Towards an ASEAN Economic Community and a freer flow of persons

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Abstract
The transnational flows of persons has become an important topic in ASEAN integration following the ASEAN initiative to liberalize trade in services, and with the new vision to achieve an ASEAN Economic Community by 2015. But the ASEAN Framework Agreement on Services is vague, inconsistent, and lacking in implementation mechanisms. I argue that a freer flow of persons can contribute to the interests of both states and the region, but requires many changes in the commitment of ASEAN member states, working practices, and institutions within ASEAN.

Introduction
ASEAN has moved along the path of regionalism and has expected greater regional integration to contribute to a resilient and peaceful ASEAN community. Recently, the idea of a freer flow of persons has become more and more an issue in ASEAN integration, especially in view of the initiative to liberalize trade in services under the 1995 ASEAN Framework Agreement on Services (AFAS) as a complement to the free flow of trade in goods under the ASEAN Free Trade Area (AFTA) (ASEAN, 1995).

ASEAN has envisioned the formation of an ASEAN Economic Community (AEC) by the year 2015. The AEC is expected to establish ASEAN as a single market and production base. In moving towards an AEC, ASEAN is expected to strengthen the implementation of its existing economic initiatives, including AFAS. Skilled labor is also expected to flow more freely across the

region even without AFAS, as part of realizing the ASEAN Vision 2020 of a stable, prosperous and highly competitive ASEAN economic region with equitable economic development and reduced poverty and socio-economic disparities (ASEAN, 1997a). The ASEAN Concord II of 2003 declared that, “An ASEAN Community shall be established comprising three pillars, namely political and security cooperation, economic cooperation, and socio-cultural cooperation that are closely intertwined and mutually reinforcing for the purpose of ensuring durable peace, stability and shared prosperity in the region” (ASEAN, 2003).

ASEAN integration and transnational flows of persons are two puzzling phenomena for the ASEAN member states. ASEAN integration represents a challenge from above, while the transnational flows of persons is a challenge from below. The linkage between the two issues was not forged until recently, and the flow of persons is still a marginal area in ASEAN studies.

Observers have wondered whether an AEC can be realized, and how it will contribute to a resilient and peaceful ASEAN community. These questions are a major challenge for both ASEAN scholars and practitioners, particularly in the new millennium when most economies are striving for international competitiveness based on human capital.

This study aims to clarify some political problems of ASEAN integration by focusing on institutional robustness and regime effectiveness. I propose that the challenge from above and from below are interdependent, and that both ASEAN integration and the transnational flow of persons can contribute to the interests of both states and the region. I thus focus on relations between actors at the regional and the national-state levels with some attention to the linkages between regional and domestic politics.

The study is mainly based on archival research on ASEAN documents, literature on ASEAN, as well as primary and secondary sources of information from each member country.

**Towards an ASEAN Economic Community: robustness**

To chart the future of ASEAN greater integration, one needs to look into the past to identify key exogenous and domestic factors
contributing to the creation, dynamism, and shortcomings of ASEAN as a regional organization. I take an approach based on historical institutionalism to understand the lengthy, large-scale, but slow-moving social processes within ASEAN. I divide ASEAN evolution up to the present into four phases: up to 1967, the path to ASEAN; 1967–1976, a trial period and groundwork for cooperation; 1977–1991, from paper to action with concentration on political and economic cooperation for security interests; 1992 and beyond, new ASEAN, regional and global integration.

Given the varying weights of exogenous and endogenous factors over time, each phase of ASEAN has different characteristics. ASEAN is recognized internationally as a successful example of cooperation, as measured by the length of its existence and its ability to surmount obstacles and vicissitudes from inside and outside the organization ever since its inception in 1967. I maintain that ASEAN has attained a certain degree of robustness as a result of the interplay between exogenous and endogenous factors.

The exogenous factors include, at the global level, the international economic and political order, and at the domestic level, the perceptions by ASEAN member countries that regional cooperation contributes to national resilience; the cumulative benefits and learning from past experiences as foundations for further development; domestic and regional stability; and political leadership. The endogenous factor is the role of regional mechanisms.

The major challenge to ASEAN robustness in all periods has come from domestic factors, particularly in recent years these three: differences in domestic economic regulatory regimes; immature spirit of partnership; and lack of political will and trust.

Southeast Asian countries responded to the challenges of the changing global and regional environment through the contribution of the above-mentioned domestic and regional factors. The establishment of ASEAN created a viable mechanism for member countries to meet those challenges and benefit from opportunities from the late 1960s to the early 1970s. As the global and regional environment continued to change thereafter, ASEAN member countries were prompted to modify existing mechanisms and create new ones to enhance opportunities and minimize
threats. ASEAN was a successful learner (Manz, 2002) by focusing on opportunities rather than obstacles.

ASEAN is an intra-regional development to minimize threats and maximize benefits from changing extra-regional environments. ASEAN continues to exist because it has served member countries' needs and is able to promote national interests. The environment beyond the region itself has pushed ASEAN towards regional economic integration, and the member countries have recently recognized this is a path of no return.

The key problem for ASEAN now is how to move onto a new stage of regional solidarity. Despite the fact that ASEAN is reaching the end of its fourth decade, it is still at the beginning, and has no clear view of the route towards a peaceful and resilient ASEAN Economic Community.

**Towards a freer flow of persons: regime effectiveness**

There is a recognition, particularly at the high level of ASEAN bodies, that a freer flow of persons is a powerful dimension of regional integration which can advance the political objective of a peaceful and resilient ASEAN community. A free flow of human capital can enhance national and regional competitiveness in a context of dynamic international competition. I will use a rational choice approach to analyze ASEAN integration from the perspective of regime effectiveness at regional and domestic levels.

Among the key pillars of ASEAN economic integration, liberalizing trade in services under the ASEAN Framework Agreement on Services (AFAS) is one of the most challenging schemes for ASEAN to advance towards an ASEAN Economic Community with competitiveness in the era of knowledge-based economies. AFAS was launched as a key pillar for ASEAN to improve the quality of human capital and business efficiency and competitiveness.

However, a qualitative and quantitative analysis of AFAS reveals an underlying problem of regime ineffectiveness. AFAS is too weak and vague to eliminate restrictions on the free flow of persons amongst ASEAN member countries, especially for mode 4 of service supply, which means services supplied by foreign persons
actually present in a country other than their own.

AFAS has provisions on market access and national treatment for migrants supplying services, but these provisions are imperfect in the case of mode 4. This is clear in the schedule of specific commitments under AFAS by each ASEAN member country (ASEAN, 1997b; 1998a; 1998b; 2004a).

Besides the complex nature of restrictions in the schedules of specific commitments, the provisions of AFAS do not cover all kinds of migrant service providers. Furthermore, service providers do not have guaranteed access to an ASEAN member country or automatic right to provide their specific services in the territory. There are no regional standards for controlling and facilitating the transnational movement of people.

Such key services for capacity building as technical and training services are a sensitive matter, despite recognition of their contribution to human resource development. AFAS does not begin the process of bringing people in the region closer through exchanges of workforce expertise and the creation of human capital networks, starting with service providers.

Many professions have regulatory measures on top of those imposed by immigration regimes. Each profession is subject to different conditions and criteria. The degree of openness for foreign persons to provide professional and technical services varies across professions and across countries in the region. Professional and technical personnel are often subject to discrentional assessment by relevant authorities. As a result, transfers of know-how from the high to low end of the workforce remain limited.

ASEAN member countries prefer unilateral and bilateral actions rather than regional commitments, especially when it comes to economic relations with countries outside the region. ASEAN member countries reserve the right to enter into bilateral trade-in-services arrangements with non-ASEAN partners. In such arrangements between Singapore and New Zealand as well as between Vietnam and the United States, the provisions offered to non-ASEAN partners are more favorable than those offered to ASEAN neighbors in almost all priority sectors covered by AFAS.

In each ASEAN member country, immigration regimes represent the first key instrument to protect national interests.
Service suppliers under mode 4 and other transnational workers from an ASEAN country confront these complex and discriminating barriers right at their very first step into the territory of another ASEAN country. Immigration regimes commonly include both controls and facilitating measures. But the schedule of commitments by countries under AFAS focus on control dimensions, and thus are even more limited and restrictive than the existing standard immigration practices.

There are several exogenous and endogenous factors which explain the discrepancy between the AFAS objectives and ASEAN conformance. Let us begin with the exogenous ones.

**Exogenous**

The trade in services is complex (this factor has been important since ASEAN designed AFAS). The economic and financial crisis in 1997–8 and its aftermath hindered cooperation.

The delegates of some ASEAN member countries have insufficient experience at conducting negotiations. ASEAN member countries have shown varying degrees of keenness about the negotiating process towards filing their schedules of commitment. Some representatives of ASEAN member countries expressed disappointment at the commitments offered by others, and even reacted by withdrawing their original offers. Delegates of ASEAN member countries have insufficient knowledge and understanding of the complex regulatory regimes governing other ASEAN member countries’ trade in services and the impact of liberalizing trade in services on their politics, economy, and society.

Domestic regulations governing each mode of supply in a wide array of trade in services add complexities to this area of regional integration. Most ASEAN member countries lack sufficient experience in liberalizing trade in services. Certain services sectors with comparative advantages remain protected or dominated by inefficient state-owned firms or monopolistic entrepreneurs. The degree of privatization and liberalization varies across ASEAN member countries and sectors. Attempts to privatize and liberalize certain trade in services are either an initiative of the respective government to introduce major reforms in ownership and competition in the economy or pressurized by external forces. In
setting barriers against the entry of other ASEAN service suppliers, ASEAN member countries work from a political perspective rather than an appreciation of supply and demand.

There is a gap of political will between the political leaders and civil servants serving as delegates of ASEAN member countries at ASEAN forums dealing with AFAS. Delegates of ASEAN member countries at the negotiating level tend to protect their economies rather than aiming for regional resilience. They are not able to come up with an appropriate and effective approach in balancing national and regional interests.

The process of internal consultations within an ASEAN member country tends to be lengthy. There is no single authoritative body governing trade in services in each ASEAN member country. Inefficient coordination among administrative bodies is another common problem. Regulatory regimes governing certain sub-sectors of services in some ASEAN member countries are not under the purview of the government, but of the private sector or an interest group. Certain policy initiatives acceptable to one government unit or an interest group may not be acceptable to others. At certain sector-negotiating tables, the level of representation is inappropriate to allow meaningful liberalization of trade in services.

*Endogenous*

Negotiations in a service sector under AFAS are undertaken independently of that in another sector. Accordingly, it is impossible for ASEAN member countries to make cross-service offers.

The negotiating process requires the participation of a broad range of sector experts so that member country delegations are quite large in number. This represents a formidable financial burden to most member countries, particularly at a time of financial and economic crisis.

The schedules of specific commitments and the horizontal commitments under AFAS do not provide sufficient information on the barriers faced by service suppliers in ASEAN.

There are no clear milestones along the path towards the long-term goals of free flows of services by the year 2020 as stipulated in
the ASEAN Vision 2020, and there is no clear action plan to implement AFAS.

There is insufficient horizontal coordination among ministerial and functional organs at both regional and national levels, and insufficient coordination and collaboration among ASEAN bodies as well as between them and regional based non-governmental organizations. There is no appropriate surveillance mechanism to ensure the implementation of ASEAN policies, and no authoritative body to provide policy guidance for regime conformance based on the interest of ASEAN people.

I argue that AFAS is designed to protect national interests rather than to strengthen regional resilience.

**ASEAN people: impact and effect**

Service suppliers from one ASEAN country who wish to work in another ASEAN country face more controls than facilitating measures. They are also subject to less preferential treatment than those from developed countries and some other places. This is a result of bilateral arrangements between certain ASEAN member countries and those outside the region. People from new ASEAN member countries are in the worst position. They are also subject to more restrictive measures than those from original ASEAN member countries. Transnational workers from Lao PDR, Cambodia, Myanmar, and Vietnam are not provided with equal opportunities for market access and treatment in trade in services in other ASEAN member countries. Those from the six old ASEAN member countries enjoy partial visa-exemption arrangements in Malaysia, Singapore, and Thailand.

The result is an uneven playing field both among ASEAN member countries and with other countries. This can be expected to undermine national and regional resilience, and lead to regional friction.

*The reasons for discrepancy*

ASEAN is experiencing a critical discrepancy between objectives and its performance. This is the key institutional problem of ASEAN. I suggest that this problem is a result of macro and micro
features of ASEAN's institutional politics.

ASEAN is not a unified sphere but a complex and fragmented community of utility-maximizing Southeast Asian nations at different levels of economic development with varied socio-political background and national interests. It is still a conglomerate of competing nations cooperating only in a sporadic manner through ASEAN forums.

A zero-sum approach has prevailed in the intra-ASEAN transactional relations.

Existing ASEAN mechanisms have inadequate institutional strength to affect shared political values, and create a sense of the common good. Existing mechanisms would be regional in nature if the differing and competing national interests converged and coincided with regional interests.

There are several factors, shared across ASEAN member countries, which militate against the quest for regional solidarity, regional identity, and a political culture that prioritizes regional interests. These common features prominently underlie the discrepancy between objectives and its performance: a rigid political culture which always enshrines sovereignty; increased exposure of the local economy to opportunities and threats of the new economy and global change; inadequate development of human capital to upgrade competency in the new knowledge-based economic competition; inadequate institutional mechanisms and legislative as well as regulatory frameworks to maintain the resilience of nations; and failure to strike a balance between national and regional interests in the areas of policy and implementation.

Possible areas of cooperation

I maintain that the prospects exist to meet the fundamental goal of ASEAN as a peaceful and resilient community on a sustained basis via regional integration.

The main reason is that ASEAN member countries recognize that ASEAN matters as a regional political institution. This is true even though many barriers and failures have prevented ASEAN moving beyond the objective of a free flow of goods to reach a freer flow of persons within the region.

There is scope for ASEAN and its member countries to be
better prepared to move proactively in the knowledge-based economy of the twenty-first century. ASEAN needs to make better use of its valuable human capital, beginning with allowing movements and networks among those providing services. This can furnish ASEAN with a new source of regional resilience and robustness as well as the needed social glue for ASEAN peaceful integration.

I argue that the integration of people is a deeper degree of integration and is the key area for cooperation in ASEAN.

People integration here refers to spiritual integration among people within the region, in order to pool human strength for common interests of peace and resilience. People should advance together rather than struggle separately. Regional cooperation and integration should penetrate into all layers across the geographical span of the region so that an identity as “ASEAN people” can arise. ASEAN should spiritually unite, rather than divide. This does not imply rejection of the notion of bhinneka tunggal ika, or “unity in diversity,” nor the enshrinement of sovereignty. Those notions can coexist with an enhanced awareness of regional identity, which was envisioned in three ASEAN founding documents, namely the Bangkok Declaration, Kuala Lumpur Declaration, and the Treaty of Amity and Cooperation in Southeast Asia.

The potentiality of people integration is based on the following actions at the primary steps of ASEAN cooperation in this new century.

**Member countries need to go through a paradigm shift.** As a basic thrust to push ASEAN forward, each member country needs to attain improvement in the areas of: increased transparency in inputs for decision making, particularly regarding domestic legislative and regulatory regimes; a political culture which prioritizes regional interests; appropriate perception of the contributing role of regional human capital.

**Immigration regimes need to be reformed.** The regulatory regimes governing foreign persons in professional and technical fields can be modified to allow service suppliers to provide temporary service without jeopardizing the labor market in another ASEAN member country. AFAS schedules of commitment should make room for providers of training and skill development to move more freely
within the ASEAN region to benefit both host and home countries. There should be regional standards for the controls and facilitating measures for service suppliers, or at least some attempt to minimize differences across member countries. ASEAN needs a visa-free approach applicable equally to all ASEAN persons, and a system of AFAS authorization, or an AFAS Permit.

More cooperation is needed through mutual recognition arrangements. ASEAN institutions should put more efforts into upgrading the standards of professional and technical skills of their workforces to international standards, through the on-going regional programs of mutual recognition arrangements under AFAS and the recently launched Initiative of ASEAN Integration to accelerate the integration of its new members into the regional market and to narrow the gap of economic development among member countries. An ASEAN Mutual Recognition Arrangement on Engineering Services was launched in December 2005 (ASEAN, 2005). Those for architecture, accountancy, surveying and tourism are to follow. Such arrangements should be expanded in coverage to cover other professionals and skilled labor and talents by 2010.

An authoritative regional body has to be created. An AFAS Council is needed, based on the approach of effective vertical and horizontal linkages to minimize adjustment costs.

Some progress has been made on implementation of AFAS, more through ASEAN institutional mechanisms (ASEAN Summit Meetings, AEM, SEOM, CCS, and the ASEAN Secretariat) than AFAS per se. Yet another institutional mechanism is required with authority to overcome technical problems and to minimize adjustment costs. This should be a ministerial forum called an AFAS Council, comprising ministers responsible for various service sectors, such as finance, tourism, transport, labor, as well as such official as the directors-general of immigration, and heads of consular divisions. This institutional mechanism should supervise, coordinate, and review conformance to the agreement as well as assist the ASEAN Economic Ministers meeting in all related matters.

Stakeholders must participate in regional integration processes and create a surveillance system. Close collaboration is needed between ASEAN, industry-related regional non-governmental organizations,
and such non-industry related regional mechanisms as the ASEAN Inter-Parliamentary Organization, ASEAN Law Association, and ASEAN People Forum, in order to monitor the implementation of AFAS. This need has been recognized, but still requires encouragement from inside and outside the ASEAN governmental sector.

Conclusion

ASEAN has weathered storms with a certain degree of robustness. Yet, to advance towards an ASEAN Economic Community, ASEAN needs to guarantee regime effectiveness.

ASEAN faces a threat in that the path towards greater regional integration for a peaceful and resilient community is not secure. Despite ASEAN recognition of and attempts to cope with this threat, four political problems remain critical to ASEAN’s ability to move along that path.

The ability of ASEAN to survive in the face of challenges has been hindered by domestic factors, particularly at the level of the regimes of each member country.

ASEAN integration suffers from the problem of regime ineffectiveness. There is a critical discrepancy between the objectives of ASEAN and its performance. This problem is complex and fundamentally grounded at the macro and micro levels of ASEAN institutional politics. This is because ASEAN is designed to protect national interests rather than to strengthen regional resilience.

ASEAN member countries have opted for unilateral and bilateral actions rather than regional commitments.

High-level diplomacy at the governmental level, without any integration at the level of the people, is not sufficient to provide ASEAN with the robustness and regime effectiveness to attain a peaceful and resilient ASEAN integration.

Cognitive limitation over rational decision-making and action represents an important problem in the political culture of ASEAN business-as-usual, government-to-government relations.

Existing institutional mechanisms below the meeting of ASEAN heads of state, or the ASEAN Summit, lack authoritative
power to push ASEAN schemes to meet the vague targets set at the summitry forums, particularly in this complex area of intra-ASEAN liberalization of trade in services under AFAS.

Insufficient vertical and horizontal linkages among ASEAN institutional mechanisms is a key problem in ASEAN decision making and integration.

There is generally no broad-based participation by other stakeholders in ASEAN policy-making and ASEAN integration processes.

With respect to the transnational movement of persons, I have identified the following problems in the context of ASEAN integration.

ASEAN needs commitments from member countries for a freer flow of persons.

In each member country, immigration regimes are the first key instrument to protect national interests.

Such key services for capacity building as technical and training services are a sensitive matter, despite recognition of their contribution to human resource development.

The creation of an uneven playing field and uneven opportunities in the new economy, can be a new source of regional friction.

Yet there is scope for ASEAN and its member countries to be better prepared to move proactively in the knowledge-based economy of the twenty-first century. Several major steps are needed: increased transparency in inputs for decision making, particularly on domestic legislative and regulatory regimes; appropriate perception of the valuable role of regional human-capital pooling; better immigration regimes with visa-free and AFAS Pass to ensure fulfillment of commitments; mutual recognition arrangements as key supporting measures; introduction of an AFAS Council, based on the approach of effective vertical and horizontal linkages to minimize adjustment costs; and participation of stakeholders in regional integration processes with surveillance systems.

The topic of people is new. There are no previous studies within ASEAN to establish a frame of reference, only some opinions expressed by certain key figures. For example, Anand Panyarachun (1986) encouraged people-to-people cooperation in ASEAN as far back as the 1980s. The notion is revisited in the
ASEAN Socio-Cultural Community, but should also be emphasized in the ASEAN plan of action towards the ASEAN Economic Community (ASEAN, 2004b).

Considering the pressing need for deepening regional integration down to the people-to-people level, several issue-areas require further investigation.

The role of non-state stakeholders in domestic politics needs to be better understood if ASEAN member countries are to become essential building-blocs for a greater ASEAN.

The role of non-state actors in the politics of regional-domestic linkages also needs to be better understood. This includes, particularly, the role of the ASEAN Inter-Parliamentary Organization and competent regional service-industry organizations such as the ASEAN Bankers Association, ASEAN Law Association, ASEAN Federation of Electrical Engineering Contractors, and ASEAN Federation of Accountants. The rationale for such a further study is reflected in the fact that: regional non-governmental organizations in ASEAN are a fragmented community; each of such regional organization have been composed of individuals with conflicting perceptions, values, and interests; and their nature and activities have been of limited scope.

We need to understand how the behavior of regional and domestic non-state stakeholders can affect the ASEAN process of regional integration and its prospects towards people integration, and why regional non-state actors cannot contribute more to a freer flow of persons within the ASEAN process of regional integration.

I suggest that the role of non-state actors in forging a greater degree of regional integration is the most challenging area of further investigation. As Holsti (2002: 12) put it,

> Although states continue to be the most important international actors, they possess a declining ability to control their own destinies. The aggregate effect of actions by multitudes of non-state actors can have potent effects that transcend political boundaries.

I very much agree with his opinion and find that it holds true when taking into consideration the experience of ASEAN cooperation outside the umbrella of ASEAN state actors.
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