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ASEAN ECONOMIC COMMUNITY

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THE ASEAN ECONOMIC COMMUNITY

A WORK IN PROGRESS

EDITED BY

SANCHITA BASU DAS • JAYANT MENON
RODOLFO SEVERINO • OMKAR LAL SHRESTHA





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CONTENTS

Fore	eword by Tan Chin Tiong, Director, ISEAS	vii		
Fore	eword by Iwan J. Azis, Head, Office of Regional Economic Integration, ADB	ix		
Pref	ace	xi		
Ack	nowledgments by volume editors	xv		
Abb	reviations	xvii		
The	Contributors	xxiii		
1.	Overview Rodolfo C. Severino and Jayant Menon	1		
2.	Non-Tariff Barriers: A Challenge to Achieving the ASEAN Economic Community Myrna S. Austria	31		
3.	3. ASEAN Trade in Services Deunden Nikomborirak and Supunnavadee Jitdumrong			
4.	. The ASEAN Economic Community: The Investment Climate Manu Bhaskaran			
5.	Competition and Intellectual Property Laws in the ASEAN 'Single Market' Ashish Lall and R. Ian McEwin	207		

vi Contents

6.	Subregional Zones and ASEAN Economic Community Richard Pomfret and Sanchita Basu Das	279
7.	ASEAN FTAs: State of Play and Outlook for ASEAN's Regional and Global Integration Razeen Sally	320
8.	The ASEAN Dispute Settlement System Locknie Hsu	382
9.	Enhancing the Institutional Framework for AEC Implementation: Designing Institutions that are Effective and Politically Feasible Helen E.S. Nesadurai	411
10.	ASEAN Economic Community Business Survey Albert G. Hu	442
Inde	ex	483

FOREWORD

by Tan Chin Tiong, Director, Institute of Southeast Asian Studies, Singapore

As 2015 approaches, that year, at least in the more knowledgeable parts of the countries of the Association of Southeast Asian Nations (ASEAN), is increasingly associated with the creation of the ASEAN Community. After all, ASEAN's leaders had declared in 2007 "ASEAN's strong commitments towards accelerating the establishment of an ASEAN Community by 2015".

In 2009, the leaders issued the Roadmap for the ASEAN Community (2009–15) containing blueprints for the ASEAN Economic Community (AEC), which they had adopted in 2007, and the Political-Security and Socio-Cultural Communities.

The AEC Blueprint comes with a matrix called "Strategic Schedule", most of which lays down very specific measures to be taken in 4 two-year tranches until 2015. With the support and collaboration of the Asian Development Bank, the Institute of Southeast Asian Studies (ISEAS) engaged experts, most of them leading authorities in their fields especially with respect to ASEAN, to examine the prospects of the AEC's achievement by 2015, identify the domestic political obstacles to that achievement, and suggest policy measures to address them.

The experts found that, if the commitments were to be taken literally and at face value, and if the obstacles were to be taken into account, it would be very difficult for the AEC measures to be carried out by 2015. While the ASEAN vision of creating an economic community marked by the free flow of goods, services, foreign direct investment and skilled labor and the "freer flow of capital", is far-sighted, courageous and ambitious, too much

viii Foreword

political opposition and inadequate institutional infrastructure lie in the way of their effective implementation.

However, if the measures in the AEC Blueprint are to be regarded as ASEAN aspirations and commitments pointing in the general direction of creating the region as a single market and production base, and if the year 2015 is to be seen as a benchmark of progress in that direction, the AEC 2015 should be taken seriously not only by the ASEAN states but also by businesses and by not-for-profit organizations.

It is in this spirit that we at ISEAS consider the findings and conclusions of the prominent experts whom we have engaged.

FOREWORD

by Iwan J. Azis, Head, Office of Regional Economic Integration, Asian Development Bank

When the ASEAN Secretariat approached the Asian Development Bank to undertake an analysis of the barriers and impediments in realizing the ASEAN Economic Community by 2015, we were delighted to respond positively, given the importance of the issue and the strong ties between our institutions. We were also delighted to collaborate with the Institute of Southeast Asian Studies to produce this volume, enlisting the support from external experts in the field. With the publication of this book some 2 years before the deadline of 2015, we hope and expect that policy-makers and other stakeholders will have sufficient time to address the issues raised, and meet the challenges identified.

A key message coming out of this volume is that the target date of 2015 should not be viewed as a hard deadline but rather a milestone, *albeit* important, in a much longer journey. It is a journey that began in 1967, although during its first decade the primary focus of ASEAN was on creating harmony and cohesion within a troubled region, rather than increasing economic integration. But pursuing regional economic integration has gained prominence in ASEAN affairs over succeeding decades. From the initial focus on trade liberalization, through the Preferential Trading Arrangement and eventually the ASEAN Free Trade Agreement (AFTA), ASEAN's regional economic integration agenda has broadened to now include services trade, investment, labor migration, and even macroeconomic policy. ASEAN's regional economic integration efforts are meant to culminate in the creation of an ASEAN Economic Community, one of the three pillars of the ASEAN Community espoused

x Foreword

in ASEAN's Vision 2020 — the other two being the Political-Security Community and the Socio-Cultural Community.

Whatever is realized come 2015, the work must continue beyond it. ASEAN's own assessments, based on its scorecards, suggest that many of the targets will not be met by this date. The challenges identified in this volume support this conclusion. But more importantly, the agreements that have been signed, before and after this date, must be implemented legitimately. Often effective implementation will require domestic rules and regulations to be amended in order to accommodate the agreed protocols. Monitoring at this stage is often guided by little more than goodwill, and this too poses obvious challenges. Therefore, it is critical that member countries are convinced that the reforms that they agree to will be in their self-interest. This volume makes the case on the benefits of liberalization and integration in the various sectors forcefully and convincingly.

I believe that this volume will be of interest to all ASEAN watchers, both within and without the region and, of course, the policy-makers that are tasked with the realization of the AEC.

PREFACE

This study aims to answer the following three questions: (i) whether the ASEAN Economic Community (AEC) is achievable by 2015, (ii) the obstacles along the way in achieving it, and (iii) the measures needed for its eventual achievement.

All the experts' emphatic answer to the first question is that it would be very difficult to achieve AEC by 2015 in terms of the commitments in the AEC Blueprint. The reasons are many. Several commitments made toward AEC 2015 have not been implemented by ASEAN member states. While progress has been made in lowering tariffs and some behind-the-border economic hurdles, non-tariff barriers remain as major impediments to AEC 2015. Similar lags take place in the commitments made on the liberalization of trade in services despite the growing importance of services in the ASEAN economies. Regional institutions remain weak, as member states guard their sovereignty. When national goals differ from regional ones, decisions of political leaders tend to favor national goals. Flexibilities designed to accommodate the different levels of development of member states seem to have been used to justify non-compliance with their commitments; yet, such non-compliance is not censured, as maintaining a unified position among member states becomes more important to their leaders. Interest groups and those opposing regional competition tend to succeed in preventing their national leaderships from enforcing AEC commitments.

In the above context, the chapter writers' view is that the increased intra-ASEAN trade and investments over the years have been driven more by market forces than by regional agreements. Accordingly, it is in the interest of each ASEAN state to take unilaterally measures

xii Preface

toward improving its business climate and liberalize trade and investment policies without waiting for regional agreements to be concluded. There is a view that the year 2015 needs to be regarded as a vision than as a hard-and-fast target year, so that the year could serve more as a benchmark of progress. Depending on the speed of progress, more measures for integration can be undertaken aimed at 2015 and beyond 2015. More than anything else, it would be in ASEAN states' interest to avoid grand designs and stress effective compliance with their existing commitments instead of concluding additional new agreements.

Since non-compliance with NTB commitments has been among the major impediments to the AEC vision, there is an urgent need to give these NTBs a common definition and subject them to compliance review, including Web-based monitoring. With regard to the tariff issues, there is a need to reduce the exclusion list and accelerate transition periods, avoid inconsistencies between ASEAN+1 FTAs and bilateral FTAs, and simplify ROO (rules-of-origin) between FTAs. As a way of encouraging commitments compliance, it may be desirable to establish third-party mechanisms that could help assess the gap between FTA commitments and the actual outcome and make the findings public. Recognizing the increasing importance of the service sector in the ASEAN economies, compliance will be easy and monitorable if the liberalization of trade in services is undertaken on certain specific sectors rather than across the board. Experts also feel the need to harmonize national product standards and conclude Mutual Recognition Arrangements (MRAs) for traded goods and services. Promoting competition among the ASEAN states could potentially be impeded by firms using their Intellectual Property Rights (IPR). Hence enforcement of IPR calls for respecting the ASEAN states' differences in their respective capacities.

Recognizing that the development divide among the ASEAN states could slow down the AEC process, effective coordination and implementation of IAI is considered as a crucial instrument to address the issue. In this context, the experts also see the importance of promoting regional projects that enhance physical connectivity among the ASEAN countries and the urgency to explore new financial approaches to support the ASEAN Infrastructure Fund.

With regard to the Dispute Settlement Mechanism (DSM), the experts are unanimous on the need to provide assistance to those states requiring help, so that all member states are well-equipped

Preface xiii

to use DSM effectively. Suggestions like distributing DSM-related materials and brochures widely, keeping the DSM Website more user-friendly, and teaching ASEAN trade and investment dispute settlement law courses in the member states' colleges and universities are worth serious consideration by the policy-makers. Furthermore, the experts see the necessity of improving the physical and electronic infrastructure at the ASEAN Secretariat, so that Jakarta could become more attractive to those involved in dispute settlement.

In the final analysis, the experts see the need for strengthening the institutions recommended by the High Level Task Force on ASEAN Economic Integration and adopted by the Leaders at the 2003 Summit. There is also scope for undertaking reforms of the ASEAN Secretariat, so as to support the overall coordinative and other substantive tasks that the Secretariat has to perform. Given the finding of the business survey showing low awareness of the AEC vision in the business communities in the ASEAN countries, it is important to embark upon programs to sensitize them to the long-term and short-term benefits of regional economic integration.

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by volume editors

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ABBREVIATIONS

ABAC ASEAN Business Advisory Council

AA ASEAN Architect

AAC ASEAN Architect Council

AANZFTA ASEAN-Australia-New Zealand Free Trade Area

AAR ASEAN Architect Register
ABC ASEAN Business Club
ACB ASEAN Compliance Body

ACFTA ASEAN-PRC FTA

ACIA ASEAN Comprehensive Investment Agreement

ACPE ASEAN Chartered Professional Engineer
ACPECC ASEAN Chartered Professional Engineers

Coordinating Committee

ACT ASEAN Consultation to Solve Trade and Investment

Issues

ACWL Advisory Centre on WTO Law

ADB Asian Development Bank

AEC ASEAN Economic Community

AEGC ASEAN Experts Group on Competition

AEM ASEAN Economic Ministers

AFAS ASEAN Framework Agreement on Services

AFlag ASEAN Federation of Land Survey and Geomatics

AFTA ASEAN Free Trade Area AIA ASEAN Investment Area AIA ASEAN Investment Area

AICO ASEAN Industrial Cooperation Scheme

xviii Abbreviations

AIF **ASEAN Infrastructure Fund**

AIFTA ASEAN-India FTA

AII ASEAN Information Infrastructure **AIJV** ASEAN Industrial Joint Venture

AIMO ASEAN Integration Monitoring Office

AiTi Authority for Info-Communication Technology Industry **AICEP** ASEAN-Japan Comprehensive Economic Partnership

Agreement

AMRO ASEAN Plus Three Macroeconomic Research Office

ASEAN Member States AMSs

ANZCERTA Australia New Zealand Closer Economic Relations

Trade Agreement

APEC Asia-Pacific Economic Cooperation APSC ASEAN Political-Security Community

ARF ASEAN Regional Forum ASA Air Service Agreement

ASCC ASEAN Socio-Cultural Community Association of Southeast Asian Nations **ASEAN**

ASEAN-CCI ASEAN Chambers of Commerce and Industry

ATA **ASEAN Tourism Agreement**

ATIGA ASEAN Trade in Goods Agreement

ATR ASEAN Trade Repository

ATSP ASEAN Tourism Strategic Plan

AWGIPC ASEAN Working Group on Intellectual Property

Cooperation

BCDA Bases Conversion and Development Act **BIMP-EAGA** Brunei Darussalam-Indonesia-Malaysia-The Philippines-East ASEAN Growth Area

BIMSTEC Bay of Bengal Initiative for Multi-Sectoral Technical

and Economic Cooperation

CARICOM Caribbean Community and Common Market

CCS Competition Commission of Singapore

CDC Committee for Protection/Defense of Competition CECA Comprehensive Economic Cooperation Agreements **CEPA** Comprehensive Economic Partnership Agreements

Abbreviations xix

CEPT Common Effective Preferential Tariffs

CIB Cambodia Investment Board

CIMT Centre for IMT-GT Subregional Cooperation
CLMV Cambodia, Lao People's Democratic Republic,

Myanmar and Viet Nam

CMC Council of the Common Market

CMG Common Market Group

CPC Code Central Product Classification Code

CPCN Certificate of Public Convenience and Necessity

CRPs Competition Related Provisions
CTC Comprehensive Trade Costs
DMO Domestic Market Obligation
DSM Dispute Settlement Mechanism
DSU Dispute Settlement Understanding

EAI East Asian Institute

ECAP II EC-ASEAN Intellectual Property Rights Co-operation

Programme

ECAP III ASEAN Project on the Protection of Intellectual

Property Rights

ECJ European Court of Justice
EDB Economic Development Board

EDSM Enhanced Dispute Settlement Mechanism

EEC European Economic Community

EEZ Exclusive Economic Zone
EPC European Patent Convention
EPG Eminent Persons Group

EPLA European Patent Litigation Agreement

ERC Energy Regulatory Commission Regulatory Commission
ERIA Economic Research Institute for ASEAN and East Asia
ESCAR Economic and Social Commission for Asia and the

ESCAP Economic and Social Commission for Asia and the

Pacific

ETC Electricity Telecommunication Company
ETP Economic Transformation Programme

EU European Union

EUPC European Union Patent Court

xx Abbreviations

EWEC East–West Economic Corridor FDI Foreign Direct Investment

FIC Guidelines Foreign Investment Committee Guidelines

FTA Free Trade Agreement
FTC Federal Trade Commission

GATS General Agreement on Trade in Services

GCI Global Competitiveness Index

GDP Gross Domestic Product

GFCF Gross Fixed Capital Formation
GLCs government-linked corporations
GMS Greater Mekong Subregion

GMS-BF Greater Mekong Subregion Business Forum

GMS-ECP Greater Mekong Subregion Economic Cooperation

Program

GPN Global Production Network
HLTF High-Level Task Force
HSR High Speed Rail

IAI Initiative for ASEAN Integration

IDA Infocomm Development Authority of Singapore

IDR Iskandar Development RegionIGA Investment Guarantee AgreementILO International Labour Organization

IMT-GT Indonesia-Malaysia-Thailand Growth Triangle
InTi Infrastructure Provider for the Telecommunication

Industry

IPR Intellectual Property Rights

ISEAS Institute of Southeast Asian Studies

ISIC International Standard Industrial Classification

ITA Information Technology Agreement

JSS Sunda Strait Bridge

KORUS The Republic of Korea-US FTA

KPPU Commission for Supervision of Business Competition

LPI Logistic Performance Index
MERCOSUR Common Market of the South

MFN Most Favored Nation

Abbreviations xxi

MNCs Multi National Companies

MOU Memorandum of Understanding

MP3EI Master Plan for the Acceleration and Expansion of

Indonesia's Economic Development

MPAC Master Plan for ASEAN Connectivity
MRA Mutual Recognition Arrangement
MTC MERCOSUR Trade Commission

NAFTA North American Free Trade Agreement

NDG Narrowing the Development Gap NKEA National Key Economic Areas NSEC North–South Economic Corridor

NTB Non-Tariff Barriers

NTC National Telecommunications Commission NT-CTC Non-Tariff Comprehensive Trade Costs

NTM Non-Tariff Measures

NUS National University of Singapore
ODA Official Development Assistance

OECD Organisation for Economic Co-operation and

Development

PBG Pan-Beibu Gulf Economic Region

PC-TAS Trade Analysis System using Personal Computer

PEZA Philippine Economic Zone Authority

PPP Public-Private Partnership

PRA Professional Regulatory Authority
PTA Preferential Trade Arrangement
PAR Professional Regulatory Authority

R&D Research and Development
RES Regional Economic Studies
RETA Regional Technical Assistance

RFPE Registered Foreign Professional Engineer

ROCE Return on Capital Employed

ROI Return on Investment

ROO Rules of Origin ROW Rest of the world

RSCS Regional Social and Cultural Studies
RSPS Regional Strategic and Political Studies

xxii Abbreviations

RTA Regional Trade Agreement
RVC Regional Value Content
SCR Sectoral Coverage Ratio
SEC Southern Economic Corridor

SEDC State Economic Development Corporations SEOM ASEAN Senior Economic Officials Meeting

SeTi Service Provider for the Telecommunication Industry

SEZs Special Economic Zones SIJORI Singapore-Johor-Riau

SITS Sumatra Investment and Trade Survey
SLORC State-owned Economic Enterprises Law
SMEs Small and Medium-sized Enterprises

SOEs State-owned Enterprise

SPS Sanitary and Phytosanitary Measures

SPT Saigon Post and Telecom
SRIs Strategic Reform Initiatives
SRZs Subregional Economic Zones
TAI Thai Automotive Industry

TDRI Thailand Development Research Institute

Telmex Mexican telecommunications monopoly Telefonos de

Mexico

TRAINS Trade Analysis Information System

TRIPS Trade-Related Aspects of Intellectual Property Rights

UNCTAD United Nations Conference on Trade and

Development

UPS United Parcel Service of America
USTR United States Trade Representative
VISHIPEL Viet Nam Shipping Telecommunication

WHO World Health Organization

WHT withholding tax

WIPO World Intellectual Property Organization

WTO World Trade Organization

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