

CHAPTER 4

Investment Climate Study on ASEAN Member Countries

SHUJIRO URATA

Graduate School of Asia-Pacific Studies, Waseda University

MITSUYO ANDO

Faculty of Business and Commerce, Keio University

This paper analyzes the FDI environment of the ASEAN countries with a view that the identification of impediments to FDI would provide useful information to policy makers interested in attracting FDI. The coverage of impediments to FDI in this study includes not only the FDI policies but also the implementation and enforcement of these policies. As for the openness of FDI policies, we find wide variations among the ASEAN countries. Most serious impediments are found to be the lack of transparency and complicated/delayed processing in screening and appraisal procedures regarding FDI application. Our findings indicate the need for further liberalization of FDI policies and promotion of facilitation measures in order to successfully attract FDI. In order to achieve these goals, we make several suggestions. First, to promote FDI policy liberalization, the ASEAN countries should use various existing frameworks, such as WTO/GATT's TRIMs agreement, BITs, and FTAs. In particular, ASEAN should use the ASEAN Comprehensive Investment Agreement. Second, to overcome obstacles concerning FDI facilitation, the ASEAN countries should actively use various cooperation programs with developed countries to improve human resources engaged in the implementation and enforcement of FDI policies. Possible multilateral and regional sources of technical assistance in this area are the UNCTAD, OECD, and ERIA. Third, monitoring of the implementation of FDI liberalization and facilitation measures has to be emphasized to achieve a freer FDI environment. In this regard, a monitoring mechanism should be established in ASEAN or in ERIA.

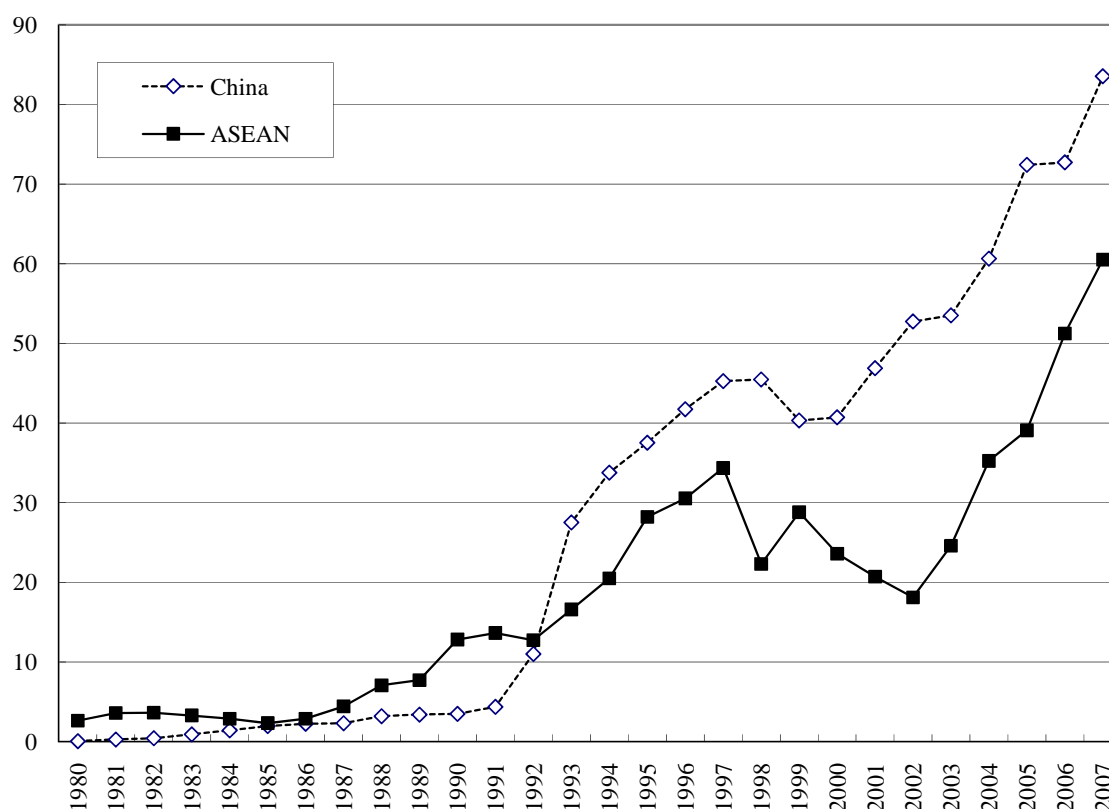
1. Introduction

Attracting foreign direct investment (FDI) has become an important policy priority for the government officials of many countries, as FDI can contribute to economic development and growth of the FDI recipient countries. Various channels have been identified for FDI's possible contribution to economic development/growth. FDI can bring not only financial resources for fixed investment but also technologies and managerial know-how, which play crucial roles in promoting economic growth of the recipient countries. Moreover, FDI enables the recipient countries to be engaged in various networks such as production, sales, procurement, and information networks of foreign multinational corporations (MNCs), major suppliers of FDI, resulting in the improvement of efficiency in production and marketing. Indeed, in East Asia FDI has contributed to enabling East Asian countries to achieve high economic growth through these factors.

The members of the Association of Southeast Asian Nations (ASEAN) have been quite successful in attracting FDI in recent years (Figure 1.1). After reaching a trough in 2002, FDI inflows to ASEAN have continued to rise noticeably. In five years from 2002 to 2007 FDI inflows to ASEAN more than tripled from \$18 billion to \$61 billion. Although ASEAN members have been experiencing favorable performance in attracting FDI, their performance has been outperformed by China. After being surpassed by China in the early 1990s in terms of FDI inflows, ASEAN has not been able to regain the commanding position it had in the 1980s. Having discussed FDI inflows to the ASEAN

members as a whole, one should observe wide variations in FDI inflows to individual ASEAN members (Table 1.1). As can be seen from the cumulative FDI inflows from 1990 to 2007, Singapore has been by far the most successful ASEAN member in attracting FDI inflows. Singapore is followed by Thailand and Malaysia, although their respective levels of FDI inflows were significantly smaller compared to the level registered by Singapore. By contrast to these countries, Lao PDR, Cambodia and Myanmar have not been successful in attracting FDI.

Figure 1.1. FDI Inflows to ASEAN and China (\$ Billions)



Source: UNCTAD, Foreign Direct Investment Database.

Table 1.1. Foreign Direct Investment Inflows to ASEAN and China by Country (\$ million)

Countries	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1990-2007
Brunei	7	6	7	8	6	583	654	702	573	748	549	526	1,035	3,375	334	289	434	184	10,019
Cambodia	0	0	33	54	69	151	294	168	243	232	149	149	145	84	131	381	483	867	3,634
Indonesia	1,092	1,482	1,799	2,003	2,191	4,419	6,245	4,729	-207	-1,838	-4,495	-2,926	232	-507	1,896	8,337	4,914	6,928	36,294
Lao PDR	6	7	8	36	59	88	128	86	45	52	34	24	25	19	17	28	187	324	1,173
Malaysia	2,611	4,043	5,138	5,741	4,581	5,815	7,297	6,323	2,714	3,895	3,788	554	3,203	2,473	4,624	3,967	6,048	8,403	81,218
Myanmar	225	235	149	92	135	318	581	879	684	304	208	192	191	291	251	236	143	428	5,541
Philippines	550	556	776	1,238	1,591	1,459	1,520	1,249	1,752	1,247	2,240	195	1,542	491	688	1,854	2,921	2,928	24,797
Singapore	5,575	4,887	2,204	4,686	8,550	11,535	9,682	13,753	7,314	16,578	16,484	15,621	7,200	11,664	19,828	13,930	24,743	24,137	218,373
Thailand	2,575	2,049	2,151	1,807	1,369	2,070	2,338	3,882	7,492	6,091	3,349	5,061	3,335	5,235	5,862	8,048	9,010	9,575	81,300
Vietnam	180	375	474	926	1,945	1,780	1,803	2,587	1,700	1,484	1,289	1,300	1,200	1,450	1,610	2,021	2,360	6,739	31,224
ASEAN	12,821	13,640	12,739	16,591	20,496	28,218	30,541	34,358	22,310	28,793	23,595	20,697	18,109	24,576	35,242	39,091	51,243	60,513	493,573
China	3,487	4,366	11,008	27,515	33,767	37,521	41,726	45,257	45,463	40,319	40,715	46,878	52,743	53,505	60,630	72,406	72,715	83,521	773,539

Source: UNCTAD, Foreign Direct Investment Database.

Various factors influence the attractiveness of the host country for FDI inflows¹. Political and economic stability is found to play an important role in attracting FDI. Political and economic instability discourages MNCs to undertake FDI as it increases the risk of losing invested assets. Large market size, favorable future economic prospects, availability of educated, well-disciplined, low-wage labor, well-developed soft and hard infrastructure are also attractive features of the host country for attracting FDI. Having discussed important elements in attracting FDI, one of the most important factors is a country's FDI policy regime. A country with many attractive features such as large market size cannot attract FDI if the country imposes restrictions on FDI inflows. Even if the FDI regime is open, a country has difficulty in attracting FDI if the regime lacks transparency or stability. These observations indicate the importance of the FDI policy regime as well as the FDI policy environment in determining the attractiveness of a country for FDI inflows.

In light of the observation that the FDI policy regime and FDI policy environment play important roles in determining FDI inflows, this study examines and evaluates the restrictiveness/openness of the FDI policy regime and environment for ASEAN countries. We adopt two approaches to achieve the objectives. In order to evaluate the FDI policy regime, we examine FDI policies which are documented in legal documents such as FDI Laws from the following six aspects, market access or right of establishment, national treatment, screening and approval procedure, restrictions on boards of directors as well as foreign investors, and performance requirement. To shed more light on the FDI policy

¹ For example, see Urata (2006) for the determinants of FDI inflows in East Asian countries.

environment, we use the information on barriers to FDI available from the survey compiled by the Japan Machinery Center for Trade and Investment (JMC), (JMC survey hereinafter).² Use of the information provided by the companies would reveal the true impediments to FDI. It is indeed well known, especially in developing countries, that the existence of a law does not mean that the law is actually implemented and enforced. By conducting these two kinds of analysis, we should be able to discern the policy-related impediments to FDI in ASEAN countries.

It is hoped that our study will contribute to a deeper understanding of the FDI policy regimes and FDI policy environment of ASEAN countries and help them formulate FDI policy. The structure of the study is as follows. Section 2 reviews two comparative studies assessing the business environment of ASEAN and other countries, to set the stage for our analysis of their FDI policy regimes and environments. This review is expected to discern the business environment in ASEAN from the global perspective. Sections 3 and 4 focus on ASEAN countries. Section 3 examines FDI policy regimes by assessing the contents of legal frameworks, while section 4 examines FDI policy environments by assessing the information collected from the companies. Section 5 concludes the study by presenting policy recommendations.

² See section 3 for the detailed explanation of the JMC survey.

2. ASEAN's Business Environment from the Global Perspective

An assessment of business environment in ASEAN countries from the global perspectives provides useful information for understanding the problems/barriers concerning foreign direct investment. With this in mind, this section reviews the results of two studies by an international organization and a think-tank that have analyzed the business environment of a large number of countries. Specifically, we take up the following studies: *Doing Business Database* compiled by the World Bank (World Bank, 2009) and *Global Competitiveness Report 2006-2007* and *2008-2009* published by the World Economic Forum (World Economic Forum, 2006 and 2009).

Table 2.1 (a), constructed from the *Doing Business Database*, presents the latest ranking of ease of doing business for the ASEAN10 economies. It highlights cases with rankings lower than the median of the of sample countries. While the overall rankings in 2009 are high for Singapore (1st out of 181), Thailand (13th), and Malaysia (20th), they are particularly low for new ASEAN members and Indonesia and the Philippines: Laos (165th), the Philippines (140th), Cambodia (135th), Indonesia (129th), and Viet Nam (92nd). When the overall rankings in 2009 are compared with those in 2005 (Table 2.1 (b)), they are more or less similar to each other.

Table 2.1. Ranking of Ease of Doing Business for ASEAN Economies

	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Philippines	Singapore	Thailand	Vietnam	Average (9)	Average (6)
(a) 2009											
Overall ranking (out of 181)	88	135	129	165	20	140	1	13	92	87	66
Ranking for 10 factors											
Starting a business	130	169	171	92	75	155	10	44	108	106	94
Dealing with licenses	72	147	80	110	104	105	2	12	67	78	62
Employing workers	5	134	157	85	48	126	1	56	90	78	80
Registering property	177	108	107	159	81	97	16	5	37	87	57
Getting credit	109	68	109	145	1	123	5	68	43	75	58
Protecting investors	113	70	53	180	4	126	2	11	170	81	61
Paying taxes	35	24	116	113	21	129	5	82	140	74	82
Trading across borders	42	122	37	165	29	58	1	10	67	59	34
Enforcing contracts	157	136	140	111	59	114	14	25	42	89	66
Closing a business	35	181	139	181	54	151	2	46	124	101	86
(b) 2005											
Overall ranking (out of 175)	n.a.	n.a.	131	n.a.	25	121	2	19	98	n.a.	66
Ranking for 10 factors											
Starting a business	n.a.	n.a.	161	n.a.	66	99	11	23	89	n.a.	75
Dealing with licenses	n.a.	n.a.	129	n.a.	134	112	10	6	28	n.a.	70
Employing workers	n.a.	n.a.	141	n.a.	37	118	4	46	137	n.a.	81
Registering property	n.a.	n.a.	118	n.a.	68	91	12	16	30	n.a.	56
Getting credit	n.a.	n.a.	76	n.a.	3	96	7	41	76	n.a.	50
Protecting investors	n.a.	n.a.	58	n.a.	3	151	2	33	170	n.a.	70
Paying taxes	n.a.	n.a.	129	n.a.	49	96	8	54	116	n.a.	75
Trading across borders	n.a.	n.a.	55	n.a.	41	61	2	97	68	n.a.	54
Enforcing contracts	n.a.	n.a.	144	n.a.	78	50	23	43	90	n.a.	71
Closing a business	n.a.	n.a.	126	n.a.	47	143	2	36	105	n.a.	77

Data source: World Bank (2009).

Notes: Average ranking is calculated for a comparison among 10 factors. Average (9) shows average ranking for nine countries, and average (6) shows average ranking for six countries that appear in both years, respectively.

The *Doing Business Database* evaluates the following 10 aspects of the business environment: i. starting a business, ii. dealing with licenses, iii. employing workers, iv. registering property, v. getting credit, vi. protecting investors, vii. paying taxes, ix. enforcing contracts, and x. closing a business. The problems that need to be solved vary among the ASEAN countries. For the ASEAN region as a whole, however, the most serious problems are in the areas of starting a business (106th on average) and closing a business (101st), for which their rankings are significantly lower than their overall average of 87th. On the other hand, interestingly, the ranking for trading across borders is much higher than other items for ASEAN: 59th on average for ASEAN9 and 34th for ASEAN6 in 2009. When the rankings in 2009 are compared with those in 2005, some items tend to improve while others worsen. In particular, relative evaluations for trading across borders drastically improved from 54th to 34th on average of ASEAN6 countries, while relative evaluations for starting a business significantly worsened from 75th to 94th. These relatively high and rapidly improving rankings for trade activities may reflect the recent efforts that ASEAN countries have made for trade liberalization and facilitation, particularly to create an ASEAN Economic Community (AEC) with a targeted year of 2015.³

The survey results in Table 2.2 reveal that the length of time required for starting a business and closing a business is too long; for instance, it takes 116 days for Brunei and 103 days for Laos to start a business. Many procedures are necessary, particularly for

³ See Ishikawa, Shimizu, and JETRO (2009) for efforts made by ASEAN countries as a part of movements toward AEC to form national single windows (NSW) and ASEAN single windows (ASW), which are the sort of one-stop services for trade at the national and ASEAN-wide level, as well as other discussion on AEC.

starting a business and obtaining certain licenses, which may be due to the complexity and/or delays of procedures; more than 10 kinds of procedures are required to start a business in Brunei, the Philippines, Indonesia, and Vietnam, and more than 20 procedures are necessary to deal with licenses in Brunei, Malaysia, Lao PDR, the Philippines, and Cambodia. Costs expressed as percentage of income per capita to start a business/dealing with licenses are also high in some countries; for example, Cambodia for starting a business and Vietnam, Indonesia, and Lao PDR for dealing with licenses. Moreover, high minimum capital levels discourage starting a business in countries such as Indonesia, Cambodia, and the Philippines. Furthermore, the degree of difficulties of hiring and firing workers seem to be extremely high for Indonesia, and firing costs are particularly troublesome; firing costs expressed as the number of weeks of wages are as high as 108 for Indonesia, 91 for the Philippines, and 87 for Vietnam in extreme cases.

Even where trading across borders has a relatively high ranking, there remains room for further improvement in terms of the number of days and costs required for export and import processes. For instance, reduction of costs for exports and imports is necessary particularly for Lao PDR, the Philippines, Vietnam, and Cambodia, and the reduction of time for export and import operations is expected mainly for Lao PDR, Cambodia, Indonesia, and Vietnam. To realize them requires the development of logistics-related infrastructure such as ports and roads and improved efficiency in customs clearance in addition to the reduction (and simplification) of tariffs and non-tariff measures (NTMs).

Table 2.2. Components of Ease of Doing Business and Their Evaluation for ASEAN**Economies, 2009**

		Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Philippines	Singapore	Thailand	Vietnam
Starting a Business	Procedures (number)	18	9	11	8	9	15	4	8	11
	Time (days)	116	85	76	103	13	52	4	33	50
	Cost (% of income per capita)	9	152	78	14	15	30	1	5	17
	Min. capital (% of income per capita)	0	44	74	0	0	6	0	0	0
Dealing with Licenses	Procedures (number)	32	23	18	24	25	24	11	11	13
	Time (days)	167	709	176	172	261	203	38	156	194
	Cost (% of income per capita)	5	64	221	172	8	90	21	9	313
Employing Workers	Difficulty of Hiring Index (0-100)	0	44	61	11	0	56	0	33	11
	Rigidity of Hours Index (0-100)	20	60	0	40	0	20	0	20	20
	Difficulty of Firing Index (0-100)	0	30	60	50	30	30	0	0	40
	Rigidity of Employment Index (0-100)	7	45	40	34	10	35	0	18	24
	Firing costs (weeks of wages)	4	39	108	19	75	91	4	54	87
Registering Property	Procedures (number)	..	7	6	9	5	8	3	2	4
	Time (days)	..	56	39	135	144	33	9	2	57
	Cost (% of property value)	..	4	11	4	3	4	3	1	1
Getting Credit	Legal Rights Index (0-10)	7	9	3	4	10	3	10	4	7
	Credit Information Index (0-6)	0	0	4	0	6	3	4	5	4
	Public registry coverage (% adults)	0	0	26	0	53	0	0	0	13
	Private bureau coverage (% adults)	0	0	0	0	..	5	48	32	0
Protecting Investors	Disclosure Index (0-10)	3	5	9	0	10	2	10	10	6
	Director Liability Index (0-10)	2	9	5	3	9	2	9	7	0
	Shareholder Suits Index (0-10)	8	2	3	2	7	8	9	6	2
	Investor Protection Index (0-10)	4	5	6	2	9	4	9	8	3
Paying Taxes	Payments (number)	15	27	51	34	12	47	5	23	32
	Time (hours)	144	137	266	560	145	195	84	264	1050
	Profit tax (%)	32	19	27	25	17	26	8	29	21
	Labor tax and contributions (%)	6	0	11	6	16	10	15	6	19
	Other taxes (%)	0	4	0	3	2	14	5	4	0
	Total tax rate (% profit)	37	23	37	34	35	51	28	38	40
Trading Across Border	Documents for export (number)	6	11	5	9	7	8	4	4	6
	Time for export (days)	28	22	21	50	18	16	5	14	24
	Cost to export (US\$ per container)	630	732	704	1860	450	816	456	625	734
	Documents for import (number)	6	11	6	10	7	8	4	3	8
	Time for import (days)	19	30	27	50	14	16	3	13	23
	Cost to import (US\$ per container)	708	872	660	2040	450	819	439	795	901
Enforcing Contracts	Procedures (number)	58	44	39	42	30	37	21	35	34
	Time (days)	540	401	570	443	600	842	150	479	295
	Cost (% of debt)	37	103	123	32	28	26	26	14	31
Closing a Business	Time (years)	3	..	6	..	2	6	1	3	5
	Cost (% of estate)	4	..	18	..	15	38	1	36	15
	Recovery rate (cents on the dollar)	47	0	14	0	39	4	91	42	18

Data source: World Bank (2009).

Table 2.3 presents global competitiveness index (GCI) by country and by category, obtained from the *Global Competitiveness Report*, highlighting cases with rankings lower than the half of the number of sample countries. The figures in the upper portion of Table 2.3 (a)/(b) indicate the ranking of a country among 134/125 countries for the items concerned (low figures indicate high rankings), while the figures in the lower portion of the table indicate the score (high numbers indicate high scores with 7 as the full score). The GCI evaluates the competitiveness of countries based on three broad categories with two to six sub-categories. The three broad categories are basic requirements, efficiency enhancers, and innovation and sophistication factors. The sub-categories are further broken down into the much more precise factors shown in Table A.2.1 in the Appendix.⁴ Although the degree of competitiveness of a specific country may not directly influence the investment activities of firms, competitiveness would have a positive impact on investment decisions. Firms prefer competitive countries to less competitive ones for the place of their operations in the global market when considering investment locations.

⁴ Factors considered as disadvantages are those ranked below 10 for Singapore with an overall ranking in the top 10 economies, those ranked equal to or lower than the economy's overall ranking for Brunei, Malaysia, Thailand, and Indonesia with an overall ranking from 11 to 50, and those ranked lower than 50 for Cambodia, Indonesia, the Philippines, and Viet Nam with an overall ranking lower than 51.

Table 2.3. The Global Competitiveness Index (GCI) for ASEAN Economies

	Brunei	Cambodia	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	Average (8)	Average (6)		Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	Average (6)
(a) 2008-2009											(b) 2006-2007							
<i>Ranking (out of 134 economies)</i>											<i>Ranking (out of 125 economies)</i>							
GCI 2008-2009	39	109	55	21	71	5	34	70	51	43	GCI 2006-2007	50	26	71	5	35	77	44
Basic requirements	29	107	76	25	85	3	43	79	56	52	Basic requirements	68	24	84	2	38	71	48
Institutions	41	103	68	30	105	1	57	71	60	55	Institutions	52	18	88	4	40	74	46
Infrastructure	39	97	86	23	92	4	29	93	58	55	Infrastructure	89	23	88	6	38	83	55
Macroeconomy	2	105	72	38	53	21	41	70	50	49	Macroeconomy	57	31	62	8	28	53	40
Health and primary education	47	111	87	23	90	16	58	84	65	60	Health and primary education	72	42	82	20	84	56	59
Efficiency enhancers	77	115	49	24	68	2	36	73	56	42	Efficiency enhancers	50	26	63	3	43	83	45
Higher education and training	69	127	71	35	60	8	51	98	65	54	Higher education and training	53	32	63	10	42	90	48
Goods market efficiency	91	88	37	23	81	1	46	70	55	43	Market efficiency	27	9	57	4	31	73	34
Labor market efficiency	16	33	43	19	101	2	13	47	34	38	Technological readiness	72	28	61	2	48	85	49
Financial market sophistication	75	130	57	16	78	2	49	80	61	47	Innovation factors	41	22	66	15	36	81	44
Technological readiness	54	123	88	34	70	7	66	79	65	57	Business sophistication	42	20	59	23	40	86	45
Market size	116	95	17	28	34	41	21	40	49	30	Innovation	37	21	79	9	33	75	42
Innovation and sophistication factors	87	112	45	23	67	11	46	71	58	44								
Business sophistication	89	110	39	22	57	14	46	84	58	44								
Innovation	91	112	47	22	76	11	54	57	59	45								
<i>Score (out of 7)</i>											<i>Score (out of 7)</i>							
GCI 2008-2009	4.5	3.5	4.3	5.0	4.1	5.5	4.6	4.1	4.5	4.6	GCI 2006-2007	4.3	5.1	4.0	5.6	4.6	3.9	4.6
Basic Requirements	5.3	3.7	4.3	5.4	4.2	6.1	5.0	4.2	4.8	4.9	Basic Requirements	4.4	5.4	4.2	6.1	5.0	4.4	4.9
Institutions	4.7	3.4	3.9	4.9	3.4	6.2	4.2	3.9	4.3	4.4	Institutions	4.0	5.1	3.4	5.9	4.4	3.6	4.4
Infrastructure	4.4	2.8	3.0	5.3	2.9	6.4	4.7	2.9	4.1	4.2	Infrastructure	2.7	5.1	2.7	6.2	4.4	2.8	4.0
Macroeconomy	6.3	4.4	4.9	5.4	5.2	5.7	5.4	4.9	5.3	5.3	Macroeconomy	4.5	5.0	4.4	5.7	5.1	4.6	4.9
Health and primary education	5.8	4.3	5.3	6.1	5.2	6.2	5.6	5.3	5.5	5.6	Health and primary education	6.4	6.6	6.2	6.8	6.1	6.4	6.4
Efficiency enhancers	3.8	3.3	4.3	4.8	4.0	5.5	4.5	3.9	4.3	4.5	Efficiency enhancers	4.1	4.9	3.9	5.6	4.3	3.4	4.4
Higher education and training	3.9	2.7	3.9	4.6	4.1	5.6	4.3	3.4	4.1	4.3	Higher education and training	4.3	4.8	4.0	5.6	4.4	3.4	4.4
Goods market efficiency	3.9	4.0	4.7	5.0	4.1	5.8	4.5	4.2	4.5	4.7	Market efficiency	4.9	5.2	4.2	5.6	4.8	4.1	4.8
Labor market efficiency	4.9	4.7	4.6	4.9	4.1	5.7	5.0	4.5	4.8	4.8	Technological readiness	3.2	4.6	3.3	5.7	3.7	2.8	3.9
Financial market sophistication	4.1	3.0	4.5	5.4	4.1	5.9	4.6	4.1	4.5	4.8	Innovation factors	4.1	4.9	3.6	5.1	4.2	3.3	4.2
Technological readiness	3.6	2.4	3.0	4.4	3.3	5.6	3.4	3.1	3.6	3.8	Business sophistication	4.5	5.3	4.2	5.2	4.6	3.5	4.6
Market size	2.4	3.0	5.1	4.7	4.5	4.4	4.9	4.4	4.2	4.7	Innovation	3.6	4.5	3.1	5.0	3.7	3.1	3.8
Innovation and sophistication factors	3.3	3.0	4.0	4.6	3.7	5.2	3.9	3.6	3.9	4.2								
Business sophistication	3.8	3.4	4.5	5.0	4.3	5.3	4.4	3.8	4.3	4.6								
Innovation	2.9	2.7	3.4	4.3	3.0	5.1	3.4	3.3	3.5	3.8								

Data source: World Economic Forum (2006, 2009)

Notes: Average is calculated for a comparison among factors. Average (8) shows average of eight countries, and average (6) show average of six countries that appear in (a) and (b), respectively.

Similarly to the rankings for the *Doing Business*, the overall rankings in 2008-2009 are high for Singapore (5th out of 134), Malaysia (21st), and Thailand (34th), while they are particularly low for and new ASEAN countries and the Philippines, indicating unfavorable business environments in these countries: Cambodia (109^h), the Philippines (71st), and Vietnam (70th) (Table 2.3 (a)). When the overall rankings in 2008-2009 are compared with those in 2006-2007 (Table 2.3 (b)), they are more or less similar to each other.

Based on the average figures shown in the right hand columns in Table 2.3, basic requirements such as institutions, infrastructure, and health and primary education are still not well developed at the sub-category level in the ASEAN6 countries compared to the rest of the world. More precisely, the factors regarded as lacking competitiveness in many countries in Table A.2.1 involve various public institutions, such as judicial independence, efficiency of the legal framework, infrastructure (particularly the quality of the electricity supply), tuberculosis prevalence, various market distortions concerning such matters as tertiary education, number of procedures and time required for starting a business, financial market sophistication including soundness of banks, and technological readiness such as availability of latest technologies and mobile telephone subscribers. Improving these factors would make the countries in the region more competitive, increasing their attractiveness for investors.

Table 2.4, compiled from the *Global Competitiveness Report*, shows the problematic factors involved in doing business in the countries concerned. The figures in the upper portion of the table indicate the percentage of respondents indicating the presence of the

problem for the item concerned, while those in the lower portion indicate the ranking of the severity of the problem for the 15/14 items in each economy. In the upper portion of the table, the figures registering 10 percent or above 10 percent are highlighted.⁵ When the results for 2008-2009 are compared with those for 2006-2007, an inadequate supply of infrastructure is still recognized as a relatively serious problem in many ASEAN countries. Additionally, tax regulation is identified as a relatively serious problem in many countries in 2008-2009, while inefficient government bureaucracy is identified in 2006-2007. This suggests that efficiency of government bureaucracy has been improved, while other factors such as tax regulations have been regarded as more serious problems requiring improvement to facilitate business.

The evaluation of the business environment and competitiveness of the ASEAN countries in this section suggests that reducing the complexity and time required for institutional procedures, increasing labor market flexibility (reducing the burden of labor regulations), improving taxation regulations, and developing infrastructure are particularly important for improving investment environment.

⁵ To construct this table, respondents were asked to select the five factors most problematic for doing business in the economy concerned, among 15/14 factors listed in the table, and to rank them from 1 (most problematic) to 5. The results were tabulated and weighted according to the ranking assigned by the respondents.

Table 2.4. The most problematic factors for doing business and their ranking for ASEAN Economies

	Brunei	Cambodia	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	Average (8)	Average (6)	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	Average (6)
	(a) 2008-2009								(b) 2006-2007								
<i>Percent of responses</i>																	
Access to financing	14.7	8.9	4.4	6.2	1.8	14.7	7.4	10.6	8.6	7.5	4.7	6.0	4.1	9.6	7.1	8.4	6.6
Corruption	0.9	0.7	3.9	4.5	1.5	1.3	4.6	3.1	2.6	3.2	4.6	8.0	21.5	0.3	14.7	18.8	11.3
Crime and theft	2.1	3.6	1.3	5.5	5.9	9.4	3.5	3.9	4.4	4.9	4.6	5.4	3.8	1.4	0.2	2.0	2.9
Foreign currency regulations	0.0	2.8	0.1	0.0	0.1	0.6	0.6	0.6	0.6	0.3	4.9	8.1	0.3	2.4	2.0	3.3	3.5
Government instability/coups	19.1	2.2	9.7	5.9	2.4	10.3	1.2	1.9	6.6	5.2	1.9	1.1	13.6	0.5	7.7	2.2	4.5
Inadequate supply of infrastructure	2.1	24.5	10.7	14.5	23.9	0.1	10.3	9.0	11.9	11.4	20.2	5.8	15.2	6.9	6.0	13.5	11.3
Inadequately educated workforce	0.7	2.6	0.1	8.3	1.9	0.2	0.8	0.9	1.9	2.0	8.1	6.7	0.8	15.9	10.2	9.5	8.5
Inefficient government bureaucracy	2.4	5.0	5.0	6.5	8.7	0.8	13.0	8.2	6.2	7.0	14.1	15.4	11.8	6.4	17.8	19.0	14.1
Inflation	13.7	4.9	7.5	4.7	3.8	5.2	4.1	7.7	6.5	5.5	6.0	7.5	2.1	8.0	4.3	2.2	5.0
Policy instability	1.7	1.8	3.7	1.8	7.0	0.0	21.5	1.4	4.9	5.9	14.0	6.4	15.3	3.4	13.9	0.9	9.0
Poor public health	0.7	4.6	6.7	6.1	6.4	7.6	5.1	6.4	5.5	6.4	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Poor work ethic in national labor force	4.5	8.9	16.4	5.4	13.1	5.9	5.2	16.5	9.5	10.4	1.6	6.0	1.1	8.8	2.8	6.9	4.5
Restrictive labor regulations	20.1	4.0	3.5	5.5	0.1	6.4	2.2	8.1	6.2	4.3	6.0	8.3	2.5	15.7	2.6	2.0	6.2
Tax rates	1.7	7.3	7.8	8.3	3.5	35.4	8.5	17.9	11.3	13.6	2.7	7.0	4.5	8.8	2.5	3.8	4.9
Tax regulations	15.6	18.3	19.3	16.7	19.7	2.2	12.1	3.7	13.5	12.3	10.5	8.3	3.7	11.9	8.2	7.7	8.4
<i>Ranking in each economy</i>																	
Access to financing	5	7	6	12	8	8	10	7	8	9	9	11	7	4	7	5	7
Corruption	8	1	3	2	1	14	4	4	5	5	11	5	1	14	2	2	6
Crime and theft	13	12	14	3	11	13	14	14	12	12	10	13	8	12	14	12	12
Foreign currency regulations	12	15	10	13	13	10	9	11	12	11	8	4	14	11	13	9	10
Government instability/coups	10	14	11	14	5	15	1	13	10	10	13	14	4	13	6	10	10
Inadequate supply of infrastructure	6	3	2	11	3	7	7	2	5	5	1	12	3	8	8	3	6
Inadequately educated workforce	4	4	9	6	12	2	6	3	6	6	5	8	13	1	4	4	6
Inefficient government bureaucracy	3	2	1	1	2	9	3	10	4	4	2	1	5	9	1	1	3
Inflation	11	5	5	4	9	1	5	1	5	4	7	6	11	7	9	10	8
Policy instability	7	6	8	5	4	11	2	5	6	6	3	9	2	10	3	14	7
Poor public health	15	11	15	15	15	12	15	15	14	15	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Poor work ethic in national labor force	1	9	12	9	14	6	12	6	9	10	14	10	12	6	10	7	10
Restrictive labor regulations	2	13	4	8	10	3	13	12	8	8	6	2	10	2	11	12	7
Tax rates	9	10	13	10	7	4	11	9	9	9	12	7	6	5	12	8	8
Tax regulations	14	8	7	7	6	5	8	8	8	7	4	2	9	3	5	6	5

Data source: World Economic Forum (2006, 2009).

Notes: From a list of the above 15/14 factors, respondents were asked to select the five most problematic for doing business in their economy and to rank them from 1 (most problematic) to 5. The results were tabulated and weighted according to the ranking assigned by the respondents. The weighted percentage of firms identified the factor as a problematic is expressed in the upper part of this table "percent of responses". Average is calculated for a comparison among factors. Average (8) shows average of eight countries and average (6) show average of six countries that appear in (a) and (b), respectively.

3. Assessment of FDI Policy Regimes Based on Legal Documents

This section assesses the FDI policy regimes in ASEAN countries using the information obtained from the legal documents such as FDI Laws. In some cases supplementary information sources such as an FDI guide are used. The first section describes the methodology used for the analysis and then the following section discusses the results of the analysis.

3.1. Methodology

Several studies have assessed the restrictiveness of FDI policies. Golub (2003) examined the restrictiveness of FDI for OECD countries in 1998/2000 by examining rules on foreign equity, screening and approval procedure, and other restrictions including those on boards of directors, movement of people, and input and operational restrictions. Golub found the United Kingdom the most open country and Iceland the least open country among 28 OECD member countries.

PECC (2002) evaluated FDI regimes of APEC economies by examining wide-ranging FDI rules on market access, examination procedures, most-favored-nation treatment, profit repatriation, work permits, performance requirements, dispute settlement, investment incentives, and capital exports. PECC found Hong Kong to be the most open and Brunei the least open member among 19 APEC sample economies. The PECC study shows that FDI regimes of developing members are more restrictive compared to developed members.

We used a modified methodology adopted by Golub (2003). Our evaluation method is shown in Table 3.1. We evaluated the restrictiveness of FDI rules in six areas: foreign ownership or market access, national treatment, screening and approval procedure, boards of directors and management composition, movement of investors, and performance requirement. High scores indicate open FDI rules⁶. Different areas are given different weights. In most FTAs, restrictions are imposed on ownership and control of a local enterprise through a cap on foreign-owned equity. It is given a weight of 0.4 while restriction on national treatment is given a weight of 0.2 for the computation of the overall score. Meanwhile, other restrictions such as screening procedures, composition of management, entry of investors, and performance requirements are given 0.1 each. In this manner, this study avoided the limitations of Golub's analysis wherein some sectors received a score above 1, which is the highest possible score for the degree of restrictiveness. In order to derive the scores for the subtotal as well as overall totals, simple averages are computed by giving the same weight to their components. This method has its own limitations. It can be subjected to random and arbitrary weight. However, this is assuaged by using standards on all restriction and by careful analysis, in addition to comparison of the results of one country with another one.

All in all, 21 sectors that include 88 ISIC two-digit subsectors were evaluated in this study.

⁶ We evaluated FDI rules by sectors, then aggregated them to obtain an overall score by giving equal weight. We used 88 ISIC two-digit industry classification to analyze FDI rules, then aggregated these detailed results to appropriate aggregation by giving equal weights

Table 3.1. Assessment of FDI Restrictions

(Maximum of 1.0 = fully liberalized)

Restriction on Ownership and Market Access	
No foreign equity is allowed	0
1-19 percent is allowed	0.1
Reservation on ownership and market access	0.25
20-34 percent is allowed	0.4
35-49 percent is allowed	0.5
50-74 percent is allowed	0.7
75-99 percent is allowed	0.8
No restriction but bound	0.9
Commercial presence is required	0.9
No restrictions	1
National Treatment	
No national treatment	0
Reservation on national treatment	0.25
No restrictions	1
Screening and Approval	
Objections in case the investment is contrary to national interest	0
Investment is required to show economic benefits before approval	0.1
Reservations for future limitations	0.25
Objections based on the size of investment	0.5
Prior or post notification	0.9
No restrictions	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
At least one is local	0.75
Should be locally licensed	0.9
No restrictions	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
Three to four years	0.5
More than four years but less than 10	0.8
No restrictions	1
Performance requirements	
Local contents	0.75
Others	0.9

3.2. The Results

We conducted the analysis for all the ten ASEAN countries. The results of our assessment are shown in Table 3.2. Overall scores for ASEAN countries range between 0.52 (Myanmar) and 0.88 (Singapore) with a simple average of 0.69. Other countries register the following scores. The Philippines' score is 0.78, second highest score. Thailand (0.75), Indonesia (0.74) and Cambodia (0.70) are given scores with the 0.7 level. Three countries register scores with the 0.6 level, Vietnam (0.69), Brunei and Lao, PDR (0.61). Malaysia is given the score of 0.59. As the scoring is undertaken in such a way that the high score indicates open FDI policy regime, our results show that FDI policy regime in Singapore is very open and those in the Philippines, Thailand, Indonesia and Cambodia are relatively open, while those in Myanmar, Malaysia, Brunei and Lao, PDR are relatively closed.

Table 3.2. Assessment of FDI Policy Regimes of ASEAN Countries

	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement	Total score
Weight	0.40	0.20	0.10	0.10	0.10	0.10	1.00
Brunei	0.76	0.20	0.57	0.41	0.82	0.82	0.61
Cambodia	0.86	0.60	0.25	1.00	0.25	0.88	0.70
Indonesia	0.69	0.95	0.24	0.95	0.48	0.95	0.73
Lao PDR	0.60	0.70	0.34	0.67	0.54	0.79	0.61
Malaysia	0.59	0.17	0.76	0.62	0.89	0.91	0.59
Myanmar	0.55	0.61	0.30	0.61	0.24	0.61	0.52
Philippines	0.74	0.81	0.89	0.48	0.96	0.89	0.78
Singapore	0.83	0.95	0.86	0.75	0.95	0.95	0.88
Thailand	0.58	1.00	0.91	0.98	0.37	0.90	0.75
Vietnam	0.66	0.74	0.64	0.71	0.53	0.85	0.69
Average	0.69	0.67	0.58	0.72	0.60	0.85	0.69
Standard deviation	0.11	0.29	0.28	0.20	0.28	0.10	0.11

Note: See the main text for the explanation of the scoring system.

Source: Authors' computation.

Examining the average scores for the ASEAN countries by issue areas, one finds that ASEAN countries have restrictive FDI regimes in the areas of screening and appraisal procedures of FDI applications and the movement of investors, as their average scores are low at 0.58 and 0.60, respectively, when compared with overall average of 0.69. Having pointed out the problems with the screening and appraisal procedure of FDI applications and the movement of investors in the ASEAN countries, it should be noted that there are wide variations in these scores among the ASEAN countries, reflecting diversity in the seriousness of those problems among them, as shown by the high standard deviations. Screening and appraisal procedures are particularly restrictive in Indonesia, Cambodia, Myanmar, and Lao PDR, while movement of investors is quite limited in Myanmar, Cambodia, and Thailand.

The lack of national treatment is a serious problem in Malaysia and Brunei. In Malaysia there are a number of cases where foreign companies are not treated equally with local companies. For example, foreign companies are allowed to acquire land up to a certain amount. In several industrial sectors foreign companies are required to form joint venture with local companies. In Brunei, the Government reserves the right to impose any measures with respect to national treatment. Regulations on boards of directors and management composition are restrictive in the Philippines, where the majority of board directors have to be local.

Let us examine the restriction on the right of establishment, or market access, which is considered the most important policy regarding inward FDI. Table 3.3 shows the results of our assessment of market access for the ASEAN countries by sectors. Before

analyzing the restrictions on market access by country, we first look at restrictions on market access by sectors. The sector with the most restrictive market access regulation is found to be public administration and defense. Electricity, gas, steam and air conditioning supply, and information and communications have quite restrictive regulation on market access. By contrast, market access regulation is relaxed in “activities of households as employers; undifferentiated goods - and services - producing activities of households for own use.” Market access in manufacturing is rather open. Turning to the market access restrictions by country, we find that tight restrictions are imposed in Myanmar, Thailand, Malaysia and Lao PDR. In Myanmar and Lao PDR, FDI is not allowed in several sectors. In Myanmar market access is not allowed in the following sectors, agriculture, mining, electricity, gas etc., accommodation and food service, information and communications, financial and insurance activities, and public administration, while in Lao PDR the sectors in which market access is not allowed include construction, public administration, arts, entertainment and recreation, and activities of households as employers. In Thailand, majority ownership is not allowed in many sectors such as agriculture, electricity, and construction. In Malaysia market access is very limited in arts, entertainment, and recreation, accommodation and food service activities, real estate activities, and water supply etc.

Table 3.3. Assessment of Market Access in FDI Policies of ASEAN Countries

	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	Average
All sectors	0.76	0.86	0.69	0.60	0.59	0.55	0.74	0.83	0.58	0.66	0.69
A - Agriculture, forestry and fishing	0.90	0.90	0.67	0.90	0.90	0.00	0.65	1.00	0.50	0.80	0.72
B - Mining and quarrying	0.98	0.80	0.36	0.90	0.80	0.00	0.70	1.00	0.68	0.90	0.71
C - Manufacturing	0.95	0.90	0.24	0.59	1.00	0.45	0.90	1.00	0.84	0.95	0.78
D - Electricity, gas, steam and air conditioning supply	0.00	0.90	0.80	0.30	0.40	0.00	0.70	0.00	0.50	0.50	0.41
E - Water supply; sewerage, waste management and remediation activities	0.00	0.90	0.80	0.90	0.30	0.90	0.70	1.00	0.50	0.80	0.68
F - Construction	0.72	0.90	0.80	0.00	1.00	0.90	0.85	1.00	0.50	0.40	0.71
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	1.00	0.90	1.00	0.90	0.70	0.90	0.95	0.90	0.50	0.20	0.80
H - Transportation and storage	0.80	0.90	0.50	0.72	0.70	0.54	0.50	0.70	0.50	0.50	0.64
I - Accommodation and food service activities	1.00	0.90	1.00	0.90	0.25	0.00	0.95	1.00	0.50	0.90	0.74
J - Information and communication	1.00	0.80	0.78	0.35	0.40	0.00	0.60	0.83	0.50	0.50	0.58
K - Financial and insurance activities	1.00	0.90	0.83	0.90	0.60	0.00	0.80	1.00	0.50	0.85	0.74
L - Real estate activities	1.00	0.25	0.90	0.90	0.25	0.90	0.50	0.25	0.50	1.00	0.65
M - Professional, scientific and technical activities	0.89	0.90	0.36	0.90	0.77	0.90	0.45	0.89	0.50	0.80	0.74
N - Administrative and support service activities	1.00	0.90	0.95	0.71	0.60	0.60	0.65	0.98	0.50	0.90	0.78
O - Public administration and defence; compulsory social security	0.00	0.90	0.00	0.00	0.40	0.00	0.50	1.00	0.50	0.00	0.33
P - Education	1.00	0.90	0.50	0.90	0.40	0.90	0.50	0.00	0.50	0.90	0.65
Q - Human health and social work activities	1.00	0.90	0.50	0.90	0.40	0.90	0.85	1.00	0.50	0.30	0.73
R - Arts, entertainment and recreation	0.75	0.90	0.80	0.00	0.20	0.90	0.85	1.00	0.63	0.00	0.60
S - Other service activities	0.67	0.90	0.70	0.00	0.40	0.90	1.00	0.97	0.50	0.70	0.67
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	0.90	1.00	0.00	1.00	0.90	1.00	1.00	1.00	1.00	0.88
U - Activities of extraterritorial organizations and bodies	0.25	0.90	1.00	0.90	1.00	0.90	1.00	1.00	1.00	1.00	0.90

Note: See the main text for the explanation of the scoring system.

Source: Authors' computation.

Concerning performance requirements, Myanmar, Singapore and Thailand do not impose any such restrictions. It should be noted that the scores on performance requirement for these countries are not unity, because in the computation the sectors without market access are given zero on performance requirement. In Cambodia, foreign investors are required to provide adequate training to Cambodian employees, and to promote Cambodian staff to senior positions over time. In Lao PDR, a local content requirement is imposed in several manufacturing sectors such as leather products and wood products. In Malaysia export targets, technology transfer and local content requirements are imposed in the manufacturing sector. In the Philippines an export requirement is imposed for obtaining incentives, while preferences have to be given to local employees in the electricity sector. In Vietnam foreign firms have to comply with environment protection requirements.

Our analysis of FDI policy regimes for ASEAN countries shows wide variations in their openness/restrictiveness among them. Among issue areas, screening and appraisal, and movement of investors are found to be serious impediments in several countries. As for the policy on market access, it is worth noting that service sectors such as public administration, electricity, gas, steam and air conditioning supply, and information and communication are quite restrictive. Recognizing that service sectors occupy a large and important part of economic activity in ASEAN countries, the provision of greater market access to foreign companies can contribute to an improvement of allocative and technical efficiency in these countries. A fear of market domination by competitive foreign companies, which is justified, should be dealt with by appropriate competition policy.

4. Assessment of FDI Environment Based on Firm Survey

This section analyzes the FDI environments of ASEAN countries by using the information obtained from the survey conducted on Japanese firms. First, we discuss the methodology used for the analysis and then undertake the analysis.

4.1. The Methodology and the Data Used for the Analysis

We classify the problems and obstacles faced by Japanese firms operating in ASEAN countries into ten categories (Table 4.1). The ten categories are divided into two groups, one consisting of four categories of problems related to FDI liberalization and six categories of problems related to FDI facilitation. This classification, which has been proposed by Urata, Ando, and Ito (2007), is based on a literature survey and discussions among the members of the committee including representatives of APEC Business Advisory Council (ABAC) Japan, the Japan Machinery Center for Trade and Investment (JMC), the Ministry of Trade, Investment, and Industry (METI) Japan, and university professors.

The four categories of impediments concerning FDI liberalization are i) restrictions on foreign entry, ii) performance requirements, iii) restrictions on overseas remittances and controls on foreign exchange, and iv) restrictions on the movement of people and employment requirements.⁷

⁷ The category i) corresponds to 1.restrictions on foreign entry and 21.restrictions on foreign ownership of land in the JMC survey. Similarly, the category ii) corresponds to 2.local content requirements, 3.export requirements, and 18.technology transfer requirements, the category iii)

Table 4.1. 10 Major Categories of Issues to be Solved for FDI Liberalization and Facilitation

<u>FDI liberalization</u>	
i	Restrictions on foreign entry
ii	Performance requirements
iii	Restrictions on overseas remittances and controls on foreign currency transactions
iv	Restrictions on the movement of people and employment requirements
<u>FDI facilitation</u>	
v	Lack of transparency in policies and regulations concerning investment (institutional problems)
vi	Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)
vii	Insufficient protection of intellectual property rights
viii	Labor regulations and related practices excessively favorable to workers
ix	Underdeveloped infrastructure, shortages of human resources, and insufficient investment
x	Restricted competition and price controls

Source: Urata, Ando, and Ito (2007).

Category “i) restrictions on foreign entry”, for instance, includes prohibited or restricted foreign entry into specific sectors, regulations on maximum foreign ownership ratios (foreign equity participation), joint venture requirements, minimum capital requirements, restricted forms of commercial presence (regulations on the forms of establishments) and restrictions on land ownership by foreign-owned firms. Category “ii) performance requirements” includes local content requirements and export requirements/ technology transfer requirements linked with various FDI incentives. Category “iii) restrictions on overseas remittances and controls on foreign currency transactions” includes restrictions or difficulties in making overseas remittances, restrictions on the possession and use of foreign currencies, difficulties in access to/exchange of local currencies. The last category among impediments concerning FDI

11 .foreign remittances, 12.control of foreign exchange, and the category iv) 16.employment in the JMC survey.

liberalization is “iv) restrictions on the movement of people and employment requirements”, which includes difficulties in obtaining and/or renewing necessary visas for foreign representatives, and requirements on employment of local people (or specific types of local people). All of these problems can certainly be impediments to new foreign entry or expansion of investment by existing foreign firms.

The six categories of impediments related to FDI facilitations are as follows: “v) lack of transparency in policies and regulations concerning investment (institutional problems)”, “vi) complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)”, “vii) insufficient protection of intellectual property rights (IPRs)”, “viii) labor regulations and related practices excessively favorable to workers”, “ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, and “x) restricted competition and price controls”.⁸

Categories “v) lack of transparency in policies and regulations concerning investment” and “vi) complicated and/or delayed procedures with respect to investment-related regulations” cover issues concerning various investment-related

⁸ Category v) corresponds to 5. regulations on policies of supporting industries, 7. implementing procedure for Foreign Capital Act, 8. issues of FDI hosting agencies, 9. regulations on export/import activities and customs clearance, 10. restrictions on activities in free trade zones (FTZs)/special economic zones (SEZs), 14. taxation, 19. (industrial) standards and conformity, 22. issues of environmental pollutions and waste disposal, 24. lack of legal regulations/sudden changes in regulations, and 26. others in the JMC survey. Note that some of the issues in these categories in the JMC survey are classified as those in category vi) when they are the issue of implementation. In addition to them, category vi) includes 4.regulations on withdrawal of operations and 23. inefficient administrative procedures of various regulations in JMC survey. Category vii) is composed of 17. problems of IPRs, the category viii) consists of a part of 16. labor, the category ix) includes 6. diminished incentives to FDI, 13. finance, 16. labor (human capital-related), and 26. others (infrastructure-related), and category x) are 15. price control and 20. monopoly.

regulations in terms of institutional problems and implementation problems, respectively. Category “v) lack of transparency in policies and regulations concerning investment” is specifically concerned with sudden and/or frequent changes (without notification in advance), non-transparency, ambiguity in various investment-related regulations and lack of certain regulations, while category “vi) complicated and/or delayed procedures with respect to investment-related regulations” covers problems in implementing regulations on establishments, approval of foreign entry, taxation, customs clearance, withdrawal/reorganization of operations, arbitrary and/or inconsistent interpretation and implementation of various regulations, and other such matters. Examples of problems in categories “vii) insufficient protection of IPRs”, “viii) labor regulations and related practices excessively favorable to workers”, “ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, and “x) restricted competition and price controls” include the following: insufficient protection of IPRs and issues involving patents for the category vii), non-modern labor regulations that are excessively favorable to workers, such as difficulty in firing workers, drastic/frequent changes in minimum wage levels, never decreasing wages, and restrictions on temporary workers for the category viii), underdeveloped physical infrastructure and logistics, shortages of human resources such as management staff and engineers, and high turnover ratios for category ix), and oligopolistic market structure and monopolistic pricing for category x).

Most of the problems classified into categories iv) to x) are not necessarily discriminatory measures to foreigners but are, rather, domestic problems inside the

borders. These impediments could, however, directly and indirectly prevent potential investment from entering the economy. In other words, if a country solves these problems and improves the investment climate, it would receive a larger amount of investment than it will without such an improvement. Out of 10 major categories for FDI liberalization and facilitation, six are those concerning for FDI facilitation. We emphasize the importance of implementing FDI facilitation measures, in addition to FDI liberalization measures, as will be discussed in the following section.

We conduct the analysis based on the methodology discussed above by using information obtained from the survey conducted by the Japan Machinery Center (JMC) for Trade and Investment. The JMC has annually collected and compiled the detailed survey, “Issues and Requests for Trade and Investment Activities by Country/Region”. This survey is based on the responses to “questionnaire on the problems in trade, investment, and production activities abroad,” conducted by the Japan Business Council for Trade and Investment Facilitation (JBCTIF). The JBCTIF has as its members approximately 150 industry associations. The respondents to the questionnaire are its members involved in trade and FDI activities. We employ the version of 2008 of the JMC survey (JMC survey 2008 hereafter), which was conducted from November 2007 to January 2008, with the responses from 38 industries associations (in the case of ASEAN10). For a comparison, we also employ the results in Urata, Ando, and Ito (2007) that are based on the version of 2005 of this survey (JMC survey 2005 hereafter).

4.2. The Results

Table 4.2 summarizes the results of our analysis of the investment climate in 2008 in the ASEAN10 countries: the number of incidents by category and country. Since the JMC survey deals with precisely the problems raised by many industry associations of Japanese firms, which are members of the BCTIF, we first collect all the information on the countries concerned and identify the problems by country. We then classify these problems into 10 categories and collate them for all the countries, as shown in Table A.4.2 in the Appendix. Table 4.2 is constructed based on Table A.4.2.

**Table 4.2. Investment Climate in ASEAN10 Economies in 2008:
The Number of Incidents by Category and Country**

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	Total	Share by category (%)
(a) The number of Japanese affiliates in each coun	1	10	659	6	759	10	419	991	1,577	332	4,764	
(b) Issues to be solved for FDI liberalization and facilitation												
<u>FDI liberalization</u>	0	0	14	0	11	7	9	1	15	9	66	21%
i) Restrictions on foreign entry	0	0	10	0	5	2	6	0	8	4	35	11%
ii) Performance requirements	0	0	2	0	3	0	0	0	2	2	9	3%
iii) Restrictions on overseas remittances and controls on foreign currency transactions	0	0	0	0	1	5	2	0	3	2	13	4%
iv) Restrictions on the movement of people and employment requirements	0	0	2	0	2	0	1	1	2	1	9	3%
<u>FDI facilitation</u>	0	16	28	4	33	21	48	6	45	49	250	79%
v) Lack of transparency in policies and regulations concerning investment (institutional problems)	0	5	5	1	8	8	11	0	14	12	64	20%
vi) Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)	0	5	11	1	10	7	16	0	20	18	88	28%
vii) Insufficient protection of intellectual property rights	0	0	2	0	3	0	3	0	2	1	11	3%
viii) Labor regulations and related practices excessively favorable to workers	0	0	2	0	5	0	10	3	3	4	27	9%
ix) Underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives	0	6	6	2	7	5	8	3	5	11	53	17%
x) Restricted competition and price controls	0	0	2	0	0	1	0	0	1	3	7	2%
Total	0	16	42	4	44	28	57	7	60	58	316	100%

Data source: authors' calculation, based on Toyo Keizai (2008) for (a) the number of Japanese affiliates abroad and JMC (2008) for (b) the issues to be solved for FDI.

Note: Japanese affiliates abroad are here defined as those with Japanese ownership of no less than 10%.

Four points should be kept in mind in interpreting these results. First, some problems can be classified into different categories from those in Table A.4.2. Some may be classified into two or more categories. In constructing Table A.4.2, such problems are classified into the most relevant categories in our classification.

Second, the number of incidents in the tables indicates the presence of direct and indirect barriers to FDI (at least those identified). It, however, does not directly imply the degree of seriousness of the barriers distorting investment decisions.

Third, there is a possible bias in the identification of the problems in that the number of incidents tends to be high in those countries where a large number of FDI projects are undertaken. As mentioned above, the respondents to the questionnaire on which the JMC survey is based are those having trade with and/or investment in the countries concerned. Therefore, the countries in which Japanese firms are more active in trade and investment or those to which Japanese firms pay considerable attention as new investment locations may tend to have a larger number of incidents since they are more likely to face various problems through their operations (Table 4.3). At the same time, the countries with a fewer number of problems identified here do not necessarily receive a large amount of investment. The countries with a smaller number of Japanese firms involved may have a larger number of issues, in practice, than those identified here if firms were not able to enter those countries due to certain impediments, and the actual investment climate was not known. We will consider this point in interpreting the results for the individual countries below.

Table 4.3. Investment Climate in ASEAN7 Economies in 2005

	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	Total (2005)	Total (2008)
<u>FDI liberalization</u>	0	10	17	11	3	16	16	73	59
i) Restrictions on foreign entry	0	5	4	6	1	6	5	27	33
ii) Performance requirements	0	2	5	2	0	1	5	15	9
iii) Restrictions on overseas remittances and controls on foreign currency transactions	0	1	4	1	0	3	4	13	8
iv) Restrictions on the movement of people and employment requirements	0	2	4	2	2	6	2	18	9
<u>FDI facilitation</u>	1	52	36	37	6	53	34	219	209
v) Lack of transparency in policies and regulations concerning investment (institutional problems)	1	14	10	10	1	14	6	56	50
vi) Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)	0	21	14	12	0	24	14	85	75
vii) Insufficient protection of intellectual property rights	0	4	3	1	0	2	2	12	11
viii) Labor regulations and related practices excessively favorable to workers	0	3	5	6	3	3	2	22	27
ix) Underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives	0	8	4	8	2	9	8	39	40
x) Restricted competition and price controls	0	2	0	0	0	1	2	5	6
Total	1	62	53	48	9	69	50	292	268

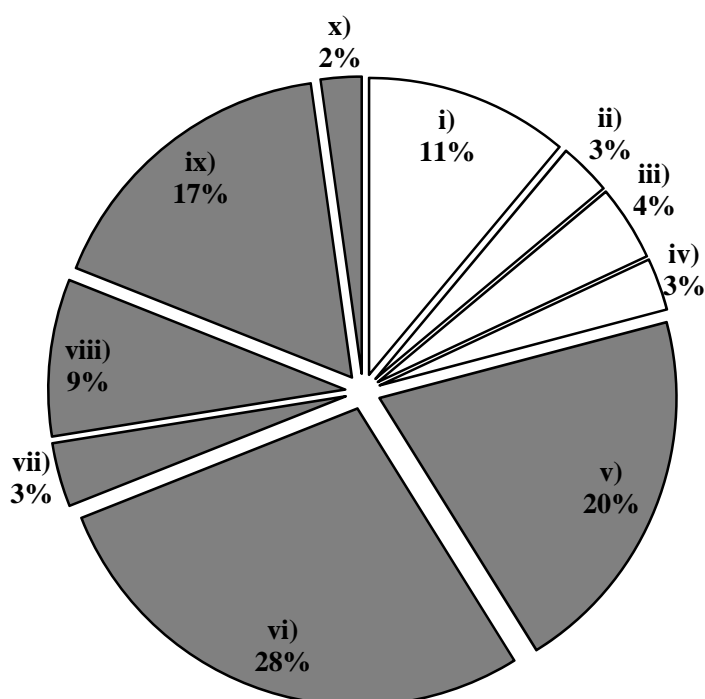
Data source: Urata, Ando, and Ito (2007) and Table 4.1.

Fourth, most problems identified are those related to manufacturing activities. Since the major activities of most respondents are manufacturing, impediments to FDI in non-manufacturing sectors might be underestimated.

Table 4.2 and Figure 4.1 give an overall picture of direct and indirect impediments to investment in ASEAN10. Various sorts of indirect barriers to FDI exist in the region: 79 percent of the total problems identified (250 out of 316) are concerned with FDI facilitation. This finding indicates that there is plenty of room to reduce FDI facilitation problems in order to promote FDI in ASEAN. In particular, more than half the problems fall into two categories v) institutional problems (lack of transparency in policies and regulations on investment) and vi) implementation problems (complicated and/or delayed

procedures with respect to investment-related regulations). These account for 20 percent and 28 percent of the total incidents, respectively. Although neither institutional nor implementation problems are necessarily discriminatory against foreign firms, as discussed above, they need to be reduced to promote investment activities in the region.

Figure 4.2. Decomposition of the Incidents into 10 Categories: ASEAN10 in 2008



Data source: Table 4.1.

Note: i) to iv) indicates four categories for FDI liberalization and v) to x) indicates six categories for FDI facilitation. Figures express shares of each category. See Table 4.1 for 10 categories.

The major problems identified in many countries for category v) are underdevelopment, lack of transparency, ambiguity, sudden changes, frequent changes, and uncertainty of various legal regulations and institutions, particularly those concerning

taxation, investment incentives, safety and environmental standards and conformity, and financial markets including exchange rates. The major problems for category vi) are complexity, delay, difficulty, and inefficiency of various administrative procedures, arbitrary interpretation in implementing regulations, corruption, smuggling; particularly complicated customs clearance procedures, delayed, difficult, inefficient, and complicated procedures for visa application and renewal, import tariff reimbursement/exemption, value-added tax exemption (including non-implementation) procedures, taxation, withdrawal of business, arbitrary and/or inconsistent interpretation and implementation of safety certification, customs clearance, and arbitrary tax collection.⁹

Categories v) and vi) are followed by another category classified under FDI facilitation, category ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (17 percent of total incidents). It suggests that access to necessary infrastructure, human resources, and investment incentives is also an important factor for firms in making the decision to enter a new country or expand operations in a host country. Major problems in category ix) are as follows: difficulty in hiring and securing human resources due to shortages of management staff and engineers, high turnover ratios, underdevelopment of industrial infrastructure such as electric power, paved roads and transportation, and ports; also insufficient investment incentives for the development of supporting industries, and immaturity of financial markets.

⁹ Delayed procedures of regulations are sometimes a result of the complicated nature of the procedures.

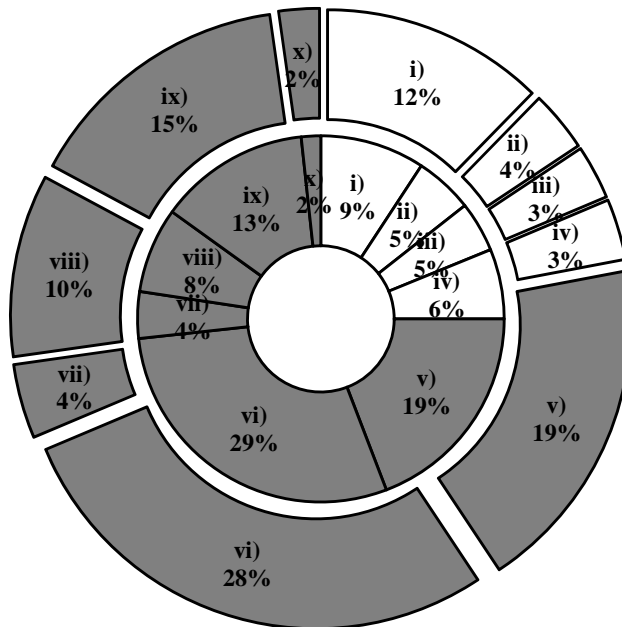
Categories other than v), vi), and ix) are arranged in descending order in terms of the percentage of the total number of incidents: category i) restrictions on foreign entry (11 percent), viii) labor regulations and related practices excessively favorable to workers (9 percent), category iii) restrictions on overseas remittances and controls on foreign currency transactions (4 percent), category ii) performance requirements, category iv) restrictions on the movement of people and employment requirement, and category vii) insufficient protection of IPRs (all of the three, 3 percent) , and category x) restricted competition and price controls (2 percent). Although relatively low percentages for the categories for FDI liberalization imply that issues involving direct barriers to FDI (problems preventing FDI liberalization) are not so serious as those involving indirect barriers to FDI (problems preventing FDI facilitation) in the region, they are critical impediments in some low-income countries.

Major problems for category i) include prohibition of or restrictions on foreign entry (for specific sectors), restrictions on foreign ownership ratios, joint venture requirements (with specified business partners), and restrictions on foreign ownership of land. The problems for category viii) include difficulty in firing workers, wage-related issues such as rapidly rising wage levels, dramatic increases in minimum wage levels, no allowance for lowering wage levels, and labor regulations and related practices that are excessively favorable to workers. The problems for category iv) include a nationality requirement for directors, restrictions on hiring foreigners including requirements of hiring local people (or specific types of local people), and difficulties and tightened issuance conditions in obtaining and/or renewing visas. The problems for category vii) include widespread

counterfeiting of goods and pirated copying due to insufficient protection of IPRs, lack of intellectual property rights treaties, and infringements of trademarks rights and patents. Those for category ii) include local content requirements and their strengthening and investment incentives linked with export requirements, technological transfer requirements, and hiring local people. Those for category iii) include restrictions on overseas remittances and restrictions on the amounts, payment by, and use of foreign currencies. Those for category x) include monopolistic energy supply and discriminatory rising of its prices, and discriminatory pricing for loads at ports.

To capture changes in the investment climate in ASEAN countries, let us compare the patterns of pervasiveness of the identified problems in 2008, with those in 2005 provided by Urata, Ando, and Ito (2007). ASEAN countries for this comparison are the seven countries that are both members of ASEAN and APEC. Table 4.3 presents the results for the investment climate in 2005 in ASEAN7: the number of incidents by category and country. Figure 4.2 in turn shows the decomposition of the incidents into 10 categories for ASEAN7 in 2005 (inside circle) and 2008 (outside circle). As the figure suggests, ASEAN7 as a whole saw a decline in the number of the issues preventing FDI both directly and indirectly: the number of incidents drops from 292 in 2005 to 268 in 2008 for the total, from 73 to 59 for FDI liberalization, and from 219 to 209 for FDI facilitation. This suggests that the seven ASEAN countries, in general, improved their investment climate. In particular, they reduced the number of direct barriers to FDI and promoted FDI liberalization, compared with indirect barriers to FDI (Figure 4.2).

Figure 4.2. Shares of 10 Categories: ASEAN7 in 2005 and 2008



Data source: Table 4.1 and Table 4.2.

Notes: Inside is for 2005 and outside is for 2008. i) to iv) indicates four categories for FDI liberalization and v) to x) indicates six categories for FDI facilitation. Figures express shares of each category. See Table 4.1 for 10 categories. ASEAN7 includes ASEAN countries appeared in Table 4.2.

Wide variations among the ASEAN countries, however, do exist. Although we cannot strictly conduct a comparative analysis among the countries due to the nature of the survey, the tables and figures provide several interesting findings. First, various problems have prevailed in Indonesia, Malaysia, the Philippines, Thailand, and Vietnam. Second, among those five countries, Indonesia, Malaysia, and Thailand have improved their investment climate, while the Philippines and Vietnam have worsened it. In Indonesia (with a drop in incidents from 62 to 42), Malaysia (from 53 to 44), and Thailand (from 69

to 60), the number of incidents decreased drastically in categories for FDI facilitation, particularly institutional problems and implementation problems for investment-related policies and regulations. As a result, the total number of incidents dropped significantly. On the other hand, in the Philippines (with a rise in incidents from 48 to 57) and Vietnam that has been recently attracting new FDI (from 50 to 58), the number of incidents increased substantially in categories for institutional and implementation problems, investment-related policies and regulations, labor regulations, and practices excessively favorable to workers. Consequently, the total number of incidents increased, though the number of incidents decreased in categories for FDI liberalization as a whole.

To sum up, ASEAN economies as a whole tend to have improved their investment climate, as the number of the incidents reporting the problems preventing FDI both directly and indirectly declined concerning FDI liberalization, and FDI facilitation. In particular, they tend to have reduced the number of incidents relating to direct barriers to FDI, compared with indirect barriers to FDI. The direct barriers to FDI, however, still remain. Further efforts to reduce them by ASEAN countries are necessary in order to attract FDI. At the same time, the reduction of indirect barriers to FDI or the promotion of FDI facilitation is also indispensable for them. Particularly important issues to be resolved include institutional problems, complicated and delayed procedures, underdeveloped infrastructure, inflexible labor market conditions such as difficulty in hiring and firing workers and burdensome labor regulations and wage-related issues, and problems involving taxation regulations (including double taxation problems due to lack of double taxation treaties).

4.3. By-country Discussion

In the following, we briefly discuss major problems by country.

4.3.1. Brunei (0 incident, 1 Japanese Affiliate)

For Brunei, no problems are identified in JMC Survey 2008, though one problem was identified in the JMC Survey 2005 in category v) lack of transparency in policies and regulations concerning investment: ambiguity of government procurement procedures. It should be noted that few Japanese affiliates operate in Brunei, leading to low probability of incidents.¹⁰

4.3.2. Cambodia (16 Incidents, 10 Japanese Affiliates)

The categories with issues identified are v) lack of transparency in policies and regulations concerning investment (5),¹¹ vi) complicated and/or delayed procedures with respect to investment-related regulations (5), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (9). The examples include underdevelopment, ambiguity, and lack of transparency of various legal regulations and institutions for category v), complexity of administrative procedures of custom clearance, arbitrary interpretation in implementing customs and taxations, and corruption for category vi), inadequate infrastructure such as electricity supply, road and

¹⁰ In Brunei, some NTMs are applied to many tariff lines, including technical measures for food industries, automatic licensing measures and import quotas for machinery industries, and automatic and non-automatic licensing measures for chemical and wooden industries. These measures may indirectly influence the investment climate. See Ando (2009) for the analysis of NTMs, using frequency ratios of NTMs by type and industry.

¹¹ The number of incidents is shown in parenthesis.

traffic, and telecommunication and underdevelopment of financial market for category ix).

4.3.3. Indonesia (42 Incidents, 659 Japanese Affiliates)

Major categories are vi) complicated and/or delayed procedures with respect to investment-related regulations (11), i) restrictions on foreign entry (10), ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (6), and v) lack of transparency in policies and regulations concerning investment (5). As discussed above, the number of incidents drastically declined in the categories concerning FDI facilitation from 52 to 28, particularly in terms of institutional problems and implementation problems for investment-related policies and regulations. As a result, the total number of incidents significantly dropped from 62 to 42. One should note that the number of incidents for restrictions on foreign entry increased from 5 to 10. Such a change seems to have been caused by the introduction of a more restrictive “new negative list” (in effective since July 2007) which specifies the sectors in which no foreign entry is allowed, as well as sectors subject to certain conditions for foreign equity participation, particularly in the services sectors.¹² The examples include complexity, delay, and inefficiency of various administrative procedures, arbitrary interpretation in implementing regulations, and corruption under category vi), underdevelopment, ambiguity, and sudden and frequent changes of various legal regulations and institutions under category v), restrictions on foreign ownership ratios in specific sectors mainly in

¹² See Asakura (2009) for changes in regulations on FDI in Indonesia, particularly in service sectors.

services sectors and joint venture requirements under category i), and insufficient infrastructure under category ix).

4.3.4. Lao PDR (4 Incidents, 6 Japanese Affiliates)

The categories with the issues identified are v) lack of transparency in policies and regulations concerning investment (1), vi) complicated and/or delayed procedures with respect to investment-related regulations (1), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (2). The examples include underdevelopment of exchange contract system under category v), arbitrary interpretation in implementing customs under category vi), and inadequate infrastructure such as road and traffic and underdevelopment of financial markets under category ix).

4.3.5. Malaysia (44 Incidents, 759 Japanese Affiliates)

Similarly to Indonesia, the number of incidents declined in categories for both FDI liberalization and FDI facilitation, resulting in a fall in the total number of incidents from 53 to 44. The major categories are vi) complicated and/or delayed procedures with respect to investment-related regulations (10), v) lack of transparency in policies and regulations concerning investment (8), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (7). Examples include complexity, delays, and difficulty of administrative procedures and arbitrary interpretation in implementing regulations under category vi), lack of transparency and instability of regulations and taxation issues under category v), and difficulty in hiring

and securing human resources due to shortages of management staff and engineers, high turnover ratios, and issues involving investment incentives, and inadequate infrastructure such as electricity supply and road and traffic under category viii).

4.3.6. Myanmar (28 Incidents, 10 Japanese Affiliates)

The major categories are v) lack of transparency in policies and regulations concerning investment (8), vi) complicated and/or delayed procedures with respect to investment-related regulations (7), iii) restrictions on overseas remittances and controls on foreign currency transactions (5), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (5). The examples are underdevelopment and ambiguity of legal systems and regulations such as a double exchange rates regime, double taxation due to lack of tax treaties, and taxation under category v), complexity and delay of administrative procedures such as customs clearance and overseas remittances under category vi), ambiguity and strengthened regulations on overseas remittances and various controls on foreign currency transactions under category iii), and underdevelopment or lack of infrastructure such as electricity supply, ports, and airports under category ix).¹³

4.3.7. The Philippines (57 Incidents, 419 Japanese Affiliates)

The number of incidents increased sharply in categories for FDI facilitation from 37 to 48, particularly due to a growing number of issues related to implementation problems

¹³ See Ando (2009) for multiple exchange rate regimes in Myanmar.

for investment-related policies and regulations and labor regulations and practices excessively favorable to workers. Consequently, the total number of incidents increased from 48 to 57, though the number of incidents decreased in categories for FDI liberalization as a whole. The major categories are vi) complicated and/or delayed procedures with respect to investment-related regulations (16), v) lack of transparency in policies and regulations concerning investment (11), viii) labor regulations and related practices excessively favorable to workers (10), ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (8), and restrictions on foreign entry i). The issues in the Philippines are spread widely across many categories: complexity, delays, and inefficiency of administrative procedures, arbitrary interpretation in implementing regulations, and corruption under category vi), ambiguity, sudden and frequent changes of regulations and standards and conformity issues under category v), various labor restrictions under category viii), high turnover ratios, underdeveloped infrastructure such as electricity and road and traffic, and insufficient incentives for foreign investment and supporting industries under category ix), and restrictions on foreign entry into specific sectors under category i).

4.3.8. Singapore (7 Incidents, 991 Japanese Affiliates)

The categories with the largest number of incidents, although they are very few, for Singapore are viii) labor regulations and related practices excessively favorable to workers (3) and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (3). The issues reflect rapid increases in wage levels,

an increasingly heavy burden of employee pensions, the burden of educational funding, and difficulty in hiring and securing human resources due to shortages of management staff and engineers, and high turnover ratios.

4.3.9. Thailand (60 Incidents, 1577 Japanese Affiliates)

Thailand is the country where the number of reporting Japanese affiliates is the largest among ASEAN countries. As mentioned above, the number of incidents declined in categories for FDI facilitation from 53 to 45, particularly implementation problems for investment-related policies and regulations and underdevelopment infrastructure, and in a category for FDI liberalization concerning restrictions on the movement of people and employment requirements from 6 to 2. As a result, the total number of incidents dropped from 69 to 60. The major categories recording the incidents are vi) complicated and/or delayed procedures with respect to investment-related regulations (20), v) lack of transparency in policies and regulations concerning investment (14), i) restrictions on foreign entry (8), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (5). Examples include complexity and delays in administrative procedures and arbitrary interpretation in implementing regulations under category vi), underdevelopment and lack of transparency of various regulations and taxation issues under category v), restrictions on foreign entry under category i), and high turnover ratios and inadequate infrastructure under category ix).

4.3.10. Vietnam (58 Incidents, 332 Japanese Affiliates)

Vietnam has been active in hosting FDI in recent years, and thus an increasingly large number of issues are likely to be reported. Similarly to the Philippines, the number of incidents noticeably increased in categories for FDI facilitation from 34 to 49, particularly due to a growing number of issues in terms of institutional problems and implementation problems for investment-related policies and regulations and underdeveloped infrastructure and shortage of human resources. Consequently, the total number of incidents increased from 50 to 58, though the number of incidents declined in categories for FDI liberalization as a whole from 16 to 9. Major categories registering incidents are vi) complicated and/or delayed procedures with respect to investment-related regulations (18), v) lack of transparency in policies and regulations concerning investment (12), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (11). The examples are complexity and delay of administrative procedures and arbitrary implementation of customs clearance under category vi), underdevelopment, ambiguity, and sudden changes in various regulations under category v), and underdeveloped infrastructure and difficulty in hiring and securing human resources due to shortages of management staff and engineers under category ix).

5. Concluding Remarks and Policy Recommendations

Our analysis of the FDI climate study for ASEAN countries revealed that impediments to FDI are found not only in the policies but also in their implementation and enforcement. As far as FDI policies are concerned, wide variations concerning their openness are found among ASEAN countries. One of the most important findings of our study are the impediments concerning screening and appraisal procedures regarding FDI application. The impediments concern not only the rules or policies but also the practices in the forms of lack of transparency and complicated/delayed processing.

Our findings indicate the need for further liberalization of FDI policies and promotion of facilitation measures for ASEAN countries in order to successfully attract FDI. In order to achieve these goals, we would like to make several policy recommendations. First, in order to promote FDI policy liberalization, the ASEAN countries should use various existing frameworks, such as WTO/GATT's TRIMs agreement, BITs, FTAs, and other legal frameworks. In particular, ASEAN should use the ASEAN Comprehensive Investment Agreement. Second, to overcome obstacles concerning FDI facilitation, the ASEAN countries should actively use various cooperation programs with developed countries to improve human resources engaged in the implementation and enforcement of FDI policies. Possible multilateral and regional sources of technical assistance in this area may be UNCTAD, OECD, and ERIA. Third, monitoring of the achievement of FDI liberalization and facilitation has to be emphasized, in order to achieve a freer FDI environment. In this regard, a monitoring mechanism

should be established in ASEAN, if it has not been established yet, or in ERIA. Finally, firm surveys on foreign companies from various countries, in addition to those from Japan which are utilized in our study, should be conducted to identify FDI impediments.

References

- Ando, Mitsuyo (2009). “Non-tariff Measures and Trade and Investment Facilitation in ASEAN: The Evaluation from the Economic Perspective”, *Mita Shogaku Kenkyu (Mita Business Review)*, **52**(2). In Japanese.
- Asakura, Keisuke (2009). “Indonesia,” in Ishikawa *et al*, eds. (2009), forthcoming. In Japanese.
- Asia-Pacific Economic Cooperation (APEC). Business Advisory Council (ABAC) (2006) “ABAC Report to APEC Economic Leaders: Driving Forward a Prosperous and Harmonized APEC Community” and its attachments “Checklist - Financial Services Liberalization: Goals and Best Practices” and “Barriers and Impediments to Foreign Direct Investment (FDI): Checklist and Recommended Policy Response”. Available from <http://www.abaconline.org/v4/content.php?ContentID=3086>.
- APEC Committee on Trade and Investment (2003). “Guide to the Investment Regimes of the APEC Member Economies”. Available from http://www.apec.org/apec/enewsletter/december_vol1/inthenewse.primarycontentparagraph.0001.LinkURL.Download.ver.5.1.9.
- Golub, Stephen S. (2003). “Measurement of Restrictions on Inward Foreign Direct Investment for OECD Countries,” *Economics Department Working Papers No. 357*, OECD.
- Ishikawa, Koichi, Kazushi Shimizu, and Seiya Sukegawa (2009). *ASEAN Economic Community*, Tokyo: JETRO, forthcoming. In Japanese.
- Japan Machinery Center for Trade and Investment (JMC) (2008). Issues and Requests for Trade and Investment Activities by Country/Region in 2008. Available from <http://www.jmcti.org/mondai/top.html>.
- PECC (2002). *An Assessment of Impediments to Foreign Direct Investment in APEC Member Economies*, Japan PECC.
- Toyo Keizai Shinposha (2008). *Kaigai Shinshutsu Kigyo Soran 2006 (Directory of*

- Japanese Companies Abroad by Country*, 2008). In Japanese.
- United Nations Conference on Trade and Development (UNCTAD) (1996). *World Investment Report, 1996: Investment, Trade and International Policy Arrangements*. Geneva and New York: United Nations
- Urata, Shujiro (2006). “FDI Flows, their Determinants, and Economic Impacts in East Asia,” In Shujiro Urata, Chia Siow Yue and Fukunari Kimura eds. *Multinationals and Economic Growth in East Asia*, Routledge, Oxon, the United Kingdom
- Urata, Shujiro, Mitsuyo Ando, and Kazuyori Ito (2007). *Survey on Investment Liberalization and Facilitation ‘Obstacles to FDI in the APEC Economies: A Study Based on the JMC Firm Survey* (APEC#207-CT-01.10), available at http://www.apec.org/apec/publications/free_downloads/2007.html.
- Urata, Shujiro and John Sasuya (2007). “An Analysis of the Restrictions on Foreign Direct Investment in Free Trade Agreements”, RIETI Discussion Paper Series **07-E-018**, forthcoming in Christopher Findlay and Shujiro Urata eds. *Free Trade Agreements in Asia Pacific*, World Scientific, Singapore.
- World Bank (2009). *Doing Business Database*. Available from <http://www.doingbusiness.org/>.
- World Economic Forum (2006 and 2009). *The Global Competitiveness Report 2006/2007, 2008/2009*.

Sources Used for Analysis of FDI Policy Regimes

Cambodia

Laws:

- (1) Law on The Investment of the Kingdom of Cambodia, August 1994
- (2) Anukret/88ANK-BK/29Dec. 1997:
Anukret (Sub Decree) on the Implementation of the Law on Investment of the United Kingdom of Cambodia
- (3) Law on the Amendment to the Law of Investment of the United Kingdom of Cambodia, Feb. 2003

Indonesia

Laws:

- (1) Law of the Republic of Indonesia, Number 25 of 2007 Concerning Investment
- (2) Presidential Regulation of the Republic of Indonesia, Number 77 of 2007, Concerning List of Business Fields Closed and Open With Conditions to Investment

Lao PDR

Laws:

- (1) No. 11/NA: Vientiane Capital City, Date 22 October 2004
Law on the Promotion of Foreign Investment.

Supporting documents:

- (1) UNCTAD and JBIC (2004) “Blue Book on Best Practice in Investment Promotion and Facilitation Lao PDR”
- (2) Suzuki, Motoyoshi (2007) “Lao PDR Investment Guide (LAOSU TOUSHI GAIDO)”
ASEAN-Japan Center

Malaysia

Laws:

- (1) Laws of Malaysia, Act 327, Promotion of Investments Act 1986

(2) Laws of Malaysia, Act 156, Industrial Co-ordination Act 1975.

Supporting documents:

- (1) Arumugam Rajenthiran (2002). Malaysia: An Overview of the Legal Framework for Foreign Direct Investment, Economics and Finance No. 5
- (2) Guidelines on the Acquisition of Properties by Local and Foreign Interests, Foreign Investment Committee
- (3) Investment Regime: Malaysia, Investment Country Report Malaysia. (2004)
- (4) Jawatankuasa Pelaburan Asing, Garis Panduan Mengenai Perolehan, Penggabungan dan Pengambilalihan oleh Kepentingan Tempatan dan Asing
- (5) Jawatankuasa Pelaburan Asing, Garis Panduan mengenai Perolehan Hartanah oleh Kepentingan Tempatan dan Asing, Malaysian Industrial Development Authority website, www.mida.gov.my

Myanmar

Laws:

- (1) The State Law and Order Restoration Council Law No. 10/88
The Union of Myanmar Foreign Investment Law
The 7th waning day of Tazaungmon, 1350 B.E. (30th November, 1988)
- (2) The State Law and Order Restoration Council Law No. 4/94
Myanmar Citizens Investment Law
The 5th waning of Tabaung, 1355 M.E. (31st March, 1994)
- (3) The State Law and Order Restoration Council Law No. 10/88
The Union of Burma Foreign Investment Law
The 7th waning day of Tazaungmon, 1350 B.E.(30th November, 1988)

Supporting documents:

- (1) ICFTU (2005) “Doing Business in or with Burma”
- (2) Commerce Clearing House (CCH) Asia (2006) “Doing Business in Myanmar”
Clearing House (CCH)
- (3) Japan Chamber of Commerce and JETRO Yangon Office (2007) “Myanmar Business Guidebook”

The Philippines

Laws:

- (1) REPUBLIC ACT No. 7042/1991: AN ACT TO PROMOTE FOREIGN INVESTMENTS, PRESCRIBE THE PROCEDURES FOR REGISTERING ENTERPRISES DOING BUSINESS IN THE PHILIPPINES, AND FOR OTHER PURPOSES
- (2) REPUBLIC ACT No. 8179/1996: AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES
- (3) EXECUTIVE ORDER NO. 584/2006: PROMULGATING THE SEVENTH REGULAR FOREIGN INVESTMENT NEGATIVE LIST

Other Supporting documents/sources:

- (1) FOREIGN DIRECT INVESTMENT (FDI) LAWS IN THE PHILIPPINES. A report provided by a research institute based in the Philippines. In this report the following resources are cited:
 - (2) Investment Laws, BOI website, <http://www.boi.gov.ph/>
 - (3) Aldaba, Rafaelita (2006). FDI Investment Incentive System and FDI Inflows: The Philippine Experience. PIDS Discussion Paper Series No. 2006-20
 - (4) <http://www.fdi.net/documents/WorldBank/databases/philippines/lease.htm>
 - (5) Laws and Policies, DTI website, http://www.dti.gov.ph/Laws_Policies.php
 - (6) PEZA website, http://www.peza.gov.ph/about_peza.htm
 - (7) Llanto, Gilberto (2002). Infrastructure Development: Experience and Policy Options for the Future. PIDS Discussion Paper Series No.2002-26
 - (8) Milo, Melanie (2000). An Analysis of the State of Competition and Market Structure of the Banking and Insurance Sectors. PASCN Discussion Paper Series 2001-11
- (9) INVESTMENT PROPOSAL AND APPROVAL.
Taken from Chan Robles Virtual Law Library, Foreign Investment Brief <http://www.chanrobles.com/default4a.htm>
- (10) Price Waterhouse Coopers (1999). Asia Pacific Mining Regulations <http://www.pwc.com/images/gx/eng/about/ind/energy/apacregs.pdf>
- (11) Price Waterhouse Coopers (PWC). 2008. How to Invest in the Philippines: A Business Guide. Isla Lipana & Co.

Singapore

- (1) Singapore EDB Investor Guide.pdf

Thailand

- (1) Foreign Business Act of 1999.

Vietnam

Laws:

- (1) LAW ON INVESTMENT/2005:

National Assembly of the Socialist Republic of Vietnam Legislature XI, 8th Session. This Law regulates investment activities in Vietnam.

- (2) DECREE OF THE GOVERNMENT No. 78/2006/ND-CP OF AUGUST 9, 2006:
PROVIDING FOR OFFSHORE DIRECT INVESTMENT

- (3) DECREE OF THE GOVERNMENT No.101/2006/ND-CP OF SEPTEMBER 21, 2006: Providing for the re-registration, transformation, and registration for new investment certificates of foreign-invested enterprises under the provisions of the Enterprise Law and the Investment Law

- (4) DECREE OF THE GOVERNMENT No. 108-2006-ND-CP OF SEPTEMBER 22, 2006: PROVIDING DETAILED PROVISIONS AND GUIDELINES FOR IMPLEMENTATION OF A NUMBER OF ARTICLES OF LAW ON INVESTMENT

- (5) DECISION OF THE MINISTRY OF PLANNING AND INVESTMENT No. 1088-2006-QD-BKH: ISSUING STANDARD FORMS FOR CONDUCTING INVESTMENT PROCEDURES IN VIETNAM

- (6) DECREE OF THE GOVERNMENT No: 78/2007/ND-CP OF MAY 11, 2007:

On investment in the form of Build-Operate-Transfer, Build-Transfer-Operate or Build-Transfer contracts

Table A2.1. GCI Components and Notable Competitive Disadvantages: 2008-2009

	Brunei	Cambodia	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
Overall GCI ranking	39	109	55	21	71	5	34	70
Basic requirements								
1. Institutions								
<i>Public institutions</i>								
Property rights								
1.01 Property rights	62	118	117	38	92		61	75
1.02 Intellectual property protection	52	110	102	33	89		55	94
Ethics and corruption								
1.03 Diversion of public funds		92	68	39	117		56	84
1.04 Public trust and politicians		70	59		123		64	
Undue influence								
1.05 Judicial independence	54	118	80	47	83	15	53	75
1.06 Favoritism in decisions of government officials		87		28	117		49	70
Government inefficiency (red tape, bureaucracy and waste)								
1.07 Wastefulness of government spending		81			120		34	83
1.08 Burden of government regulation	58	87			109		47	105
1.09 Efficiency of legal framework	47	91	66	21	104		49	56
1.10 Transparency of government policymaking		76	121		85		60	58
Security								
1.11 Business costs of terrorism		98	81	82	125	76	107	99
1.12 Business costs of crime and violence		79		74	93		50	58
1.13 Organized crime		83	61	75	92		63	85
1.14 Reliability of police services	42	115	85	37	98		71	
<i>Private institutions</i>								
Corporate ethics								
1.15 Ethical behaviour of firms	50	99	97	30	102		69	73
Accountability								
1.16 Strength of auditing and accounting standards	63	126	75	33			58	106
1.17 Efficacy of corporate boards	43	72		25	53		66	85
1.18 Protection of minority shareholders' interests	93	106		25	54		46	75
2. Infrastructure								
2.01 Quality of overall infrastructure	39	82	96		94		35	97
2.02 Quality of roads		80	105		94			102
2.03 Quality of railroad infrastructure	n.a.	97	58		85		48	66
2.04 Quality of port infrastructure		91	104		100		48	112
2.05 Quality of air transport infrastructure		87	75		89			92
2.06 Available seat kilometres	86	91		22		17		
2.07 Quality of electricity supply	45	117	92	31	82	13	43	104
2.08 Telephone lines	61	132	100	71	105	30	86	
3. Macroeconomy								
3.01 Government surplus/deficit		71	84	109	64		96	86
3.02 National savings rate		93			84			
3.03 Inflation		74	79	25		24		103
3.04 Interest rate spread	52	122	74	31	64	59	48	
3.05 Government debt		52	63	74	96	121	66	76

(Table A2.1. Continued)

	Brunei	Cambodia	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
4. Health and primary education								
<i><u>Health</u></i>								
4.01 Business impact of malaria	89	105	93	76	87	56	60	79
4.02 Malaria incidence	74	109	96	84	91		93	90
4.03 Business impact of tuberculosis	85	109	86	65	102	29	57	88
4.04 Tuberculosis incidence	80	127	109	88	115	46	96	100
4.05 Business impacts of HIV/AIDS	69	109	78	67	61	19	97	75
4.06 HIV prevalence		95		79		50	108	79
4.07 Infant mortality	39	125	88	47	83		70	64
4.08 Life expectancy		108	89	66	89	12	66	66
<i><u>Primary education</u></i>								
4.09 Quality of primary education		122	51	23	72		64	96
4.10 Primary enrolment	64	87			76	38	61	55
4.11 Education expenditure	101	121	126		113	110	46	100
Efficiency enhancers								
5. Higher education and training								
<i><u>Quantity of education</u></i>								
5.01 Secondary enrolment		115	102	95	79	21	85	100
5.02 Tertiary enrolment	94	117	91	71	72	31	44	106
<i><u>Quality of education</u></i>								
5.03 Quality of the educational system	48	112					53	120
5.04 Quality of math and science education	53	122		21	100		55	72
5.05 Quality of management schools	88	123		23			49	120
5.06 Internet access in schools		107	58	40	56		42	62
5.07 Local availability of specialized research	105	115		27	51	13	58	76
5.08 Extent of staff training	61	107					51	72
6. Goods Market efficiency								
6.01 Intensity of local competition	81	118		31	74	30	45	56
6.02 Extent of market dominance	61	88		24	104	11	60	
6.03 Effectiveness of anti-monopoly policy	83	118		40	77	20	66	91
6.04 Extent and effect of taxation					65			53
6.05 Total tax rate	47			40	99		49	61
6.06 Number of procedures required to start a business	125	75	103	58	120		44	91
6.07 Time required to start a business	125	120	123	51	107		77	105
6.08 Agricultural policy costs					76		52	
6.09 Prevalence of trade barriers	80	105		70	95		101	110
6.10 Trade-weighted tariff rate	70	107	66	72	52		81	126
6.11 Prevalence of foreign ownership	121	75		67	98		89	104
6.12 Business impact of rules on FDI	81	70		47	97		68	
6.13 Burden of customs procedures		110	95	27	105		52	91
6.14 Degree of customer orientation	62	85		22				91
6.15 Buyer sophistication	99	65		23			44	

(Table A2.1. Continued)

	Brunei	Cambodia	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
7. Labor Market efficiency								
7.01 Cooperation in labor-employer relations		113			71			91
7.02 Flexibility of wage determination		84	79	42	108		91	101
7.03 Non-wage labor costs				60		46		69
7.04 Rigidity of employment		90	87		61			
7.05 Hiring and firing practices	79			42	101		39	
7.06 Firing costs		70	117	95	108		84	103
7.07 Pay and productivity		64			57		43	
7.08 Reliance on professional management	82	121		22			59	95
7.09 Brain drain		55		29	116	13		88
7.10 Female participation in labor force	109		102	107	86	83	38	
8. Financial markets sophistication								
8.01 Financial market sophistication	68	114	72	31	57		37	106
8.02 Financing through local equity market	126	134			54	18		
8.03 Ease of access to loans	62	107	65		89	11	44	91
8.04 Venture capital availability	78	95			77	12	53	59
8.05 Restriction on capital flows	71	62		67	75		104	84
8.06 Strength of investor protection	86				107			123
8.07 Soundness of banks	61	125	121	50	72	13	75	113
8.08 Regulation of securities exchanges	101	130		32	66		36	81
8.09 Legal rights index		128	52		93		52	
9. Technological readiness								
9.01 Availability of latest technologies	59	109	61	29	52	14	50	71
9.02 Firm-level technology absorption	53	106	65	21		13	61	54
9.03 Laws relating to ICT	85	122	71		60		61	72
9.04 FDI and technology transfer	82	94					48	57
9.05 Mobile telephone subscribers	53	120	100	56	84	15	72	114
9.06 Internet users		130	107		101	15	78	70
9.07 Personal computers	67	128	105	38	70		72	63
9.08 Broadband Internet subscribers	57	108	100	51	96	22	94	79
10. Market size								
10.01 Domestic market size	123	96		35		53		
10.02 Foreign market size	92	79				11		
Innovation and sophistication factors								
11. Business sophistication								
Networks and supporting industries								
11.01 Local supplier quantity	63	126			77	44		79
11.02 Local supplier quality	82	117	57	32	64	22	40	97
Sophistication of firms' operations and strategy								
11.03 State of cluster development	78	60			56			
11.04 Nature of competitive advantage	39	86		29		16	67	126
11.05 Value-chain breadth	128	88		26		14	54	91
11.06 Control of international distribution	127	123			67	57	83	119
11.07 Production process sophistication	87	107	72	27	77	14	68	94
11.08 Extent of marketing	106	117	55	29		17	47	98
11.09 Willingness to delegate authority	104	120				15	67	96

(Table A2.1. Continued)

	Brunei	Cambodia	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
12. Innovation								
12.01 Capacity for innovation	103	107	53	21	63	19	64	
12.02 Quality of scientific research institutions	93	120			86	13	57	85
12.03 Company spending on research and development	92	75					54	
12.04 University-industry research collaboration	76	106	54		63		38	70
12.05 Government procurement of advanced technology products	45	85	87		110		48	
12.06 Availability of scientists and engineers	117	126		24	92	22	56	51
12.07 Utility patents	88	88	84	29	68	11	69	88

Data source: World Economic Forum (2009).

Note: variables considered as disadvantages are those ranked below 10 for Singapore with an overall ranking in the top 10 economies, those ranked equal to or lower than the economy's overall ranking for Brunei, Malaysia, Thailand, with an overall ranking from 11 to 50, and those ranked lower than 50 for Cambodia, Indonesia, the Philippines and Viet Nam with an overall ranking lower than 51.

Table A3.1. Assessment of FDI Policy Regimes by Country

Brunei	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.76	0.20	0.57	0.41	0.82	0.82
A - Agriculture, forestry and fishing	0.90	0.25	1.00	0.50	1.00	1.00
B - Mining and quarrying	0.98	0.25	0.82	0.50	1.00	1.00
C - Manufacturing	0.95	0.25	0.81	0.50	1.00	1.00
D - Electricity, gas, steam and air conditioning supply	0.00	0.00	0.00	0.00	0.00	0.00
E - Water supply; sewerage, waste management and remediation activities	0.00	0.00	0.00	0.00	0.00	0.00
F - Construction	0.72	0.25	0.70	0.50	1.00	1.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	1.00	0.25	1.00	0.50	1.00	1.00
H - Transportation and storage	0.80	0.20	0.80	0.40	0.80	0.80
I - Accommodation and food service activities	1.00	0.25	1.00	0.50	1.00	1.00
J - Information and communication	1.00	0.25	0.55	0.50	1.00	1.00
K - Financial and insurance activities	1.00	0.25	0.10	0.50	1.00	1.00
L - Real estate activities	1.00	0.25	1.00	0.50	1.00	1.00
M - Professional, scientific and technical activities	0.89	0.25	0.61	0.50	1.00	1.00
N - Administrative and support service activities	1.00	0.25	1.00	0.50	1.00	1.00
O - Public administration and defence; compulsory social security	0.00	0.00	0.00	0.00	0.00	0.00
P - Education	1.00	0.25	0.10	0.50	1.00	1.00
Q - Human health and social work activities	1.00	0.25	0.10	0.50	1.00	1.00
R - Arts, entertainment and recreation	0.75	0.19	0.08	0.38	0.75	0.75
S - Other service activities	0.67	0.17	0.67	0.33	0.67	0.67
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	0.25	0.55	0.50	1.00	1.00
U - Activities of extraterritorial organizations and bodies	0.25	0.25	1.00	0.50	1.00	1.00

Cambodia	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.86	0.60	0.25	1.00	0.25	0.88
A - Agriculture, forestry and fishing	0.90	1.00	0.25	1.00	0.25	0.90
B - Mining and quarrying	0.80	0.25	0.25	1.00	0.25	0.75
C - Manufacturing	0.90	1.00	0.25	1.00	0.25	0.90
D - Electricity, gas, steam and air conditioning supply	0.90	0.25	0.25	1.00	0.25	0.90
E - Water supply; sewerage, waste management and remediation activities	0.90	0.65	0.25	1.00	0.25	0.85
F - Construction	0.90	0.25	0.25	1.00	0.25	0.90
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.90	0.25	0.25	1.00	0.25	0.90
H - Transportation and storage	0.90	0.40	0.25	1.00	0.25	0.90
I - Accommodation and food service activities	0.90	1.00	0.25	1.00	0.25	0.90
J - Information and communication	0.80	0.65	0.25	1.00	0.25	0.90
K - Financial and insurance activities	0.90	0.50	0.25	1.00	0.25	0.90
L - Real estate activities	0.25	0.25	0.25	1.00	0.25	0.75
M - Professional, scientific and technical activities	0.90	0.60	0.25	1.00	0.25	0.90
N - Administrative and support service activities	0.90	0.90	0.25	1.00	0.25	0.90
O - Public administration and defence; compulsory social security	0.90	1.00	0.25	1.00	0.25	0.90
P - Education	0.90	0.25	0.25	1.00	0.25	0.90
Q - Human health and social work activities	0.90	0.25	0.25	1.00	0.25	0.90
R - Arts, entertainment and recreation	0.90	0.25	0.25	1.00	0.25	0.90
S - Other service activities	0.90	1.00	0.25	1.00	0.25	0.90
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	0.90	1.00	0.25	1.00	0.25	0.90
U - Activities of extraterritorial organizations and bodies	0.90	1.00	0.25	1.00	0.25	0.90

(Table A3.1. Continued)

Indonesia	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.69	0.95	0.24	0.95	0.48	0.95
A - Agriculture, forestry and fishing	0.67	1.00	0.25	1.00	0.50	1.00
B - Mining and quarrying	0.36	1.00	0.25	1.00	0.50	1.00
C - Manufacturing	0.24	0.96	0.24	0.96	0.48	0.96
D - Electricity, gas, steam and air conditioning supply	0.80	1.00	0.25	1.00	0.50	1.00
E - Water supply; sewerage, waste management and remediation activities	0.80	1.00	0.25	1.00	0.50	1.00
F - Construction	0.80	1.00	0.25	1.00	0.50	1.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	1.00	1.00	0.25	1.00	0.50	1.00
H - Transportation and storage	0.50	1.00	0.25	1.00	0.50	1.00
I - Accommodation and Food service activities	1.00	1.00	0.25	1.00	0.50	1.00
J - Information and communication	0.78	1.00	0.25	1.00	0.50	1.00
K - Financial and insurance activities	0.83	1.00	0.25	1.00	0.50	1.00
L - Real estate activities	0.90	1.00	0.25	1.00	0.50	1.00
M - Professional, scientific and technical activities	0.36	1.00	0.25	1.00	0.50	1.00
N - Administrative and support service activities	0.95	1.00	0.25	1.00	0.50	1.00
O - Public administration and defence; compulsory social security	0.00	0.00	0.00	0.00	0.00	0.00
P - Education	0.50	1.00	0.25	1.00	0.50	1.00
Q - Human health and social work activities	0.50	1.00	0.25	1.00	0.50	1.00
R - Arts, entertainment and recreation	0.80	1.00	0.25	1.00	0.50	1.00
S - Other service activities	0.70	1.00	0.25	1.00	0.50	1.00
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	1.00	0.25	1.00	0.50	1.00
U - Activities of extraterritorial organizations and bodies	1.00	1.00	0.25	1.00	0.50	1.00

Lao PDR	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.60	0.70	0.34	0.67	0.54	0.79
A - Agriculture, forestry and fishing	0.90	1.00	0.50	1.00	0.80	1.00
B - Mining and quarrying	0.90	1.00	0.50	1.00	0.80	1.00
C - Manufacturing	0.59	1.00	0.43	0.87	0.70	0.50
D - Electricity, gas, steam and air conditioning supply	0.30	1.00	0.00	0.00	0.00	1.00
E - Water supply; sewerage, waste management and remediation activities	0.90	1.00	0.50	1.00	0.80	1.00
F - Construction	0.00	0.00	0.00	0.00	0.00	0.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.90	1.00	0.50	1.00	0.80	1.00
H - Transportation and storage	0.72	1.00	0.40	0.80	0.64	1.00
I - Accommodation and Food service activities	0.90	1.00	0.50	1.00	0.80	1.00
J - Information and communication	0.35	1.00	0.30	0.60	0.48	1.00
K - Financial and insurance activities	0.90	0.25	0.50	1.00	0.80	1.00
L - Real estate activities	0.90	0.25	0.50	1.00	0.80	1.00
M - Professional, scientific and technical activities	0.90	0.25	0.50	1.00	0.80	1.00
N - Administrative and support service activities	0.71	1.00	0.41	0.83	0.66	1.00
O - Public administration and defence; compulsory social security	0.00	1.00	0.00	0.00	0.00	1.00
P - Education	0.90	1.00	0.50	1.00	0.80	1.00
Q - Human health and social work activities	0.90	1.00	0.50	1.00	0.80	1.00
R - Arts, entertainment and recreation	0.00	0.00	0.00	0.00	0.00	0.00
S - Other service activities	0.00	0.00	0.00	0.00	0.00	0.00
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	0.00	0.00	0.00	0.00	0.00	0.00
U - Activities of extraterritorial organizations and bodies	0.90	1.00	0.50	1.00	0.80	1.00

(Table A3.1. Continued)

Malaysia	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.59	0.17	0.76	0.62	0.89	0.91
A - Agriculture, forestry and fishing	0.90	0.00	0.90	0.90	1.00	1.00
B - Mining and quarrying	0.80	0.00	0.00	0.90	1.00	1.00
C - Manufacturing	1.00	0.23	0.86	0.86	1.00	0.50
D - Electricity, gas, steam and air conditioning supply	0.40	0.00	0.90	0.25	1.00	1.00
E - Water supply; sewerage, waste management and remediation activities	0.30	0.00	0.68	0.19	0.75	0.75
F - Construction	1.00	0.00	0.93	0.50	1.00	1.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.70	0.00	0.90	0.75	1.00	0.90
H - Transportation and storage	0.70	0.00	0.90	0.30	1.00	1.00
I - Accommodation and food service activities	0.25	0.00	0.45	0.13	0.50	0.50
J - Information and communication	0.40	0.00	0.90	0.25	1.00	1.00
K - Financial and insurance activities	0.60	0.00	0.90	0.25	1.00	1.00
L - Real estate activities	0.25	0.00	0.00	0.75	0.25	1.00
M - Professional, scientific and technical activities	0.77	0.71	0.71	0.71	0.71	0.86
N - Administrative and support service activities	0.60	0.67	0.97	0.96	1.00	1.00
O - Public administration and defence; compulsory social security	0.40	0.00	0.90	0.75	1.00	1.00
P - Education	0.40	0.00	0.90	0.75	1.00	1.00
Q - Human health and social work activities	0.40	0.00	0.90	0.75	1.00	1.00
R - Arts, entertainment and recreation	0.20	0.00	0.45	0.38	0.50	0.50
S - Other service activities	0.40	0.00	0.90	0.75	1.00	1.00
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	1.00	1.00	1.00	1.00	1.00
U - Activities of extraterritorial organizations and bodies	1.00	1.00	1.00	1.00	1.00	1.00

Myanmar	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.55	0.61	0.30	0.61	0.24	0.61
A - Agriculture, forestry and fishing	0.00	0.00	0.00	0.00	0.00	0.00
B - Mining and quarrying	0.00	0.00	0.00	0.00	0.00	0.00
C - Manufacturing	0.45	0.50	0.25	0.50	0.20	0.50
D - Electricity, gas, steam and air conditioning supply	0.00	0.00	0.00	0.00	0.00	0.00
E - Water supply; sewerage, waste management and remediation activities	0.90	1.00	0.50	1.00	0.40	1.00
F - Construction	0.90	1.00	0.50	1.00	0.40	1.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.90	1.00	0.50	1.00	0.40	1.00
H - Transportation and storage	0.54	0.60	0.30	0.60	0.24	0.60
I - Accommodation and Food service activities	0.00	0.00	0.00	0.00	0.00	0.00
J - Information and communication	0.00	0.00	0.00	0.00	0.00	0.00
K - Financial and insurance activities	0.00	0.00	0.00	0.00	0.00	0.00
L - Real estate activities	0.90	1.00	0.50	1.00	0.40	1.00
M - Professional, scientific and technical activities	0.90	1.00	0.50	1.00	0.40	1.00
N - Administrative and support service activities	0.60	0.67	0.33	0.67	0.27	0.67
O - Public administration and defence; compulsory social security	0.00	0.00	0.00	0.00	0.00	0.00
P - Education	0.90	1.00	0.50	1.00	0.40	1.00
Q - Human health and social work activities	0.90	1.00	0.50	1.00	0.40	1.00
R - Arts, entertainment and recreation	0.90	1.00	0.50	1.00	0.40	1.00
S - Other service activities	0.90	1.00	0.50	1.00	0.40	1.00
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	0.90	1.00	0.50	1.00	0.40	1.00
U - Activities of extraterritorial organizations and bodies	0.90	1.00	0.50	1.00	0.40	1.00

(Table A3.1. Continued)

Philippines	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.74	0.81	0.89	0.48	0.96	0.89
A - Agriculture, forestry and fishing	0.65	0.25	0.90	0.50	1.00	0.75
B - Mining and quarrying	0.70	0.25	0.90	0.50	1.00	0.75
C - Manufacturing	0.90	0.90	1.00	0.50	1.00	0.75
D - Electricity, gas, steam and air conditioning supply	0.70	1.00	1.00	0.50	1.00	0.75
E - Water supply; sewerage, waste management and remediation activities	0.70	0.80	0.90	0.50	1.00	1.00
F - Construction	0.85	1.00	1.00	0.50	1.00	1.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.95	0.75	1.00	0.50	1.00	0.90
H - Transportation and storage	0.50	0.45	1.00	0.50	1.00	0.85
I - Accommodation and food service activities	0.95	1.00	0.75	0.50	1.00	1.00
J - Information and communication	0.60	1.00	0.90	0.50	1.00	0.90
K - Financial and insurance activities	0.80	1.00	0.85	0.60	1.00	0.90
L - Real estate activities	0.50	0.25	1.00	0.50	1.00	1.00
M - Professional, scientific and technical activities	0.45	0.50	0.80	0.50	0.25	0.90
N - Administrative and support service activities	0.65	0.90	0.80	0.50	0.85	0.95
O - Public administration and defence; compulsory social security	0.50	1.00	1.00	0.50	1.00	0.90
P - Education	0.50	1.00	0.25	0.00	1.00	0.75
Q - Human health and social work activities	0.85	1.00	0.85	0.50	1.00	0.75
R - Arts, entertainment and recreation	0.85	1.00	0.75	0.50	1.00	0.95
S - Other service activities	1.00	1.00	1.00	0.50	1.00	1.00
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	1.00	1.00	0.50	1.00	1.00
U - Activities of extraterritorial organizations and bodies	1.00	1.00	1.00	0.50	1.00	1.00

Singapore	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.83	0.95	0.86	0.75	0.95	0.95
A - Agriculture, forestry and fishing	1.00	1.00	1.00	0.75	1.00	1.00
B - Mining and quarrying	1.00	1.00	1.00	0.75	1.00	1.00
C - Manufacturing	1.00	0.91	0.94	0.75	1.00	1.00
D - Electricity, gas, steam and air conditioning supply	0.00	0.00	0.00	0.00	0.00	0.00
E - Water supply; sewerage, waste management and remediation activities	1.00	1.00	1.00	0.75	1.00	1.00
F - Construction	1.00	1.00	1.00	0.75	1.00	1.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.90	1.00	1.00	0.75	1.00	1.00
H - Transportation and storage	0.70	1.00	0.85	0.75	1.00	1.00
I - Accommodation and Food service activities	1.00	1.00	1.00	0.75	1.00	1.00
J - Information and communication	0.83	1.00	0.88	0.75	1.00	1.00
K - Financial and insurance activities	1.00	1.00	0.25	0.75	1.00	1.00
L - Real estate activities	0.25	1.00	1.00	0.75	1.00	1.00
M - Professional, scientific and technical activities	0.89	1.00	0.72	0.75	1.00	1.00
N - Administrative and support service activities	0.98	1.00	1.00	0.75	1.00	1.00
O - Public administration and defence; compulsory social security	1.00	1.00	1.00	0.75	1.00	1.00
P - Education	0.00	1.00	1.00	0.75	1.00	1.00
Q - Human health and social work activities	1.00	1.00	0.75	0.75	1.00	1.00
R - Arts, entertainment and recreation	1.00	1.00	1.00	0.75	1.00	1.00
S - Other service activities	0.97	1.00	0.75	0.75	1.00	1.00
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	1.00	1.00	0.75	1.00	1.00
U - Activities of extraterritorial organizations and bodies	1.00	1.00	1.00	0.75	1.00	1.00

(Table A3.1. Continued)

Thailand	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.58	1.00	0.91	0.98	0.37	0.90
A - Agriculture, forestry and fishing	0.50	1.00	0.90	1.00	0.00	0.90
B - Mining and quarrying	0.68	1.00	0.92	1.00	0.29	0.90
C - Manufacturing	0.84	1.00	0.97	1.00	0.34	0.90
D - Electricity, gas, steam and air conditioning supply	0.50	1.00	0.90	1.00	0.40	0.90
E - Water supply; sewerage, waste management and remediation activities	0.50	1.00	0.90	1.00	0.40	0.90
F - Construction	0.50	1.00	0.90	1.00	0.40	0.90
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.50	1.00	0.90	1.00	0.40	0.90
H - Transportation and storage	0.50	1.00	0.90	1.00	0.40	0.90
I - Accommodation and food service activities	0.50	1.00	0.90	1.00	0.40	0.90
J - Information and communication	0.50	1.00	0.90	1.00	0.40	0.90
K - Financial and insurance activities	0.50	1.00	0.90	0.50	0.40	0.90
L - Real estate activities	0.50	1.00	0.90	1.00	0.40	0.90
M - Professional, scientific and technical activities	0.50	1.00	0.90	1.00	0.40	0.90
N - Administrative and support service activities	0.50	1.00	0.90	1.00	0.40	0.90
O - Public administration and defence; compulsory social security	0.50	1.00	0.90	1.00	0.40	0.90
P - Education	0.50	1.00	0.90	1.00	0.40	0.90
Q - Human health and social work activities	0.50	1.00	0.90	1.00	0.40	0.90
R - Arts, entertainment and recreation	0.63	1.00	0.93	1.00	0.40	0.90
S - Other service activities	0.50	1.00	0.90	1.00	0.40	0.90
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	1.00	1.00	1.00	0.40	0.90
U - Activities of extraterritorial organizations and bodies	1.00	1.00	1.00	1.00	0.40	0.90

Vietnam	Market access	National treatment	Screening & appraisal	Board of directors	Movement of investors	Performance requirement
All sectors	0.66	0.74	0.64	0.71	0.53	0.85
A - Agriculture, forestry and fishing	0.80	1.00	0.65	0.75	0.60	0.90
B - Mining and quarrying	0.90	0.85	0.30	0.95	0.75	0.95
C - Manufacturing	0.95	0.95	0.85	1.00	0.80	0.95
D - Electricity, gas, steam and air conditioning supply	0.50	1.00	0.10	0.75	0.50	0.90
E - Water supply; sewerage, waste management and remediation activities	0.80	1.00	0.90	0.90	0.65	1.00
F - Construction	0.40	0.25	0.70	0.75	0.50	1.00
G - Wholesale and retail trade; repair of motor vehicles and motorcycles	0.20	0.20	0.40	0.75	0.50	1.00
H - Transportation and storage	0.50	0.85	0.65	0.75	0.50	1.00
I - Accommodation and food service activities	0.90	1.00	1.00	0.90	0.65	1.00
J - Information and communication	0.50	0.60	0.50	0.50	0.60	0.70
K - Financial and insurance activities	0.85	1.00	0.80	0.75	0.50	0.95
L - Real estate activities	1.00	1.00	0.90	0.75	0.50	1.00
M - Professional, scientific and technical activities	0.80	0.70	0.80	0.70	0.50	0.80
N - Administrative and support service activities	0.90	0.75	1.00	0.90	0.70	1.00
O - Public administration and defence; compulsory social security	0.00	0.00	0.00	0.00	0.00	0.00
P - Education	0.90	1.00	0.50	0.75	0.50	0.75
Q - Human health and social work activities	0.30	0.35	0.30	0.30	0.20	1.00
R - Arts, entertainment and recreation	0.00	0.00	0.00	0.00	0.00	0.00
S - Other service activities	0.70	1.00	1.00	0.85	0.60	0.90
T - Activities of households as employers; undifferentiated goods- and services-producing activities of households for own use	1.00	1.00	1.00	1.00	0.80	1.00
U - Activities of extraterritorial organizations and bodies	1.00	1.00	1.00	1.00	0.80	1.00

Table A4.1. Investment Issues in ASEAN Countries

Category Issues	2008							2005								
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
i) Restrictions on foreign entry																
Existence of prohibition and restriction on foreign entry	○	○		○							○	○		○	○	
Restriction on foreign entry for specific sector: distribution service sector	○								○		○					○
Restriction on foreign entry for specific sector: coal mining industry	○										○					
Restriction on foreign entry for specific sector: retail trade	○	○							○			○				
Restriction on foreign entry for specific sector: no allowance of establishment of branches of general commercial bank		○														
Restriction on entry for specific sector: license requirement in the construction industry (license required only for foreign firms; no issuance of licenses for foreign-owned firms with more than 40% ownership)	○	○	○		○								○			
Restriction on foreign entry for specific sector: license requirement for integration, closing down, and movement of services centers					○											
Restriction on foreign entry for specific sector: stop of registration and renewal of licenses for trade								○								
Restriction on entry for specific sector: licensing of transport business allowed only to a single company (monopoly with a company runned by the former prime minister's family, in exclusion of foreign and other local companies)		○										○				
Restriction on entry for specific sector: limited approval of license for domestic sea freight distributor (discriminatory against foreign companies; exclusive approval of Filipino and Filipino wholly-owned partnership and companies with Filipino ownership ratio of more than 60%)			○										○			
Prohibition on foreign entry for specific sector: bid on government		○										○				
Restriction on foreign ownership ratio for specific sector: non-manufacturing sector (restrictions on various types of services such as distribution and marketing)		○										○				
Restriction on foreign ownership ratio for specific sector: service sector (restrictions on the majority-owned foreign firms)	○				○										○	
Restriction on foreign ownership ratio for specific sector: linked with export ratio	○	○											○			
Joint venture issue: restrictions on foreign ownership ratios and joint venture requirement (including reduction in maximum foreign ownership ratios)	○															○
Joint venture issue: joint venture requirement with a state enterprise politically	○									○						
Minimum foreign capital requirement					○			○							○	
Land ownership and use: restrictions on (prohibition of) land ownership by foreign-owned firms	○	○			○				○		○		○		○	○
Land ownership and use: a lump-sum payment of land-use fee, implemented only for foreign-owned firms									○							○
Restrictions on the form of establishment of offices to support branches and affiliates					○									○		
Discriminatory treatment on Japanese firms vis-à-vis U.S. firms					○											○
ii) Performance requirements																
Home country insurance principle (obligation)		○										○				
Local content requirement: link between local content ratio and tariff rate									○							○
Local content requirement: exclusion of foreign-owned firms from domestic procurement												○				
Local content requirement: requirement to use local firms (Bumiputra firms)		○										○				
Local content requirement: planning of local content requirement policy for automobiles																○
Local content requirement: requirement for increasing local content ratios									○							○
Local content requirement: Insufficient ability of indigenous firms to satisfy local content requirement	○										○					
Performance requirements such as the amount of investment, export, production, etc. (including export requirement)												○				○

(Table A4.1. Continued)

Category Issues	2008										2005					
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
High percentage of direct exporting obligation												○				
Link with preferential treatment: requirement to hire local labors					○								○			
Link with preferential treatment: export ratio (export requirement)					○							○		○		
Government licensing requirement for royalty, brand-use fee, etc																○
Enforcement of obligation to conduct continuing exploration and survey for coal mine rights ownership	○										○					
iii) Restrictions on overseas remittances and controls on foreign currency transactions																
Restriction on overseas remittances: difficulty in remittances of compensation for intangible assets and services in foreign currencies					○											
Restriction on overseas remittances: reinforcement and lack of transparency in restrictions on remittances in foreign currencies								○								○
Restriction on overseas remittances: restrictions on upper bound of in-advance payment			○													
Restriction on overseas remittances: difficulty in overseas remittance of the payment for foreign projects																
Restriction on overseas remittances: partly												○				
Restriction on overseas remittances: prohibitive tax imposed on remittances (including tax on profit remittances)														○	○	
Control related to local currency: control on local currency transactions in offshore market					○						○	○				
Control related to local currency: restricted financing in Baht for non-residents														○		
Sudden introduction and modification of foreign exchange transaction controls												○				
Foreign currency transactions: restrictions on having foreign currencies												○				
Foreign currency transactions: restrictions on having and using foreign currencies in the domestic market								○				○				
Foreign currency transactions: requirement to obtain foreign currencies from exports to get import licenses								○								
Foreign currency transactions: difficulty in foreign exchange settlement and foreign payment									○							○
Foreign currency transactions: restriction on the way of using foreign currency deposits					○										○	
Foreign currency transactions: restriction on the withdrawal through foreign currency accounts								○								
Difficulty in currency hedging		○	○													
Restriction on "netting"								○				○				
Royalty payment: restrictions on royalty and strict method of calculating royalty									○							
Royalty payment: exclusion of imported parts, etc. from royalty calculation																○
iv) Restrictions on the movement of people and employment requirements																
Mandatory employment of local labor: general	○										○					
Mandatory employment of local labor: employment of Malaysians with a priority (including request for handover of managing directorship)		○										○				
Mandatory employment of local labor: nationality requirement of directors (including president and board members in investment trust companies)			○									○		○		
Restriction on hiring foreigners: employment quota for foreigners or restriction on foreign employment ratio				○	○							○		○	○	○
Restriction on hiring foreigners: modification and tightening of policies regarding foreign workers		○										○				
Restriction on hiring foreigners: restriction on hiring and visa issuance to mainland Chinese workers																
Visa issue: discontinued issuance of multiple-entry visa																
Visa issue: application fee for re-entry																

(Table A4.1. Continued)

Category Issues	2008								2005							
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
Visa issue: difficulty in obtaining working visa, tightening of issuance condition (including cases of certain engineering or investors only), restriction on visa issuance					○			○			○			○	○	
Visa issue: tightening of visa renewal (difficulty in renewal of multiple-entry visa; including suspension of renewal procedures in US)												○		○		
Visa issue: restricted entry by SMEs due to prerequisite conditions for working visa issuance														○		
Visa issue: no work permit under foreign temporary workers for construction engineering														○		
Visa issue: introduction of obligation to obtain entry visa	○									○						
Discriminate period of residency permit between those with and without university degree													○			
v) Lack of transparency in policies and regulations concerning investment (institutional problems)																
Underdevelopment, lack of transparency, and delay of implementation of regulations (inadequate implementing regulations and prolonged delays in their issuance): general	○				○		○			○						
Underdevelopment of legal system: implementation rules of EPA					○											
Underdevelopment of legal system: stock market and credit market						○										
Underdevelopment of legal system: regulations on mortgage, lien, and									○						○	
Underdevelopment of legal system: financial system such as credit transactions									○							
Underdevelopment of legal system: foreign exchange system (double exchange rates)								○								
Underdevelopment of legal system: exchange contract							○									
Underdevelopment of legal system: temporary system of opening governments' windows responsive to emergency imports									○							
Underdevelopment of legal system: insufficient economic system based on domestic currencies						○										
Underdevelopment of legal system: re-organization of operations					○											
Underdevelopment of legal system (insufficiency): Corporate Separation Law and merger law															○	
Underdevelopment of legal system (insufficiency): Building Law, and Fire Defence Law, and related laws and regulations															○	
Underdevelopment of legal system (insufficiency): legislation about handling of chemicals and hazardous materials					○										○	
Underdevelopment of legal system (insufficiency): regulations on dishonor					○										○	
Underdevelopment of legal system (insufficiency): double taxation due to lack of tax treaty								○								
Underdevelopment of legal system (inadequacy): inadequate protection of depositors															○	
Underdevelopment and inconsistent implementation of legal system (insufficiency): foreign exchange law and taxation system					○										○	
Lack of transparency in legal system: ownership of land and its utilization system						○										
Lack of transparency in legal system: restrictions on equity transfer for joint venture companies		○														
Lack of transparency in legal system: regulations on tax laws										○						
Lack of transparency in legal system: investment incentives	○		○									○				
Lack of transparency in legal system: withdrawal rules															○	
Lack of transparency in legal system: conditions of employment															○	
Lack of transparency in legal system: licenses and approvals for construction					○										○	
Lack of transparency in legal system: an introduction of international practices		○														
Lack of transparency in legal system: disclosure of information on changes in regulations		○						○								

(Table A4.1. Continued)

Category Issues	2008								2005							
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
Lack of transparency in legal system: conditions on application for contract of technical assistance		○														
Ambiguity of legal system: disparity of tariff rates among similar products	○										○					
Ambiguity of legal system: introduction of emission control regulations (including unrealistic policies)											○			○		
Ambiguity of legal system: foreign exchange laws		○	○									○				
Ambiguity of legal system: export restrictions						○										
Ambiguity of legal system: method to calculate tax							○									
Ambiguity of legal system: government procurement procedures									○							
Ambiguity of legal system: approval and license procedures by administrative institutions										○						
Ambiguity of legal system: approval and license criterion of investment-related regulations								○	○							○
Ambiguity of legal system: partnership requirement											○					
Ambiguity of legal system (insufficiency): regulations on disposal of industry wastes												○				
Ambiguity of legal system (insufficiency): tariff classification for parts and components									○							○
Lack of implementation of legal system: environmental control										○						
Sudden modification of legal system: general (including absence of legal stability)											○		○			
Sudden modification of legal system: capital control and other controls												○				
Sudden modification of legal system: incentives for foreign investors																○
Sudden modification of legal system: raising of import tariffs									○		○					
Sudden modification of legal system (introduction): new tax (value-added tax for export processing firms)									○							
Sudden modification of legal system: custom clearance (e-custom clearance)					○											
Sudden modification of legal system (setting): sudden setting of holidays	○	○											○			
Sudden modification of legal system: reduction of export incentives									○							
Sudden modification of legal system: criteria to prepare financial statements			○													
Sudden and frequent modification of legal system: laws and notices (general)	○								○							○
Modification and publicity of legal system: difficulty in accessing information on regulations and practices, and insufficient efforts to disseminate information on their revision			○										○			
Instability of legal system: possible changes in investment incentives			○													
Instability of legal system: automobile-related taxation system									○		○					
Instability of legal system: tax holiday regime										○						
Instability of legal system: possible tightening regulations on market access to the retail firms					○											
Instability of legal system: regulations on foreign workers		○									○					
Instability of legal system: possible regulations inconsistent with WTO					○											
Unsatisfactory quality of local parts and components due to insufficient regulations and standards											○					
Taxation issue: extremely high value-added taxes			○													
Taxation issue: elimination of tax exemption for imported equipments and imposition of corporate tax											○					
Taxation issue: tax withholding for PE and inter-branch transactions												○				
Taxation issue: tax exemption discriminatory between national and non-national cars		○										○				
Taxation issue: conformity requirement on accounting and tax service																○
Taxation issue: inadequate reserve criteria for taxation regulations																○
Taxation issue: persisting system of corporate tax withholding from supporting industry firms																○

(Table A4.1. Continued)

Category Issues	2008								2005							
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
Taxation issue: tax on surplus remittances					○											○
Taxation issue: commercial tax (local production and exports and imports)								○								
Taxation issue: rent tax (real estates)								○								
Taxation issue: no application of preferential treatment of tax treaties (exemption of corporate tax at the source for subcontractors)			○													
Taxation issue: conditions on application of exise tax linked with incentive measures (eco-car policy)					○											
Taxation issue: tax on adverse spread					○											
Safety and environmental standards and certification issue: inadequate safety evaluation standards											○	○	○			
Safety and environmental standards and certification issue: insufficient regulations on anti-air pollution			○										○			
Safety and environmental standards and certification issue: unique technical standard and safety certification (iron and steel, plug etc)					○											
Safety and environmental standards and certification issue: inconsistency with the International Accounting Standards					○											
Depreciation issue: long depreciation period											○					
Depreciation issue: lack of exemplification of designated products (ambiguity)											○					
Import restriction: import restriction by import quota and import licensing (build-up car, steel, and color copy machine)		○														
Import restriction: difficulty in obtaining import licenses									○							
Import restriction: import restriction on final products by manufacturing firms																○
Export restriction									○							
Unilateral abrogation of international commitments											○					
Limited tariff exemption for companies in the Special Economic Zones													○			
Unreasonable regulations and regulations without considering technological development trend			○										○		○	
Cap on surplus reserve			○										○			
Unilateral review of PPA													○			
vi) Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)																
Complicated procedures: regimes general											○					
Complicated procedures: procedures for equipment lease and rental certification									○		○					
Complicated procedures: procedures for overseas remittances																○
Complicated procedures: approval and license procedures for merge, dissolution, or relocation of the service center					○										○	
Complicated procedures: renewal of import licensing (short period in effective)								○								
Complicated procedures: bidding rules for joint venture with state owned enterprises (application of rules for SOEs)									○							
Complicated procedures: signiture requirements to documents submitted to government agencies and ministries					○											
Complicated procedures: procedures for exception of import tariffs		○														
Complicated procedures (too-detailed): BOI approval and reporting procedures					○											○
Complicated procedures (too-detailed): import licensing procedures																○
Complicated procedures (too-detailed): tax payment procedures for taxation at the source					○											
Complicated procedures (too-detailed): obtaining export and import licensing									○							
Complicated procedures: tax payment registration for foreign individuals											○					
Complicated procedures (including uniqueness): state customs clearance procedures												○				

(Table A4.1. Continued)

Category Issues	2008								2005							
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
Complicated and delayed procedures: customs clearance (including clearance certificate requirement, AFTA origin certificate procedures and management, enforcement of certificate of origin document registration, off-shore trade customs clearance, and inefficiency of customs clearance)					○	○		○	○		○	○	○		○	○
Complicated and delayed procedures: procedures to apply for working visa and its renewal (including work permit)	○	○	○		○				○		○	○	○		○	○
Complicated and delayed procedures: tax regulations-related procedures	○		○								○					
Complicated and delayed procedures: EPTA procedures	○										○					
Complicated and delayed procedures: import tariff reimbursement and tax exemption procedures		○			○							○			○	
Complicated and delayed procedures: export bounty coupon issuance															○	
Complicated and delayed procedures: government approval procedures for withdrawal		○							○						○	○
Complicated and delayed procedures: BOI export and import approval and reporting procedures for products, materials, equipments, defective products and rejected materials					○										○	
Complicated and delayed procedures: patent registration application procedures					○											
Delayed procedures: import custom clearance and cargo inspection (including uncertainty)		○	○						○							
Delayed procedures: AICO approval procedures										○						
Delayed procedures: procedures to obtain permissions (general)								○	○							
Delayed procedures: certificate procedures for CEPT		○														
Delayed procedures: oversea payment								○								
Delayed procedures: permission of oversea remittance								○								
Delayed procedures: import license		○										○				
Delayed procedures: judgement of non-application of PE					○											
Delayed procedures: approval procedures for technology transfer																○
Delayed procedures: production license issuance (partial)															○	
Delayed procedures (including difficulty): procedures for waste disposal (and its renewal)			○										○		○	
Delayed procedures (including difficulty): procedures for prepayment of corporate tax reimbursement	○										○					
Delayed procedures (including difficulty): difficulty in obtaining AICO									○							○
Delayed procedures (including difficulty): renewal of business license								○								
Delayed procedures (including non-refunding and difficulty): value-added tax reimbursement procedures	○	○	○		○						○	○			○	
Delayed procedures (including non-refunding): corporate withholding tax reimbursement procedures					○										○	
Difficulty in procedures: corporate tax advance declaration and payment procedures		○										○				
Inefficiency of procedures (including corruption): investment approval procedures	○				○						○	○				
Inefficiency of procedures (including corruption): obtaining licenses for operations in the construction sector			○													
Disunity of procedures: procedures at the office counter (window)			○		○							○			○	
Complicated corporate tax prepayment system	○										○					
Complicated banking business resulting from the regulations requiring banking transactions in rupiah	○										○					
Complicated offsetting of debtors and creditors account in foreign trade transactions					○										○	
Complicated handling of BOI incentives															○	
Complicated approval and licensing for automobile price											○					

(Table A4.1. Continued)

Category Issues	2008								2005							
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
Complicated L/C import system (iron and steel products)			○										○			
Insufficient enforcement of environmental protection								○								
Ambiguous implementation of antitrust law															○	
Arbitrary application of system: disunity of legal interpretation and implementation (including disunity and inconsistency of implementation of product safety certification system, excessive power of local officials, etc.)		○			○							○			○	○
Arbitrary application of system: diversity of implementation and interpretation by customs (including arbitrary tariff classification and tariff evaluation, difference with international rules, inequity of tariff rate application and ITA nonperformance)	○	○			○	○	○	○			○	○	○		○	
Arbitrary application of system: arbitrary corporate tax examination					○										○	
Arbitrary application of system: arbitrary and corrupt tax collection (including back taxes and tax on business corporations)	○		○			○					○		○		○	
Arbitrary application of system: extension of valid period of license for air forwarder			○													
Disunity of legal interpretation for application of system: rules of origin					○								○			
Disunity of legal interpretation for application of system: acquisition of indigenous rights for land-use													○			
Disunity of regulations, controls, and legal interpretation for application among relevant ministries and agencies					○			○							○	
Disunity of legal interpretation for application of system: discriminately application for foreigners of a criteria of environment at the office								○								
Inconvenience of centralized authorization rights (including disapproval of PROSEC licensing procedures in rural areas)										○						
Special personal connection and political bribery and corruption of public servants (including collusion and corruption in customs)	○	○			○			○		○	○	○				○
Unanimous voting at the board meeting of joint ventures								○								○
Prohibitive port charge and departure tax										○						
Introduction of value-added tax to free trade zones										○						
Heavy burden of value-added tax			○									○				
Prohibitive individual income tax								○								
Income tax at the source for expensive expenses of the use			○													
Collection of technology promotion funds										○						
Inconsistent tax collection								○								○
Irrational traffic regulation										○						
Business tax			○													
Irrational payment due for public utility charges			○													
Irrationality of listed company provision											○					
Existence of excessive regulations such as X-ray controls											○					
Heavy burden of individual income tax																○
Restricted transfer of the equity share											○					
Difficulty in obtaining plans of governments											○					
Excessively strict foreign exchange control															○	
Signature requirement for document submitted to government and other public offices															○	
Discrimination against foreign firms provided by the Board of Investment																○
Rampant smuggling						○		○	○							○
Rampant illegal import of used cars																○
Deemed tax valuation system																○
vii) Insufficient protection of intellectual property rights (IPRs)																
IPRs: widespread counterfeit goods and pirated copy goods due to insufficient protection of IPRs	○	○	○		○			○		○	○	○		○	○	

(Table A4.1. Continued)

Category Issues	2008										2005					
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
IPRs: insufficient crackdown on counterfeit goods at the border (including Hong Kong customs case of watches), delayed appraisal during suspension of imports and uncertainty of disposal of seized articles		○	○									○				○
IPRs: unratified IPR treaty (global treaty)		○	○		○						○					○
Trademark right: underdeveloped and insufficient trademark right protection	○										○					
viii) Labor regulations and related practices excessively favorable to workers																
Difficulty in firing workers: retirement and firing regulations excessively protective for workers	○	○			○				○		○					○
Difficulty in firing workers: judgment of a labor court			○													
Wage: absence of minimum wage system (no minimum wage system and high labor cost)												○				
Wage: substantial raising, frequent and arbitrary revision and disparity control of minimum wage	○		○		○				○		○					○
Wage: rapid increase in wage level (raising of labor cost)		○	○						○		○		○			○
Wage: disapproval of and difficulty in demotion and salary cut		○	○		○								○			
Strike: easy implementation of strike and long-term strike practices			○								○					
Illegal strike									○							
Payment of costs for labor-related court		○														
Restrictions on the period to hire temporary workers			○													
Irrational regulations on ages of young workers			○													
Labor-management agreement and practices excessively favorable to workers; difficulty in revision of conservative labor regulations and vested conditions of employment												○			○	○
Misuse of medical leave											○					
Excessive holidays and/or work absence		○									○					
Abuse of family and medical leave system																
Specificity of working time			○									○				
Unreasonably high wage rates for working on holidays			○									○				
Prohibition of employing contract workers			○									○				
Restriction on transfer of insurance officials among companies			○									○				
Greater burden of employees' pension				○										○		
Burden of educational fund				○										○		
Heavy burden of obligation to distribute taxable profits and profit sharing dividends to employees												○				
ix) Underdeveloped infrastructure, shortage of human resources, and insufficient investment incentives																
Difficulty in hiring and securing human resources due to shortage of management staff and engineers (including brain drain of IT engineers)		○	○						○		○	○	○	○	○	
High turnover ratio and job hopping practices		○	○	○	○									○	○	
Infrastructure issue: underdeveloped (industrial) infrastructure (general)										○	○			○	○	
Infrastructure issue: increased risk of power shortages and electrical power supply (instability)	○	○	○		○	○		○	○		○					
Infrastructure issue: underdeveloped road and traffic	○	○	○	○	○	○	○	○	○							
Infrastructure issue: underdevelopment and lack of seaport infrastructure	○							○	○							
Infrastructure issue: inadequate spaces for railway and underdeveloped containerized railway transportation					○											
Infrastructure issue: creaky existing infrastructure										○						
Infrastructure issue: poor public physical distribution services										○						
Infrastructure issue: underdeveloped intermediate distribution														○		
Infrastructure issue: inadequate public sanitation	○		○								○					
Infrastructure issue: runaway cost of public utilities (instability)										○						
Infrastructure issue: insufficiency and underdevelopment of waste disposals									○			○				○
Infrastructure issue: delayed delivery due to traffic jam in cities									○							
Infrastructure issue: underdeveloped telecommunication infrastructure			○													

(Table A4.1. Continued)

Category	2008									2005						
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Lao PDR	Myanmar	Vietnam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
Issues																
Infrastructure issue: insufficient air transport infrastructure					○			○								
Incentives issue: disparity of incentives in the same zone due to project-by-project grant of BOI incentives (irrationality)															○	
Incentives issue: absence of investment incentives for the construction industry															○	
Incentives issue: insufficient incentives for existing foreign-owned firms															○	
Incentives issue: insufficiency, shrinking and ambiguity of incentives for foreign investors	○										○		○			○
Incentives issue: insufficient exemption of import tariffs imposed on capital goods within economic zone			○													
Incentives issue: absence of incentives for parts manufacturer									○							○
Incentives issue: insufficient incentives for foreign finished car maker																○
Incentives issue: BOI tax incentives															○	
Incentives issue: discriminatory favorable incentives for national cars		○										○				
Insufficient incentive for nurture of supporting industries (including local industrial development policy)	○	○	○						○				○			○
Issues of local suppliers in terms of delivery time and quality																○
High tax rate: corporate tax											○					
High tax rate: individual income tax									○		○					
Financial market: immature financial market						○			○			○				○
Financial market: underdeveloped foreign currency exchange system						○	○	○				○				
Financial market: underdeveloped capital market						○									○	
Insufficiency of medical institutions		○	○										○			
Public security: frequent occurrence of theft		○	○													
x) Restricted competition and price controls																
Monopoly / unilateral increase in price of energy supply	○										○					
Discriminatory rise in fuel price	○										○					
Price reporting requirement to the Department of Commerce					○										○	
Government-designated trading company system									○							○
Monopolistic pricing									○							○
Discriminate pricing for loads at ports									○							
Double pricing between domestic and foreign investment								○								

Data source: Authors' preparation, based on JMC survey 2008 and Urata, Ando, and Ito (2007).