DOES FREE TRADE MATTER FOR POVERTY REDUCTION?  
THE CASE OF ASEAN

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I. Introduction

The Association of the Southeast Asian Nations (ASEAN) is a regional bloc of ten countries that has emerged as an economic power in Asian regionalism. With its foreign direct investment (FDI) inflows reaching US$75.8 billion and combined nominal gross domestic product (GDP) ascending to US$1.8 trillion, ASEAN is now the world’s ninth-largest and Asia’s third-largest economy. ASEAN’s conclusion of free trade agreements (FTAs) with China, Japan, South Korea, India, Australia and New Zealand further cemented its status as a regional hub. Moreover, as ASEAN includes nine World Trade Organization (WTO) members and seven Asia Pacific Economic Cooperation (APEC) economies, the bloc plays an indispensable role in international trade negotiations.

Notwithstanding ASEAN’s growth, almost 13% of its population or 76 million people live below the World Bank’s international poverty line of US$1.25 a day. Poverty, aggravated by...

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1 The Association of Southeast Asian Nations (ASEAN) includes Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei, Cambodia, Laos, Myanmar (Burma) and Vietnam; see generally Table 1: Selected Basic ASEAN Indicators, As of 15 Feb. 2011 [Selected Basic ASEAN Indicators], http://www.asean.org/stat/Table1.pdf (last visited 20 Dec. 2011).


the vast development divide, has posed a long-standing threat to ASEAN’s internal and external economic integration. Accommodating trade interests among ASEAN-6 countries (Brunei Darussalam, Indonesia, Malaysia, the Philippines, Singapore and Thailand) and less-developed Cambodia, Laos, Myanmar and Vietnam (CLMV countries) remains ASEAN’s priority task. To achieve the goal of the ASEAN Economic Community (AEC), it is essential that ASEAN tackle poverty, which hinders integration. Therefore, all ASEAN states have adopted the United Nations Millennium Development Goals (MDGs) as their national development roadmaps. Both the AEC and MDGs set 2015 as the target deadlines to promote equitable development by alleviating poverty. Against this background, this article examines the nexus between ASEAN’s free trade regime and poverty reduction, arguing that the former benefits the latter. Section II of the article analyzes ASEAN’s internal integration with a focus on the AEC’s legal framework and poverty reduction initiatives. Section III explores the features and negotiations of ASEAN external FTAs that affect CLMV countries. It also discusses potential impacts of the ongoing Trans-Pacific Partnership Agreement (TPP) negotiations on ASEAN’s poverty alleviation initiatives. This article concludes by providing legal and policy recommendations for ASEAN countries and other stakeholders.

II. ASEAN’s Economic Integration

ASEAN’s economic integration cannot succeed without first narrowing the development gap by reducing poverty. The multidimensional diversity of ASEAN is reflected in its members’ sizes, populations and governments. The bloc is particularly distinguishable from other trade

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4 Kimberley McClean et al., Poverty Reduction and Social Development in ASEAN: Towards an ASEAN Roadmap for the Implementation of the Millennium Goals, REPSF II Project No. 07/007 (2008), at 3.
blocs such as the European Union (EU) and North American Free Trade Area (NAFTA) because of the sharp differences in national GDP. It can be exemplified by the fact that the GDP per capita of Singapore is 87.3 times that of Myanmar.¹⁶ ASEAN’s poverty incidence is also significantly higher than that of Mercosur or NAFTA.⁷ These challenges render ASEAN’s fight against poverty distinctive and provide valuable lessons for other South-South FTAs.

A. The AEC’s Legal Framework

Because of mutual interests, ASEAN states have pursued economic integration irrespective of their different stages of development. For ASEAN’s more developed countries, particularly Singapore and Malaysia, CLMV countries provide low-cost production bases for regional operations. CLMV countries benefit equally from their more privileged neighbors’ capital and technical assistance. Remarkably, for all ASEAN states, internal integration prompts FDI inflows that create a poverty-decreasing effect through economic growth, employment and training.⁸ Empirical evidence demonstrates that in ASEAN, a 10% increase in FDI would lead to a 0.17% growth per capita of the poor’s income.⁹ As a result of integration, FDIs complement domestic reforms in accelerating growth and mitigating poverty. In particular, Vietnam reduced poverty from 49.7% in 1998 to 13.1% in 2008 due to its economic reform, known as Doi Moi (Renovation).¹⁰ Indonesia similarly witnessed the substantial decline of the poor population by

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¹⁶ Selected Basic ASEAN Indicators, supra note 1.
¹⁸ Hafiz Mirza et al., Regionalism, Foreign Direct Investment and Poverty Reduction: The Case of ASEAN (2003), at 124 (“40% of poverty reduction thus far is from growth, [and] 60% of poverty reduction has been due to increased employment (of the poor) and human resource development.”).
¹⁹ Id. at 62.
almost 30% over the past decade.\textsuperscript{11} While challenges remain, Southeast Asia, along with East Asia, has become a region that surpassed the prime target of MDGs to poverty alleviation.\textsuperscript{12}

Despite the positive impacts of economic integration on poverty alleviation, the implementation of the ASEAN Free Trade Area (AFTA), beginning in 1993, had a difficult start.\textsuperscript{13} The AFTA, through the Common Effective Preferential Tariff (CEPT) scheme, contained several legal loopholes because of ASEAN states’ protection of domestic interests such as the automobile and sugar industries.\textsuperscript{14} The CEPT scheme provided substantial exclusions on trade in goods and minimally impacted non-tariff barriers (NTBs) and services trade.\textsuperscript{15} In addition, the fact that the extra margin of benefits conferred by the AFTA was limited compared to ASEAN states’ unilateral reduction in tariffs led to its low utilization by ASEAN exporters.\textsuperscript{16}

In 2003, the slow-moving process changed fundamentally when ASEAN adopted the Bali Concord II to accelerate integration.\textsuperscript{17} This decision was prompted by concerns that delaying ASEAN integration would jeopardize its competitiveness, particularly given the development of NAFTA and the EU as well as China’s rapid rise. The leaders envisioned the creation of the three-pillar ASEAN Community based on political and security cooperation, socio-cultural

\textsuperscript{11} Id. See also Figure 4: Poverty Incidence, ASEAN-5, 1990-2006, Arangkada Philippines 2010: A Business Perspective (2010), at 8 (“Indonesia and Vietnam have reduced their poverty incidence by roughly 50% from 1990 to 2006.”).

\textsuperscript{12} Tatsufumi Yamagata & Takashi Shiraishi, \textit{Poverty Reduction and Beyond: How Far toward the Goals, in POVERTY REDUCTION AND BEYOND: DEVELOPMENT STRATEGIES FOR LOW-INCOME COUNTRIES} 3 (Takasi Shiraishi et al. eds. 2009) (“The head-count rations of both regions declined by two-third from 1990-2004, which surpassed the target [to halve . . . the proportion of people whose income is less than $1 a day.”]).

\textsuperscript{13} For further information, see speech by Chng Meng-Kng, The ASEAN Free Trade Area (AFTA) (1993), available at http://www.asean.org/10331.htm (last visited 10 Dec. 2011).

\textsuperscript{14} Narongchai Akrasanee & Jutamas Arunanondchai, \textit{Institutional Reforms to Achieve ASEAN Economic Integration, in ROADMAP TO AN ASEAN ECONOMIC COMMUNITY} 65 (Denis Hew ed. 2005).


\textsuperscript{16} Id.

\textsuperscript{17} Press Statement by the Chairperson of the 9\textsuperscript{th} ASEAN Summit and the 7\textsuperscript{th} ASEAN+3 Summit, Bali, Indonesia, Oct. 7, 2003.
cooperation and economic cooperation. According to the ASEAN Economic Community Blueprint that was adopted in 2007, the AEC expected to complete “a single market and production base” by 2015.

With the AEC’s target deadline approaching, it becomes imperative for ASEAN to renovate its legal framework to advance economic integration, thereby ensuring its growth and poverty reduction. In terms of trade in goods, the 2009 ASEAN Trade in Goods Agreement (ATIGA) integrates and harmonizes prior agreements concluded after the CEPT scheme. The ATIGA is more investor friendly. It is a single reference document that not only includes sets of tariff schedules and rules of origin (ROO), but also enhances trade facilitation rules and the elimination of NTBs. As for trade in services, negotiations under the 1995 ASEAN Framework Agreement on Services (AFAS) resulted in eight packages of commitments between 1997 and 2010. To accommodate ASEAN states’ varied concerns, the 2003 Protocol to Amend the AFAS adopted the “ASEAN minus X” formula. This approach allows ASEAN countries that wish to liberalize certain services sectors to proceed without extending the concessions to non-participating members. As part of services liberalization, seven mutual recognition arrangements (MRAs) were concluded and cover accountancy, medical, engineering, architectural and other professional services. With respect to investments, the 2009 ASEAN Comprehensive Investment Agreement (ACIA) extends benefits to non-ASEAN based investors,

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18 Declaration of ASEAN Concord II (Bali Concord II) (2003), art. 1.
19 ASEAN Economic Community Scorecard (2010), at 3; Bali Concord II (2003), art. B.3.
21 *Id.*
23 *ASEAN Integration in Services* (2007), at 5.
24 *Id.*
25 *ASEAN Integration in Trade in Services*, supra note 22, at 9.
reduces the scope of scheduling reservations and includes an investor-state dispute settlement mechanism, thereby strengthening ASEAN’s capacity to absorb investment.26

These changes to ASEAN’s legal framework substantially benefit its integration and global competitiveness. As of January 2010, ASEAN-6 countries eliminated tariffs covering 99.65% of the CEPT’s tariff lines.27 Less developed CLMV countries also accomplished 0-5% tariff rates under 98.96% of such tariff lines. Furthermore, in 2009, expanded services commitments negotiated under the AFAS resulted in the service sector receiving 50.6% of ASEAN’s FDIs.28 These developments propelled ASEAN to reach 73.6% of the AEC’s target and a significant growth rate of 7.6% in 2010.29

B. Poverty Reduction and Development Initiatives

Along with ASEAN integration that has evolved rapidly in the past decade, ASEAN leaders have reiterated the importance of poverty alleviation for achieving ASEAN’s equitable development and the MDGs.30 Nonetheless, the AEC’s surfacing shortcoming will hinder the poverty-reducing gains of ASEAN integration. The legal framework’s current weakness lies in services liberalization. One cannot ignore that services trade accounts for 40-50% of GDP in

30 E.g., Declaration of ASEAN Concord (Bali Concord I) (1976), arr. 3; ASEAN Vision 2020 (1997); Declaration of ASEAN Concord II (Bali Concord II) (2003), art. B.3; Bali Declaration on ASEAN Community in a Global Community of Nations (Bali Concord III) (2011), art. C.3(e).
ASEAN states.\textsuperscript{31} More importantly, statistics demonstrate that the service sector’s growth would positively affect ASEAN’s poverty alleviation.\textsuperscript{32}

Compared to goods liberalization, services negotiations have progressed slowly, making it inconceivable that the AEC would reach its goal to liberalize all service sectors by 2015. In the initial liberalization stage, ASEAN adopted the “positive-list” approach of the General Agreement on Trade in Services (GATS).\textsuperscript{33} This “request and offer” approach required bottom-up negotiations, obliging ASEAN members to list their schedule of commitments and then specify market access and national treatment conditions.\textsuperscript{34} The liberalization result was not substantially GATS-plus, even after the negotiation model transformed to state that all members must make commitments in sub-sectors if three or four states had done so under the GATS or the AFAS.\textsuperscript{35} Transparency became an associated problem because ASEAN states were often vague in their commitments, making it difficult to evaluate what sectors and to what extent actual liberalization occurred. This problem worsened with the complex commitments made under the ASEAN minus X approach.

Notably, services liberalization efforts have been undermined by each country’s nationality requirements and foreign ownership restrictions on sensitive sectors. For instance, any attempts by the Philippine government to liberalize legal sectors might suffer constitutional challenges, as the court has long viewed admission to the bar as the judicial branch’s prerogative.\textsuperscript{36} It was

\textsuperscript{32} Dionisius Narjoko et al., Narrowing the Development Gap in ASEAN, in REALIZING THE ASEAN ECONOMIC COMMUNITY: A COMPREHENSIVE ASSESSMENT 122 (Michael G. Plummer & Chia Show Yue eds. 2009) (“Warr’s study [shows] that growth in services pulls people out of poverty [in South East Asia].”).
\textsuperscript{33} Center for the Advancement of Trade Integration and Facilitation et al., Expanding Trade in Business Services in ASEAN [Expanding Trade in Business Services in ASEAN], REPSF Project 05/006 (2007), at 86.
\textsuperscript{34} Id.
\textsuperscript{35} For information on negotiation approaches in each round, see ASEAN Integration in Trade in Services, supra note 22, at 3-5.
\textsuperscript{36} H. Harry Roque, Globalization of Legal Services: Challenges and Possibilities in the Philippines Setting,
based on separation-of-powers reasoning that the Supreme Court of the Philippines invalidated the executive branch’s treaty with Spain that accorded Philippine nationals the right to practice law via their Spanish licenses.\textsuperscript{37} To accelerate services liberalization and address the issues identified above, ASEAN states are advised to adopt the “negative-list” approach based on the NAFTA model.\textsuperscript{38} Contrary to the GATS model, this approach calls for top-down negotiations in which participating states are required to abolish restrictions subject to exceptions they enter.\textsuperscript{39}

Pertinent to services trade, it is crucial to note that pro-poor growth – utilizing low-skilled labor as part of “Mode 4” (movement of natural persons) liberalization – would create conspicuous poverty-related gains in developing countries.\textsuperscript{40} However, among the four modes of supply, ASEAN states have committed Mode 4 least under either the AFTA or external FTAs.\textsuperscript{41} Even in Mode 4 commitments, ASEAN states, like most WTO members, focus primarily on skilled labor rather than low and unskilled labor. In the GATS schedules, 70\% of Mode 4 commitments are connected to Mode 3 and thereby are confined to “intra-corporate transferees” who are at managerial or professional levels.\textsuperscript{42} Similarly, ASEAN identified only “free movement of . . . skilled labor” as the AEC’s target.\textsuperscript{43} While liberalization of skilled labor may


\textsuperscript{37} \textit{Id.} at 64.

\textsuperscript{38} Expanding Trade in Business Services in ASEAN, \textit{supra} note 33, at 86.

\textsuperscript{39} \textit{Id.}

\textsuperscript{40} See Borany Penh, \textit{CAFTA and Poverty Reduction Issues for Honduras: A Rapid Appraisal with Recommendations for USAID/Honduras} (2004), at 3 (“As low-skill labor is typically the greatest productive asset of the poor, economic growth in sectors that utilize low-skill labor is critical for pro-poor growth.”); \textit{see also} Rupa Chanda, \textit{Impact of Services Trade Liberalization on Employment and People Movement in South Asia}, ADBI Working Paper Series, No. 339 (2011), at 35 (“[M]ode 4 . . . has implications for alleviating unemployment and poverty and contributing to source regions through remittance flows.”).


\textsuperscript{42} Joy Abrenica et al., \textit{The Future of Trade in Services for Developing Countries, in TRADE AND POVERTY REDUCTION IN THE ASIA-PACIFIC REGION: CASE STUDIES AND LESSONS FROM LOW-INCOME COMMUNITIES} 353 (Andrew L. Stoler et al. 2009).

\textsuperscript{43} ASEAN Economic Community, \url{http://www.aseansec.org/18757.htm} (last visited 11 Dec. 2011) (emphasis added).
enlarge ASEAN professionals’ opportunities, liberalization of low or unskilled labor will effectively advance ASEAN’s poverty reduction.

Remittances are the direct effect of allowing low or unskilled workforce to enter more developed markets if less developed countries cannot absorb the extra labor. For example, the Philippines has been a highly remittance-dependent country. Remittances by overseas Filipino workers, about 10% of the national population, accounted for 11.4% of the country’s GDP in 2008. These remittances are sent back to families in rural areas and often contribute to poverty reduction at the grassroots level. Consequently, to enhance poverty alleviation for less developed countries, ASEAN should de-link Mode 4 negotiations from Mode 3 commitments. Furthermore, on human rights grounds, it is vital for ASEAN to reach a common framework to protect low or unskilled workers who often undertake “3D” jobs (dirty, difficult and dangerous) in host countries.

In addition to economic integration that enhances poverty-reducing impacts, ASEAN has taken direct action against poverty. Such efforts were first seen in 1997 when ASEAN states mandated that the ASEAN Ministers on Rural Development and Poverty Eradication implement measures to decrease poverty in rural areas. These institutional-building measures were aimed

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at public-private cooperation in tackling issues such as natural disasters and information technology.\textsuperscript{49} The ASEAN Foundation also instigated concurrent efforts to train small-scale farmers and fishermen, primarily under the sponsorship of the Japan-Solidarity Fund.\textsuperscript{50} Moreover, to narrow the development gap, ASEAN launched the Initiative for ASEAN Integration (IAI) in 2000 that focuses on development and poverty alleviation in CLMV countries.\textsuperscript{51} Projects under the IAI Work Plans have been funded by both ASEAN-6 countries and external partners such Australia, the EU and the US.\textsuperscript{52}

While it is difficult to quantify the actual impact of these poverty-reducing initiatives, ASEAN has demonstrated that it is committed to such reduction and MDGs. Nevertheless, the implementation of these actions reveals ASEAN’s institutional weaknesses. The most striking problems arise in the effectiveness of the IAI because of its limited financial resources and lack of coordination.\textsuperscript{53} IAI projects are often “adopted” by ASEAN-6 countries, whose contribution amounts are insignificant compared to projects financed by foreign states. The absence of horizontal coordination between donor countries and the review mechanism inevitably prevents maximum use of resources.\textsuperscript{54} The efficient way to address these weaknesses – with minimum

\textsuperscript{49} In addition, as of November 2011, high level workshops on poverty reduction under the ASEAN Plus Three (China, Japan and Korea) have also been held five times. ASEAN in the Global Community: Annu Report 2010-2011 (2011), at 52.

\textsuperscript{50} ASEAN Foundation: Annu Report 2009 (2009), at 33-34 & 37.


\textsuperscript{54} See e.g., Meredith Kolsky Lewis, WTO Winners and Losers: The Trade and Development Disconnect, 39 GEORGETOWN J. INT’L L. 165, 191-92 (2007) (recalling that the contents of training courses provided by New Zealand and Australia in Vietnam during the same period overlapped, as neither side knew about the similar courses offered by the other.).
budget increase – would be to designate a focal point in the ASEAN Secretariat, which regularly evaluates projects and coordinates ASEAN states as well as foreign partners.

III. ASEAN’s External FTAs

ASEAN’s external FTAs both complement ASEAN’s integration and cement its status as a hub in Asian regionalism. Since 2002, ASEAN as an entity has concluded FTAs with important economies including China, Japan, Korea, India, Australia and New Zealand. Comparable to ASEAN’s intra-integration, these FTAs have resulted in an increase in exports of ASEAN goods and services and FDI inflows. FTAs benefit ASEAN’s poverty mitigation because they increase pro-poor growth by allowing states to utilize their comparative advantages in supply chains. For instance, the garment industries of Cambodia and Vietnam as well as the footwear industry of Indonesia employ a large rural population.55 These labor-intensive industries yielded more direct poverty-related benefits than did technology-intensive industries, which instead contributed primarily to national economies.56 More developed ASEAN countries have also focused on the services industries. This is demonstrated by Thailand, Malaysia and Singapore that have developed “health tourism,” marketing medical services to foreigners at competitive rates.57

A. Features of ASEAN FTAs and CLMV Countries

56 See e.g., Laksono, supra note 55, at 151.
57 Investing in ASEAN 2011-2012, at 81.
ASEAN states have pursued individual FTAs to expand exports of goods and services. These FTAs increase employment. For example, Economic Partnership Agreements with Japan allow Filipino nurses, Indonesian caregivers, and Thai cooks and spa therapists to access Japan’s employment market. The US-Singapore FTA also creates spillover employment effects on Singapore’s neighbors because it covers the Indonesian islands of Batam and Bintan, thus entitling goods manufactured there to zero-tariff in the US market. Despite separate FTAs concluded by member states, ASEAN’s common FTAs give the bloc certain advantages. When faced with potential FTA partners, ASEAN as an entity has stronger negotiating leverage. For instance, Vietnam would not have been recognized as a market economy by ASEAN’s FTA partners if it had pursued FTAs on its own. In addition, ASEAN FTAs cover CLMV countries, which by themselves, for political and economy reasons, are not “suitable” FTA partners. The fact that CLMV countries are included in ASEAN’s FTAs, in turn, narrows ASEAN’s development gap.

ASEAN states were particularly cautioned about FTAs’ negative effect on vulnerable industries and CLMV countries with immense poverty populations. These concerns are reflected in ASEAN’s FTA strategy. Except for the ASEAN-Australia-New Zealand FTA, ASEAN adopted a framework agreement approach for four other FTAs. For example, the completion of the ASEAN-China FTA in 2010 was built on the ASEAN-China Framework Agreement (2002) and supplemented by enabling agreements on trade in goods (2004), dispute settlement (2004), trade in services (2007) and investments (2009). Categorized as an “interim agreement” under

60 Framework Agreement on Comprehensive Economic Cooperation between ASEAN and the People’s Republic of China (China-ASEAN Framework Agreement) was concluded on 4 November 2002. For the texts of China-ASEAN Framework Agreement and enabling agreements, see China FTA Network,
WTO Law, ASEAN’s framework agreements not only provide the legal basis for negotiating subsequent agreements, but also consider the bloc’s development gap.\textsuperscript{61} Certain features of the framework agreement approach minimize FTAs’ negative impacts, particularly on the agriculture sector on which most poverty populations rely. First, other than goods covered under the early harvest program that immediately accords preferential treatment to FTA partners, goods can be listed under the “sensitive track,” which allows for different timetables, scales of liberalization, or even exclusion.\textsuperscript{62} Second, special and different (S&D) treatment is granted to CLMV countries for a longer period of time and at additional stages of liberalization.\textsuperscript{63} This S&D treatment, officially included in the 2011 ASEAN Framework for Regional Comprehensive Economic Partnership, serves as a guiding principle for ASEAN’s prospective FTA negotiations.\textsuperscript{64}

Among CLMV countries, Myanmar has posed considerable challenges to ASEAN’s free trade regime and poverty reduction. Unlike the EU, democracy has never been a prerequisite for ASEAN membership and the admission of Myanmar in 1997 was primarily on geopolitical and economic grounds.\textsuperscript{65} As a response to the military junta’s suppression of democratic opposition led by Aung San Suu Kyi, the US, the EU and Canada have imposed economic sanctions against Myanmar.\textsuperscript{66} These sanctions render impossible the conclusion of region-based FTAs with

\textsuperscript{61} A framework agreement in the ASEAN context constitutes an “interim agreement necessary for” or “leading to” an FTA under Article XXIV of the General Agreement on Tariffs and Trade.

\textsuperscript{62} E.g., ASEAN-China Framework Agreement, art. 3; Framework Agreement on Comprehensive Economic Cooperation between the Republic of India and the Association of Southeast Asian Nations (ASEAN-India Framework Agreement), 8 October 2003, art. 3

\textsuperscript{63} E.g., ASEAN-China Framework Agreement, art. 3.4; ASEAN-India Framework Agreement, art. 3.5

\textsuperscript{64} See ASEAN Framework for Regional Comprehensive Economic Partnership (2011) (“The agreement shall provide for special and differential treatment to ASEAN Member States, especially Cambodia, Lao PDR, Myanmar and Viet Nam”).

\textsuperscript{65} RODOLFO C. SEVERINO, SOUTHEAST ASIA IN SEARCH OF AN ASEAN COMMUNITY: INSIGHTS FROM THE FORMER ASEAN SECRETARY-GENERAL 131-35 (2006).

\textsuperscript{66} See generally Michael F. Martin, U.S. Sanctions on Burma, 11 Jan. 2011, Congressional Research Service; Daniel
ASEAN and positioned Myanmar as a political barrier in ASEAN’s FTA progress. In contrast with Vietnam, the Myanmar case vindicates that while ASEAN’s internal and external FTAs do prompt growth, poverty reduction cannot advance without commitments to domestic reforms.

Currently, Myanmar remains ASEAN’s poorest country with 26% of the population living in poverty. The country’s inability to provide reliable poverty statistics also severely undermines efforts to assess ASEAN’s progress toward the MDGs. Some may argue that economic sanctions lead to Myanmar’s poverty. I disagree. In fact, the West’s sanctions never prevented Myanmar from developing trade relations for economic growth. This can be shown by the list of Myanmar’s top trade partners, including most ASEAN neighbors and China, Japan and South Korea. It is the Myanmar government’s mismanagement of the economy with misplaced priorities that has contributed to its entrenched poverty. Even in 2011, Myanmar’s defense budget amounted to almost 25% of its GDP, whereas its expenditures for education and health were only 4.13% and 1.3% respectively. It remains to be seen whether Myanmar will seize the opportunity for change, given the recent ASEAN leaders’ endorsement of Myanmar as 2014 ASEAN chair and US Secretary of State Hillary Clinton’s visit to the country. Myanmar’s

68 Ten as One: Challenges & Opportunities for ASEAN Integration, United nations Economic & Social Commission for Asia & the Pacific (2007), at 14 n.14 & 22.
potential reforms will invariably alleviate its poverty alleviation level as well as ASEAN’s integration and FTA development.

B. Poverty Impacts of the TPP

The newest focus of ASEAN states’ FTA negotiations is the Trans-Pacific Partnership Agreement (TPP). The TPP builds on the FTA that became effective in 2006 among Singapore, New Zealand, Chile and Brunei, collectively known as Pacific-4 (P4) countries.\(^{72}\) In November 2009, the Obama administration announced the decision to enter negotiations with TPP partners, thus transforming the TPP into the most noteworthy multi-lateral FTA amid Doha impasse.\(^{73}\) After long-awaited congressional approval of US FTAs with Korea, Columbia and Panama in October 2011, the TPP became a priority on the US trade agenda, showing Obama’s commitments to the “return to Asia” strategy.\(^{74}\) Underlying reasons for the TPP include revitalizing the US economy by increasing exports to Asia and, more importantly, preventing Washington’s marginalization from Asian FTA networks in the context of China’s rise.

By the end of 2011, nine rounds of negotiations took place, and the negotiating parties expanded to nine countries, including the US, the original P-4 countries, Australia, Peru, Malaysia and Vietnam.\(^{75}\) These trade partners deem the TPP a “21\(^{st}\) century” agreement that will

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\(^{73}\) Id.


provide a pathway toward an APEC-wide Free Trade Area of the Asia-Pacific.\textsuperscript{76} Although the TPP’s legal texts is yet to be negotiated, the leaders of TPP countries declared the broad outlines on the sidelines of the APEC Summit in Honolulu in November 2011.\textsuperscript{77}

The current TPP members consist of only four ASEAN states: Brunei, Malaysia, Singapore and Vietnam. In my view, the TPP contains aspects that will hamper ASEAN’s development, particularly its poverty-reducing efforts. First, the TPP will counteract ASEAN’s integration because from the American perspective, only ASEAN states with vast market potential are ideal TPP candidates. The fact that Cambodia, Laos and Myanmar are not even APEC members makes it challenging to accede to the TPP. In addition, the US-preferred negotiation modality for market access is to negotiate with countries that are not yet US FTA partners before proceeding to TPP-wide negotiations.\textsuperscript{78} This modality is likely to create a bandwagon effect compelling later-acceded ASEAN countries to offer additional concessions, thus undermining ASEAN’s collective interests.

Secondly, agricultural liberalization under the TPP will affect most ASEAN countries because large rural and poverty populations rely on the farming sector. Rice, sugar, beef and dairy products are expected to be at the core of the negotiations. In particular, allowing market access for rice will pose challenges to Malaysia, which imposes import licensing on rice.\textsuperscript{79}

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\item \textsuperscript{76} Fergusson & Vaughn, \emph{supra} note 72, at 2 & 7.
\item \textsuperscript{78} Claude Barfield, \emph{The Trans-Pacific Partnership: A Model for Twenty-First-Century Trade Agreements?}, American Enterprise Institute for Public Policy Research, No. 2, June 2011, at 3-4. \emph{See also} Jagdish Bhagwati, \emph{America’s Threat to Trans-Pacific Trade}, 30 Dec. 2011, \emph{PROJECT SYNDICATE}, http://www.project-syndicate.org/commentary/bhagwati20/English (“[T]he TPP’s supposed openness has been wholly misleading. [It] was negotiated with the weaker countries like Vietnam, Singapore, and New Zealand, which were easily bamboozled into accepting such conditions.”).
\item \textsuperscript{79} Trade Policy Review, Report by the Secretariat, Malaysia, WT/TPR/S/225, 14 Dec. 2009, at 34 (“Malaysia’s only state-trading enterprise . . . remains Padiberas Nasional Berhad (BERNAS). BERNAS has the sole right to import rice until 2011 . . . .”). Moreover, Indonesia imposed rice imports ban in 2004 that resulted in a rise in poverty
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Thirdly, it has been contentious as to whether the TPP will adopt the “yarn-forward” rule of origin (ROO) under which preferential treatment for textile and apparel products is granted only if they originate from FTA partners and their cutting and assembly also occur in these countries.\textsuperscript{80} The US textile industry has pushed for such ROO, which was included in US FTAs such as NAFTA. Nevertheless, the rule invariably will undermine Vietnam’s export opportunities and employment of textile workers because the majority of its raw materials for fabric are imported from China. Finally, the TPP intends to include pharmaceutical pricing provisions based on the Australia-US FTA and the Korea-US FTA.\textsuperscript{81} By limiting governments’ use of evidence-based drug pricing, these provisions will restrict ASEAN countries’ ability to regulate medicine prices, particularly patented drugs primarily produced by US-based pharmaceutical companies.\textsuperscript{82} The sharp increase in medicine prices will restrict the poor’s access to affordable care. These issues illustrate ASEAN’s realistic concerns about entering TPP negotiations while avoiding deteriorating its integration and poverty alleviation initiatives.

IV. Conclusion

ASEAN as an entity has evolved as an indispensible hub in Asian regionalism in the past decade. Notwithstanding ten member states’ sharp divergence in development stages and poverty incidences, ASEAN counties have pursued economic integration with substantial progress. The article examined ASEAN’s internal and external FTAs and found that its free trade regime development has positively complemented the bloc’s poverty reduction.


\textsuperscript{82} Id.
To achieve the AEC and the MDGs by their 2015 deadlines, ASEAN should take additional steps. As the shortcoming of the AEC’s legal framework lies in services liberalization, ASEAN is advised to adopt the NAFTA model of negative-list negotiation approach. Delinking Mode 4 negotiations from Mode 3 commitments will also promote the utilization of unskilled and low-skilled labor, thereby creating pro-poor growth. Furthermore, to efficiently allocate resources for assisting CLMV countries, the ASEAN Secretariat should strengthen its role in coordinating ASEAN and foreign states. With respect to ASEAN’s external FTAs, the article identified ASEAN’s framework agreement approach that accords S&D treatment for CLMV countries and assessed the potential consequences of the TPP negotiations on poverty mitigation initiatives. It is essential that ASEAN collectively pursue FTAs without hindering its integration and poverty alleviation initiatives. While challenges persist, ASEAN has evidenced the positive impacts of trade liberalization on poverty reduction and hence provided valuable lessons for regional integration under the multilateral trading system.
Annex 1: Selected Indicators of ASEAN States

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<tr>
<th>ASEAN Country</th>
<th>Gross Domestic Product per capita (2009), USD</th>
<th>Foreign Direct Investment Inflow (2009), USD$ million</th>
<th>Total Trade (2009), USD$ million</th>
<th>Share of Extra-ASEAN Trade to Total Trade (2009)</th>
<th>Poverty Headcount Ratio at $1.25 a day (% of population, 2010)</th>
<th>Poverty Headcount Ratio at $1.25 a day (number of population, 2010, million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASEAN</td>
<td>2,532.5</td>
<td>39,387.3</td>
<td>1,536,843.3</td>
<td>75.5</td>
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<td>9,568.2</td>
<td>74.2</td>
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<td>n/a</td>
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<td>530.2</td>
<td>8,886.7</td>
<td>76.4</td>
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<td>4,876.8</td>
<td>213,339.2</td>
<td>75.5</td>
<td>18.55</td>
<td>43.07</td>
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<td>318.6</td>
<td>2,962.1</td>
<td>16.3</td>
<td>31.76</td>
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<td>1,381.0</td>
<td>280,221.4</td>
<td>74.3</td>
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<td>0.00</td>
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<td>83,868.6</td>
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<td>16.71</td>
<td>15.63</td>
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<td>515,617.1</td>
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<td>4,975.6</td>
<td>286,266.8</td>
<td>79.3</td>
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<td>7,600.0</td>
<td>125,921.9</td>
<td>82.4</td>
<td>12.59</td>
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Annex 2: ASEAN’s Participation in the WTO, the APEC and FTAs

<table>
<thead>
<tr>
<th>ASEAN Country</th>
<th>WTO Member</th>
<th>APEC Member</th>
<th>Bangkok Agreement</th>
<th>TPP</th>
<th>Individual FTA Partner</th>
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<td></td>
<td></td>
<td>Australia, China, Korea, Japan, India, New Zealand</td>
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<td>Y</td>
<td></td>
<td>Japan</td>
</tr>
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<td>Cambodia</td>
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<td></td>
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<td>Japan</td>
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<td>Japan</td>
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<td>Japan</td>
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<td>Y</td>
<td></td>
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<tr>
<td>Thailand</td>
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<td>Australia, Japan, New Zealand</td>
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<td>Y</td>
<td>negotiating</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Y: membership
TPP: The Trans-Pacific Partnership Agreement; original members include Brunei, Chile, New Zealand and Singapore
EFTA: The European Free Trade Association includes Liechtenstein, Iceland, Norway and Switzerland