

Legal and Institutional Framework for Open Regionalism: a case study of ASEAN

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Open Regionalism in ASEAN

- What is Open Regionalism
- Institutional Models: Mechanism for Regional Economic Integration
- New Schemes for Economic Cooperation in ASEAN: AFTA, AIA, AFAS, AICO
- Theoretical Models and Policy Options for Investment Liberalization
- Constraints on Foreign Investors
- A Single ASEAN Investment Area

What is Open Regionalism?

- **Regionalism and Regionalization**
 - Economic and Political integration
 - Legal and Institutional Framework
- **Pattern of Regionalization**
 - Positive Integration
 - Negative Integration
- **Closed Regionalization vs. Open Regionalism**

Why do Asian countries need Regionalism?

- Asian Economic integration: Economic point of view
- The Global legal and institutional environment changes and their impacts on the region. The fastest growing region in the world. Inflow of FDI into Asia.
- The interdependence of ASEAN countries and the global economy. More than half of the region's trade still depends on extra-regional market. The TNCs networks propel the regional economic growth and integrate the region's economy into the global economy.

Why do Asian countries need Regionalism?

- Trade and investment play a vital role in the structural economic development of ASEAN. The region's prospects are crucially linked to openness in trade and investment.
- The region's own markets are also increasingly critical to the sustainability of its growth. Intra-regional trade and investment is the main engine in sustaining and strengthening economic growth.
- It is the Asian countries' interest to strengthen linkage both within the region and with trading partners outside.

Institutional Models: Mechanism for Regional Economic Integration

- ❖ Institutionalized with regional supra institution
facilitating the harmonization of laws, based on mutual recognition, and regulatory competition
- ❖ Federalist regulatory system
- ❖ Decentralized regulatory networks with regulations enforced nationally but coordinated through regional government-to-government procedures

New Schemes for Economic Cooperation in ASEAN

- ASEAN Free Trade Area (AFTA)
- ASEAN Investment Area (AIA)
- ASEAN Framework Agreement on Trade in Services (AFAS)
- ASEAN Industrial Cooperation Scheme (AICO)

ASEAN Free Trade Area (AFTA)

- Product Coverage in the inclusion list and the negative list
- Time frame for the implementation of AFTA
- Methodology of gradual liberalization
- Stand Still and Roll back Principles
- Agreement on the Common Effective Preferential Tariff Scheme (CEPT) and the Preferential Trading Arrangement (PTA)
- Rule of Origin (allows up to 60% of non-member's input, Cumulative ASEAN original input)

Theoretical Models and Policy Options for Investment Liberalization

- ❖ Investment Control Model
- ❖ Selective Liberalization Model
- ❖ Regional Industrialization Program Model
- ❖ Mutual National Treatment Model
- ❖ Combined National Treatment/Most-Favored-Nation Treatment Model (NT/MFN)

Constraints on Foreign Investors

- **Restricted Areas of Investment**
- **Restricted Entry and Establishment**
- **Restricted Foreign Equity Ratio**
- **Screening Process**
- **Control on the Operation of Foreign Investors**

A Single ASEAN Investment Region

- National Treatment
- Opening up of Industries
- Bold Measures
- Short term Measures applicable to all investors
 - 3 years corporate income tax exemption
 - 30% corporate investment tax allowance
 - 100% foreign equity ownership
 - duty free import of capital goods
 - domestic market access
 - minimum industrial and leasehold period of 30 years
 - employment of foreign personnel
 - speedy custom clearance

Short Term Measures

- Brunei will allow 100% foreign equity ownership in high-technology manufacturing and export-oriented industries.
- Indonesia offers wholesale and retail trade up to 100% foreign equity ownership to qualified investors, in addition to 100% foreign equity in all areas of the manufacturing sector. Indonesia has also reduced the processing time for approval in principle, for investment less than US\$ 100 million, to 10 working days. In the banking sector, listed banks are open for 100% foreign equity ownership;

Short Term Measures

- Laos allows duty exemption on imported capital goods required by the promoted investment projects;
- Malaysia offers 100% foreign equity ownership in the manufacturing sector with no export conditions imposed on all new investments, expansions and diversifications, except for seven specific activities and products. Foreigners can also own land in Malaysia subject to certain limitations;
- Myanmar will extend a minimum of three years corporate tax exemption to all investment projects in all sectors. In addition, they will also extend the duty free import of raw materials to all industrial investments for the first three years of operation;

Short Term Measures

- The Philippines will open retail trade and distribution business to foreign equity. In addition, the Philippines has opened private construction in the domestic market to foreign companies;
- Singapore has substantially reduced business costs as part of a cost reduction package that amounts to S\$ 10 billion in saving in addition to extending 30% corporate investment tax allowance on a liberal basis to industrial projects and to selected service industries in respect of productive equipment. These activities include manufacturing, engineering or technical services and computer-related services;

Short Term Measures

- Thailand allows 100% foreign equity ownership for manufacturing projects regardless of location. Furthermore, agricultural projects, which export 80% of sales, will receive import duty exemption on machinery, regardless of location;
- Vietnam extends duty exemption on imported capital goods for all projects in respect of the import of raw materials for production for especially encouraged investments and for projects located in mountainous or remote regions for the first 5 years of operation. The issuance of investment licenses for several types of projects has been reduced to 15 days from the receipt of proper simplified documents. In addition, investment licensing for projects under US\$ 5 million has been decentralised to all provinces and cities.

ASEAN Investment Area (AIA)

- “ASEAN Investor”
- Cumulative Ratio Equity
- Preferences under AIA
- The Short term Measures

ASEAN Framework Agreement on Services

- ASEAN Commitments under GATS
- GATS - Plus Scheme
- Mutual Recognition under AFAS
- ASEAN Service Providers
- Dispute Settlement under AFAS

ASEAN Industrial Cooperation (AICO)

AICO encourage Cross- border Investment

Preferential Treatment

- Only a minimum of two companies in two different countries, having a minimum 30% ASEAN National Equity is required to form an AICO arrangement
- Preferential tariff rate of 0-5%
- 0-5% tariff rate for the importation of raw material input

