extra-ASEAN trade is captured by China. In 2018, Korea, Japan and Taiwan reported a trade surplus with ASEAN, while the United States, the U.K., India, Hong Kong and China reported trade deficits (figure 6).

**Figure 6**  
**ASEAN top trading partners (2018)**  
*(Billion dollars)*



Source: ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

The figures highlight an interesting story. ASEAN's greater economic integration was driven by the need to form an integrated platform and production base (largely for manufactured items) that would have eluded most ASEAN members operating on their own as the size and scale of domestic economies in the region were too small to support strong efforts to counter powerhouse traders elsewhere in Asia. This meant creating a more cohesive ASEAN to offset domestic challenges in most member states.

What happened instead was that ASEAN's integration did take place, but not so much for trade among neighbours. Instead, ASEAN companies became ever-more tightly linked into production platforms across the region, driven largely by ASEAN's neighbours in Northeast Asia. ASEAN's regional integration project strengthened AMS ability to get involved in production networks and global production sharing. Since 1985, when a rise in Japanese production and labour costs triggered the relocation of production by Japanese multinational enterprises (MNEs) into markets like Malaysia and Thailand, ASEAN has become an attractive location for assembly activities.<sup>42</sup>

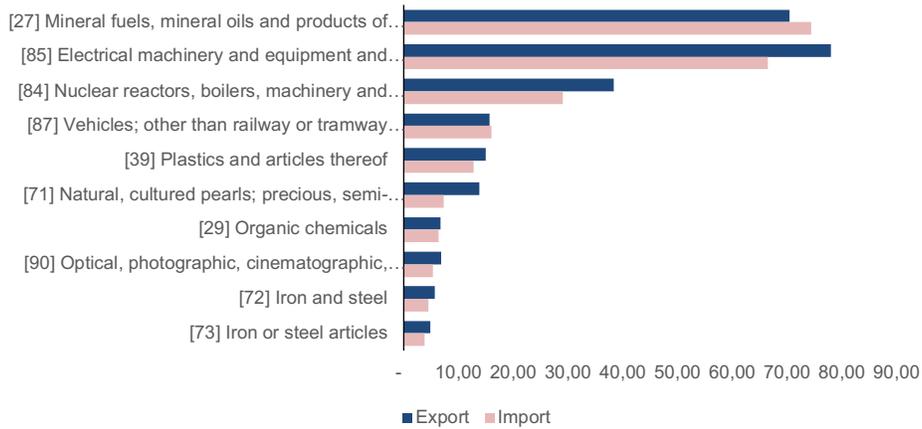
Participation in global production sharing has played an important role in a structural transformation of trade patterns in the region away from primary commodities and towards manufacturing.<sup>43</sup> Most of ASEAN's trade with external partners falls within the electrical machinery and equipment sector (figure 7). This is a result of rising wages in East Asia economies like Japan, Korea and Taiwan with globally competitive semi-conductor and consumer electronics industries and expansion of the final assembly of consumer electronics and electrical goods in China, both of which created new demand for component design,

<sup>42</sup> Cheewatrakoolpong, Kornkarun, Chayodom Sabhasri, and Nath Bunditwattanawong. "Impact of the ASEAN Economic Community on ASEAN production networks." (2013).

<sup>43</sup> Athukorala, Prema-chandra. "Southeast Asian countries in global production networks." In *ASEAN Economic Community*, pp. 79-100. Palgrave Macmillan, New York, 2016.

assembly and testing in AMS.<sup>44</sup> Some of this reshuffling of production was, indeed, built on the utilization of ASEAN’s various trade agreements in the region, but some does not.<sup>45</sup>

**Figure 7**  
**ASEAN imports and exports for top 10 traded product categories, (2018)**  
*(Billion dollars)*



Source: ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

<sup>44</sup> Athukorala, Prema-chandra. "Southeast Asian countries in global production networks." In ASEAN Economic Community, pp. 79-100. Palgrave Macmillan, New York, 2016.

<sup>45</sup> Taiwan, as an example, has no trade agreement with ASEAN, yet parts and components flow between both markets. Of course, it helps that most of this trade is in information, communication and telephone (ICT) products, which were given duty-free treatment for participating members at the World Trade Organization through the Information Technology Agreement (ITA).



## IV. Trade facilitation and non-tariff measures

Opening markets for goods only works if products can transit borders, so ASEAN added trade facilitation to its agenda very early. In fact, ASEAN has had various agreements on customs. For example, one dates from 1983, which was intended to speed up and clear cargo faster and with lower costs.

Based on the AEC Blueprint 2025, ASEAN adopted its Trade Facilitation Strategic Action Plan, monitored by the ASEAN Trade Facilitation Joint Consultative Committee (ATF- JCC)<sup>46</sup>. The action plan involves seven strategic objectives:

- i) Encourage the accelerated implementation of trade facilitation measures which have been accepted by international institutions such as the World Trade Organization (WTO) and/or the World Customs Organization (WCO), and in light of other relevant best practices.
- ii) Achieve competitive, efficient, and seamless movement of goods within the region in order to enhance ASEAN's trade and production networks, better participate in global value chains, and establish a highly integrated and cohesive economy.
- iii) Put in place an effective and responsive regional approach to efficiently address the trade distorting effect of NTMs with a view to pursuing legitimate policy objectives while reducing cost and time of doing business in ASEAN.
- iv) Actively engage the private sector, with particular emphasis on the development and promotion of micro, small and medium enterprises (MSMEs) in the process of regional economic integration.
- v) Enhance the institutional coordination among the relevant sectoral bodies of ASEAN, in order to effectively implement the trade facilitation measures under their respective purview consistently with their sectoral work-plans for 2016- 2025 and the ASEAN Blueprint 2025.

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<sup>46</sup> See the Plan at <https://asean.org/storage/2012/05/AEC-2025-Trade-Facilitation-SAP-FINAL-rev.pdf> accessed January 7, 2020.

- vi) Work towards increasing the participation of all AMSs, especially least developed AMSs, in the process of implementation of ASEAN trade facilitation programmes.
- vii) Improve the monitoring mechanism for the implementation of trade facilitation measures, with a view to increasing their effectiveness and responsiveness in improving the competitiveness of ASEAN industries and businesses.

Like with most things in ASEAN, there have been multiple workstreams and initiatives in place to strengthen trade facilitation in the region. The following section provides a critical overview of ASEAN's most relevant trade facilitation initiatives.

## V. Assessment of key trade facilitation initiatives

### A. ASEAN-single window (ASW)

The most visible element of ASEAN's trade facilitation agenda is the commitment to the ASEAN Single Window (ASW). This is a very ambitious project aimed at seamless transfer of goods across customs' authorities in all members. The ASW will connect and integrate the National Single Windows (NSW) of ASEAN Member States (AMS) to exchange electronic trade-related documents. The system will enable a single submission of data, a single synchronous processing of information and a single decision-making process for Customs release and clearance among AMS and participating countries.

The ASW was always meant to be implemented in different stages. This process was originally intended to be finished by 2016, but this deadline was not met. So far, NSWs in Indonesia, Malaysia, Singapore, Thailand, and Vietnam began operating in January 2018. Brunei Darussalam, Cambodia, Lao PDR, Myanmar and the Philippines joined in 2019. There is the beginning of a "lite" ASW, as members connect up NSWs to trade ASEAN's e-Form D with one another.<sup>47</sup>

### B. ASEAN trade repository

The ASEAN Trade Repository (ATR) was first articulated under the AEC. The ATR has several functions. First, it is intended to list all ASEAN trade regulations for customs and trade facilitation. Second, it is supposed to list all standards used across ASEAN.<sup>48</sup> Perhaps the most important element of the ATR is a function called the ASEAN Solutions for Investments, Services and Trade (ASSIST).

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<sup>47</sup> This is less useful that it might first appear, as ASEAN has also made the commitment to move to self-certification of rules of origin for customs. In other words, ASEAN firms do not need to submit any certificate of origin (CO) under self-certification at all.

<sup>48</sup> See the website for ATR at <https://atr.asean.org>.

The point of ASSIST is to allow firms to lodge questions or complaints. The complaint form should trigger a series of responses by ASEAN and the relevant AMS.<sup>49</sup> However, the programme has not yet worked as intended. The programme originally required full details of the complainant as well as specifics of the problem—including the names/dates/times of the complaint. This meant that companies with, for instance, a specific challenge regarding a customs official had to reveal their complete identity as well as the name of the actual individual(s) involved. Firms were, as a result, reluctant to step forward and use the programme. This design flaw has now been corrected by allowing firms to complete the form anonymously or allow third parties like law firms or trade associations to file on behalf of members, but the usage of the programme remains low. Finally, even when used, the results have been disappointing as most complaints have not been addressed or even answered.

Nevertheless, the idea of the ATR remains critically important. Companies need to easily access information and a region committed to integration must be able to provide clearly defined access points to details that matter on topics like customs procedures for certain goods or applicable product standards in each member state.

### C. Self-certification pilot projects

Even after decades of experience, using a certificate of origin (CO) for trade in goods within ASEAN can be cumbersome and costly. Companies must apply for each certificate separately and many documents require a physical trip to an office to get the document approved. Each certificate comes at a cost, making multiple shipments a more expensive proposition for firms. Hence, the decision to move towards self-certification of origin, to allow companies with experience using ASEAN's trade agreements (starting with ATIGA) to declare that origin criteria have been met without asking a trade association or other body to also sign off on the statement.<sup>50</sup>

The "Workplan towards Operationalisation of Self-certification" of origin was endorsed in 2010. Although the workplan required all member states to implement self-certification system by 2012, actual progress has moved very little. Only two pilot projects were enforced. During the first pilot project, Brunei, Malaysia, Singapore and Thailand agreed to participate. Lao PDR, Indonesia and the Philippines joined in the second pilot project. However, progress on these pilot projects has not been reported. Effort to implement ASEAN's scheme regionwide was reinforced in 2018 during the ASEAN Economic Ministers Meeting in Singapore. The ASEAN Wide Self-Certification (AWSC) Scheme was scheduled for full implementation by all AMS by March 2020, but COVID-19 has disrupted these plans.

### D. Mutual recognition agreements (MRA) for goods

As part of the 2025 Blueprint plans to reduce non-tariff barriers to trade in goods, ASEAN has opted to promote Mutual Recognition Agreements (MRAs). The latest set of guidelines for the development of MRAs was outlined in 2014.<sup>51</sup> The ASEAN Consultative Committee on Standards & Quality (ACCSQ) manages the process of negotiating new MRAs.

ASEAN does not typically pursue harmonization of regulations or standards. Member states are free to develop their own standards and regulations. However, since a potential proliferation of incompatible standards can impede trade, the ASEAN solution is to create an MRA which allows

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<sup>49</sup> See the web address at <https://assist.asean.org/en/home>.

<sup>50</sup> Self-certification does not mean that ROOs no longer matter. Firms are responsible for ensuring origin criteria have been met and for keeping documentation for years after each shipment in case of challenge.

<sup>51</sup> ASEAN Secretariat. 2007. "ASEAN." ASEAN. November 20. Accessed July 6, 2020. <https://www.asean.org/storage/images/Community/AEC/Sectoral/standarandconformance/Guidelines%20for%20The%20Development%20of%20Mutual%20Recognition%20Arrangements-rev3-FA.pdf>.

participating members to recognize the equivalence and results of conformity assessment (or testing) procedures. The presence of an MRA does not automatically mean that members will harmonize policies either, only that they may do so. Each member state retains “full regulatory authority,” which means that companies trying to use existing MRAs need to get approval from every ASEAN member state as any approval is only valid in the particular member state.

ASEAN identified 12 priority goods and services sectors for MRAs as far back as 1998. Goods sectors include health care products, automotive, rubber-based products, wood-based products, textiles, agro-based products, fisheries, electronics and electricals. Of these sectors, only processed food and electric and electronic products were completed. An additional MRA covering automotive products moved towards signature in 2019 after 7 years of negotiations<sup>52</sup>. Another MRA for Building and construction materials is due shortly.<sup>53</sup>

The 51st meeting of the ASEAN Economic Ministers, held in Thailand in September 2019, put a new item on the table: an MRA for Authorized Economic Operators (AEO) to help facilitate customs. Ministers recommended a “pathfinder” approach to a solution in 2020.<sup>54</sup>

The net result is that the use of MRAs as a mechanism for reducing non-tariff barriers to trade in ASEAN seems extremely limited. Given the volume of company complaints related to standards and regulatory barriers, this seems a missed opportunity.<sup>55</sup>

## E. Harmonizing standards, testing and regulations

An increasingly important set of obstacles to the free movement of goods are the proliferation of incompatible product standards, testing regimes and other regulations. ASEAN’s approach has been to align its standards and regulations with international standards acceptable at the multilateral level.

ASEAN tackles these issues through Standards, Technical Regulations and Conformity Assessment Procedures (STRACAP), which are monitored by the ASEAN Consultative Committee for Standards and Quality (ACCSQ). The Action Plan for this activity highlights key performance indicators for the achievement of six “strategic thrusts”.<sup>56</sup> Harmonization of standards has been completed for electrical appliances; electrical safety; electromagnetic components; rubber-based products; and pharmaceuticals.

Nevertheless, supply side capacity constraints as shown by the differences in the infrastructures for standards and conformance of the member countries, can make the harmonization and alignment of standards and regulations slow, if not difficult, to achieve.<sup>57</sup>

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<sup>52</sup> “ASEAN Ministers to Sign Deal on ASEAN MRAs,” Bangkok Post, July 19, 2019. Accessed at: <https://www.bangkokpost.com/business/1714924/asean-ministers-to-sign-deal-on-asean-mras> on January 1, 2020.

<sup>53</sup> See point 52 in the ASEAN Economic Pillar legal instruments document, accessed on January 6, 2020 at [http://agreement.asean.org/search/by\\_pillar/2/8.html](http://agreement.asean.org/search/by_pillar/2/8.html) Note that the list of MRAs includes services and goods manufacturing agreements.

<sup>54</sup> See the AEM Joint Statement at <https://www.asean2019.go.th/en/news/the-51st-asean-economic-ministers-aem-meeting/> accessed January 3, 2020.

<sup>55</sup> See Non-Tariff Barriers (NTBs) in ASEAN and Their Elimination from a Business Perspective, E-Readi, 2019, accessible at the Asian Trade Centre website at: <https://static1.squarespace.com/static/5393d501e4b0643446abd228/t/5dof2coe17e3300001e2e857/1561275474331/NTBs+in+ASEAN.pdf>.

<sup>56</sup> See the ASEAN Standards and Conformance Strategic Plan 2016-2025 at [https://asean.org/storage/2012/05/ENDORSED-ACCSQ-Strategic-Plan-2016-2025\\_for-External-Parties.pdf](https://asean.org/storage/2012/05/ENDORSED-ACCSQ-Strategic-Plan-2016-2025_for-External-Parties.pdf) accessed January 7, 2020.

<sup>57</sup> Austria, Myrna. “Non-tariff barriers: A challenge to achieving the ASEAN economic community.” *The ASEAN Economic Community: A Work in Progress* (2013): 31-94.

## F. Elimination of non-tariff barriers

ASEAN's commitments and specialized bodies for the identification and elimination of NTBs over the past two decades have followed similar blueprints and implementation plans. The AEC Blueprint 2025 had, as its first action item, to complete all elements not already finished in the 2015 AEC prior to the end of 2016.

However, this was not done, even by 2020. The commitments were therefore rolled over into the AEC Blueprint.<sup>58</sup> The latest NTM Guidelines call for greater transparency and management of NTMs as well as efforts to minimize their trade-distorting effects.<sup>59</sup> Key elements of the Guidelines include ensuring that all NTMs fit the following set of principles: necessity and proportionality, consultations and engagement, transparency, non-discrimination and impartiality, and periodic review.

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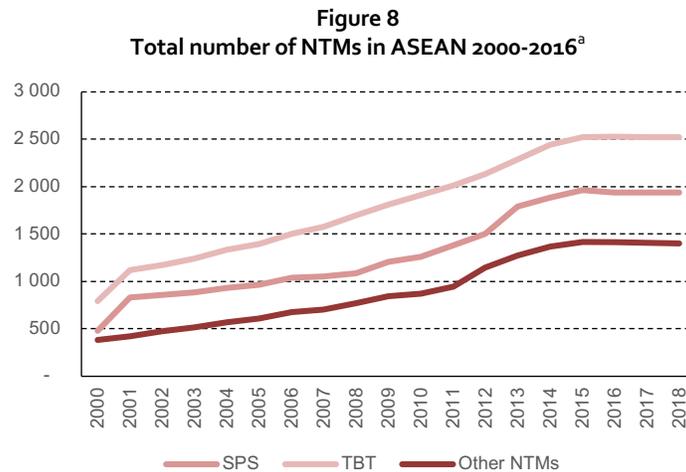
<sup>58</sup> NTMs related to trade facilitation are also included under the Comprehensive Strategic Action Plan in heading 3. Actions to be taken by ASEAN in 2018-2020, as an example, include standstill and rollback of NTMs with a "barrier effect," where the former is no introduction of new measures and rollback is the elimination of existing NTMs. See the CSAP at <https://asean.org/storage/2012/05/AEC-2025-Trade-Facilitation-SAP-FINAL-rev.pdf> accessed January 7, 2020.

<sup>59</sup> See the ASEAN website at: [https://asean.org/storage/2018/12/Guidelines\\_for\\_the\\_Implementation\\_of\\_ASEAN\\_Commitments\\_on\\_NTMs-July\\_2018-AEM-AFTAC\\_32.pdf](https://asean.org/storage/2018/12/Guidelines_for_the_Implementation_of_ASEAN_Commitments_on_NTMs-July_2018-AEM-AFTAC_32.pdf) accessed January 1, 2020.

## VI. Assessment of trade facilitation outcomes

### A. Reducing non-tariff measures and eliminating non-tariff barriers

Despite continued efforts to reduce NTMs, ASEAN has not been able to effectively track NTMs nor identify or eliminate NTBs. According to the Global Database on Non-Tariff Measures (TRAINS), from 2000 to 2015, NTMs in ASEAN rose significantly. Figure 8 shows that the number of sanitary and phytosanitary measures (SPS), technical barriers to trade (TBT) and other types of NTMs increased between 2000 and 2016 by 305, 218 and 266 per cent respectively.



Source: UNCTAD - Integrated Trade Intelligence Portal - Home Page." Asean.I-Tip.Org. <http://asean.i-tip.org/Forms/TableView.aspx?mode=modify&action=search>.

<sup>a</sup> "UNCTAD - Integrated Trade Intelligence Portal - Home Page." Asean.I-Tip.Org. <http://asean.i-tip.org/Forms/TableView.aspx?mode=modify&action=search>.

In fact, most traded products in ASEAN are today covered by NTMs. A 2015 analysis of NTMs in ASEAN conducted by ERIA shows that “coverage ratios,” or the percentage of imports covered by a measure in a given year, is high across ASEAN.<sup>60</sup> Table 2 shows that in six of the ten member countries, all imports are covered by at least one NTM.

**Table 4**  
**Coverage ratios NTMs in ASEAN 2015**

Country	NTM Coverage (percentage)
Brunei	65
Cambodia	100
Indonesia	75
Lao PDR	100
Malaysia	71
Myanmar	42
Philippines	100
Singapore	100
Thailand	100
Vietnam	100

Source: Ing, Fernandez & Cadot (2016). Ing, Lili Yan, Santiago Fernandez de Cordoba, and Olivier Cadot. "Non-tariff measures in ASEAN." (2016).

Instruments like business surveys have documented the difficulties that NTMs entail for firms. Consistently, surveys done by UNCTAD, the EU-ASEAN Business Council, the ASEAN Business Advisory Council and the International Trade Centre have shown that businesses: (i) remain affected by burdensome NTMs and (ii) continue to prioritize the identification and removal of NTBs as a means to move forward the ASEAN Economic Community<sup>61</sup>.

As a cautionary note, however, it is important to remember that simple “counts” of NTMs or NTBs are insufficient on their own to understand the extent to which trade is impeded or facilitated. It is possible that highly transparent members that wish to be seen as accountable may include a wide range of potential items into an NTM list. Many of the items included may actually have little impact on trade flows. Another member country might have only one item—but if this one regulation or obstacle is significant enough, all trade could conceivably be included. The former member would look much “worse” on these various statistics, yet actually deliver less harm than the latter member with a single devastating NTM in place.

The continued presence of the commitment to reduce NTMs and eliminate NTBs is important. As tariffs have fallen across ASEAN, the measures and impact of various non-tariff obstacles to trade do appear to be growing in strength and importance. The continued proliferation of non-tariff obstacles may be limiting ASEAN’s ability to increase intra-regional trade and affecting overall trade performance. Both ATIGA and the AEC 2025 Roadmap have continued to shine a light on this important aspect of successfully delivering trade flows in an integrated region.

## B. Logistics and trade performance

If ASEAN is going to achieve a prime objective of the AEC and the 2025 Blueprint in getting a “free flow of goods,” it is also necessary to focus on obstacles that may impede the movement of goods over the

<sup>60</sup> Ing, Lili Yan, et al. "Non-tariff Measures in ASEAN: A Simple Proposal." In *Non-Tariff Measures in ASEAN*. By Ing, Lily Yan and de Cordoba Santiago Fernandez, Economic Research Institute for ASEAN and East Asia, 2016, 21.

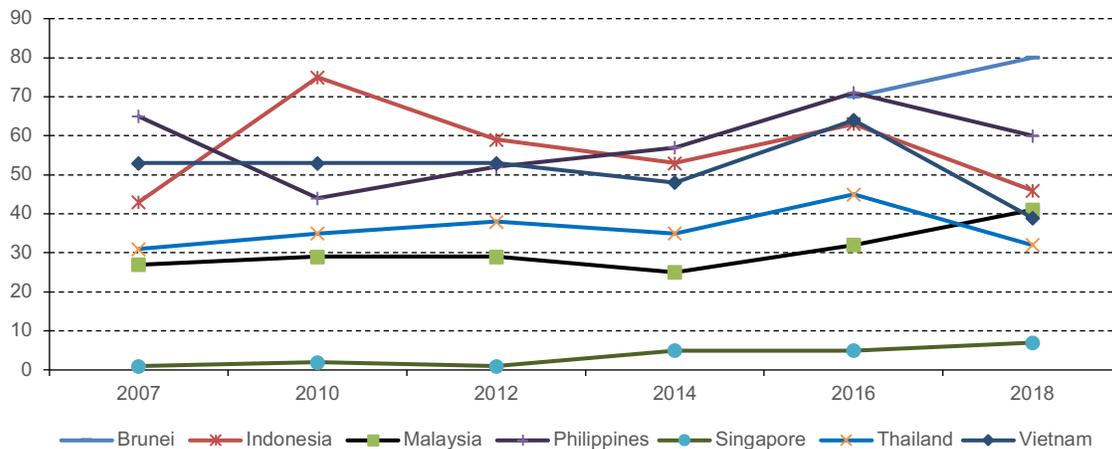
<sup>61</sup> International Trade Centre (ITC), "Philippines: Company Perspectives – An ITC Series on Non Tariff Measures (NTMs)", International Trade Centre, 2016, x – xii; International Trade Centre (ITC), "Indonesia: Company Perspectives – An ITC Series on Non Tariff Measures (NTMs)", International Trade Centre, 2016, 15 – 42; EU-ASEAN Business Council. "2018 EU-ASEAN Business Sentiment Survey." EU-ABC, 2017, 33; and United Nations Conference on Trade and Development, "Non-Tariff Measures: Evidence from Selected Developing Countries and Future Research Agenda." United Nations, 2010, 74.

border at customs. Despite ongoing efforts to improve ASEAN’s logistics and customs performance through initiatives like the ASW, logistics performance amongst AMS has remained inconsistent—likely driven by country specific factors rather than ASEAN wide initiatives. Employing the World Bank’s Logistics Performance Index, which captures challenges and opportunities they face in their performance on trade logistics, this section assesses the evolution of the logistics “friendliness” of AMS.

An analysis of ASEAN-6 and CLMV economies shows that their logistics performance index (LPI) has not improved considerably over the past decade. The LPI is a benchmarking tool developed by the World Bank using qualitative and quantitative measures to develop a profile of the “logistics friendliness” of a particular country.<sup>62</sup> Lower LPI values highlight better customs, transportation infrastructure, ease of arranging shipment, quality of logistics services, tracking and tracing and delivery timeliness of a country.

ASEAN-6 countries have not seen significant improvements in the LPI since 2007. With the exception of Singapore, which has maintained one of the world’s best LPI’s, the LPI for countries like Malaysia has worsened over the reported period, while for countries like the Philippines, Indonesia and Thailand has remained fairly inconsistent (figure 9).

**Figure 9**  
Logistics performance index in ASEAN-6 countries



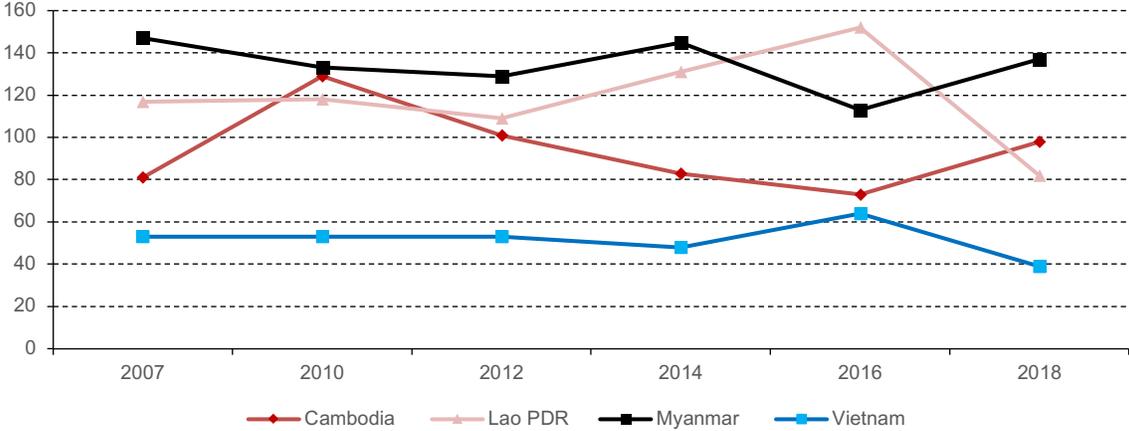
Source: World Bank, Logistics Performance Index (LPI). World Bank. “Aggregated LPI.” Aggregated LPI | Logistics Performance Index, 2018. <https://lpi.worldbank.org/international/aggregated-ranking>.

Similarly, figure 10 shows that CLMV countries, which report average logistics performance scores much more restrictive than the ASEAN-6, have experienced inconsistent growth in their index. Between 2007 and 2018, only Vietnam and Lao PDR were able to improve their logistics performance index. Cambodia and Myanmar’s index remained inconsistent and high across the reported period.<sup>63</sup> For instance, in 2016 Lao PDR LPI was 152—not much better than the worst LPI in the world (160 for the Syrian Arab Republic).

<sup>62</sup> Arvis, Jean-François, Monica Alina Mustra, Lauri Ojala, Ben Shepherd, and Daniel Saslavsky. Connecting to compete 2012: trade logistics in the global economy-the logistics performance index and its indicators. No. 70417. The World Bank, 2012.

<sup>63</sup> The highest or worst LPI value.

Figure 10  
Logistics performance index in CLMV countries



Source: World Bank, Logistics Performance Index (LPI).

Summing up, ASEAN's logistics performance has not improved significantly and has remained volatile and inconsistent. This shows that there does not seem to be a strong relationship between ASEAN-led trade facilitation initiatives and improved logistics performance in AMS. This is likely the result of significant differences in the transport infrastructure and the quality of logistics services amongst AMS.

## VII. Trade in services

Trade in goods has been a consistent focus in ASEAN over the past decades. The original intention of deeper economic integration was driven by a desire to be part of the growing regional dominance in manufactured and electronic goods in the 1980s and 1990s. But services have also become increasingly important to manufacturing and critical sectors in their own right. Services, which were often difficult or impossible to deliver across borders, are now much more widely available in the region.

ASEAN's commitments to liberalizing trade in services can be first found in the 1995 ASEAN Framework Agreement on Services (AFAS) and subsequently in the 2019 (signed) ASEAN Trade in Services Agreement (ATISA). This section will provide an overview of commitments under both AFAS and ATISA and their relationship to ASEAN services trade liberalization.

AFAS was intended to liberalize trade in services beyond the commitments undertaken by AMS under the WTO's General Agreement on Trade in Services (GATS). AFAS was negotiated by building up different sets of "packages." Each package was meant to include additional sectors or subsectors, allowing member governments to gradually increase the coverage of services in depth and breadth.

While the AEC originally envisaged ten packages, the exercise ended up including only eight, plus one that consolidated all the existing commitments into one document.<sup>64</sup> A final, 10th package, was signed in August 2018.<sup>65</sup> The final Protocol gave ASEAN members three additional years to submit the actual commitments (i.e., schedules) to ASEAN.<sup>66</sup>

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<sup>64</sup> For the specific commitments and schedules for all packages, see [https://asean.org/?static\\_post=member-countries-horizontal-commitments-schedules-of-specific-commitments-and-the-list-of-most-favoured-nation-exemptions](https://asean.org/?static_post=member-countries-horizontal-commitments-schedules-of-specific-commitments-and-the-list-of-most-favoured-nation-exemptions), accessed January 3, 2020.

<sup>65</sup> The Protocol for the 10<sup>th</sup> package can be found at <https://asean.org/storage/2012/05/AFAS-10.pdf>, accessed January 2, 2020.

<sup>66</sup> The results of the 10th round of commitments, including horizontal commitments, MFN exemptions and the schedule of commitments, can be found at <https://asean.org/asean-economic-community/sectoral-bodies-under-the-purview-of-aem/services/agreements-declarations/> accessed January 3, 2020.

ASEAN members also completed seven total packages of commitments for financial services and an additional eight packages on air transport.<sup>67</sup> While services, broadly defined, are handled through the ASEAN Economic Ministers (AEM) workstreams, the latter two are not. The Finance Ministers (AFMM) and Central Bank Governors handle financial services, while the ASEAN Transport Ministers (ATM) deal with air transport services.

Not all service sectors and subsectors were included under the AFAS process. In the shift to the Blueprint, ASEAN expanded the focus of services into a new agreement, the ASEAN Trade in Services (ATISA), which was completed in 2018 and signed by all AMS in 2019.<sup>68</sup> Under ATISA, members committed to undertaking a review of existing flexibilities, limitations, thresholds and carveouts that had been included in the multiple rounds of AFAS scheduling, as well as considering additional areas for further liberalization, including the potential for sectoral annexes.

## A. Services sectoral coverage

According to the WTO there are 12 sectors and about 160 sub-sectors in services.<sup>69</sup> ASEAN members made commitments in 10 sectors and about 65 subsectors (with some members being more ambitious). The sectors covered in ASEAN have included: business services, professional services, construction, distribution, education, environmental services, healthcare, maritime transport, telecommunications and tourism. However, many of the ASEAN commitments have been limited and do not go much beyond pledges AMS have already made in their World Trade Organization schedules.<sup>70</sup>

In general, ASEAN members have opened markets mostly for Mode 1 (cross-border supply) and Mode 2 (consumption abroad). Although important for business, Mode 3 commitments (commercial presence or, basically, foreign investment) are very limited. As an example, one ASEAN country opened the market for foreign investment from other ASEAN countries for “football-chess camps.” Pledges often include things like “2-star hotels and below” or allow market opening possibilities only in remote locations. Such limited commitments make it difficult to classify sectors as meaningfully open to ASEAN investors or services suppliers.

Financial services were handled separately in the AEC. The liberalization target is 2020, although it is also likely that the extent of liberalization in this sector will be very limited even by this date.<sup>71</sup> This is the reason why the headline AEC text reads, “freer” movement of capital for the AEC instead of “free” movement of capital. While the rest of the AEC deadlines were moved up to 2015 from 2020, financial services commitments remained unchanged.

ATISA, like other broad services commitments, is handled by the ASEAN Economic Ministers (AEM). The key differences between AFAS and ATISA are an expanded commitment to implementation of all existing AFAS schedules; pledges of greater transparency; and a “built in” agenda to switch all “positive list” AFAS schedules to “negative lists.” If implemented, the ‘negative list’ will liberalize all

<sup>67</sup> See the ASEAN website at <https://asean.org/asean-economic-community/asean-finance-ministers-meeting-afmm/agreements-declarations/> for financial services commitments and <https://asean.org/asean-economic-community/asean-transport-ministers-meeting-atm/agreements-and-declarations/> for air transport elements contained in AFAS, accessed January 3, 2020.

<sup>68</sup> See the Factsheet, released by ASEAN Host Singapore, at <https://www.mti.gov.sg/-/media/MTI/Newsroom/Press-Releases/2019/04/Press-Release--Minister-Chan-Chun-Sing-at-the-25th-AEM-Retreat-for-immed-release.pdf> accessed January 3, 2020.

<sup>69</sup> WTO. “Services Sector Classification List.” WTO, 2020. [https://www.wto.org/english/tratop\\_e/serv\\_e/serv\\_sectors\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/serv_sectors_e.htm).

<sup>70</sup> Lim tried to quantify the difference that AFAS commitments made over and beyond WTO promises. Other than the Philippines, the rest of ASEAN scored very poorly in 2008. See “Policy Recommendation to Facilitation Implementation,” in *Deepening Economic Integration in East Asia*, Hadi Soesastro (ed.), ERIA, 2008.

<sup>71</sup> COVID19 has not helped ASEAN achieve financial services liberalization on time in 2020 either. For more information, see Deunden Nikomborirak and Supunnavadee Jitdumrong, “An Assessment of Services Sector Liberalization in ASEAN,” ASEAN Economic Community Scorecard, Sanchita Basu Das (ed.), ISEAS, 2013.

service sectors in member states unless otherwise specified.<sup>72</sup> The 'negative list' approach will also require member states to include references to relevant legislations that address non-conforming measures. The end date for the scheduling of all non-conforming measures (NCMs) as required under negative list procedures under ATISA is 2025.<sup>73</sup>

While it is possible to create identical commitments under both a positive and negative list approach, the use of the latter approach is likely to change ASEAN services (and investment) commitments over time. First, negative list scheduling typically means it is harder to have quantitative caps on service providers, equity limits, and so forth. The overall thrust of negative lists is that everything is open unless otherwise noted. Elements that are not in compliance with the overall norm of openness are called "non-conforming measures" (NCMs). Second, as new sectors are invented or created (like a "sharing economy" service), negative list scheduling automatically opens these new sectors and subsectors within the region, unless ASEAN members explicitly take steps to stop liberalization.

### 1. Flexibilities in implementation of services commitments

Section 21 (ix) of the free flow of services section of the AEC allowed for overall flexibilities to cover subsectors totally excluded from liberalization as well as subsectors in which not all parameters of liberalization were met. In particular, it let members "catch up" in the next round, if they did not meet commitments in any given AFAS round of negotiations; let members substitute subsectors if they were unable to open a committed subsector; and allowed liberalization to continue through the "ASEAN Minus X" formula. These various flexibilities may have met with ASEAN's objectives to allow member states to maintain sovereignty, but it also created a particularly challenging pathway to getting towards the "free flow of services." Across all the various packages of AFAS, it has never been clear whether or not various members actually followed the substitution and "catch up" rules or whether the conclusion of AFAS took place without encouraging all members again to include broader and deep commitments. Since ATISA has not yet started, it is not possible to say how ambitious members might actually be in this new agreement.

Note that for services, unlike goods commitments, Cambodia, Laos and Vietnam were actually quite progressive. This is largely because, as late entrants to the World Trade Organization (WTO), they were required to take on more ambitious market access promises in Geneva. This has made their ASEAN pledges more liberalizing than those of many other AMS whose ASEAN services commitments largely repeat limited GATS commitments.

## B. Mutual recognition arrangements (MRAs)

One of the reasons why services still do not seem to meet the "free flow" commitments promised in the AEC is that many AMS use licensing and qualification requirements liberally. These domestic-level rules can impede the ability of ASEAN firms to effectively move services across and around the region.

To help get around this obstacle, the AEC included a commitment to open services markets more fully by promoting the use of Mutual Recognition Agreements (MRAs) to ensure that qualifications or certifications in one market could be more easily transferred to other ASEAN markets<sup>74</sup>. Note that having an MRA in place does not allow the unimpeded movement of personnel—immigration rules and local regulations for service providers still apply. In addition, the MRAs do not, by themselves, commit

<sup>72</sup> Ministry of Trade and Industry Singapore. 2019. Ministry of Trade and Industry Singapore. April 23. Accessed July 6, 2020. <https://www.mti.gov.sg/-/media/MTI/Newsroom/Press-Releases/2019/04/Press-Release--Minister-Chan-Chun-Sing-at-the-25th-AEM-Retreat-for-immed-release.pdf>.

<sup>73</sup> See the CSAP services commitments in section A2 at <https://asean.org/storage/2012/05/Updated-AEC-2025-CSAP-14-Aug-2018-final.pdf> accessed January 7, 2020.

<sup>74</sup> ASEAN. n.d. "ASEAN." ASEAN. Accessed July 6, 2020. <https://www.asean.org/wp-content/uploads/images/2015/september/Articles-on-AEC-2015/Edited%20MNP.pdf>.

ASEAN members to allow movement of skilled professionals. They only provide a framework to facilitate liberalization<sup>75</sup>.

Despite enthusiasm for the process, only eight MRAs for services providers were completed by the AEC deadline. Since the introduction of the Blueprint, an additional MRA has been completed, but is not yet in force, for flight crew licensing. The nine MRAs are the following:

- i) Engineering services (2005)
- ii) Nursing services (2006)
- iii) Architectural services (2007)
- iv) Surveyors (2007)
- v) Medical practitioners (2009)
- vi) Dental practitioners (2009)
- vii) Tourism professionals (2012)
- viii) Accountancy services (2014)
- ix) Flight Crew Licencing

### C. Movement of natural persons (MNP)

The movement of natural persons allows individuals to travel to another country temporarily in order to supply services there. This helps facilitate the flow of services since it opens the free flow of service-sector personnel across borders. This is one of the four ways through which services can be supplied across international borders, also known as “mode 4” in WTO arrangements.<sup>76</sup>

The ASEAN Agreement on Movement of Natural Persons was signed in 2012. The scope of this agreement covers business visitors, intra- corporate transferees (ICT) and contractual service suppliers (CSS), with the following objectives:

- Provide rights and obligations in relation to the MNP as set out in the ASEAN Framework Agreement on Services (AFAS).
- Facilitate the movement of natural persons engaged in the conduct of trade in goods, trade in services and investment.
- Establish streamlined and transparent procedures for immigration applications.
- Protect the integrity of Member States' borders and protect the domestic labour force and permanent employment in the territories of Member States.

However, current MNP programs do not provide permanent entry nor cover unskilled labour even on a temporary basis. As flexibility is the norm in ASEAN, member states are allowed to follow the agreements/commitments flexibly. As a result, commitments differ considerably between AMS. For instance, seven of ten AMS made commitments for business visitors—excluding Brunei, Myanmar, and

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<sup>75</sup> As an example, see the MRA for dental practitioners at <http://agreement.asean.org/media/download/20150119175433.pdf> accessed January 6, 2020.

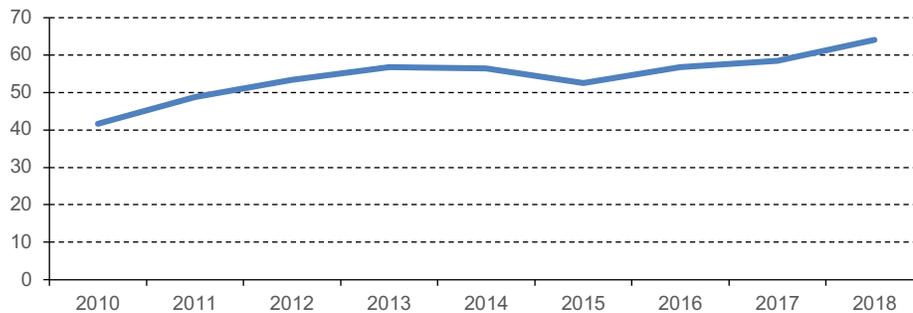
<sup>76</sup> ASEAN. n.d. "ASEAN." ASEAN. Accessed July 6, 2020. <https://www.asean.org/wp-content/uploads/images/2015/September/Articles-on-AEC-2015/Edited%20MNP.pdf>.

Singapore— while only three countries —Cambodia, the Philippines and Viet Nam— made commitments for contractual services suppliers.<sup>77</sup>

## D. Reviewing trade in services in ASEAN

As restrictions on services trade were eased in ASEAN, intra-ASEAN trade in services —measured by intra-ASEAN services exports— increased from US\$ 80 billion in 2010 to US\$ 120 billion in 2018 (figure 11).

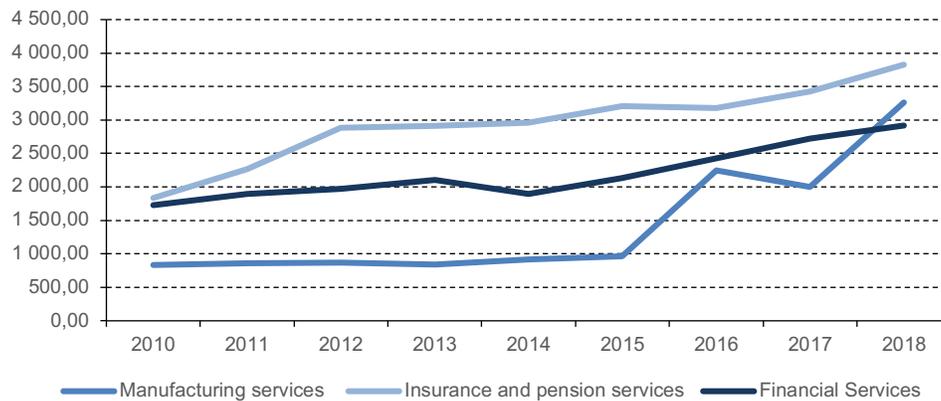
**Figure 11**  
Intra-ASEAN service exports (2010-2018)  
(Billion dollars)



Source: ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

Growth in intra-ASEAN services trade has been driven by the manufacturing, financial and insurance and pension services—all of which have experienced significant increases in their value over the past decade (figure 12). Conversely, intra-ASEAN trade in travel, transport and telecommunications services has remained flat between 2010 and 2018 (figure 13).

**Figure 12**  
Intra-ASEAN total trade in manufacturing, financial and insurance services (2010-2018)<sup>a</sup>  
(Million dollars)

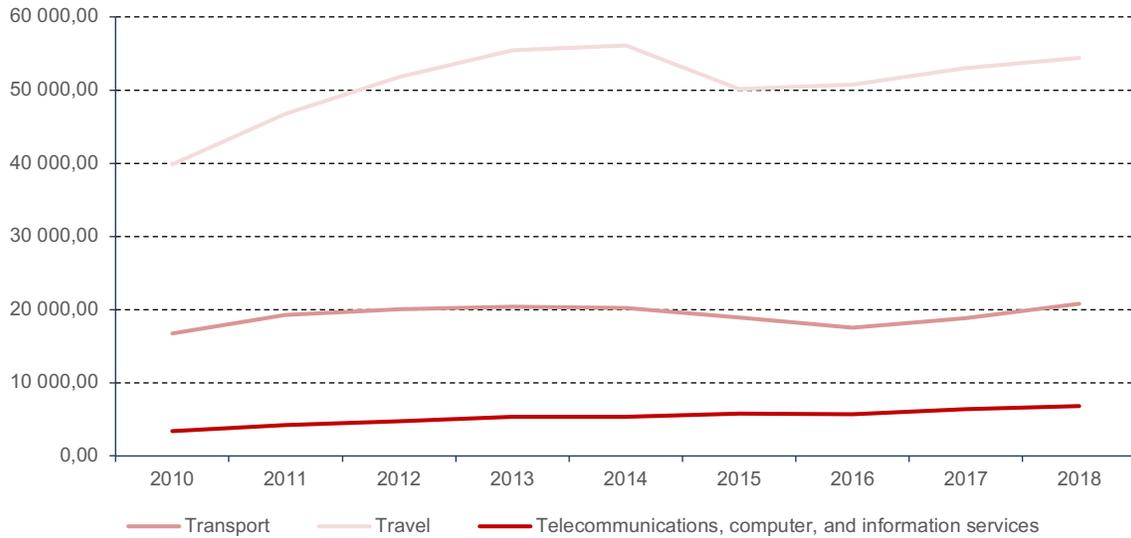


Source: ASEANStats.

<sup>a</sup> ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

<sup>77</sup> Fukunaga, Yoshifumi, and Hikari Ishido. 2015. *Values and Limitations of the ASEAN Agreement on the Movement of Natural Persons*. ERIA Discussion Paper Series, Jakarta: The Economic Research Institute for ASEAN and East Asia.

**Figure 13**  
**Intra-ASEAN trade in transport, travel and telecommunication services (2010-2018)<sup>a</sup>**  
 (Million dollars)

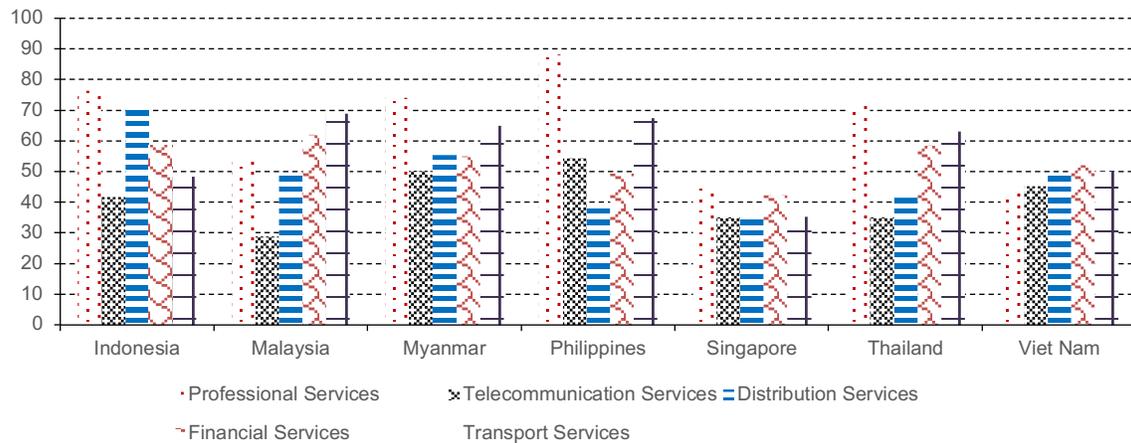


Source: ASEANStats.

<sup>a</sup> ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

Despite liberalization efforts through AFAS (and potentially through ATISA once it starts coming into force), restrictions to services trade have remained high for key business sectors across AMS. Figure 14 shows that, on average, professional and transport services continue to be restricted in ASEAN. Restrictions on financial services are also particularly large in the Indonesia, Malaysia, Thailand, Myanmar and Vietnam markets. Restrictions on distribution services are most prevalent in Indonesia and Myanmar.

**Figure 14**  
**Services trade restrictions index in 5 service sectors in 7 ASEAN economies in 2016<sup>a</sup>**



Source: OECD services trade restrictiveness index database.

<sup>a</sup> Scores of 100 would indicate complete closure while 1 is totally open. OECD. "Services Trade Restrictiveness Index Database", 2018. <https://qdd.oecd.org/subject.aspx?Subject=063bee63-475f-427c-8b50-c19bffa7392d>.

## E. Services coverage in other ASEAN agreements

All of ASEAN+1 FTAs include services commitments. However, most of the existing ASEAN+1 services pledges tend to be extremely shallow, with AMS members largely replicating their existing WTO GATS schedules. Like GATS and AFAS, all current ASEAN+1 agreements follow a positive list scheduling method to specify which areas of trade in services will be open.

As noted above, scheduling method does not necessarily drive decisions of liberalization. Both methods can be equally restrictive or liberalizing. However, the general trend in existing ASEAN+1 agreements has been for shallow commitments, often largely confined to sectors and subsectors with limited business interest.

ASEAN has continued to pursue more ambitious services commitments. The ASEAN-Japan FTA, which did not have services (or investment) chapter or commitments, was finally completed in early 2020. The upgrade exercises of many ASEAN+1 agreements, most notably ASEAN/Australia/New Zealand (AANZFTA), include plans to dramatically expand coverage. AANZFTA will be switching scheduling to negative lists, which gives the region an opportunity to re-examine existing restrictions and potentially lift barriers or include more sectors and subsectors for automatic coverage.

Under RCEP, the majority of governments scheduled services using a “positive list” so only the specific sectors and sub-sectors noted in the agreement will be opened to RCEP firms for competition. But some governments, like Australia and New Zealand that came out of the CPTPP processes using negative lists, did not want to go back to doing positive list scheduling. They therefore included “negative list” schedules, in which every sector and subsector is automatically opened unless a reservation was explicitly included.<sup>78</sup> The resulting schedules in RCEP will be a hybrid with some positive and some negative lists for each of the 15 members.

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<sup>78</sup> It may also be worth noting that the AANZFTA upgrade exercise in 2020 is meant to convert all schedules to negative list. ASEAN is already meant to be working on the transition to negative schedules as part of ATISA.



## VII. Investment

Investment in ASEAN has been handled through the ASEAN Comprehensive Investment Agreement (ACIA), which came about in 2009 from the consolidation of two existing agreements —the ASEAN investment Guarantee Agreement (IGA) and the ASEAN investment Area (AIA) Agreement.

The AIA was signed on December 1995. As competition for investment increased, ASEAN members developed AIA as a framework to attract more investment from intra-ASEAN and from non-ASEAN countries.<sup>79</sup> AIA included three strategic programmes to achieve its goal of liberalizing investment in the region.

ACIA aimed to build a free and open investment regime based on international best practices and enhance investment attractiveness of ASEAN as a single investment destination.<sup>80</sup> It included four pillars: liberalization, facilitation, protection, and promotion, and contained new features to promote and encourage FDI inflows to ASEAN.<sup>81</sup>

### A. Overview of the ACIA

As the first comprehensive agreement on investment matters in the region, the ACIA attempted to facilitate investment across ASEAN through measures to ensure fair and equitable treatment; full production and security guarantees; rules on unlawful expropriation; and free transfer of funds.<sup>82</sup>

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<sup>79</sup> For the Framework Agreement on the ASEAN Investment Area, see <http://agreement.asean.org/media/download/20140119040024.pdf>.

<sup>80</sup> Solstad, Sondre Ulvund. "Introduction to the ASEAN Comprehensive Investment Agreement," April 12, 2013. <https://www.aseanbriefing.com/news/introduction-to-the-asean-comprehensive-investment-agreement/>.

<sup>81</sup> For details on ACIA, including texts and schedules, see <https://asean.org/asean-economic-community/asean-investment-area-aia-council/agreements-declarations/> accessed January 3, 2020.

<sup>82</sup> Solstad, Sondre Ulvund. "Introduction to the ASEAN Comprehensive Investment Agreement," April 12, 2013. <https://www.aseanbriefing.com/news/introduction-to-the-asean-comprehensive-investment-agreement/>.

When the ACIA came into force in March 2012, it covered most forms of investment, but opened only six priority sectors:<sup>83</sup>

- i) Manufacturing
- ii) Agriculture
- iii) Fishery
- iv) Forestry
- v) Mining and quarrying
- vi) Services incidental to manufacturing, agriculture, fishery, forestry, mining and quarrying.

These sectors included a large portion of possible ASEAN investments, but not all. In addition, members lodged reservations around many types of investments even in these priority sectors.

As with many elements of the ASEAN agreements, the exact scheduling of the commitments was complex with shifting dates of implementation and changing periods and end dates. Certain sectors were excluded temporarily, and others carved out entirely. In general, by 2014, most of the sectors were scheduled to be opened in most of the ASEAN members with only the last sensitive items in Lao PDR and Myanmar closed until 2015.<sup>84</sup> Investment was opened, like services, along an ASEAN Minus X formula. This means it was rare that all 10 ASEAN countries had similar commitments in investment.

By 2015, ACIA promised free and open investment with national treatment and an MFN clause that promised ASEAN investors the same treatment as the best agreement in the future and the removal of restrictions on priority sectors.<sup>85</sup> However, there are some countries, like Indonesia and Thailand, that claimed long exclusion and sensitive lists that prevent foreign firms from claiming investment benefits for the right of establishment and national treatment for many sectors.

## B. Investment commitments in other ASEAN agreements

ASEAN has made (or is in the process of making) investment concessions under all its ASEAN+1 agreements (table 5).

Under RCEP, unlike services, the investment provisions were scheduled the same way by all members—using a “negative list” approach. This was done to help ensure that RCEP economies could benefit from substantially increased inbound investment from other RCEP members. The investment commitments will be substantially broader and deeper than services provisions.

RCEP has more complicated investor-protection arrangements than many ASEAN+1 agreements that include investor-state dispute settlement (ISDS) provisions. RCEP was also meant to include ISDS, as the original Leader’s statement noted at the outset in 2012. However, as talks proceeded, this method of providing protection to foreign investments fell out of favor with some members. As a result, RCEP members ended by promising to revisit the entire idea three years after the agreement enters into force. Until then, the ISDS provisions which were negotiated and included in the text of RCEP, will not apply.

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<sup>83</sup> For details on ACIA, including texts and schedules, see <https://asean.org/asean-economic-community/asean-investment-area-aiacouncil/agreements-declarations/> accessed January 3, 2020.

<sup>84</sup> Except for items on the General Exclusion List for reasons of national security, public morals, public health and environmental protection. See Siow Yue Chia, “The ASEAN Economic Community: Progress, Challenges and Prospects,” ADBI Working Paper No. 440, October 2013, p. 20.

<sup>85</sup> Although the MFN clause does not apply to investor-state dispute settlement procedures in other agreements.

**Table 5**  
**Investment commitments in ASEAN+1 agreements**

Bilateral investment agreement	Status
ASEAN-Japan Comprehensive Economic Partnership	Signed in April 2008. Investment commitments came into force under the First Protocol to Amend the AJCEP <sup>a</sup> .
ASEAN-China Investment Agreement	Signed in August 2009 and entry into force in January 2010 <sup>b</sup> .
ASEAN-India Investment Agreement	Signed in November 2014 and entered into force on July 2015 for Brunei, Malaysia, Myanmar, Singapore, Thailand and Vietnam <sup>c</sup> .
ASEAN-Republic of Korea Investment Agreement	Signed in June 2009 <sup>d</sup> .
ASEAN-HK Investment Agreement	Signed in 2017 and entered into force in 2019 <sup>e</sup> .
AANZFTA Investment Chapter	Entered into force in 2012.

Source: author.

<sup>a</sup> For details on the Investment Commitments under the review of the AJCEP, see: <https://www.mofa.go.jp/files/000480152.pdf>.

<sup>b</sup> UNCTAD. "ASEAN-China Investment Agreement." (2017) | International Investment Agreements Navigator | UNCTAD Investment Policy Hub, August 2018. <https://investmentpolicy.unctad.org/international-investment-agreements/treaties/treaties-with-investment-provisions/3272/asean-china-investment-agreement>.

<sup>c</sup> Ministry of Foreign Affairs Brunei Darussalam. "The ASEAN-India Free Trade Agreement." Ministry of Foreign Affairs, 2018. <http://mfa.gov.bn/Pages/The-ASEAN-%E2%80%93-India-Free-Trade-Agreement.aspx>.

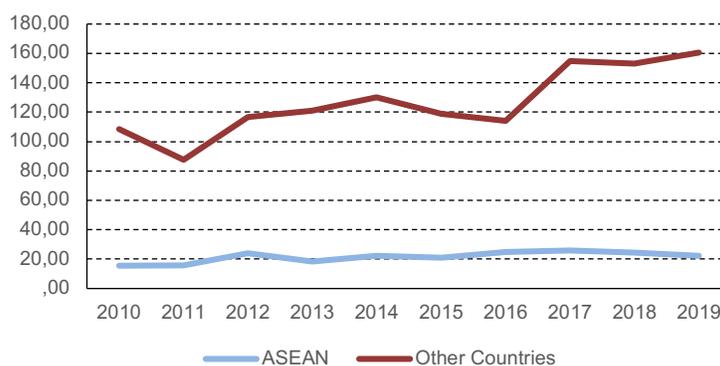
<sup>d</sup> UNCTAD. "The ASEAN-Republic of Korea Investment Agreement." (2017) | International Investment Agreements Navigator | UNCTAD Investment Policy Hub, August 2018. <https://investmentpolicy.unctad.org/international-investment-agreements/treaties/treaties-with-investment-provisions/3257/asean-korea-investment-agreement>.

<sup>e</sup> UNCTAD. "Agreement on Investment among the Governments of the Hong Kong Special Administrative Region of the People's Republic of China and the Member States of the Association of Southeast Asian Nations." ASEAN-Hong Kong, China SAR Investment Agreement (2017) | International Investment Agreements Navigator | UNCTAD Investment Policy Hub, August 2018. <https://investmentpolicy.unctad.org/international-investment-agreements/treaties/treaties-with-investment-provisions/3793/asean---hong-kong-china-sar-investment-agreement-2017->.

## 1. Outcomes

ASEAN's overall level of intra-ASEAN investment flows remains relatively limited, at roughly 20% or less of total flows into the region, with 95 percent of the total coming from three members: Singapore, Malaysia and Thailand<sup>86</sup>. This means that most inbound investment into ASEAN comes from outside ASEAN, or from investors outside ASEAN. Even the level of intra-ASEAN investment may overstate the importance of ASEAN investors, as ACIA allows members to include third-country investors as qualified ASEAN investors. Figure 15 shows the investment flows from within ASEAN from 2013-2018.

**Figure 15**  
**Flows of Inward FDI into ASEAN by source (2013-2019)<sup>a</sup>**  
(Billion dollars)



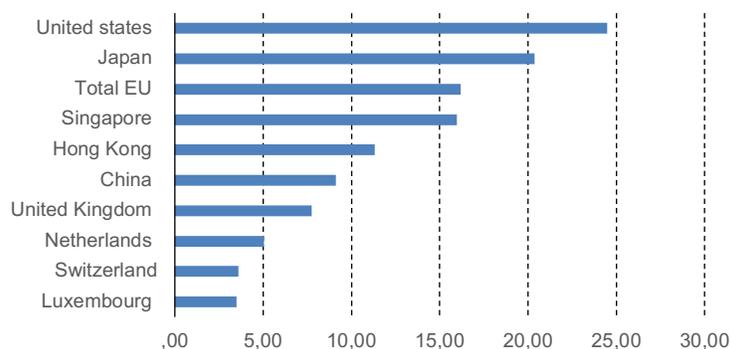
Source: ASEANStats.

<sup>a</sup> ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

<sup>86</sup> Nearly 70 percent of the total intra-ASEAN trade come from Singapore. See the ASEAN Investment Report 2018, page 3, <https://asean.org/storage/2018/11/ASEAN-Investment-Report-2018-for-Website.pdf>, accessed on January 2, 2020.

Japan has been the top investor in ASEAN since 2013, followed by the United States and China. Apart from six dialogue partners, European countries such as the Netherlands, Luxembourg and the UK were also among the top 10 investors in ASEAN (figure 16). Taken as a group, the EU has made substantial investments in ASEAN over the past decade.

**Figure 16**  
**Top 10 investors in ASEAN (2013-2019)<sup>a</sup>**  
(Billion dollars)



Source: ASEAN Stats.

<sup>a</sup> ASEANstats. n.d. ASEANstats. Accessed Jun 26, 2020. <https://www.aseanstats.org/infographics/acpms-2017/>.

ASEAN still maintains many restrictions on foreign direct investment. Table 6 outlines key FDI restrictions still in place across all AMS.

**Table 6**  
**Restrictions on foreign investment in ASEAN member states<sup>a</sup>**

Country	General restrictions on foreign direct investment
Brunei Darussalam	Local content requirements in manufacturing sectors. In the financial services sector, establishment of branches is not allowed and local incorporation required.
Cambodia	Land ownership is not permitted but leases are possible for 30 to 70 years. In the financial services sector, establishment of branches is not allowed and local incorporation required.
Indonesia	There is a need test for the employment of foreign key personnel. Land ownership is not permitted but leases are possible for over 70 years. In the financial services sector, a majority of board of directors must be nationals. In legal services, foreign key persons are not permitted.
Lao PDR	Land ownership is not permitted but leases are possible for 30 to 70 years. In air transport sector, establishment of branches is not allowed/local incorporation required.
Malaysia	In construction sector, government procurement are offered to locally-owned firms. For wholesale and retail distribution, establishment of branches is not allowed/local incorporation required. In the financial services sector, establishment of branches is not allowed and local incorporation required.
Myanmar	Land ownership is not permitted but leases are possible for 30 to 70 years. In the financial services sector, establishment of branches is not allowed and local incorporation required.
Philippines	Land ownership is not permitted but leases are possible for over 70 years. Government procurement are offered to locally-owned firms. For manufacturing sectors and financial services sectors, a majority of board of directors must be nationals.
Thailand	Land ownership is not permitted but leases are possible for 30 to 70 years. For most the manufacturing sectors, transport sectors, tourism sectors and financial services sector, a majority of board of directors must be nationals.
Vietnam	For transport sector, a majority of board of directors must be nationals. In real estate investment, restrictions on profit/capital repatriation are applied.

Source: ASEAN FDI Regulatory Restrictions Database.

<sup>a</sup> OECD. ASEAN FDI Regulatory Restrictions Database, 2020. [https://qdd.oecd.org/subject.aspx?Subject=ASEAN\\_INDEX](https://qdd.oecd.org/subject.aspx?Subject=ASEAN_INDEX).

## IX. E-Commerce and digital trade

ASEAN has become increasingly involved in digital trade. This has been handled through different workstreams, supervised by different ASEAN bodies. The ASEAN Work Programme on Electronic Commerce (AWPEC) 2017-2025 has the following key elements: infrastructure, education and technology competency, consumer protection, legal frameworks, security of electronic transactions, competition, and logistics.<sup>87</sup> The founding document, the ASEAN Agreement on Electronic Commerce, is not yet in force, as only four ASEAN members have signed it.<sup>88</sup>

All aforementioned workstreams fit within the ASEAN Digital Integration Framework (DIF), first endorsed in November 2018. The Framework was expanded and renamed the ASEAN Digital Integration Framework Action Plan (DIFAP) 2019-2025, with a complex workplan.<sup>89</sup>

The DIFAP is complicated because it came from related objectives and action plans of the ASEAN Economic Community (AEC) Blueprint 2025, including the ASEAN ICT Master Plan 2020, the ASEAN Work Program on Electronic Commerce 2017-2025 (AWPEC), the Master Plan on ASEAN Connectivity (MPAC) 2025, and relevant Strategic Action Plans (SAPs).

In many areas, the DIFAP replicates commitments made elsewhere, such as the promises to fully operationalize the ASEAN Single Windows and move towards self-certification, which are part of ATIGA. The Plan also attempts to note which ASEAN organizational body is responsible for overseeing which elements of the overall agenda. Key working bodies include the ASEAN Coordinating Committee for E-Commerce (ACCEC), the Customs Procedures and Trade Facilitation Working Group (CPTFWG), the Telecommunications Senior Officials (TELSOM), the Working Committee on Payment and

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<sup>87</sup> For more details on the AEM e-commerce processes, see <https://asean.org/asean-economic-community/sectoral-bodies-under-the-purview-of-aem/e-commerce/> accessed January 3, 2020.

<sup>88</sup> Only Myanmar, Singapore, Thailand and Vietnam have deposited ratification instruments. See [http://agreement.asean.org/search/by\\_pillar/2.html](http://agreement.asean.org/search/by_pillar/2.html) accessed January 3, 2020.

<sup>89</sup> For more details, see ASEAN Digital Integration Framework Action Plan (DIFAP) 2019-2025, endorsed October 2019, found at [https://asean.org/storage/2018/02/AECC18-ASEAN-DIFAP\\_Endorsed.pdf](https://asean.org/storage/2018/02/AECC18-ASEAN-DIFAP_Endorsed.pdf) accessed January 3, 2020.

Settlement Systems (WC-PSS), the ASEAN Committee on Consumer Protection (ACCP), and the ASEAN Coordinating Committee on Micro, Small and Medium Enterprises (ACCMSME).

The overall DIFAP process contains six broad goals: (1) facilitate seamless trade; (2) protect data; (3) enable seamless digital payments; (4) broaden the digital talent base; (5) foster entrepreneurship; and (6) coordinate actions.

ASEAN members have been busy drafting and implementing domestic level legislation to handle e-commerce and digital trade in 2019, especially around issues of data protection and privacy. This work was meant to continue in 2020, although the outbreak of COVID19 has slowed progress. The pandemic has also accelerated the development and implementation of data privacy, cybersecurity and digital taxation laws and regulations at the domestic level across ASEAN.

## X. Promotion of people-to-people mobility

Getting economic integration into place also means greater movement of people across borders, particularly as traders, service providers and investors may need to be active in local markets. ASEAN, however, has taken a cautious approach to the movement of people.

In ASEAN, people-to-people mobility has been mainly driven by the Masterplan on ASEAN Connectivity 2025. The masterplan includes provisions that promote people mobility in the region by easing travel restrictions among ASEAN countries, reducing the skills gap and standardizing the skills and qualification, and promoting student mobility and increasing cooperation among ASEAN universities. The Masterplan contributes to the seamless mobility of people in three key different ways: (i) developing physical infrastructure such as aviation, rail, road and maritime links, (ii) supporting the growth of new digital education through open data, and (iii) liberalizing visas to create demand for tourism and other related infrastructure.<sup>90</sup>

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<sup>90</sup> ASEAN. Rep. Master Plan on ASEAN Connectivity 2025, 2016. <https://asean.org/storage/2016/09/Master-Plan-on-ASEAN-Connectivity-20251.pdf>.



## XI. Infrastructure and connectivity

### A. Physical connectivity

Goods cannot move around ASEAN if the physical connectivity to seamlessly integration member states does not exist. At the start of the AEC process, infrastructure and connectivity across the region had important gaps. As a simple example, there was no way to move goods from Vietnam to Singapore by road or rail. Non-stop air transport links, even between ASEAN's 10 capital cities, were not available.

The AEC agenda, therefore, included a wide array of commitments to try to improve the situation, starting with a first Master Plan on Connectivity signed in 2010. The plan brought together three different types of connectivity (physical, institutional, and people-to-people).

ASEAN members faced some challenges in effectively implementing the objectives and deliverables contained in the 2010 plan. At the stocktaking exercise in 2016, members admitted achieving 39 measures (to be rebranded as "initiatives") while not accomplishing or completing activities in 52 additional areas. Unfinished business was rolled over into a new plan in 2016. The specific assessments related to physical connectivity are shown below in table 7.

**Table 7**  
**Physical connectivity report 2016<sup>a</sup>**

Overall strategy bucket	Strategy	Original expected timeline	Number of total initiatives	Number of initiatives completed by end May 2016
Physical connectivity	Complete the ASEAN Highway Network	2012-2020	11	2
	Complete the implementation of SKRL project	2013-2020	11	1
	Establish an integrated inland waterways network	2012-2013	1	0
	Accomplish an integrated maritime transport system	2015-2016	4	1
	Establish an integrated multimodal transport system	2015-2020	8	3

Overall strategy bucket	Strategy	Original expected timeline	Number of total initiatives	Number of initiatives completed by end May 2016
	Accelerate the development of ICT infrastructure and services	2012-2015	7	6
	prioritize processes to resolve institutional issues in energy infrastructure	2008-2015	13	5

Source: ASEAN Master Plan on ASEAN Connectivity 2025.

<sup>a</sup> To see the complete report, see <https://asean.org/storage/2016/09/Master-Plan-on-ASEAN-Connectivity-20251.pdf>. Figures 12 and 13 are shown on page 22.

ASEAN also created some important infrastructure commitments under the heading of institutional connectivity. This includes many of the pledges on transport, aviation and shipping, as shown in table 8. The completion rate of items in the institutional connectivity pillar lagged behind those placed in physical connectivity.

**Table 8**  
**Institutional connectivity report 2016<sup>a</sup>**

Overall strategy bucket	Strategy	Original expected timeline	Number of total initiatives	Number of initiatives completed by end May 2016
Institutional connectivity	• Operationalise the 3 Framework Agreements on Transport Facilitation (AFAFGIT; AFAFIST; AFAMT)	2011-2015	6	2
	• Implement measures to facilitate inter-state passenger land transportation	2013-2015	2	0
	• Develop the ASEAN Single Aviation Market (ASAM)	2008-2015	9	2
	• Develop an ASEAN Single Shipping Market	2012-2013; 2015-2016	2	2
	• Accelerate the free flow of goods within ASEAN region by eliminating barriers to merchandise trade within the region	2014-2018	15	4
	• Accelerate the development of an efficient and competitive logistics sector, in particular transport, telecommunications and other connectivity-related services in the region	2010-2014	2	0
	• Substantially improve trade facilitation in the region	2012-2015	6	2
	• Enhance border management capabilities	2013-2014	3	0
	• Accelerate further opening up of ASEAN Member States to investments from within and beyond the region under fair investment rules	2015-2016	2	2
	• Strengthen institutional capacity in lagging areas in the region and improve regional/sub-regional coordination of policies, programmes and projects	2011-2013	3	1

Source: ASEAN Master Plan on ASEAN Connectivity 2025.

<sup>a</sup> To see the complete report, see <https://asean.org/storage/2016/09/Master-Plan-on-ASEAN-Connectivity-20251.pdf>. Figures 12 and 13 are shown on page 22.

To see what these figures mean in practice, consider just one element of the 2010 strategy bucket—the creation of an ASEAN highway system. After the conclusion of the AEC, the following elements were left undone:

- Myanmar: AH123 Dawei- Myittar (55.5 km); AH 123 Myittar- Thai Border (103.5 km).
- Lao PDR: AH12 Nateuy-Oudomxai-Luang Prabang-Vientiane (293 of 682 km).
- Myanmar: AH1 Tamu-Mandalay-Meiktila-Yangon-Bago-Payagyi-Thaton-Myawadi (229 of 1,557 km).

- Upgrade "Class II or III" sections with high traffic volume.
- Lao PDR: AH15 Banlao-Nam Phao (98 km of 132 km).
- Myanmar: AH2 Meiktila-Loilem-Kyaing Tong-Tachilek (307 of 797 km).
- Complete the installation of common road signs and the route numbering system on all TTRs.

Without these measures in place, ASEAN's dream of a seamless road system connecting the region from Vietnam to Singapore remains incomplete.<sup>91</sup>

ASEAN members did a stocktake of the specific barriers to implementation in 15 key priority areas in the Connectivity agenda. Table 9 shows the results of this review.<sup>92</sup>

**Table 9**  
**Barriers to achieving 2010 connectivity agenda for 15 prioritised projects in MPAC 2010**

		Financing barriers			Decision-making barriers			Implementation barriers		
		Return on investment	Fiscal capacity	Capital availability	Priority issues	Agency issues	Informational failures	Capacity	Coordination	Regulatory Structures
1	ASEAN Highway Network		×	×	×					
2	Singapore Kunming Rail Link	×	×	×	×	×		×	×	
3	ASEAN Broadband Corridor		×					×		×
4	Melaka-Pekanbaru Power Interconnection			×		×				×
5	West Kalimantan-Sarawak Interconnection									
6	RoRo network	×								
7	Mutual Recognition Arrangements					×		×		
8	Standards harmonization					×	×	×		
9	National Single Windows					×		×		
10	Investment restrictions					×		×		
11	Transport facilitation					×	×	×		
12	Visa requirements						×	×		
13	Virtual Learning Centre				×				×	
14	ICT skills standards				×					
15	ASEAN Community building programme								×	

Source: ASEAN Master Plan on ASEAN Connectivity 2025.

× = major barrier.

After this careful review, ASEAN members opted to create a revised Master Plan on Connectivity as part of the AEC 2025 Blueprint.<sup>93</sup> This Master Plan also covers three different types of connectivity (physical, institutional, and people-to-people) which were divided into six different pillars or

<sup>91</sup> All seven items have been rolled over into the 2025 Blueprint. See page 79 and the associated details on other ongoing efforts in the Appendix, <https://asean.org/storage/2016/09/Master-Plan-on-ASEAN-Connectivity-20251.pdf>.

<sup>92</sup> See <https://asean.org/storage/2016/09/Master-Plan-on-ASEAN-Connectivity-20251.pdf> pages 23-26.

<sup>93</sup> See <https://asean.org/storage/2016/09/Master-Plan-on-ASEAN-Connectivity-20251.pdf>, accessed August 5, 2020.

workstreams. ASEAN's assessment of its progress towards meeting its own objectives suggested streamlining and simplifying commitments into a smaller number of manageable targets.

Sustainable infrastructure included three primary strategic objectives: to increase public and private infrastructure investment in each AMS; significantly enhance the evaluation and sharing of best practices on infrastructure productivity; and increase the deployment of smart urbanization models across the region. These objectives led to three initiatives: to establish a rolling priority pipeline of potential ASEAN projects and funding sources; to establish an ASEAN platform to measure and improve infrastructure productivity; and to develop sustainable urbanization strategies for ASEAN cities.

ASEAN also improved its own ability to manage this agenda and produce tangible results, by enhancing the role of the ASEAN Connectivity Division. The Division was tasked with specific metrics for monitoring performance, including timelines for reporting, and a significantly enhanced role in managing the sustainability objectives. While timelines have been disrupted by COVID-19, 2020 is meant to be an important milestone for wrapping up most of the Phase 1 implementation objectives, such as data gathering, design of capability building programs and the launch of knowledge exchange platforms. Phase 2 activities, focused on delivery of the three objectives, starts immediately afterwards.

ASEAN members have repeatedly noted the infrastructure funding gaps that exist in the region. The 2025 Plan is intended to help rectify these shortcomings. Despite those gaps private infrastructure investment in ASEAN has continued to increase over the past decade —between 2007 and 2017 private infrastructure investment increased by 503 percent from \$US 51.7 billion to \$US 311.5 billion.<sup>94</sup> The 2025 Plan is also intended to help drive up the volumes of both public and private money invested in infrastructure from 2016-2025.

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<sup>94</sup> Calculations made employing the World Bank Group, "Private Participation in Infrastructure (PPI) - World Bank Group," The World Bank Infrastructure Finance, PPPs & Guarantees, 2020, <https://ppi.worldbank.org/en/customquery>. Calculations do not include Singapore and Brunei, which are not included in the database.

## XII. Overview of ASEAN practices in other areas

### A. Government procurement

Governments are large purchasers of goods and services all around the world. Access to procurement opportunities, however, tends to remain closed to outsiders. This is especially true across ASEAN, where member governments guard procurement contracts very carefully, often using procurement as a method to achieve specific developmental objectives such as encouraging certain economic group to participate or setting aside a certain number or percentage of contracts for local small businesses.

The opening of government procurement (GP) in ASEAN remains nascent and underdeveloped. However, the government procurement market in ASEAN is relatively large. The average size of GP markets for ASEAN countries is roughly 5-8 percent of GDP.<sup>95</sup> Based on the available data,<sup>96</sup> the size of government procurement market in ASEAN as a percent of overall GDP is as follows:

- Indonesia - 2.9%
- Singapore - 4.7%
- Thailand - 6.2%
- Cambodia - 5.2%
- Lao PDR - 7.9%
- Malaysia - 7%
- Philippines - 7.8%

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<sup>95</sup> Gourdon, Julien, and Veronique Bastien. 2019. "Government Procurement in ASEAN: Issues and How to Move Forward." In *Regional Integration and Non-Tariff Measures in ASEAN*, by Lili Yan Ing, Ralf Peters and Olivier Cadot, 182-221. Jakarta: ERIA.

<sup>96</sup> Gourdon, Julien, and Veronique Bastien. 2019. "Government Procurement in ASEAN: Issues and How to Move Forward." In *Regional Integration and Non-Tariff Measures in ASEAN*, by Lili Yan Ing, Ralf Peters and Olivier Cadot, 182-221. Jakarta: ERIA.

On the global scale at the WTO level, the Government Procurement Agreement (GPA) is one of the very few plurilateral agreements signed under WTO's family of agreements. Among ASEAN member states, only Singapore is a party to the GPA.<sup>97</sup> However, without an ASEAN framework or agreement on government procurement, AMS have in place their own government procurement legislation as shown in table 10.

**Table 10**  
**Government procurement laws in AMS**

Member states	Action for government procurement policy/law
Brunei <sup>a</sup>	<ul style="list-style-type: none"> <li>Individual ministries and departments can make their own procurement arrangements.</li> <li>Although there is no specific procurement law per se, all government procurement must adhere to Financial Regulations and procurement guidelines issued by State Tender Board, Ministry of Finance and Economy.</li> <li>Broadly speaking, government procurement process should be in line with these principles: value for money, openness &amp; fairness, transparency, accountability, probity, use of quotations, and use of tenders.</li> </ul>
Cambodia <sup>b</sup>	<ul style="list-style-type: none"> <li>In Cambodia, Law on public procurement was enacted in 2012. The Ministry of Economy and Finance with the support of the General Department of Public Procurement (GDPP) governs public procurement policy. The law requires the ministries or other procuring entities to form a Procurement Committee assisted by a Procurement Unit (PU) to review the Procurement Plans and Bidding Documents, assessing and awarding.</li> <li>What is controversial is that there can be potential conflicts of interests in awarding since the evaluation body and awarding body are the same.</li> <li>Both international bidding and domestic bidding are allowed for different forms of bidding methods: restricted competitive bidding, competitive shopping, canvassing, direct contracting, repeat order, forced account and contracting with communities.</li> <li>The authority to examine and address the complaints of bidders lies on the procuring entities.</li> <li>Different levels of penalties are also specified for different levels of breaches of the law.</li> </ul>
Indonesia <sup>c</sup>	<ul style="list-style-type: none"> <li>Public Procurement of Goods and Services Agency of Indonesia a designated government institution mandated to reform public procurement in the country.</li> <li>Before 22 March 2018, Presidential Regulation No. 54 of 2010 on Public Procurement of Goods/Services, along with its numerous amendments and other detailed implementing regulations was used as the main legal framework for public procurement.</li> <li>Starting from 22 March 2018, Presidential Regulation No. 16 of 2018 on Public Procurement of Goods/Services ("PR 16") replaced PR 54.</li> <li>The new regulation applies to public procurement that use (a) State or regional budgets; (b) domestic loans or grants; or (c) foreign loans or grants.</li> <li>What is different in PR 16 is that the scope of the budget holder to award an e-purchasing construction contract and allowing private sector specialists to assist in highly complex procurement processes.</li> <li>Although there is no clear definition, PR 16 uses e-marketplace system where bidding data will be made publicly available. This helps to improve transparency and efficiency in public procurement system in Indonesia.</li> </ul>
Lao PDR <sup>d</sup>	<ul style="list-style-type: none"> <li>In 2004, Lao PDR Ministry of Finance issued a decree of the prime minister on government procurement of goods, construction, maintenance and services.</li> <li>The decree does not cover all sectors of government procurement. Rather it focused only on the construction sector. The decree provided some basic framework on procurement methods and procedures, payment method, the rights and duties of the tender committee, supervision and sanctions.</li> <li>In 2009, the Ministry of Finance's Procurement Monitoring Office published 'Procurement Manual' that provides guidelines for different procurement processes of different goods and services. One of the problems is that the manual is not legally binding<sup>e</sup>.</li> </ul>
Malaysia	<ul style="list-style-type: none"> <li>Malaysia currently does not have any specific law that governs government procurement in particular. According to UNODC, some of the rules and regulations that is related to government procurement include: Financial Procedure Act 1957 (Revised 1972), Treasury Instructions (168, 174, 169, 170, 171, 172, 173), Government Contract Act of 1949, and Federal Central Contract Circulars<sup>f</sup>.</li> </ul>
Myanmar	<ul style="list-style-type: none"> <li>Although there is not public procurement law in Myanmar, several reforms on public financial management have been undertaken to help facilitate public procurement arrangement in the country.</li> <li>The bill on of the Law on Public Procurement and Asset Disposal is published by the Union Parliament. The Bill requires a mandatory open tender process for public procurement and asset disposals in certain circumstances and provides the method for conducting tenders and biddings<sup>g</sup>.</li> <li>Other major reforms include: formation of Public Procurement Rules and Regulations Supervision Committee, Myanmar Sustainable Development Plan 2018-2030, 2018 Public Financial Management Reform Program Strategy, and Directive on Procedures for tenders and guidelines.<sup>h</sup></li> </ul>

<sup>97</sup> Hsu, Locknie. "Government Procurement: A View from Asia." Asian J. WTO & Int'l Health L & Pol'y 1 (2006): 379.

Member states	Action for government procurement policy/law
Philippine <sup>i</sup>	<ul style="list-style-type: none"> <li>The Philippines Senate and House of Representatives passed Republic Act No. 9184 (the Procurement Act) on 10 January 2003.</li> <li>The general rule of the Act includes open advertisement on tenders, pre-bid conference, eligibility screening of prospective bidders, receipts and opening of bids, evaluation of bids, post-qualification and offer of contract.</li> <li>The Procurement Act also established the Government Procurement Policy Board (GPPB). The GPPB two implementing rules and regulations in 2003 and 2009. In 2006, the two implementing rules and regulations are revised in order to modernise and standardize procurement process of the Philippines government. The revised also added some complex procurement procedures that are occurred in multi-year contracts.</li> </ul>
Singapore	<ul style="list-style-type: none"> <li>Singapore enacted its Government Procurement Act in 1997. There are four subsidiary legislations for the Government Procurement Act. These include Government Procurement (Challenge Proceedings) Regulations, Government Procurement Regulations, Government Procurement (Application) Order and Government Procurement Act (commencement) Notification 2002. In addition to this, Instructions Manual on procurement procedures is also published to help better understand the practicalities. The Ministry of Finance issued the Government Instructions Manual (IM) 3B – Contracts and Purchasing Procedures.</li> <li>Government procurement in Singapore is decentralized to ministries, departments and statutory boards. These bodies are required to adhere to follow the instructions manual issued by the Ministry of Finance. These bodies recommend their decisions to the Tender Approving Authority in which a panel of senior officials undertake the final decision. An important provision is that no member of the Tender Approving Authority involved in the evaluation so as to avoid conflict of interests<sup>h</sup>.</li> </ul>
Thailand (Poonsuwan n.d.) <sup>j</sup>	<ul style="list-style-type: none"> <li>Thailand enacted Government Procurement Act in 2017. It replaces the obsolete Procurement Regulation of the Office of the Prime Minister 1978. The new law is intended to prevent corruption, anti-competitive behaviour and improve transparency and monitoring mechanisms.</li> <li>Prosecution and penalties procedures. The law prosecutes on both ends of the corruption activity which includes the government officials who receive the bribe and the private sector who pay the bribe. However, the law was criticized due to its weak penalties. A prominent feature of the law is that it institutionalizes trainings on anti-corruption and competitive practices for the government officials at different level of administration and state-owned enterprises.</li> </ul>
Vietnam (Financier Worldwide n.d.) <sup>k</sup>	<ul style="list-style-type: none"> <li>In Vietnam, tendering law came into effect in 2014. Public tendering is required for all capital investment projects implemented by State-owned enterprises and for projects with less than 30% of capital investment funds from the State or SOEs. The law is applicable to projects that are under public-private partnership and projects that use land. The law also open international bidding. The bidding documents are required to be made publicly available on the national bidding network system. The law also contains a dispute resolution mechanism and allow the use of courts to manage disputes.</li> </ul>

Source: author.

<sup>a</sup> Ministry of Finance and Economy, Brunei Darussalam. n.d. Ministry of Finance and Economy, Brunei Darussalam. Accessed July 24, 2020. <https://www.mofe.gov.bn/Divisions/state-tenders-board-general-information.aspx>.

<sup>b</sup> The Royal Government of Cambodia. n.d. The World Bank. Accessed July 24, 2020. <https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/Law%20on%20Public%20Procurement%20%28draft%29%202011.pdf>.

<sup>c</sup> Coventus Law. n.d. Coventus Law. Accessed July 24, 2020. <http://www.coventuslaw.com/report/new-developments-in-indonesian-public-procurement/>.

<sup>d</sup> Lao Services Portal. n.d. Lao Services Portal. Accessed July 24, 2020. <http://www.laoservicesportal.gov.la/index.php?r=site%2Fdisplaylegal&id=165>.

<sup>e</sup> Ministry of Finance, Procurement Monitoring Office, Lao People's Democratic Republic. n.d. Ministry of Public Works and Transport. Accessed July 24, 2020. <https://www.mpwt.gov.la/attachments/article/1238/Procurement%20Manual%202008%20MOF%20-%20eng.pdf>.

<sup>f</sup> Mori Hamada & Matsumoto. n.d. Mori Hamada & Matsumoto. Accessed July 24, 2020. [http://www.mhmjapan.com/content/files/00032790/MHM%20Yangon%20Newsletter%20Vol.1%20\(November%202018\).pdf](http://www.mhmjapan.com/content/files/00032790/MHM%20Yangon%20Newsletter%20Vol.1%20(November%202018).pdf).

<sup>g</sup> The Ananda. n.d. The Ananda. Accessed July 24, 2020. <https://theananda.org/en/blog/view/-procurement-bill-backgrounder>.

<sup>h</sup> Oxford Business Group. n.d. Oxford Business Group. Accessed July 24, 2020. <https://oxfordbusinessgroup.com/overview/rules-supply-procurement-act-has-been-updated>.

<sup>i</sup> OECD. n.d. OECD. Accessed July 24, 2020. <https://www.oecd.org/site/adboecdanti-corruptioninitiative/policyanalysis/35054589.pdf>.

<sup>j</sup> Poonsuwan, Wirot. n.d. Bangkok Post. Accessed July 24, 2020. <https://www.bangkokpost.com/business/1340539/the-new-public-procurement-act-private-sector-bribe-payers-beware>.

<sup>k</sup> Financier Worldwide. n.d. Financier Worldwide. Accessed July 24, 2020. <https://www.financierworldwide.com/vietnam-new-tendering-rules#.Xxq7Ey2cY1J>.

Under existing ASEAN+1 agreements, ASEAN does not have in place government procurement commitments either. RCEP has a chapter on the topic, but it largely urges participants to follow good regulatory practices and be open and transparent. It should be noted that under the CPTPP, Singapore, Vietnam, Malaysia and Brunei made significant GP concessions.<sup>98</sup>

## B. Competition policy

ASEAN does not have in place a robust institutional framework to manage competition policy across AMS. But it has put in place a series of initiatives to cooperate in the development of competition policies.

ASEAN's first attempt to cooperate in competition policy dates back to 2010 when the regional bloc published the first policy document on 'ASEAN Regional Guidelines on Competition Policy.' Subsequently, ASEAN developed the ASEAN Competition Action Plan (ACAP) 2016-2025 with the objective of ensuring that all 10 AMS have adequate regulatory and legal frameworks in place to address competition challenges.

Some of the laggard AMS rushed to meet ASEAN commitments for competition policy. As an example, Cambodia outlined a Consumer Protection Law on November 2, 2019, which took effect the following day.<sup>99</sup> Vietnam changed its domestic laws on competition on July 1, 2019, with a decree on penalties for non-compliance issued in December.<sup>100</sup>

**Table 11**  
**AMS national competition legislations**

Member state	Competition law	Institutional body
Brunei	Competition order, 2015 <sup>a</sup>	Competition commission Include 7 members from legislative council, different ministries, and academia.
Cambodia	Competition Law (Draft as of April 2020) <sup>b</sup>	Not yet established. But, once established, Directorate General of Cambodia Import Export Inspection and Fraud Repression will be the Secretariat of the commission along with representatives from different ministries, one former judge and two external experts.
Indonesia	Law Number 5 Year 1999 Concerning the Prohibition of Monopolistic Practices and Unfair Business Competition	Indonesia has a long-standing Competition Commission which turned two decades old in June 2020. The commission comprises of 9 commissioners. Most of the commissioners are from the academia with two representatives from the ministries and one from the private sector.
Lao PDR	Decree on Trade Competition (2004)  Law on Competition (2015)	The decree was less effective to combat anti-competitive practices in Lao PDR. In 2015, Lao government enacted Law on Competition. The law establishes a Competition Commission which comprises of ministerial representatives, think tanks members, chamber of commerce and a representative from the Bar Association.
Malaysia	Competition Act 2010	Malaysia Competition Commission was established on 1 April 2011 in accordance with the 2010 Competition Act. Commissioners are from different ministries, private sector, academia and a member from Human Rights Commission.
Myanmar	Competition Law (2015)	Myanmar Competition Commission was established in 2019 chaired by the Minister of Commerce. Members include representatives from different ministries, an economist, legal experts, and a private sector representative from the Chamber of Commerce.
Philippines	The Philippines Competition Act	The Philippines Competition Commission comprises of a chair and four commissioners.
Singapore	Competition Act (2006)	Competition Commission includes one chairperson and eight commissioners. The chairperson is the permanent secretary of the Ministry of Manpower and the commissioners are from other ministries, academia and from Monetary Authority of Singapore.

<sup>98</sup> Gourdon, Julien, and Veronique Bastien. 2019. "Government Procurement in ASEAN: Issues and How to Move Forward." In *Regional Integration and Non-Tariff Measures in ASEAN*, by Lili Yan Ing, Ralf Peters and Olivier Cadot, 182-221. Jakarta: ERIA.

<sup>99</sup> See the DFDL 2019 Year in Review and Outlook for Cambodia, page 1, January 2020.

<sup>100</sup> However, heading in 2020, the law remains not fully implemented, pending additional decrees and administrative guidance. See the DFDL 2019 Year in Review and Outlook for Vietnam, page 11, January 2020.

Member state	Competition law	Institutional body
Thailand	Thai Trade Competition Act (2017)	Trade Competition Commission is formed with 7 commissioners inclusive of one President and one Vice-President. All members work on a full-time basis with a 4-year term. No member will be elected not more than 2 terms.
Vietnam	Law on Competition (2019) replaced the 2004 version of the law.	Under the new law, Vietnam Competition Authority and Competition Council merged to form National Competition Committee.

Source: author.

<sup>a</sup> [https://www.asean-competition.org/file/post\\_image/CO\\_2015Eng%202.compressed.pdf](https://www.asean-competition.org/file/post_image/CO_2015Eng%202.compressed.pdf).

<sup>b</sup> <https://www.competitionpolicyinternational.com/cambodia-to-finalize-antitrust-competition-draft-law/>.

## C. Dispute resolution

ASEAN members are not litigious. While ASEAN has had dispute settlement systems in place for decades, they are not used. In spite of a non-existent track record in resolving disputes within ASEAN, members agreed to update the 2004 ASEAN Protocol on Enhanced Dispute Settlement Mechanism in 2019. While members do not use ASEAN mechanisms, they have used dispute settlement in other institutions—notably at the World Trade Organization (WTO)—against one another. The very first dispute ever handled by the WTO, in fact, was between Singapore and Malaysia in 1995 over chemicals.<sup>101</sup>

Despite ASEAN's own lack of history with dispute settlement, mechanisms for handling state-to-state and investor-state disputes have been embedded in all ASEAN trade agreements. This will include RCEP.

## D. Intellectual property

In 1995, Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam signed the ASEAN Framework Agreement on Intellectual Property (IP) Cooperation. This was the first attempt to cooperate on intellectual property protection at the regional level. The main body which oversees IP protection at the regional level is the ASEAN Working Group on Intellectual Property Cooperation, comprised of IP offices from all member states.

ASEAN has developed two Action Plans: ASEAN Intellectual Property Rights Action Plan 2011-2015,<sup>102</sup> and ASEAN Intellectual Property Rights Action Plan 2016-2025.<sup>103</sup> Each plan contains specific initiatives, deliverables, and outlines the leading member states to achieve a particular deliverable. Table 9 provides a summary of intellectual property protection practices in ASEAN member states.

**Table 12**  
**Summary of ASEAN IP regulatory infrastructure**

Country	IP protection law	IP protection institutions
Brunei <sup>a</sup>	Copyright Order (2013); Industrial Designs Order (2014); Industrial Designs Rules (2014); Patents Order (2017); Patent Rules (2013); Plant Varieties Protection Order (2016); Trade Marks Act (2017); Trade Marks (International Registration) Rules (2018); Trade Marks (Importation of Infringing Goods) Regulations (2000)	Intellectual Property Office under Attorney General Chambers Prime Minister Office
Cambodia <sup>b</sup>	The Law Concerning Marks, Trade Names and Acts of Unfair Competition – Trade Mark Law (2002); The Law on Patents, Utility Model Certificates and Industrial Designs - Patent Law (2003); Copyrights Law (2003)	Department of Intellectual Property, Ministry of Commerce
Indonesia <sup>c</sup>	Law Number 13 of 2016 on Patent; Law Number 14 of 2001 on Patent; Law No. 20 of 2016 on Trademark; Law No. 15 of 2001 on Trademark; Law No 28 of 2014 on Copyright; Law	Directorate General of Intellectual Property, Ministry of Law and Human Rights

<sup>101</sup> See details on the case at [https://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds1\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds1_e.htm) accessed January 6, 2020.

<sup>102</sup> ASEAN. "ASEAN Intellectual Property Rights Action Plan 2011-2015." ASEAN IP, 2010. <https://www.aseanip.org/Portals/0/PDF/ASEAN%20IPR%20Action%20Plan%202011-2015.pdf>.

<sup>103</sup> ASEAN. "ASEAN Intellectual Property Rights Action Plan 2016-2025." ASEAN IP, 2015. [https://www.aseanip.org/Portals/0/ASEAN%20IPR%20ACTION%20PLAN%202016-2025%20\(for%20public%20use\).pdf?ver=2017-12-05-095916-273](https://www.aseanip.org/Portals/0/ASEAN%20IPR%20ACTION%20PLAN%202016-2025%20(for%20public%20use).pdf?ver=2017-12-05-095916-273).

Country	IP protection law	IP protection institutions
Lao PDR <sup>d</sup>	Number 31 Year 2000 on Industrial Design; Law Number 30 of 2000 on Trade Secrets Intellectual Property Law (2007)	Department of Intellectual Property, Ministry of Science and Technology
Malaysia <sup>e</sup>	Trademark Act (2019); Patents (Amendment) Act (2006); Industrial Design (Amendment) Act (2013); Geographical Indications Act (2000); Copyrights (Amendment) Act (2012)	Intellectual Property Corporation of Malaysia, Ministry of Domestic Trade, Co-operatives and Consumerism
Myanmar <sup>f</sup>	Industrial Design Law (2019); Trademark Law (2019); Patent Law and Copyright Law (2019)	Department of Intellectual Property, Ministry of Education
Philippines <sup>g</sup>	The Intellectual Property Code of the Philippines Amendment (2015)	Intellectual Property Office of the Philippines
Singapore	Patent Act Amendment (2017); Trade Marks Act; Registered Design Act Amendment (2017); Plants Varieties Protection Act; Copyrights Act; Geographical Indications Act; Layouts-Designs of Integrated Circuit Act <sup>h</sup>	Intellectual Property Office of Singapore
Vietnam	In 2019, law on Insurance Business and the Law Intellectual Property was amended to comply with CPTPP as Vietnam becomes part of the trade pact <sup>i</sup>	National Office of Intellectual Property Office of Vietnam, Ministry of Science and Technology

Source: author.

<sup>a</sup> Intellectual Property Office Brunei Darussalam. "BRUIPO - About-Us," 2020. <http://www.bruipo.gov.bn/SitePages/About-Us.aspx>.

<sup>b</sup> Kingdom of Cambodia, "Department of Intellectual Property Kingdom of Cambodia," Department of Intellectual Property Rights, 2020, <http://www.cambodiaip.gov.kh/default.aspx?lang=en>.

<sup>c</sup> DGIP. "Directorate General of Intellectual Property." Ministry of Lay and Human Rights R.I. Indonesia, 2020. <http://en.dgip.go.id/>.

<sup>d</sup> ASEAN. "Lao Peoples Democratic Republic." ASEAN Intellectual Property Portal, 2020. <https://www.aseanip.org/Resources/ASEAN-IP-Offices-Details/Lao-Peoples-Democratic-Republic>.

<sup>e</sup> MyIPO. "About MYIPO." Intellectual Property Corporation of Malaysia, 2020. <http://www.myipo.gov.my/en/about/?lang=en>.

<sup>f</sup> Myanmar Ministry of Education. "Myanmar Intellectual Property Department." Myanmar IP, 2020. <http://myanmarip.moe-st.gov.mm/web?usecase=Department>.

<sup>g</sup> Intellectual Property Office of the Philippines. "Overview of the Intellectual Property System." IPOPHL, March 25, 2020. <https://www.ipophil.gov.ph/overview-of-the-intellectual-property-system/>.

<sup>h</sup> ASEAN. "Singapore" ASEAN Intellectual Property Portal, 2020. <https://www.aseanip.org/Resources/ASEAN-IP-Offices-Details/Singapore>

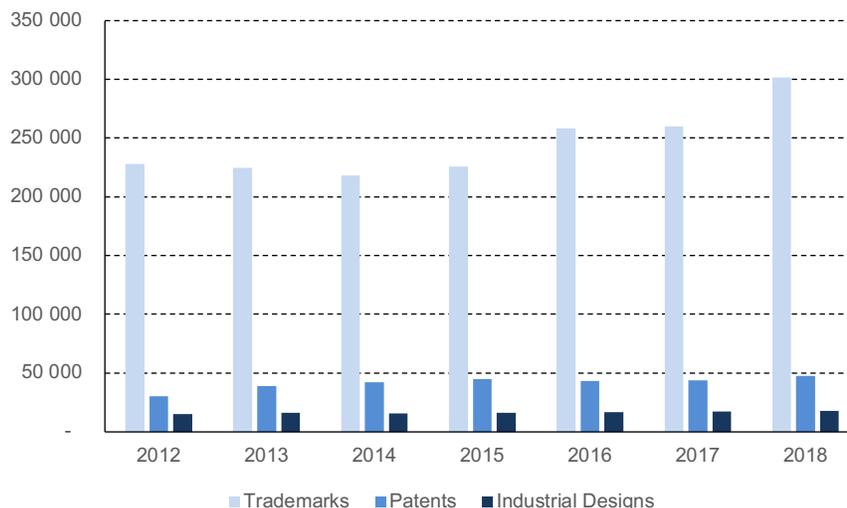
<sup>i</sup> Tilleke & Gibbins. "Vietnam's IP Law Amended to Comply with CPTPP." Vietnam's IP Law Amended to Comply with CPTPP | Tilleke & Gibbins, June 19, 2019. <https://www.tilleke.com/resources/vietnam%E2%80%99s-ip-law-amended-comply-cptpp>.

Although IP protection laws and institutions are in place in ASEAN, the actual registration statistics show implementation of various types of IP protection remains still relatively low. Only the number of trademark filings rose significantly since 2014 as shown in Figure 17. This may be due to the weak enforcement mechanism in some less developed ASEAN countries like Myanmar and Cambodia. Resources available also vary by country. Some member states, such as Myanmar, do not have a dedicated website for their IP department whereas Lao PDR's website is still a work in progress with little information available.

Given the diverse levels of economic development, resource and capacity constraints between ASEAN members, it is perhaps not surprising that the effort devoted to IP protection and enforcement varies significantly across the region. The differing base has made it challenging to effectively implement any harmonized systems at the ASEAN level.

ASEAN has recognized the importance of filling this gap in domestic level policies as well as the need to coordinate at the ASEAN level. It has turned to its Dialogue Partners for a wide range of assistance, including capacity building workshops and seminars and even allowing staff members to be embedded in different departments and agencies across the region to improve capabilities.

**Figure 17**  
**Intellectual property filings in ASEAN (2012-2018)<sup>a</sup>**



Source: ASEAN Intellectual Property Portal.

<sup>a</sup> Found at: <https://www.aseanip.org>.

## E. Efforts to reduce development asymmetries between members

Since its inception ASEAN has put in place efforts to reduce development asymmetries between its members. From the mid-1990s, Cambodia, Laos, Myanmar and Vietnam (collectively, CLMV) were admitted into ASEAN in a period of accelerated economic integration.<sup>104</sup> However, existing economic disparities between the countries continued to widen, developing into a tiered divide. The effects of globalization further entrenched this disparity.<sup>105</sup> Generally, the productive capacity of CLMV was hindered by weak human resource capabilities and policies as well as weak institutional and legal frameworks.<sup>106</sup>

To reduce these development asymmetries, ASEAN formulated and launched a six-year Initiative for ASEAN Integration (IAI) Work Plan in 2002.<sup>107</sup> The programs, activities and projects of the IAI were directed at strengthening the capacity, capability and resolve of the CLMV countries<sup>108</sup>. The rationale was that by improving the economies of the CLMV countries, ASEAN could achieve better economic integration and better compete in the global economy.<sup>109</sup>

The IAI Work Plan was formulated to align with the three Community Blueprints of ASEAN, being the Economic Blueprint, Socio Cultural Blueprint and the Political Security Blueprint. In this vein, the overall objectives were to: (i) Facilitate the development of policy, institutional, and regulatory

<sup>104</sup> Quah Boon Huat (2008), 'CLMV Development Assistance Programmes: Background, Approaches, Concerns,' in C Sotharith, *Development Strategy for CLMV in the Age of Economic Integration* (Chiba, ERIA Research Project Report), 87 [https://www.eria.org/uploads/media/Research-Project-Report/RPR\\_FY2007\\_4\\_Chapter\\_3.pdf](https://www.eria.org/uploads/media/Research-Project-Report/RPR_FY2007_4_Chapter_3.pdf).

<sup>105</sup> Ibid 88.

<sup>106</sup> Ibid 94.

<sup>107</sup> Ibid 82.

<sup>108</sup> Ibid 83.

<sup>109</sup> Ibid 88.

frameworks; and (ii) Strengthening the capacity of the CLMV countries to reduce poverty and increase standard of living; and improve civil service for global competition.<sup>110</sup>

ASEAN has developed and implemented three Phases of the IAI work plan to date. The priorities and scope of each phase has expanded to better meet the needs of CLMV countries and address the shortcomings of previous phases.

**Table 13**  
**IAI work plan phases I-III priorities**

Phase	Priority Areas
Phase 1 (2002-2008) <sup>a</sup>	<ol style="list-style-type: none"> <li>1. Infrastructure development;</li> <li>2. Human resource development;</li> <li>3. Information and communication technology; and</li> <li>4. The promotion of regional economic integration.</li> </ol>
Phase 2 (2009-2015) <sup>b</sup>	<ol style="list-style-type: none"> <li>1. Identification of the precise needs of CLMV in terms of external assistance;</li> <li>2. The importance of a project's role in national development plans;</li> <li>3. Project's effectiveness in building CLMV capacity for participation in ASEAN programs;</li> <li>4. Long term continuity and sustainability; and</li> <li>5. Absorptive capacity of CLMV countries.</li> </ol>
Phase 3 (2016-2020) <sup>c</sup>	<ol style="list-style-type: none"> <li>1. Food and agriculture;</li> <li>2. Trade facilitation;</li> <li>3. Micro, small and medium enterprises (MSMEs);</li> <li>4. Education; and</li> <li>5. Health and well-being.</li> <li>6. Strengthen implementation of IAI through clear governance and ownership, presence of core skills and finance, proactive stakeholder engagement; and robust performance management.<sup>d</sup></li> </ol>

Source: author.

<sup>a</sup> Ibid 95.

<sup>b</sup> Ibid 2.

<sup>c</sup> Ibid 2.

<sup>d</sup> ASEAN Secretariat, The Association of Southeast Asian Nations (ASEAN), Initiative for ASEAN Integration (IAI) Work Plan III (Jakarta, ASEAN Secretariat, 2016), 8. <http://aadcp2.org/wp-content/uploads/ogrev2Content-IAI-Work-Plan-III.pdf>.

Midterms reviews of these efforts have highlighted key challenges that include weak inter-agency coordination, reporting mechanisms, implementation and follow-through actions, the need to strengthen the ownership of the IAI projects by the CLMV countries given their differing pace of reforms and level of socioeconomic performance.<sup>111</sup>

<sup>110</sup> Quah Boon Huat (2008), 'CLMV Development Assistance Programmes: Background, Approaches, Concerns,' in C Sotharith, Development Strategy for CLMV in the Age of Economic Integration (Chiba, ERIA Research Project Report), 94, [https://www.eria.org/uploads/media/Research-Project-Report/RPR\\_FY2007\\_4\\_Chapter\\_3.pdf](https://www.eria.org/uploads/media/Research-Project-Report/RPR_FY2007_4_Chapter_3.pdf).

<sup>111</sup> Quah Boon Huat (2008), 'CLMV Development Assistance Programmes: Background, Approaches, Concerns,' in C Sotharith, Development Strategy for CLMV in the Age of Economic Integration (Chiba, ERIA Research Project Report), 102-3. [https://www.eria.org/uploads/media/Research-Project-Report/RPR\\_FY2007\\_4\\_Chapter\\_3.pdf](https://www.eria.org/uploads/media/Research-Project-Report/RPR_FY2007_4_Chapter_3.pdf).

### XIII. The path forward for ASEAN

ASEAN has faced economic headwinds and potential opportunities in nearly equal measure recently. The region is highly exposed to trade and economic changes elsewhere. As this paper has noted, while ASEAN is increasingly involved in trade in goods and services and receiving more inbound investment than ever, much of this economic activity has been driven from regions outside ASEAN. Member states are hooked into markets in Northeast Asia, Europe and North America, with many firms in the region increasingly well integrated into a wide variety of global supply chains and dependent on customers and sales outside ASEAN. Economic challenges, like a US-China trade war and, most urgently, the stresses caused by the COVID19 pandemic and subsequent border closures and trade disruption, have hit many parts of ASEAN hard. There is opportunity, of course, still to be found as many previous patterns of trade are being reset in ways that may benefit an integrated and coherent ASEAN.

ASEAN's ability to manage and navigate these challenges is being severely tested. In the run up to the launch of the AEC in 2015, the world was often eagerly watching ASEAN and expected the region to achieve a free flow of goods, services, investment, skilled labour and freer movement of capital, which had long been promised. When these outcomes failed to be achieved as anticipated, the region might have responded by redoubling efforts to match often soaring rhetoric to reality.

Instead, the rhetoric continued. The launch of the AEC Blueprint 2025 promised, as item #1, to complete all aspects of the AEC that had failed to be implemented by the end of 2016. As SEAN Chair in 2016, The least developed member of the grouping, Lao PDR, had the unenviable task of making this happen. It is, perhaps, not surprising, that the goal was not achieved, nor had most missing items been implemented by 2020.

ASEAN member states were instead grappling with ASEAN's relationships with its larger regional partners, driving the RCEP negotiations towards a slow conclusion. Most of ASEAN's internal commitments received lower priority and limited focus.

With the conclusion of RCEP in late 2020, however, the pathway is cleared for two important opportunities for the region. First, RCEP itself has the potential to dramatically accelerate economic growth and development in the region by creating a trade and economic platform for Asia. Given the

often-high obstacles firms face to trade within the region, there is scope for dramatic outcomes coming from implementation of RCEP commitments. Second, the conclusion of RCEP will return time and space to ASEAN officials to refocus attention on ASEAN. In many areas, RCEP was unable or unwilling to embark on ambitious outcomes because the stakes in a larger grouping that includes global powerhouses like China, Japan or Australia, precluded strong market liberalization promises. However, such commitments may be possible between ASEAN members in the wake of RCEP negotiations. The same economic and trade teams tended to be responsible for both ASEAN and RCEP, making it possible for ASEAN trade officials to return to regional integration discussions richer for having participated in Asia-wide talks.

## XIV. Implications for Latin America

A deeper understanding of ASEAN's governance structure and economic integration effort can better inform opportunities and challenges in the development of increased ASEAN and Latin-American sub-regional relations.

First, given its ambitious institutional set up, increased role in the global economy and varied success at promoting economic integration, ASEAN provides a rich network of principles, institutional structures, resources and experiences that can be a point of reference for economic integration efforts in Latin America. Latin American economic integration initiatives like the Pacific Alliance have attained a significant level of international attention that has propelled increased trade and investment between Asia and Latin America. The Pacific Alliance has operated without a Secretariat and has signed and ratified a regional FTA that includes commitments on trade in goods, services and investment. The strengths and limitations of ASEAN's institutional structure and efforts to enable the flow of goods, services, capital and people have the potential to inform similar initiatives by the Pacific Alliance or other Latin American economic integration initiatives. Moreover, ASEAN's ability to strengthen its incorporation into regional production chains with its regional trading partners through the ASEAN+1 agreements and RCEP, can inform the scope and the path forward for ongoing Pacific Alliance negotiations with four of its associate member candidates: Canada, Singapore, Australia and New Zealand.

Second, an increased understanding of ASEAN's institutional strengths can inform connectivity and coordination of sub-regional cooperation efforts between ASEAN and Latin America. Countries in both regions have in place several trade and investment agreements at the bilateral level.<sup>112</sup> At the regional level, three Latin American countries (Chile, Peru, and Mexico) have signed the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) agreement, of which Singapore, Malaysia, Brunei, and Vietnam are also parties.

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<sup>112</sup> Chile-Brunei (2005), Chile-Singapore (2005), Panama-Singapore (2006), Peru-Singapore (2009), Peru-Thailand (2011), Chile-Malaysia (2012) agreements.

ASEAN and the Pacific Alliance have formalised their intention to cooperate. To date, they have held 5 ministerial meetings and 6 meetings between the Committee of Permanent Representatives to ASEAN and the Group of External Relations of the Pacific Alliance to forge stronger relations. Both trade blocks established the ASEAN-Pacific Alliance Framework for Cooperation and the ASEAN-Pacific Alliance Works Plan (2017-2020) after the 3rd ASEAN-Pacific Alliance Ministerial Meeting held on 24 September 2016.

The framework and work plan have 12 action lines across priority areas that include: economic cooperation, education and people-to-people contacts, science, technology, and innovation, and sustainable. Since 2018, both ASEAN and the Pacific Alliance have agreed to explore collaborations in areas like e-commerce, Micro, Small and Medium Enterprises, gender and culture, disaster relief, green growth, people-to-people exchange, trade facilitation, smart cities, digital economy, climate change, disaster management, renewable energy, connectivity, sustainable development, and cooperation to address the Fourth Industrial Revolution.

A critical assessment of ASEAN's economic cooperation and trade liberalization efforts in these areas can become the basis of sub-regional cooperation initiatives that leverage ASEAN's institutional strengths. Increased engagement with ASEAN offers a unique opportunity to increase and diversify trade and investment flows between Asia and Latin America, and thus it is important that economic cooperation initiatives between the two regions build on ASEAN's strengths and address its shortcomings.

Overall, the insights in this paper provide some useful guidelines to guide ongoing economic integration efforts in Latin America and strengthen Latin American efforts to increase trade connectivity and momentum with Asia through ASEAN.

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The Association of Southeast Asian Nations (ASEAN) has become one of the most important players in the global trading system. Comprising 10 countries with very diverse income levels, ASEAN is now the world's fifth largest economy and plays a central role in the so-called "Factory Asia". This document begins with an overview of the history and institutions of ASEAN, before focusing on one of its three pillars: the ASEAN Economic Community (AEC), including a critical assessment of outcomes in the areas of trade in goods, trade in services and investment, among others. The document draws best practices from the experience of ASEAN that may be relevant to other regional arrangements pursuing similar goals, and concludes by considering aspects of importance to Latin America's ongoing economic integration initiatives.