

ERIA Discussion Paper Series**Standards Harmonisation in ASEAN: Progress,
Challenges and Moving Beyond 2015**

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November 2013

Abstract: *Addressing technical barriers to trade is a key priority of ASEAN as part of trade facilitation in achieving the Single Market and Production Base under the ASEAN Economic Community in 2015 and building an effective and competitive Economic Community beyond 2015. Standards and conformance assessment measures, while seeking to ensure quality and safety of products for consumers should not become technical barriers to trade across the region as ASEAN liberalises its trading regime. A delicate balance needs to be achieved between the two to build a thriving economic region.*

The region has been undertaking efforts towards standards harmonisation in the ASEAN priority sectors of integration and in bringing about regulatory convergence taking into account the diversities that exist in the ten Member States. More needs to be done in this area for the region to stay competitive and enhance intra-ASEAN trade as well as external trade. This paper looks at how the regional grouping is addressing technical barriers to trade as part of ASEAN's trade integration agenda and what it should do going beyond 2015.

Keywords: ASEAN, economic integration, technical barriers to trade, standards, conformance, conformity assessment, harmonisation, free trade area, trade facilitation, regulation, mutual recognition agreement, industry association, ACCSQ, PFPWG, EU, European Commission

JEL Classification: F10; F13; F15

1. Overview

The realisation of the ASEAN Economic Community (AEC) by 2015 with a view towards achieving economic integration in Southeast Asia is one of the key objectives of ASEAN. While the removal or lowering of tariffs is necessary in reaching the goal of economic integration, it is clearly not sufficient. The implementation of trade facilitation measures--important among which is the reduction in and elimination of Technical Barriers to Trade (TBT)--is key to achieving this goal as the differences in regulations, standards and conformance assessment measures are impediments to the movement of goods from one country to another within the region.

In general, all states have standards, regulations and compliance and conformance measures, which are applied to ensure the safety and quality of products their citizens will ultimately use or consume. However, these measures are sometimes applied to the extent that they act as barriers to trade by restricting or totally prohibiting the movement of certain goods from one country to another. While the primary objective of the imposition of such measures is human health and safety, these regulations also seek to protect animal and plant life and health, and the environment.

Standards for products outline their characteristics, including weight, design, shape, size and performance, labelling and packaging styles. This is done to benefit consumers in the importing countries. These standards are enforced by national governments. Occasionally, regulations are put in place to promote technical harmonisation to ensure the compatibility of products being imported.

As ASEAN works towards the implementation of the AEC by 2015, efforts are being made to ensure that while public interest is not sacrificed, countries do not impose standards and conformance measures that could potentially restrict the trade of goods under the ASEAN Free Trade Area (AFTA)¹. Moreover, the implementation of too many such measures also increases costs for manufacturers and traders, which are ultimately borne by consumers, who these measures are designed to benefit.

This paper looks at the restrictions in the standards and conformance area and what can be done to address these TBTs such that they do not obstruct progress towards the realisation of a single market under the AEC. It will address what is being done

currently at the ASEAN level and provide insights on how ASEAN should address technical barriers to intra-ASEAN trade beyond 2015.

Standardising refers to the harmonisation and complementing of national standards with standards, practices and guides that are being used internationally. Through this, it can be ensured that national standards do not stand in conflict with other standards and hence do not become an impediment to trade by restricting the movement of goods.

Technical regulations, in the regional context, relate to the harmonisation of regulatory requirements and the convergence of product safety regulations in ASEAN's Regional Technical Regulations. They also include the harmonisation of mandatory technical requirements such as registration and pre-market approval requirements to ensure the free movement of goods. The convergence of these regulations is key to ensure the realisation of a single market in ASEAN.

Conformity assessment procedures relate to the mutual recognition of conformity assessment results or mutual recognition arrangements (MRA). In this manner, ASEAN member states can assess conformity through the mutual recognition of conformity results issued by designated conformity assessment boards (CABs). This recognition of conformance results is applicable to the signatories of any MRA and this can also be in the form of bilateral MRAs between member states. MRAs, when effectively applied, are a stepping-stone to the building of the ASEAN single market. As more alignment in regulations occurs as the AEC evolves, ASEAN will be able to focus on greater regulatory convergence and harmonisation.

1.1.ASEAN Policy Guideline on Standards and Conformance

ASEAN has a Policy Guideline on Standards and Conformance, the purpose of which is to guide ASEAN bodies working in the areas of standards and conformance with the objective of facilitating the fast-track integration of priority sectors by 2010 and the realisation of the AEC by 2020 (ASEAN Secretariat, 2005). This guideline is aimed at providing the guiding principles for “the implementation of joint efforts of ASEAN Member Countries in the area of standards and conformance both in regulated and non-regulated sectors as one of the measures for accelerating economic integration towards the AEC” (ASEAN Secretariat, 2005). The guideline lists a few general

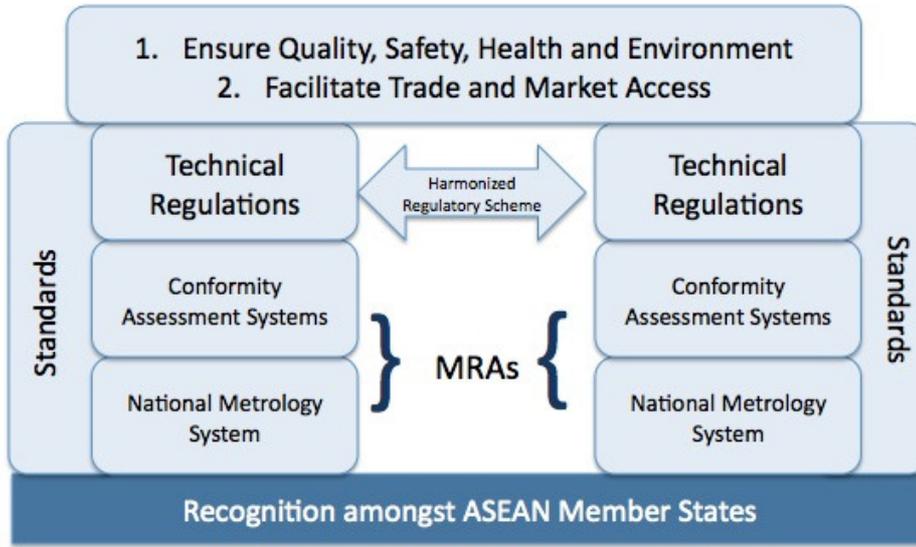
provisions, and principles specific to the harmonisation of standards, the adoption of technical regulations, conformity assessment, post-market surveillance and transparency.

The general provisions are:

1. Amongst other things, ASEAN's efforts on standards and conformance seek to facilitate the realisation of the AEC as the final goal.
2. The national standards bodies should accept and follow the Code of Good Practice for the Preparation, Adoption and Application of Standards as provided in Annex 3 of WTO Agreement on Technical Barriers to Trade.
3. Member countries must take any or a combination of these measures to push for the realisation of a single market and single production base:
 - a. Harmonise national standards with relevant international ones;
 - b. Encourage participation in the development of international standards, especially those that are relevant to ASEAN trade;
 - c. Adopt conformity assessment procedures that are in keeping with international standards and guides, or keep differences to a minimum wherever full conformity is not possible because of differences in legitimate objectives;
 - d. Put into practice MRAs in regulated areas where appropriate, using the ASEAN Framework Agreement on Mutual Recognition Arrangements as the basis and;
 - e. Encourage cooperation among National Accreditation Bodies and National Metrology Institutes in ASEAN to enable the implementation of MRAs.
4. ASEAN Member States should also lay emphasis on implementing all standards, technical regulations and conformity assessment measures in accordance with the Bali Concord II, the Recommendation of the High Level Task Force on ASEAN Economic Integration and the documents for fast-track integration of the priority sectors including the ASEAN Framework Agreement for the Integration of Priority Sectors, its protocols and roadmaps and the AEC Blueprint.

Figure 1: ASEAN Standards & Conformance Framework

ASEAN Standards & Conformance Framework



The ASEAN Working Group on Conformity Assessment has defined the key strategies and priorities for 2013-2015, which includes engagement with stakeholders, support for the CLMV countries (Cambodia, Lao PDR, Myanmar and Vietnam), strengthening the competence of accreditation bodies and the establishment of a conformity assessment network (ASEAN, 2013).

1.2.Importance to the ASEAN Economic Community

In a rapidly changing global economic environment, the ASEAN region needs greater cooperation among member states and greater integration to remain competitive and to become an economic force. In order to remain an important player in the global arena, there is no alternative to greater integration. As a result, addressing issues pertaining to standards and conformance goes hand in hand with the ASEAN’s goal of establishing an AEC by the year 2015.

Standards and conformance, if not addressed adequately, can prove a hindrance to trade in the region, thus adversely impacting ASEAN’s march towards the formation of

a single market and economic community. Over the last two decades, ASEAN member states have accomplished much in the area of reducing or altogether removing tariffs on goods, but much of this advance will be negated if they do not address the harmonisation of standards and conformance assessment measures.

ASEAN has adopted a Trade Facilitation Framework to address issues such as the removal of non-tariff barriers (NTBs), the simplification of and harmonisation of customs, standards and conformance, and sanitary and phytosanitary measures. This is all being done in an attempt to smooth the journey towards becoming a fully economically integrated region.

The ASEAN Trade Facilitation Framework includes customs, trade procedures, standards and conformance, sanitary and phytosanitary (SPS) measures, ASEAN Single Window Implementation monitoring, regional cooperation mechanism and an ASEAN Trade Repository. It aims to simplify, harmonize and standardize trade and customs regulations, processes, procedures and related information flow as well as transparency and visibility of all actions and interventions by all stakeholders (ASEAN Secretariat, 2008).

2. Institutional Agreements for Standards Harmonisation in ASEAN and Progress Achieved

In ASEAN, the main body looking into standards and conformance is the ASEAN Consultative Committee for Standards and Quality (ACCSQ). Established in 1992, the ACCSQ is mandated to deal with TBTs and to assist ASEAN member states in reaching their goal of an ASEAN Free Trade Area and subsequently, a single market.

In 2004, the ACCSQ was handed the responsibility to take steps supporting regional economic integration. These included:

1. Setting clear targets and timeframes for the harmonisation of standards and their alignment among member states;
2. Harmonising and/ or developing technical regulations for national application;
3. Strengthening cooperation between member states in the area of capacity building; and

4. Convincing member states to consider modeling their technical standards and regulations after ASEAN harmonised technical standards and regulations.

Within ASEAN, efforts towards harmonisation of standards and conformance assessment measures, the development of MRAs and the harmonisation of technical regulations are ongoing in several areas. It has horizontal working groups for standards and conformity assessment procedures, among others with a view to removing NBTs. These are ²:

1. *Working Group on Standards and Mutual Recognition Agreements*: this working group is entrusted with the task of monitoring the implementation of the sectoral MRAs in the ASEAN region and establishing the ASEAN guide to MRAs. Some of its responsibilities include the harmonisation of national standards to international ones, assistance in promoting GRP concepts to regulators in member states, building confidence among regulators in the use of harmonised standards, and developing a mechanism for enhanced cooperation between standards bodies and regulatory agencies. It also promotes transparency in the area of technical regulations and explores new ideas for the development of MRAs in different sectors and standards harmonisation in ASEAN.
2. *Working Group on Accreditation and Conformity Assessment*: This working group is responsible for enhancing the capabilities of accreditation bodies in ASEAN member states in achieving greater recognition internationally. It also helps enhance the competence of conformity assessment bodies in the ASEAN states in order to facilitate the implementation of mutual recognition of test reports, certifications and the like. In addition to these, this working group assists new member countries in accreditation and conformity assessment, and monitors the certification bodies within ASEAN.
3. *Working Group on Legal Metrology*: This working group seeks to align legal metrology in ASEAN to support the goal of the ASEAN Free Trade Area and to ensure that the modernisation of legislation in legal metrology by member states will not lead to the setting up of new TBTs. Furthermore, the group works to establish regional cooperation in the area of legal metrology and seeks to improve national legal metrology systems through cooperation in technology, human resources and management experts.
4. *Joint Sectoral Committee for ASEAN Sectoral MRA for Electrical and Electronic Equipment*: This committee is responsible for the listing, suspension removal and verification of testing laboratories and certification bodies; and it

provides a forum for discussing issues that may arise in the implementation of the ASEAN EE MRA. It also considers ways to enhance the operation of the EE MRA.

5. *ASEAN Cosmetic Committee*: This committee coordinates, reviews and monitors the implementation of the Agreement on ASEAN Harmonised Cosmetic Regulatory Scheme, including the ASEAN MRA of Product Registration Approvals for Cosmetics and the ASEAN Cosmetic Directive. Secondly, it monitors implementation of and reviewing and updating of various technical documents such as the ASEAN Definition of Cosmetics and Illustrative List by Category of Cosmetic Products, ASEAN Cosmetic Ingredient Listings and ASEAN Handbook of Cosmetic Ingredients and ASEAN Cosmetic Product Registration Requirements.
6. *Pharmaceutical Product Working Group*: This working group provides the exchange of information on pharmaceutical requirements and the regulations implemented in each of the member states. It reviews and prepares comparative studies of the regulations, studies the harmonised procedures and regulatory systems in the area of pharmaceutical trade that are currently being employed in other regions globally, and it works towards harmonisation of technical processes and requirements including MRAs application to the pharmaceutical sectors in the ASEAN region after considering global and regional developments in the space.
7. *Prepared Foodstuff Product Working Group*: The group is responsible for the exchange in information on standards, regulations and mandatory requirements in member countries related to foodstuff. It reviews the comparative regulatory regimes in member countries, identifies areas for possible MRA harmonisation and develops, implements and monitors the sectoral MRAs.
8. *Automotive Product Working Group*: The group has a similar mandate to the other product working groups, but with a focus on the automotive sector.
9. *Traditional Medicines and Health Supplements Product Working Group*: The group has a similar mandate to the other product working groups, but with a focus on the traditional medicines and health supplements sector. This group is developing a regulatory framework for these product sectors.
10. *Medical Device Product Working Group*: This group is developing a common submission dossier template for product approval in ASEAN. It is also exploring the feasibility of a shorter approval process for medical devices which

recognised regulators have approved, and is exploring the feasibility of adopting a harmonised system of placement of medical devices into the ASEAN markets, based on a common product approval process. It is working towards ASEAN countries joining the Asian Harmonisation Working Party and to work in parallel with the Global Harmonisation Task Force on harmonisation of technical efforts.

11. *Wood-Based Product Working Group*: This working group promotes transparency in the area of wood-based product standards, technical regulations and conformity assessment procedures among member states, and it identifies areas for harmonisation of technical regulations and conformity assessment procedures.
12. *Rubber-Based Product Working Group*: The last of the product working groups, this enhances cooperation in conformity assessment, the development and implementation of standards and technical regulations for products in the region. It also works to improve networking and exchange of information among member states, in the areas of standards, quality and regulations. The group identifies standards for rubber-based products for ASEAN to harmonise with international standards and identifies fields of cooperation between member states and third party countries and organisations with a view towards developing standards for rubber-based products.

Collectively the above groups have made significant progress in harmonising standards in their respective sectors. This includes electrical appliances (58 harmonised standards); electrical safety (71 harmonised standards); electromagnetic components (10 harmonised standards); rubber-based products (3 harmonised standards) and pharmaceuticals where the ASEAN Technical Dossiers (ACTD) and ASEAN Common Technical Requirement (ACTR) have been completed. The harmonisation of standards in other sectors, which are of priority for regional economic integration are progressing. These include agro-based products, cosmetics, fisheries, pharmaceuticals, rubber-based products, wood-based products, automotive, construction, medical devices, traditional medicine and health supplement sectors.

2.1.Mutual Recognition Arrangements (MRAs)

MRAs are agreements made between two or more parties who agree to mutually recognise or to accept some, or all, aspects of each other's conformity assessment of product standards.

ASEAN MRAs are concluded at the government-to-government level for product classes regulated by the governments. The ASEAN Framework Agreement on Mutual Recognition Agreements was signed in 1998 and it has provided a framework for ASEAN member states to conclude MRAs in different sectors.

The ASEAN Framework Agreement on Mutual Recognition Agreements was signed in 1998 (ASEAN Secretariat (n.d.)b) and since then three sectoral MRAs have been concluded in the areas of electrical and electronic, telecommunications and cosmetics. These agreements help avoid a duplication of approvals.

Working on the harmonising of standards, however, began in 1997 when 11 priority sectors were identified for harmonisation based on the added value to regional economic integration. These were agro-based products, cosmetics, fisheries, pharmaceuticals, rubber-based products, wood-based products, automotives, construction, medical devices, traditional medicine and health supplements. Later, logistics was added as the 12th priority integration sector.

Through these MRAs, products that are tested and certified before export can enter the importing country directly without having to undergo similar conformity assessment procedures in the country that is importing the goods.

MRAs are important in ASEAN as they help reduce costs for manufacturers and traders who now do not need to go through repetitive testing or certification processes and one test is enough. Avoiding duplicate testing also means that less time is needed before a product can be exported to another country. Secondly, MRAs enable manufacturers and exporters to know that their products meet the technical standards that are demanded in the importing country, hence giving them greater certainty of market access in the country they are exporting to. Thirdly, it leads to a freer flow of goods as it is an effective means of reducing non-tariff barriers. Lastly, through providing greater market access and reduced cost, MRAs lead to increased competition and innovation. Consumers too benefit as they are assured that the quality and safety of products they are purchasing/ consuming has been vetted.

As such, ASEAN countries have cooperated on standards and conformance in a bid to remove these technical barriers. The grouping has also implemented several Mutual Recognition Arrangements (MRAs) to meet its regional economic integration goals.

The ACCSQ works to harmonise national standards and to implement MRAs on conformity assessment to achieve its goal of “One Standard, One Test, Accepted Everywhere” (ASEAN Secretariat (n.d.)b). Thus far, all 10 member states have managed the harmonisation of standards for 20 priority products and 81 standards for safety and EMC. At present, the committee is working towards identifying new areas for harmonisation.

The *Mutual Recognition Arrangement for Electrical and Electronics* was signed by ASEAN Economic Ministers in April 2002, and the work on MRAs has accelerated since then. This agreement lays down the guiding principles for the acceptance or the recognition of conformity assessment results issued by the various CABs. It covers electrical and electronic equipment (EEE) that is connected to low voltage power supply or is battery powered. There are 22 testing laboratories and five certification bodies listed under the MRA. EEE products that have been tested and/or certified by a listed testing laboratory or certification body under the EE MRA would be accepted as having met the testing and certification requirements of ASEAN member states.

In the area of cosmetics, an Agreement on ASEAN Harmonised Cosmetic Regulatory Scheme was signed in September 2003. Under the first part of this agreement, which is an MRA, member states that are signatories have to recognise the product registration approval of any other signatory in keeping with the agreed rules and processes. The subsequent part of the agreement is the ASEAN Cosmetic Directive, which outlines requirements that cosmetic producers need to comply with.

The ASEAN Telecommunication Regulators’ Council Sectoral Mutual Recognition Arrangement (ATRC MRA) was developed in 1998 in keeping with the ASEAN Framework Agreement on Mutual Recognition Agreements and the APEC Telecommunications Working Group on MRA. The document was endorsed in 2001 (ASEAN Connect, (n.d.)). According to the ATRC MRA, parties will have to accept or recognise results of conformity assessment procedures, laid out by CABs in other countries in assessing the conformity of telecommunications equipment to the home country’s technical regulations (ASEAN Connect, (n.d.)). The first phase of the MRA

comprises the mutual acceptance of test reports, which implies that a piece of equipment that has been tested in the exporting country will not have to be retested in the importing country. The second phase comprises the mutual acceptance of equipment certification, which means that a piece of equipment that has been certified in an exporting country can directly enter the importing country without any repeated certification in the importing country.

Another big push has been in the area of pharmaceuticals, where attempts to remove TBTs in the area of trade have continued. ASEAN Common Technical Dossiers (ATCDs), which cover administrative data, quality and safety, and ASEAN Common Technical Requirements (ACTRs), which cover quality, safety and efficacy have been developed. The ACTD is common to all ASEAN members and ATCR is a set of guidelines helping in the preparation of application dossiers such that they are consistent with the requirements of all the ASEAN Drug Regulatory Authorities.

The ASEAN Sectoral Mutual Recognition Arrangement for Good Manufacturing Practice (GMP) for Manufacturers of Medicinal Plants was signed in 2009. It calls for the mutual recognition of GMP certificates and or inspection reports issued by Listed Inspection Bodies of ASEAN Member States within the scope of the MRA. MRAs for agro-based products and automotive sectors are being developed.

ASEAN is also developing the rules for the application of an ASEAN conformity-marking scheme, which will indicate whether a product is in conformity with the ASEAN Harmonised Technical Regulations/Requirements. The ASEAN Conformity Mark will demonstrate that the product has complied with harmonised requirements of the ASEAN member states.

One of the key debates surrounding MRAs is that whilst they help enhance the flow of goods between countries, they are not entirely in keeping with the principles of a single market. MRAs are often bilateral, with the more developed countries in the grouping taking the lead. This gives rise to the possibility of a two-stage harmonisation process with the more developed ASEAN economies entering into MRAs with other more developed ASEAN economies which they feel have compatible regulatory regimes and CABs that they can rely on to properly test and check products. This is because members are required to accept test reports on certifications that may be from laboratories or certification bodies of other countries. There would be trust and

reliability issues that may impede the harmonisation process. Over time, if the late developers in ASEAN are not brought on board through concerted efforts and technical and capacity building efforts, they may find difficulties coming onboard such agreements, which will impede the region's move towards its desired goal of a single market and a single production base.

2.2. Technical Regulations

Technical regulations in excess of what is necessary may become a technical barrier to trade. In applying technical regulations, ASEAN has adopted an approach of using international standards and practices and alignment with the WTO/TBT obligations, where possible. The ASEAN policy Guideline on Standards and Conformance adopted in 2005, sets the guiding principles for the implementation of joint efforts of ASEAN member states in standards and conformance. The ASEAN Good Regulatory Practice Guide provides a checklist for regulators to assist in the preparation and adoption of efficient regulatory arrangements that would improve the consistency and transparency of technical regulations, thereby reducing barriers to trade.

3. Beyond AEC 2015

As ASEAN moves closer towards its 2015 AEC target, it is clear that a lot has been achieved. The ASEAN leaders established the AEC vision, and 2015 will be a very important milestone on the route to this goal. It is worth noting that in the EU, the creation of the Single European Market had a target date of 1992. This date also was a key milestone for the EU, but the work continues even today to overcome barriers to trade and achieve regulatory integration through standards and conformance activities. ASEAN is steadily moving towards its goal.

The following five areas can serve as points of consideration for focus beyond 2015, based on current experience within ASEAN and observations from regulatory integration processes outside ASEAN:

1. Defining the benefits at both country and ASEAN level, particularly related to the private sector.
2. Identifying and addressing the priority barriers to maximise resource and impact.
3. Maximising the benefits of engagement with the private sector
4. Adding resource to deliver results.
5. Broadening out from the Priority Integration Sectors.

3.1. Defining the Benefits

ASEAN has achieved a great deal since it began its ambitious project to achieve the AEC. Much of this has been achieved through the communication of a common vision and the drive, commitment and time investment of many individuals working at the national and regional levels. The question is whether it is sufficient to rely on this ongoing commitment alone for the next phase in the creation of the AEC, particularly as experience of regional integration in other parts of the world, particularly the EU, show that this gets harder as the process continues.

A gap that is starting to be seen is the lack of definition of a central economic benefit related to the AEC within ASEAN. This benefit should define the value of what has been achieved so far and it should assess the potential economic benefits of the next stage of progress towards the AEC for the stakeholders: businesses, government and the people.

Defining the benefits of what has been achieved is of vital importance to galvanise efforts towards the future. This can, with a single template, be developed by the specific groups in cooperation, where appropriate, with the private sector. Such an approach must look backward and forward since many of the initiatives that have been finalised or are currently being developed will only bear economic fruit post-2015 when the implementation phase is complete.

Defining the benefits of what could be done with new initiatives post-2015 is more challenging, but achievable if the methodology of such work is applied commonly across current Priority Integration Sectors and if the work is expanded to a limited range of other sectors not currently subject to harmonisation initiatives.

For example, the food industry sector in ASEAN has already determined the potential benefits that could be achieved through the AEC. The contribution of agriculture alone to GDP in 2009/10 was significant: 50% in Myanmar and 33.4% in

Cambodia. The food processing and manufacturing industry also makes a significant contribution to GDP in ASEAN, ranging from between 3.5% in Indonesia to 13.5% in the Philippines. Equally, agro-based activities continue to account for relatively high levels of employment in several ASEAN member states: 72% in Cambodia, 40% in Indonesia and 42% in Thailand, for instance. Overall, in terms of value, food industry exports for six ASEAN countries (Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam) amounted to more than US\$68.6 billion in 2009.

As such, regulatory convergence and alignment of regulations and standards across ASEAN will have a crucial role in the continued development of this sector.

3.2. Identifying and addressing the priority barriers

As has been identified above, regulatory integration normally becomes harder and not easier as economies become increasingly integrated. The primary reason for this is that to build confidence, there is a natural tendency to target and achieve the easier and less nationally sensitive issues first.

However, these issues are not always the most economically important for ASEAN or for the individual member states. At this point, it is essential that an external review is carried out, both of the barriers and of the potential economic benefits of moving forward on tackling these issues. Such an assessment does not mean that initiatives should always move forward. The creation of the AEC is based on political commitment and there may be reasons why such political commitment does not exist in certain areas. However, these measures should still be defined and the economic benefits of addressing them should be determined, so that a more rigorous methodology for defining targets is in place.

External Review of Priorities in the EU

Since its creation in 1958, the European Union has gone through a number of phases in the area of harmonisation of food law. The focus in the beginning was almost solely on the agricultural sector with the common agricultural policy as the corner stone, initiated in 1962. Harmonisation of food standards was initially focused on vertical standards (product composition and quality), a process that proved extremely tedious and was largely ended by the publication of the EU White Paper on Completing the Internal Market in 1985. The focus of harmonisation shifted towards minimal harmonisation based on three objectives: to protect public health; to provide adequate information and; to ensure fair trade. The principle of mutual recognition became the primary mechanism to enable free movement of goods without the need for harmonised legislation. With the food scares at the end of the 1990s however, it became clear that food law was piecemeal, fragmented and only partially harmonised and that a food safety framework was needed. The 2000 White Paper on Food Safety has established the foundation of the EU food safety framework that is currently in place.

Today the European Commission is reshaping legislation in the context Smart Regulation. Under its REFIT (Regulatory Fitness and Performance Programme), the Commission is systematically reviewing legislation to see if its aims and objectives are being met in the most efficient and effective way, and to detect regulatory burdens and identify opportunities for simplification. Food legislation, being recognised as of major socio-economic importance and having extensive EU-level harmonised legislation, is one of the four economic sectors selected, covering 16 main policy areas.

All these initiatives are supported by extensive consultations with the stakeholders. While the European Commission's staff works out the initial assessments, external studies are envisaged. The results and outcomes will be submitted to public consultation, in the course of 2014 with a final report being foreseen in 2015.

One example would be the food industry. Various regulations co-exist in Southeast Asia that requires manufacturers to label the nutritional properties of their products. These requirements include on-pack declaration of nutrients such as energy, fat, sugars, proteins and carbohydrates. However, there are considerable differences between the 10 ASEAN member states, both in terms of the product categories and the underlying criteria. In Malaysia, for example, nutrition labelling is compulsory on some foods, including milk products, canned foods and soft drinks. In Indonesia it is only required on fortified and functional foods, and in Singapore it is mandatory for food products

bearing nutrition claims. In the Philippines, when a company chooses to place a nutrition label on the packaging, it must comply with specific requirements, which include the declaration of protein, fat, energy, carbohydrates, and the vitamin and mineral content of the product, as well as specific units of measurement: energy, for example, must be declared in kcal, j or kj. These differences and their technical specificities significantly impact cross-border marketing and can be a major consideration in decisions on whether to enter certain markets or manufacture regional products.

Today in the EU, every measure that comes forward in the area of Standards must be subject to an impact assessment. Are there benefits of such regulatory intervention? Who will benefit from such intervention? Are the benefits only for larger companies or also for small- and medium-sized enterprises? Will such initiatives increase or decrease the burden on regulatory bodies? These impact assessments are not perfect and sometimes controversial, but they act as a guide for regulatory bodies and build a reference point for why initiatives are taken at a certain time and on what basis. ASEAN is creating a shared history through the creation of the AEC. It is very important to substantiate this shared history as much as possible through data.

It may not be possible for ASEAN to introduce such a system of impact assessments or economic impact assessments in the future as has been done in the EU, considering the significant resources the EU allocates to this. However, one step in this direction is the potential engagement of the private sector in this process. Through the development of a single model for the development of such economic impact assessments, relevant ASEAN private sector bodies should be encouraged to substantiate economically their requirements for future integration initiatives.

The Asia Pacific Economic Cooperation (APEC) has an APEC Business Advisory Council (ABAC) that aims to complement APEC work by providing clear business perspective. In 2011, ABAC developed a framework based on the APEC Economic Committee's Good Practice Guide on Regulatory Reform with a focus on the following areas: designing regulations, regulatory institutions, regulatory impact assessment, consultation mechanism, enforcement mechanism and alternatives to regulation. Within each of these sections, ABAC identified best practices and recommendations on how regulatory coherence could be enhanced across the APEC region. In the next two years,

ABAC will move beyond general good regulatory practice (GRP) recommendations and develop practical methods of regulatory impact assessment (RIA) and increase cross border collaboration to develop effective and efficient RIA systems.

3.3. Maximising the Benefits of Engagement with the Private Sector

The results of private sector engagement in the AEC process are currently very mixed. A few sectors are well-organised and engaged. Others have no organisation and do not appear to be plugged into the importance of what is happening. If success has to be achieved in the two areas above, boosting engagement of the private sector must be a priority.

It is estimated the EU has more than 500 industry sector organisations, which engage with the EU bodies on regulatory issues, particularly related to regulatory integration and other trade initiatives (EU Transparency Register Joint Secretariat, n.d.). In ASEAN, on the other hand, there are currently just 19 accredited business organizations (ASEAN Secretariat, (n.d.)c.). It is true that the majority of these ASEAN groups relate directly to the priority integration sectors and have been created specifically to engage with ‘their’ product working group. Therefore, the cosmetic, health supplement, pharmaceutical and traditional medicine sectors are all organised and accredited to ASEAN. But this brings in only a small proportion of sectors which will be impacted by the broader horizontal initiatives being introduced by ASEAN and, importantly, which could attract greater investment into the ASEAN region.

Stakeholder Engagement in the EU

Stakeholder engagement is a key element of the legislative process in the European Union. It builds upon public consultations and often, external studies are commissioned to map out the views of the various stakeholders and identify policy options for legislative measures, especially in complex areas where views within society may be divergent. Smart Regulation requires legislative measures not only to be necessary and proportionate to its intended objectives but also to be effective and creating minimal administrative burden, therefore input and visions from parties that will be affected by legislation are critical elements to be included in the impact assessment that is required.

The Commission and European Parliament have set up a joint Commission and Parliament Transparency Register in which they invite stakeholders to register. Criteria for identifying stakeholders have also been established. These are based on the fact that stakeholders should have one or several of the essential characteristics below:

- Being affected by or capable of affecting a particular problem or issue and/or
- Being responsible for the problems or issues and/or
- Having perspectives or knowledge needed to develop good solutions or strategies and/or
- Having the power and resources to block or implement solutions.

This implies that stakeholders to be consulted may vary depending on the issue. The Commission maps out the stakeholders to effectively involve the core of the primary stakeholders in each consultation, as well as to reach out to the broadest spectrum of organised interests. Stakeholders will be identified from the Joint Register.

In addition the Commission has established standards and principles for consultations to be performed:

- Consultation shall be undertaken at the earliest possible stage in the decision-making process, when there is scope to influence the policy outcome.
- The consultation shall make clear its purpose, context and the process that will ensue after it closes.
- Contributors to consultations should be informed of any limitations that the Commission faces.
- Consultation should be targeted to make sure that the relevant stakeholders are involved.

Therefore, greater emphasis should be given to engagement with the private sector, to supporting information exchange, to developing mechanisms for feedback and support for the process, including expertise provision. ASEAN should consider creating a stronger culture of involvement, but this should be within a strengthened and clearer framework.

There are always risks in any process of engagement with stakeholders that unequal treatment will be given to one group over another. Often, there are cases wherein some sectors are consulted or invited to participate, while the others are not. The following areas should be considered to deliver on this goal and create a level playing field for engagement:

- Criteria for involvement based on at least representation and value delivered should be created for the private sector with common minimum standards applying to all sectors engaged at ASEAN level that wish to engage with the regional grouping.
- Criteria should be established for ongoing private sector involvement, including the provision of an annual report by each sector based on a common template. This report should include identification of the following:
 - Representation of the organisation. Some organisations may be primarily ASEAN companies, some primarily international. The composition of these organisations should be transparent to better promote engagement efforts by them to increase representation year on year.
 - Rules and processes should be established for engagement with Product Working Groups and other bodies, which are common across ASEAN.
 - The value that the organisation has brought over the previous year and intends to deliver in the coming year.
 - Measures that have been taken to involve small and medium sized companies, which form the backbone of the ASEAN economy.
- A clear commitment from ASEAN to the private sector on the minimum that they can expect from engagement if carried out according to the rules.

From observations across the current Product Working Groups, the involvement of SMEs would appear not to be at the level desired or necessary for ASEAN to feel confident for the future. A significant step up needs to be taken at particularly the national level but also regional level to engage with SMEs. This is however not in any way unusual and the same challenges with creating the conditions for engagement of smaller companies are felt worldwide.

However, experience from outside of the ASEAN region indicates that most SMEs get involved when it is too late, i.e. when the implementation phase of regulations is already impacting them. It is therefore recommended that in addition to the information dissemination activities to SMEs and to pressing industry associations harder to engage with a wider group of companies, a role should be created within ASEAN to look

specifically at SME impact across all sectors, and to actively go out and evaluate what this might be. This task may even be outsourced.

The Strategic Plan for ASEAN SME Development 2010-2015 outlines a framework for SME development in the ASEAN Region. The Plan also sets the mandate of the ASEAN SME Working Group (ASEAN SMEWG), which is composed of SME Agencies of all ASEAN Member Countries (ASEAN Secretariat (n.d.)d.). The ASEAN SME Advisory Board established in June 2011 was tasked to deliberate on the issues, challenges and provide policy inputs to support SME growth in the region.

It is also proposed that an Annual Report is adopted upon the establishment of the AEC in 2015 to monitor if the initiatives taken are considered, if progress is made and to identify the challenges that still needs to be addressed.

Lastly, as has been stated above, SMEs very often only get involved in legislative developments in the implementation phase. It is noted that member states may have variance in the implementation dates of measures agreed, sometimes by a matter of years. The option should also exist for some measures for differential application within a country depending on the size of the company. This has to be managed extremely carefully and is only appropriate in areas where capital expenditure may be required to come up to the ASEAN level. However, without such an approach there is a real risk that implementation dates will slip as only some segments of the market have managed to come up to speed on developments.

3.4.Focus on Implementation and Feedback

An agreement is only valid if it is implemented, enforced and, where possible, verified. The creation of the AEC is economically hugely significant for the region, for countries and for companies. It will inevitably influence many competitive factors among companies through shaping a new marketplace. Channels of communication between the private sector and the regulatory bodies at ASEAN level, as well as national level are essential. At this stage it is also important that the common issues that are being faced by industry in the various industry groups are identified and addressed. At present, industry associations are broadly working in isolation--although there are common issues-- since there is no mechanism for these to be addressed together. It is therefore recommended that at least once a year, small delegations of these groups meet

with representatives of the High Level Expert Group on the AEC and ASEC to deliberate on the achievements and challenges and identify, where possible solutions to issues which run across PWGs.

In addition, the private sector organisations should be asked to develop and present at this meeting their own scorecard of progress achieved, based on a survey method to be determined either centrally or by each industry sector. This will provide a very important reference point regarding the progress of the AEC as seen by the private sector. It goes without saying that this needs to be carried out in the traditional positive spirit that goes with all ASEAN meetings and the operation of this should be incorporated in the operational guide for associations wishing to engage with ASEAN.

The role of the ASEAN business associations and dedicated ASEAN industry associations based on the priority sectors of ASEAN will be critical. These organisations should not only serve as a feed back mechanism but should be involved at the planning to implementation stage of ASEAN economic initiatives. The ASEAN Business Advisory Council, which was created by the ASEAN Summit should be a key interlocutor with the ASEAN leaders helping to highlight the concerns, perceptions and expectations of businesses, including SMEs, as well as in coming up with initiatives to implement pertinent ideas and proposals, which will benefit the ASEAN business community.

The ASEAN BAC has been providing the leaders with reports on the implementation of the AEC from the business perspective as well as through surveys. The most recent of which was the competitiveness survey 2012 done together with the Lee Kuan Yew School of Public Policy in Singapore. While such surveys are useful, ABAC will have to muster its resources to look at priority issues that affects businesses and dive-in deep to find approaches to address such issues that the ASEAN governments could look into. Thus, instead of just taking a macro-approach to supporting AEC, ASEAN BAC should look at addressing the business issues of the day. ASEAN BAC should look at establishing a network of CEOs operating in the region so that they would be able to discuss issues and generate ideas that ASEAN could consider to make the business environment more friendly and efficient.

Similarly, the ASEAN sector specific industry associations should look at not only supporting the work of the ASEAN product working groups at the technical and

scientific level but articulating policy issues at the senior official and ministerial levels. The aim is to ensure that the policies related to AEC are supportive of trade and facilitate the ease of doing business in ASEAN rather than acting as hindrance to market liberalisation.

3.5.Adding Resource to Deliver Results

Any objective assessment of the results achieved by ASEAN while bearing in mind the human resource available would clearly conclude that ASEAN is performing very credibly. However, ASEC is clearly understaffed in the standards and conformance (S&C) area and there is a huge reliance on member state experts to deliver consistently high time inputs to deliver on goals.

There is a need for change, but it is not the purpose of this Chapter to define the human resource allocation. What is however required is a much clearer level of responsibility at a high level in ASEAN for the AEC, for greater levels of monitoring of progress – not just within the framework of the scorecard – for the meeting burden to be tackled, and for greater support for the Chairs of the Product Working Groups. The recommendations are set out below:

- At this point the responsibility for monitoring the S&C work lies with ACCSQ. While this group provides a valuable function, the vital importance of S&C for the creation of the AEC should be reflected in a high level group which takes greater responsibility for monitoring progress and for identifying and resolving blockages and challenges in the pipeline. A High Level Task Force on S&C could be considered that will help develop a vision and strategies for standards harmonization to support the free flow of goods under the single market of the AEC.
- The Chairs of PWGs take on a very significant responsibility. It should be evaluated if there is sufficient guidance available when challenging issues are being addressed. Specifically, the PWGs are involved in the development of frameworks and technical documents in which even one word can make a significant difference. These words may be legally significant but at present there does not appear to be an effective and responsive mechanism for getting legal clearance for the options being discussed. A legal review of the documents may take place when they have been adopted, but it needs to be considered whether this is too late in the process. There is a real risk that lengthy and

challenging discussions may need to be reopened on an agreement reached months or even years before solely because the legal checks have not been carried out. It is therefore recommended that the Legal Service of ASEAN should have a focused contact point for the Chairs of the PWGs to go to for legal opinion, whether direct or through the ASEC representative in the meeting.

- It is well understood within a number of the Product Working Groups that one of the most valuable contributions the private sector can provide is in the provision of technical and scientific expertise, often from outside the region. This can bring core value and can help speed up progress towards agreement. It is proposed that this role should be identified and clarified in the context of the rules for engagement of the private sector and that an operational guide for this should be established, including case studies on good practice.

3.6. Broadening out from the Priority Integration Sectors

The decision to focus on Priority Integration Sectors in the first stage of AEC creation was an inspired decision. It has allowed focus, it has permitted resource allocation, which does not burden national authorities or the ASEC too excessively, and it is delivering results.

However, is the solution to expand to other sectors or is it to bring forward more ‘horizontal’ measures in the S&C area? There are a few questions that need to be addressed in order to move forward in this area, including:

- Which group within ASEC is going to be responsible for such measures which cover all sectors?
- How can the value of such measures be identified?
- Should such an expansion focus on sectors that are showing progress such as automotives, electronics, textile etc.?

One example of an initiative, which can bring value is the creation of an ASEAN product safety regulatory framework, defining broad product safety requirements, consumer redress issues and the like. This has been developed in the EU with considerable success and it has bypassed the need to create many specific measures for individual product sectors.

For starters, ASEAN has to ensure that the priority sectors see these differences in standards and conformance addressed such that they can lay the basis for increased

standardisation and conformance across other products too. It can also do more to align the interests of institutions dealing in standards and conformance and other stakeholders such as regulators and other agencies to ensure that there is more alignment in measures that can be implemented. It is also critical to get greater involvement from the private sector in standards and conformance, such that they are aware of all the rules and regulations pertaining to the classification of their products across countries in this region.

ASEAN needs to invest more capital and human resources in the whole process. Standards and conformance measures are difficult to harmonise, often because of different objectives of different governments, and sometimes also because the true benefits of standardization and conformance are not viewed in the same light by all the members. Budgets need to be increased and clearer guidelines need to be laid out to make the whole process smooth and free of delays. More information is needed as well, particularly to convince manufacturers and suppliers of the benefits of adhering to standards and conformance initiatives. This will require investment in research, collecting of data and the dissemination of information.

Most importantly, in order to achieve its standards and conformance targets such that they do not hinder the region's progress towards the AEC, ASEAN needs strong leadership and political will at the national and the regional level. Member states themselves have to be convinced that the implementation of these measures, while appearing to be possibly cumbersome and expensive at present, will eventually enhance trade and will benefit their respective economies in due course. That is, the short-term challenges will be mitigated by the medium to longer-term prospects that the harmonisation of standards will bring about.

The more developed member states need to help, in some capacity or the other, the less developed ASEAN member states such that they can come to grips with standards and conformance and so that they can monitor products they manufacture. The more developed economies have to make attempts to bring the lesser developed economies on board the whole process such as the divide between them and the late developers does not deepen.

The ASEAN Secretariat supported by the various Dialogue Partners has to play a critical role in driving towards standards and conformance in the region. This will

include promoting awareness about the benefits of harmonised standards and conformance measures and encouraging all the 10 ASEAN member states to contribute to the whole process. It also needs to promote greater communication and coordination between agencies that are involved such that the harmonisation of standards and conformance can be attained more easily.

Many of ASEAN's policies in addressing NBTs will continue beyond 2015 as they deal with more complex beyond the border issues that require more deliberation still and necessitate changes in national regulations and laws. Once ASEAN attains its AEC goal, measures including those relating to intellectual property rights will become more important. One of the goals should therefore be to lay the basis for what will be done after 2015 while pushing ahead with what has to be done by ASEAN by 2015.

The objectives and aspirations of ASEAN have constantly evolved over time from initially being focused on achieving closer economic cooperation to deeper economic integration. As the objectives of ASEAN evolve as it builds its economic community, it is essential that all working groups and committees are nimble and adaptive to the changing requirements to ensure the free flow of trade and the credibility of AFTA.

One of the key challenges for ASEAN in addressing the harmonisation of standards and conformance is the lack of well-established structures. The region has set itself ambitious goals but the ASEAN Secretariat still only has limited powers and sway over member states, as compared to the European Parliament, for example. For an organisation structured the way the ASEAN Secretariat is, it is imperative to make full use of all the resources at hand. Member states have the most important role to play as they need to buy into the philosophy of the single market and production base. The removal of NTBs hence requires a commitment on the part of member states to arrive at a common ground.

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ENDNOTES

¹ At the ASEAN Summit in January 1992, the ASEAN Heads of Government agreed to establish an ASEAN Free Trade Area (AFTA) by the year 2008 to open up their economies in the era of globalization. A free trade area would allow the companies within the ASEAN region to take advantage of the economies of scale. The main implementing mechanism of AFTA is the Common Effective Preferential Tariff (CEPT) Scheme Through the CEPT, ASEAN Member States shall have common effective tariffs among themselves in AFTA but the level of tariffs vis-à-vis non-ASEAN countries shall continue to be determined individually.

² ASEAN Secretariat (n.d.)a.

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