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Direction

the foundation for european reform

DR MATTHIAS BAUER

BOOSTING EU TRADE WITH SOUTH EAST ASIA

EUROZONE, FINANCE AND ECONOMY





NEW DIRECTION
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Europe is still coming to terms with the consequences of the biggest economic crisis since the Great Depression. Certain EU economies are only now returning to pre-crisis levels of growth. Others continue to struggle to find the path back to sustainable economic growth.

Driving growth is imperative, and the best driver is trade. Reducing the cost of trade by the elimination of tariff and non tariff barriers, ensuring trade regulation is fit for purpose, and removing subsidy distortions can help trade grow. The more trade, the more economic development, the more economic development, the more jobs in the economy, and the greater the contribution to the broad well-being of society.

Over the next 20 years, 90% of global growth is expected to come from outwith the EU. It is therefore essential to leverage the value and attractiveness of the EU's single market and its 500 million consumers to secure bold new trade deals with the rapidly growing economies beyond our own shores.

In this report, leading economist Dr Matthias Bauer of the European Centre for International Political Economy (ECIPE) shines a spotlight on trade prospects with the nations of Southeast Asia. As a potential market of more than 600 million individuals such a trade agreement has the potential to drive economic growth both here and there. The report is not just an academic exercise, however, instead it sets out a serious of recommendations that can make such trade link a reality.

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EXECUTIVE SUMMARY

- 1. The EU still is a major economic player in the region comprising the countries of the Association of Southeast Asian Nations (ASEAN).** ASEAN, as a whole, is the EU's 3rd largest trading partner outside Europe, after the US and China. Similarly, the EU is ASEAN's 3rd largest trading partner after China and Japan. EU firms' investment in ASEAN is record-high: over 10,000 European businesses already have a presence in ASEAN and investment is growing in both directions.
- 2. Future trade and investment in Southeast Asia will be driven by regional proximity rather than the region's commercial relationships with Europe.** In the past 15 years, EU-ASEAN merchandise trade grew by 133 per cent. At the same time, ASEAN's merchandise trade with both China and India grew by 1,100 per cent and 1,000 per cent respectively. The eastern shift within the world's new centre of economic gravity not only implies a relative decline in the EU's markets in Southeast Asia. It also implies that the EU's domestic markets become less attractive and therefore less important to Southeast Asia over time.
- 3. The rise of Southeast Asia's economic power increases the likelihood of political frictions with the EU, which finds itself with less and less political leverage.** Evolving differences in political preferences will not be limited to questions on the role of the government in 'steering' the economy. Differences in preferences are likely to arise for international product standards, the design of market regulations, competition law and investment policies. Political dissent is likely to emerge in foreign policy too, with feedback effects to climate policy, security policy and international conflict management.

4. The successful implementation of TPP will boost the integration of Asia's regional value chains even further – far beyond the four ASEAN member states that already signed up to it, and further away from Europe.

This logic applies to an even greater extent to RCEP, which is led by China, centred at ASEAN and expected to be concluded in 2016.

5. The EU and ASEAN are two of the world's major regional integration initiatives. Both entities share the same goals: to maintain peace and to enhance political stability and prosperity. A myriad of complementarities exists, but the enormous potentials have so far been left untapped. Years of technical assistance facilities provided to ASEAN by the EU have not produced any tangible results.

6. ASEAN and EU businesses have much to gain from a considerably higher level of economic cooperation between the EU and Southeast Asian countries.

Tariffs on the EU's major exports to ASEAN countries are still high, sometimes even prohibitive. A complete elimination of ASEAN member states' tariffs on Top 10 imports from the EU would amount to 2.70bn USD savings in tariff payments. Similarly, complete elimination of EU tariffs on Top 10 imports from ASEAN member states would amount to 2.74bn USD savings in tariff payments. Behind-the-border protection deserve specific attention: a total of 857 non-tariffs behind the border measures directly affect EU exporters.

7. ASEAN and the EU are not yet natural partners. It would be wrong to assume that the EU-ASEAN relationship is already too big to fail. Past initiatives have not brought about any meaningful results. EU trade policy needs a renewed focus on ASEAN as a whole. Leadership and effective peer pressure are required at highest political levels. In the past, a lack of enthusiasm on both sides was concealed by delusive political rhetoric. The lack of enthusiasm, however, led to a wastage of resources (including taxpayer money) and left a large number of missed opportunities for all countries involved.

8. The traceability of outcomes of past initiatives is low. Except for high-level political summits, conclusions or proof of progress made are generally difficult to access by public stakeholders. Information

of what actually happened within civil servants' expert circles in the past is hard (often impossible) obtain via public sources, even for policy experts. Although a myriad of dialogue and workshops at several political levels were held in the past, media coverage is low and usually sticks to abstract lines. Both the lack of traceability and the lack of visible results convey the impression that most of the work of the past was about 'talking the talk'.

9. It is in the strategic interest of the EU to strengthen its economic ties with ASEAN as a whole. Similarly, ASEAN can only benefit from the EU's 25-year learning curve in creating a Single European Market. The common denominator of the European Single Market, intra-ASEAN economic integration and the liberalisation of EU-ASEAN trade and investment are shared rules that allow 'easy commerce'.

10. The set-up of the EU's technical and financial support measures focussed at ASEAN needs to be redeveloped from scratch. The EU has recently doubled its development aid to 1.7 billion! EUR for the Lower Mekong region (Cambodia, Lao, Myanmar and Vietnam) until 2020 'to help close the ASEAN development gap'. It is hard to conceive the key components underlying this substantial financial commitment from publicly available sources. The notion that the EU will devote 85 million EUR until 2020 to support ASEAN's connectivity through economic integration and trade (4.9 per cent of the EU's bilateral aid) misses all reasonable proportionality.

11. EU-ASEAN trade policy needs to be streamlined with the EU's technical support programmes targeted at ASEAN capacity building. Synergies must be realised. Transparency and increased peer pressure is needed. Priority must be given to good institutions for self-sustaining private-sector development. Technical support measures must focus at the reduction of barriers to commerce to foster private-sector activity. Financial support must be strictly conditioned to tangible results, e.g. the reform of crusty institutions and the implementation of laws that secure business-friendly EU-equivalent economic governance. EU policymakers must understand that development aid has a poor track record, which is frequently concealed by an influential development aid industry.

Development aid has many friends. The EU needs bold political choices to overcome political frictions within the EU Commission to direct resources to trade and investment policies and become much more transparent and accountable.

12. Oceania matters for ASEAN and the EU. Australia and New Zealand can become the EU's springboard to ASEAN. The ultimate goal must be a Single Market encompassing the EU, ASEAN, Australia and New Zealand. The EU has already had formal and informal FTA talks with Australia and New Zealand. Impact assessments have already been initiated. Australia and New Zealand form the Closer Economic Relations Partnership (CER), which is the deepest and most comprehensive FTA concluded between two OECD countries. It is the only 'Single Market' that incorporates elements that go beyond the European Single Market, and it is lauded for its extensive liberalisation of services. ASEAN has collectively concluded its most ambitious FTA with Australia and New Zealand (AANZFTA) in 2010. The agreement addresses several issues that go beyond tariffs and quotas. It includes provisions for workers' visa, services trade, e-commerce, intellectual property rights, competition, and investment protection. Most importantly, and contrary to other ASEAN+1 agreements, AANZFTA instituted dialogue and cooperation bodies on trade facilitation, SPS measures, technical standards and conformity assessment procedures. A four-party agreement comprising of three (uncompleted) Single Markets would have the potential to become the world's most comprehensive mega-regional agreement ever concluded. The least that the EU should do is to invite ASEAN to the talks when official negotiations are tabled for Australia and New Zealand.

13. Resources matter. A beefed-up trade team is needed at the European Commission and the European Parliament. EU trade policy does not merely involve the European Commission. It requires informed decisions at the European Parliament and the European Council as well as informed support from inside these institutions, i.e. international trade policy pundits beyond those serving at the European Commission. For EU trade policy to become an international best practice, increased personnel and additional financial resources are required at the European Commission's DG Trade.

Additional staff is required for the evaluation of EU trade policy matters at the European Parliament. Intra-institutional staff is needed to enhance internal and external communication of EU trade policy initiatives and public accountability respectively.

14. The European Commission needs an educational mandate for its trade and commercial policies. For far too long, the theory of trade has been grey. Effective and inclusive trade policy requires enhanced communication and measures to improve citizens' economic literacy. EU policymakers must keep pointing out that an effective competition law is the constitutional law of every market economy. The EU must credibly convey that trade liberalisation and effective competition policies are the best instruments against vested interests, rent seeking and market abuse.

15. Internationalism – like charity begins at home. A far-reaching European Council Resolution is needed. European leaders must to express an unprecedented commitment to tackle 21st century trade barriers within the EU's own Single Market and in EU trade agreements with non-EU countries. The European Single Market is in many ways an illusion – it exists only nominally. Only 30 per cent of the EU's total economic activity is actually covered by zero tariffs, mutual recognition or harmonised legislation. Within the EU, legislative fragmentation along national borders poses significant cost to businesses and consumers alike. EU's trade and commercial policies need to account for the fact that the parts and pieces of many goods and services are produced 'everywhere' rather than in a single national jurisdiction only. Behind-the-border protectionism such as discriminatory technical regulations, product standards, environmental laws and restrictive professional qualification requirements are much more relevant in the 21st century policy setting that is friendly to global value chains. The lack of market fragmentation in the EU's own Single Market impacts negatively on the EU's international trade policy leverage. European leaders need to express an unprecedented commitment to tackle 21st century trade barriers within the EU and in its trade agreements with third countries. A far-reaching European Council Resolution must acknowledge that the EU's economic strength comes from having open and competitive – not protected – markets.



1

INTRODUCTION

The centre of economic inexorably gravity shifts towards Asia. Along with this shift comes the European Union's (EU) relative economic decline. In the future, the EU will not be able to heavily impact on Asia's future political direction. Southeast Asian economies are already increasingly integrating with their closer neighbourhood. The EU is still a major economic player in the region comprising the countries of the Association of Southeast Asian Nations (ASEAN), but the future trade and investment in Southeast Asia will be driven by regional proximity rather than the region's commercial relationships with Europe. In the past 15 years, ASEAN's merchandise trade with both China and India grew 10 times faster than its trade with the EU. The successful implementation of the Transpacific Partnership Agreement (TPP), led by the United States (US) and Japan, is likely to boost the realignment of regional value chains even further - far beyond the four ASEAN member states that are already signed up to it, and further away from Europe. This logic applies to an even greater extent for the Regional Comprehensive Partnership (RCEP), which is led by China, centred at ASEAN and is expected to be concluded in 2016.

An inactive EU risks to be left behind. Although EU-ASEAN political and economic cooperation exists since

the mid 1970's, the EU has failed to conclude a region-to-region trade agreement. The EU's bilateral free trade agreements (FTA) with Singapore (2014) and Vietnam (2015) were latecomers. ASEAN, as a whole, has already signed 'light' FTA's with 4 major Asian economies: China (2005), Japan (2008), Korea (2010) and India (2010). In addition, it concluded its most comprehensive FTA jointly with Australia and New Zealand in 2010.

With its growing technological capacities and the rise of value-added in local production chains comes Southeast Asia's climb on the ladder of economic status. The rise of Southeast Asia's economic power increases the likelihood of political frictions with the EU, which finds itself with less and less political leverage. Evolving differences in political preferences will not be limited questions on the role of the government in 'steering' the economy. Differences in preferences are likely to arise for international product standards, the design of market regulations and investment policies. Political dissent is likely to emerge in foreign policy too, with feedback effects to climate policy, security policy and international conflict management. In short, the EU has much to gain from targeted political dialogue and a considerably higher level of economic cooperation with Southeast Asian countries.

Trade liberalisation encourages social interaction. Thus, trade liberalisation inevitably touches upon peace and prosperity. Many observers would agree that ASEAN and the EU are natural partners. Both regions - at least officially - have long been striving for deeper economic and political integration in order to maintain peace and increase citizens' prosperity. However, very little real progress has been achieved for EU-ASEAN trade liberalisation, while a great number of untapped potentials are still waiting to be exhausted.

This report is about EU trade policy and enhanced economic integration of the EU and ASEAN. It focuses the EU's commercial relations with ASEAN member states¹ by discussing the tools and advantages of trade liberalisation in general, EU-ASEAN market access concerns in particular, and the EU's political endeavours towards the conclusion of managed FTA's with ASEAN as a whole and individual ASEAN member states independently. The EU's undertakings are assessed in the light of both intra-ASEAN economic integration and economic integration of the ASEAN bloc with non-ASEAN countries.

The report is structured as follows. Section 2 outlines the contextual conditions shaping contemporary EU

trade policy. It recaps the advantages and theoretical foundations of international trade liberalisation. Section 2 also discusses the merits of preferential trade agreements and the long-running stalemate in multilateral trade negotiations at the World Trade Organisation (WTO). Section 3 presents the ASEAN region as a diverse but rapidly rising bloc of economic gravity. It focuses on the evolution of intra-regional economic integration, which has, so far, progressed only slowly. Section 4 continues with a review of ASEAN trade policy and the FTA's ASEAN has concluded with major non-ASEAN trading partners. Section 5 outlines the evolution of EU-ASEAN economic relations. It depicts major patterns and key barriers prevailing in EU-ASEAN trade and investment. A set of policy recommendations is presented in Section 6, whereby a discussion is provided for key issues to be addressed in EU-ASEAN trade and investment negotiations, EU measures supporting ASEAN capacity building, and general political and institutional priorities for EU commercial policy.

1. ASEAN member countries include: 1) Brunei Darussalam, 2) Myanmar (Burma), 3) Cambodia, 4) Indonesia, 5) Laos, 6) Malaysia, 7) Philippines, 8) Singapore, 9) Thailand, and 10) Vietnam.



2 THE MERITS OF TRADE LIBERALISATION AND REGIONAL ECONOMIC INTEGRATION

Trade liberalisation and international trade policy have a long intellectual tradition. Trade liberalisation deals with the reduction or removal of barriers or restrictions to the free exchange of goods and services between countries. Trade and investment policy involves a number of tools used by policymakers in order to adapt to the international trade of goods and services as well as capital flows including portfolio and foreign direct investment (FDI).

Trade liberalisation is a Western concept that dates back to classical English liberalism. Its most popular early protagonists, Adam Smith and David Ricardo, recognised the benefits of spontaneous market orders, the gains resulting from specialisation in production

and the division of labour. Since Adam Smith, classical and neo-classical economists have embraced ideas of international trade liberalisation. The economic and social benefits of liberalised commerce and open markets are well documented in the academic literature and are widely recognised among policymakers around the globe. Consequently, trade liberalisation has today become a standard feature of most developed and developing countries' foreign policy frameworks. At the same time, trade liberalisation, frequently termed as 'free trade policies', was continuously challenged by some 'implacable opponents of free trade, from counter-enlightenment romantics [...] to today's anti-globalisation postmodernists, [who] reject it on anti-economic grounds (Sally 2007, p.5).

2.1 THEORETICAL FOUNDATIONS OF TRADE LIBERALISATION

Economic theory distinguishes between the static and dynamic effects arising from trade liberalisation. While static effects refer to trade-related improvements in the allocation of resources used for production, dynamic effects include enhanced competition, productivity growth, innovation as well as investment and capital accumulation (Krugman et al. 2015 pp. 261). In stylised terms, all merits of liberalised trade are rooted into the division of labour and intellectual capabilities, both utilising regional differences in factor endowments, human skills and ideas. According to the capability-based explanation of trade, people specialise in what they are good at doing, which results in productivity gains, competition, higher and more diversified production and, in turn, more trade. Liberalised trade not only encourages the exchange of physical goods and tradable services. It also fosters the transfer of knowledge and ideas across borders. Open markets accelerate the emergence of new ideas, the recombination of existing ideas and innovative activities that create new economic opportunities (known as structural economic change, Schumpeter 1942).

The benefits of liberalised trade are not merely economic by nature. A common argument in favour of trade liberalisation is that liberalised trade encourages people of differing nationality to live in peace with one another. The more people divide labour, the more they cooperate with each other. Cooperation makes nations economically more interdependent, which raises the cost of war. As such, trade liberalisation always comes along with a (geo-) political impact. Cordell Hull, America's famous secretary of state, serving in the Roosevelt administration from 1933 to 1944, explicitly recognised the link between trade policy and foreign policy. Hull's way of foreign policymaking was

based on the insight that commercial agreements foster international peace and cooperation (Irwin 2008).

2.1.1. THE POLITICAL ECONOMY OF TRADE LIBERALISATION

Trade liberalisation can result into substantial economic benefits. A vast empirical literature underscores the large potential economic and social gains that can arise from liberalised trade. Yet, the benefits of trade liberalisation may not be distributed equally among citizens and individual corporations. Due to its impact on competition and competitive behaviour, trade policy creates winners as well as losers. Some domestic industries may grow after the elimination of trade barriers, while others will decline causing, at least in the short-term, pressure on wages and shifts in employment.

Concentrated, well-organised groups usually feel the costs of trade liberalisation, while the benefits accrue to the broader, more diffused population (Krugman et al. 2015, pp. 266). Owing to the distributional consequences that arise from the elimination of import protection measures, governments often find it difficult to give up some protective measures for some industries. Problems associated with collective action tend to accentuate the rent seeking interests of well-organised, well-informed groups (usually producers) vis-à-vis ill-informed, ill-organised groups (usually consumers).²

Contemporary critique against trade liberalisation and free trade in particular is directed at its impact on labour and environmental standards. Some critics argue that trade liberalisation often benefits developed countries more than

developing countries. Trade policy makers are required to address this critique by tackling market concentration, abuse of market power and trade policy-induced market distortions. At the same time, the critique of open market must not disguise the vast amount of empirical evidence showing that trade liberalisation is a substantial source of wealth. It is businesses that create economic activity and employment. And it is businesses that facilitate structural economic change, which is a condition sine qua non for social and economic welfare.

2.1.2. TRADE, COMPETITION AND FIRM LEVEL PRODUCTIVITY

The OECD (2015a) argues that productivity will be the main determinant of economic growth over the next 50 years and that trade openness and factor mobility are key to an economy's ability to exhibit sustained productivity growth. Trade liberalisation provokes competition and, as a consequence, a reallocation of resources from less efficient to more efficient firms. Although the empirical literature occasionally suffers from lack of data and statistical problems, there is a broad consensus that the overall impact of trade on productivity growth is positive and significant. According to Wagner (2011) and De Loecker and Goldberg (2014), there is a robust positive relationship between openness in international trade and firm level productivity growth.³ Accordingly, a large body of empirical research suggests that international trade has a positive impact on competition and firm productivity, i.e. the amount of output that can be generated with a given amount of inputs.

The relationship between liberalised trade and increased productivity is well documented both in historical time series and econometric studies that focus on episodes of trade liberalisation in order to identify the effects of trade openness on firm-level productivity.⁴ The causalities run from firms having better access to inputs for production, improved technologies, labour and capital, but also import-driven competitive pressure, learning effects and increased specialisation due to greater market size.

The trade-productivity link is not only robust for developed countries and large enterprises. Empirical evidence also suggests that it holds for emerging market

and developing economies as well as small and medium-sized enterprises (SME's).⁶

2.1.3. TRADE AND INNOVATION

Following the OECD (2015a), investment in innovative technologies and knowledge-based capital (KBC) will be the major determinants of productivity growth. Innovation-triggered productivity growth is the major driver of economic development, prosperity and higher standards of living. Productivity growth is generally driven by companies' ability and willingness to deploy new technologies, embrace new ideas and business processes as well as to adopt innovative business models. Taken together, these are the factors that enable the firms to employ inputs for the production of products and services in a more efficient way in order to explore new types of economic activity and even invent new markets.

Kiryama (2012) identifies three channels through which international trade affects innovation: (1) imports, FDI and trade in technology encourage technology diffusion, (2) imports, FDI and technology licensing contribute to increased competition, which increases the incentives for innovation, and (3) exports, which stimulate technological development through additional incentives for innovative activities. Empirical evidence regarding the positive impact of trade on process and product innovation is also robust.⁷ Accordingly, the OECD's 2015 Innovation Strategy explicitly recognises the trade-innovation nexus and states that it is one of the framework conditions that encourage private sector innovation. Innovation is generally seen as a function of openness to international trade, foreign investment and the integration of businesses in global value chains (GVC), which allow firms to benefit from the global technology frontier (OECD 2015b).

International trade not only encourages the development of new technologies, but also fosters the commercial adoption of new technologies. The greatest economic merits of innovation in information and communication technologies (ICT), for example, do not come from their invention, but from their adoption within the wider (global) economic ecosystem. Accordingly, the economic value that Google generates in the Silicon Valley is marginal compared to the impact of Google applications on business operations as well as production and consumption patterns around the world.

2. See Olson (1965) for the theory of interest groups.

3. Bernard and Jensen (2004), for example, find that the reallocation effect in the US manufacturing sector makes up over 40 per cent of total factor productivity growth. Similarly, Bernard et al. (2006) find that productivity in US manufacturing increased in times of falling tariffs. For data of Belgian firms, De Loecker et al. (2014) report that domestic companies responded to increased Chinese competition by lowering prices and increasing production efficiency. As a result, average profit margins increased despite stronger competition from Chinese firms. Dhyne et al. (2015) study the impact of

import competition on firm level productivity. The authors find that firms facing import competition tend to specialise in core activities, which is why overall firm level productivity is found to react positively to increased import competition.

4. For an overview of relevant literature see Wagner (2011).

5. For trade openness and product market competition see Melitz 2003; Melitz and Ottaviano 2008 and Melitz and Trefler 2012. For trade and the transfer of knowledge and technology see Crespi et al. 2008, Duguet and MacGarvie 2005 and Acemoglu and Linn 2004. For a general discussion on

multi-dimensional effects from trade liberalisation see CEA (2015).

6. For India, Topalova and Khandelwal (2011) find that increased competition, resulting from lower tariffs on final goods and easier access to better inputs due to lower input tariffs, is positively correlated to firm-level productivity. The authors find that the impact is strongest in import-competing industries and in those industries that are not subject to excessive domestic regulation. For China, Krishna et al. (2015) study the learning-by-exporting effect. The authors show that domestic firms' productivity growth is a function of their engagement in international trade. Their results suggest that exporters saw

significantly higher productivity growth rates than those firms that serve the domestic market only. Dealing with SME's in particular, Love and Roper (2013) show evidence that there is a strong positive correlation between innovation, exporting and productivity growth. Similarly, USITC (2010) finds that exporting SME's show a significantly higher level of labour productivity than those that serve domestic markets only.

7. Firms that engage in global value chains show productivity premia and are more likely to introduce new product and process innovations (see, for example, Baldwin and Yan 2014, Love and Roper 2013 and DeBracker 2013).



2.2 THE ECONOMICS OF REGIONAL INTEGRATION AND PTA'S

Regional economic integration is facilitated by contractual agreements between countries in a geographic region to reduce and ultimately eliminate tariffs and non-tariff barriers to the free flow of goods, services and investment. Some regional economic integration initiatives, such as the EU and the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA), also aim at facilitating the free movement of workers across national borders. By entering regional economic agreements, countries aim at liberalising cross-country trade and investment more rapidly than can be accomplished under the framework of the WTO.

Regional economic integration is debated controversially among academics and policymakers. The traditional '20th century view' regarding the economic impact of regional trade agreements (RTA's) revolves around two major strands: 1) the static and dynamic welfare effects and 2) the impact of preferential trade agreements (PTA's) on the multilateral trading order that is shaped by WTO negotiations.

Following the analysis of customs unions (CU) dating back to Viner (1950), bilateral and regional FTA's cause 'trade creation' as well as 'trade diversion' effects. This perspective gained intellectual clout among policymakers and economists in the 1950's and 1960's when tariffs were high worldwide (Baldwin (2014)). From an economics perspective, trade creation is considered positive as it allows more efficient use of factors of production. Trade, which was prevented before the reduction of trade barriers, picks up. Trade creation causes positive effects on resource allocation and intra-regional economic activity. In addition, consumers and producers face lower prices and broader choice in terms of higher product varieties. Trade diversion, on the other hand, occurs when FTA partners start trading with each other after the elimination of trade barriers, although a commodity is produced cheaper (more efficiently) in a non-FTA country, which still faces

trade barriers. Consequently, trade is diverted from an efficient third-country producer to a less efficient intra-FTA producer. Similarly, trade creation triggers dynamic effects (as discussed in Section 2.1) within the free trade area, while trade diversion impedes the emergence of dynamic effects in non-FTA countries.

In addition to the diversion trade flows, free trade areas may cause investment diversion and trade deflection. Investment may be redirected to FTA countries allowing producers to qualify for zero-tariff 'exports' to the countries within the free trade area (tariff-jumping). For free trade areas without common external tariff schemes, FTA countries might experience trade deflection. Trade deflection occurs when third country producers export to the FTA region via the country with the lowest tariffs in order to qualify for zero import tariffs within the free trade area. The justification for rules of origin (ROO's) is to prevent trade deflection or simple transshipment, whereby commodities from non-FTA countries are redirected through a FTA partner to avoid the payment of customs duties. ROO's have a great number of undesirable characteristics when measured by economic efficiency criteria. ROO's are, by definition, discriminatory and may generate inefficiencies in diverting trade from the lowest cost producers to high-cost producers.

With the rise of globalisation and trade integration via GVC's, the debate revolving around regionalism, trade creation and trade diversion has changed. In the past, trade creation and trade diversion were to a large extent driven by tariffs on intermediate and final products, while non-tariff barriers, such as technical standards, played a comparatively small role. Since 1980s, many countries have experienced a great economic transformation, made possible by significant innovations in information, communication and transport technologies. New technologies evolved to novel opportunities for how we trade whilst new business

management practices became more sophisticated, both contributing to an international fragmentation of formerly local production. Innovations in ICT, in particular, made it possible to coordinate complexity at distance. While tariffs continue to matter for the entire spectrum of commodities' trade as well as intermediate and final products primarily traded with and between developing countries, non-tariff barriers are becoming increasingly important.

In the light of these developments, the boundaries between insiders and outsiders of PTA's get blurred. It is increasingly difficult to identify clear-cut winners and clear-cut losers from trade creation and trade diversion. If the EU, for example, imposes higher standards on the production of certain sectors, third country exporters

would have to comply with these standards in order to continue to qualify as a 'safe' importer. Accordingly, EU initiatives towards higher international standards for the production of goods and services would feed back into the domestic policy environment of third countries (Baldwin 2014). In other words, low-standard exporters would have to import higher standards from abroad to qualify as future exporters.

As a result, the effects of RTA's must be judged in a very different way than 20 or 30 years ago. Empirical research indicates that more recently concluded PTA's caused modest trade creation and reversed trade diversion, which is contrary to the traditional Vinerian thought (see, for example, Orefice and Rocha 2014, Damuri 2013

Table 1 21st century trade policy: WTO-plus vs. WTO-extra

WTO-plus (WTO+)

- Tariff liberalisation beyond WTO commitments in agriculture and manufacturing
- Improved access to information regarding customs administration procedures
- Elimination of export taxes beyond WTO commitments
- Technical barriers to trade (TBT): harmonisations of regulations, mutual recognition agreements (MRA)
- State-owned enterprises: non-discrimination and provisions on competition policy
- State-aid: information and annual reporting obligations
- Public procurement: commitments on gradual liberalisation, transparency obligations
- Trade-related investment measures (TRIMS): commitments regarding local content and export performance on foreign direct investment
- Services: liberalisation of services trade beyond WTO commitments
- Trade-related intellectual property rights (TRIPS): harmonisation of standards, enforcement, national treatment, MFN treatment

WTO-extra (WTO-X)

- Anti-corruption measures
- Competition policy, e.g. harmonisation of competition laws
- Consumer protection
- Data protection
- Environmental regulations
- Investment liberalisation and investment protection
- Movement of capital
- Labour market regulations
- Intellectual property rights (IPR's) going beyond WTO-TRIPS agreement
- Cooperation in audio-visual industries
- Innovation policies
- Economic policy dialogue
- Education and training
- Human rights
- Industrial cooperation
- Information society
- Regional cooperation
- Taxation
- Visa and immigration

Source: Horn et al. (2009).

and Acharya et al. 2011).⁸ Consequently, multilateral and regional trade and investment agreements need to account for the fact that the parts and pieces of many goods and services are produced ‘everywhere’ rather than in a single national jurisdiction. Non-tariff barriers, so-called behind-the-border protectionism, such as technical regulations, product standards, environmental laws and restrictive professional qualification requirements are much more relevant in the 21st century ‘GVC-friendly’ policy setting. Therefore, the design of future regional trade agreements requires a greater scope of policy areas and substantially deeper integration as foreseen by the WTO, so-called WTO-plus (WTO+) and WTO-extra (WTO-X) measures. WTO+ measures encompass commitments relating to policy areas that are already subject to some form of commitment in the WTO agreements. WTO-X provisions include commitments in an area that is ‘qualitatively new’, i.e. a policy instrument

that has not previously been regulated by the WTO .

In addition, a wider implementation of open mutual recognition agreements (MRA) would enable third party competitors to choose between the standards of one FTA-party in order to export to another FTA-party. An open regulatory regime would be less discriminatory and can have positive impact on the global trading order. It would allow FTA partners to develop and maintain high standards without discriminating against non-FTA parties. Nevertheless, governments should continue to strive for the consolidation of regional trade agreements at multilateral level in the longer-term in order to minimise negative effects resulting from the spaghetti bowl of preferential agreements, such as incoherence, high compliance costs for businesses, unpredictability and discrimination of non-party countries (Baldwin 2015, Kowlaski et al. 2015, Horn et al. 2009).

2.3 LIBERALISATION UNDER THE AUSPICES OF THE WTO

International trade policy was for a long time driven by collective bargaining at international level rather than regional or bilateral negotiations. Coordinated tariff reduction rounds date back to 1947, after a group of 23 countries set up the GATT framework. The GATT framework brought about eight successful trade rounds in which a large group of countries negotiated gradual tariff reductions as well as the elimination of a number of non-tariff trade barriers. The Uruguay Round was the last multilateral round that was successfully concluded. The conclusion of the Uruguay Round in 1994 paved the way for its successor, the WTO, which was officially commenced on 1st January 1995 under the Marrakesh Agreement (signed by 123 nations on 15th April 1994). The WTO agreement is based on the concept of reducing trade barriers and, at the same time, applying non-discriminatory rules. These ideals are embodied in the core principles of the WTO that are briefly outlined in Table 2.

Most WTO agreements are the result of the Uruguay Round, but it is merely an updated version of the original GATT framework that still forms the foundation of the WTO. Its

agreements still form the basis of the current WTO system to which all 162 members are parties. The ‘Agreement establishing the WTO’ serves as an umbrella agreement. It includes several annexed agreements that establish the rules for trade in goods (GATT), services (GATS) and provisions related to intellectual property rights (TRIPS). In addition, the WTO provides mandatory procedures for the enforcement of those rules (dispute settlement) as well as for monitoring and reporting on country-specific trade policies. The current body of trade agreements comprising the WTO consists of 16 different multilateral agreements and 5 plurilateral agreements to which only some WTO members are parties (see Table 3).



The WTO is still the formal forum for international trade negotiations. Yet, multilateral negotiations turn out to be cumbersome and slow. The WTO still struggles to yield meaningful results for the 9th round of trade negotiations, the Doha Development Round (DDR or DDA) that was launched in 2001. Many observers do not expect any considerable outcomes at multilateral level in the near future. In fact, for the first time since the establishment of

8. Damuri (2013) and Orefice and Rocha (2014) show that deep regional trade agreements tend to increase trade in production networks among RTA members. Acharya et al. (2011) finds that regional trade agreements are characterised by reversed trade diversion in terms of external trade creation.

9. Major complaints of developing countries revolve around the continuing existence of substantial agricultural protection schemes developed countries. Agriculture still is the most protected sector in the EU, the US and Japan, whose governments refused to take the political risk of displeasing politically

Table 2 Core principles of the WTO

Non-discrimination:

- **Most-favoured nation (MFN):** Under the WTO agreements, countries cannot discriminate between their trading partners in normal circumstances. If countries grant a special favour to another country (such as a lower customs duty rate for one of their products) they would have to do the same for all other WTO members.
- **National treatment:** Imported and locally produced goods should be treated equally - at least after the foreign goods have entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents.

Predictability: through binding and transparency:

- **Binding commitments:** A WTO member commits to ensure an agreed level of access to its market for supplying countries, on a non-discriminatory basis. For tariffs, for example, a country imposing a bound tariff agrees not to raise the tariff in the future.
- **Occasionally, countries tax imports at rates that are lower than the bound rates.** Frequently this is the case in developing countries. In developed countries the rates actually charged and the bound rates tend to be the same.

Promotion of fair competition:

- Trade under the auspices of the WTO follows rules dedicated to open, fair and undistorted competition. The rules on non-discrimination are designed to secure fair conditions of trade.
- The WTO agreements uphold the principles, but they also allow exceptions:
 - **Anti-dumping measures:** actions taken against dumping (selling at an unfairly low price)
 - **Countervailing measures:** subsidies and special ‘countervailing’ duties to offset third country subsidies
 - **Safeguard measures:** emergency measures to limit imports temporarily, designed to ‘safeguard’ domestic industries.

Encouraging development and economic reform:

- **Developing countries need flexibility in the time they take to implement the system’s agreements.** A ministerial decision adopted at the end of the round says better-off countries should accelerate implementing market access commitments on goods exported by the least-developed countries, and it seeks increased technical assistance for them.

the GATT, a round of trade liberalisation appears to end with no agreement. There is a deep divide between rich and poor countries, and even disagreement within the group of developing and emerging market countries to come to a mutually beneficial agreement on further market opening.

To date, 14 years of negotiations over agriculture, non-agricultural market access (NAMA) and services turned out to be the major sources of political disputes preventing a package deal in Doha negotiations.⁹ The one-country-one-vote procedure that makes the WTO a more democratic institution than the International Monetary Fund (IMF) made negotiations burdensome and the decision-making almost impossible. Major struggles surround tariffs, quotas and subsidies, but extend to more complex policy areas that

influential interest groups. Production support and stockholding programmes, which are considered crucial by some developing countries for food security purposes, constitute another source of conflict. While developing countries see agricultural discussions as a high priority, developed nations request

require domestic economic reforms. The Singapore issues provide good example of how difficult it is to align interests in trade-related issues that go beyond simple tariffs and quotas. In 1996, the Singapore Ministerial Declaration mandated the establishment of working groups to analyse issues related to investment, competition policy, trade facilitation and transparency in government procurement. These issues were pushed at successive Ministerial Conferences by the EU, Japan and Korea, but opposed by most developing countries. Differences between largely developed and developing economies, however, prevented a resolution in these issues, notably during the Ministerial Conference in Cancún in 2003, whereby no progress was made. In August 2004, WTO Members agreed to proceed with negotiations in only one Singapore Issue namely trade facilitation. The other three

meaningful concessions for tariffs and NTB's in non-agricultural market access (NAMA, e.g. forestry, fishery and manufacturing products) and services (e.g. on licensing procedures, professional qualification requirements and technical standards).

were dropped from the Doha round's agenda (Sandrey 2006). Despite trade facilitation remained a piece of the DDA, it took more than 10 additional years to negotiate an agreement.¹⁰

The 2014 Bali package contained a range of measures on agriculture, food security and economic development. It finally brought about the Trade Facilitation Agreement (TFA), which is argued by WTO Director-General Roberto Azevêdo to have a bigger impact than the elimination of all remaining global tariffs.¹¹ Yet, even the Bali package failed to deliver meaningful results on other issues causing Mr. Azevêdo in December 2015, ahead of the 10th WTO Ministerial Conference in Nairobi, to take away great hopes that the DDR is yet to become a success story: 'Let me be clear, we are not looking at a perfect outcome here. Whatever will be the outcome, it will never be as comprehensive and ambitious as some may have hoped when we began our journey. Also, it would not add up to the successful conclusion of the Doha issues.' (Azevêdo 2015)

After Nairobi, serious doubts remain whether the WTO will ever again be able to negotiate meaningful multilateral trade liberalisation packages.¹² On 13 December 2015, Michael Froman, US Trade Representative, already called for opening 'a new chapter for the World Trade Organisation that reflects today's economic realities. It is time for the world to free itself of the structures of Doha. [...] Freeing ourselves from the structures of Doha would allow us to explore emerging trade issues. Many developing countries have encouraged new discussions on issues like ecommerce and the needs of small business (Froman 2015). After the Nairobi Ministerial, the 162 member countries indeed failed to collectively 'reaffirm' the DDR for the first time since it was launched. Many members do not formally back the Doha mandate anymore, as they believe that new approaches are necessary to achieve meaningful outcomes in multilateral negotiations (WTO 2015). Although WTO members opened a door to the discussion of 21st century issues at the WTO level, it will take time to work out priorities, procedures and legal structures.

Source: WTO

Table 3 Overview of WTO agreements

Agreement signed by all WTO members

GATT, 1994	Texts on the interpretation of the GATT articles are included in the Final Act.
Agriculture	Entered into force with the establishment of the WTO on 1 January 1995. Text provides a framework for the long-term reform of agricultural trade and domestic policies over the years to come. It makes a decisive move towards the objective of increased market orientation in agricultural trade.
Sanitary and Phytosanitary (SPS) Measures	Entered into force with the establishment of the WTO on 1 January 1995. This agreement concerns the application of sanitary and phytosanitary measures - in other words food safety and animal and plant health regulations. The agreement recognises that governments have the right to take sanitary and phytosanitary measures but that they should be applied only to the extent necessary to protect human, animal or plant life or health and should not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail.
Textiles and Clothing	The Multi Fibre Arrangement (MFA), entered into force in 1974. The objective has been to secure the eventual integration of the textiles and clothing sector. Agreement was terminated on 1 January 2005.
Technical Barriers to Trade (TBT)	Entered into force with the establishment of the WTO on 1 January 1995. Seeks to ensure that technical negotiations and standards, as well as testing and certification procedures, do not create unnecessary obstacles to trade.
Trade-Related Investment Measures (TRIMs)	Entered into force with the establishment of the WTO on 1 January 1995. The agreement recognizes that certain investment measures restrict and distort trade. It provides that no contracting party shall apply any TRIM inconsistent with Articles III (national treatment) and XI (prohibition of quantitative restrictions) of the GATT.

Anti-dumping (Article VI of GATT 1994)	Entered into force with the establishment of the WTO on 1 January 1995. Article VI of the GATT provides for the right of contracting parties to apply anti-dumping measures, i.e. measures against imports of a product at an export price below its 'normal value'.
Customs valuation (Article VII of GATT 1994)	Entered into force with the establishment of the WTO on 1 January 1995. Gives customs administrations the right to request further information of importers where they have reason to doubt the accuracy of the declared value of imported goods.
Preshipment Inspection	Entered into force with the establishment of the WTO on 1 January 1995. Allows governments to employ specialized private companies to check shipment details - essentially price, quantity, quality - of goods ordered overseas.
Rules of Origin	Entered into force with the establishment of the WTO on 1 January 1995. Aims at long-term harmonization of rules of origin, other than rules of origin relating to the granting of tariff preferences, and to ensure that such rules do not themselves create unnecessary obstacles to trade.
Import Licensing	Entered into force with the establishment of the WTO on 1 January 1995. Revised agreement strengthens the disciplines on the users of import licensing systems (which, in any event, are much less widely used now than in the past) and increases transparency and predictability.
Subsidies and Countervailing Measures	Entered into force with the establishment of the WTO on 1 January 1995. Provides multilateral disciplines regulating the provision of subsidies, and the use of countervailing measures to offset injury caused by subsidized imports.
Safeguards	Entered into force with the establishment of the WTO on 1 January 1995. Allows a member to take a 'safeguard' action to protect a specific domestic industry from an unforeseen increase of imports of any product which is causing, or which is likely to cause, serious injury to the industry.
General Agreement on Trade in Services (GATS)	Entered into force with the establishment of the WTO on 1 January 1995. Aims to further liberalise cross-border trade in services. GATS distinguishes between four modes of supplying services: cross-border trade, consumption abroad, commercial presence, and presence of natural persons.
Trade-Related Aspects of Intellectual Property Rights (TRIPS)	Entered into force with the establishment of the WTO on 1 January 1995. Agreement on the need of standards in the protection and enforcement of intellectual property rights, which have been a growing source of tension in international economic relations.
Dispute Settlement Understanding	Entered into force with the establishment of the WTO on 1 January 1995. Aims at efficient enforcement of WTO rules and dispute settlement. Rules, automaticity in decisions on the establishment. Emphasizes the importance of consultations in securing dispute resolution
Trade Policy Review Mechanism	Entered into force with the establishment of the WTO on 1 January 1995. Contributes to improved adherence by all Members to rules, disciplines and commitments made under the Multilateral Trade Agreements and, where applicable, the Plurilateral Trade Agreements, and hence to the smoother functioning of the multilateral trading system

10. Sandrey (2006) argues that developing members saw trade facilitation as an opportunity to leverage aid for a severe domestic institutional efficiency problems, while developed members anticipated reduced transaction costs as

enabling their exporters to gain improved market access.
11. The TFA is the first multilateral trade agreement to be concluded since the WTO was established 20 years ago. The TFS sets forth a series of measures for

expeditiously moving goods across borders inspired by best practices from around the world.
12. On remarkable achievement of the Nairobi Ministerial was the elimination of

agricultural export subsidies, new rules for export credits, and modified rules on international food aid and exporting state trading enterprises.

Plurilateral agreements, not signed by all members

Agreement on Basic Telecommunications Services (BTA)	Implemented in February 1998. Aims at improving market access for telecommunications equipment suppliers, vendors and service providers by ensuring that all service suppliers
Agreement on Trade in Civil Aircraft	Entered into force on 1 January 1980, 32 signatories. Eliminates import duties on all aircraft, other than military aircraft, as well as on all other products covered by the agreement - civil aircraft engines and their parts and components, all components and sub-assemblies of civil aircraft.
Agreement on Government Procurement (GPA)	Entered into force in 1981, 17 parties comprising 45 WTO members. Another 30 WTO members participate in the GPA Committee as observers. Out of these, 10 members are in the process of acceding to the Agreement. Regulates the government procurement of goods and services by the public authorities of the parties to the agreement, based on the principles of openness, transparency and non-discrimination. Amended in 2011.
Information Technology Agreement (ITA)	Entered into force 1 July 1997, 81 signatories. Reduces import duties on a large number of high technology products, including computers, telecommunication equipment, semiconductors, semiconductor manufacturing and testing equipment, software, scientific instruments, as well as most of the parts and accessories of these products. Expansion of product range in July 2015.
Trade in Services Agreement (TISA)	Currently being negotiated by 23 members of the WTO. Aims at opening up markets and improving rules in areas such as licensing, financial services, telecoms, e-commerce, maritime transport, and professionals moving abroad temporarily to provide services.

Source: WTO

2.4 COMPETITIVE LIBERALISATION AND THE RISE OF MEGA-REGIONALS

The past 20 years of negotiations under the auspices of the WTO have shown that member states found it almost impossible to reach to a comprehensive multilateral agreement, even after dropping the most controversial issues from the agenda and general restraint to put new subjects on the table. Lack of agreement on the Doha agenda reinforced the perception of inefficiency of policymaking at the WTO. In turn, the stalemate at WTO triggered a wave of bilateral as well as regional preferential trade agreements.¹³ WTO data illustrate that the number of FTA's increased substantially since the mid 1990s. The ever-growing number of preferential trade arrangements is a prominent feature of international trade today.

WTO members participating in these agreements are encouraged to notify the WTO when new agreements are formed. According to WTO data, between 1948 and 1994, the GATT received 124 notifications of RTA's (relating to trade in goods), and since the creation of the WTO in 1995, over 400 additional arrangements covering trade in goods or services have been notified. In 2015, 13 additional RTA's were notified to the WTO, bringing the total number of RTA's to the GATT/WTO to 265. Of these, 127 cover goods and services, while 137 cover only goods and one covers services only.

Most agreements were concluded between two small countries (south-south economic cooperation) or one

large and one small country (centre-periphery economic cooperation). A large part of the proliferation of RTA's involves agreements, where the EU or the US is a partner. In addition, 'mega-regional' trade agreements emerged in different parts of the world after the US' announcement to negotiate a Transpacific Free Trade Area in 2007. Led by the US, both the Transpacific Partnership Agreement (TPP) and the Transatlantic Trade and Investment Partnership Agreement (TTIP) go far beyond WTO commitments. China, and other major developing economies have responded with own initiatives. The Regional Comprehensive Economic Partnership (RCEP), a proposed trade agreement between the member states ASEAN and the six countries with which ASEAN has existing FTA's (Australia, China, India, Japan, South Korea and New Zealand) as well as the China-Japan-South Korea Free Trade Agreement (CJK) are further initiatives towards modern economic cooperation agreements.

The rationales for Mega-regionals are multifaceted. One major determinant is competitive liberalisation. Irrespective of domestic policy priorities, an increasing number of governments recognise the importance global markets for investment, economic modernisation, jobs and welfare at home. Governments increasingly follow policies of open markets in order to attract investment from abroad as well as to ensure that domestic firms successfully compete in international markets rather than simply at home. A member state's rationale to join a mega-regional trade agreement is to avoid potential trade and investment diversion as well as to remain competitive in the global economy (see, e.g., Griffith et al. 2015, Bergsten 1996). Accordingly, governments enter into these agreements to improve and lock-in preferential market access in order to revive out-dated 'old' agreements and to upgrade out-dated domestic legislation.

While the establishment of mega-regional agreements primarily follow an economic reasoning, the decision to launch or join a mega-regional is also shaped by geopolitical considerations. All mega-regionals are structured to exclude particular countries. Geopolitical considerations have also shaped the political decisions underlying TTIP, TPP, RCEP and CJK. As concerns the transpacific economic integration, for example, geopolitics 'contribute in part to mega-regionalism, in particular with US proponents of the TPP considering it as a way of thwarting the emergence of a China-centred East Asia economic bloc (WEF 2014, p. 7). Accordingly, China's push towards negotiating RCEP and CJK can be perceived as an attempt to avoid potential negative effects arising from trade diversion and a loss of norm-

setting power, both internationally and within its 'closer' Asian neighbourhood.

Mega-regional trade agreements, if ultimately concluded and ratified, are likely to have a considerable impact on their member states' economies, third countries and multilateral negotiations at the WTO. Their merits have to be measured in economic terms and their capacity to revive multilateral trade rounds. Their precise economic implications are difficult to project ex ante. Various estimates point to job creation and increased levels of economic activity for member countries, while trade diversion is projected for outsiders (see, for example, Kawasaki 2014, 2012, Bauer and Erixon 2010). These forecasts are highly sensitive to various imponderables, e.g. the final provisions of an agreement, its subsequent implementation and the existence of effective enforcement mechanisms. In addition, the dynamic effects that arise from competition, investment, innovation and productivity growth are difficult to forecast.

As concerns the negotiations under the auspices of the WTO, mega-regionalism may undermine the multilateral agenda when negotiation capacities are directed away from multilateral fora, but they are likely to be reinforced after the agreements have been implemented. At the same time, the impact of TTIP or TPP is likely to have a greater bearing on the WTO than RCEP. The state of economic development as well as, as derivative of it, the ambitions and priorities that governments attach to trade negotiations determine their outcome. TPP and RCEP, for example, are quantitatively and qualitatively different. RCEP will cover 16 states representing 3 billion people and a combined GDP of more than 17 trillion USD (see also Section 4.4). TPP covers 12 countries, 800 million people and combined GDP of 28 trillion USD. While RCEP is unlikely to go substantially beyond WTO commitments in services, IPR's and rules on government procurement, both TPP and TTIP include innovative chapters on services trade, competition policy, government procurement and the protection of intellectual property. RCEP may not bring about many new rules that go beyond ASEAN+1 'light' trade agreements. Its primary objective is the harmonisation of pre-existing FTA's in the region (Nagy 2015). TTIP and TPP are therefore much more likely to have a positive impact on the WTO's out-dated multilateral agenda. In other words, TTIP and TPP may act as what Baldwin and Seghezza (2007) call 'building blocks' of a renewed multilateral agenda that is fit for 21st century commerce.

¹³ In the WTO's dictionary of trade terms 'Regionalism' is described 'actions by governments to liberalise or facilitate trade on a regional basis, sometimes through free-trade areas or customs unions'.

2.5 CURRENT TRENDS IN EU TRADE POLICY

Liberalised commerce is at the heart of European integration. The extent and contemporary nature of the EU cannot be understood without reference to its main architects' intentions to liberalise commerce between European countries. After EU founders failed with their plans to establish a European Political Community and a European Defence Union, they focussed on a model of gradual economic integration. Intra-EU trade liberalisation was considered to be a more promising and more sustainable road to political integration. Accordingly, intra-EU and international trade policy became a single core competence of the EU in 1957 (Baldwin and Wyplosz 2015).

The European Single Market (ESM) is an almost natural consequence of the policies that were laid down in the founding document of the EU, the Treaty of Rome of 1957, which foresaw the establishment of the European Economic Community (EEC) by eliminating customs duties in addition to quantitative restrictions in trade between its member states. The EU's common commercial policy (CCP), one of the few policy areas which are an exclusive competence of the EU, is rooted in the Treaty of Rome's provision on the establishment of a common customs tariff and a common commercial policy towards third countries.¹⁴ The current objectives of the EU's CCP are set out in Article 206 of the Treaty on the Functioning of the European Union (TFEU). Accordingly, '[...] the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.'

Following the European Commission's Directorate-General for Trade (DG Trade), the EU strives to promote a 'fairer and more stable international trade system'.¹⁵ Accordingly, its involvement in bilateral and multilateral trade talks is guided by three broad objectives:

- **Ensure new markets for European companies**
- **Observe the rules and make sure that others also abide by the rules**
- **Create tangible benefits in the everyday life of EU citizens**



2.6 EU TRADE POLICY AFTER LISBON

Until 2009, the European Council was the sole legislator on EU trade policy matters, while the European Commission was mandated with the negotiations. The Lisbon treaty, which entered into force on 1st December 2009, substantially enhanced the powers of the European Parliament in EU trade policymaking. The treaty introduced three main changes with respect to EU trade policy: it introduced the ordinary legislative procedure for internal law-making so that 1) basic EU trade legislation, such as measures on anti-dumping and trade preferences, must pass through the Parliament before being adopted or amended by the European Council and 2) all trade agreements must be ratified by the European Parliament. 3) The European Commission must transfer documents and report regularly to the European Parliament, which allows for a degree of parliamentary scrutiny unparalleled in the field of international negotiations. Previously, EU trade policy was frequently accused to be a 'bureaucrat-to-bureaucrat exercise', since

qualified majority voting was and still is the general rule in Council for most aspects of trade policy.¹⁶

The Treaty of Lisbon widened the competences of EU in the field of trade policy (for a general discussion, see Bendini 2014). Art 207 TFEU brings services, IPR's and foreign direct investment (FDI) into exclusive EU competence. EU member states agreed in Lisbon to entrust the EU with full powers in services trade and IPR policies. Previously, the treaties signed in Amsterdam (1997) and Nice (2000) already broadened the scope of EU trade policy competences, but set out a number of exceptions. Finally, a major change arose from the fact that the Lisbon treaty grants the EU an exclusive competence dealing with international investment in terms of FDI. According to the treaty, the EU's CCP now includes measures aiming at 'the progressive abolition of restrictions on international trade and foreign direct investment'. Before Lisbon, investment has been an area of mixed competence. The EU negotiated a few investment chapters for services and trade-related investment areas. At the same time, national member states negotiated and concluded bilateral investment treaties (BIT's) in order to protect national investors against unfair or uncompensated expropriation abroad.¹⁷

To date, competence over investment policies is prone to controversy - too loose is the scope of investment delineated in the Lisbon treaty. In the past two years, investment protection provisions including investor-state dispute settlement mechanisms (ISDS) caused severe public opposition to the ratification of the EU-Canada FTA (CETA) and TTIP negotiations (Bauer 2015). Some EU member states argue that portfolio investment is not a competence of the EU. This interpretation implies that ISDS remains a shared competence because it usually includes portfolio investment. Others simply hesitate to give up national competences for the negotiations of BIT's. On 30th October 2014, the Commission asked the European Court of Justice (ECJ) for clarification of the interpretation of the Lisbon treaty's provisions on investment. The Commission seeks clarity regarding which provisions of the EU-Singapore FTA fall within the EU's exclusive or shared competence and which subjects remain a competence of member states. An ECJ decision in favour of the EU would imply that the EU, similar to the US, has the formal powers to include comprehensive investment provisions covering liberalisation and investment protection in its bilateral and regional preferential trade agreements.

¹⁴. See Treaty of Rome Article 3 (a) and (b). Further competences of the Union are defined in the Articles 2-6 of the Treaty on the functioning of the European Union (TFEU).
¹⁵. See information provided by the European Commission DG Trade 'EU trade

policy and the WTO', available at <http://ec.europa.eu/trade/policy/eu-and-wto/>, accessed on the 8th of January 2015.
¹⁶. Unanimity is required only for legislative measures affecting cultural/

audiovisual services, social, educational or health services, and where unanimity is required for the adoption of internal rules (EU Commission 2011).
¹⁷. Over the past 50 years, countries around the globe concluded a web of more than 3,200 BIT's. 1,400 of them involve EU member states.

2.7 CURRENT PRIORITIES IN EU TRADE POLICY

Since the establishment of the customs union in 1968, the EU has successfully used its CCP to significantly reduce and eliminate the tariffs and non-tariff barriers to international trade. The European Commission has played an active role in a series of global tariff-cutting talks under the GATT framework and its successor, the WTO. As a result, current EU tariffs are comparatively low except for a few sensitive agricultural goods. Similarly, the EU has substantially contributed to the elimination, harmonisation and mutual recognition of non-tariff trade barriers, such as intellectual property rights, sanitary and phytosanitary measures as well as trade facilitation and customs practices.

The EU has tabled these issues in all of its recent trade agreements. However, as argued by Horn et al. 2009, many provisions, which go beyond WTO commitments, are often vaguely defined and are not effectively legally enforceable. While legally enforceable provisions are generally based on pure 'shall' or 'neither party may' clauses, up to 2009, most EU trade agreements were legally inflated by the use of 'shall cooperate', 'dialogue shall be established' or 'special attention shall be paid' clauses. Even for the EU-Korea FTA, which is argued to be the most comprehensive trade agreement ever ratified by the EU, regulatory cooperation is treated in a softer law manner. The provisions aim at facilitating on-going dialogue for cooperation in transparency and information exchange, horizontal and sectoral regulations, e-commerce, IPR's and competition law in order to realise the agreement's objectives of addressing regulatory barriers (see, e.g. Laurenza and Mathis 2013 for regulatory cooperation in services). Both the EU-Singapore FTA and CETA include similar provisions. Accordingly, the EU's overall approach of calling for non-committal or semi-committal dialogue can be perceived as a means of 'declaratory diplomacy' to proliferate a European regulatory policy culture rather than a vehicle for policy harmonisation or effective mutual recognition of standards and regulations.

Despite the problems associated to FTA language and enforcement, it is widely agreed that the EU has always been an active promoter of multilateral trade liberalisation. Yet, owing to the stagnation of multilateral trade talks, it has directed negotiation capacities towards the conclusion of bilateral trade agreements. In 2006, the EU launched 'Global Europe - Competing in the World', a new strategy for trade policy with renewed initiatives to forge bilateral trade

deals. The EU acknowledges that 'openness in trade and investment exposes the domestic economy to competitive pressures, stimulates innovation, provides access to new technologies and enhances incentives for investment (EU Commission 2006, p. 4). In addition, similar to the US' broader trade policy objectives, the Global Europe strategy is rooted into a 'competitive liberalisation' narrative, whereby bilateral and regional FTA's are considered as building blocks for multilateral rules 'by going further and faster in promoting openness and integration, by tackling issues, which are not ready for multilateral discussion, as well as by preparing the ground for the next level of multilateral liberalisation (EU Commission 2006, p. 10).

In October 2015, the EU announced its latest trade policy strategy. Accordingly, the EU continues to push for bilateral and plurilateral FTA's apart of its engagement in multilateral negotiations for reinvigorating the WTO. In addition, EU trade policy initiatives increasingly aim at addressing a broader scope of non-traditional, 21st century, trade policies in order to secure its competitive position in global value chains. These policies include issues related to services trade, data flows and the digital economy, regulatory fragmentation and cooperation, intellectual property rights as well as sanitary and phytosanitary barriers, but also rules governing competition, public procurement and subsidies. In addition, particular initiatives are dedicated to SME's in order to reduce perceived asymmetries in the benefits of large multinational corporations vis-à-vis to smaller companies. The EU Commission pledges that 'no EU trade agreement will lead to lower levels of consumer, environmental or social and labour protection than offered today in the European Union' (EU Commission 2015, p. 21). In doing so, the Commission aims at addressing public concerns regarding potential adverse social and environmental consequences of its trade liberalisation initiatives.

Since 2006, the EU initiated large number of trade negotiations, some already successfully concluded. Table 4 provides an overview of the negotiations launched since 2006 and outlines the initiatives that are highlighted as priorities in the Commission's recent trade policy strategy (see EU Commission 2015). Policy priorities aim at ASEAN and individual ASEAN member states, the US, Japan, China (investment agreement only), but also Australia and New Zealand, Jordan, Morocco, Tunisia and a plurilateral agreement on services liberalisation, TiSA.

Table 4 Past and current priorities in EU trade policy

NEGOTIATIONS LAUNCHED SINCE 2006	CURRENT STATUS	PRIORITY ACCORDING TO 2015 'TRADE FOR ALL' TRADE POLICY STRATEGY
Iraq (launched in 2006)	EU-Iraq Partnership and Cooperation Agreement was signed on 11 May 2012. Not yet ratified.	No.
Korea (launched in 2007)	Concluded and entered into force. Negotiations launched in May 2007. Concluded in October 2010 and entered into force in July 2011. The EU-Korea FTA is the first of a new generation trade agreements. It goes further than any previous agreements in lifting trade barriers and it is also the EU's first trade deal with an Asian country. The agreement covers tariffs, quotas, the eliminations of non-tariff barriers such as duplicate and expensive testing and certification procedures, mutual recognition of standards and procedures, services trade, government procurement, IPR's, competition rules, environmental goods, labour market regulations, an effective and efficient dispute settlement mechanism.	No, concluded.
ASEAN (launched in 2007)	Negotiations with a regional grouping of 7 ASEAN Member States started in July 2007. In March 2009, the 7th Joint Committee agreed to take a pause in the regional negotiations. In December 2009, EU Member States agreed that the Commission would pursue FTA negotiations in a bilateral format with countries of ASEAN.	Yes, the EU works towards restarting negotiations for an ambitious region-to-region FTA with ASEAN, building on bilateral agreements between the EU and ASEAN members.
Russia (launched in 2008)	No mandate for an FTA. Negotiations for a New Agreement to replace and update the existing PCA, including trade and investment provisions have been stalled.	Yes, the EU's strategic interest remains to achieve closer economic ties with Russia.
Libya (launched in 2008)	Negotiations for a framework agreement incorporating an FTA were launched on 12-13 November 2008. The two sides were discussing an ambitious FTA including trade in goods, trade in services/establishment, trade rules, regulatory cooperation, and dispute settlement. The negotiations were suspended in February 2011.	No.
Canada (launched in 2009)	Conclusion of negotiations in August 2014. Comprehensive trade agreement covering, inter alia, tariffs, non-tariffs, services, investment, public procurement, intellectual property, competition, regulatory issues and regulatory cooperation. Not ratified yet.	No, concluded (though not ratified yet).
Singapore (launched in 2010)	Negotiations for a comprehensive Free Trade Agreement launched in March 2010. Negotiations were completed on 17 October 2014.	No, concluded (though not ratified yet).

NEGOTIATIONS LAUNCHED SINCE 2006	CURRENT STATUS	PRIORITY ACCORDING TO 2015 'TRADE FOR ALL' TRADE POLICY STRATEGY
Malaysia (launched in 2010)	On-going. The EU has reached the half-way point of the FTA negotiations with Malaysia. However, the most difficult issues remain to be resolved.	Yes, the EU remains committed to resuming negotiations with Malaysia.
Azerbaijan (launched in 2010)	Negotiations for an enhanced Partnership and Cooperation Agreement (PCA) to replace and update the current PCA in force, including its trade and investment related provisions, have been suspended.	No.
Morocco (launched in 2011)	In March 2013, the EU and Morocco launched negotiations for a Deep and Comprehensive Free Trade Area (DCFTA). Four rounds have taken place so far. Discussions advanced well and texts for all chapters are on the table.	Yes, the EU remains committed to conclude a DCFTA with Morocco.
Jordan (launched in 2011)	On-going. The preparatory process for launching negotiations of a Deep and Comprehensive FTA is quite advanced. Three meetings took place (March 2012, April and November 2013).	Yes, the EU remains committed to conclude a DCFTA with Jordan.
Tunisia (launched in 2011)	On-going. A preparatory process for launching negotiations on a Deep and Comprehensive FTA is on-going.	Yes, the EU remains committed to conclude a DCFTA with Tunisia.
Ukraine (launched in 2011)	Negotiations for a Deep and Comprehensive FTA, as part of the EU-Ukraine Association Agreement (AA), were concluded in 2011. After a long process, the political provisions of the Association Agreement were signed in Brussels in March 2014. The remaining provisions, were signed in June 2014.	Yes, the EU aims for an effective implementation of the AA and DCFTA, respectively.
Japan (launched in 2012)	Negotiations launched in November 2012. The agreement could be concluded in the first half of 2016 provided that the substance is right and that the level of ambition of the agreement is high enough. Key outstanding issues include notably market access for goods, non-tariff measures, services, investment, public procurement, geographical indications, SPS, Trade and sustainable development.	Yes, the conclusion of the EU-Japan FTA is a strategic priority of the EU.
Vietnam (launched in 2012)	On 2 December 2015, the EU and Vietnam announced the conclusion of the negotiations for an EU-Vietnam Free Trade Agreement (FTA). Agreement covers tariffs, non-tariff barriers as well as commitments on other trade related aspects, notably procurement, regulatory issues, competition, services/investment, and sustainable development.	No, concluded.

NEGOTIATIONS LAUNCHED SINCE 2006	CURRENT STATUS	PRIORITY ACCORDING TO 2015 'TRADE FOR ALL' TRADE POLICY STRATEGY
Thailand (launched in 2013)	On-going. Both sides seek to negotiate a comprehensive agreement covering, inter alia, tariffs, non-tariffs, services, investment, procurement, intellectual property, competition, regulatory issues and sustainable development.	Yes, the EU remains committed to resuming negotiations with Thailand.
Egypt (launched in 2013)	Following exploratory discussions in 2012, a dialogue on a Deep and Comprehensive FTA was launched in June 2013. No other meetings are foreseen at this stage.	No.
China (launched in 2013)	On-going. Negotiations of a comprehensive EU-China investment agreement were launched in November 2013.	Yes, the conclusion of the EU-China investment treaty is a strategic priority of the EU.
US (launched in 2013)	On-going. Negotiations launched in June 2013. Agreement covers tariffs, quotas, non-tariff barriers such as technical barriers to trade, sanitary and phytosanitary measures, information and communication technology, intellectual property, services trade, rules on sustainable development, competition, SME's, and investment.	Yes, the conclusion of TTIP is a strategic priority of the EU.
Trade in Services Agreement (TiSA, plurilateral, launched in 2013)	Negotiations launched in March 2013. Talks cover all services sectors, including information and communication technology (ICT) services, logistics and transport, financial services and services for businesses. By October 2015, fourteen negotiation rounds took place. Currently, 23 WTO members are taking part in the negotiations. There is no deadline set for ending the negotiations.	Yes, the EU seeks to use FTA's and the TiSA to set rules for e-commerce and cross-border data flows and tackle new forms of digital protectionism.
Armenia (launched in 2015)	Negotiations to enhance and replace the current Partnership and Cooperation Agreement (PCA) in force, including its trade and investment related provisions.	No.
Australia and New Zealand (launched in 2015)	On-going. Negotiations started in October 2015. EU is committed achieve a deep and comprehensive high-quality FTA.	Yes, the conclusion of an EU-Australia-New Zealand trade and investment treaty is a strategic priority of the EU.

Source: EU Commission DG Trade, EU Commission (2015, 2015a).

2.8 EU-KOREA FREE TRADE AGREEMENT

In its trade policy initiatives, the EU recognises that most trade barriers are to be found behind the customs borders. Accordingly, the EU Commission increasingly focuses on the conclusion of Deep and Comprehensive Free Trade Agreements (DCFTA) that liberalise trade in services, encourage cross-border investment, open up public procurement and include cooperation in various regulatory issues. As the only modern FTA currently ratified, the EU-Korea DCFTA is frequently referred to be the EU's most comprehensive trade deal (see, e.g., EC Commission 2011a).¹⁸ The agreement has been already signed in October 2010 and entered into effect in July 2011. According to the European Commission, the EU-Korea DCFTA marks a new era for EU trade agreements. The scope of tariff elimination in the EU-Korea FTA goes beyond anything the EU had agreed in previous agreements. About 99 per cent of European tariffs and 96 per cent of Korean tariffs on imports from the other party were gradually eliminated until 2014. In addition to import duties on physical goods and commodities, the agreement provides extensive new rules for:

- **Services:** Market access is improved for EU satellite broadcasters, telecommunications services providers, computer and data services, e-commerce, EU port and shipping services and EU infrastructure services providers.
- **Intellectual property rights:** The agreement provides for rules regarding patents, copyrights, geographical

indications, trademarks, designs, plant varieties, the protection of undisclosed information, and enforcement provisions.

- **Competition:** The provisions require each party to maintain competition laws that cover restrictive agreements, concerted practices (cartels) and abuse of dominance by one or more enterprises, and which provide effective control of concentrations between enterprises.
- **State monopolies and state aid:** The agreement ensures non-discrimination by state monopolies. The Parties agree to remove distortions of competition caused by subsidies in so far as they affect international trade, and to prevent the occurrence of such situations.
- **Public procurement:** The parties agreed to further expand bilateral trading opportunities in each other's government procurement market.
- **E-commerce:** The Parties agreed not to impose customs duties on deliveries by electronic means and they agree to maintain a dialogue on regulatory issues raised by electronic commerce, e.g. recognition of certificates of electronic signatures, liability of intermediary service providers or the protection of consumers.
- **Computer services:** The agreement provides for regulations aiming to liberalise software services, data processing, data storage, data hosting or database services

- **Labour rules, sustainable and environmentally-friendly development:** Both parties pledge to meet core labour standards set by the International Labor Organization (ILO), and to implement all ILO conventions that exceed these standards as well. The parties commit to promote trade and foreign direct investment in environmental goods and services, including environmental technologies, sustainable renewable energy, energy efficient products and services and eco-labelled goods.
- **Civil society engagement:** Each Party will meet at a Civil Society Forum in order to conduct a dialogue encompassing sustainable development aspects of trade relations between the Parties.
- **Transparency:** Transparency obligations aim to ensure access to information regarding customs and trade-related laws, sanitary and phytosanitary (SPS) measures, standards and regulation on licensing and certifications practices, import-facilitating practices and rules governing financial services providers, and in the area of subsidies.
- **Effective and fast dispute settlement:** The Parties shall endeavour to resolve any dispute regarding the interpretation and application of the provisions by entering into consultations. Consultations shall be held within 30 days of the date of the submission of the request. Where the Parties have failed to resolve the dispute by the complaining Party may request the establishment of an arbitration panel. The rules foresee arbitration ruling within 120 days.

In order to gradually eliminate cumbersome NTBs, the agreement provides for expert committees (e.g. on goods, customs, SPS, services) and working groups (e.g. on motor vehicles and parts, chemicals and mutual recognition). These bodies engage in discussions on rules' enforcement, closer regulatory cooperation in terms of greater harmonisation of rules and extended recognition of the other party's standards. In order to increase the predictability of rule-making processes, the agreement includes binding transparency rules. An annual Trade Committee at ministerial level monitors all the provisions in order to ensure that the agreement operates smoothly. However, although the FTA already evidently helped to deepen the commercial relationship between the EU and South Korea, various conflicts remain with respect to its implementation, particularly with provisions aiming at the reduction of remaining NTBs. According to the EU's recent impact assessment of the implementation of the EU-Korea agreement, conflicts arouse for the harmonisation and mutual recognition of automotive standards and various SPS measures (EU Commission 2015b). It remains to be seen whether the provisions made will effectively contribute to an approximation of technical standards in the future as foreseen by the objectives of the agreement.

¹⁸ See EU-Korea FTA based on Council Decision of 16 September 2010 on the signing, on behalf of the European Union, and provisional application of the Free Trade Agreement between the European Union and its Member States, on the one part, and the Republic of Korea, on the other part.



3 THE ASEAN: A RISING CENTER OF ECONOMIC GRAVITY

In 2017, the Association of Southeast Asian Nations (ASEAN) will celebrate its 50th anniversary. Founded in 1967, its purpose was to mainly address political and security challenges, but intra-regional economic issues took the stage since the mid 1970s. With the establishment of the ASEAN Economic Community (AEC) in December 2015, the 10-country block now follows a path of economic integration, similar to EU regionalism, to 'facilitate the seamless movement of goods, services, investment, capital, and skilled labour within ASEAN in order to enhance ASEAN's trade and production networks as well as to establish a more unified market for its firms and consumers' until 2025 (ASEAN 2015). The milestones of intra-ASEAN integration are outlined in Table 5.



Table 5 Milestones of intra-ASEAN economic integration

YEAR	MILESTONE
1967	Creation of ASEAN (Indonesia, Malaysia, the Philippines, Singapore, and Thailand) to ensure individual and collective (political) security. Brunei Darussalam joined in 1984, Vietnam joined in 1995, Lao and Myanmar joined in 1997, Cambodia joined in 1999.
1977	ASEAN Preferential Trading Agreement
1992	ASEAN Free Trade Area (AFTA)
1993	Adoption of the Common Effective Preferential Tariff Scheme (CEPT)
1995	ASEAN Framework Agreement on Service (AFAS): first agreement on services trade closely based on the provisions of the General Agreement on Trade in Services (GATS).
1997	ASEAN Vision 2020: official announcement of commitment to ASEAN economic cooperation and cohesion through a highly competitive ASEAN economic region in which there is a free flow of goods, services and investments, a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities.
1998	Framework Agreement on the ASEAN Investment Area (AIA)
2002	Initiative for ASEAN Integration (IAI): initiative aiming to promote effective cooperation and mutual assistance to narrow the development gap among ASEAN Member States (AMS) and between ASEAN and the rest of the world.
2003	Bali Concord II (Declaration of ASEAN Concord II): official agreement to establish both a single market and a single production base by 2020, so as to enhance ASEAN's economic capacity.
2004	Vientiane Action Programme (VAP): ASEAN leaders committed to implement the ASEAN Vision 2020 for the next six years and agreed to mobilize resources for this purpose.
2007	ASEAN Economic Community Blueprint: ASEAN leaders reaffirmed their strong commitment to accelerate the establishment of an ASEAN Community by 2015 (five years earlier) as envisioned in the ASEAN Vision 2020. Four basic initiatives: creating a single market and production base; increasing competitiveness; promoting equitable economic development; and further integrating ASEAN with the global economy.
2008	Entry into force of ASEAN Charter: major treaty (essentially the Constitution) of ASEAN. It creates a framework within which ASEAN members can enter into substantive agreements on specific areas, such as economic integration, environmental protection and climate change, equitable development, transnational crime and security.
2009	Cha-am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015): present roadmaps for the establishment of three communities, a Political-Security Community, Economic Community and Socio-Cultural Community.

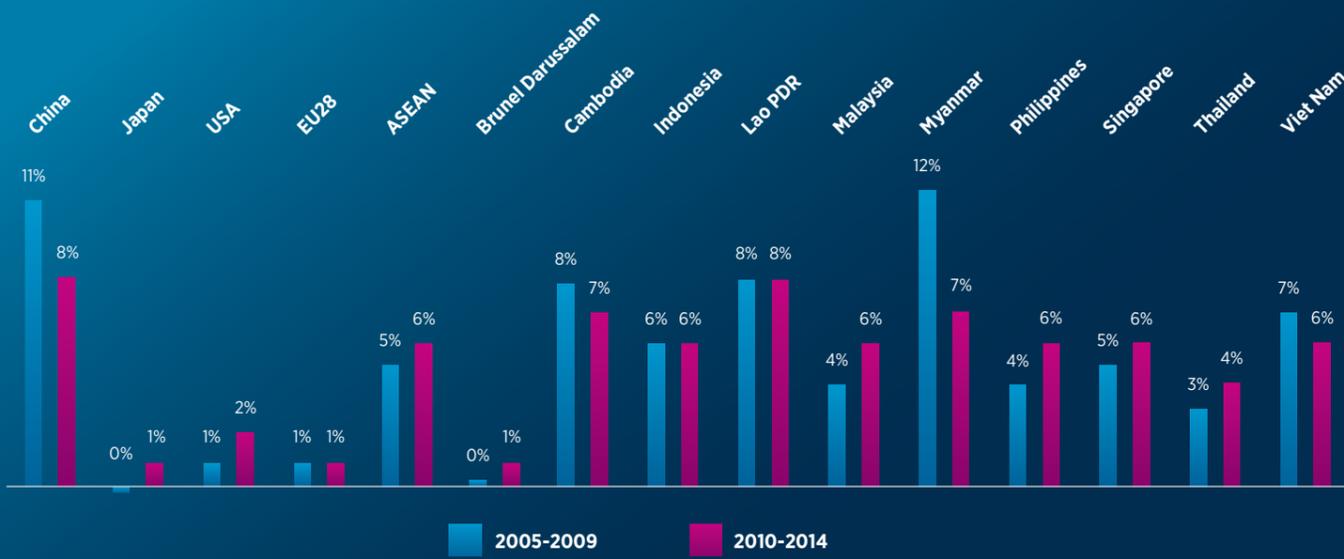
YEAR	MILESTONE
2009	ASEAN Comprehensive Investment Agreement (ACIA): establishment of a free, open, transparent and integrated investment regime for domestic and international investors. Includes provisions on international best practices, FDI and portfolio investment, rules on IPR's and ISDS.
2010	Master Plan on ASEAN Connectivity (MPAC): plan of action that aims to enhance the region's physical infrastructure and institutions. Physically, it aims to connect and improve the region's infrastructure - a pre-condition to achieving the seamless movement of people, goods, and services. Institutionally, it aims to reduce policy and institutional barriers by harmonising rules, regulations, and standards and improving member states' technical capacity.
2011	Framework for Equitable Economic Development
2012	Bali Concord III - Bali declaration on ASEAN community in a global community of nations: ASEAN leaders call for greater participation in the global economy, the strengthening of the ASEAN economy, adoption of production standards and economic commodity distribution, access improvement and technology application, increased agricultural investment and energy diversification.
2012	Phnom Penh Agenda For ASEAN Community Building: ASEAN leaders commit to double efforts to realize the ASEAN Economic Community in 2015 by transforming ASEAN into a single market and production base, highly competitive region with equitable economic development and fully integrated into global economy.
2015	Formal establishment of the ASEAN Economic Community (AEC), which aims to coordinate and implement economic integration initiatives to create a single market across ASEAN nations. Adoption of the 'AEC Blueprint 2025', which consists of five key pillars: to create (1) a highly integrated and cohesive economy, (2) a competitive, innovative, and dynamic ASEAN, (3) enhanced connectivity and sectoral cooperation, (4) a resilient, inclusive, people-oriented, and people-centred ASEAN, and (5) a global ASEAN.

Source: ASEAN.org.

There is broad consensus among economists that the last two decades have seen the centre of global economic gravity shifting towards Asia, and since the mid-1980s, the pace of that shift - away from the US and Europe and towards Asia - has been increasing rapidly. China and India still are the key economies driving Asia's new economic dynamism, but ASEAN member states are catching up and

are increasingly participating in Asia's regional production networks and supply chains. Even though ASEAN was not spared by the global financial crisis, ASEAN member states show robust growth rates well above those of the world's major matured economies (see Figure 1). Between 2007 and 2014, ASEAN aggregate GDP doubled, while its average GDP per capita increased by 80 per cent.

Figure 1 Average growth in nominal GDP, in per cent

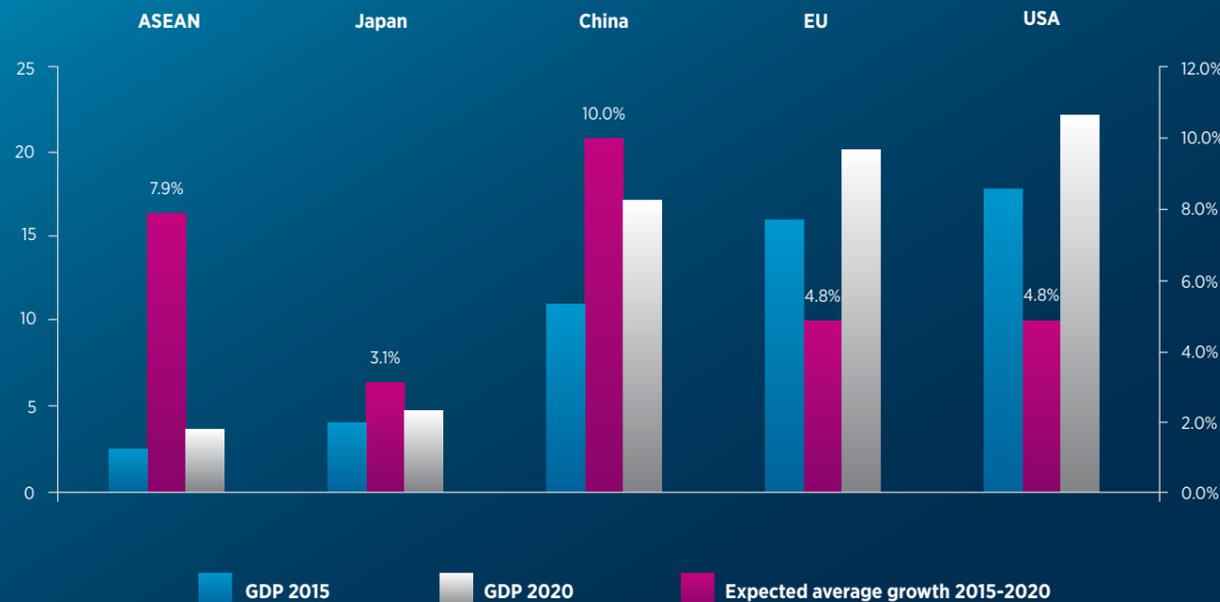


Source: World Bank.

If ASEAN were a single country today, it would be the 7th largest economy in the world and the 3rd largest economy in Asia, with a combined GDP of 2.56 trillion USD. At the same time, ASEAN's aggregate economic capacity is still low as compared to its population of

more than 600 mn people. However, its estimated average economic growth rate of 8 per cent per annum will add another 1 trillion USD in GDP until 2020 (see Figure 2). This trend is likely to continue over the coming decades.

Figure 2 Development of nominal GDP, in trillion USD

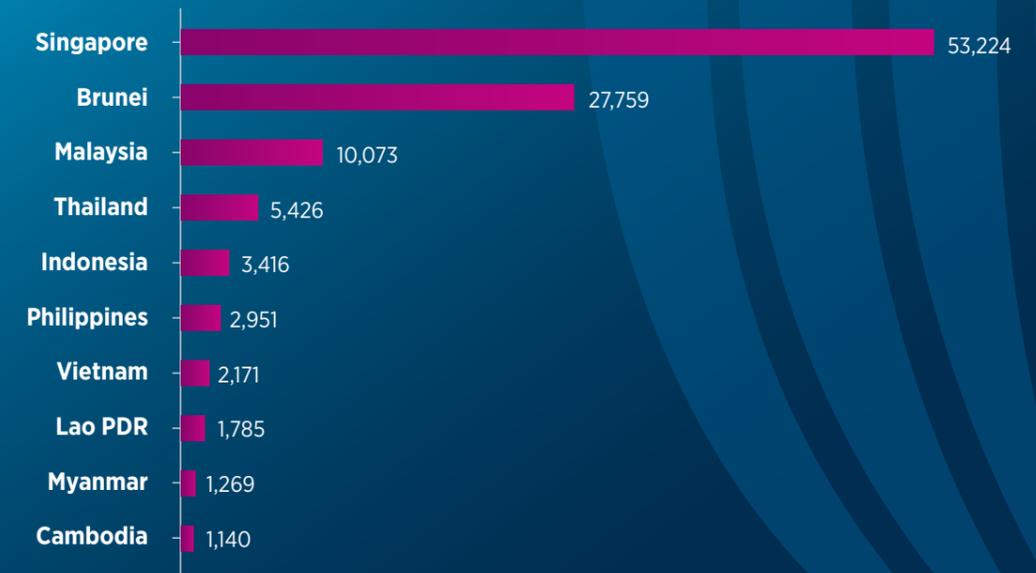


Source: IMF World Economic Outlook 2015.

Although ASEAN's economic growth rates look impressive, the block still is a highly diverse conglomerate of emerging economies. The region encompasses 10 countries at vastly different stages of economic development. According to the World Bank's classification of lending groups, ASEAN includes two high-income economies (Brunei and Singapore), two upper-middle-income economies (Malaysia and Thailand), five lower-middle-income

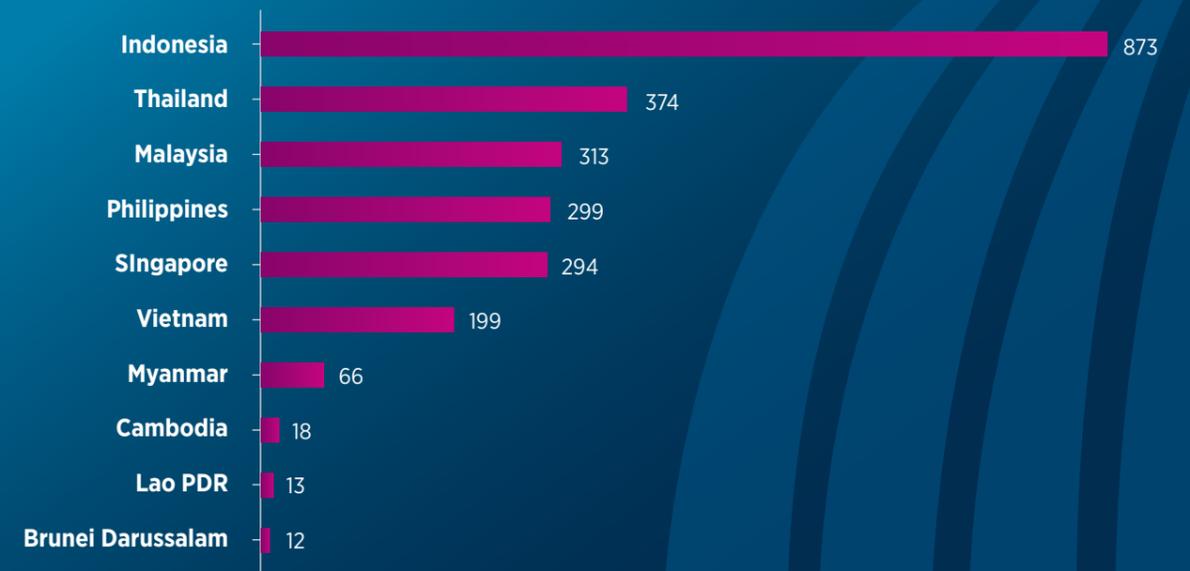
economies (Indonesia, Lao, Myanmar, Philippines, Vietnam) and one low-income economy (Cambodia). Accordingly, the real (nominal) per capita income of Cambodia is only 4 per cent (2 per cent) of that of Singapore (see Figure 3). Similarly, when measured in aggregate terms ASEAN's largest economy, Indonesia, is 20 times larger than the economies of Brunei, Lao and Cambodia combined (see Figure 4).

Figure 3 Nominal GDP per capita of ASEAN member countries, in USD, 2015



Source: IMF World Economic Outlook 2015.

Figure 4 Aggregate GDP of individual ASEAN member states, in bn USD, 2015

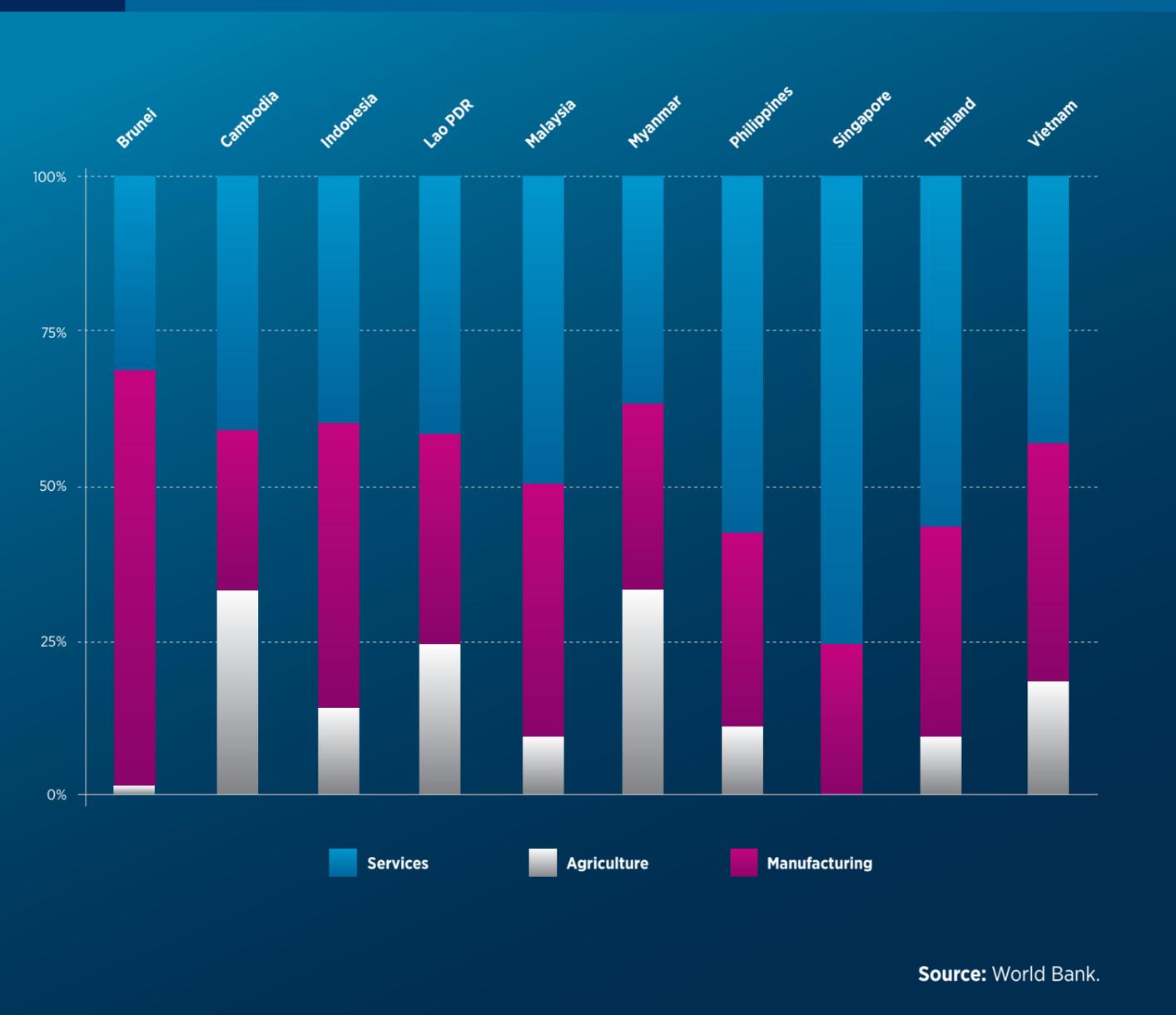


Source: IMF World Economic Outlook 2015.

One of the key challenges to the AEC is bridging the development gap between the older and economically more developed members (Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand, known as the ASEAN-6) and the four newer members (Cambodia, Lao, Myanmar, and Vietnam, known as the group of

CLMV). While manufacturing and services sectors account for the bulk of economic activity in all ASEAN member states (see Figure 5), agriculture is still a major source of economic activity for Cambodia (34 per cent), Lao (24 per cent), Myanmar (33 per cent) and Vietnam (18 per cent).

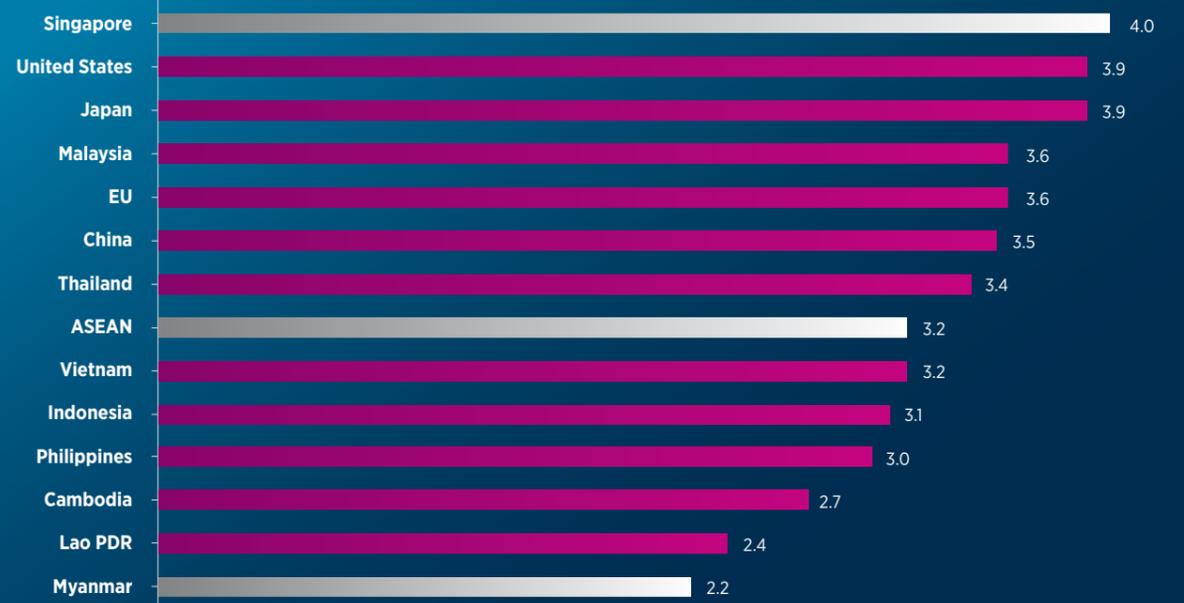
Figure 5 Composition of economic activity by major sectors as percentage of total GDP, 2013



The differences in economic structures and capacities are reflected in ASEAN's policies on internal and external trade liberalisation. Generally, ASEAN's trade openness is high at 125 per cent of trade-to-GDP ratio. Singapore, which is an important international hub for goods and commodities and the international best practice case for logistical performance (see Figure 6), has the highest trade-to-GDP ratio close to 375 per cent of GDP. Vietnam, Malaysia, Thailand and Cambodia

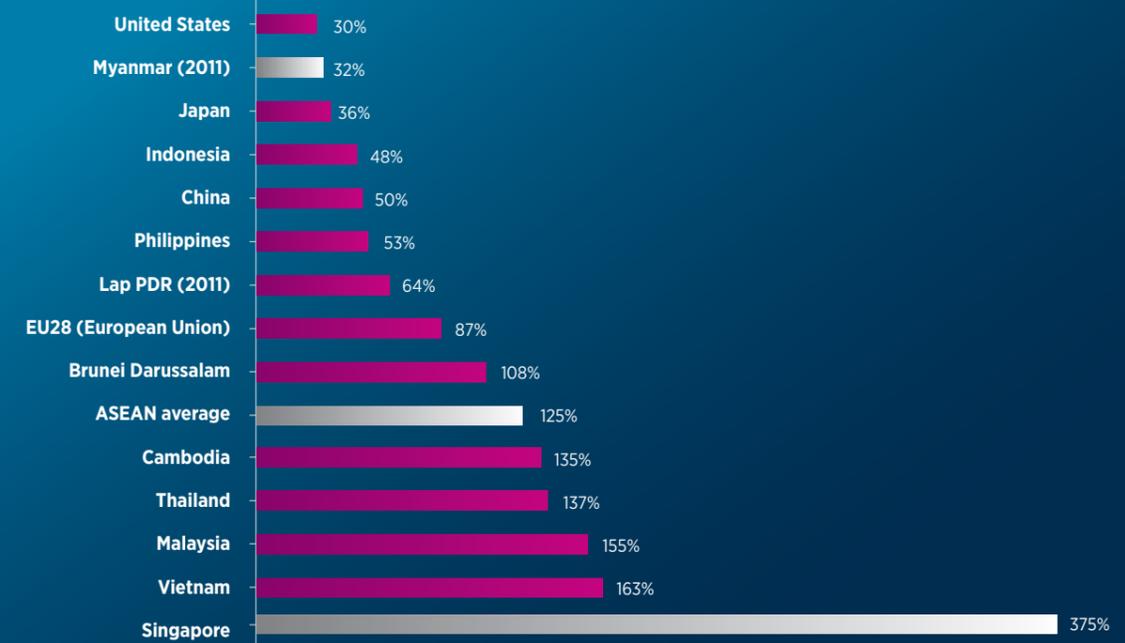
have trade-to-GDP ratios well above 100 per cent (see Figure 7). These countries have been the most active contributors to intra-regional trade. Indonesia, the Philippines and Myanmar still have a relatively low trade-to-GDP ratio below 100 per cent, suggesting considerable potential to increase openness. Myanmar, Cambodia, the Philippines, Indonesia and Vietnam perform relatively poorly in the efficiency of cross-border trade facilitation.

Figure 6 Logistics performance index, 2014



Source: World Bank, 1=low performance, 5=high performance.

Figure 7 Trade openness in terms of total trade over GDP, in 2013

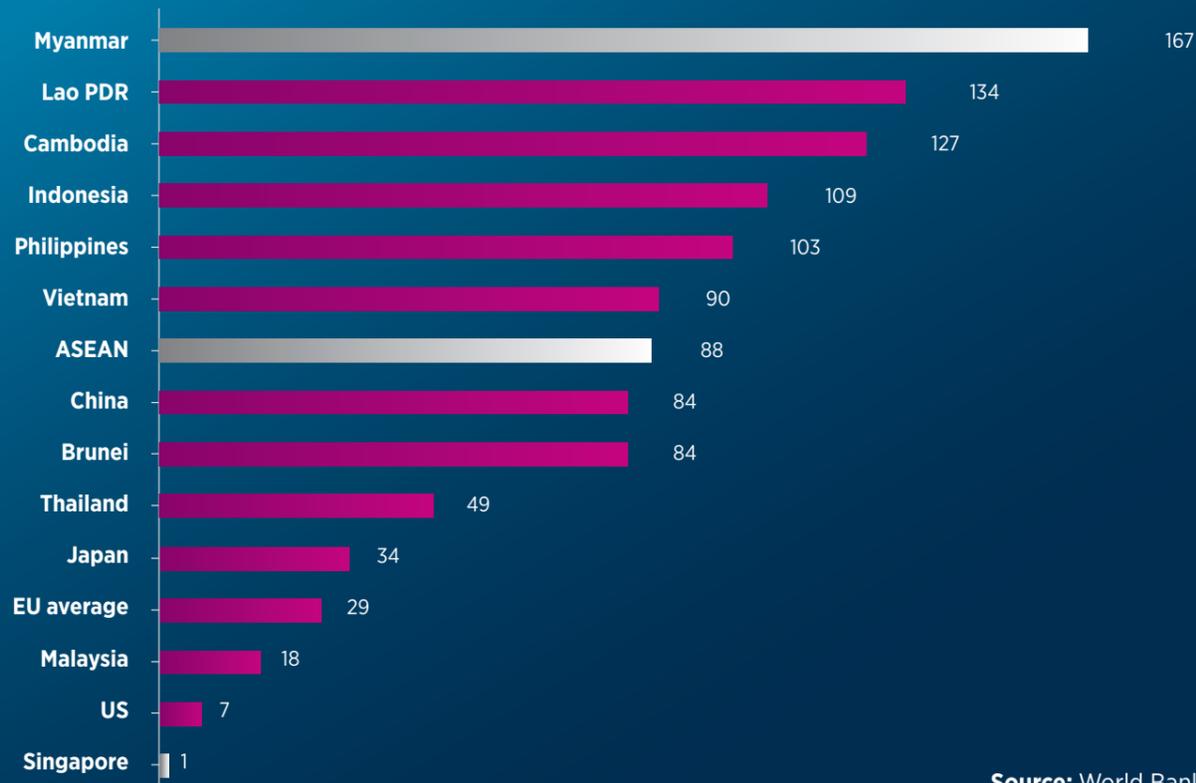


Source: UNCTAD.

Similar patterns can be registered for domestic economic policy frameworks. Singapore ranks first in the World Bank's Ease of Doing Business survey. Its openness to global trade and investment continues to provide a solid base for economic dynamism. Ranked 18th, Malaysia's domestic policy regime provides for a transparent regulatory environment, well-secured property rights, and provides relatively predictable commercial policies for investors and businesses (see Figure 8 and Figure

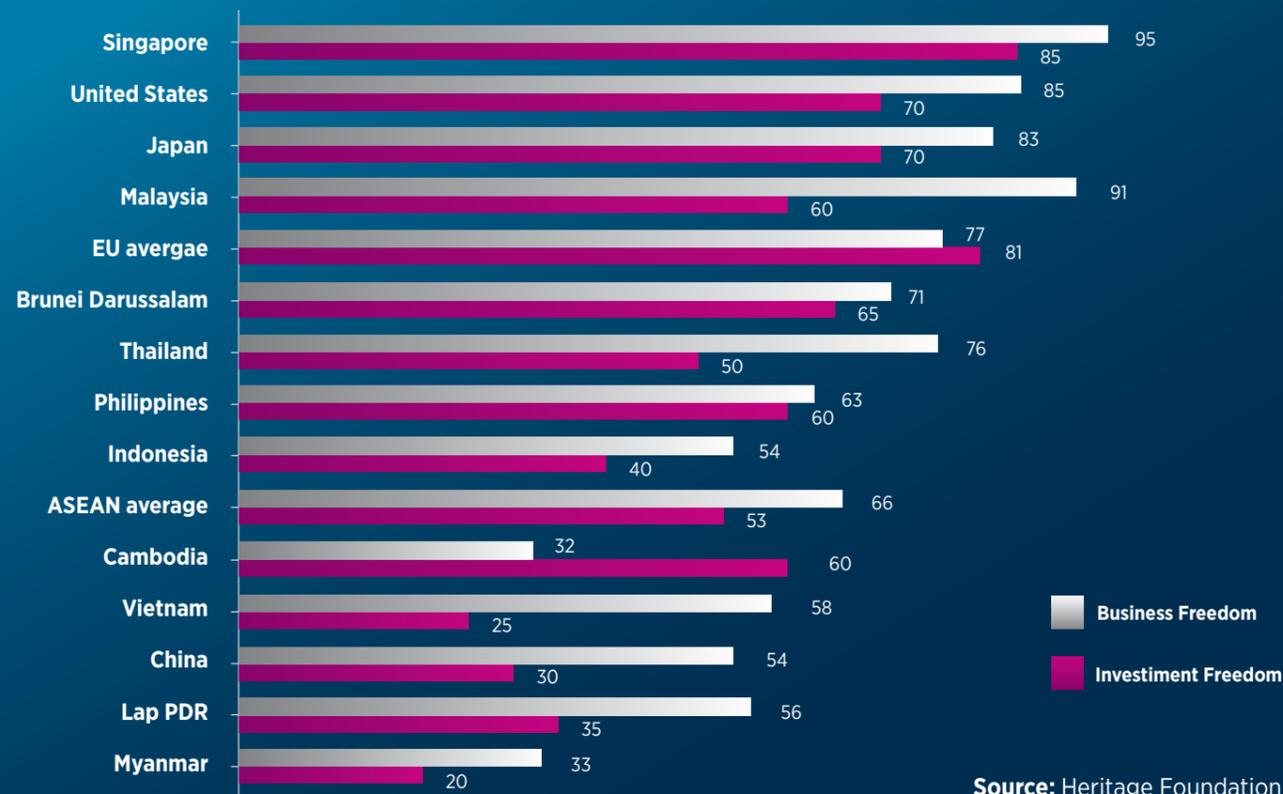
9). On the contrary, with the exception of Thailand and Malaysia, all other ASEAN member states show high levels of regulatory inefficiency and discretionary restrictions to foreign ownership that prevent domestic and foreign firms from gaining ground in local market places. Problems for businesses include the freedom to start a business, ownership restrictions, business activity that is dominated by state-owned enterprises, corruption and contract enforcement, credit availability and availability of property.

Figure 8 Ease of Doing Business ranking, 2015



Source: World Bank.

Figure 9 Efficiency of domestic regulatory policy frameworks, 2016



Source: Heritage Foundation.



3.1 TARIFFS IN INTRA-ASEAN ECONOMIC INTEGRATION

ASEAN countries have liberalised intra-ASEAN trade since 1993 by establishing the ASEAN Free Trade Area (AFTA). Unlike the EU customs union, AFTA does not apply a common external tariff on imported goods from non-ASEAN countries. Each ASEAN member is allowed to impose tariffs on goods entering from outside ASEAN based on its national schedules. Tariffs still prevail in intra-ASEAN trade in goods. AFTA uses a negative list approach with an ambitious zero per cent target for all tariff lines. The Common Effective Preferential Tariff (CEPT) scheme, however, allows countries to maintain a temporary and general exclusion list as well as sensitive product lists. Except a few highly sensitive sectors, such as food crops (rice, sugar), the steel industry or, in some countries, the automotive sector, ASEAN-6 countries have now completely eliminated tariff protection on 99 per cent of tariff lines. Therefore, with the exception of CLMV countries, significant progress has been achieved in the elimination of tariffs in much of intra-ASEAN goods trade. Average tariffs for ASEAN member states were 0.54 per cent in 2014 as compared to the average MFN tariffs,

which stand at 6.9 per cent. However, import tariff levels of CLMV countries vis-a-vis ASEAN members are still higher than import tariffs of ASEAN-6 countries.

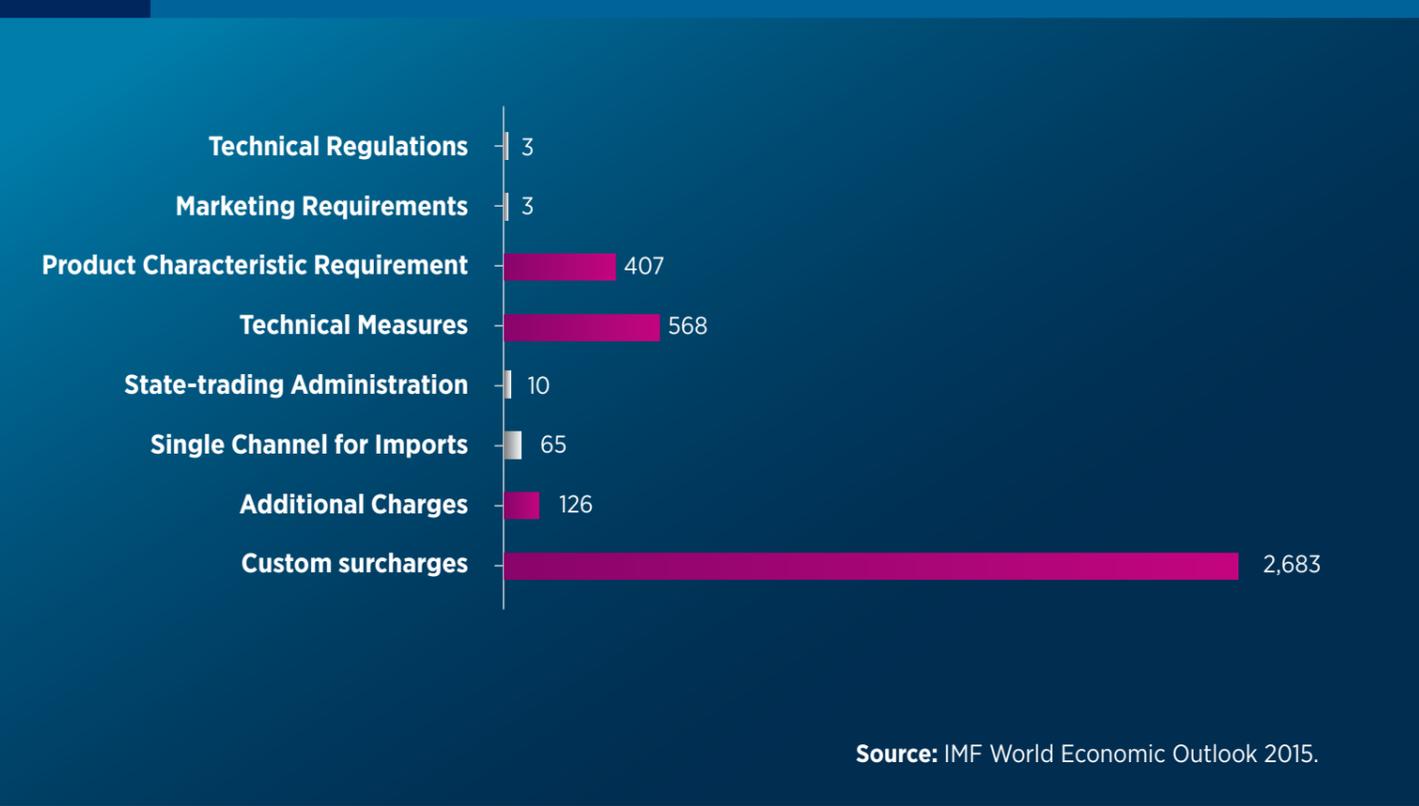
ASEAN-6 countries grant tariff preferences for over 90 per cent of tariff lines, while CLMV countries grant preferential tariffs for only 70 per cent of all tariff lines. In addition to the gap in tariff line coverage, difficulties in complying with ROO's prevent ASEAN firms from trading on preferential tariffs. AFTA set the cumulative local content at 40 per cent, but many firms are unable to comply with this requirement due to a level of regional fragmentation of production, the high import content of major export products and the administrative burden of proving origin. As a result, preferential trade only accounts for 20 per cent of intra-ASEAN trade, while the majority of trade takes place under MFN tariffs (WTO 2011). Significant trade creation effects are registered for ASEAN-6 countries, while, in the past, trade creation effects were relatively small for the new ASEAN members (Okabe and Urata 2013).

3.2 NTB'S IN INTRA-ASEAN ECONOMIC INTEGRATION

A substantial number of NTBs still represent a significant barrier to intra-ASEAN trade and investment. NTBs imposed by ASEAN members include a great number of diverse measures, ranging from quantitative restrictions, licensing restrictions, excessive taxation and customs surcharges (para-tariffs) to technical regulations, standards and customs rules (see Figure 10). Even though the AEC blueprint identifies NTBs as the main protection instrument

currently used by ASEAN member states to restrict imports from the rest of ASEAN, there has been little progress in the elimination of NTBs. Recent initiatives focus on 'mere' consultations with businesses on customs surcharges, technical measures, product characteristic requirements, and anti-competitive measures. These measures, however, are neither sufficiently verified nor effectively challenged by member states or by the ASEAN secretariat.

Figure 10 Number of tariff lines affected by NTBs imposed by ASEAN member states

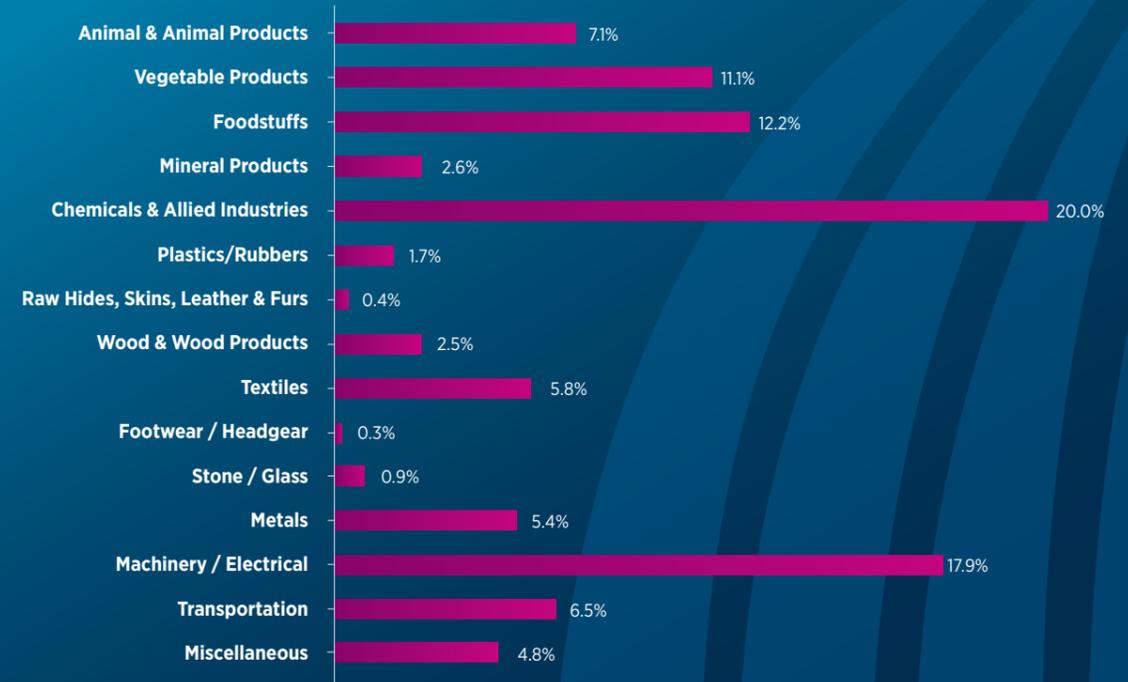


As a result, fairly little progress has been achieved for a meaningful reduction or even elimination of NTBs. According to the World Bank (2013), NTBs with the highest incidence are non-automatic licensing requirements (31.8 per cent of total ASEAN NTBs), technical regulations and quality standards (31.8 per cent), prohibitions (21.4 per cent), state trading administration (1.4 per cent), automatic licensing (7.1 per cent), discretionary import licensing practices (1.3 per cent), pre-shipment inspections (0.9 per cent) and other technical measures (2 per cent). Tariff rate quotas (TRQ's), internal taxes and charges, import bans and quotas represent less than 2 per cent of all registered NTBs. Figure 11 illustrates that most NTBs are to be found in machinery equipment,

chemicals, foodstuff and agricultural products, but also in transportation equipment and textiles sectors.

According to the Asian Development Bank's recent integration report on intra-ASEAN integration, ASEAN member states are now working on the adoption of mutual recognition agreements (MRA) for pharmaceutical, cosmetic, electrical, and telecommunication products. Evidence of progress made in the negotiations is hard to find. According to the ADB (2015), only some progress has been achieved for Good Manufacturing Practices (GMP) regarding the inspection of manufactures of medical products, an ASEAN Cosmetics Directive and an MRA on electrical and electronic equipment.

Figure 11 Officially notified NTBs in ASEAN by Industry



Source: ASEAN, World Bank (2013).

3.3 SERVICES IN INTRA-ASEAN ECONOMIC INTEGRATION

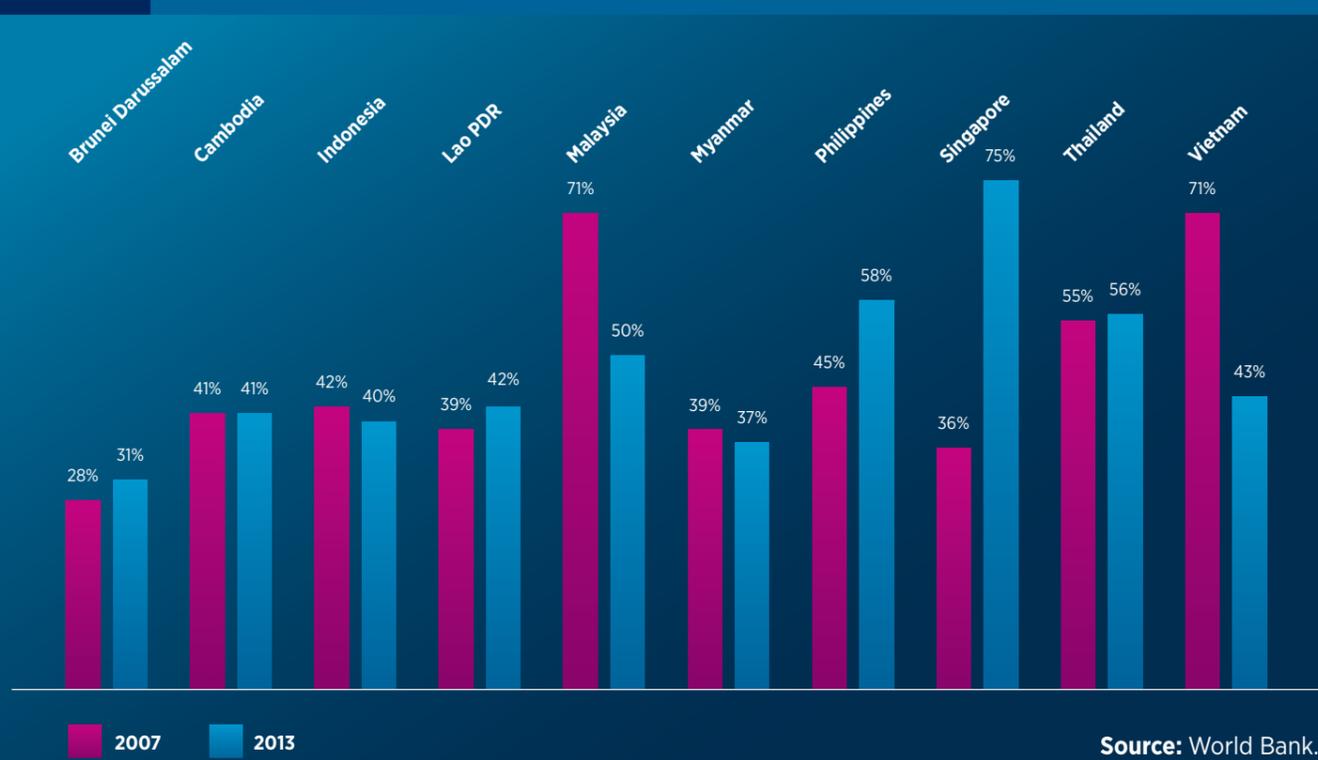
In 2010, services contributed more than 40 percent of ASEAN's total value-added and more than 50 per cent of total ASEAN employment. The services sector consists of a wide variety of industries ranging from traditional personal services like wholesale and retail trade, hotels and restaurants, education and health. Some ASEAN countries have already become important exporters of modern services in sectors, such as information and communication services, including business processing outsourcing, but also professional services, higher education services, and health tourism.

financial services, health care services, logistics services, telecommunications, transport, and tourism. Yet, the measures taken usually encompass soft law initiatives, such as mere guidelines on the removal of restrictions on cross-border trade, foreign ownership, and equity. In addition, the liberalisation initiatives grant certain degree of flexibility to different subgroups to proceed at different speeds using the 'ASEAN-minus-X' formula. On the one hand, ASEAN-X allows a sub-group of ASEAN members to proceed with policy reforms without waiting for participation by the other member states. On the other hand, the latter are allowed denying the policy reforms.

However, intra-ASEAN trade in services has generally seen even less liberalisation than trade in goods. Except Singapore, ASEAN countries are still highly protective for their services sectors. Cooperation in trade in services in ASEAN was formally institutionalised by signing the ASEAN Framework Agreement on Services (AFAS) in 1995. So far, ASEAN members have seen eight successive rounds of AFAS negotiations that have been included as part of the AEC 2025 Blueprint. Liberalisation efforts were focused on 12 sectors: air transport, business services, construction services, distribution, education, environment,

It is, therefore, no surprise that ASEAN service liberalisation has been slow. To date, services liberalisation significantly lags behind AEC ambitions, which actually surpass GATS commitments. According to the World Bank's recent report on ASEAN services liberalisation (World Bank 2015), ASEAN countries have, on average, more restrictive services policies than any other region in the world (except for the Gulf States), although applied government policies considerably vary across individual ASEAN members. The average Services Trade Restrictions Index (STRI) for ASEAN is 60 percent higher than

Figure 12 Share of services sector in per cent of GDP



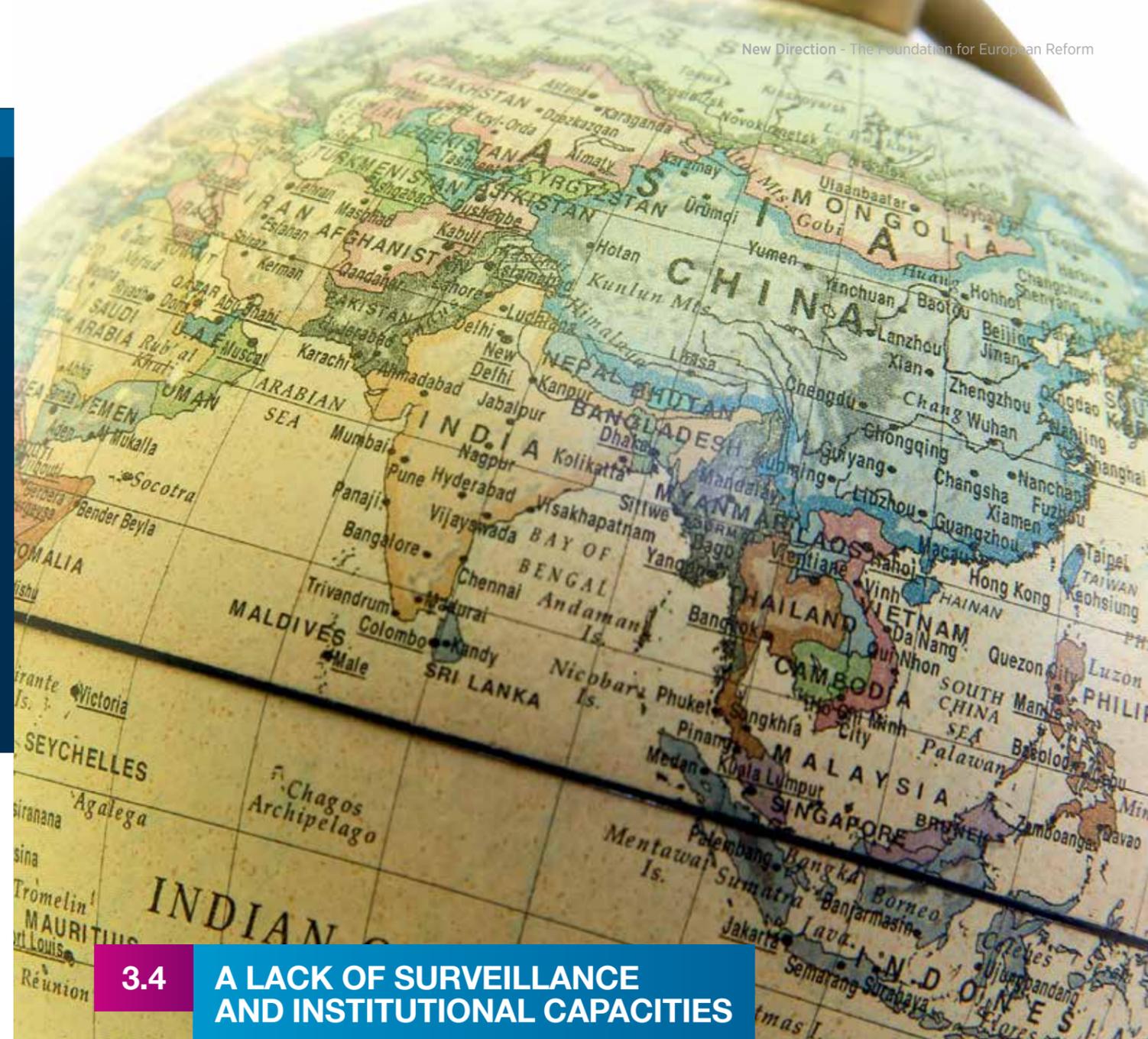
the global average. Substantial barriers to services trade are reported for Mode 3 trade, i.e. in opening services sectors for foreign investment (commercial presence).

While the contribution of services to economic growth has picked up in the last decade, the share of services in GDP ranges from 30 to 50 per cent only for most ASEAN countries (see Figure 12). These shares are low as compared to developing and emerging market economies in other regions, which are often more than 60 percent in Latin America, Eastern Europe, and the Middle East.

There is no strong evidence that ASEAN economies are more open vis-à-vis each other in services trade than vis-à-vis non-ASEAN economies. ASEAN countries mainly export 'traditional services' such as transportation, travel and tourism services, to other countries in the region. Services market liberalisation is concentrated on specific individual sectors rather than groups of sectors or the standardisation of horizontal rules governing licensing and other regulatory regimes. Existing commitments are often insufficient. From banking to transport, market access in many of the ASEAN economies is still uncertain and unpredictable due to discretionary licensing practices. Market entry, for example, is restricted by limits on new licenses. At the same time, licensing processes are reported to be opaque and discriminatory. Often, licenses are granted on case to case basis, subject to approvals that involve several authorities and ministries. In several ASEAN countries, foreign ownership and

Greenfield entry is restricted to financial services and insurance services, but also to the transportation and automotive sectors. For telecommunication, equity share restrictions apply and the government occasionally is still the dominant shareholder. Some countries apply minimum capital thresholds for investment in retail businesses. Commercial presence of providers of education and medical services is restricted to some countries that require control of such institutions to be held by nationals (World Bank 2015).

The free movement of labour remains a vision. In the past, ASEAN member states did not aim at policies facilitating the free movement of skilled and unskilled labour. Most working migrants still have to rely on temporary visa issuance. The vast majority of intra-ASEAN migrants, which amount to almost 90 per cent of ASEAN's overall working force, are unskilled workers. At the same time, migration flows are concentrated in a few migration corridors along national borders only. The top five corridors, Myanmar to Thailand, Indonesia to Malaysia, Malaysia to Singapore, Lao to Thailand, and Cambodia to Thailand, represent 88 per cent of the total intra-ASEAN migration. In addition, slow and uneven progress is reported for the liberalisation of skilled professional services. Mutual recognition of professional qualifications covers eight professions that account for less than 1.5 per cent of the ASEAN labour force only (architecture, accountancy, surveying, engineering, medical practitioners, dental practitioners, tourism, and nurses, see Fukunaga 2015 and IOM 2014).



3.4 A LACK OF SURVEILLANCE AND INSTITUTIONAL CAPACITIES

It is widely reported that NTB's significantly hamper intra-ASEAN trade. However, contrary to the EU, ASEAN still lacks supranational institutions to effectively investigate NTB's. In addition, there is no regional court in place to rule on law infringements. In addition, the enforcement of agreements on harmonisation and mutual recognition is frequently hampered by the 'ASEAN way of policymaking'. The term refers to cultural principles, which collectively prevent organisational progress and decision-making through informal consultation among diplomats and several 'behavioural principles' that are stipulated in the 1976 Treaty of Amity and Cooperation in Southeast Asia: (1) respect for state sovereignty, (2) freedom from external interference, (3) non-interference in internal affairs, (4) peaceful dispute settlement, (5) renunciation of the use of force; and (6) cooperation. Leviter (2010, p. 161) notes that '[c]ritics object that the ASEAN Way's emphasis

on consultation, consensus, and non-interference forces the organisation to adopt only those policies, which satisfy the lowest common denominator'.

The principle of non-interference still ranks high among policymakers, which is one reason why the Enhanced Dispute Settlement Mechanism Protocol (EDSM), which was adopted in 2004, has never been invoked (Eberhard 2014). Similarly, as stated by the ADB (2015, p. 3), '[p]erhaps the biggest shortcoming of the AEC Scorecard [which is a system to measure the progress of intra-ASEAN economic integration] is that there is no mechanism for exerting peer pressure or enforcing sanctions when the AEC targets are missed. The country-based Scorecards are kept confidential, which effectively rules out peer pressure and makes it difficult for working committees or expert meetings to assess and address implementation bottlenecks'.



4 ASEAN INTERNATIONAL TRADE POLICY

ASEAN now finds itself at the centre of a dynamic process towards deeper intra-regional as well as inter-regional economic integration. Following its own integration efforts, ASEAN experienced a considerable growth in the number of negotiations and the conclusions of PTA's with the EU and several economically meaningful non-ASEAN countries.

4.1 ASEAN ECONOMIC INTEGRATION WITH NON-EU COUNTRIES

ASEAN is considerably gaining importance as a regional economic trade area. Although its regulatory landscape is still highly fragmented along national borders, ASEAN can be perceived as the 4th largest economic community in the world after the EU, NAFTA and Mercosur. As of August 2015, the number of enforced PTA's that include at least one ASEAN economy

as a signatory was 98. 5 agreements were signed but are not yet in effect. 51 PTA's are either proposed or currently under negotiation (see Table 6). The numbers suggest that, in addition to China (14 PTA's), India (13 PTA's), Japan (14 PTA's), and Korea (12 PTA's), ASEAN member states have played an important role in integrating Asian economies regionally and with the rest of the world.

The numbers include all intra-ASEAN agreements. However, ASEAN members have also collectively negotiated a number of PTA's with non-ASEAN partner countries. So-called ASEAN+1 FTA's have been concluded with China (entry into force: January 2005), Korea (June 2010), Japan (December 2008), India (January 2010), and jointly with Australia and New Zealand (AANZFTA, January 2010). In addition, the ASEAN-Canada Enhanced Partnership Programme (ACEPP) as well as the US-ASEAN Expanded Economic Engagement (E3) initiative,

both endorsed in 2012, aim at reinforcing economic cooperation between ASEAN and Canada, and ASEAN and the US respectively. ASEAN has participated alongside South Korea, China and Japan in the ASEAN Plus Three (APT) cooperation process. Since 1997, APT members aim at enhancing cooperation in economic and financial matters, but also cooperating in food and energy security, environmental policies and disaster management (see, e.g., Gavril 2011). For an overview of cooperation initiatives between ASEAN and third world countries, see Table 7.

Table 6 FTA status by country/economy, 2015

COUNTRY / ECONOMY	UNDER NEGOTIATION				TOTAL
	FRAMEWORK AGREEMENT SIGNED	NEGOTIATIONS LAUNCHED	SIGNED BUT NOT YET IN EFFECT	SIGNED AND IN EFFECT	
Brunei Darussalam	0	3	1	8	12
Cambodia	0	2	0	6	8
China	0	6	2	14	22
India	1	14	0	13	28
Indonesia	0	7	1	9	17
Japan	0	9	1	14	24
Korea	0	7	4	12	23
Lao PDR	0	2	0	8	10
Malaysia	1	6	0	14	21
Myanmar	1	3	0	6	10
Philippines	0	3	0	7	10
Singapore	0	10	0	20	30
Thailand	1	7	1	12	21
Viet Nam	0	5	2	8	15
ASEAN	3	48	5	98	154

Note: Framework Agreement signed: The parties initially negotiate the contents of a framework agreement (FA), which serves as a framework for future negotiations. Negotiations launched: The parties, through the relevant ministries, declare the official launch of negotiations or set the date for such, or start the first round of negotiations. Signed but not yet in effect: Parties sign the agreement after negotiations have been completed. However, the agreement has yet to be implemented. Signed and in effect: Provisions of FTA come into force, after legislative or executive ratification. As of August 2015. Source: Asian Regional Integration Center.

Table 7 Scope of Economic Cooperation

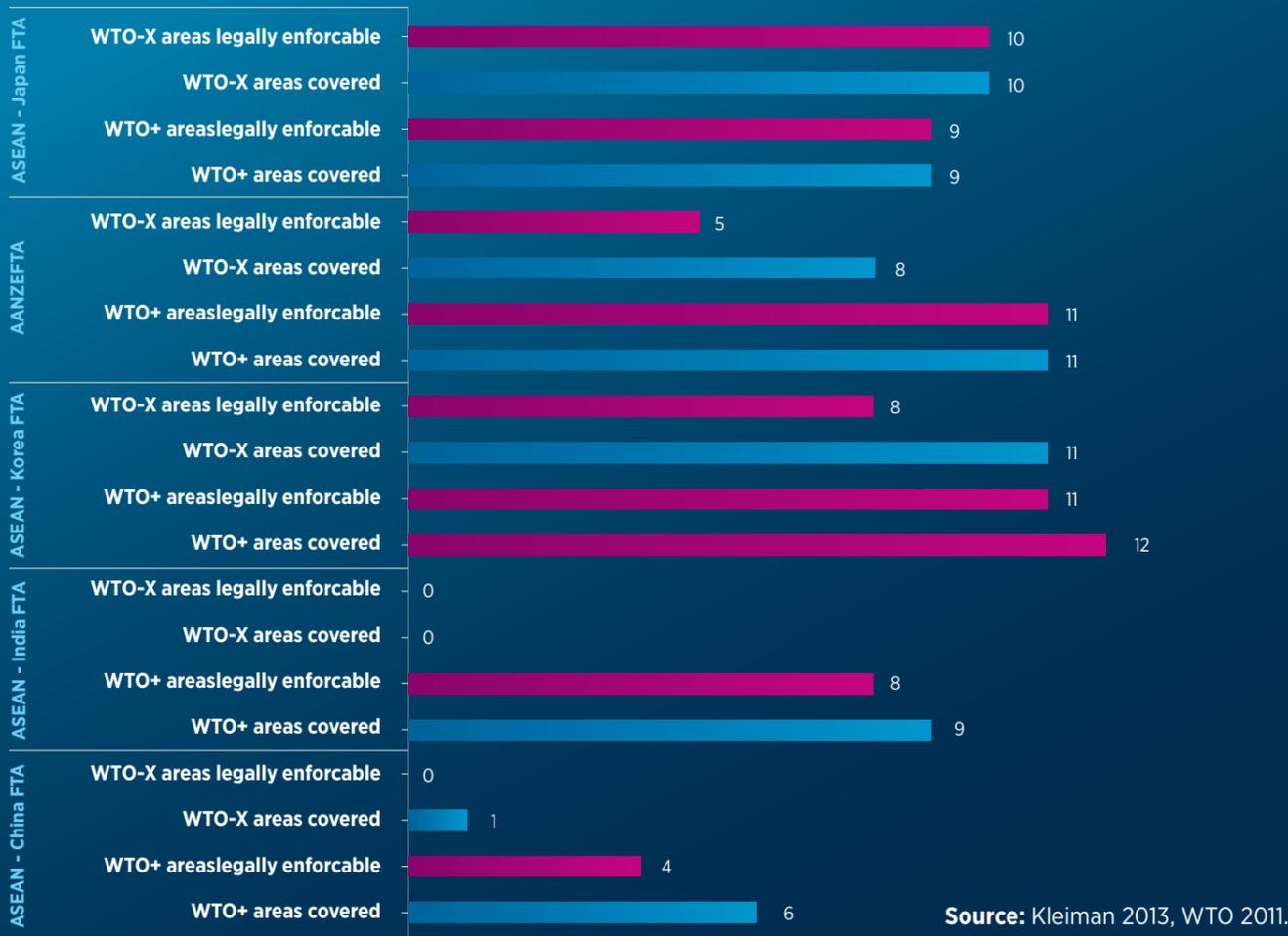
AGREEMENT	MILESTONE
ASEAN – Australia - New Zealand	FTA and economic cooperation agreement concluded in August 2008. Signed in February 2009. Entered into force on 1 January 2010.
ASEAN-Canada	ASEAN-Canada Economic Cooperation Agreement (ACECA), entered into force on 1 June 1982, ASEAN-Canada Enhanced Partnership Programme (ACEPP) announced in 2012.
ASEAN-China	Free Trade Area, signed in 2002, fully entered into force in 2010 (Agreement on Trade in Goods in 2005, Agreement on Trade in Services in 2007, Agreement on Investment in 2009).
ASEAN-EU	EEC-ASEAN political and economic dialogue fora since in 1972. Cooperation agreement signed in 1980. Asia-Europe Meeting (ASEM; EU and ASEAN, China, Japan and Korea) established in 1996. Initial initiatives to conclude a EU-ASEAN FTA in 2007. Bilateral efforts of EU to conclude FTA's and Partnership and Cooperation Agreements (PCA) with individual ASEAN member states. EU-FTA's signed with Singapore (2014, not ratified) and Vietnam (2015, not ratified). EU proposed in 2015 to enhance partnership with group of ASEAN.
ASEAN-India	ASEAN-India Framework Agreement on Comprehensive Economic Cooperation signed in 2003. Free Trade Agreement signed in 2009 and entered into force in 2011.
ASEAN-Japan	Agreement on comprehensive economic partnership between ASEAN and Japan signed in 2003 and fully entered into force in 2009. Japan is also member of the group of ASEAN plus Three.
ASEAN-Republic of Korea	Framework Agreement on Comprehensive Economic Cooperation signed in 2005. FTA formed by additional agreements on trade in goods (2007), trade in Services (2009), and investment (2009).
ASEAN-Russia	ASEAN-Russia Dialogue Partnership since 1996. Trade and Investment Cooperation Roadmap endorsed in 2012.
ASEAN-US	Efforts to intensify ASEAN-United States trade and investment relationship by launching the US-ASEAN Expanded Economic Engagement (E3) initiative officially announced in November 2012. E3 talks focus on: joint investment principles, joint information and communications technology principles, trade facilitation, advancing specific standards development and practices, activities to encourage open and transparent business environments for small and medium-sized enterprises (SMEs), and initiatives on trade and the environment.
ASEAN plus Three	Forum coordinating of co-operation between ASEAN and China, Japan and South Korea, set up in 1997. Focus is put on cooperation on energy, transport, and information and communications technology.
RCEP	Proposed FTA between ASEAN and Australia, China, India, Japan, South Korea and New Zealand. Negotiations launched in 2012.

Source: EU Commission, ASEAN, USTR.

Although ASEAN+1 PTA's have been concluded with major economies, substantial differences in their scope and depth reflect the heterogeneity of policy preferences of individual ASEAN member states (Kleiman 2013). On the one hand, ASEAN's FTA's with developed economies, i.e. Korea, Japan, Australia and New Zealand, generally follow the recent trend towards a more extensive coverage of WTO+ and WTO-X disciplines (see Section 2.2, Table 1). Coverage of WTO+ and WTO-X provisions is also a feature of all six FTA's that

individual ASEAN countries have concluded with Japan (Malaysia, 2004; the Philippines, 2006; Indonesia, 2007; Thailand, 2007; Brunei, 2007; Vietnam, 2008). In contrast, ASEAN's FTA's with China and India are 'free trade light' agreements as they primarily cover tariffs. Also, only six WTO+ areas are covered, of which four are enforceable. Investment is the only WTO-X area that is covered in the ASEAN-China FTA, but it is not legally enforceable. ASEAN's FTA with India does not at all cover WTO-X areas (see Figure 13).

Figure 13 WTO+ and WTO-X policy area coverage in ASEAN+1 FTA's



ASEAN's collective trade agreements differ from those that have been negotiated individually. As concerns the ASEAN-Japan FTA, for example, there are five policy areas in which the collective agreement does not provide any disciplines. In contrast, some or all of Japan's agreements with individual ASEAN member states provide substantive and enforceable rules that are not expressly excluded from dispute settlement. These policy areas are export taxes (part of the Japan-Singapore FTA), state enterprises (covered in Japan's FTA's with Singapore, the Philippines, and Vietnam), state aid (covered in the Japan-Vietnam FTA), public procurement (covered in Japan's FTA's with

Indonesia and Thailand), and provisions related to the WTO TRIPS agreement (covered by Japan's FTA's with Indonesia, Malaysia, the Philippines, Singapore, Thailand, and Vietnam). WTO-X coverage shows similar patterns. Although the ASEAN-Japan FTA covers competition policy, it is expressly excluded from its dispute settlement provisions. In the Japan-Indonesia FTA, competition policy is not excluded from recourse to dispute settlement. Similarly, in the ASEAN-Japan IPR is not subject to dispute settlement, while it is not exempted from dispute settlement in Japan's agreements with Malaysia, the Philippines, Thailand, and Vietnam.



4.2 THE ASEAN-AUSTRALIA-NEW ZEALAND FTA

Australia and New Zealand have managed to sign the most ambitious FTA with the ASEAN bloc (AANZFTA). The agreement came into force in 2010. On goods, the agreement phases out import tariffs on nearly 96 per cent of tariff lines, and 99-100 of trade flows. Its provisions also include flexible and simplified rules of origin. On services, the AANZFTA liberalises higher education services. It further includes commitments to facilitate the movement of business people in the ASEAN region and rules for telecommunication services aiming at increasing transparency, ensuring national treatment, and restricting anti-competitive practices. As concerns trade facilitation, the agreement includes provisions aiming at more efficient customs procedures. The agreement also includes commitments on electronic commerce, intellectual property and competition policy. Investment

clauses including ISDS seek to provide for the protection to the foreign investors.

AANZFTA goes beyond the coverage of WTP+ and WTO-X measures in most other ASEAN trade agreements and it contains horizontal commitments on domestic regulations. Contrary to all other ASEAN FTA's that employ general cooperation clauses, the AANZFTA mandates cooperation in specific policy areas. The agreement sets up cooperation bodies on trade facilitation. Dialogue and cooperation was also agreed on SPS measures, technical standards and regulations, and conformity assessment procedures. In addition, AANZ countries have created a platform that facilitates the negotiation for further mutual recognition agreements. A permanent 'Economic Cooperation Work Program' covers projects in nine subject areas including ROO's, intellectual property, services and investment.



4.3 ASEAN AND THE TRANSPACIFIC PARTNERSHIP AGREEMENT (TPP)

The Trans-Pacific Partnership Agreement (TPP) is a proposed FTA between 12 Asia-Pacific countries. After 7 years of negotiations, the agreement was signed in February 2016 (for an overview, see CRS 2016). Still it has not entered into force since most member states have to complete lengthy ratification processes. TPP, so far, involves four ASEAN countries (Brunei, Malaysia, Vietnam and Singapore) and 8 non-ASEAN countries (the US, Japan, Australia, New Zealand, Canada, Mexico, Chile and Peru). Due to its coverage, TPP is frequently argued to be the most ambitious free trade agreement that was ever signed. Participating countries sought to liberalise trade and investment and to establish WTO+ and WTO-X disciplines in the region. TPP consists of 30 chapters ranging from the elimination of tariffs, NTB's and agricultural quotas to WTO-X rules on various trade-related subjects, such as IPR's, competition policy, labour and environmental standards.

For goods and commodity trade, approximately 99 per cent of tariff lines will be duty-free. However, while some tariffs would be removed immediately, others would be phased out over long periods, up to a maximum of 30 years. TPP rules also aim at reducing and eliminating NTB's in order to guarantee that foreign and domestic

companies are treated equally. The agreement includes provisions in several chapters that explicitly seek to enhance the transparency in regulatory processes. These processes include notice and public comment periods on proposed regulations. Enhanced cooperation is envisaged for regulatory agencies and standard-setting processes in order to achieve greater levels of regulatory coherence in SPS measures and technical barriers to trade. TPP also includes commitments on trade facilitation, such as provisions aiming at increasing the efficiency of border controls of goods, the handling of express shipments and electronic processing of customs documentation.

TPP includes provisions that address services in a number of chapters and annexes. The provisions cover market access for trade in financial, professional, e-commerce, telecommunications and express delivery services. On e-commerce, TPP partners agreed on the non-discriminatory treatment of digital products and rules preventing governments from blocking cross-border flows of data over the Internet. National and MFN treatment is formalised for financial service providers and telecommunication services. A chapter on the recognition of professional qualifications addresses trade in professional services.

As concerns government procurement, TPP provides rules governing open tender processes and obligations on transparency. Some countries, however, are excluded from the provisions, while others are granted transitional periods. TPP also includes a chapter on IPR's. IPR rules have posed a significant challenge until the very end of the negotiations, particularly because of developing countries' concerns about access to cheap medicine. The agreement includes rules on patents, copyrights, trademarks, and trade secrets, but long transition periods have been granted for most developing countries.

The protection of foreign investors is ensured by provisions that are based on the model US' model treaty for bilateral investment. The investment chapter includes measures that should ensure non-discriminatory treatment. It also includes rules on expropriation and provisions on ISDS, which allow private foreign investors to seek international arbitration against host governments to settle claims based on discriminatory treatment and expropriation. At the same time, TPP reaffirms a country's right to regulate in the public interest, e.g. policies focussing on financial stability and the protection public health, consumer and environmental safety.

Regarding competition policy, TPP parties agreed to adopt or maintain national competition laws that prohibit monopolistic regulations and anticompetitive business practices, and requirements to apply these laws to all

commercial activities in all member states' territories. In addition, TPP includes an innovative chapter on SOE's to address potential commercial disadvantages to private sector firms from state-supported competitors that receive preferential treatment. For ASEAN countries with substantial public sector engagement in domestic markets, such as Malaysia and Vietnam, these provisions may facilitate economic reforms.

TPP is a living agreement that is based on dialogue on regulatory cooperation and long transition periods for the enforcement of horizontal and sector-specific obligations. It will be open to future members and may become a vehicle to advance intra-Asian economic integration. TPP may even evolve to a wider Asia-Pacific FTA. Interested countries would have to negotiate with all incumbents on a bilateral basis before they can accede. So far, most ASEAN members were reluctant to join TPP negotiations because of the required concessions on IPR, SOE and competition policies. As concerns intra-ASEAN economic integration, Chen (2015) argues that the absence of six ASEAN member states from TPP talks may pose a threat to ASEAN's efforts to create an integrated ASEAN market. For a willing coalition of ASEAN countries, however, the TPP may also present an alternative to less comprehensive models of FTA's such as the Regional Comprehensive Economic Partnership (RCEP).

4.4 ASEAN AND THE REGIONAL COMPREHENSIVE ECONOMIC PARTNERSHIP (RCEP)

A striking feature of ASEAN's trade policy is its 'noodle bowl' of overlapping bilateral and regional FTA's (see Table 6). Along with TPP, the Regional Comprehensive Economic Partnership (RCEP) is a possible pathway to unify existing FTA's in order to create one of the world's largest free trade areas in terms of population and GDP. RCEP encompasses the ten ASEAN member states and the six states with which ASEAN has existing FTA's (Australia, China, India, Japan, South Korea and New Zealand). The agreement was proposed in 2012 and negotiations began in early 2013. Measured in current terms, RCEP accounts for 47 per cent and 28 per cent of world population and world GDP respectively. The stated objective of RCEP members is to enhance the integration of production processes across the region (MTIS 2012). RCEP's members' vision is to arrive at a modern, comprehensive, high-quality and mutually beneficial economic partnership agreement. The negotiations not only cover trade in goods, they also include services,

investment, economic and technical cooperation, intellectual property, and competition policy.

10 rounds of negotiations have taken place so far. The formal ambitions are high. Yet, according to official announcements, RCEP will eliminate tariffs immediately for only 65 per cent of trade in goods, which corresponds to about 8,000 to 9,000 goods items. A phase-out period of 10 years is envisaged for 20 per cent of trade in goods. Tariffs on sensitive products, which account for 15 per cent of trade, will be left to future negotiations. As concerns the liberalisation of services, RCEP partners envisage agreeing on ASEAN's existing AFAS commitments, which are less comprehensive than many of ASEAN members' bilateral FTA's (see Section 3). Besides these measures, RCEP countries agreed to have discussions on IPR's, competition policies, and e-commerce (for a discussion, see Praturangkrai 2016). Recently, the deadline for the end of negotiations was extended from December 2015 to the end of 2016.

5

EU-ASEAN ECONOMIC INTEGRATION

Both the EU and ASEAN are two of the world's major regional integration initiatives. Both entities share the same goals: to maintain peace and to enhance political stability and prosperity. The EU and ASEAN have a long-standing political relationship. Informal dialogue relations between the then EEC and ASEAN date back to 1972. The first 'formal' dialogue between EEC and ASEAN was established in 1977. The first ASEAN-EEC Cooperation Agreement was signed in 1980. It opened up a channel for the exchange of information and requests that emerged in EU assistance in several development projects in ASEAN. The region-to-region relationship grew steadily since then. Repeated dialogues were held on political, security and human rights issues, while economic and trade matters took the stage over the time.

5.1 FROM DIALOGUE TO CAPACITY BUILDING AND TECHNICAL ASSISTANCE

Between 1994 and 1996, a more liberal economic agenda emerged in EU-ASEAN relations, with calls to focus on the mutual benefits of increased trade and investments between ASEAN and a revitalised Single Market of the European Union (Hwee 2013). Due to human rights concerns, the EU's appetite for stronger economic cooperation with ASEAN moderated the Myanmar's accession to ASEAN. In 2003, the EU moved towards a more pragmatic approach again. With its 'new partnership with South East Asia's initiative, the EU aimed at strengthening bilateral cooperation in issues concerning human rights, good governance, justice and home affairs issues, and the fight against terrorism.

In addition, the Commission proposed the Trans-Regional EU-ASEAN Trade Initiative (TREATI) in 2003 to enhance cooperation on trade, investment and regulatory issues. Since the creation of the TREATI, a number of seminars, workshops and meetings have been held in Brussels and different ASEAN countries. TREATI undertakings originally focused on the facilitation of trade and investment, the protection of IPR's, industrial product standards and TBT's. Following initiatives focused on areas identified by ASEAN as essential to its own regional integration plan including agriculture and fisheries, but also electronics, wood-based industries and cross-sector cooperation on trade facilitation and investment.

The Nuremberg Declaration, which was adopted in 2007, still guides EU-ASEAN relations on a 'EU-ASEAN Enhanced Partnership'. The foreign ministers of ASEAN and the EU adopted the Nuremberg Declaration to further strengthen ASEAN's institutional capacity and institution building processes through exchange of information and practical experience. In the last few years, the relationship has deepened and intensified. In 2012, ASEAN and the EU adopted, in Brunei, the Bandar Seri Begawan Plan of Action (2013-2017) that includes a broad agenda of 90 action points covering political security, socio-cultural cooperation and economic cooperation. For economic cooperation, the partners agreed to deepen regular consultations, private sector dialogue and private sector engagement.

The parties further agreed on the implementation of the ASEAN Regional Integration Support Programme by the EU (ARISE) to support intra-ASEAN economic integration efforts. The EU's ARISE programme is a technical co-operation facility with the purpose of supporting the implementation of key regional integration initiatives to build the ASEAN single market and production base. ARISE includes (1) policy dialogues on connectivity, the management of regional integration, and economic integration monitoring, (2) technical support to the realisation of the single market for goods, a further harmonisation of standards and transport and customs procedures, and (3) measures to support capacity building under the auspices of the ASEAN Secretariat.



Table 8 Milestones in EU-ASEAN economic cooperation

YEAR	MILESTONE
1972	EEC is the first to establish informal relations with ASEAN: informal dialogue primarily aiming at gaining access to European markets for most ASEAN members' exports.
1977	First 'formal' dialogue between EEC and ASEAN the 10th ASEAN Ministerial Meeting (of Foreign Ministers).
1978	First EU-ASEAN Ministerial Meeting in Brussels, which later became a regular meeting.
1980	First ASEAN-EC Cooperation Agreement was signed in Kuala Lumpur in 1980 with a focus on economic cooperation and development.
1994	The 11th EU/ASEAN Ministerial Meeting held in Karlsruhe in September 1994 created an Eminent Person's Group charged with making concrete proposals for the enhancement of EU/ASEAN relations.
1996	EU and ASEAN+3 (China, Japan and Korea) establish the Asia-Europe Meeting (ASEM), which focused on enhanced cooperation between the then 15 members of the EU, the then 7 members of ASEAN, and the individual countries of China, Japan, and South Korea.
2003	The EU Commission launches its Policy Paper 'A New Partnership with South East Asia', which focused on bilateral cooperation in issues concerning human rights, good governance, justice and home affairs issues, and the fight against terrorism. In addition the Commission proposed the Trans-Regional EU-ASEAN Trade Initiative (TREATI) to enhance cooperation on trade, investment and regulatory issues.
2007	The foreign ministers of ASEAN and the EU adopted the Nuremberg Declaration on a EU-ASEAN Enhanced Partnership to strengthen ASEAN capacity and institution building processes through exchange of information and experience. A Plan of Action to implement the Nuremberg Declaration is adopted at the 1st ASEAN- EU Commemorative Summit in Singapore in November 2007.
2007	ASEAN and the EU began negotiating a FTA. Negotiations were put on hold in 2009 to give way to a bilateral format of negotiation.
2009	After the ASEAN charter entered into force in 2008, the EU and its member states began to appoint ambassadors as representatives to ASEAN.
2012	April: foreign ministers of ASEAN and the EU adopt the Bandar Seri Begawan Plan of Action 2013-2017. The working plan covers a wide range of political (security) and economic areas. The partners agree to deepen regular consultations, private sector dialogue and B2B engagement. The partners further agreed on the implementation of the ASEAN Regional Integration Support Programme by the EU (ARISE) to support intra-ASEAN economic integration efforts and to encourage the European Investment Bank (EIB) to invest in ASEAN member states.
2014	The EU and Singapore completed the negotiations for a comprehensive FTA. The FTA is not ratified yet.
2015	The EU adopted a Joint Communication: 'The EU and ASEAN: a partnership with a strategic purpose', which calls for taking trade relations with ASEAN to a different level and working towards an ambitious region-to-region FTA.
2015	The EU and Vietnam completed the negotiations for a comprehensive FTA. The FTA is not ratified yet.

Source: EU, ASEAN.

The EU has been the largest contributor to the ASEAN Secretariat and recently increased its financial support to 170m EUR until 2020 (on top of a 2bn EUR in bilateral assistance facility targeted at less developed ASEAN countries). In May 2015, the EU adopted its latest Joint Communication on ASEAN: 'The EU and

ASEAN: a partnership with a strategic purpose' (EU Commission 2015c). The new Communication sets out a number of undertakings in sectoral cooperation, rules-based community building and emphasises the need to strengthen trade and investment with and within ASEAN.



5.2 THE EVOLUTION OF EU-ASEAN DIALOGUE ON ECONOMIC INTEGRATION

The EU holds contractual agreements with every ASEAN member state. The EU-ASEAN Cooperation Agreement of 1980 formally covers cooperation of the EU and individual ASEAN member states. In addition, some ASEAN countries have either negotiated or concluded Partnership and Cooperation Agreements (PCA's). For an overview of milestones of bilateral economic integration, see Table 9.

In 2009, the EU launched FTA negotiations with the ASEAN bloc collectively. The talks were paused in March 2009 for various reasons. According to the EU Commission, progress in these negotiations was slow and both sides agreed to suspend the negotiations (EU Commission 2009). Hwee (2013, p. 3), on the other hand, observed that FTA talks failed because of the 'great diversities within ASEAN itself despite all the talks about economic community building'. Also, ASEAN 'felt that the EU was more focused on China, and did not fully appreciate the role played by ASEAN in the various emerging regional architectures'. Others point to the political challenges in

Myanmar. Marchi (2014), for example, argues that the EU-ASEAN FTA failed to materialise partially due to the political instability in Myanmar.

In December 2009, the European Council agreed to pursue bilateral FTA's with individual ASEAN countries that 'show interest in negotiating comprehensive FTA's bilaterally' (EU Commission 2009). In September 2010, the European Council authorised the Commission to start negotiations for FTA with Singapore (2010) and thereafter with Malaysia (2010), Vietnam (2012) and Thailand (2013). Negotiations of a comprehensive trade and investment agreement with Singapore were concluded in October 2014. The EU-Vietnam FTA was concluded in December 2015. Both agreements are not yet ratified.

On 25th April 2015, ASEAN economic ministers and the EU exchanged views on EU-ASEAN trade and investment relation issues. Both parties also reaffirmed the possibility of resuming negotiations of an ASEAN-EU Free Trade Agreement in the near future.

Table 9 EU economic cooperation with ASEAN member states

COUNTRY	SCOPE OF ECONOMIC COOPERATION
Brunei	Part of EU-ASEAN Cooperation Agreement of 1980. Brunei joined ASEAN in 1984.
Cambodia	Part of EU-ASEAN Cooperation Agreement of 1980. Cambodia joined ASEAN in 1999. The EU works closely with Cambodia under the framework of the EU-ASEAN Cooperation Agreement to ensure an effective environment for trade and investment relations. Cambodia is a member of WTO since 2004.
Indonesia	Part of EU-ASEAN Cooperation Agreement of 1980. The EU and Indonesia signed a Partnership Cooperation Agreement in 2009.
Lao	Part of EU-ASEAN Cooperation Agreement of 1980. Lao joined ASEAN in 1997. The EU works closely with Lao under the framework of the EU-ASEAN Cooperation Agreement to ensure an effective environment for trade and investment relations.
Malaysia	Part of EU-ASEAN Cooperation Agreement of 1980. FTA negotiations launched in 2010.
Myanmar	Part of EU-ASEAN Cooperation Agreement of 1980. Myanmar joined ASEAN in 1997. Bilateral relations framed by EU Council Conclusions of 22 April 2013, EU Council Decision of 22 April 2013 as well as by the Comprehensive Framework of 22 July 2013 for the European Union's policy and support to Myanmar/Burma.
Philippines	Part of EU-ASEAN Cooperation Agreement of 1980.
Singapore	Part of EU-ASEAN Cooperation Agreement of 1980. PCA negotiations were launched in 2004. The EU and Singapore completed the negotiations for a comprehensive free trade agreement on 17 October 2014. The final agreement needs to be formally approved by the European Commission and then agreed upon by the Council of Ministers and ratified by the European Parliament. An opinion of the Court of Justice will clarify on the EU competence to sign and ratify the FTA with Singapore.
Thailand	Part of EU-ASEAN Cooperation Agreement of 1980. PCA negotiations were launched in 2004 and signed in February 2013. Negotiations for a EU-Thailand FTA formally launched on 6 March 2013.
Vietnam	Part of EU-ASEAN Cooperation Agreement of 1980. Vietnam joined ASEAN in 1995. On 2 December 2015, the EU and Vietnam concluded the negotiations for a EU-Vietnam FTA.

Source: EU Commission.

5.3 CURRENT PATTERNS IN EU-ASEAN TRADE AND INVESTMENT

ASEAN, as a whole, is the EU's 3rd largest trading partner outside Europe, after the US and China. Total EU-ASEAN trade in goods and services amounts to more than 250bn EUR representing 6.2 per cent of total EU external trade. Similarly, the EU is ASEAN's 3rd largest trading partner after China and Japan, accounting for around 13 per cent of total ASEAN trade.

trade volumes sharply declined in 2009 as a result of the global economic and financial crisis, growth rates significantly picked up again attesting a robust trend in ASEAN's economic growth rates (for the evolution of trade in goods, see Figure 14). For trade in goods, ASEAN is the EU's 4th largest trading partner, after the US, China and Switzerland. According to 2014 data, ASEAN accounts for 11 per cent of the EU's total trade in goods. Total EU goods exports to ASEAN amounted to 79bn EUR, while total EU goods imports from ASEAN amounted to 101bn EUR. Accordingly, the EU has a deficit of 23bn EUR in trade in goods (Figure 15).

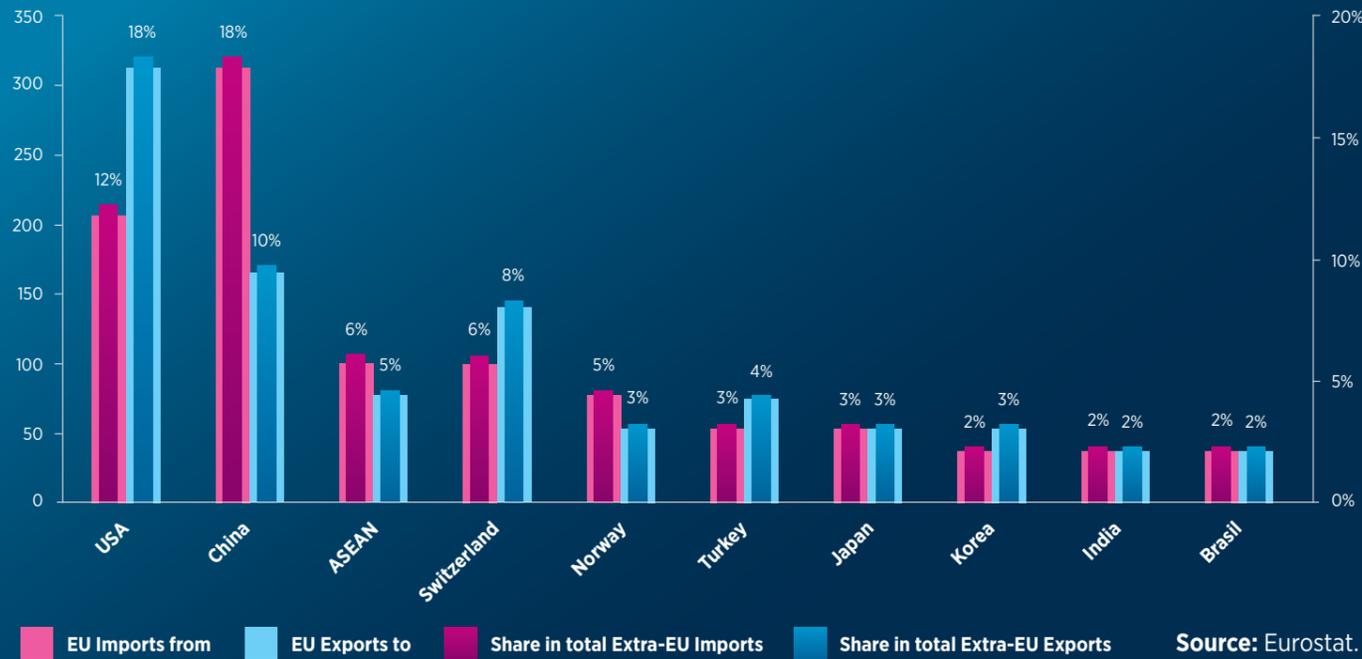
5.3.1. PATTERNS IN TRADE IN GOODS

EU-ASEAN trade in goods and services has been rising constantly over the last decade. Although bilateral

Figure 14 Development EU-ASEAN trade in goods, 2003 to 2014



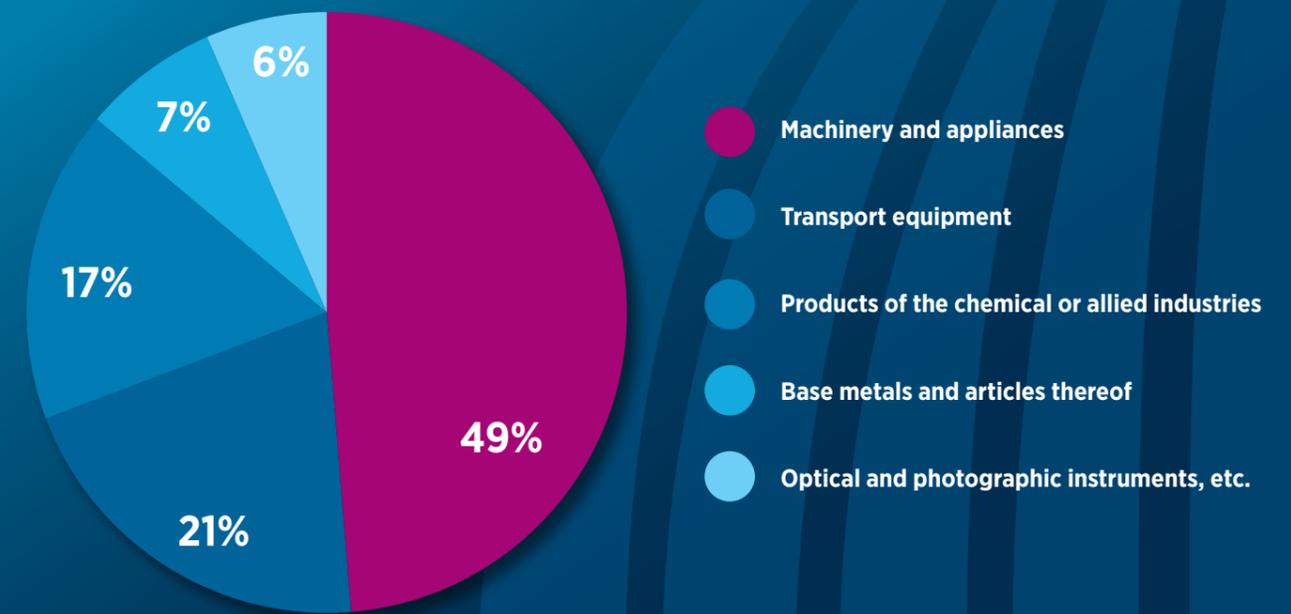
Figure 15 EU trade in goods with major economies, in EUR, 2014



Machinery and transport equipment and chemical products are major export products of both regions (Figure 16 and Figure 17). The EU's top 5 exports products to ASEAN are machinery equipment (28.1bn EUR), transport equipment (11.9bn EUR), chemical products (9.7bn EUR), optical and photographic

instruments (3.8bn EUR), and metals products (0.4bn EUR). The ASEAN's top 5 export products to the EU are machinery equipment (40bn EUR), chemical products (8.1bn EUR), textiles (8bn EUR), plastics and rubber products (5.3bn EUR) and animal and vegetable oils and fats (4.9bn EUR).

Figure 17 Shares of Top 5 ASEAN export products to EU



As concerns individual ASEAN member states, Singapore is the EU's largest trading partner in goods, accounting for 45bn EUR followed by Malaysia (33.6bn EUR), Thailand (31bn EUR), Vietnam (28.4bn EUR),

Indonesia (24bn EUR), and the Philippines (12.5bn EUR). Cambodia (3.3bn EUR), Myanmar 0.9bn EUR, Brunei (478m EUR) and Lao (407m EUR) show comparatively low trade volumes vis-à-vis the EU (Figure 18).

Figure 16 Shares of Top 5 ASEAN export products to EU

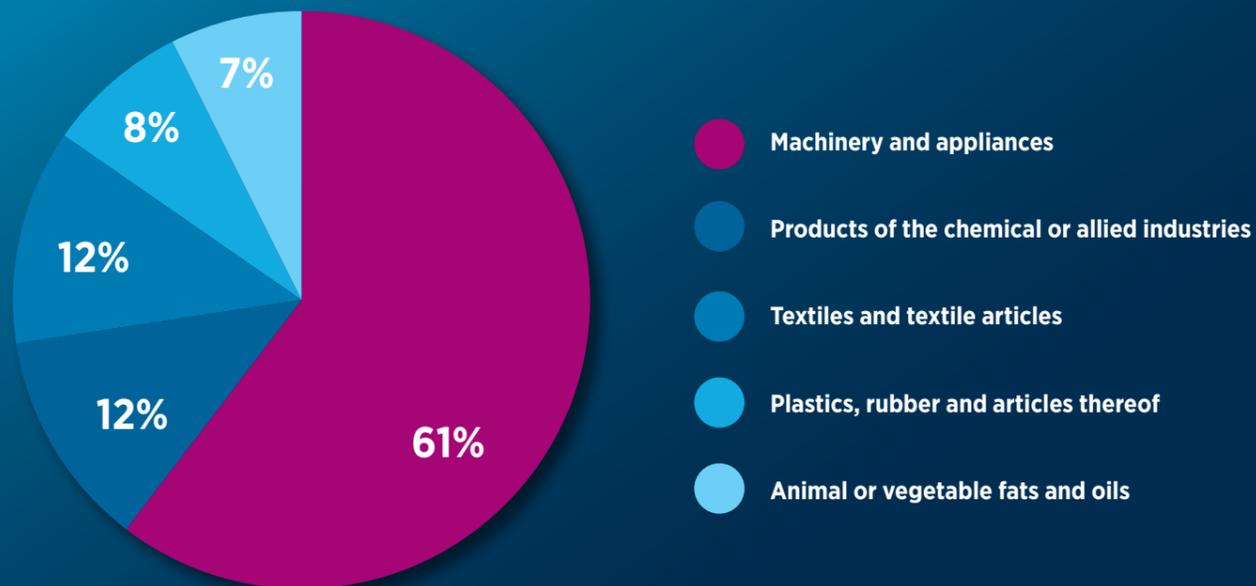
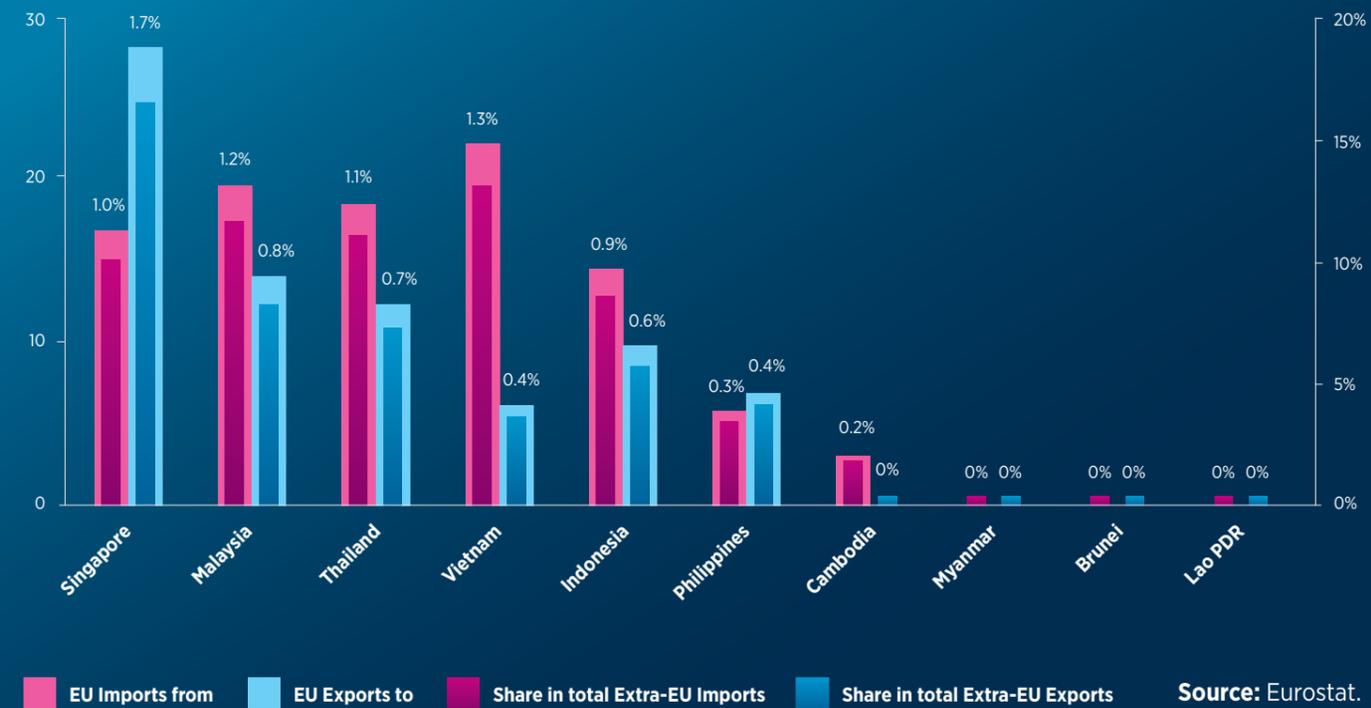


Figure 18 EU trade in goods with individual ASEAN member states



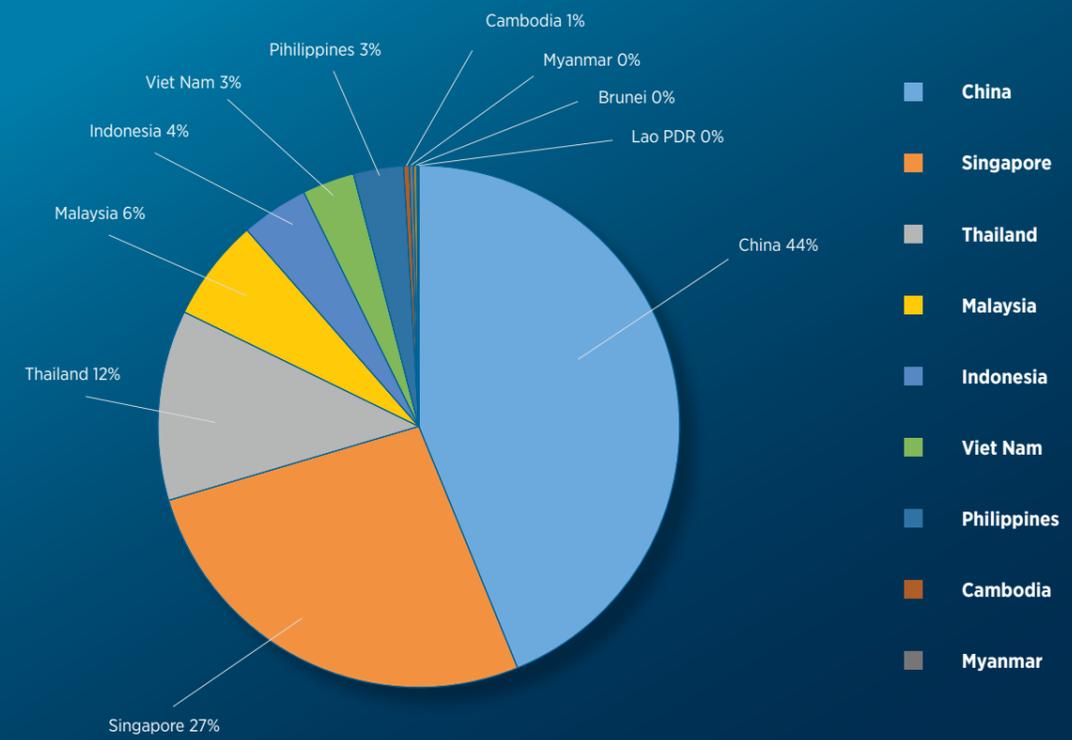
5.3.2. PATTERNS IN TRADE IN SERVICES

EU trade in services with ASEAN countries accounts for about 40 per cent of total EU-ASEAN trade. Between 2004 and 2012, EU-ASEAN services trade increased by 122 per cent. According to latest statistics for ASEAN countries, in 2012, the EU had a surplus of 5.5bn USD with regards to trade in services. EU

services imports amounted to almost 33bn USD, while total EU services exports amounted to 38bn USD. For services trade, ASEAN, as a whole, is even more economically important to the EU than China. Although ASEAN represents less than half of China's population, still EU trade in services with ASEAN countries exceeds EU-China services trade by 12 per cent (see Figure 19 and Figure 20).

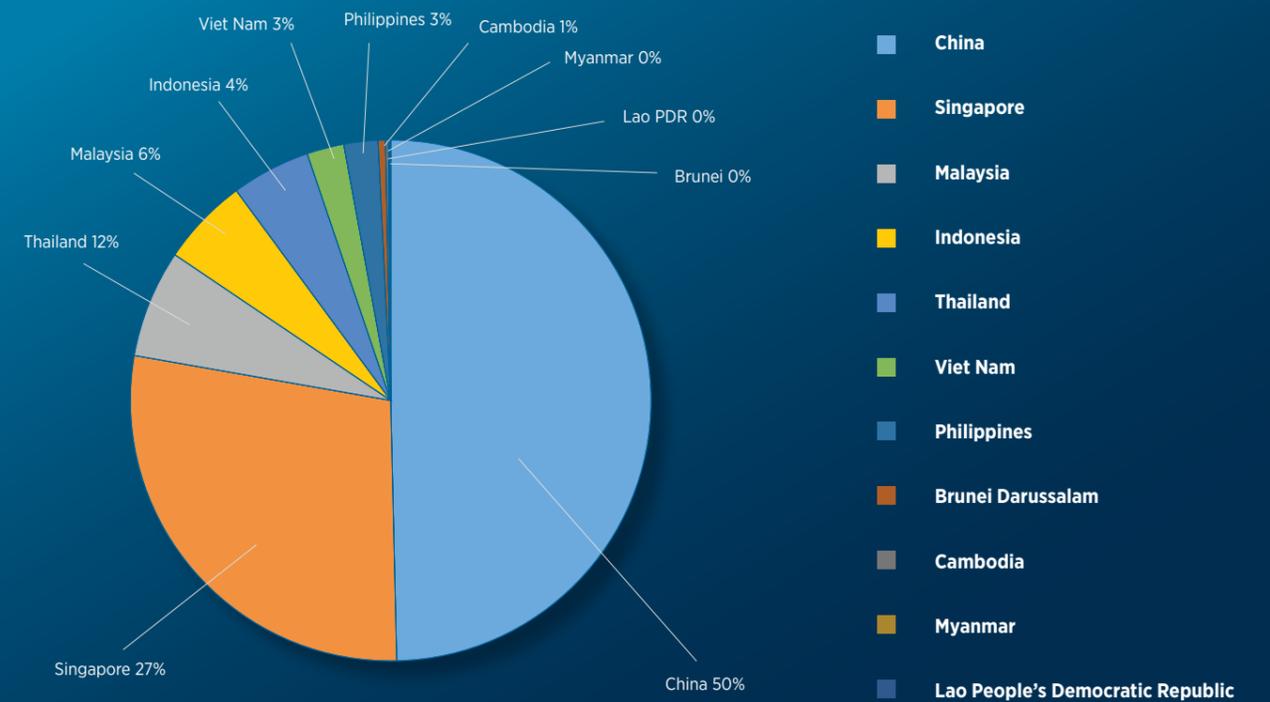


Figure 19 EU services imports from individual ASEAN member states and China, 2012



Source: OECD.

Figure 20 EU services exports to individual ASEAN member states and China, 2012



Source: OECD.

The bulk of services trade between the EU and ASEAN comprises of business and professional services on the one hand, and transport services on the other hand (Figure 21). Singapore accounts for 51 per cent of total EU-ASEAN trade in services, most of it representing trade in (sea) transport services, business and financial services, the collection of

license fees and royalties (EU Commission 2013). Although Singapore is the most important services market in EU-ASEAN trade, services trade with all other ASEAN countries collectively still amounts to 50 per cent of EU-China trade in services, representing 17.3bn USD of EU services imports and 16.9bn USD in EU services exports (Figure 22).

Figure 21 Top 5 sectors of EU-ASEAN services trade, in EUR, 2004 vs. 2012

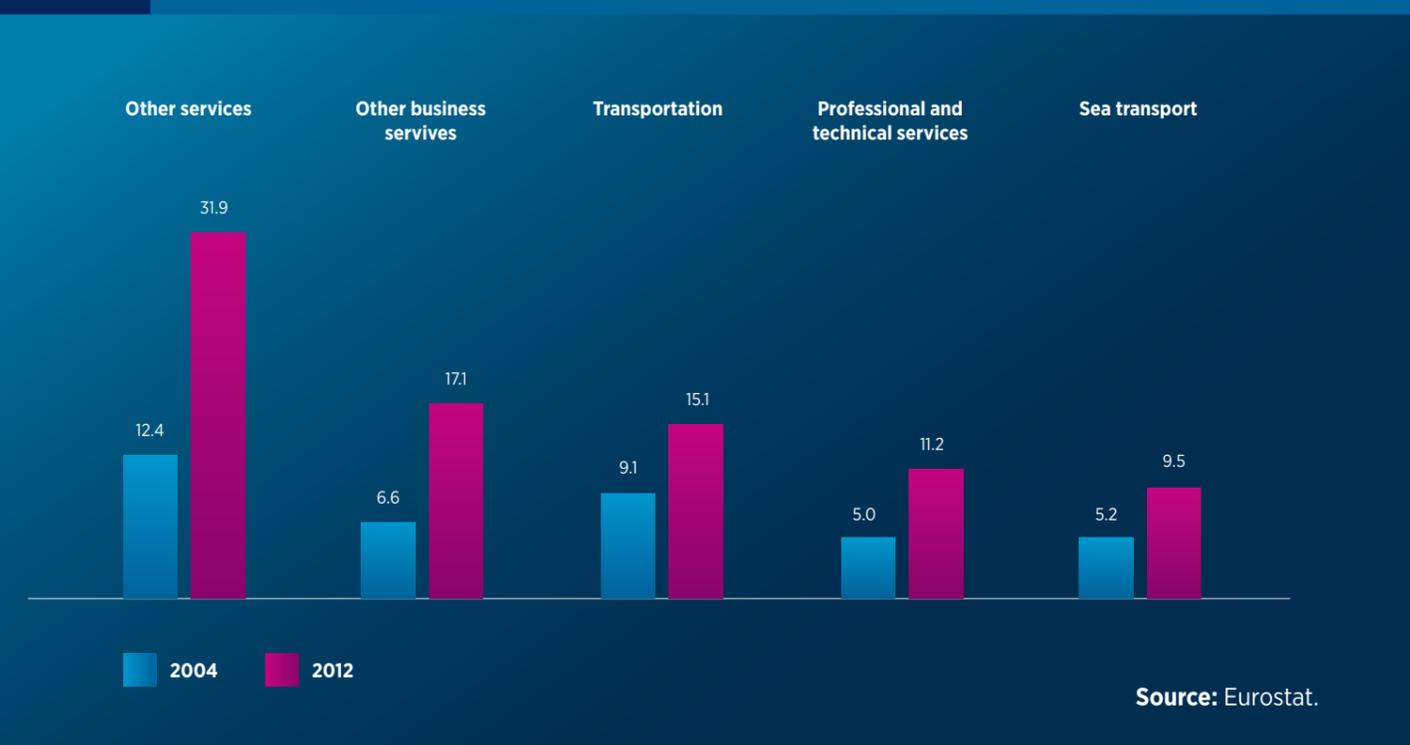
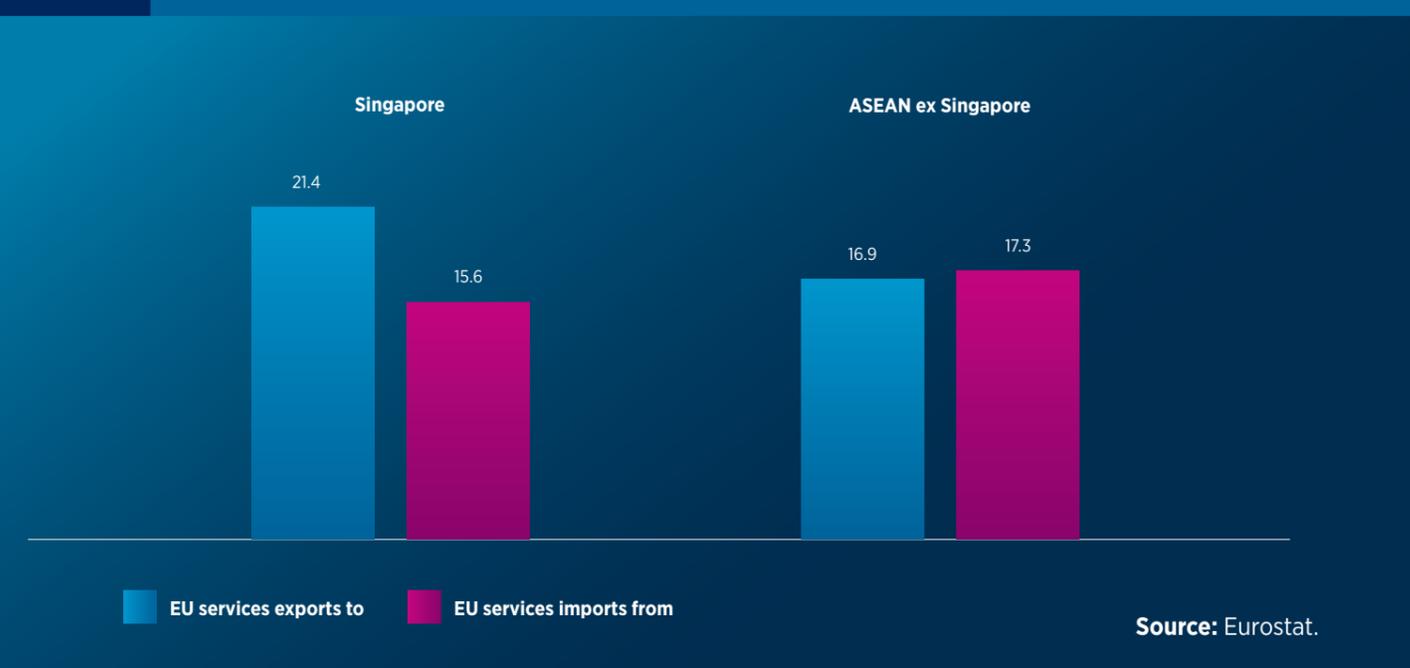


Figure 22 EU services trade with Singapore and ASEAN, in bn USD



Foreign investment in services sectors is often restricted by maximum foreign ownership thresholds (Mode 3 services trade, i.e. commercial presence of foreign services providers).

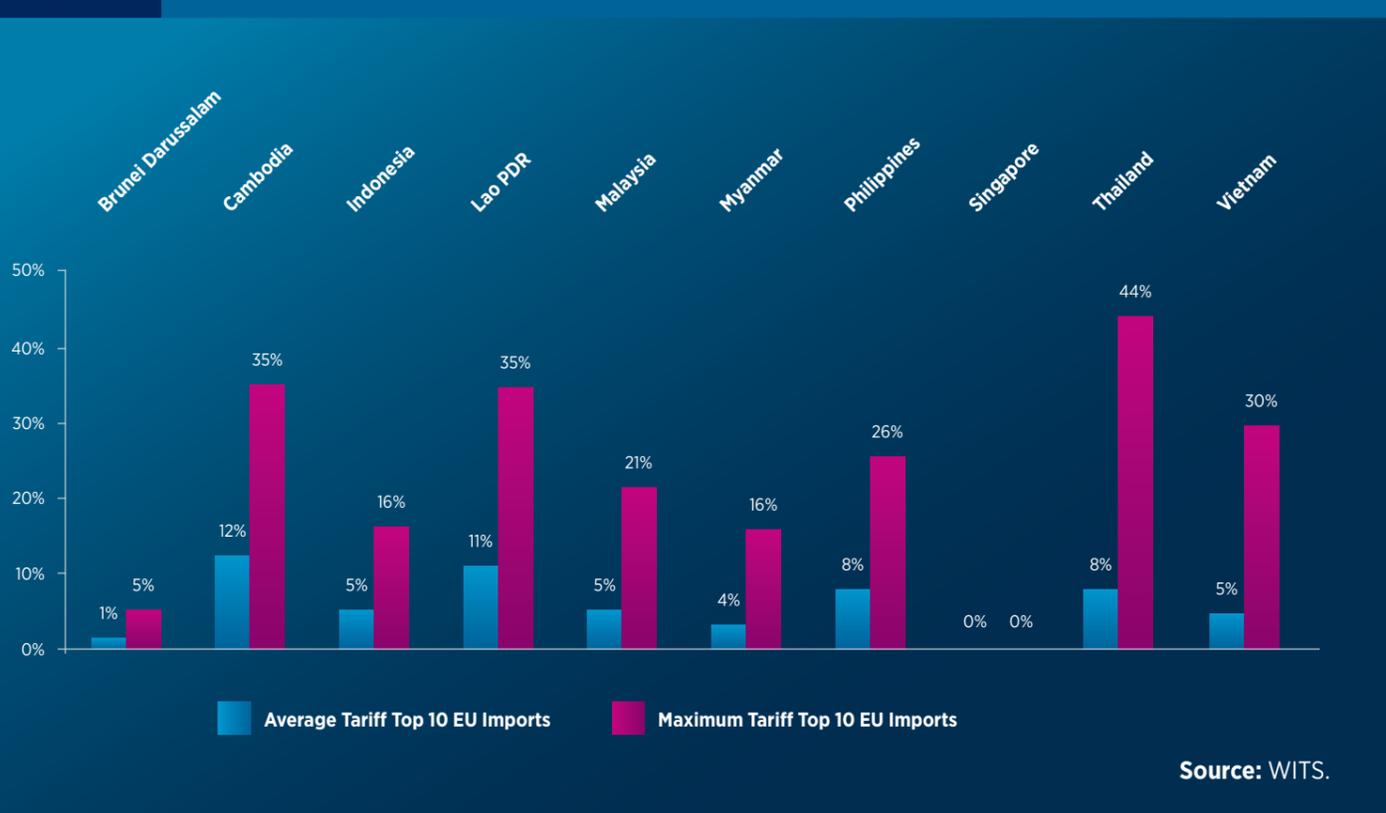
5.3.3. TARIFFS IN EU-ASEAN TRADE

The products traded between individual ASEAN member states broadly reflect their level of economic development. EU exports mainly comprise of knowledge- and capital-intensive products ranging from heavy and light manufacturing sectors, transport equipment and chemical products to pharmaceutical products (see Appendix I). Contrary to most OECD countries, the tariffs imposed by ASEAN member states on these products are still fairly high. Singapore is generally a free port and an open economy. More than 99 per cent of all imports into Singapore enter the country duty-free. While Singapore applies zero tariffs across the board of its Top 10 EU import product categories, tariffs imposed on EU imports by other ASEAN countries are still high. Figure 23 illustrates that average tariffs imposed

on the Top 10 EU imports are particularly high for Cambodia (12 per cent), Lao (11 per cent), the Philippines (8 per cent) and Thailand (8 per cent).

Peak tariffs among Top 10 EU imports categories are particularly high for Cambodia (motor vehicles), Indonesia (motor vehicles), Lao (beverages and spirits), Malaysia (motor vehicles, iron and steel), Myanmar (motor vehicles), the Philippines (meat products, motor vehicles), Thailand (motor vehicles) and Vietnam (motor vehicles). Tariff data also show that effectively applied tariffs for EU exports of motor vehicles to Thailand, Indonesia and Malaysia are higher than tariffs imposed on imports of motor vehicles from the US. For Myanmar, Cambodia, Lao, the Philippines and Brunei tariffs on imports of motor vehicles from the EU are somewhat lower than those for the US.

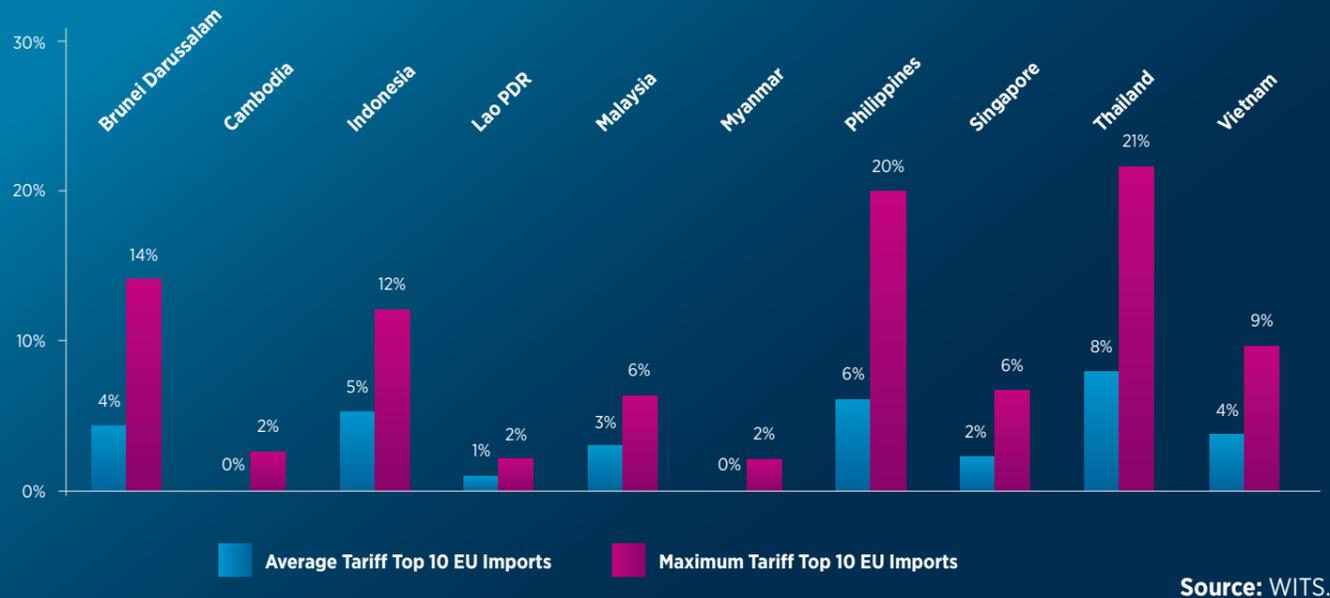
Figure 23 Average and peak tariffs of Top 10 ASEAN member states' imports from the EU



On the contrary, EU imports from ASEAN mainly comprise of relatively labour-intensive products such as agricultural commodities, textiles and light manufacturing (see Appendix II). Average EU import tariffs of Top 10 imports from individual ASEAN member states are generally lower than the average tariffs ASEAN member states impose on the EU's Top 10 exports (Figure 24). The same pattern applies for maximum applied tariff rates in the Top 10 export categories of individual ASEAN countries to the EU. EU applied tariffs

are particularly high for fishery imports from Brunei (14 per cent), textiles imports from Indonesia, Thailand and Vietnam (between 8 and 12 per cent), meat and food imports from the Philippines and Thailand (between 19 and 21 per cent). The data also reveal that EU applied tariffs differ substantially between countries and across product categories. EU applied tariffs are generally lower than US applied tariffs for imports from Cambodia, Myanmar and Vietnam and generally higher for imports from Malaysia, Singapore and Thailand.

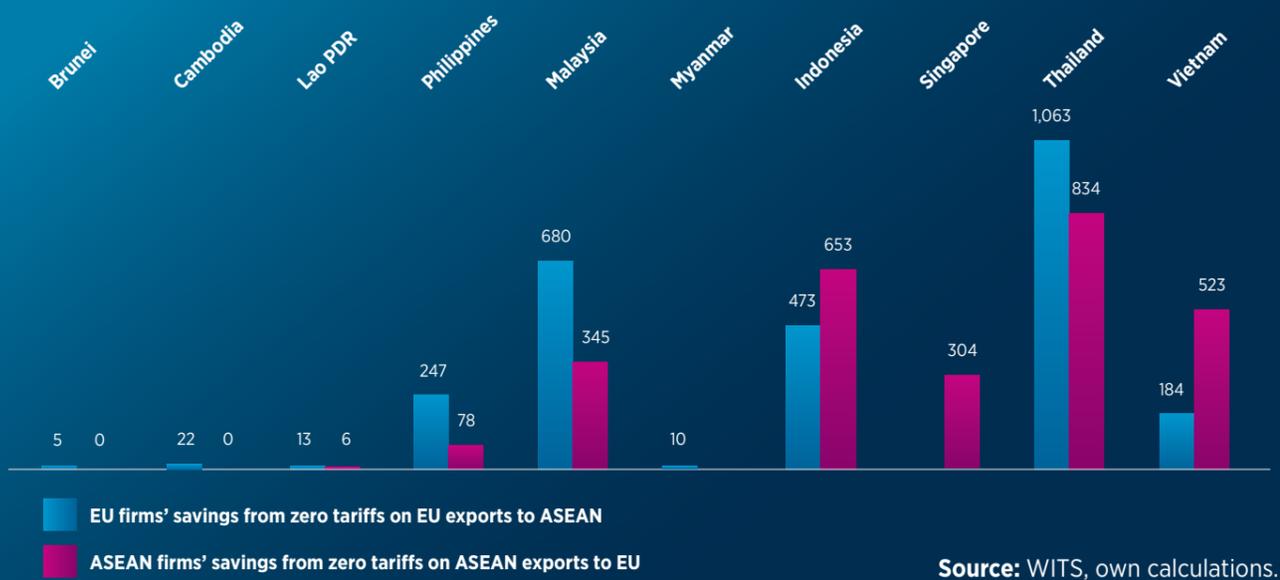
Figure 24 Average and peak tariffs of Top 10 EU imports from ASEAN member states



It is worth mentioning that a complete elimination of ASEAN member states' tariffs on Top 10 imports from the EU would amount to 2.70bn USD savings in tariff

payments. Similarly, complete elimination of EU tariffs on Top 10 imports from ASEAN member states would amount to 2.74bn USD savings in tariff payments (see Figure 25).

Figure 25 Savings in tariffs resulting from a full elimination of tariffs on Top 10 imports/exports, in mn USD



5.3.4. NTB'S IN EU-ASEAN TRADE

For EU businesses, NTB's per se and substantial heterogeneity in ASEAN members' NTB's represent a major obstacle for market access in ASEAN member states (see also Section 3.2). These measures include discriminatory practices imposed by governments that favour domestic over foreign producers or suppliers. For ASEAN in

particular, the EU-ASEAN Business Council recently warned that 'the proliferation of increasingly complex regulations with potentially discriminatory or protectionist intent is a growing concern that needs attention for the benefit of sustainable economic development. Many such regulations affect trade and market accessibility and deter foreign investments to the detriment of economic growth, consumer choice and innovation (EUABC 2015, p. 8).

Table 10 Non-tariff trade barriers in ASEAN member states

COUNTRY	ANTI-DUMPING		QUANTITATIVE RESTRICTIONS		SAFEGUARDS	SPS		TBT		TOTAL
	INITIATED	IN FORCE	IN FORCE	INITIATED	IN FORCE	INITIATED	IN FORCE	INITIATED	IN FORCE	
Singapore			135			36	17	28	11	227
Malaysia	8	19		2		27	6	205	6	273
Thailand	4	34	59	2	2	205	19	523	23	871
Vietnam				1	1	43	23	44	7	119
Indonesia	20	15		10	16	53	46	78	41	279
Philippines	1		10	4	7	119	147	242	1	531
Cambodia								2	1	3
Myanmar								1		1
Brunei						2	1	2		5
Lao PDR			12			1		1		14
TOTAL	33	68	216	19	26	486	259	1,126	90	2,323

Source: WTO, WTO, Integrated Trade Intelligence Portal.

NTB's applied by ASEAN member states often reflect either their stage of economic development or domestic political economy considerations. WTO data illustrate that the total number recorded for ASEAN's protective behind-the-border-measures is well above 2,300 (see Table 10). Generally, horizontal regulations, licensing practices, technical regulations, standards and conformity assessment procedures should be non-discriminatory and must not create unnecessary obstacles to trade.

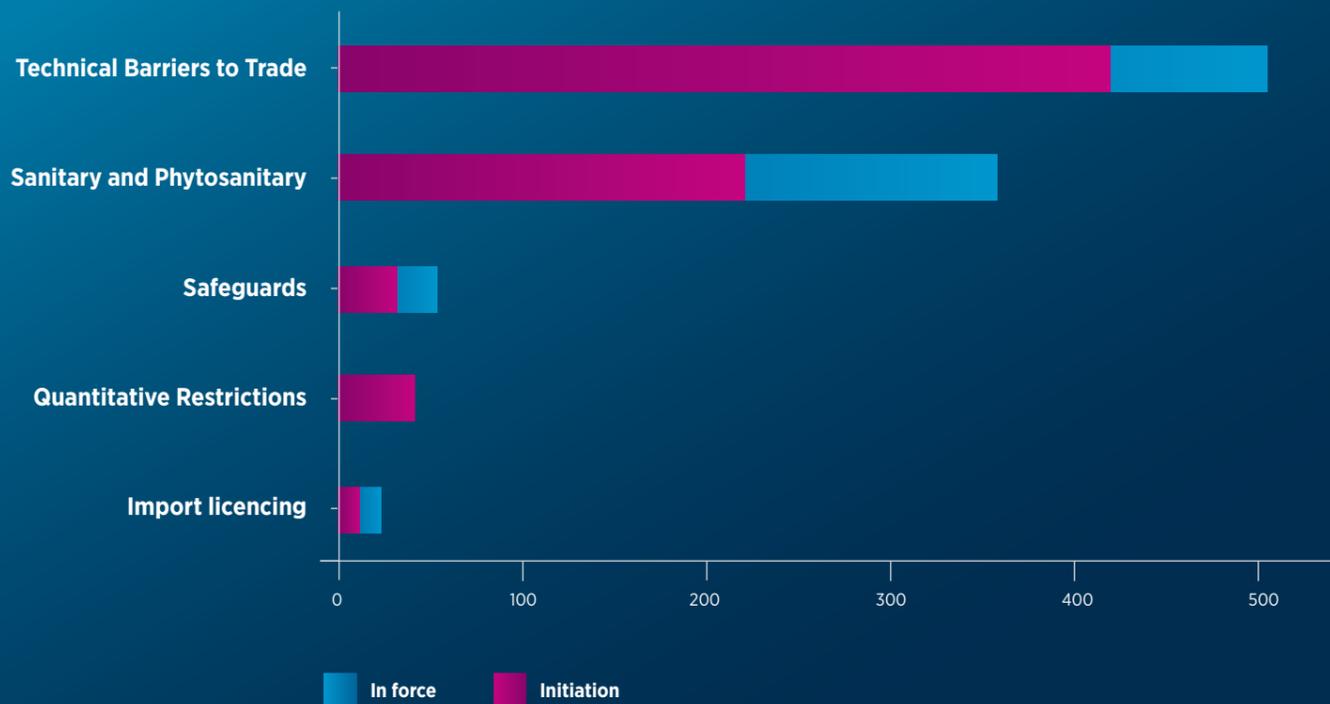
The vast majority of ASEAN's NBT's are technical barriers to trade (TBT, 1,126 initiated and 90 in force) and sanitary and phytosanitary measures (SPS, 485 initiated and 259 in force). Thereof, 857 measures directly affect EU businesses (see Figure 26). According to the EU-ASEAN Business Council (EUABC 2015), the five key protective

- 1. Import restrictions:** these measures include import quotas, embargoes, bans, antidumping measures, countervailing charges, non-automatic licensing and non-transparent administration of licenses, and state monopolies. Generally, these measures result in additional formalities and costs without translating into improved quality of imports.
- 2. Non-transparent and heterogeneous customs processing practices:** Businesses trading within and with the ASEAN region often face heterogeneous regulatory regimes that impede efficient trade facilitation. Customs procedures are not standardised and HS tariff codes are differently applied. With the exception of Singapore and Malaysia, all ASEAN member states significantly underperform in the World Bank's logistics performance index (see Figure 6).
- 3. Restrictions on foreign investment:** these measures include restrictions to foreign ownership, obligations to form joint ventures, obligations to disclose confidential information and obligations to share assets. Several ASEAN countries maintain negative investment lists and special licensing regimes that restrict foreign investors in specific industry sectors or activities.
- 4. Lack of mutual recognition and lack of harmonisations of standards:** these measures include local requirements that are not aligned with international or regional standards and deter foreign direct

investment. Double testing, certification processes and the adoption of products and services to local standards add time and monetary costs without creating (additional) consumer benefits. For example, mandatory local testing and certification standards by local agents and laboratories - on top of national or international certification requirements - raise logistical complexities without adding value to consumer protection.

5. Regulatory requirements: excessive regulatory requirements, such as inadequate health and safety and disproportionate environmental regulations, that significantly increase administrative complexity, cost of investment, shipment lead times and the general costs of business conduct without positively impacting consumer or environmental protection.

Figure 26 NTM imposed by ASEAN countries affecting EU, 2010-2015



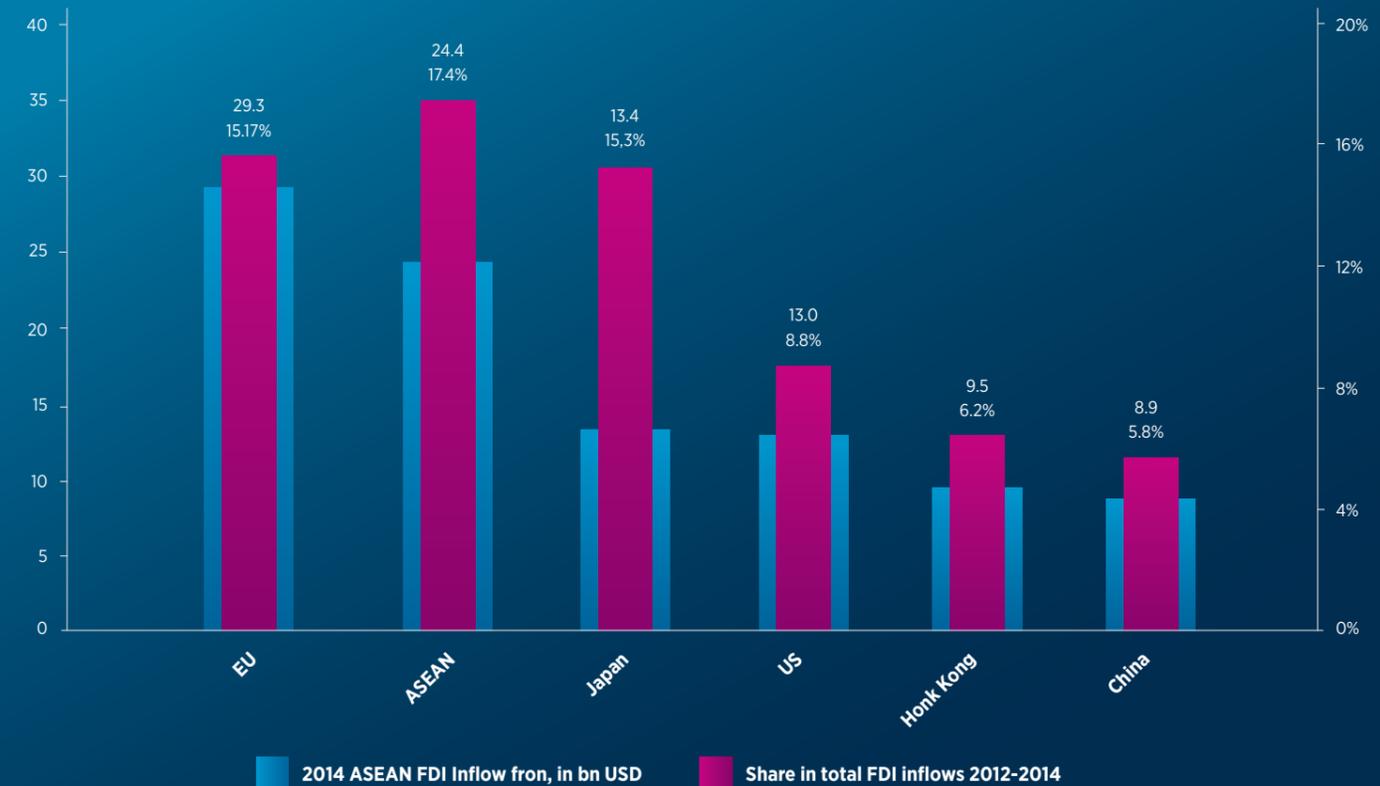
Source: WTO.

5.3.5. INVESTMENT

European companies have already invested huge amounts of capital in ASEAN member states. According to EUABC (2015), over 10,000 European businesses have a presence in ASEAN and investment between the EU and ASEAN is growing in both directions. In 2014, two-thirds of FDI come from the Top 5 investment source regions, namely the EU, intra-ASEAN, Japan, the US as well as Hong Kong. Investment from the EU exceeds investment from other non-ASEAN countries by far. According to the EU Commission, EU-based companies

have invested on the average 14.8bn EUR annually in the region for the period from 2006 to 2013. In 2014, EU-FDI into ASEAN accounted for additional 29bn USD (see Figure 27). Over the last few years, ASEAN largest net investor was the EU (15.7 per cent of overall FDI net inflows), followed very closely by Japan (15.3 per cent). Intra-ASEAN FDI accounted for the largest share in total net FDI inflows (17 per cent). US net FDI inflows are only half of those of the EU (8.8 per cent), Hong Kong (6.2 per cent) and China (5.8 per cent). Australia (3.4 per cent) and Korea (2.6 per cent) show comparatively low levels of investment into ASEAN.

Figure 27 Top 5 sources of FDI into ASEAN and share in total FDI net inflows to ASEAN



Source: ASEAN Foreign Direct Investment Statistics Database as of 26 May 2015 and ASEAN Investment Report 2015.

FDI is highly concentrated in Singapore. Total Singapore inward FDI amounts to approximately 60 per cent of ASEAN's total inward FDI stock. Similarly, Singapore's outward FDI stock amounts to over 70 per cent of total ASEAN outward FDI. EU investment in ASEAN too is concentrated in Singapore. EU-Singapore FDI accounts for close to 60 per cent of the EU's overall FDI stock in the region. After Singapore, the EU invests most heavily in Indonesia at 15 per cent followed by Malaysia at 11 per cent. By comparison, although the US too has a large amount of FDI stock concentrated in Singapore, US businesses are largely invested in Thailand, Indonesia and the Philippines.

EU investment significantly lags behind in agriculture, infrastructure and manufacturing. In 2014, investment in primary sectors (agriculture and forestry) was dominated by intra-ASEAN investment (88 per cent of overall investment in this sector). Intra-ASEAN investments were also strong in manufacturing and real estate sectors. Investors from Asia and ASEAN dominated investment in the infrastructure industry, including real estate. Asian investors, such as Japan and Korea, accounted for significant investment in the manufacturing industry. FDI

from China, which is particularly strong in Cambodia, Lao and Myanmar, flowed primarily to real estate, finance and wholesale and retail trade. The EU, the US and Hong Kong contributed 56 per cent of investment in the finance industry. The EU, ASEAN and China were the three largest investors in extractive industries. Generally, businesses from China, ASEAN, the Korea and other Asian economies dominate investments to CLMV countries (ASEAN 2015c).

Market access and comparative advantages in the cost of production are the main drivers of FDI. In addition, strong regional economic fundamentals and demographic factors, but also intra-ASEAN regional integration and proximity to other Asian countries explain investment to ASEAN. ASEAN recently observed patterns in FDI to the region. Due to rises in the costs of labour-intensive sectors, increasing investment is registered in labour-intensive manufacturing activities in CLMV countries as well as Indonesia, which contributes to the strengthening of regional production networks and regional value chains, and enhances regional connectivity. Investments to less-developed CLMV countries were dominated by sources from China, ASEAN, the Korea and other Asian economies.

5.4 MAPPING MAJOR OBSTACLES IN EU-ASEAN TRADE AND INVESTMENT

Previous sections have outlined a number of tariffs and non-tariff barriers that hamper the free flow of goods, services and investment between European Union and ASEAN member states. The following examples highlight major challenges businesses face in the trade of agricultural products such as services, wines and spirits, motor vehicles and automotive parts, financial services and goods and services related to ICT technologies.

5.4.1. SERVICES

For many services sectors, major obstacles remain with foreign ownership and commercial presence (Mode 3) restrictions. According to the World Bank (2015), foreign equity participation thresholds exist for many services sectors. In addition, national laws significantly restrict commerce in wholesale and retail, postal, maritime and education services. Legislative fragmentation along ASEAN's national lines continues to be a major stumbling block for ASEAN countries' services sector development.

In the wholesale and retail trade sector, the commercial barriers include zoning restrictions, licensing requirements, limits on store sizes and opening hours. Indonesia, Malaysia, the Philippines and Thailand are among the most restrictive economies in retail services. These countries show tight regulations for the acquisition of commercial land, FDI and large-scale stores. For postal and courier services, state monopolies are still in place in Brunei, Cambodia, Indonesia, Lao, Myanmar, the Philippines, Thailand, and Viet Nam. In Malaysia, an exclusive license has been given to the government monopoly.

For maritime services, restrictions are typically imposed by governments demanding a commercial presence in domestic markets, the imposition of foreign equity limits, flagging restrictions, prohibitions concerning cabotage, and the mandatory use of port services (towing and pilot-age). The Philippines and Thailand impose foreign equity limits on shipping and onshore services. Malaysia and Indonesia require foreign maritime service suppliers to have a domestic commercial presence in the form of a joint venture. Also, in Malaysia, the transportation of non-commercial cargo must be carried out by government-approved vessels. In Indonesia, non-commercial freight must be transported by government-owned shipping services.

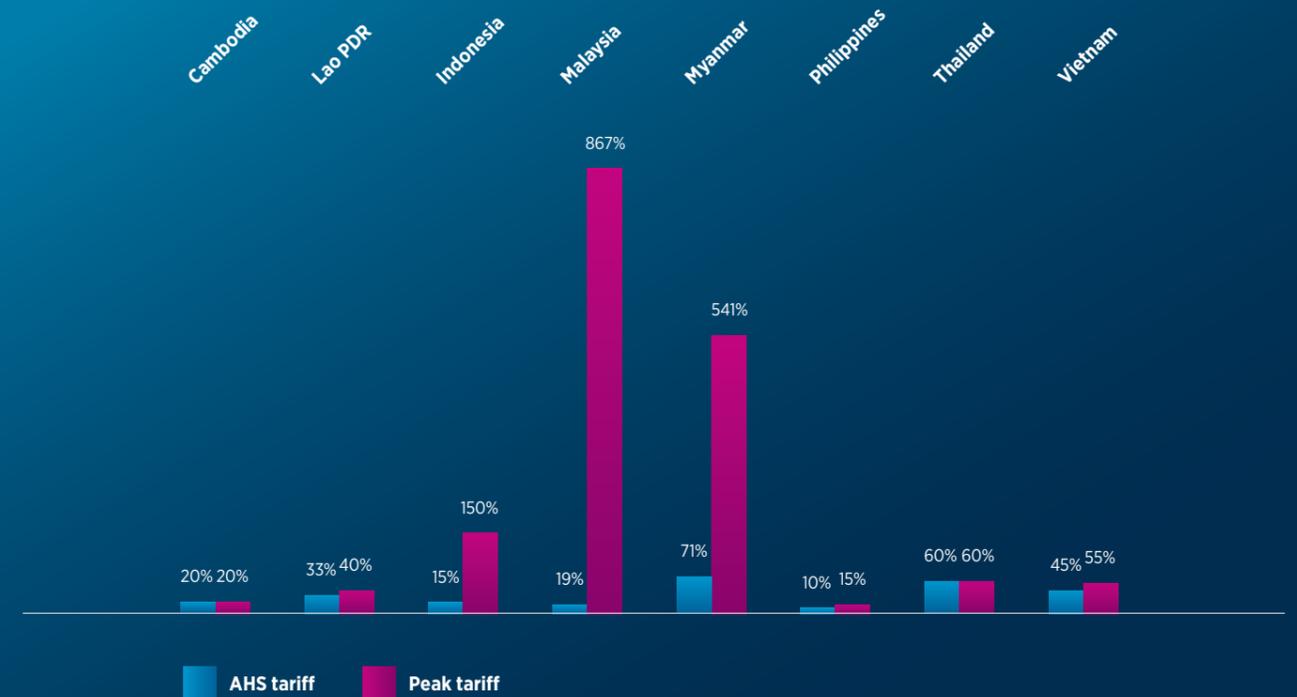
Due to differences in educational systems, language and culture, most ASEAN countries have not opened their education services sub-sectors. On the one hand, the Philippines, Malaysia, Singapore, and Indonesia are fast emerging as exporters of higher education services within ASEAN. On the other hand, mutual recognition of education services remains limited due to considerable differences in standards and the coverage of content of educational services.

5.4.2. WINES AND SPIRITS

Excessive duties or discriminatory excise taxes negatively impact on EU in wines and spirits exports into a number of ASEAN countries. Not only that ad valorem tax regimes tend to penalise high value EU wines and spirits. There are a number of prohibitively high import tariffs imposed by many ASEAN members on wines and spirits imports from the EU (Figure 28). Malaysia, for example, imposes a tariff of 867 per cent on fermented beverages like cider and a 540 per cent on sparkling wine produced in the EU. Myanmar imposes a 190 per cent import tariff on wine, while Indonesia charges a 150 per cent import tariff on most wines and spirits products. In addition to prohibitively high tariffs, some ASEAN countries apply a number of NTB's for commerce in wines and spirits. Many countries impose import quotas, restrictions on import/distribution licensing arrangements and further product regulatory standards.

Countries should, in fact, have the right to regulate according to the citizens' preferences. However, the right to regulate must be exercised through genuinely evidence-based policy measures and there should be no carve outs from international disciplines. Many measures applied in ASEAN countries lack consistency and effectively discriminate against foreign suppliers. For example, prohibitively high tariffs and discriminatory excise taxes do not only impact on EU in wines and spirits exports with ASEAN countries. They also encourage smuggling, non-tax paid activities and illicit liquor production – with detrimental effects on consumer health. As a general principle, the imposition of policies addressing legitimate public concerns needs to be done in full consultation with domestic and international stakeholders to ensure that governments do not discriminate against importers and are not trade barriers that breach WTO rules (EUABC 2015).

Figure 28 Average and peak tariffs imposed by ASEAN members on EU imports of wines and spirits



Source: WITS.

5.4.3. AUTOMOTIVE INDUSTRIES

As outlined in Section 5.3.3, ASEAN countries still impose high import tariffs on motor vehicles and automotive components. In addition to tariffs, numerous NTB's impede trade in final and intermediate products. NTB's such as differences in local product standards, testing procedures and local content requirements often differ substantially between ASEAN member states. According to the EU-ASEAN Business Council, many ASEAN countries run policies mandating domestic product certification and testing procedures before being granted approval to import. Local agencies often require manufacturers to comply with local mandatory certification standards in addition to international standards that already are adhered to. The existence of such polices not only increases the cost of businesses. Such polices also significantly increase the risk of business conduct due to discretion for discriminatory treatment and promotes corruption of agents and public authority officials.

Accordingly, EU businesses call for a much higher degree of mutual recognition and harmonisation of product and testing standards for reducing the

administrative burden related to existing redundancies. According to EUABC (2015), key recommendations for EU and ASEAN policymakers include:

- Alignment of automotive products with international UNECE (United Nations Economic Commission for Europe) standards: ASEAN member should adopt UNECE regulations for automotive products and align the 19 priority UNECE standards. EU and ASEAN regulator should strive for a single regulatory regime.
- Consolidation of approval and homologation processes: ASEAN regulators should recognise the agreements administered by the World Forum for Harmonisation of Vehicle Registrations and test reports issues by qualified foreign bodies.
- Adoption of higher fuel quality and emission standards: ASEAN should push more stringent fuel quality and emission standards and harmonise those standards across the region.
- Harmonisation of the definition on local content requirements: ROO's and local content requirement are differently defined across ASEAN countries. Harmonisation is required.

5.4.4. FINANCIAL SERVICES

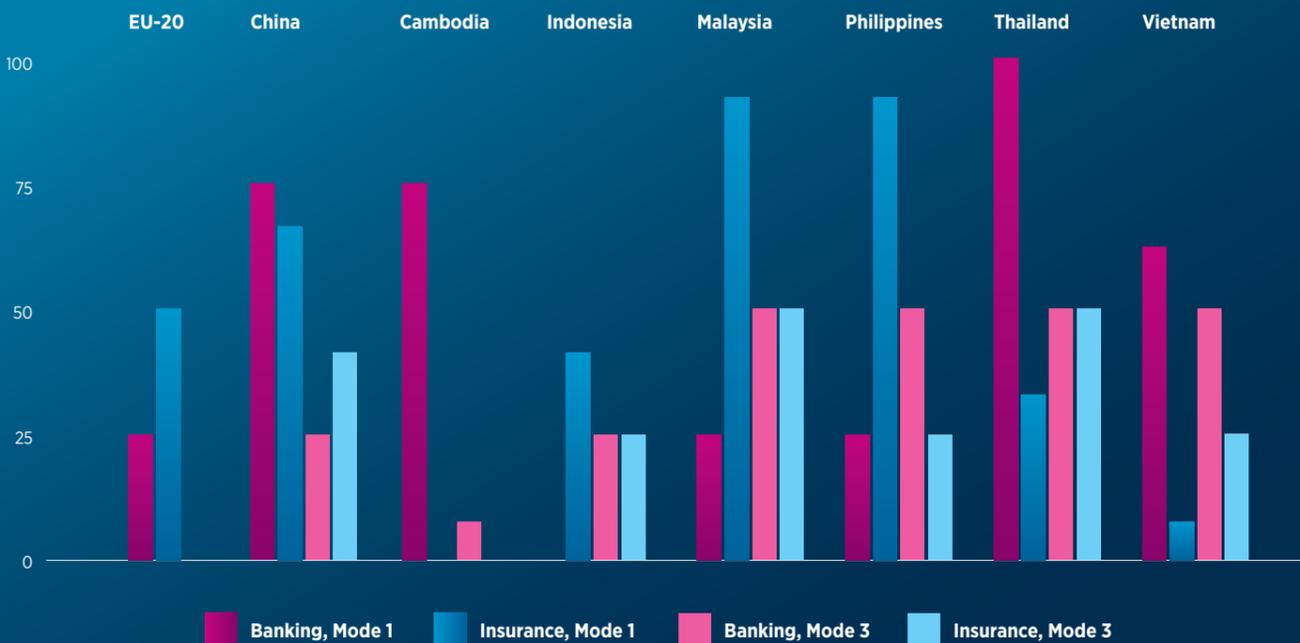
Increased financial integration spurs the development of financial markets and with it investment in new business models and product innovation in non-financial sectors. Accordingly, enhanced financial market integration contributes to the facilitation of structural economic change, economic growth and the creation of skilled employment. ASEAN financial integration has progressed over the past two decades. Intra-ASEAN FDI has risen significantly and cross-border banking linkages have somewhat deepened. In addition, foreign participation in ASEAN capital markets has increased (Almekinders et al. 2014). However, as compared to OECD standards, real progress in intra-ASEAN financial market integration was low.

Over-regulation of banking and insurance markets still is a common feature of most ASEAN countries. A number of ASEAN countries do not allow foreign investors to own 100 per cent of their companies in the financial services sector. According to the World Bank's services trade restrictiveness index, Thailand, the Philippines, Malaysia and Vietnam put high barriers to foreign investors in local banking and insurance markets. In these countries, restrictions on foreign ownership exist in a number of financial sub-sectors.

By contrast, Indonesia is much more welcoming to foreign investors in both banking and insurance. According to the World Bank's latest report on intra-ASEAN integration, Indonesia's relative openness is a reflection of the absence of restrictions on the legal form of entry and the possibility for foreign investors to acquire up to 99 percent of a bank or 80 percent of an insurance firm. In Malaysia, on the contrary, the regulatory regime, in general, limits financial company ownership to 49 per cent of firm capital. Moreover, foreign trade in banking services in Thailand and Vietnam is much more restricted than trade in insurance services (World Bank 2015).

The EU-ASEAN Business Council calls on ASEAN governments to allow unrestricted foreign ownership to build general trust in the financial sector, which is a precondition to facilitate the development of stable and sustainable local capital markets (EUABC 2014). Improved financial integration of ASEAN member states would not only benefit the region's more developed countries. It would also contribute to the rise of poorer regions by enhancing overall competitiveness and economic efficiency. If managed in a proper way, ASEAN financial integration can play a key role in raising overall living standards in the region spurring overall economic development.

Figure 29 Trade in financial services restrictiveness, Mode 1 vs. Mode 3 trade



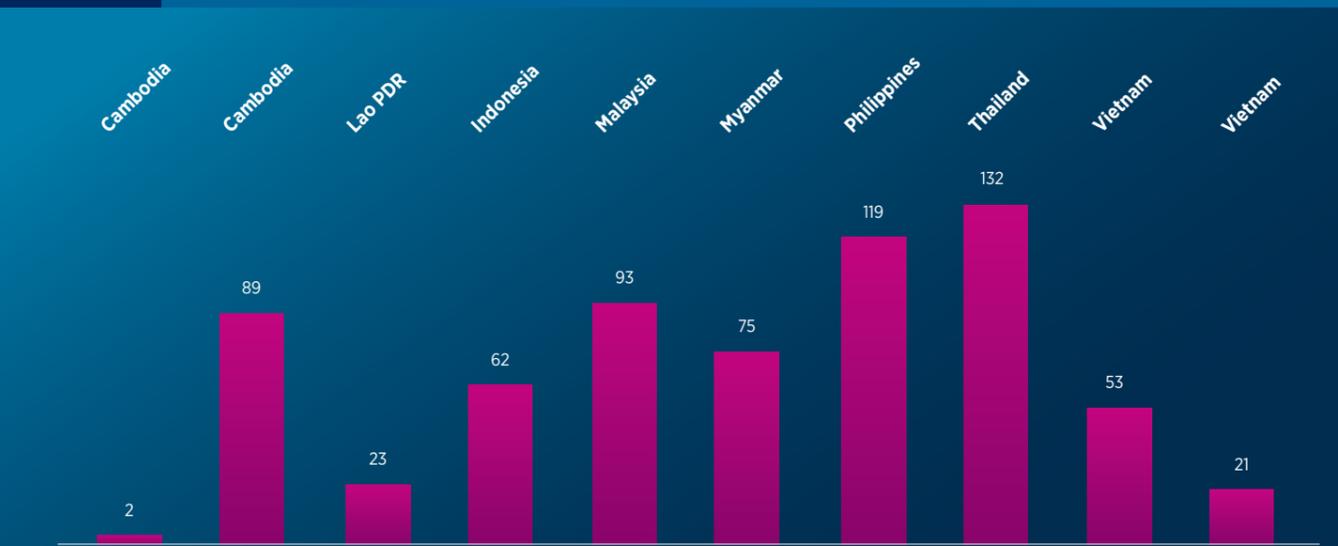
Source: World Bank STRI. Note: Mode 1 refers to cross-border trade, which is defined as delivery of a service from the territory of one country into the territory of other country. Mode 3 refers to commercial presence, i.e. services provided by a service supplier of one country in the territory of any other country (FDI undertaken by a service provider).

5.4.5 ICT GOODS AND SERVICES

The adoption of information and telecommunication technologies (ICT) has increased dramatically over the past three decades. The adoption of ICT's enables firms to capitalise resources more efficiently as well as to access remote markets at significantly lower cost. For OECD countries, there is a strong positive correlation between the adoption rate of ICT's, domestic innovation and productivity growth with ICT adoption driving traditional non-digital and digitally driven economic activities (OECD 2015a). As a general-purpose technology, the impact of ICT's extends well beyond productivity gains. The adoption of ICT's promotes economic and social transformation. ICT's improve the access to services, connectivity and promote social interaction. Thus, for emerging market and developing countries, the adoption of both digital technologies and digital business models will be a key driver of domestic economic activity and economic convergence with the developed world.

According to the WEF's Network Readiness Index (NRI), the intra-ASEAN digital divide is still significant. The NRI measures the propensity for countries to exploit the opportunities offered by ICT's. Singapore ranks first in the ranking of network-readiness showing best practice set of rules and regulations that foster the adoption of ICT's. Myanmar, on the other hand, ranks 139th out of 143 countries in the aggregate index. A sub-index is provided for national legal frameworks for the facilitation of ICT penetration, including the protection afforded to property rights, the independence of the judiciary and the efficiency of law making processes. Again, Singapore presents itself as an international best practice, ranking 2nd in the overall sub-index (Figure 30). All other ASEAN countries, however, exhibit significant underperformance for the effectiveness of law-making bodies, laws relating to ICT's, judicial independence, the efficiency of legal framework in settling disputes and the protection of IPR's.

Figure 30 Network readiness in ASEAN countries, 2015



Source: World Economic Forum. The political and regulatory environment component assesses the extent to which the national legal framework facilitates ICT penetration and a safe development of business activities, taking into account general features of the regulatory environment as well as more ICT-specific dimension (the passing of laws relating ICT or the software piracy rates).

For foreign businesses, barriers to the adoption of ICT's range from restrictive sector regulations to discretionary licensing practices and critical thresholds for foreign ownership in telecommunication services markets. Other restrictions encompass national cybersecurity laws, Internet censorship provisions, excessive data protection legislation and restrictions to the free flow of data. For a number of individual ASEAN members, the EU-ASEAN Business Council lists a range of barriers that hinder domestic commerce trade and

investment in ICT services, and the adoption of ICT's in general (see Table 11). As a result, EU businesses call for the harmonisation of laws, clearly defined rules and competences of sector regulators and, generally, greater trust and commitment to the freedom of the Internet and the free flows of data. Businesses also call for ASEAN-wide standards for the handling of customer data and for stronger cohesion with AFAS and WTO provisions to effectively open the door for foreign investment (EUABC 2014).

Table 11 Barriers preventing the adoption of ICT's in individual ASEAN member states

Brunei	The existence of two mobile operators illustrates that competition is possible even in a small national market. However, the take up of higher end mobile data services could be enhanced by structural and operational incentives.
Indonesia	Some restrictions apply for web content dealing with political, religious, or social issues content provision. The Indonesian Supreme Court upheld a Ministerial Regulation on 'negative content' passed without legislative review, which gives officials the power to block websites. As concerns telecommunication networks and infrastructure, 'type approvals' are frequently applied although there is no real need for re-certification of equipment tested in global labs.
Laos	The mobile market has benefited from competition. The need for enhanced fixed line especially for wholesale and backhaul is needed. Privatisation of Lao Telecommunications would be a major milestone.
Malaysia	An April 2015 amendment to the Sedition Act allows the government to block electronic content considered seditious. Foreign equity caps apply in telecommunications services providers.
Myanmar	A major infrastructure gap exists in Myanmar due to lack of fixed-line backbone and backhaul. For telecoms in general, the absence of the detailed rules for regulators complicates the decision making in the telecoms regulatory body, thus undermining trust between industry and government.
Thailand	State monopoly in broadband infrastructure provision. Lack of competition in the telecoms sector. Foreign equity limits apply for all categories of telecoms licences. Software piracy rates are still high. As concerns telecommunication networks and infrastructure, 'type approvals' are frequently applied although there is no real need for re-certification of equipment tested in global labs.
Vietnam	The mobile sector is still dominated by three 100 per cent state owned enterprises, which combined account for just under 90 per cent market share. The ISP sector is also dominated by SOE's. Current competition in the mobile sector largely focuses on prices, but not on quality of services and innovation. As concerns web content restrictions, Decree 174, which administers fines for critical content, was widely implemented to punish online speech.

Source: EUABC (2015).



6

CONCLUSIONS AND POLICY RECOMMENDATIONS

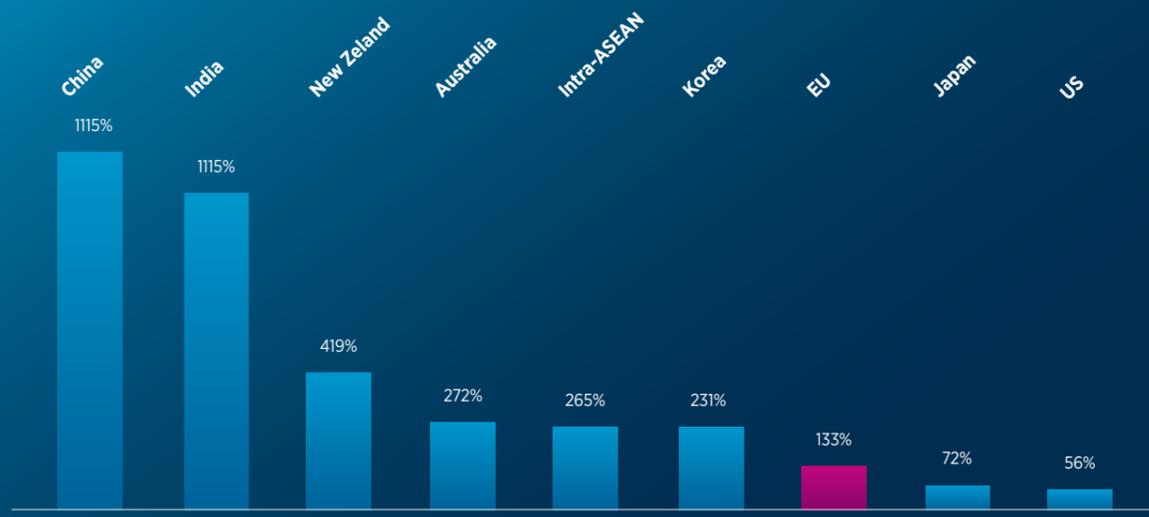
6.1

SUMMARY OF MAJOR FINDINGS

The EU still is a major economic player in the region comprising the countries of the Association of Southeast Asian Nations. ASEAN, as a whole, is the EU's 3rd largest trading partner outside Europe, after the US and China. Similarly, the EU is ASEAN's 3rd largest trading partner after China and Japan. European companies have invested huge amounts of capital in ASEAN member states: over 10,000 European businesses already have a presence in ASEAN and investment is growing in both directions. EU exports mainly comprise of knowledge- and capital-intensive products ranging from heavy and light manufacturing sectors, transport equipment and chemical products to pharmaceutical products. EU imports from ASEAN mainly comprise of relatively labour-intensive products such as agricultural commodities, textiles and light manufacturing. For services trade, ASEAN, as a whole, is even more economically important to the EU than China. Major EU exports in services encompass transportation services, business and financial services and royalties and licence fees.

Future trade and investment in Southeast Asia will be driven by regional proximity rather than the region's commercial relationships with Europe. Taken as a single country, ASEAN is expected to emerge as the world's 4th largest economy by 2050. However, regional value-chains rather than economic ties with European firms will dominate over ASEAN member states' commercial activities. In the past 15 years, EU-ASEAN merchandise trade grew by 133 per cent. At the same time, intra-ASEAN trade grew twice as fast (265 per cent) and ASEAN's merchandise trade with both China and India grew by 1,100 per cent and 1,000 per cent respectively (see Figure 31). The eastern shift within the world's new centre of economic gravity not only implies a relative decline in the EU's markets in Southeast Asia. It also implies that the EU's domestic markets become less important to Southeast Asia over time. In addition, unilateral reforms of the EU's Common Agricultural Policy (CAP) set a shelf life for one of the EU's key bargaining chips in trade talks.

Figure 31 Development of ASEAN trade in goods with major economies, 2000 to 2014



Source: OECD.

The WTO still is the formal forum for international trade negotiations. The past 20 years of negotiations under the auspices of the WTO have shown that member states found it almost impossible to reach a comprehensive multilateral agreement, even after dropping the most controversial issues from the agenda and general restraint to put new subjects on the table. Multilateral negotiations turn out to be cumbersome and slow. Since 1994, WTO negotiations did not yield meaningful results. In fact, for the first time since establishment of the GATT, a round of trade liberalisation appears to end with no agreement. There is a deep divide between developed and developing countries, and even disagreement within the group of developing and emerging market countries to come to mutually beneficial agreements on trade liberalisation. TTIP and TPP will impact on the WTO's out-dated multilateral agenda. In other words, TTIP and TPP can become key 'building blocks' of a renewed multilateral agenda that is fit for 21st century commerce.

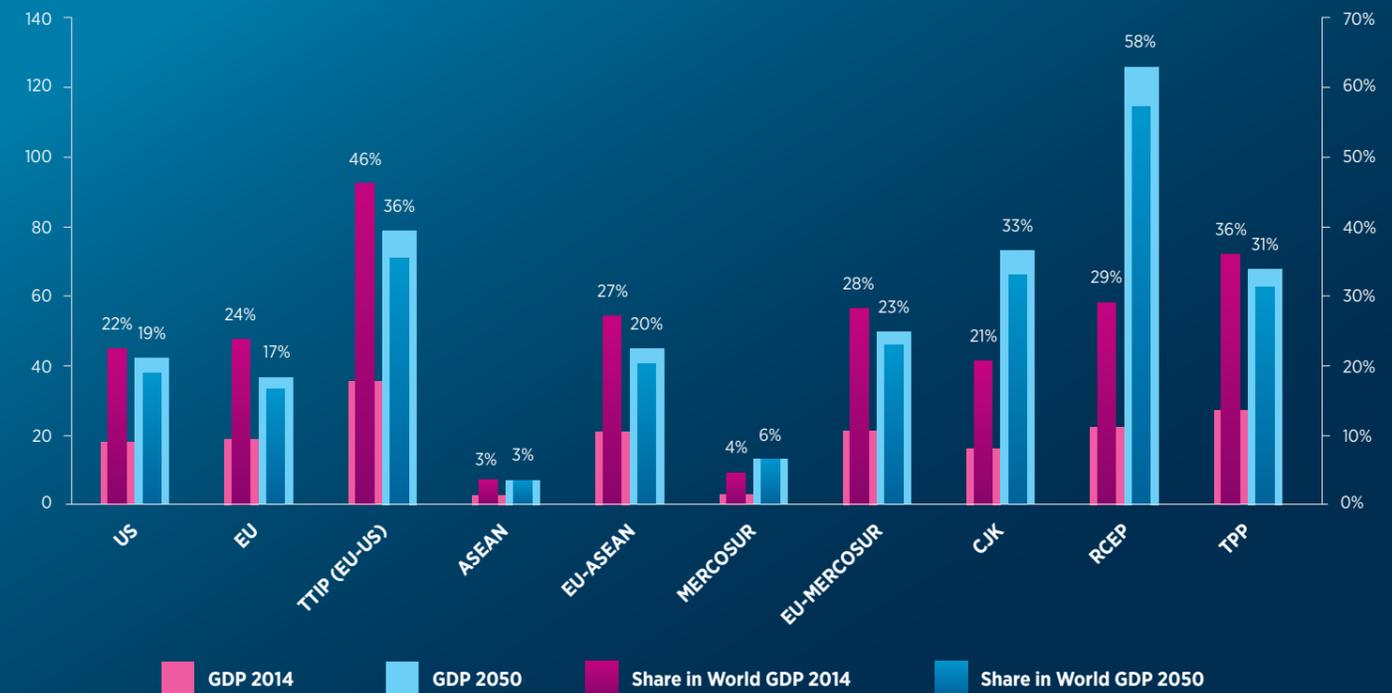
The successful implementation of TPP will boost the integration of Asia's regional value chains even further- far beyond the four ASEAN member states that already signed up to it, and further away from Europe. This logic applies to an even greater extent to RCEP, which is led by China, centred at ASEAN and expected to be concluded in 2016. Along with TPP, RCEP aims at unifying existing FTA's in order to create one of the world's largest free trade areas in terms of population and GDP. RCEP encompasses the ten ASEAN member

states and the six states with which ASEAN has existing FTA's (Australia, China, India, Japan, South Korea and New Zealand). By 2015, RCEP will cover 60 per cent of world GDP. TTIP, by then, will cover 36 per cent of GDP only, reflecting the relative economic decline of Europe and the US (see Figure 32).

The rise of Southeast Asia's economic power increases the likelihood of political frictions with the EU, which finds itself with less and less political leverage. Evolving differences in political preferences will not be limited to questions on the role of the government in 'steering' the economy. Differences in preferences are likely to arise for international product standards, the design of market regulations, competition law and investment policies. Political dissent is likely to emerge in foreign policy too, with feedback effects to climate policy, security policy and international conflict management.

The EU and ASEAN are two of the world's major regional integration initiatives. Both entities share the same goals: to maintain peace and to enhance political stability and prosperity. A myriad of complementarities exists, but the enormous potentials have so far been left untapped - despite years of technical assistance facilities provided to ASEAN by the EU. Since the 1980's, EU and ASEAN have been striving for deeper economic and political integration to maintain peace and increase citizens' prosperity. However, little real progress has been achieved for intra-ASEAN economic integration

Figure 32 GDP coverage of major regional free trade areas, 2015 vs. 2050



Source: World Bank. GDP projections have been taken from PWC 2015.

as well as EU-ASEAN trade liberalisation. Although the EU has provided capacity building assistance and technical cooperation to the ASEAN secretariat and individual ASEAN member states, Brussels has not produced meaningful tangible results. As concerns intra-ASEAN economic integration, one of the key challenges is bridging the development gap between the older and economically more developed members. The differences in ASEAN member states' economic structures and commercial capacities are reflected in the countries' policies regarding internal and external trade liberalisation. ASEAN member states show high levels of regulatory inefficiency and discretionary restrictions to foreign ownership that prevent domestic and foreign firms from gaining ground in local market places. Problems include the freedom to start a business, ownership restrictions, state monopolies, corruption and contract enforcement. As concerns cross-border trade in general, high tariffs still exist for a great number of tariff lines. A record-high number of NTB's still impede foreign trade and investment in goods and services sectors: most ASEAN members apply a great number of discriminatory horizontal regulations, licensing practices, technical regulations, and conformity assessment procedures.

ASEAN and EU businesses have much to gain from a considerably higher level of economic cooperation between the EU and Southeast Asian countries. For EU businesses, NTB's per se as well as the substantial degree of heterogeneity in ASEAN members' NTB's represent a major obstacle for market access. The same is true for ASEAN exporters who have to adopt products to European regulations. As concerns access to ASEAN markets, EU businesses complain about the power and preferential treatment of state monopolies as well as non-automatic-non-transparent licensing practices that explicitly discriminate against foreign suppliers. In addition, complex double testing and certification processes as well as the adoption of products and services to local standards add time and financial costs to EU businesses without creating any additional benefits for ASEAN consumers. The vast majority of ASEAN countries applied NTB's encompass technical barriers to trade and sanitary and phytosanitary measures. A total of 857 non-tariffs behind the border measures directly affect EU exporters. Both European and ASEAN economies would substantially benefit from a true EU-ASEAN regulatory level playing field that ensures high standards for consumer protection and environmental safety. In addition to NTB's, tariffs on the EU's major exports

to ASEAN countries are still high, sometimes even prohibitive.

A full elimination of ASEAN member states' tariffs on Top 10 imports from the EU would amount to 2.70bn USD savings in EU businesses' tariff payments. Similarly, the complete elimination of EU tariffs on Top 10 imports from ASEAN member states would amount to 2.74bn USD savings in ASEAN businesses' tariff payments.

Average tariffs imposed on the Top 10 EU imports are particularly high for Cambodia (12 per cent), Lao (11 per cent), the Philippines (8 per cent) and Thailand (8 per cent). Peak tariffs on EU imports are particularly high for Cambodia (motor vehicles, 15 per cent), Indonesia (motor vehicles, 16 per cent), Lao (beverages and spirits, 32 per cent), Malaysia (motor vehicles, iron and steel, 21 and 14 per cent), Myanmar (motor vehicles, 16 per cent), the Philippines (meat products, motor vehicles, 26 and 20 per cent), Thailand (motor vehicles, 44 per cent) and Vietnam (motor vehicles, 30 per cent). Tariff data also show that effectively applied tariffs for EU exports of motor vehicles to Thailand, Indonesia and Malaysia are higher than tariffs imposed on imports from the US. For EU exports of wines and spirits, tariffs are prohibitively high in many ASEAN countries. Malaysia, for example, imposes a tariff of 867 per cent on fermented beverages like cider and a 540 per cent on sparkling wine produced in the EU. Myanmar imposes a 190 per cent import tariff on wine, while Indonesia charges a 150 per cent import tariff on most wines and spirits products. At the same time, the EU's tariffs on ASEAN imports are particularly high for labour-intensive agricultural, food and textiles products. EU applied tariffs are particularly high for fishery imports from Brunei (14 per cent), textiles imports from Indonesia, Thailand and Vietnam (between 8 and 12 per cent), meat and food imports from the Philippines and Thailand (between 19 and 21 per cent).

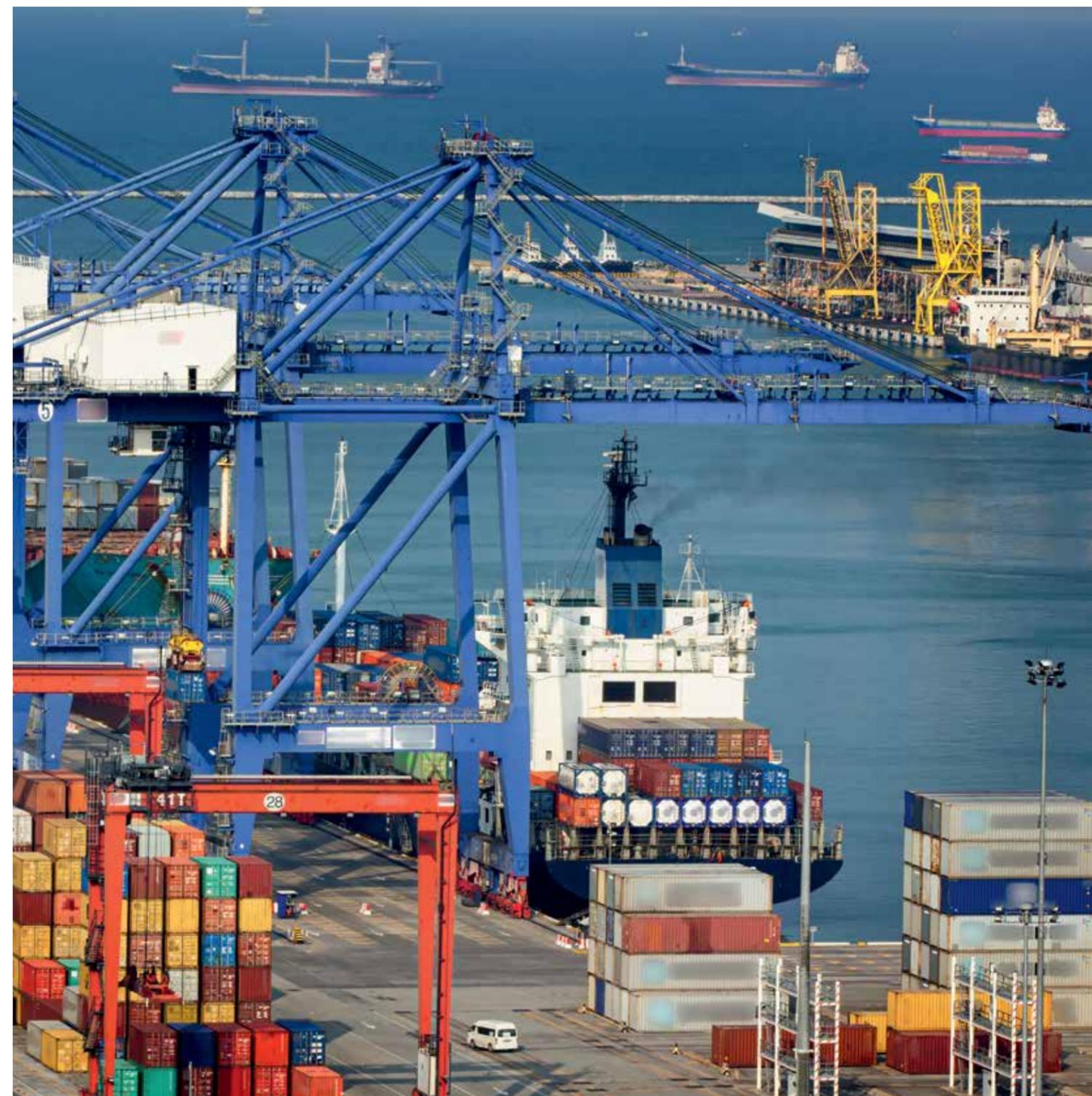
It is in the strategic interest of the EU to strengthen its economic ties with ASEAN as a whole. Similarly, ASEAN can only benefit from the EU's 25-year learning curve in creating a Single European Market.

In 2009, the EU launched FTA negotiations with the ASEAN bloc collectively. The talks were paused in March 2009 for various reasons. In September 2010, the European Council authorised the European Commission to start negotiations for FTA with Singapore (2010) and thereafter with Malaysia (2010), Vietnam (2012) and Thailand (2013). Negotiations for a comprehensive trade and investment agreement with Singapore were concluded in October 2014. The EU-Vietnam FTA was concluded in December 2015 (both agreements are not

yet ratified). In an era of competitive liberalisation, a multitrack trade policy might be justified to facilitate ambitious policy goals for a willing coalition. However, things are different owing to the relationship between the ASEAN and the EU. Both blocs are two of the world's major regional integration initiatives. Both blocs share the same goals: to maintain peace and to enhance political stability and prosperity. Also, both have long-standing political relationship. The first formal dialogue between EEC and ASEAN was established in 1977. In 2003, the EU Commission already proposed the Trans-Regional EU-ASEAN Trade Initiative (TREATI) to enhance cooperation in trade, investment and regulatory issues. In 2012, ASEAN and the EU set up the ASEAN Regional Integration Support Programme (ARISE), a technical co-operation facility with the purpose of supporting the implementation of key regional integration initiatives to build the ASEAN single market.

A number of seminars, workshops and meetings have been held in the past. Unfortunately, the efforts made did not at all materialise. Tariffs are high for both intra- and extra-ASEAN trade. A great number of heterogeneous NTB's prevail in all sectors of all countries. According to latest data, the number of ASEAN NTB's shows a clear upward tendency. The EU's latest undertakings focused on the facilitation of trade and investment, the protection of intellectual property, industrial product standards and technical barriers to trade. The common denominator of the European Single Market, intra-ASEAN economic integration and the liberalisation of EU-ASEAN trade and investment are shared rules that allow 'easy commerce'. Accordingly, streamlining the EU's initiatives towards ASEAN capacity building and the EU's efforts to liberalise EU-ASEAN trade would yield a great number of synergies.

ASEAN member states have played an important role in integrating Asian economies regionally and with the rest of the world. Yet, except for ASEAN's FTA with Australia and New Zealand, almost all ASEAN FTA's are 'free trade light' agreements. As of August 2015, the number of enforced FTA's that include at least one ASEAN economy as a signatory was 98. In addition, 5 agreements were signed but are not yet in effect and 51 FTA's are either proposed or currently under negotiation. ASEAN members have collectively negotiated (so-called ASEAN+1) FTA's with China, Korea, Japan, India and jointly with Australia and New Zealand (AANZFTA, signed in 2010). Most of ASEAN's FTA's are 'free trade light' agreements as they primarily cover tariffs.



ASEAN's FTAs are typically less ambitious on WTO+ and WTO-X provisions. One exception is the ASEAN's FTA with Australia and New Zealand. It includes commitments to the movement of business people and rules for telecommunication services aiming at increasing transparency to ensure national treatment and to restrict anti-competitive practices. As concerns trade facilitation, the AANZFTA includes provisions aiming at more efficient customs procedures. The

agreement also includes provisions for electronic commerce, intellectual property, competition and investment policy (including ISDS). Contrary to all other ASEAN FTA's that employ general cooperation clauses, the AANZFTA mandates cooperation in specific policy areas. The agreement sets up cooperation bodies on trade facilitation, while dialogue and cooperation were agreed on SPS measures, technical standards and regulations, and conformity assessment procedures.



6.2 POLICY RECOMMENDATIONS

The synoptic discussion of the report's major findings leads to a number of concrete policy recommendations. Recommendations are provided for key issues to be addressed in EU-ASEAN trade and investment negotiations, EU measures supporting ASEAN capacity building, and urgent political and institutional priorities for EU commercial policies.

1 ASEAN and the EU are not yet natural partners. EU trade policy needs a renewed focus on ASEAN as a whole. Leadership and effective peer pressure are required at highest political levels.

In the past, various political issues between the EU and ASEAN member states as well as political frictions within the ASEAN bloc were an obstacle to deeper EU-ASEAN economic integration. Lack of enthusiasm on both sides was concealed by delusive political rhetoric. The lack of enthusiasm, however, led to a wastage of resources (including taxpayer money) and left a large number of missed opportunities for all countries involved.

It is quite astonishing to see that longstanding political cooperation initiatives between the EU and ASEAN member states have not at all enhanced market access for both sides' businesses. The facts speak for themselves. High tariffs are the reality in EU-ASEAN trade. A vast number of non-tariff trade barriers stifle competition and deprive consumers of a greater diversity in better-quality offers at lower prices. For EU-ASEAN economic integration, reinvigorated high-level political commitment is needed for a comprehensive region-to-region trade and investment agreement – an FTA that enhances competition, effectively tackles discriminatory behind-the-border protectionism and facilitates the non-discriminatory opening of both regions' goods and services markets. Leadership and much more peer pressure are required at ASEAN's highest political levels. A lack of high-level political leadership would only imply that any additional investment by the EU in renewed negotiations falls victim to the 'ASEAN way' of stalling policymaking.

EU trade policymakers must tackle tariffs on the EU's major exports to ASEAN countries, which are still high (e.g. motor vehicles), sometimes prohibitively high (e.g. wines and spirits). Liberalisation efforts must also concentrate on the total of 857 non-tariff behind the border measures directly affect EU exporters, e.g. liberalising non-automatic non-transparent licensing

practices that explicitly discriminate against foreign suppliers, the prevention of discriminatory action of state-owned enterprises, harmonisation of complex double testing and certification.

Moreover, owing to the rising importance of the data and digital business models in the economy – data in the 21st century is frequently argued to be like oil in the 18th century – the free flow of data needs to be secured by an EU-ASEAN FTA. Both EU and ASEAN economies would substantially benefit from a true EU-ASEAN regulatory level playing field that ensures high standards for consumer protection, environmental safety, the protection of personal data, and the free flow of data.

2 EU-ASEAN trade policy needs to be streamlined with the EU's technical support programmes targeted at ASEAN capacity building. Synergies must be realised. Increased peer pressure is needed. Priority must be given to good institutions for self-sustaining private-sector development.

The EU provides substantial financial support as well as technical assistance to ASEAN at several levels: (1) to the individual members of ASEAN individually according to their respective national priorities, and (2) with programmes supporting intra-ASEAN integration, i.e. support directed at the ASEAN Secretariat in Jakarta. Other regional and thematic policy facilities cover ASEAN member states as part of other parts of Asia. In its recent communication on 'The EU and ASEAN: a partnership with a strategic purpose', the EU has renewed its commitment to increase the connectivity of ASEAN's businesses, people and institutions as well as to boost trade and investment. The EU's renewed commitment to ASEAN as a whole marks an important step towards sustained cooperation and towards a deeper integration of two uncompleted single markets. However, it would be wrong to assume that the EU-ASEAN relationship is already too big to fail. Past initiatives have not brought about any tangible results.

The traceability of outcomes of past initiatives is low. Except for high-level political summits, conclusions or proof of progress made are generally difficult to access by public stakeholders. Information of what actually happened within civil servants' expert circles in the past is hard (often impossible) to obtain via public sources, even for policy experts. Although a myriad of dialogue and workshops at several political levels were held in the

past, media coverage is low and usually sticks to abstract lines. Both the lack of traceability and the lack of visible results convey the impression that most of the work of the past was about ‘talking the talk’.

According to its communication on the ‘partnership with a strategic purpose’, the EU has doubled its development aid to 1,705,000,000 EUR (in words: 1.7 billion EUR) for the Lower Mekong region (Cambodia, Lao, Myanmar and Vietnam) until 2020 ‘to help close the ASEAN development gap’. It is almost impossible to conceive the key components underlying this substantial financial commitment from publicly available sources. Moreover, the notion that the EU will devote 85 million EUR until 2020 to support ASEAN’s connectivity through economic integration and trade (4.9 per cent of the EU’s bilateral aid) misses all reasonable proportionality.

EU policymakers must understand that development aid has a poor track record, which is frequently concealed by an influential development aid industry. Sustainable and self-sustaining economic development is not a function of development aid. For any type of development assistance, quality must take priority over quantity.

The set-up of the EU’s technical and financial support measures focussed at ASEAN needs to be redeveloped from scratch. Technical support measures must focus at the reduction of barriers to commerce and private-sector development. Financial support must be conditioned to tangible results, e.g. the reform of crusty institutions and the implementation of laws that secure business-friendly EU-equivalent economic governance.

Surely, development aid has many friends. Accordingly, the EU needs bold political choices to overcome political frictions within the EU Commission to direct resources to trade and investment policies and become much more transparent and accountable. Transparency is the end of bureaucracy, but transparency and accountability is exactly what is needed for all forms of formal dialogue and technical capacity building, including expert committees and sector-specific working groups. The ultimate aim must be to increase both the effectiveness and accountability of all human and financial resources that are invested by the EU to support its strategic trade and foreign policy objectives.

3 Oceania matters for ASEAN and the EU. Australia and New Zealand can become the EU’s springboard to ASEAN. The ultimate goal must be a Single Market encompassing the EU, ASEAN, Australia and New Zealand.

The EU has already had formal and informal FTA talks with Australia and New Zealand. Impact assessments have already been initiated. Australia and New Zealand form the Closer Economic Relations Partnership (CER), which is the deepest and most comprehensive FTA concluded between two OECD countries. It is the only ‘Single Market’ that incorporates elements that go beyond the European Single Market, and it is lauded for its extensive liberalisation of services (on a negative list basis).

ASEAN has collectively concluded its most ambitious FTA with Australia and New Zealand (AANZFTA) in 2010. The agreement addresses several issues that go beyond tariffs and quotas. It includes provisions for workers’ visa, services trade, e-commerce, intellectual property rights, competition, and investment protection. Most importantly, and contrary to other ASEAN+1 agreements, AANZFTA instituted dialogue and cooperation bodies on trade facilitation, SPS measures, technical standards and conformity assessment procedures. For the EU, AANZFTA can become the springboard to a free trade area covering the Australia, ASEAN and the EU – similar to how the P4 agreement between Brunei, Chile, Singapore, and New Zealand led to the creation of the TPP for the US (an idea also promoted by Lee-Makiyama 2015).

If the EU manages to join or even upgrade AANZFTA, all parties could mutually benefit from the exchange of technical knowledge and best practices of the existing Single Market frameworks of Australia, New Zealand and the EU. A four-party agreement comprising of three (uncompleted) Single Markets would have the potential to become the world’s most comprehensive mega-regional agreement ever concluded. The momentum generated from a comprehensive and far-reaching ASEAN-Australia-EU-New Zealand trade and investment deal can even spill over to other bilateral or multinational agreements – think of China or RCEP – helping to promote next generation trade and investment agreements at a multilateral level.

Despite all optimism, EU negotiations of regulatory issues have proven to be difficult, even with likeminded countries – and even within the EU’s own Single Market. However, Australia and New Zealand have already shown a high level of dialogue and regulatory cooperation with the EU on TBT, SPS and data privacy, which makes a good starting point. The least that the EU should do is to invite ASEAN to the talks when official negotiations are tabled for Australia and New Zealand.

4 Resources matter. A beefed-up trade team is needed at the European Commission and the European Parliament.

One should always be careful when making calls for additional resources for public administrations that exist at the nominal expense of ill-organised and often ill-informed taxpayers. However, additional resources at EU level are vital to make EU trade policy an international best practice. Bendini (2015) correctly argues that the EU’s trade policy strategy cannot be limited to the mere launch of new negotiations. An effective and, equally important, accountable EU trade policy must ensure the proper implementation of concluded agreements. In addition, EU trade policy must effectively combat the rise of new discriminatory non-tariff barriers. As if this was not enough, all EU institutions must be able to make informed decisions to convince civil society in a trustworthy manner that EU trade policy serves European citizens’ interests without jeopardizing legitimate public interests of its trade partners. This includes sensible support for individual EU member states in shaping public opinion.

EU trade policy does not merely involve the European Commission. It requires informed decisions at the European Parliament and the European Council as well as informed support from inside these institutions, i.e. international trade policy pundits beyond those serving at the European Commission. For EU trade policy to become an international best practice, increased personnel and additional financial resources are required at the European Commission’s DG Trade. Additional staff is required for the evaluation of EU trade policy matters at the European Parliament. Intra-institutional staff is needed to enhance internal and external communication of EU trade policy initiatives and public accountability respectively.

5 The European Commission needs an educational mandate for its trade and commercial policies. For far too long, the theory of trade has been grey. Effective and inclusive trade policy requires enhanced communication and measures to improve citizens’ economic literacy. EU policymakers must keep pointing out that an effective competition law is the constitutional law of every market economy. The EU must credibly convey that trade liberalisation and effective competition policies are the best instruments against vested interests, rent seeking and market abuse.

For a long time, EU trade policymakers enjoyed some splendid isolation. Trade policy was mainly elaborated

behind closed doors. The launch of TTIP negotiations evoked considerable headwind from a super-organised European anti-free-trade, anti-globalisation, pro-government-control community. At the same time, (social) online media shapes the public debate about EU trade policy in an unprecedented way.

The EU is facing two major problems: firstly, a perceived lack of democratic legitimacy. Secondly, lack of credible reasoning behind its trade policy stance. The first problem is to a large extent rooted in public objection of ‘EU centrality’. The latter is rooted in a general lack of many EU citizens’ economic literacy and lack of effort at EU institutions for explaining the value open markets to the public in a credible way.

Much critique against trade liberalisation is about corporate interests, market abuse and lack of faith in the power of governments to negotiate trade and investment policies in the common interest of European citizens. However, the critique of open markets must not disguise the vast amount of empirical evidence showing that free enterprise and trade liberalisation are the sources of citizens’ wealth: it is businesses that create products and services, which add up to economic activity and employment, and it is businesses that facilitate structural economic change, which is a condition sine qua non for economic and social welfare.

EU trade policy needs an educational mandate: many European citizens do not see the value of the private sector – or free enterprise – for individual welfare and societal prosperity. ‘Capitalism’ is condemned publicly by many, while the freedom of enterprise and individual responsibility hardly receive attention in the public debate. At the same time, many citizens do not recognise that free trade policies create a level of competition that engenders innovation and leads to new markets, new jobs, better products and higher standards of living. The EU must effectively communicate that all EU-backed international trade rules provide ample ‘policy space’ to regulate in the public interest. It must also convey national policymakers must deliberately adopt those measures that are the least trade restrictive means of achieving the policy goal.

Surely, many businesses have a tendency towards market abuse and monopolisation (the latter is true for many public authorities too), which is why EU policymakers must effectively communicate two



important, though widely unknown truths: 1) Free trade agreements are not about free trade. They are about sound rules that 'manage' commercial activities in a non-discriminatory way. 2) Competition law is the constitutional law of a market economy. Competition law already is an exclusive competence of the EU. Market abuse practices need to be addressed by competition law. If there is any need for a re-consideration of the economies-of-scale narrative and any market abuse practices emerging from multinational corporations, it lies with competition policy to address it. Needless to say, any future European FTA should devote a comprehensive chapter to competition rules that effectively ban or prevent market abusing practices.

Regarding the merits of bottom-up education, Points of Single Contact are needed at EU member state level allowing EU businesses of all sizes to express and explain concerns about existing commercial barriers in trade with non-EU countries. An effectively communicated semi-annual reporting of stated barriers would substantially improve the understanding of existing obstacles for EU businesses in trade with non-EU countries and increase public support of EU trade policies beyond established public consultations. Importantly, enhanced communication of the merits of liberalised commerce would substantially contribute to the wider European public's understanding of the benefits of the European Single Market.

6 Internationalism – like charity – starts at home. A far-reaching European Council Resolution is needed. European leaders must to express an unprecedented commitment to tackle 21st century trade barriers within the EU's own Single Market and in EU trade agreements with non-EU countries.

Productivity will be the main determinant of economic growth over the next 50 years. At the same time, trade openness, investment in innovative technologies and knowledge-based capital will be the major determinants of productivity growth. The level of innovation and the degree of imitation is a function of openness to international trade. Open markets do not only encourage the development of new technologies. Open markets also foster the commercial and societal adoption of new technologies.

The EU's trade and commercial policies need to account for the fact that the parts and pieces of many

goods and services are produced 'everywhere' rather than in a single national jurisdiction only. Behind-the-border protectionism such as technical regulations, product standards, discriminatory environmental laws and restrictive professional qualification requirements are much more relevant in the 21st century policy setting that is friendly to global value chains. Therefore, the design of future regional trade agreements requires much greater scope of policy areas and substantially deeper integration as currently covered by the WTO negotiations.

The European Single Market is in many ways an illusion – it exists only nominally. Only 30 per cent of the EU's total economic activity is actually covered by zero tariffs, mutual recognition or harmonised legislation. Within the EU, legislative fragmentation along national borders poses significant cost to businesses and consumers alike. For a great number of goods, basic services and professional services in the EU, horizontal regulations and technical standards at national level prevent new business models from gaining ground. Similarly, the non-existence of a Digital Single Market is a direct consequence of national market fragmentation in traditional non-digital sectors. Accordingly, the more member state economies grow dependent on services and the digital sector, the less Single Market there will be in the EU.

The lack of market fragmentation in the EU's own Single Market impacts negatively on the EU's international trade policy leverage. It is legislative fragmentation along the EU's national borders that prevents EU trade policymakers from credibly pushing for harmonised rules on technical standards and services – rules that could have (and should have) a proven track record in its own common market.

European leaders need to express an unprecedented commitment to tackle 21st century trade barriers within the EU and in its trade agreements with third countries. Wilhelm Röpke, a late German economist, whose views were of vital importance for Western Europe's economy after the Second World War, once said: 'Internationalism – like charity – begins at home'. For EU member states to be competitive on world markets, and to take leadership in international trade matters, its political leaders have to stand up for open markets at home and abroad. A far-reaching European Council Resolution must acknowledge that the EU's economic strength comes from having open and competitive – not protected – markets.

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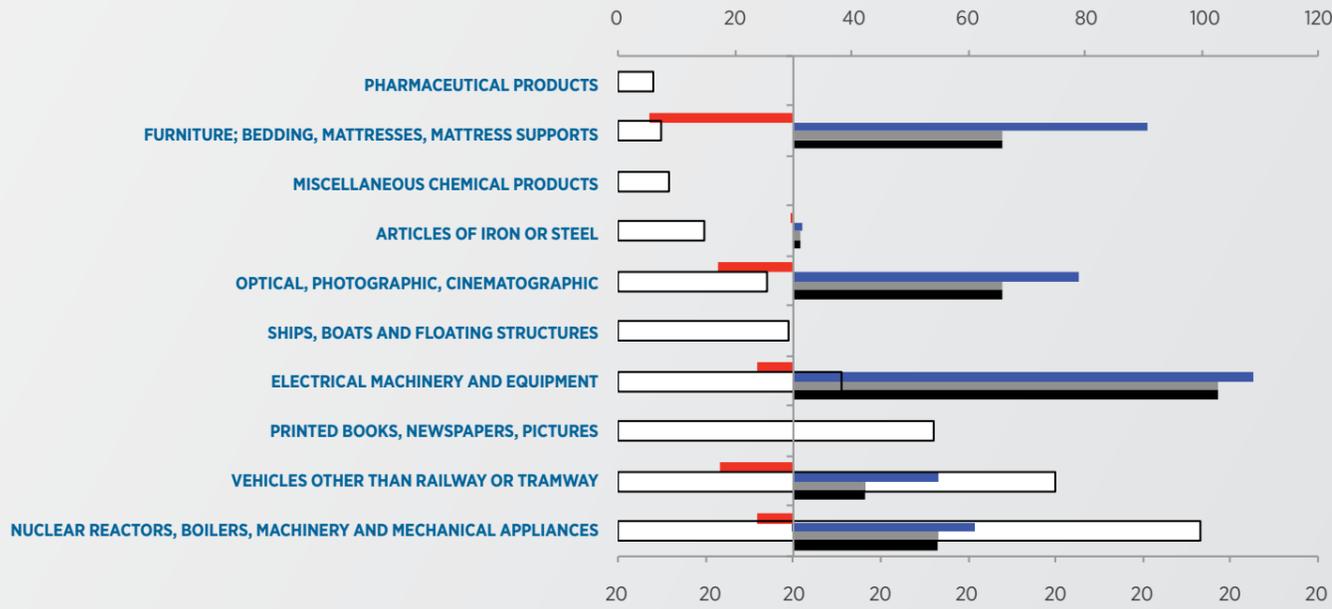
LIST OF ABBREVIATIONS

ACEPP	ASEAN-Canada Enhanced Partnership Programme
ACIA	ASEAN Comprehensive Investment Agreement
AEC	ASEAN Economic Community
AFTA	ASEAN Free Trade Agreement
AFAS	ASEAN Framework Agreement on Service Framework Agreement on the ASEAN Investment Area
AIA	ASEAN Investment Area
ANZCERTA	Australia New Zealand Closer Economic Relations Trade Agreement
APT	ASEAN Plus Three
ARISE	ASEAN Regional Integration Support Programme
ASEAN	Association of Southeast Asian Nations
ASEAN-6	Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand
B2B	Business-to-business
BIT	Bilateral Investment Treaty
CAP	Common Agricultural Policy
CCP	Common Commercial Policy of the European Union
CEPT	Common Effective Preferential Tariff Scheme
CETA	Comprehensive Economic Trade Agreement
CJK	China-Japan-South Korea Free Trade Agreement
CLMV	Cambodia, Lao PDR, Myanmar, and Vietnam
CU	Custom Union
DCFTA	Deep and Comprehensive Free Trade Agreement
DDA	Doha Development Agenda
DDR	Doha Development Round
E3	US-ASEAN Expanded Economic Engagement Initiative
ECJ	European Court of Justice
EDSM	Enhanced Dispute Settlement Mechanism
EEC	European Economic Community
EIB	European Investment Bank
EU	European Union
ESM	European Single Market
FA	Framework Agreement
FDI	Foreign Direct Investment
FTA	Free Trade Agreement
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GMP	Good Manufacturing Practices
GVC	Global Value Chains
IAI	Initiative for ASEAN Integration
ICT	Information and Communication Technologies
ILO	International Labour Organisation
IPR	Intellectual Property Rights
ISDS	Investor-State Dispute Settlement
KBC	Knowledge-based Capital
MRA	Mutual Recognition Agreement
MPAC	Master Plan on ASEAN Connectivity
NTB	Non-tariff (trade) barrier
NRI	Network Readiness Index
P4	Trans-Pacific Strategic Economic Partnership Agreement
PCA	Partnership and Cooperation Agreement
PTA	Preferential Trade Agreement
RCEP	Regional Comprehensive Economic Partnership
ROO	Rules of Origin
RTA	Regional Trade Agreement
SME	Small and Medium-sized Enterprises
SOE	State-owned enterprise
SPS	Sanitary and Phytosanitary Measures
STRI	Services Trade Restrictiveness Index
TBT	Technical Barriers to Trade
TFEU	Treaty on the Functioning of the European Union
TISA	Trade in Services Agreement
TRQ	Tariff Rate Quota
TTIP	Transatlantic Trade and Investment Partnership Agreement
TPP	Transpacific Partnership Agreement
TREATI	Trans-Regional EU-ASEAN Trade Initiative proposed in 2003
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNECE	United Nations Economic Commission for Europe
US	United States of America
WEF	World Economic Forum
WTO	World Trade Organisation

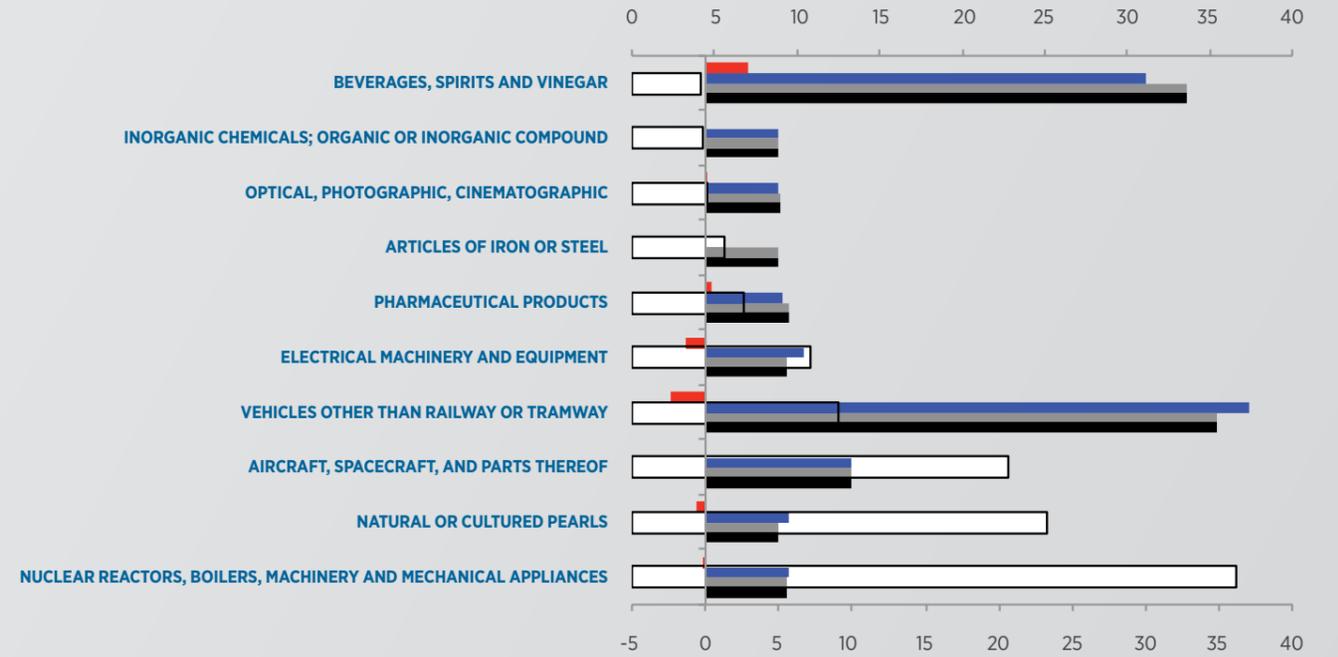
Annex I. Applied tariffs on individual ASEAN members Top 10 import from EU



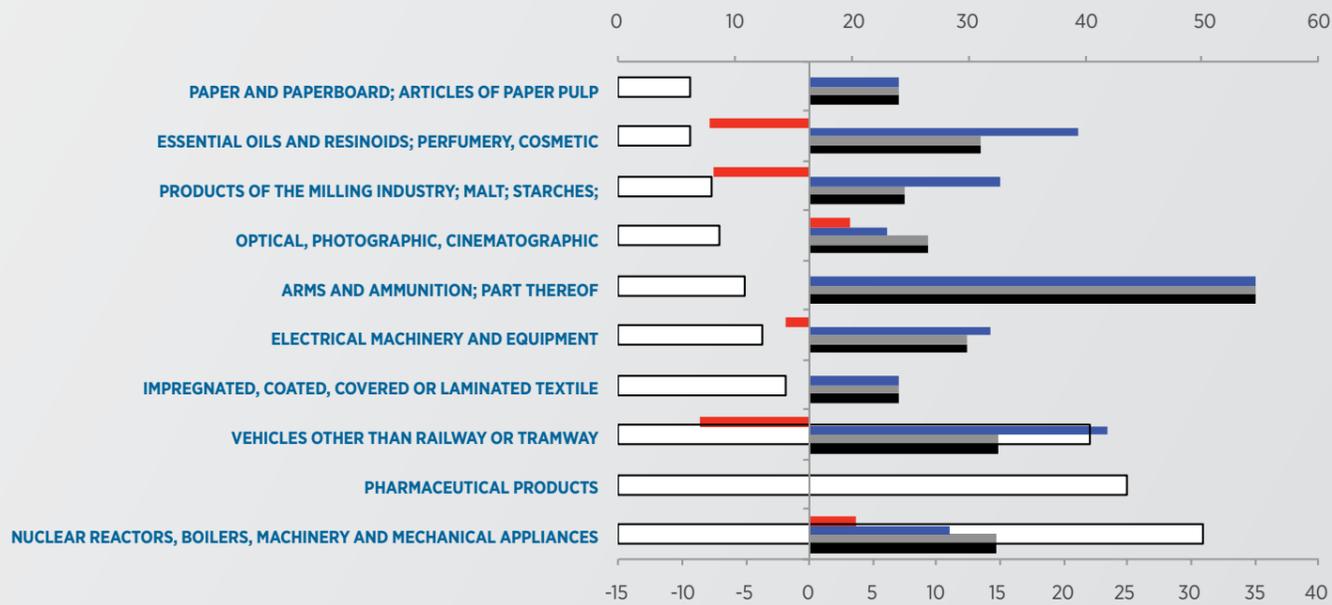
BRUNEI



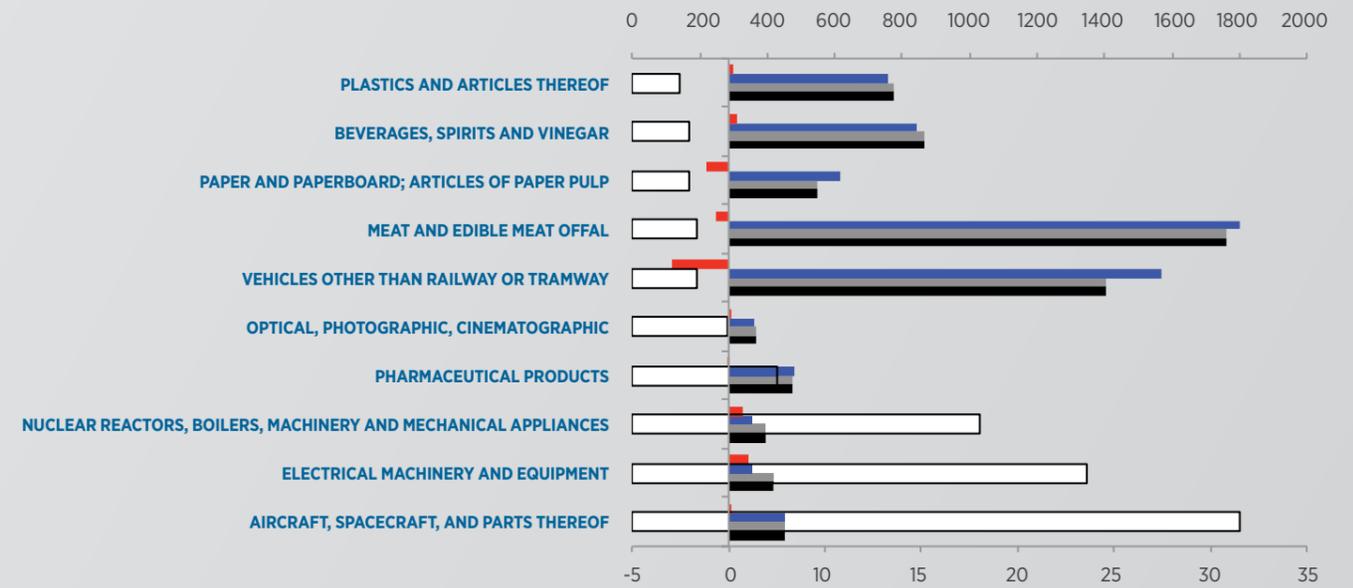
LAO PDR



CAMBODIA



PHILIPPINES



EU Mark-up (+) / Discount (-) vs. US

Effectively applied US

Effectively applied EU

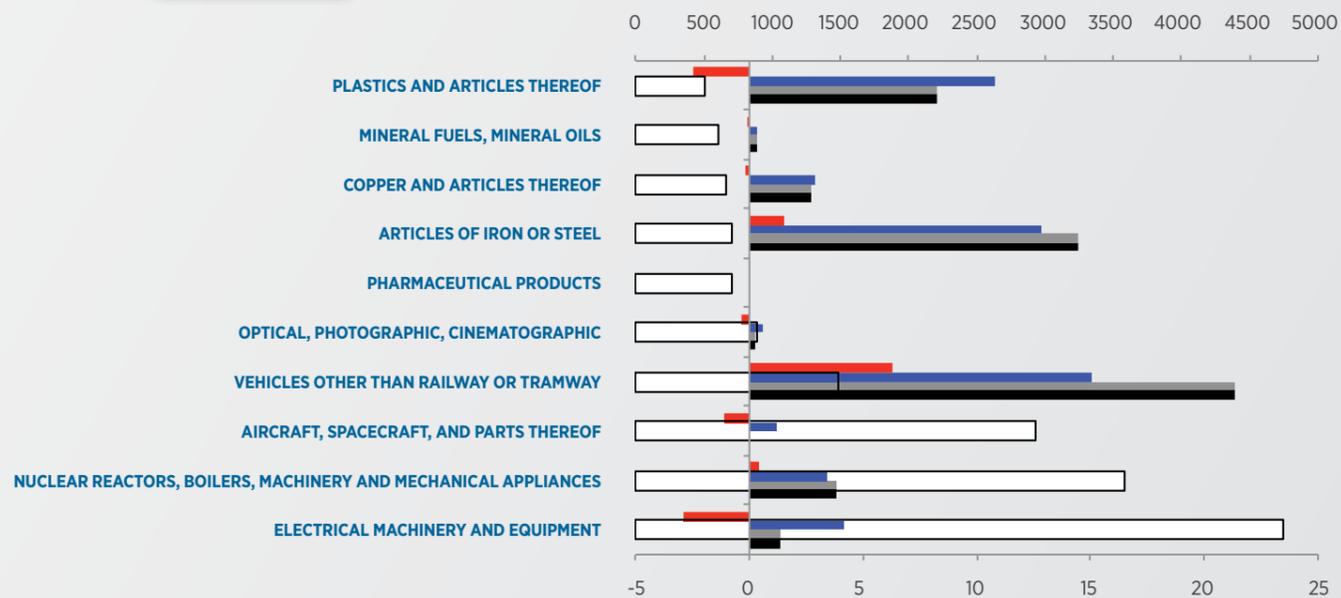
MFN rate (EU)

Trade volume in million USD, upper scale

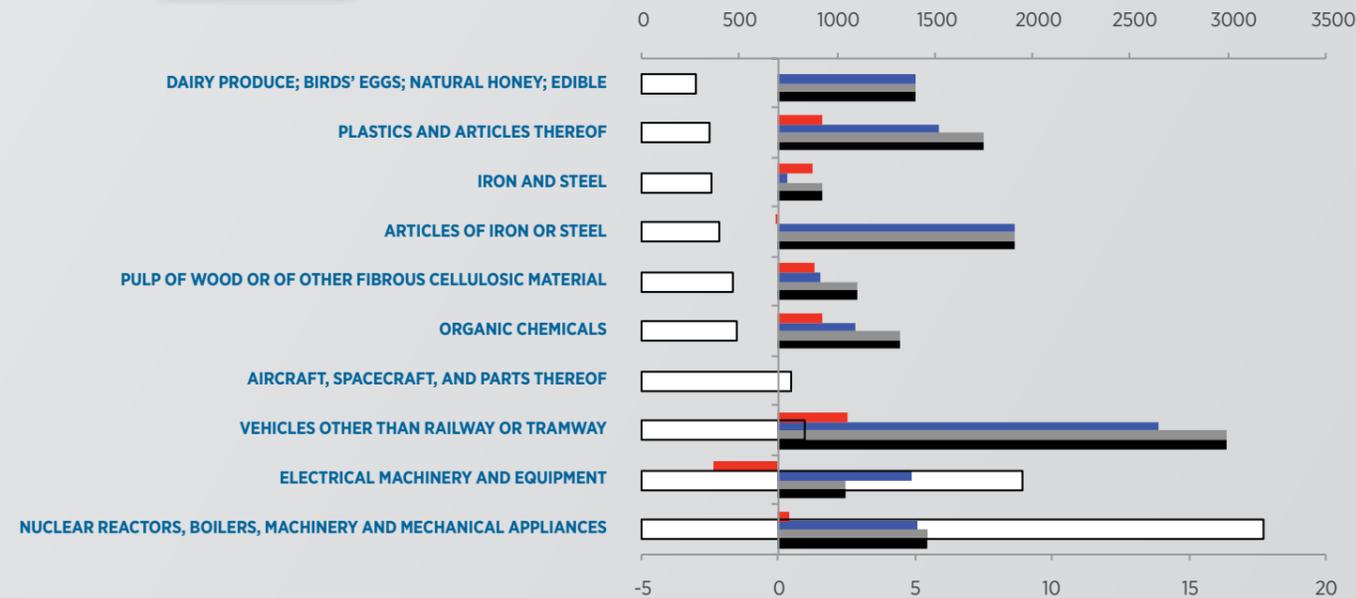
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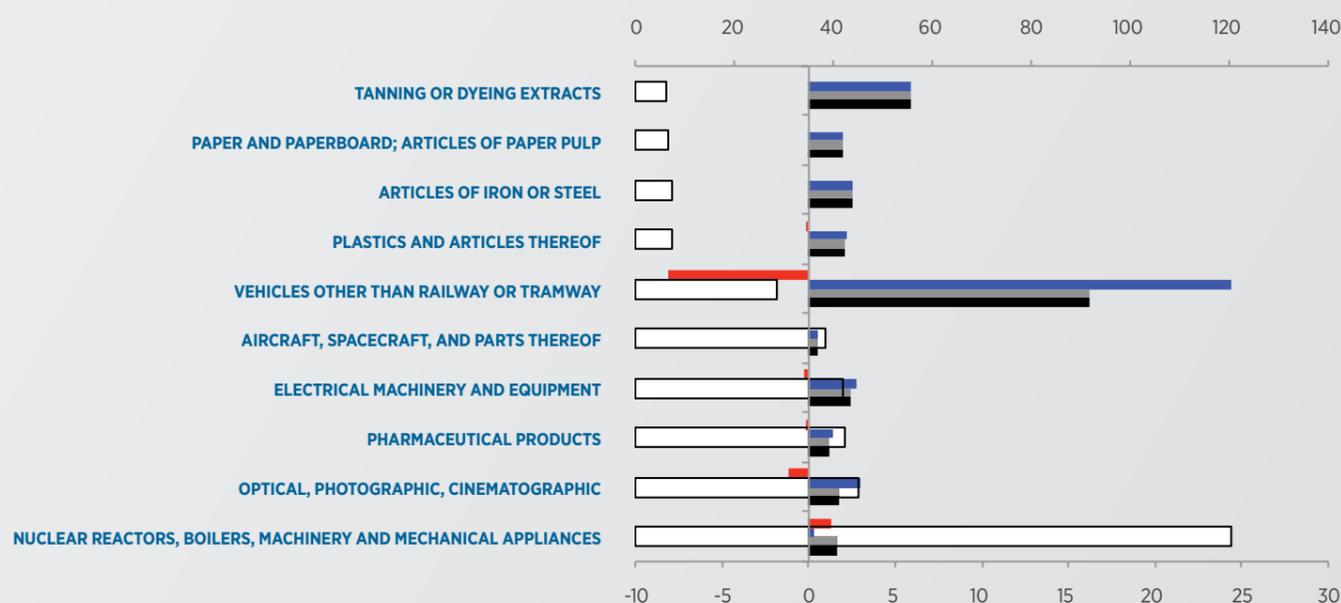
MALAYSIA



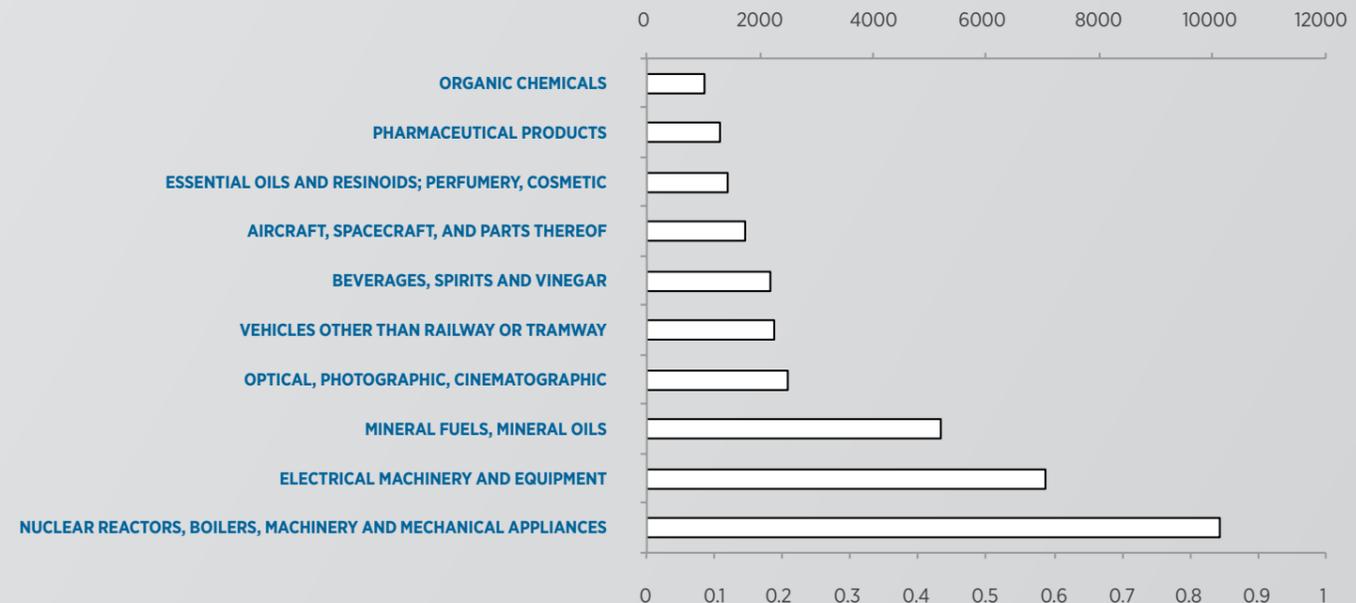

INDONESIA




MYANMAR

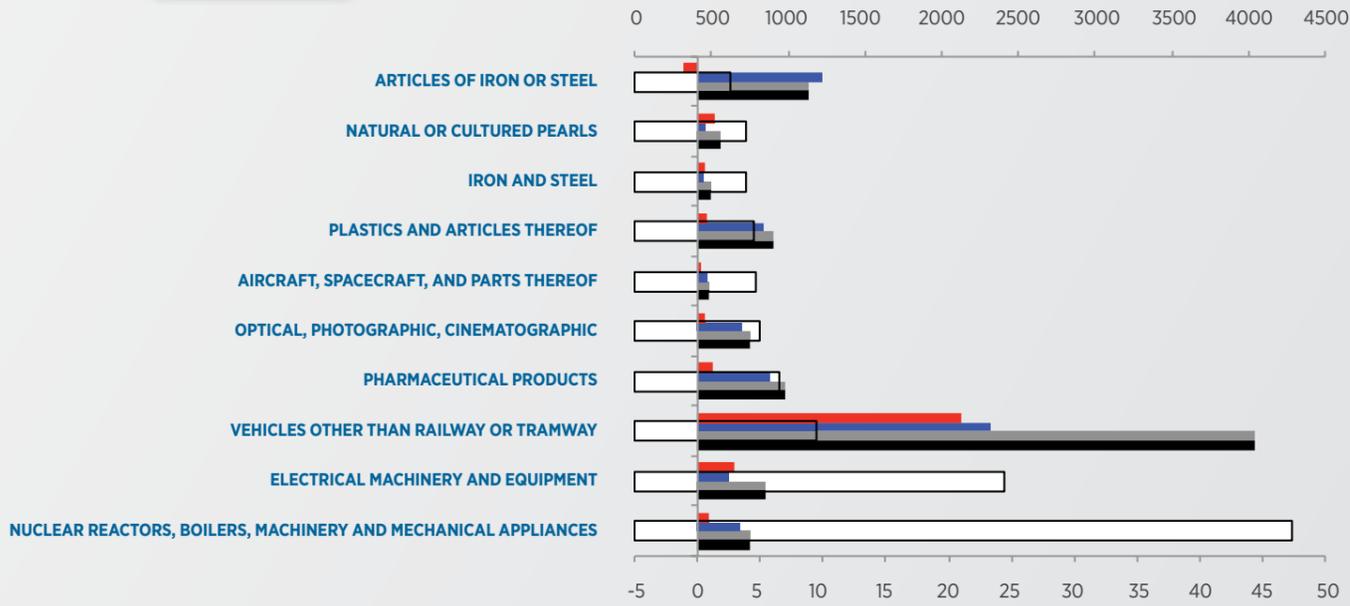



SINGAPORE

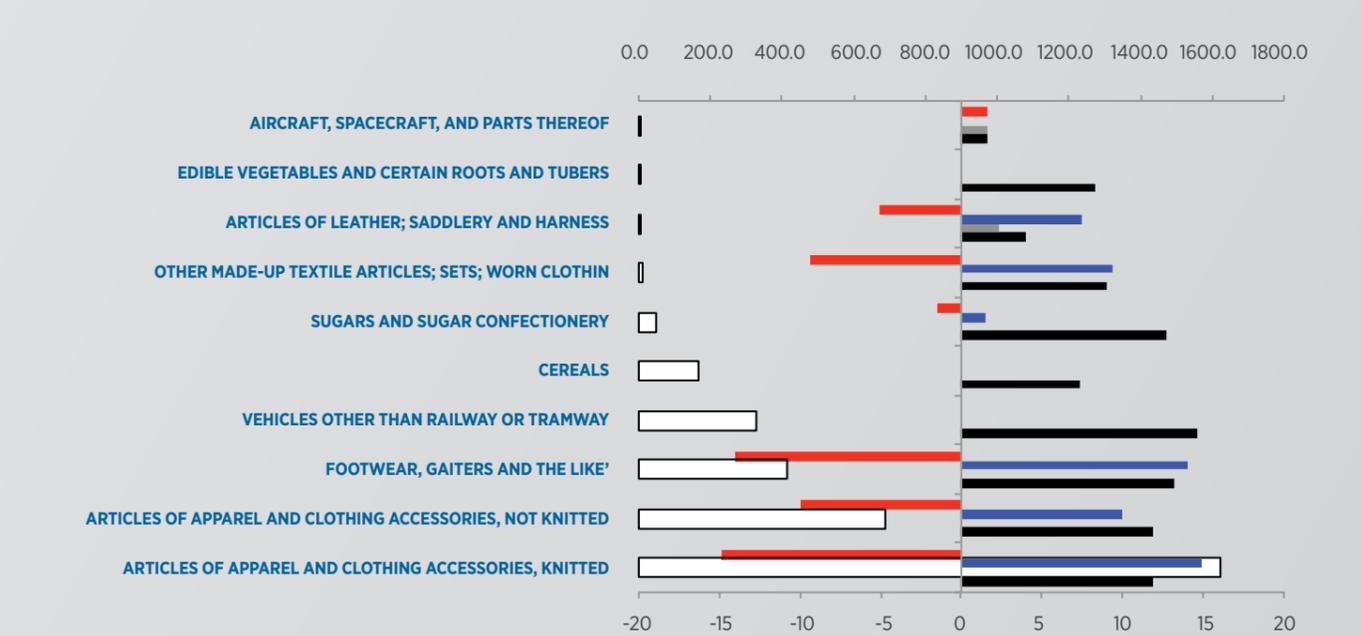
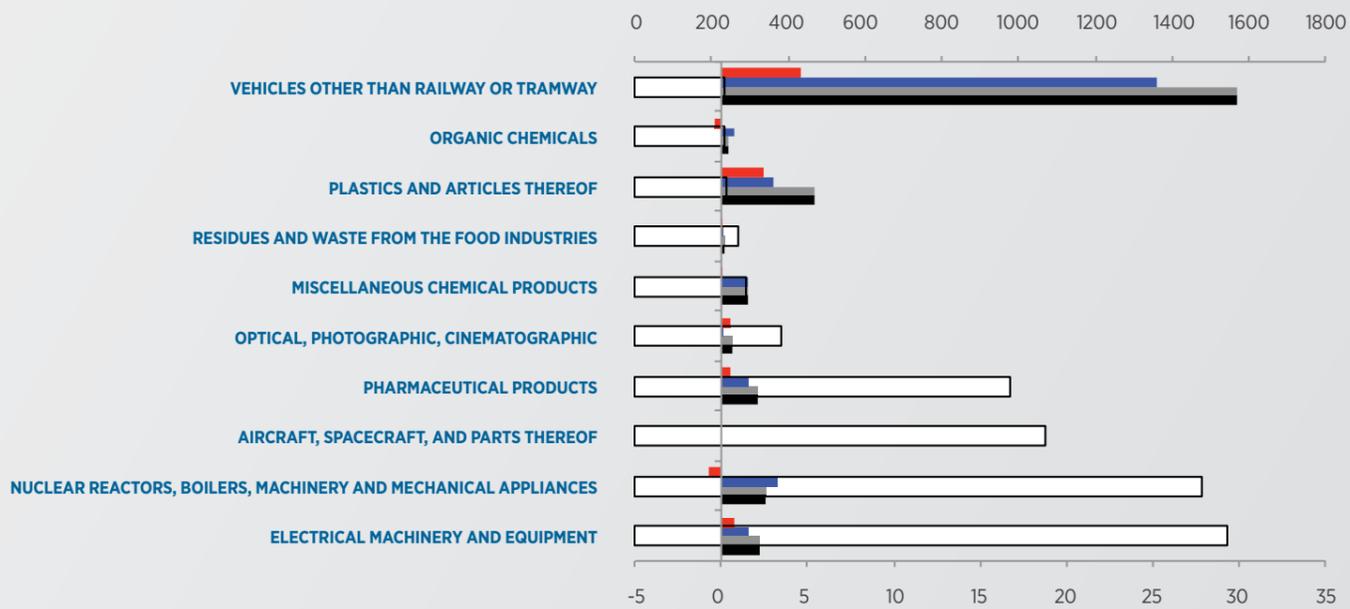
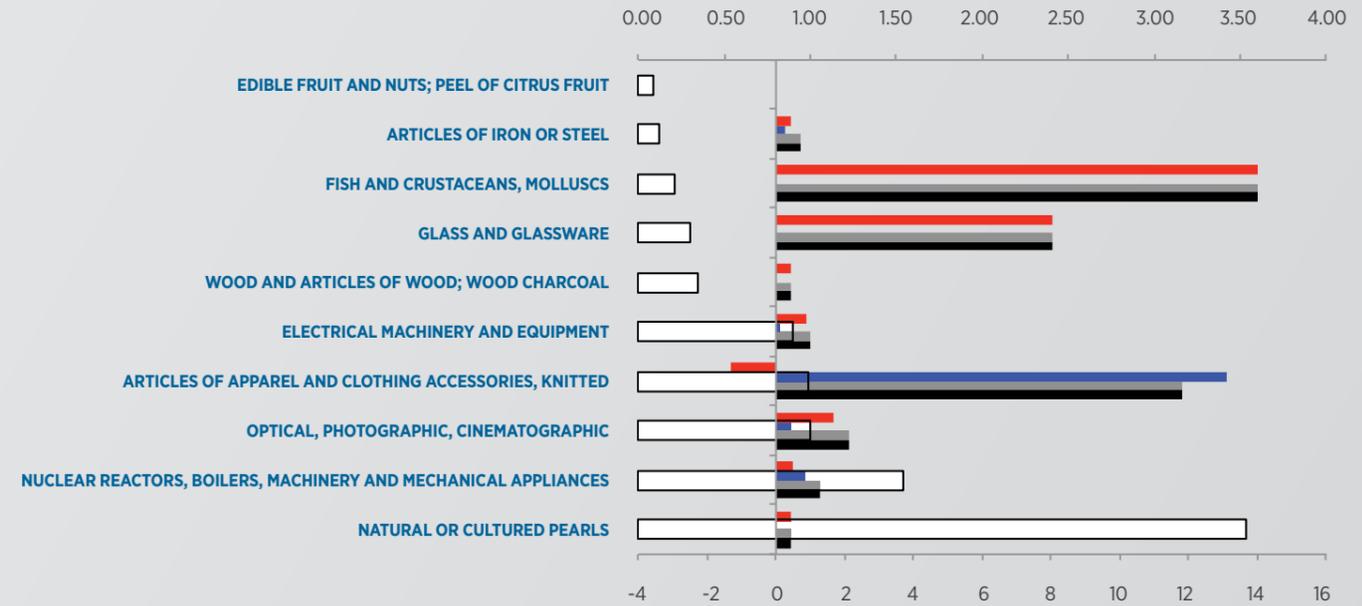


■ EU Mark-up (+) / Discount (-) vs. US
 ■ Effectively applied US
 ■ Effectively applied EU
 ■ MFN rate (EU)
 Trade volume in million USD, upper scale

Annex I. Applied tariffs on individual ASEAN members Top 10 import from EU

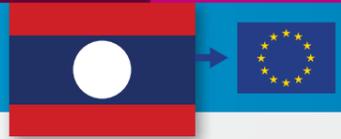


Annex II. Applied tariffs on individual ASEAN members Top 10 exports to EU

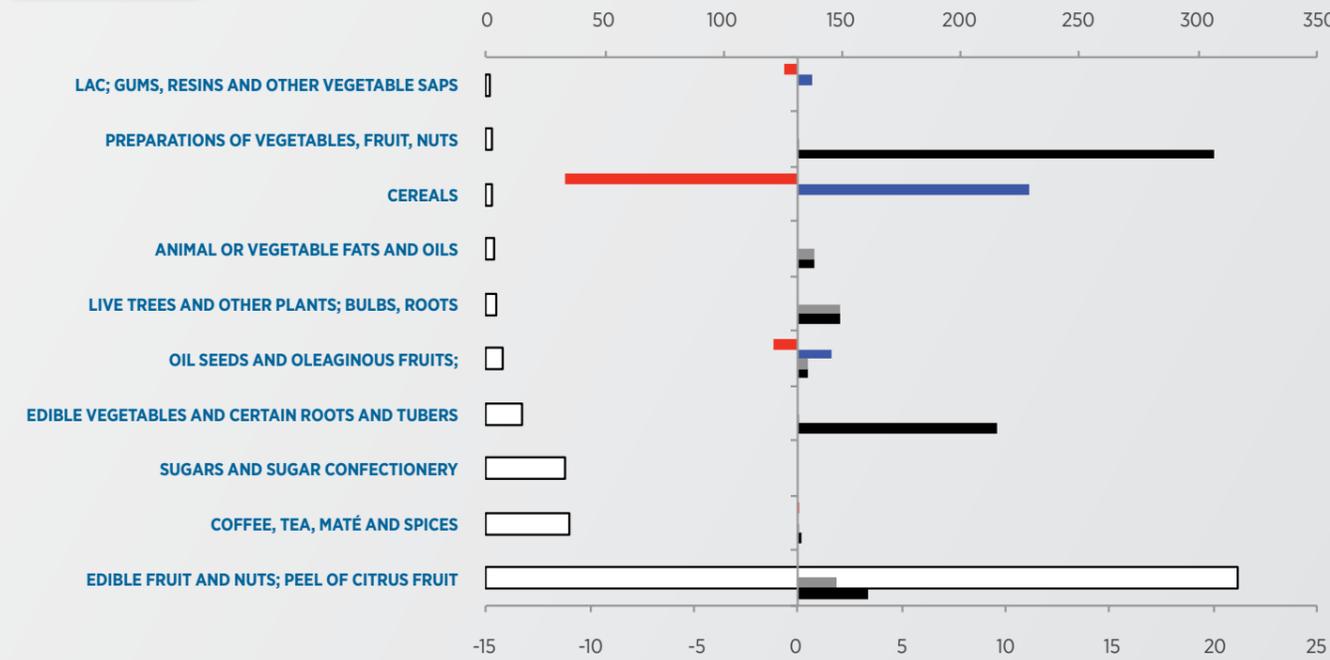
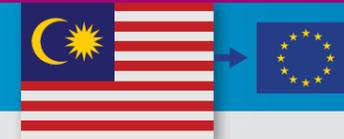


■ EU Mark-up (+) / Discount (-) vs. US
 ■ Effectively applied US
 ■ Effectively applied EU
 ■ MFN rate (EU)
 Trade volume in million USD, upper scale

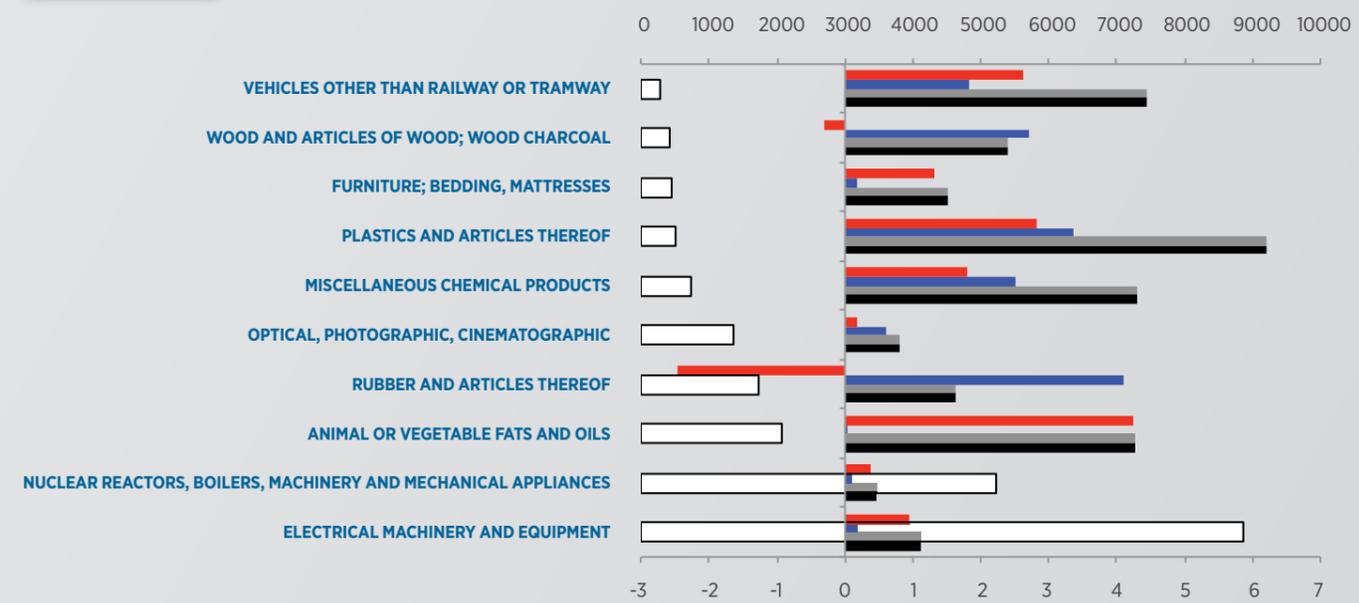
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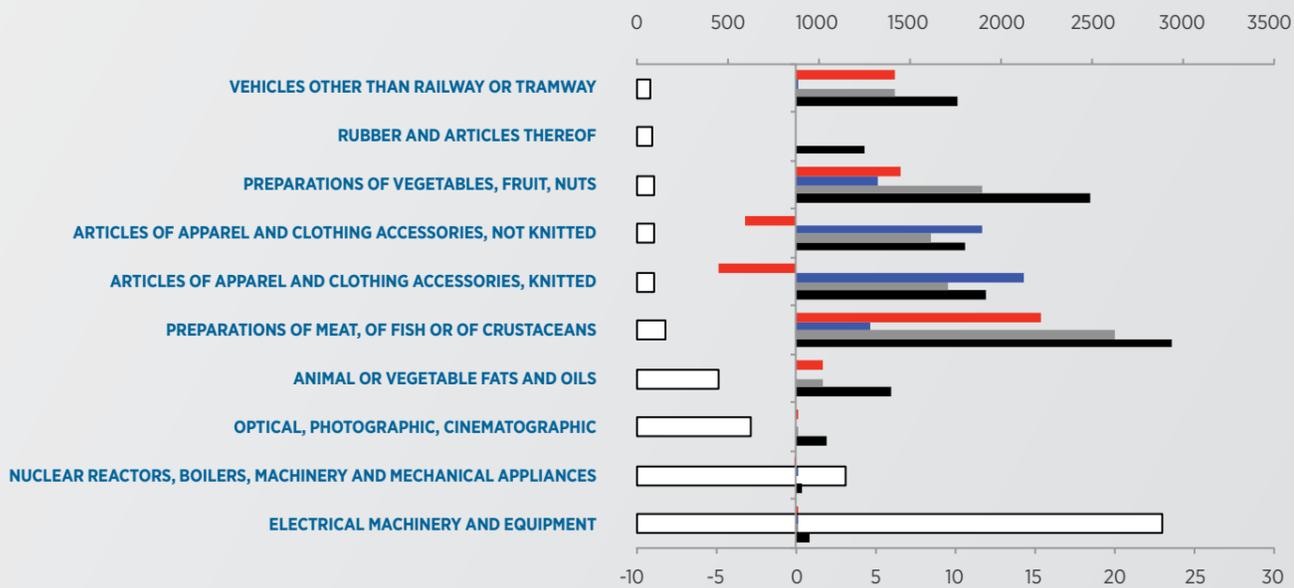
LAO PDR

MALAYSIA




PHILIPPINES

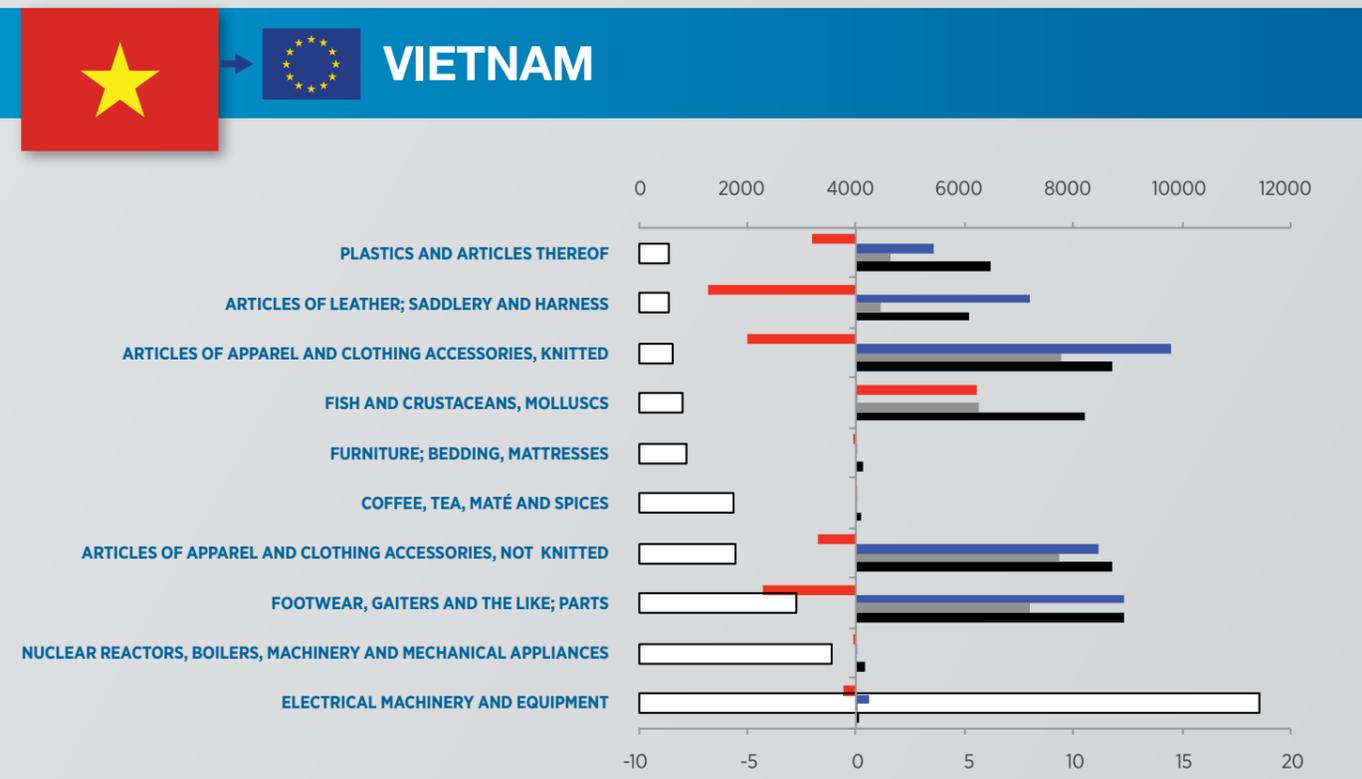
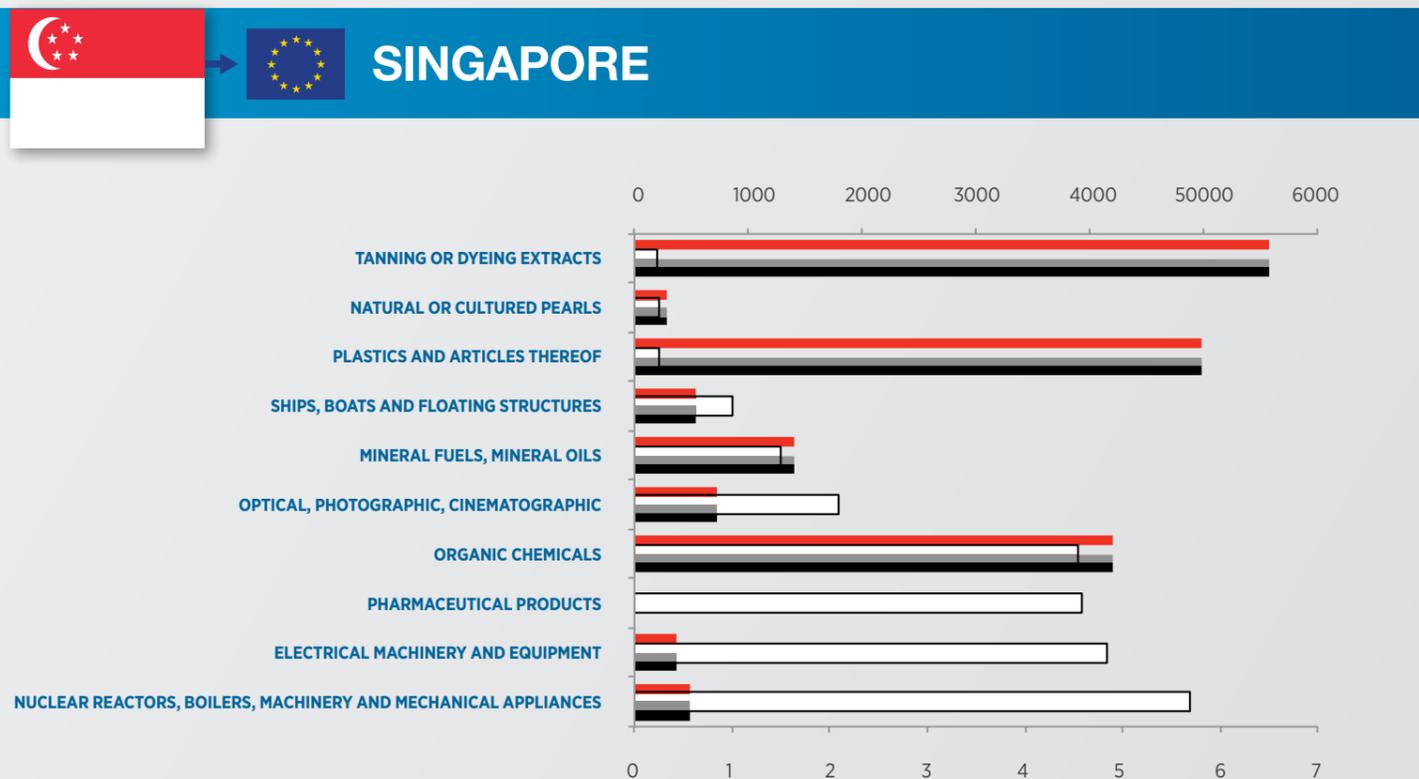
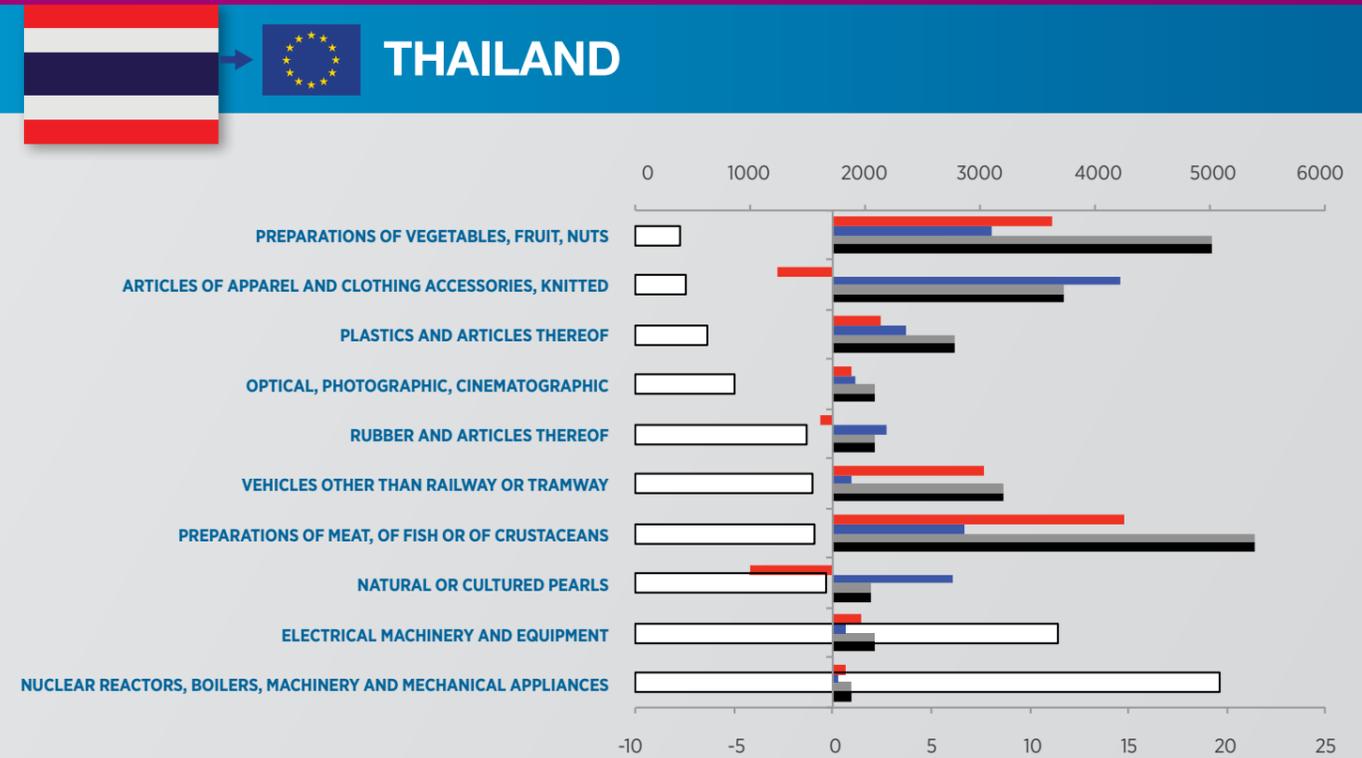
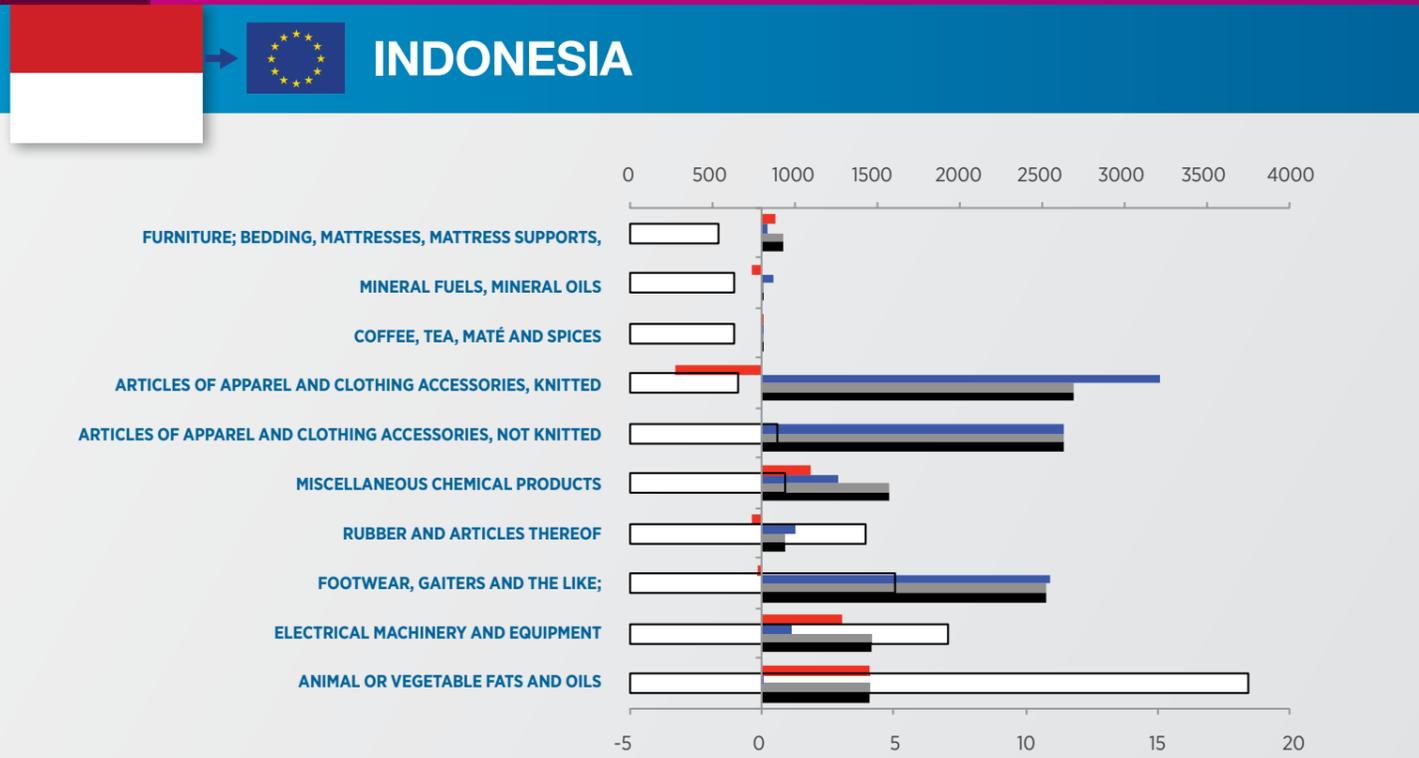



MYANMAR



■ EU Mark-up (+) / Discount (-) vs. US
 ■ Effectively applied US
 ■ Effectively applied EU
 ■ MFN rate (EU)
 Trade volume in million USD, upper scale

Annex II. Applied tariffs on individual ASEAN members Top 10 exports to EU



■ EU Mark-up (+) / Discount (-) vs. US
 ■ Effectively applied US
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