

ERIA Discussion Paper Series

**FDI Restrictiveness Index for ASEAN:
Implementation of AEC Blueprint Measures***

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Abstract: This paper is an extension of the FDI restrictiveness index created for the ASEAN Free Trade Agreement (AFTA) in Thangavelu and Lim (2011). It provides more detailed and updated information for the index for AFTA; a new FDI restrictiveness index is also created for the ASEAN Framework Agreement on Services Eighth Package (AFAS 8) and the ASEAN Comprehensive Investment Agreement (ACIA). The study highlights the differences between the 2010 and 2014 FDI restrictiveness indices.

Key Words: FDI Restrictiveness Index, ASEAN

JEL Classification: F21, F23

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1. Introduction

Foreign direct investment (FDI) in the Asia-Pacific region is very important in terms of driving its economic growth. FDI has played an instrumental role in the economic growth of developing countries in the Asia-Pacific region across time—from the flying-geese model of dynamic comparative advantage in the Association of Southeast Asian Nations (ASEAN) beginning in the 1960s to the rise of the economic powerhouses of China and India today. The region has also been the focus of bilateral trade negotiations, including major economies such as the United States, Japan, and China.

There is a variety of channels through which free trade agreements (FTAs) may drive FDI flows. One is that FTAs remove export regulations by lowering trade barriers to facilitate the movement of intermediate or final products between parent firms in source countries and foreign affiliates in host countries. Other positive effects of FTAs on FDI could arise from other conditions negotiated in the FTA, such as investment regulations that increase the mobility of fund and capital flows. These regulations make it easier for multinational companies to divert financial resources to their foreign affiliates when the need arises, such as the building of a new plant in the host country. Hence, countries targeting an increase in FDI inflows from a particular source country or region could seek to implement FTAs with the other party, using such international agreements as viable tools to achieve their aim. FTAs could also provide other less tangible benefits in terms of harmonizing institutions and regulations in the region (Chia, 2010; Kawai and Wignaraja, 2008).

In this paper, we analyse the restrictiveness of FDI activities in ASEAN countries by creating the FDI restrictiveness index based on the methodology proposed by Golub (2003), OECD (2010), and Urata and Sasuya (2007). The restrictiveness of FDI was evaluated in six areas: foreign ownership or market access, national treatment, screening and approval procedures, board of directors and management composition, movement of investors, and performance requirements. The higher the scores, the more open the FDI rules. Recently the Organisation for Economic Co-operation and Development (OECD) updated its FDI restrictiveness index (created in 2003 and updated in 2006) by adding more sectors and updated

information on the regulatory requirements for FDI activities in OECD countries¹ (OECD, 2010).

The recent study by Thangavelu and Lim (2011) on the ASEAN Free Trade Agreement (AFTA) analysed the restrictiveness of FDI activities in ASEAN countries by creating the FDI restrictiveness index. The study aims to explore the FDI policy impediments of ASEAN countries with a view that the identification of FDI restrictiveness would provide useful information to policymakers in making ASEAN a competitive investment region as outlined in the ASEAN Economic Community Blueprint. Their results indicate that there is further capacity to liberalize the manufacturing sector. In particular, emerging ASEAN countries such as Thailand and Viet Nam could further liberalize their manufacturing sector to increase their returns on FDI investment. The result also indicates that the services sector is lagging behind the manufacturing sector in terms of liberalizing it for more multinational activities.

This study is an extension of the previous study by Thangavelu and Lim (2011). This study (i) extends the FDI restrictiveness index of 2011 to the ASEAN Framework Agreement on Services Eighth Package (AFAS 8) and the ASEAN Comprehensive Investment Agreement (ACIA), (ii) identifies the gap between the commitments and actual implementation of FDI policy, and (iii) examines the differences between the 2011 and 2014 FDI restrictiveness indices.

The paper is structured as follows. The next section discusses the methodology adopted to create the FDI restrictiveness index. In Section 3, we provide the results for ASEAN countries. Section 4 contains the sectoral analysis while Section 5 discusses the conclusion.

¹ The updated OECD FDI restrictiveness index is expanded to include all primary sectors (agriculture, forestry, fishing, and mining), as well as investments in real estate. Subsectors have been added to cover services other than banking and insurance (under finance) and media services (TV and radio broadcasting, as well as printed and other media). There is greater detail in manufacturing (five subsectors), in electricity (generation and distribution), distribution (retail and wholesale), and transport (added international/domestic breakdown for air and road transport).

2. Methodology

The FDI restrictiveness index is created from six areas (Urata and Sasuya, 2007; Urata and Ando, 2010): foreign ownership or market access, national treatment, screening and approval procedure, board of directors and management composition, movement of investors, and performance requirements. In our study, as opposed to the OECD (2010), the higher the scores, the more open the FDI rules are. Based on the framework of Urata and Sasuya (2007), we impose the following weights for the six areas: foreign ownership or market access receives a weight of 0.4, national treatment receives a weight of 0.2, and the other areas receive a weight of 0.1 each for the computation of the overall score, which lies between 0 and 1.

As the ASEAN FTA contains only negative lists, the data used in this study comes from the Temporary Exclusion Lists and Sensitive Lists provided by each country, as well as their more recent individual action plans which list the removal of some FDI restrictions. The study covers both horizontal and sector-specific commitments. The horizontal commitments stipulate conditions and restrictions that apply to all sectors included in the schedule. The specific commitments are stipulated conditions and restrictions that apply to a specific sector as indicated in the schedule. Any evaluation of specific commitments must also take into account the horizontal commitments.

The study also covers sectors based on the classification given in Urata and Sasuya (2007); it covers as many sectors as possible given the availability of information on FDI restrictions. We aggregated the analysis into the following sectors:

- (i) business sector (46 subsectors) which includes professional services, computer and related services, research and development services, real estate services, rental/leasing services without operations;
- (ii) communication sector which includes postal services, telecommunication services, audio services, others;
- (iii) construction sector (5 subsectors);
- (iv) distribution sector (5 subsectors);
- (v) education sector (5 subsectors);

- (vi) environmental sector (4 subsectors);
- (vii) financial sector (17 subsectors) which includes insurance and insurance-related services, banking, and other financial services, and others;
- (viii) health sector (4 subsectors);
- (ix) tourism sector (4 subsectors);
- (x) recreational sector (5 subsectors);
- (xi) transport sector (35 subsectors) which includes maritime transport services, internal waterways transport, air transport services, space transport, rail transport services, road transport services, pipeline transport services, service auxiliary to all modes of transport, and others;
and
- (xii) manufacturing sector (150 subsectors)

As highlighted by Urata and Sasuya (2007), the above method has its limitations as it is subjective to random and arbitrary weights. However, by careful use of weights across all sectors and consistent application across the countries, we hope to reduce the bias in the scores. In this study, we did not include private sector business practices and covered only government policy and rules with respect to foreign investments in the domestic economy. Further, the study does not account for government future commitments for foreign investment policy as it is difficult to evaluate and quantify such government commitments in a robust manner. To reduce the bias and subjectivity in our evaluation, we excluded future government policy commitments to foreign investment and accounted only for existing and currently available government policy and rules on foreign investment.

Appendix 1, Table A1 shows the weights adopted in computing the FDI restrictiveness index. Tables 2–4 show the results. The weights follow closely those of Urata and Sasuya (2007). The restriction on ownership and market access is given a greater weight of 0.4 to reflect the importance of foreign ownership and market access as key drivers of multinational activities. To capture the activities of governments in protecting domestic industries, we gave a weight of 0.2 to national treatment of foreign firms, where foreign firms are treated in equal terms to domestic firms.

3. Results: FDI Restrictiveness Index

3.1. New Updates to FDI Restrictiveness Index for Overall and AFTA

The change in FDI restrictiveness index for overall (including AFTA and respective government websites) compared to 2010 is illustrated in Figure 1. Cambodia, Myanmar, and Viet Nam have lower horizontal commitments scores, mainly due to new employment laws. For example, Cambodia employers must give preference to Cambodians when hiring workers. Myanmar had new local employment requirements rolled out in the 2012 Union Parliament Law No. XXI under Chapter 11. Viet Nam's work permit for intra-corporate transferees was shortened to 24 months from 36 months under the Labour Code of 2012. There were no changes in the overall scores for the horizontal commitments of Brunei Darussalam and Lao PDR as the increase in one category (board of directors for Brunei and movement of people for Cambodia) was offset by the decrease in another (performance requirements for Brunei and Lao PDR).

In the recent schedule of specific commitments released in the World Trade Organization General Agreement on Trade in Services, Lao PDR engaged in major reforms of its investment laws. As such, its specific commitments had undergone various changes. The result of the changes could be observed from the increase in the average score of the specific commitments. In contrast, the average score of specific commitments for the Philippines declined because of its Executive Order No. 98. The particular sectors that were affected are indicated in the subsequent section.

From Figure 2, we can observe similar results for both horizontal and specific commitments; developing countries tend to be more open to FDI compared to more mature economies among the ASEAN countries. For instance, Cambodia and Viet Nam have a higher score for openness to FDI compared to Indonesia and Malaysia. The only exceptions are Singapore and Brunei Darussalam. We also observe that the score based on AFTA tends to be lower compared to the overall score. This indicates that certain specific sectors are restricted from FDI activities that are provided at the country-specific commitments but not covered in AFTA.

**Figure 1: Changes in FDI Restrictiveness Index for ASEAN:
Overall and AFTA**

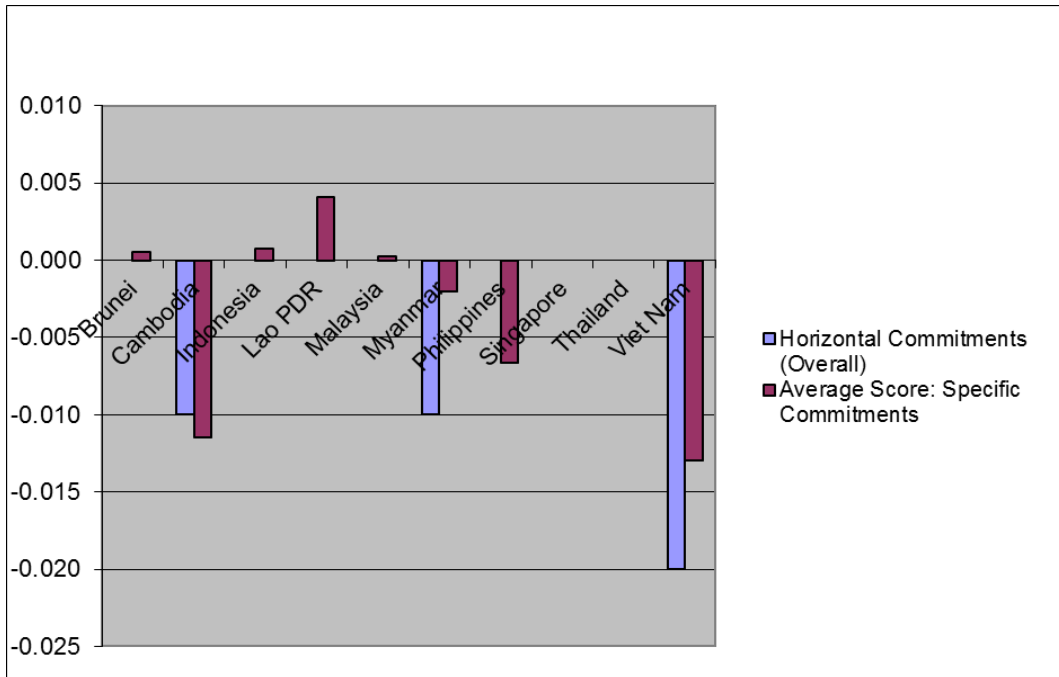
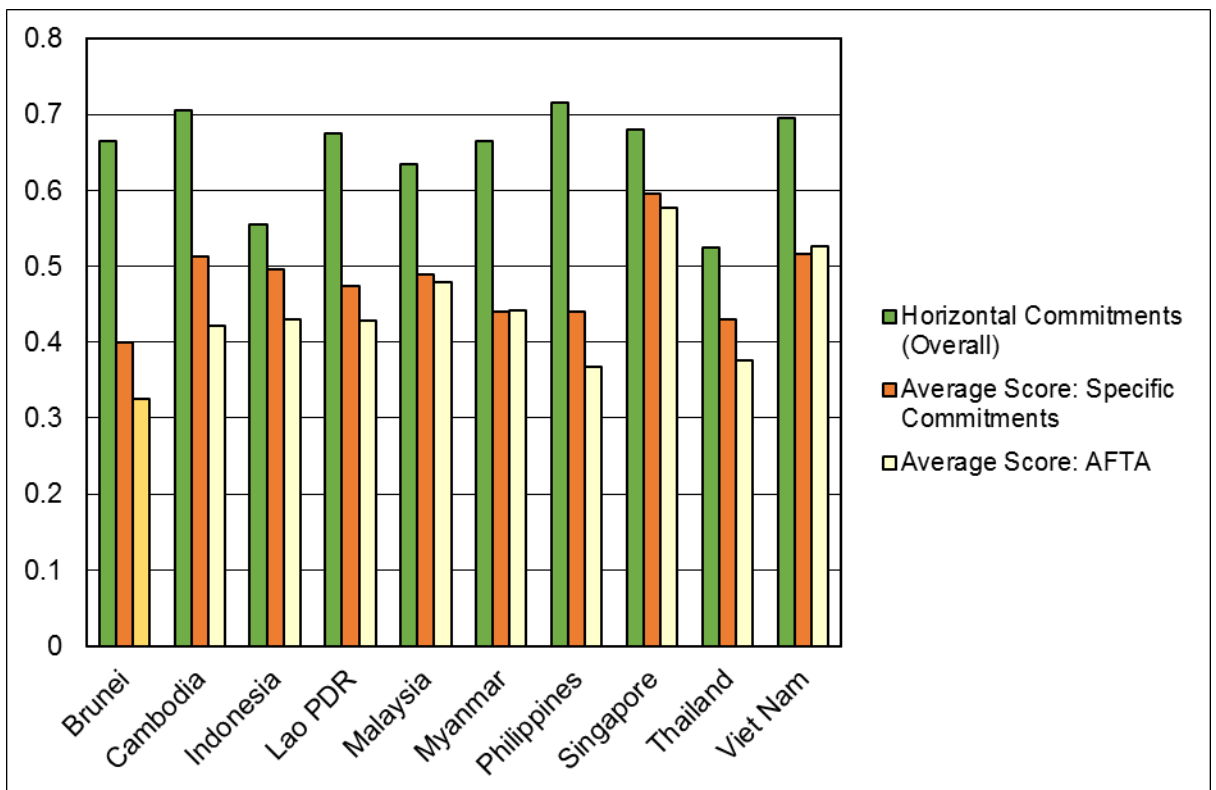
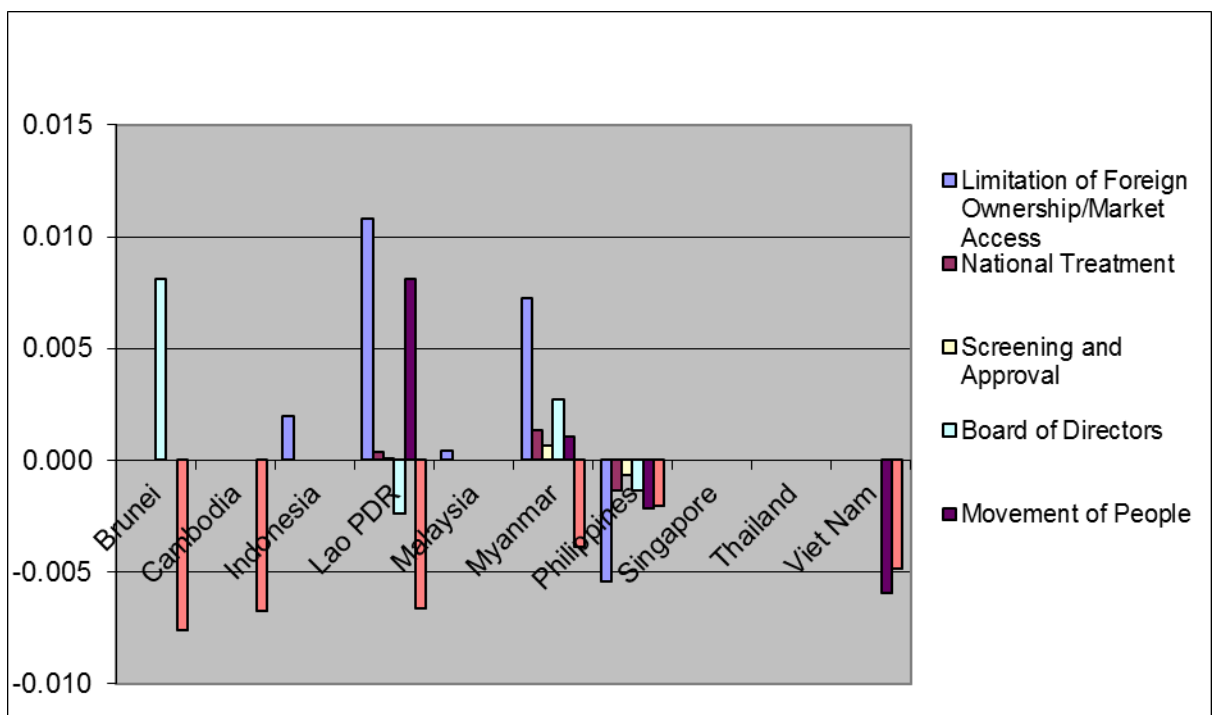


Figure 2: Overall (including Manufacturing and Services) FDI Restrictiveness Index for ASEAN: Horizontal Commitments, AFTA+Actual, and AFTA



We can also observe these changes by looking at the breakdown of the changes by categories in Figure 3. There is a simultaneous rise in the board of directors category and fall in the performance requirements category for Brunei, which cancels out each other's effects on the overall score. The effects of the change in employment laws for Cambodia, Myanmar, and Viet Nam are shown by the drop in the countries' performance requirements. Viet Nam's reduction of the work permit for intra-corporate transferees also reduces its score on the movement of people category. Lao PDR's recent reforms resulted in a rise in the market access and movement of people categories and a drop in the board of directors and performance requirements categories. Myanmar's rise in scores for the various categories except performance requirements could be attributed to the liberalization of the air transport sector. However, the Philippines experienced a drop in the various categories due to the closure of its real estate services.

Figure 3: Change in FDI Restrictiveness Index for Overall by Different Categories

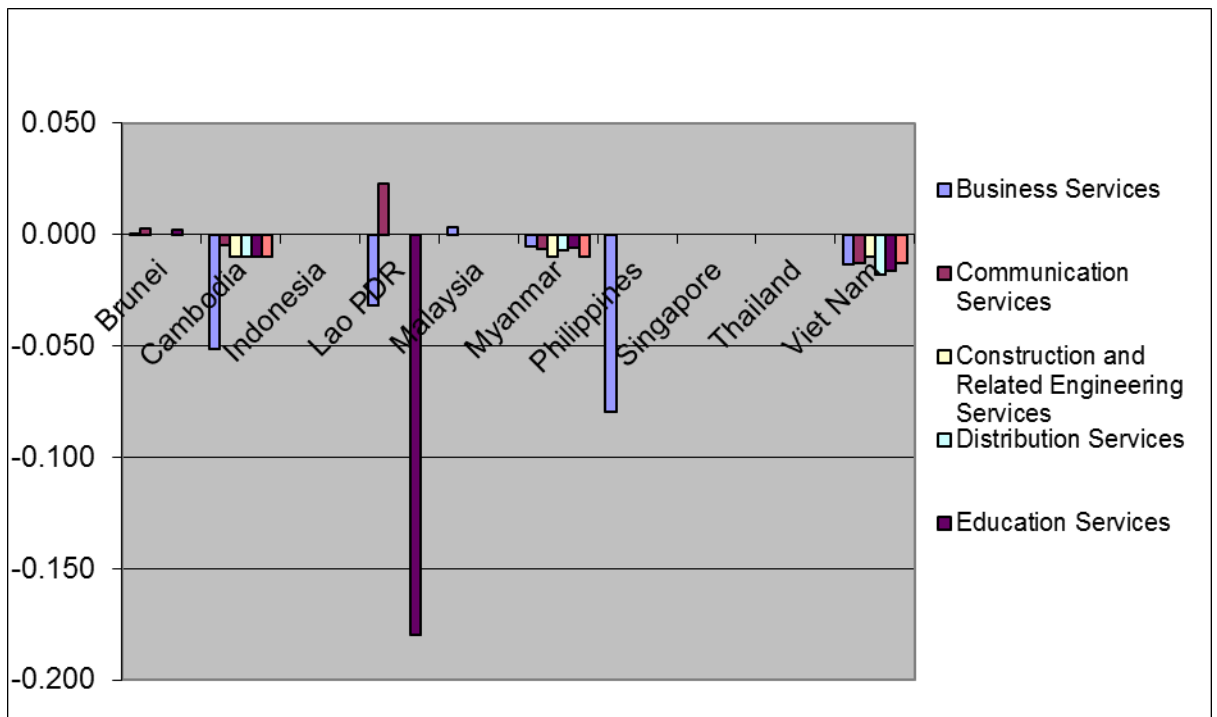


3.2. New Updates to FDI Restrictiveness Index by Sector

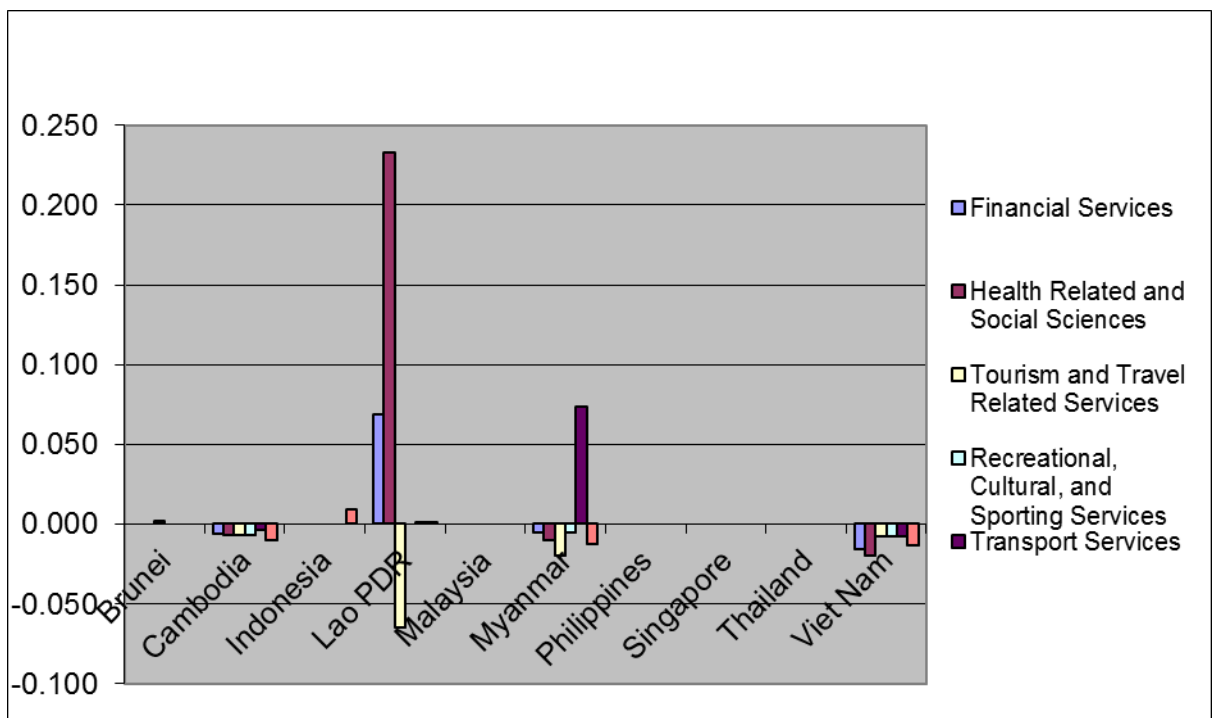
The change in FDI restrictiveness index for overall (including AFTA and respective government websites) by sector compared to 2010 was shown in Figures 4a and 4b. We see significant changes in FDI restrictiveness for Lao PDR in the business, communication, education, financial, health, and tourism sectors. There were both positive and negative changes to the scores of specific sectors with an overall increase in the average score. Lao PDR's business and tourism sector was tightened while its communication, health, and financial sectors were liberalized. The large drop in the score for the education sector of Lao PDR is attributed to the restriction of the nomination of its board of directors only to locals.

Myanmar's jump in score for the transport sector is largely due to the liberalization of its air transport sector released in the recent Myanmar Foreign Investment Law: Notification 01/2013. The Philippines' dip in the business services sector is attributed to the closure of the real estate services to foreign investment by the country's Executive Order No. 98. Indonesia experienced a small increase in its manufacturing sector due to the liberalization of the pharmaceutical product services in the recent Presidential Regulation No. 39 of 2014. In fact, the small drop in scores across all sectors in Cambodia, Myanmar, and Viet Nam are due to the decrease in their horizontal commitments scores.

**Figure 4a: Change in FDI Restrictiveness Index for ASEAN – Overall
(by sector)**



**Figure 4b: Change in FDI Restrictiveness Index for ASEAN – Overall
(by sector)**



3.3. FDI Restrictiveness Index by Sector

The FDI restrictiveness index by different sectors is shown in Figures 5a and 5b. We can observe trends in the FDI scores similar to those before the updates. Across the services sector, certain sectors clearly tend to score very low openness to FDI across the ASEAN countries. We observe low scores for the communication, environment, and transport sectors as well. In particular, the communication and transport sectors are protected from foreign competition by the domestic economy. In contrast, we observe that the financial, health, and tourism sectors tend to be more open to foreign firms.

Figure 5a: FDI Restrictiveness Index for ASEAN – Overall

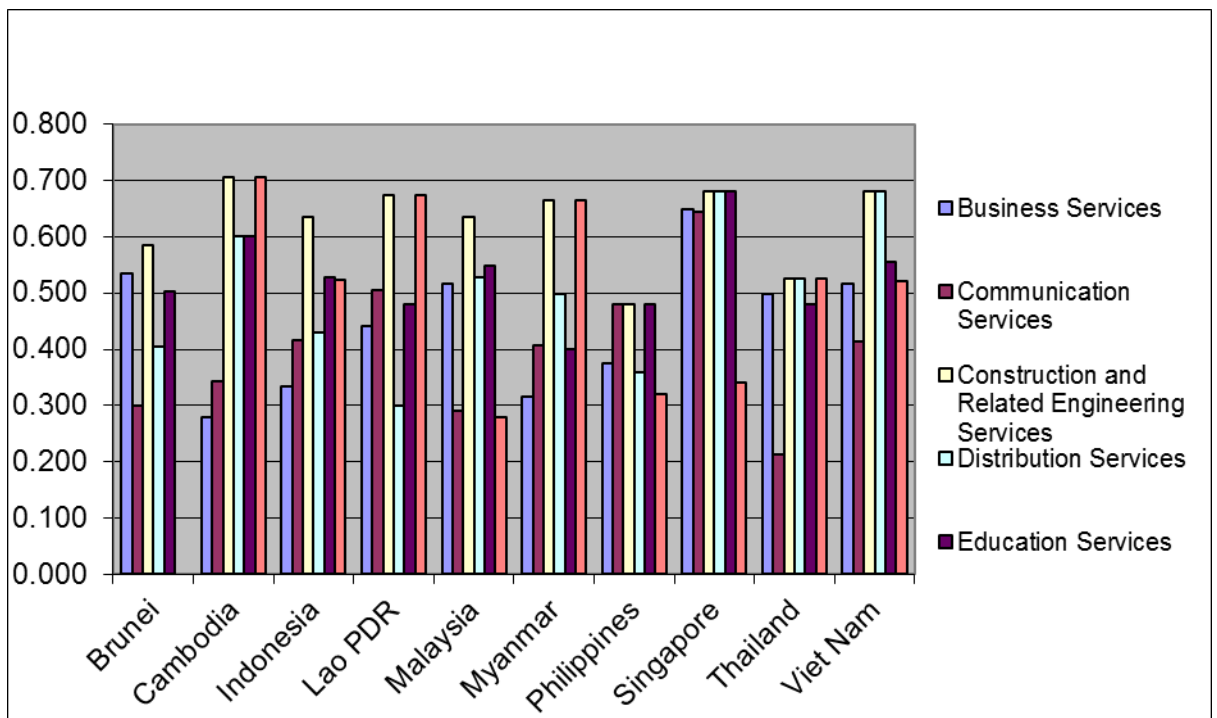
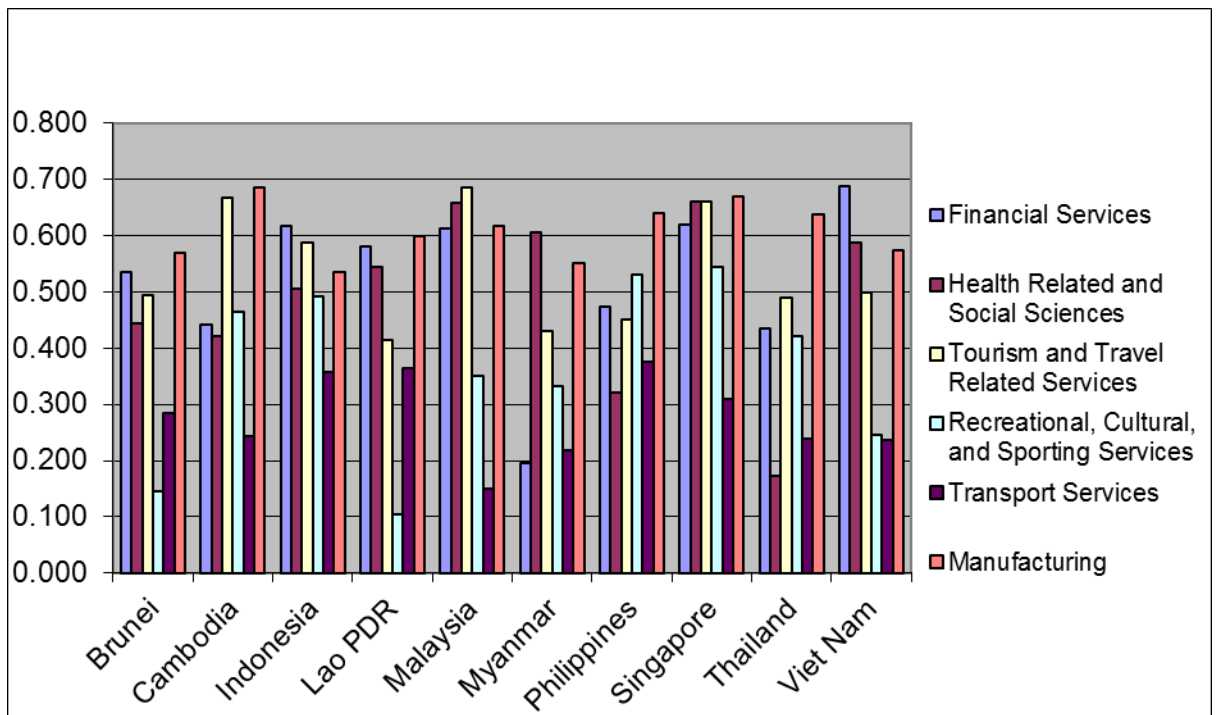


Figure 5b: FDI Restrictiveness Index by Sectors for ASEAN – Overall



4. FDI Restrictiveness Index: Manufacturing

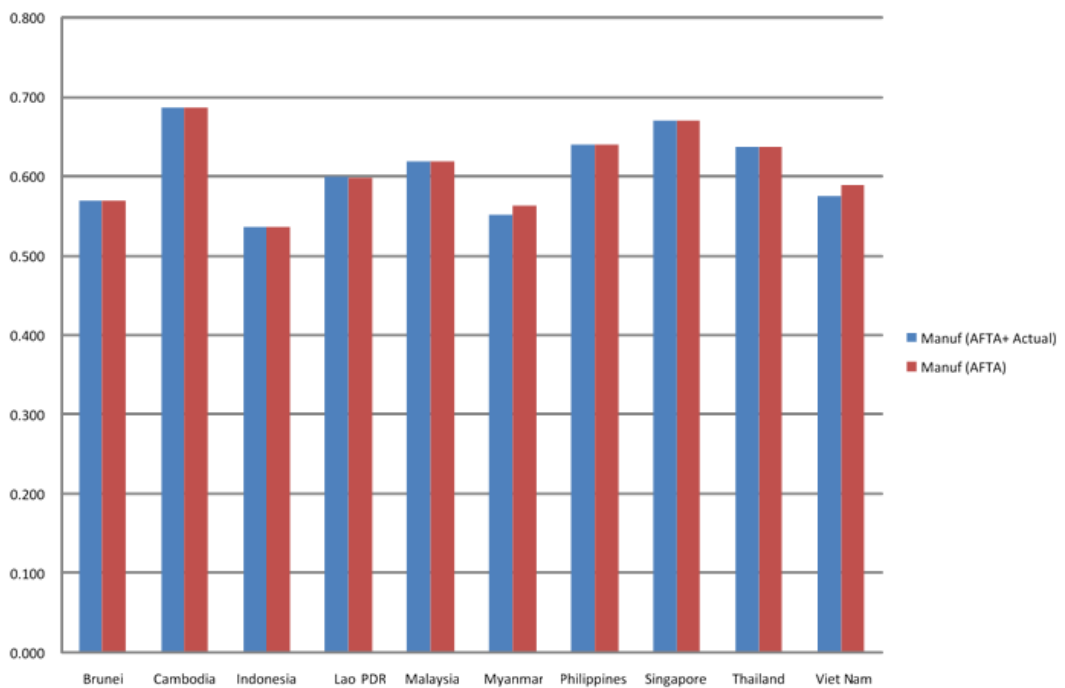
Figure 6 shows the difference in scores between AFTA+Actual and AFTA in the manufacturing sector. Only three countries—Lao PDR, Myanmar, and Viet Nam—showed significant differences. Lao PDR has a visible difference in three subsectors: (i) food and beverage and tobacco manufacturing; (ii) petroleum, chemical, and pharmaceutical product manufacturing; and (iii) transport equipment manufacturing. Both Myanmar and Viet Nam have a visible difference in all the subsectors of manufacturing. Lao PDR is the only country with a positive difference compared to Myanmar and Viet Nam, both of which have a negative difference. This implies Lao PDR is more liberal in the ‘waters’ while Viet Nam and Myanmar have a more liberalized trade relation with ASEAN countries.

All of the sub-sectors of Myanmar and Viet Nam showed a consistent decline due to the changes in the horizontal commitments of the respective countries. The spike in the textile, wearing apparel, and leather sub-sector and the rubber, plastic, and other non-metallic mineral product manufacturing sub-sector of Myanmar can be attributed to Notification No. 1/2013. The requirement for joint venture with a Myanmar citizen with 80 percent of foreign

equity was mandated by the notification for foreign investments in the aforementioned two sub-sectors.

The increase in the petroleum, chemical, and pharmaceutical product manufacturing sub-sector of Indonesia is due to the liberalization of their pharmaceutical product manufacturing services. There were reservations on ownership and market access in the previous regulations, but the new regulation allows for up to 85 percent foreign ownership. Concurrently, we also observed liberalization on ACIA to 75 percent foreign ownership for Indonesia. Thus, we do not observe significant differences between actual and AFTA for Indonesia from these changes.

**Figure 6: FDI Restrictiveness Index for Manufacturing
(AFTA and AFTA+Actual)**



**Table 1A: FDI Restrictiveness Index for Manufacturing
(AFTA and Government Sites)**

MANUFACTURING SCORES (AFTA AND GOVERNMENT SITES)

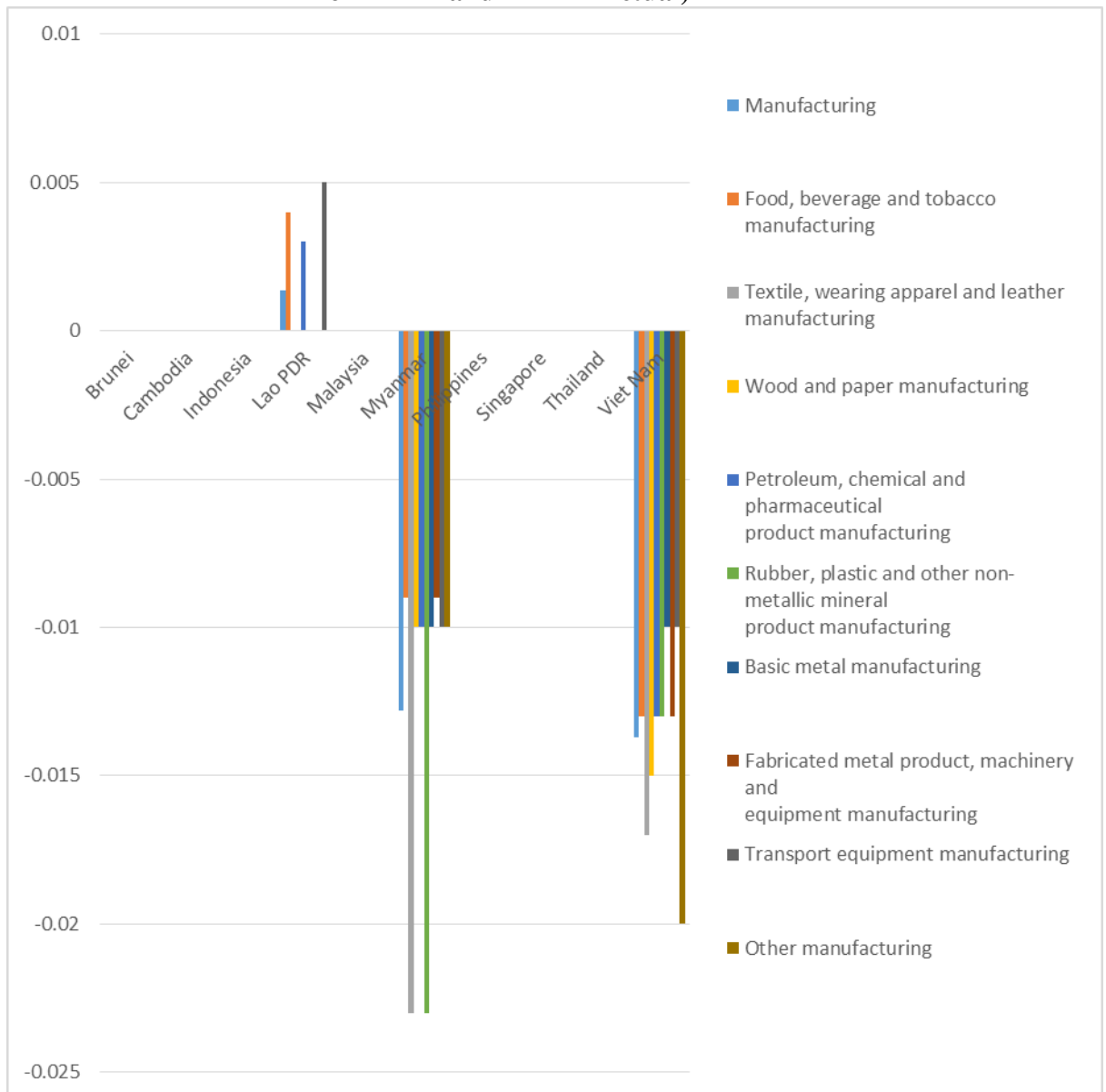
	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
Manufacturing	0.569	0.686	0.536	0.598	0.618	0.550	0.640	0.669	0.637	0.574
Food, beverage and tobacco manufacturing	0.565	0.705	0.507	0.614	0.571	0.533	0.640	0.622	0.627	0.579
Textile, wearing apparel and leather manufacturing	0.525	0.705	0.519	0.588	0.715	0.652	0.640	0.680	0.598	0.603
Wood and paper manufacturing	0.585	0.705	0.500	0.545	0.585	0.405	0.640	0.680	0.555	0.688
Petroleum, chemical and pharmaceutical product manufacturing	0.585	0.532	0.522	0.497	0.628	0.405	0.640	0.680	0.685	0.522
Rubber, plastic and other non-metallic mineral product manufacturing	0.525	0.705	0.595	0.675	0.628	0.652	0.640	0.680	0.598	0.608
Basic metal manufacturing	0.585	0.705	0.555	0.675	0.455	0.405	0.640	0.680	0.685	0.435
Fabricated metal product, machinery and equipment manufacturing	0.585	0.705	0.520	0.579	0.678	0.570	0.640	0.643	0.611	0.612
Transport equipment manufacturing	0.585	0.705	0.550	0.538	0.585	0.665	0.640	0.680	0.685	0.428
Other manufacturing	0.585	0.705	0.555	0.675	0.715	0.665	0.640	0.680	0.685	0.695

Table 1B: FDI Restrictiveness Index for Manufacturing (AFTA)

MANUFACTURING SCORES (AFTA)

	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
Manufacturing	0.569	0.686	0.536	0.597	0.618	0.563	0.640	0.669	0.637	0.588
Food, beverage and tobacco manufacturing	0.565	0.705	0.507	0.610	0.571	0.542	0.640	0.622	0.627	0.592
Textile, wearing apparel and leather manufacturing	0.525	0.705	0.519	0.588	0.715	0.675	0.640	0.680	0.598	0.620
Wood and paper manufacturing	0.585	0.705	0.500	0.545	0.585	0.415	0.640	0.680	0.555	0.703
Petroleum, chemical and pharmaceutical product manufacturing	0.585	0.532	0.522	0.494	0.628	0.415	0.640	0.680	0.685	0.535
Rubber, plastic and other non-metallic mineral product manufacturing	0.525	0.705	0.595	0.675	0.628	0.675	0.640	0.680	0.598	0.621
Basic metal manufacturing	0.585	0.705	0.555	0.675	0.455	0.415	0.640	0.680	0.685	0.445
Fabricated metal product, machinery and equipment manufacturing	0.585	0.705	0.520	0.579	0.678	0.579	0.640	0.643	0.611	0.625
Transport equipment manufacturing	0.585	0.705	0.550	0.533	0.585	0.675	0.640	0.680	0.685	0.438
Other manufacturing	0.585	0.705	0.555	0.675	0.715	0.675	0.640	0.680	0.685	0.715

Figure 7: Differences in the FDI Restrictiveness Index of Manufacturing for AFTA and AFTA+Actual)



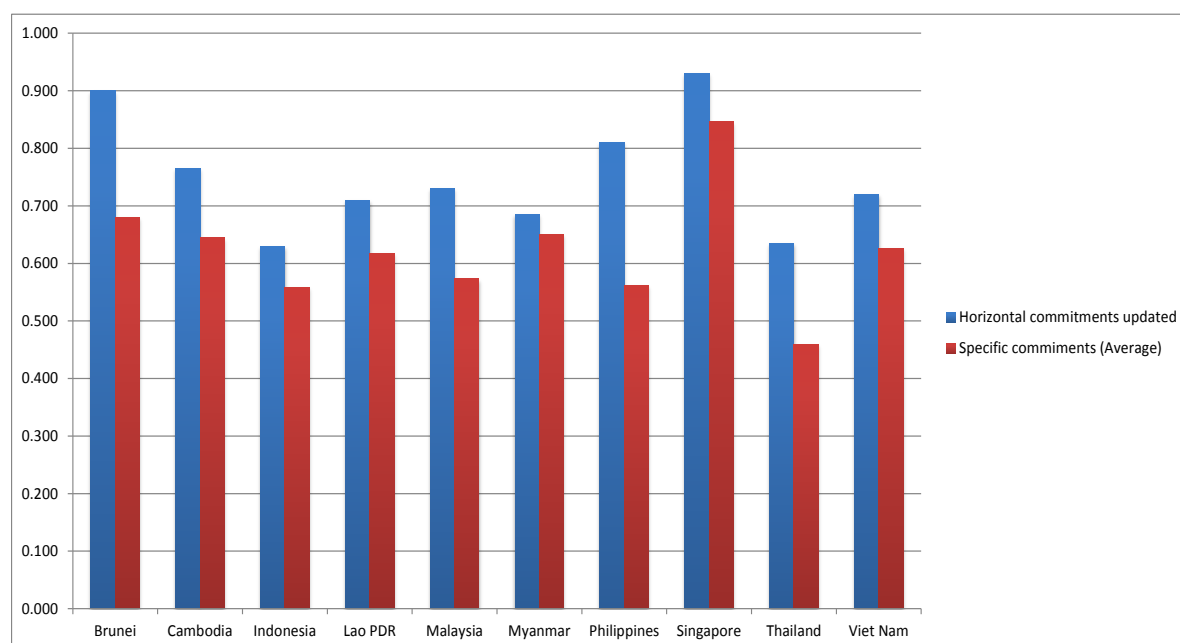
5. FDI Restrictiveness Index for Services

5.1. FDI Restrictiveness Index for Services: AFAS

The FDI restrictiveness index for AFAS (including financial services and air transport) is shown in Figures 8–10. Figure 8 provides the horizontal commitments and average specific commitments for AFAS across ASEAN countries. The

emerging economies of Cambodia, Lao PDR, Myanmar, and Viet Nam clearly have a higher level of openness for services compared to more developed ASEAN countries. For example, Cambodia and Viet Nam have higher scores for openness to FDI compared to Indonesia and Thailand. Economies with more developed domestic industries likely tend to protect their domestic services firms compared to the emerging economies. However, Singapore as a small open economy tends to be more open to services FDI flows compared to other ASEAN countries.

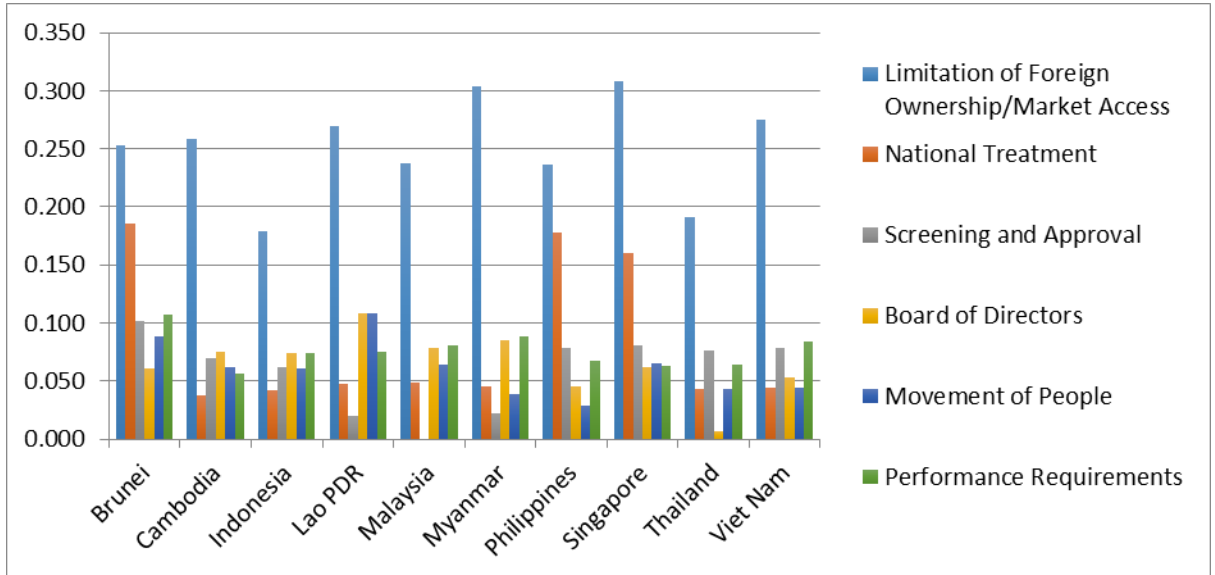
Figure 8: FDI Restrictiveness Index for ASEAN-AFAS



The FDI restrictiveness index for different categories is shown in Figure 9. Ownership and market access to foreign firms, which is given a weight of 0.4, is the highest among all categories. The results also indicate that economies with more mature domestic industries, such as Indonesia and Thailand, tend to protect their domestic industries, and hence have a lower score for this category. For example, foreign ownership in Thailand is limited to 49 percent and a similar restriction is imposed in Indonesia. In contrast, emerging economies, such as Cambodia and Viet

Nam, tend to be more open to foreign firms to support and develop their domestic services industries.

Figure 9: FDI Restrictiveness Index by Categories for ASEAN-AFAS



We also observed that screening and approval and national treatment tend to have the lowest scores among the different categories for most countries except for Singapore, the Philippines, and Brunei Darussalam whose score for said category tends to be higher.

For the category of board of directors, Thailand scored close to zero. This is mainly due to its recent policy requiring all members of the board of directors to be of Thai nationality and to be permanently domiciled in Thailand. There are a few exceptions to this rule and one of them is under the specific commitments of financial services, which require only three quarters of the directors be of Thai nationality. Malaysia, under the screening and approval category, also scored zero; this is mainly due to strict screening of approvals of investment that conflicts with the interest of the state. There is little transparency in defining the FDI that is in conflict with national interest.

The FDI restrictiveness index by different sectors is shown in Figures 10A and 10B. First, we observed that transport services are the least open to foreign firms. Of

the various transport services, rail and road transport are the most protected by the domestic economy. Second, communication services are also relatively low in ASEAN countries except in Lao PDR and the Philippines. This clearly indicates that ASEAN countries generally want to have more control over, and protect these sectors from, foreign investment and control.

For the financial sector, Lao PDR, Singapore, and Brunei Darussalam tend to have the highest score for services FDI inflows. For the business sector, Lao PDR and Singapore scored the highest. It is clear from Figure 10 that Lao PDR chooses to liberalize the business and financial sectors vis-a-vis other sectors, whereas the other emerging countries of Cambodia, Myanmar, and Viet Nam tend to have a lower score.

Figure 10A: FDI Restrictiveness Index by Sector for ASEAN-AFAS

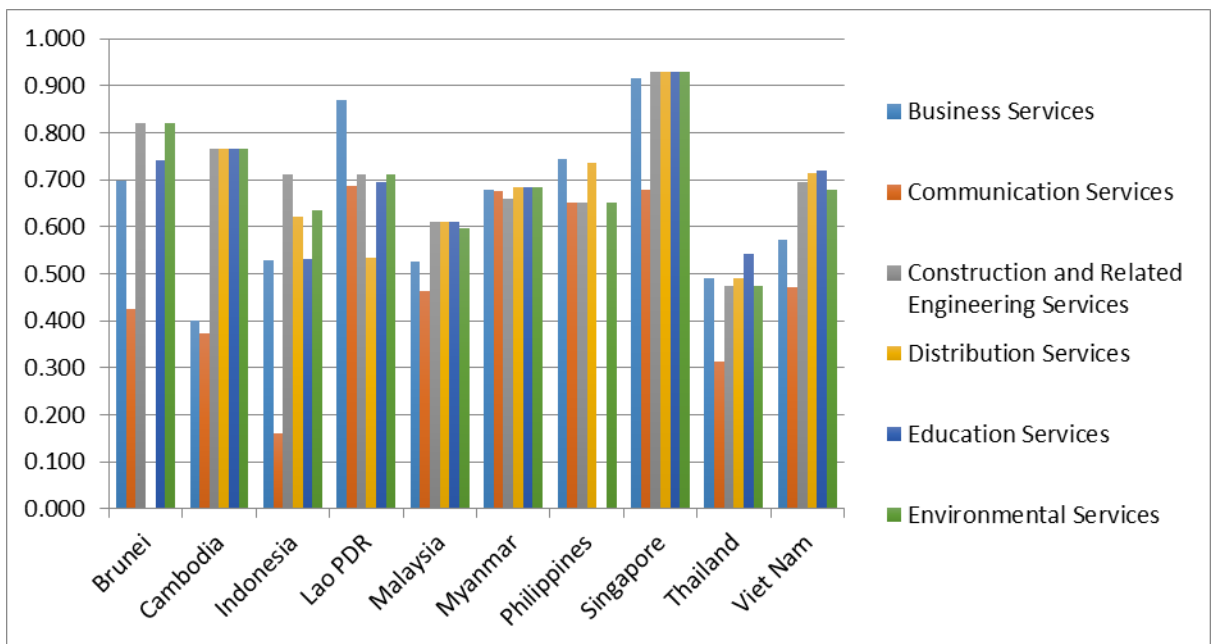
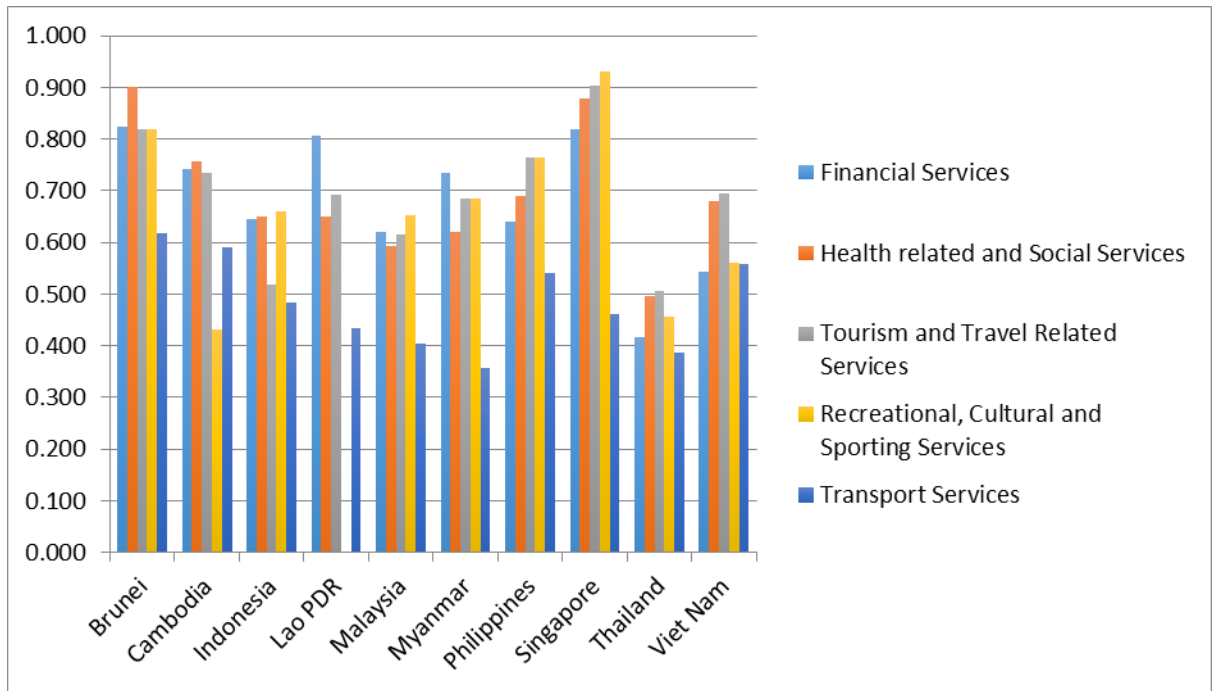


Figure 10B: FDI Restrictiveness Index by Sector for ASEAN-AFAS

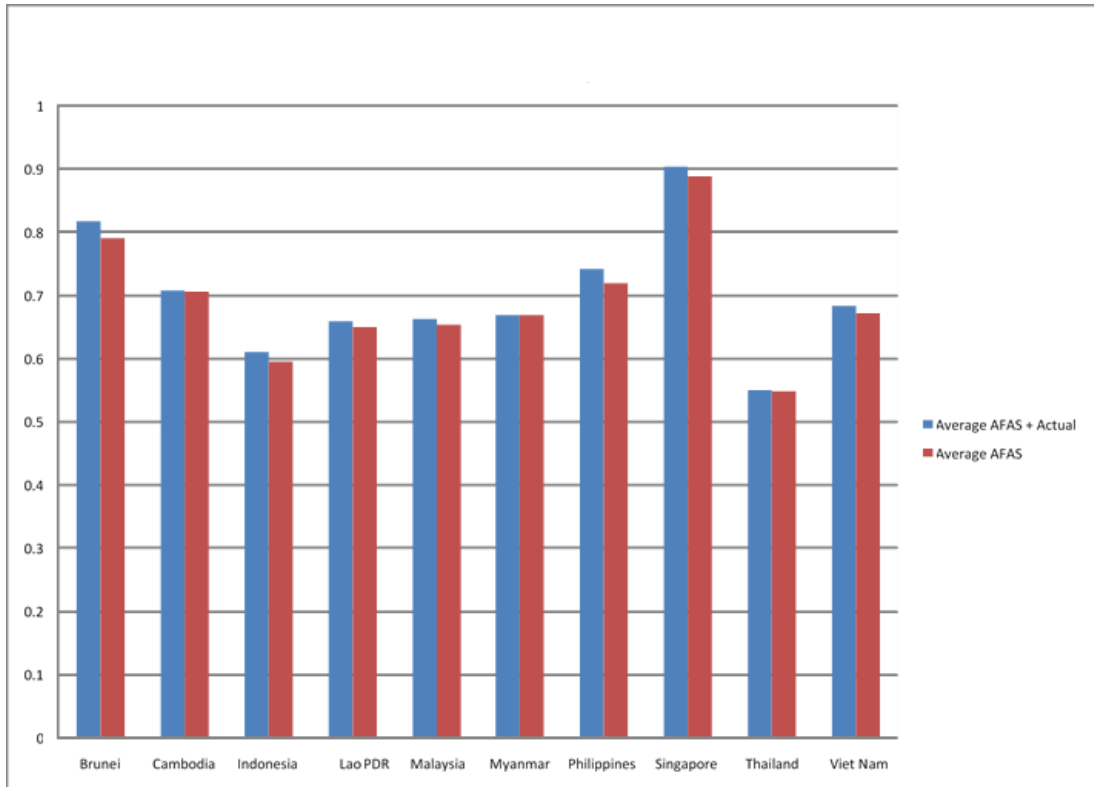


5.2. FDI Restrictiveness Index for Services: AFAS + Actual

We also derived the FDI restrictiveness index for AFAS plus the actual FDI policies at the respective government websites and regulations for the respective sectors. Figure 11 indicates the index for AFAS and AFAS+Actual (government sites and regulations). Tables 2 and 3 show the sectoral FDI restrictiveness index for AFAS and AFAS+Actual.

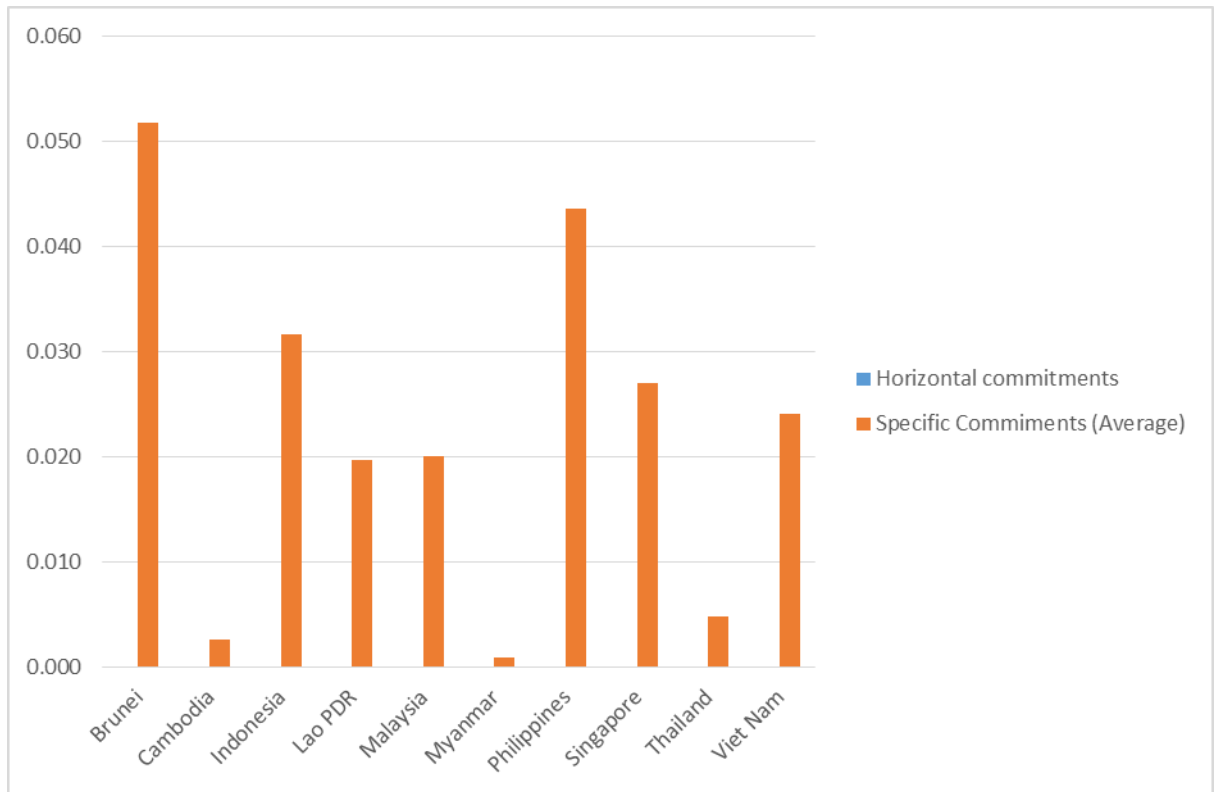
The AFAS+Actual index is clearly generally higher for most ASEAN countries indicating some level of water exists in the FDI policy. The water generally indicates that respective countries are more liberal at the border than at FTAs. The degree of water reflects the differences in actual policies and commitments to FDI policies in FTAs. The positive difference between AFAS+Actual and AFAS indicates that FDI policies are more liberal at the border than at FTAs (commitments). However, we can observe that emerging countries such as Cambodia and Myanmar has little water in their FDI policies with respect to services in terms of actual policies and commitments.

Figure 11: FDI Restrictiveness Index for Services (AFAS and AFAS+Actual)



We observe that there is no difference in the horizontal commitment scores of AFAS+Actual and AFAS. However, in terms of differences in average specific commitments, all ASEAN countries tend to reflect a certain level of water across the respective sectors. This shows that regardless of developed or developing status, all ASEAN countries tend to have some water in their specific sectors. However, it is natural for countries to be protective of their own domestic economies; therefore, it would be more relevant to identify which countries have the lowest and highest water in their average specific commitments. We observe that Cambodia, Myanmar, and Thailand tend to have little water in average specific commitments. In contrast, we observe that Brunei Darussalam, Indonesia, Malaysia, Lao PDR, the Philippines, Singapore, and Viet Nam tend to have significant water in their FDI policies for the services sectors.

Figure 12: Difference between AFAS+Actual and AFAS by Country



**Table 2: FDI Restrictiveness Index for Services
(AFAS+Actual [Government Sites])**

ACTUAL+AFAS Services Only										
	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
Horizontal commitments	0.900	0.765	0.630	0.710	0.730	0.685	0.810	0.930	0.635	0.720
Specific Commiments (Average)	0.732	0.647	0.590	0.637	0.593	0.651	0.670	0.873	0.466	0.650
Business Services	0.764	0.401	0.529	0.869	0.560	0.679	0.743	0.915	0.5	0.688
Communication Services	0.524	0.373	0.435	0.687	0.463	0.678	0.710	0.848	0.314	0.471
Construction and Related										
Engineering Services	0.820	0.765	0.710	0.710	0.635	0.665	0.650	0.93	0.475	0.695
Distribution Services	0.405	0.765	0.623	0.535	0.610	0.685	0.736	0.93	0.491	0.714
Education Services	0.740	0.765	0.530	0.695	0.610	0.685	0.480	0.93	0.541	0.72
Environmental Services	0.820	0.765	0.635	0.710	0.597	0.685	0.650	0.93	0.475	0.678
Financial Services	0.825	0.741	0.649	0.807	0.659	0.735	0.640	0.82	0.443	0.692
Health related and Social Services	0.900	0.757	0.649	0.650	0.660	0.645	0.690	0.879	0.496	0.68
Tourism and Travel Related Services	0.820	0.735	0.518	0.692	0.685	0.685	0.765	0.904	0.506	0.694
Recreational, Cultural and Sporting Services	0.820	0.464	0.660	0.104	0.653	0.685	0.765	0.93	0.496	0.56
Transport Services	0.617	0.590	0.483	0.546	0.405	0.356	0.540	0.591	0.388	0.559

Table 3: FDI Restrictiveness Index for Services (AFAS)

SCORES FOR ASEAN FRAMEWORK FOR SERVICES (AFAS)											
	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam	
Horizontal commitments	0.900	0.765	0.630	0.710	0.730	0.685	0.810	0.930	0.635	0.720	
Specific Commitments (Average)	0.680	0.644	0.558	0.617	0.573	0.650	0.626	0.846	0.459	0.626	
Business Services	0.697	0.401	0.529	0.869	0.527	0.678	0.743	0.915	0.490	0.572	
Communication Services	0.426	0.373	0.160	0.687	0.463	0.677	0.710	0.678	0.314	0.471	
Construction and Related											
Engineering Services	0.820	0.765	0.710	0.710	0.610	0.660	0.650	0.930	0.475	0.695	
Distribution Services	0.000	0.765	0.623	0.535	0.610	0.685	0.736	0.930	0.491	0.714	
Education Services	0.740	0.765	0.530	0.695	0.610	0.685	0.000	0.930	0.541	0.720	
Environmental Services	0.820	0.765	0.635	0.710	0.597	0.685	0.650	0.930	0.475	0.678	
Financial Services	0.825	0.741	0.646	0.807	0.619	0.735	0.640	0.819	0.418	0.543	
Health related and Social Services	0.900	0.757	0.649	0.650	0.593	0.621	0.690	0.879	0.496	0.680	
Tourism and Travel Related Services	0.820	0.735	0.518	0.692	0.616	0.685	0.765	0.904	0.506	0.694	
Recreational, Cultural and Sporting Services	0.820	0.433	0.660	0.000	0.653	0.685	0.765	0.930	0.456	0.560	
Transport Services	0.617	0.590	0.483	0.434	0.405	0.356	0.540	0.461	0.386	0.559	

The sectoral differences between AFAS+Actual and AFAS are shown in Figures 13 and 14 across ASEAN countries. The degree of water tends to be very heterogeneous across sectors and across countries. Various degrees of water exist in the respective sectors, particularly in the business, financial, and communication services sector, which are generally protective.

For the business sector, Brunei Darussalam, Lao PDR, Malaysia, Thailand, and Viet Nam are the countries with differences. Among these countries, Viet Nam has the largest difference between AFAS+Actual and AFAS. The financial services sector also seems to have significant water among the sectors in ASEAN. In particular, we observe Malaysia, Thailand, and Viet Nam tend to have differences in the scores between AFAS+Actual and AFAS.

We also observe differences between AFAS+Actual and AFAS in the communication services sector, with the highest scores for Brunei Darussalam, Indonesia, and Singapore. Indonesia seems to have differences in the score for the telecommunication sector among the ASEAN countries, thereby indicating greater restrictions on foreign participation in this sector for Indonesia.

Figure 13: Difference between AFAS+Actual and AFAS by Sector

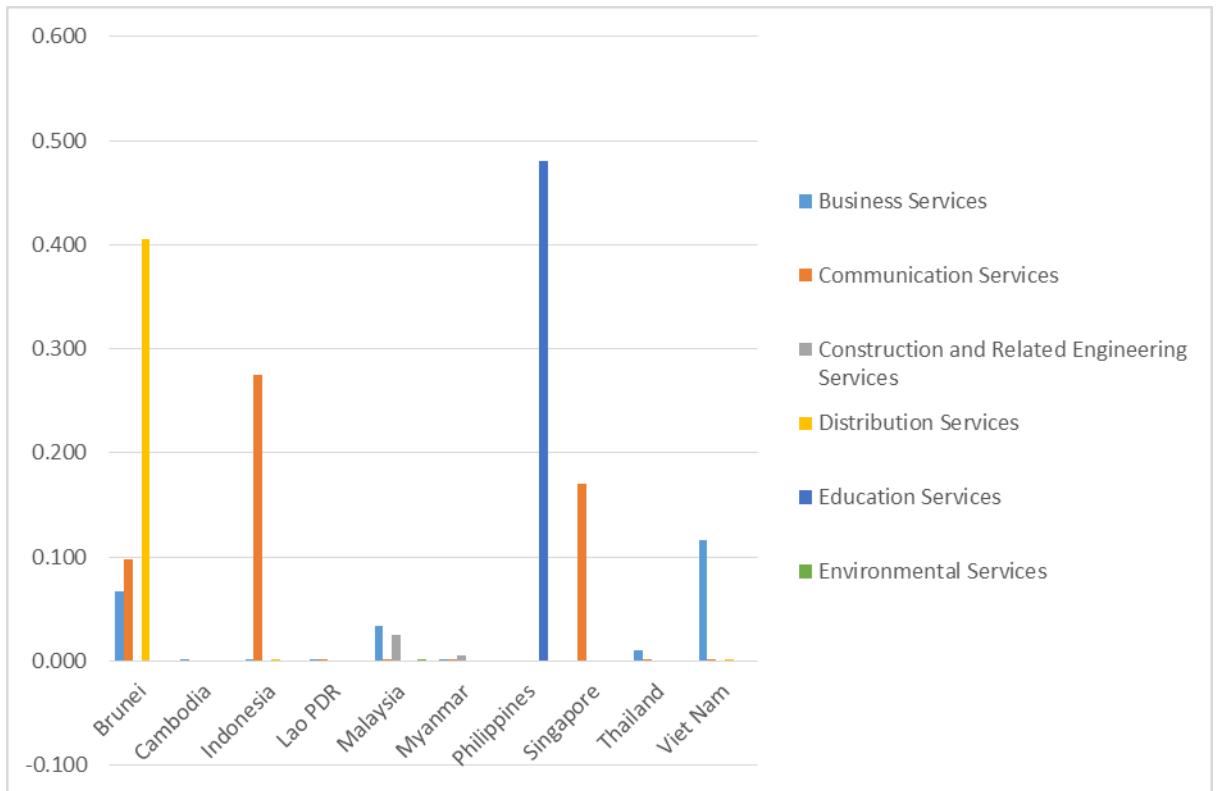
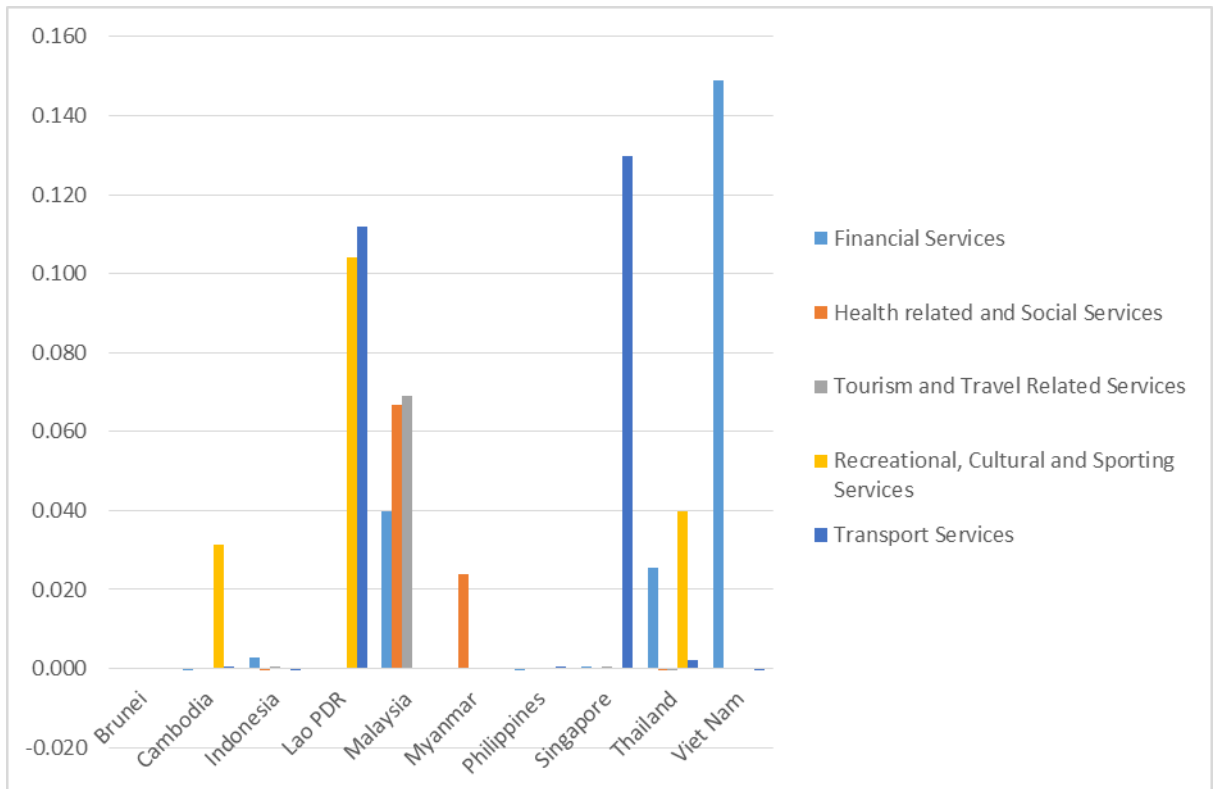


Figure 14: Difference between AFAS+Actual and AFAS by Sector



6. Policy Conclusion

This paper provides a more detailed and updated information for the index for AFTA, and it also derived a new FDI restrictiveness index for AFAS 8 and ACIA. The study highlights the differences between the FDI restrictiveness indices of 2010 and 2014.

We can summarize the key results as:

- 1) There were significant differences between the 2010 and updated 2014 restrictiveness indices because of new FDI policies. A simultaneous rise in the board of directors category and a fall in the performance requirements category for Brunei Darussalam cancel out the effects on the overall score. The effects of the change in employment laws for Cambodia, Myanmar, and Viet Nam are shown by the drop in the countries' performance requirements. Viet Nam's reduction of the work permit for intra-corporate transferees also reduces its score on the movement of people category. Lao PDR's recent reforms resulted in a rise in the market access and movement of people categories and a drop in the board of directors and performance requirements categories. Myanmar's rise in scores for the various categories except performance requirements could be attributed to the liberalization of the air transport sector. However, the Philippines experienced a drop in the various categories due to the closure of its real estate services.
- 2) The FDI restrictiveness index for ASEAN indicates that the manufacturing sector is more liberalized for foreign investment compared to the services sector.
- 3) We also observe that there is little water in the FDI policy in the manufacturing sector compared to the services sector.
- 4) Developing economies in ASEAN, such as Cambodia and Viet Nam, tend to have a more open policy towards foreign investments compared to economies with more developed and mature industries such as Malaysia, Indonesia, and Thailand. This suggests that economies with developed industries tend to adopt FDI policies to protect their domestic industries. These indicate that

Viet Nam and Cambodia have adopted key FDI policies to maintain their momentum of economic liberalization and integration in the region, while the more developed ASEAN economies of Malaysia, Thailand, Indonesia, and the Philippines have not progressed further from their relatively higher investment base and this poses an important challenge for their competitiveness. These countries have to liberalize their services sector as it will become an important component of their growth.

- 5) Across the sectors, we observe low scores for communication and transport sectors such as telecommunication, air, rail, and water transport services. This indicates greater protection of these industries from foreign firms and competition.
- 6) Across the different categories of evaluation, the screening and approval category tends to have the lowest score. This suggests that greater control is imposed to manage the types of industries that could locate and operate in the domestic economy by screening the foreign firms. We also observe limits on movement of people with foreign investments across the ASEAN countries. The results of the study are in collaboration of the study by Urata and Ando (2010) which assesses the FDI policy regimes in each ASEAN country.
- 7) Across the services sector, we observed significant water in the business, financial, and communication services sector across the ASEAN countries. This indicates that there is a certain degree of protection in these sectors from the respective countries.
- 8) For the business sector, Brunei Darussalam, Lao PDR, Malaysia, Thailand, and Viet Nam were the countries with differences, with Viet Nam having the largest difference between the AFAS+Actual and AFAS. The financial services sector also seems to have significant water among the sectors in ASEAN. In particular, we observe that Malaysia, Thailand, and Viet Nam tend to have differences in the scores between AFAS+Actual and AFAS.

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Appendix 1

Table A1a: Assessment of FDI Restrictions
(Maximum of 1.0 = fully liberalized)

Weight	Restriction	Score on restriction	
0.4	Restriction on Ownership and Market Access	No foreign equity allowed	0
		1-19% allowed	0.1
		Reservation on ownership and market access	0.25
		20-24% allowed	0.4
		35-49% allowed	0.5
		50-74% allowed	0.7
		75-99% allowed	0.8
		No restriction but unbound	0.9
		Commercial presence required, no land ownership, or 100% foreign equity with fulfilment of some conditions	0.9
		No restriction	1.0
Note: Scores were adjusted upwards by 0.05 if more foreign equity is allowed under additional conditions			
0.2	National Treatment	No national treatment	0
		Reservation on national treatment	0.25
		No government subsidies/supports	0.5
		Incentives not granted in certain sectors/limited to locals	0.9
		No restrictions	1
0.1	Screening and Approval	Objections in case the investment is contrary to national interest	0
		Required to show economic benefits before approval	0.1
		Reservations for future limitations	0.25
		Objections based on the size of investment	0.5
		Investment limited to companies with good brand name/restricted to certain locations/require local partnership	0.8
		Prior or post notification	0.9
		No restrictions	1
0.1	Board of Directors and Management Composition	All members of the management should be local	0
		Reservations for future restrictions	0.25
		Majority should be local	0.5
		Minority local allowed with some conditions	0.6
		At least one is local	0.75
		At least one local required after a certain number of years	0.85
		Should be locally licensed	0.9
		No restrictions	1
0.1	Movement of Investors	No entry	0
		Less than one year	0.1
		Reservations for further measures on entry	0.25
		One to two years	0.4
		One year, extensions possible	0.5
		Three to four years	0.5
		More than four years but less than 10	0.8
		No restrictions or work visa required according to immigration laws	1
0.1	Performance Requirements	Local contents or technology or export requirements	0.75
		Others	0.9

Table A1b: The Changes in FDI Policy for Respective Countries in 2014 (compared to 2010)

	Brunei	Cambodia	Indonesia	Laos
General			Presidential Regulation no.39 of 2014	Laos WTO GATS Commitments (2013)
ACIA	One of the 2 directors or, where there are more than 2 directors, at least 2 of them shall be ordinarily resident in Brunei Darussalam. Branch of a foreign company The company must at least have one resident agent in Brunei Darussalam	The maximum percentage of foreigners who may be allowed to be employed in each of the enterprises shall not exceed 10% of the total number of Cambodian employees.	-	-
Horizontal Commitments	One of the 2 directors or, where there are more than 2 directors, at least 2 of them shall be ordinarily resident in Brunei Darussalam. (ACIA and Overall) Branch of a foreign company must at least have one resident agent in Brunei Darussalam. (ACIA and Overall)	Employers must give preference to Cambodians when hiring the workers.	-	Intra-corporate transferees, temporary residency and work permit will be issued for 1 year which may be renewed every 6 months for up to 3 years as long as conditions indicated for each category are satisfied. Foreign investors shall provide adequate training opportunities to Lao PDR nationals. (Laos' WTO GATS Commitments)
Business Services				Professional Services Sector was tighten while Other Business Services are liberalized. (Laos' WTO GATS Commitments)
Communication Services			Wired and wireless satellite telecommunication services allowed up to 65% foreign ownership.	Laos' WTO GATS Commitments
Construction and Related Engineering Services			Construction of customary residences and monuments no longer closed for investments.	Foreign equity participation limited to 70%. (Laos' WTO GATS Commitments)
Distribution Services			Retail trade sector, trade services (distributors, warehouse, cold storage), and futures brokers conditionally opened to investments.	Laos' WTO GATS Commitments
Education Services				Directors must be qualified teachers who are Lao PDR nationals. (Laos' WTO GATS Commitments)
Environmental Services				
Financial Services			Maximum foreign investment for venture capital changed from 80% to 85%	Laos' WTO GATS Commitments
Health Related and Social Sciences			More flexibility were made for ASEAN countries to invest in the following services: Sub-specialist hospital services; Specialized clinic medical services; Specialized clinic dental services; and Nursing services.	Laos' WTO GATS Commitments
Tourism and Travel Related Services				Laos' WTO GATS Commitments
Recreational, Cultural and Sporting Services				Laos' WTO GATS Commitments
Transport Services			Construction of transportation terminals and Multimodal transport now opened but subject to a recommendation from the Minister of Transportation	
Manufacturing			Pharmaceutical product manufacturing services. Increased cap of 85% foreign investment previously set at 75%.	

	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
General	Autonomous Liberalization (2012) Liberalisation in phases of another 7 sectors involving 18 services sub-sectors in 2012	Myanmar Foreign Investment Law: Notification 1/2013 Notification 11/2013	Philippines' Executive Order No. 98	-	-	Labour Code 2012
ACIA	-	-	-	-	-	-
Horizontal Commitments	-	2012 Union Parliament Law No XXI (Foreign Investment Law) Chapter 11: At least 25 percent of local citizens must be employed for the initial two years from the day of starting operation, at least 50 percent in the subsequent two years, and at least 75 percent for the third period of two years.	-	-	-	Labour Code 2012: work permit of 36 months is shorten to 24 months
Business Services	Foreign equity restrictions for accountancy services removed.		Real Estate Services closed to foreign investment. (Philippines' Executive Order No. 98)			
Communication Services	Legal Profession Act 1976 amended to relax restrictions on foreign lawyers.					
Construction and Related Engineering Services						
Distribution Services						
Education Services						
Environmental Services						
Financial Services			Lending Companies restricted to 49% foreign equity (Philippines' Executive Order No. 98)			
Health Related and Social Sciences						
Tourism and Travel Related Services		Notification 1/2013				
Recreational, Cultural and Sporting Services		Notification 1/2013:				
Transport Services		Air Transport Services are now opened.				
Manufacturing		Notification 1/2013				

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