

# Europe–Asia Connectivity

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## A CASE FOR LABOUR MOBILITY

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**T**his paper will focus on the people-to-people aspect of connectivity, looking at the policies on the movement of people developed across the European Union (EU) and the Association of the Southeast Asian Nations (ASEAN). These are the main regional integration frameworks from the two continents part of the Asia–Europe Meeting (ASEM) that have introduced different models of internal labour mobility and have as well initiated among themselves diverse cooperation programmes linked to mobility of people. Building on the policy practices within the EU and the ASEAN, the paper will discuss how these experiences could be extrapolated to the ASEM context, addressing both opportunities and challenges raised by the mobility of people. The study will first present the current EU free movement regime. Secondly, it reviews the ongoing ASEAN reforms on labour mobility, rights of migrants, and border control, especially as foreseen for the 2015 ASEAN Economic Community (AEC) and the 2025 ASEAN Vision. Finally, it will discuss existing cooperation instruments between the two subregions that address mobility of people. It is expected that policy experiences within the EU and ASEAN regarding human mobility will provide a basis to enhance policy collaboration on people-to-people connectivity within a broader Asia–Europe framework. The paper draws on primary data gathered through expert interviews across the EU and ASEAN, along with document analysis of trade treaties and other official records from the two regions.

## Introduction

In many parts of the world, regional cooperation on cross-border movement of people has intensified since the 1990s. While the European Union (EU) integration project has included the mobility of workers from the onset as one fundamental principle of the single market, other regional integration frameworks, including the Association of Southeast Asian Nations (ASEAN), have started more recently to address the (partial) liberalisation of internal mobility flows as part of their broader economic integration efforts.

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While mobility of labour was not a part of the original Declaration (1967) establishing the ASEAN, with the proposal to build the alleged ASEAN Economic Community (AEC), officially launched at the end of 2015, ASEAN has sought to achieve an integrated region where goods, services, investment, and skilled labour move freely, and the flow of capital is substantially improved (ASEAN Secretariat, 2008, 2009). The AEC Blueprint underlines the need for ‘the movement of business persons, skilled labour, and talents’ as a key element for achieving greater economic integration in the region. The objective of facilitating the movement of skilled labour and talent has been also reiterated in the current ASEAN Vision 2025 and AEC Blueprint 2025 (ASEAN Secretariat, 2015a, 2015b). The mobility of skilled labour within ASEAN has mainly followed the agenda on services trade mobility, institutionalised at the multilateral level by the 1995 World Trade Organization General Agreement on Trade in Services (GATS) under the so-called ‘mode 4’ temporary movement of specific categories of skilled persons. Services-related mobility has been also complemented by the so-called Mutual Recognition Arrangements (MRAs) that would allow specific professionals to practise in other member countries. The EU has adopted a much wider mobility regime, which nowadays covers basically the free movement of all EU citizens, which together with capital, goods, and services constitute the four fundamental freedoms of the European single market act (Art. 18 EC).

This paper looks at the policy models on the movement of people developed by the EU and ASEAN, together with the existing cooperation mechanisms between the two regional settings, and discusses prospects for wider policy cooperation within the Asia–Europe Meeting (ASEM) framework. The EU has established collaboration ties with the ASEAN states already from 1977 and today it also encompasses aspects related to migration management, exchanges on migrants’ rights (part of the 2012 ASEAN–EU Plan of Action) or educational programmes that cover student mobility and the development of regional qualification frameworks (within the so-called READI [Regional EU–ASEAN Dialogue Instrument] regional dialogue). Within the particular framework of ASEM dialogues, exchanges on international migration between the participating states were initiated in 2003 under the alleged ASEM Conference of the Directors-General of Immigration and Management of Migratory Flows with the scope of strengthening links between members’ immigration authorities and to permit exchanges of information and of good practices in the field of international migrations. While collaboration on border management and security aspects linked to migration is only one dimension of migration governance, other policy instruments could be devised within the ASEM to enhance cooperation on people-to-people connectivity. Based on the subregional mobility policies developed by the EU and ASEAN and their collaboration programmes, the paper will discuss prospects for further policy cooperation in the ASEM context.

A review of existing labour mobility models within the EU and ASEAN is presented below, while also assessing the cooperation instruments established between the two subregions and more broadly, as part of the ASEM, with policy recommendations based on the labour mobility regimes in place in ASEAN and the EU that could be extended to the ASEM level.

## EU Free Movement of People

The full free movement of EU workers was introduced in 1968 with Regulation 1612/68. Following the decision in the 1987 Single European Act to fully realise the single market by 1992, the free movement norm was extended from the group of workers to the economically inactive and today covers all EU citizens as well as their foreign relatives. Special provisions apply to the service sector for persons who maintain their employment contract with an employer in their home country and stay enrolled with their home country social security systems but move to another EU country to work for a period of up to two years. These ‘posted workers’ are excluded from the need of a work permit and do not need to go through a recognition of their professional qualifications (Directive 96/71/EC).

EU migrant workers and their family have the right to the same taxation and shall enjoy the same social advantages as compared to their fellows in the host state (e.g. child raising allowances, right to education for children, etc.). EU member states have coordinated social security systems and established a framework that mutually recognises qualifications (Deacon et al., 2011). Social rights for third country nationals have been addressed in the EU Long-Term Residents Directive (2003/109/EC) and the EU Family Reunification Directive (2003/86/CE).

A strong symbol of the free movement regime finally is the abolition of controls at the internal borders of the EU, which was decided in the 1985 Schengen Agreement and realised in 1996. This abolition of internal border controls was taken as impetus for cooperating on external migration to the EU. The conditions for crossing the EU external border, visas for stays shorter than three months, and wide sections of asylum policy are regulated by EU rules. Although the EU lacks a full-fledged competence on economic immigration from third countries, directives have been adopted concerning specific groups such as the highly skilled (for example, the recently adopted directive for intra-corporate transferees, 2014/66/EU), students, researchers, or seasonal workers.

The mobility regime has been extended to a few non-EU member states having special association status with the EU. Full freedom of movement has been introduced through the Treaty on the European Economic Area of 1992 with the remaining members of the European Free Trade Association and Switzerland by bilateral treaty of 1999. Trade-related agreements with chapters on services concluded by the EU with third countries have also

incorporated specific labour mobility provisions. Most of these cover the category of intra-corporate transferees, but there are also exceptions that give rights to service suppliers de-linked from commercial presence, as is the case of the agreement signed with the Cariforum countries. The free trade agreements (FTAs) with South Korea (in force from 2010), Columbia and Peru (concluded in 2011) are also cases where broader GATS mode 4-type of provisions have been granted, in particular with regard to the duration of stay and the categories of people entitled to move.

In institutional terms, the EU's supranational bodies and, in particular, the Commission and the European Court of Justice assure the monitoring and enforcement of EU law. Through the preliminary rulings procedure, the court has also played an important role in the full realisation of the internal mobility regime.

To summarise, the EU's free movement regime is the most comprehensive model covering mobility for all citizens and guaranteeing equal social rights. Cooperation on external migration policies has also evolved considerably over time. The EU disposes of a common visa policy; a harmonised system of external border controls; common standards for dealing with asylum claims; and directives on legal migration including the rights of long-term resident third country nationals in the EU, family reunification, and common rules on the admission of highly skilled workers, researchers, students, and intra-corporate transferees.

## Movement of People within ASEAN

Mobility of labour has become an important topic for ASEAN with the 1995 Framework Agreement on Services (AFAS), adopted in the same period as the services trade liberalisation agenda at the World Trade Organization level, namely, the GATS. Member state's leaders agreed to transform ASEAN into a region with 'free movement of goods, services, investment, skilled labour, and freer flow of capital' (ASEAN Secretariat, 2008). In particular, this covers the temporary cross-border of skilled labour linked to establishment, in the form of intra-corporate transferees and business visitors. Cambodia and Viet Nam allow mobility of contractual service suppliers, service providers delinked from commercial presence, however subject to domestic regulations. In 2012 members signed the Agreement on Movement of Natural Persons (MNP) that basically incorporates all mobility commitments initially included in the AFAS. Nevertheless, the MNP is not yet in force. Labour mobility linked to trade have been pursued also in extra-regional agreements, or bilaterally, through FTAs signed by various ASEAN members. These agreements are sometimes broader in scope compared to the level of mode 4 liberalisation achieved within the region. For example, the ASEAN–Australia–New Zealand FTA (signed in 2009) covers more categories of service suppliers and social rights for migrants and their families. Australia grants full working rights to family members for those service suppliers staying in its territory for more than 12 months.

Intra-regional mobility is also promoted via the MRAs for professional services, covering so far eight professions: engineering, accountancy, architecture, surveying, nursing, dental and medical practitioners, and tourism. Nevertheless, an MRA does not automatically grant ‘free movement’ as domestic immigration procedures or language barriers can seriously restrict the mobility of professionals (Ravenhill, 2008). Travelling within the region for up to one month is visa-free for ASEAN nationals, but work visas remain subject to domestic regulations. Low or unskilled labour mobility is not part of the regional cooperation agenda.

With the official launched of the AEC, ASEAN leaders have further developed a road map for regional integration covering the upcoming 10 years, objectives stated in the Kuala Lumpur Declaration adopted end of November 2015, entitled ‘ASEAN 2025 – Forging Ahead Together’. The mobility of skilled labour is one dimension of the ASEAN 2025 document, which should be realised with the enforcement of the MNP Agreement and the further development of the MRAs, within what the ASEAN states term a ‘people-oriented and people-centred community’ (ASEAN Secretariat, 2015a).

Mobility of people trigger also questions about the rights of migrants. These aspects have been covered in the regional Declaration on ‘Protection and Promotion of the Rights of Migrant Workers’ (Cebu Declaration) signed in 2007 by the ASEAN Leaders. The declaration aims to safeguard the rights of migrants and their families in accordance with national laws and regulations and calls for appropriate employment protection, wages, and living conditions, as well as for coordination on anti-trafficking policies. While the declaration has not yet been ratified domestically, there are some intra-ASEAN bilateral memoranda of understanding, specifying conditions for domestic migrant workers related to duration of stay, language requirements, or immigration procedures that further address migrants’ rights. As in the case of skilled mobility, reforms are envisaged that would secure the rights of migrants.

Finally, aspects concerning external border control have been discussed mainly outside ASEAN, within the so-called Regional Consultative Process, the Bali Process. Co-chaired by Australia and Indonesia, the Bali Process has a limited focus on security related to people smuggling and trafficking and the fight against irregular migration among its members (Harns, 2013, 62). More recently, the management of external border control has further gained importance on the political-security agenda of the ASEAN Community. The evolving policy debate within this pillar has been revolving around measures that would allow coordinated border patrols, possibly a travel card for business persons within ASEAN and a common visa policy for non-ASEAN nationals.

It should also be noted that in terms of legalisation and enforcement of the above-discussed policies and norms, commitments on mobility inscribed in AFAS are binding rules. However, ASEAN is an intergovernmental organisation without an independent body responsible for monitoring implementation and enforcement (Nikomborirak and Jitdumrong, 2013).

Table 1 summarises the main goals to address regional migration across the three pillars of the ASEAN Community.

Table 1: Migration and Labour Mobility Cooperation in ASEAN	
ASEAN Community	Migration and Mobility Cooperation
Political-security	<ul style="list-style-type: none"><li>• Strengthen criminal justice responses to trafficking in persons</li><li>• Protect victims of trafficking</li><li>• Explore an ASEAN business travel card to facilitate the movement of business people among ASEAN member states</li><li>• Explore the feasibility of an ASEAN common visa for non-ASEAN nationals</li><li>• Strengthen cooperation on border management</li></ul>
Economic	<ul style="list-style-type: none"><li>• Facilitate movement through issuance of visas and employment passes for business and skilled labour</li><li>• Recognise professional qualifications</li><li>• Implement and develop new MRAs</li><li>• Human resource development in the area of services</li><li>• Core competencies and qualifications in priority services</li><li>• Strengthen labour market programme capacities</li><li>• Expand and deepen commitments under the ASEAN Agreement on MNP where appropriate</li></ul>
Sociocultural	<ul style="list-style-type: none"><li>• Human resource development</li><li>• Promote decent work</li><li>• Protect and promote rights of migrant workers</li><li>• Support the implementation of the Cebu Declaration</li></ul>

Source: Authors’ compilation based on AEC Blueprints and other official documents.

In sum, intra-ASEAN movement of natural persons has sought to deepen regional economic integration and a series of reforms have been initiated to achieving this goal, notably the developments occurring within AFAS/MNP and the establishment of various MRAs. The commitments undertaken by ASEAN members so far have been confined to skilled labour mobility related to investment and commercial presence. The flow of lower-skilled workers is not covered in the AEC. Various ASEAN-third country agreements and bilateral FTAs signed by individual member states have broader commitments on mobility of natural people, covering mobility at different skill levels and sometimes extending rights to the families of the main applicants. Rights of migrants from ASEAN are mainly dealt with bilaterally, complemented by dialogues and exchanges of best practices at the regional level. Cooperation on security aspects has taken place in a separate venue, the Bali Process. However, aspects on external border management and mobility of people have been also incorporated in the political-security pillar of the ASEAN Community.

The intergovernmental structure of ASEAN and the consultative nature of the Bali Process do not entail any supranational law enforcement or monitoring bodies, except for the mobility-related commitments undertaken in trade agreements, which are binding obligations for the signatory parties.

## EU–ASEAN Cooperation on Mobility of People

The EU (European Economic Community at that time) established contacts with ASEAN back in 1972, and had formally launched the ASEAN–EU Dialogue instrument in 1977. The dialogue relations were institutionalised with the signing of the ASEAN–EEC Cooperation Agreement in 1980 and have since rapidly grown and expanded into dialogues and programmes covering a wide range of areas including political and security, economic and trade, social and cultural, as well as developmental cooperation. Aspects related to migration, part of broader economic, political, security, and sociocultural cooperation, are found in the current ASEAN–EU Plan of Action 2013–2017. For instance, through the support for the ASEAN Political–Security Community, the Union initiated the EU–ASEAN Migration and Border Management Programme I and II, with the aim to improve border management. With financial and technical support from INTERPOL, the EU has been supporting the development of an Integrated Border Management System in the region in order to facilitate the legal movements of goods and persons, and better combat transnational crime, irregular migration, and human trafficking across ASEAN (EU Delegation Jakarta, 2013). To this end, the EU stated its support for the implementation of the 2011 ASEAN Leaders’ Joint Statement in Enhancing Cooperation against Trafficking in Persons in Southeast Asia through measures such as information sharing and the use of technologies relevant to border management and document security. As initial outcomes, the EU programme has helped ASEAN states improve the cooperation among their border management bodies and has enhanced cooperation on information exchanges between INTERPOL local offices and INTERPOL General Secretariat (EU Delegation Jakarta, 2013). The current assistance in the area of migration and border management is a programme of €3.4 million designed to address the agenda on people-to-people connectivity in ASEAN, by strengthening law enforcement and cooperation at main regional transit hubs. A study on easing visa requirements for ASEAN and third country nationals entering the region is also part of this cooperation.

Aspects related to rights of migrants are to be found under cooperation on broader human rights initiatives, with the EU giving full support to the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children. Matters related to human rights are also reiterated under sociocultural cooperation, with the EU engaging in policy dialogues and financing programmes in the region that promote human rights, including the well-being of migrant workers (EU Delegation Jakarta, 2013). Policy changes on human rights,

and indirectly the rights of migrants, could also be addressed through trade agreements. The EU has been negotiating several bilateral treaties with some ASEAN members using the sustainable development chapters of these agreements to include human rights considerations, in line with the relevant United Nations and International Labour Organization (ILO) conventions.

As part of the support for the sociocultural community, the EU has also been endorsing greater student mobility in the region and has initiated programmes that will contribute to the harmonisation of the recognition systems between higher education institutions in ASEAN. It contributes to improving the comparability of university qualifications and the ease of transferring credits through the development of Qualification Framework and Assurance systems. Several aspects related to education and student connectivity as well as human rights were as well tackled through the regional EU–ASEAN Dialogue Instrument, READI, which received €4 million funding throughout 2011–2014 and is expected to be topped up by €3.3 million to further support the ASEAN’s Human Rights System (EU Delegation Jakarta, 2013).

## ASEM Dialogue on Migration

ASEM, founded in 1996, represents an important process of dialogue and cooperation between European and Asian countries that brings together 53 partners, including the EU, its member states, the ASEAN and its Secretariat, together with other states from the two continents. Part of the political pillar, exchanges on international migration were initiated in 2003 under the ASEM Conference of the Directors-General of Immigration and Management of Migratory Flows with the scope of strengthening links between members’ immigration authorities and to permit exchanges of information and of good practices in the field of international migration. So far 13 conferences were organised, with discussions covering mostly aspects related to migration control and management of migration flows. While cooperation on border management and anti-irregular migration action is also part of the various EU–ASEAN subregional programmes, EU/ASEAN leaders have further developed other instruments within their regions and among themselves to address human mobility, policy experiences that could serve to broaden the ASEM agenda on cross-border flow of people. In the next section, the paper will explore such possible cooperation opportunities and how these could be linked up with existing cooperation processes and initiatives developed within the social–cultural–educational and economic pillars of the ASEM.



## Conclusions and Policy Recommendations

The EU has in some respects pioneered the development of regional migration policies, with its free movement regime, and has gradually expanded its migration policies into its external relations with third countries through trade relations as well as other instruments. ASEAN has opted for a more selective intra-regional labour mobility model, following mainly the World Trade Organization/GATS agenda on temporary mobility of skilled labour. Multiple EU–ASEAN cooperation instruments have been developed covering technical support and financial assistance for the ASEAN governments to address labour mobility, rights of migrants, and border management policies. While labour mobility in ASEAN is an ongoing reform process, the political commitment to enhance mobility of people at the regional level is part of the current 2025 ASEAN Vision. Building upon the policy experiences of these two subregions, along with the existing cooperation programmes between the EU and ASEAN, ASEM could offer a platform for further cooperation on mobility of people between wider Asia and Europe, while also providing an impetus for ASEAN states to advance their regional labour mobility policies. Cooperation on labour mobility within ASEM could be enhanced through already-existing working institutions to which concrete operating instruments could be devised. In particular, developing collaboration programmes on the movement of people could start with the following:

**Labour mobility.** Since 2006, ASEM has initiated the alleged ‘Labour and Employment Ministers’ Conference’ that tangentially also covers aspects related to labour mobility, mainly on aspects concerning skills recognition to facilitate job mobility and employability of young people. This existing cooperation venue could be further strengthened and used to develop schemes that enable labour mobility between participating states. Mobility rules included in the service chapters of trade agreements signed between the EU and ASEM countries, as well as pertinent provisions under the GATS, could be a first area to look at. Discussions could focus on barriers to mobility encountered in states’ practices, such as visa issuing procedures, labour market tests, numerical quotas, or national language requirements that may impede service trade-related labour mobility in practice. Along with discussions on skills recognition, education qualifications could also be addressed within this setting. Encouraging horizontal discussions among relevant public and private stakeholders, dialogues could engage actors such as ministries of education, vocational training institutions, and private companies facilitated, for instance, through the Asia–Europe Business Forum. An outcome could lead to initiating a feasibility study to identify the professions for which MRAs could be concluded, models already in place among several states of the Asia-Pacific Economic Cooperation (APEC) and within ASEAN, as portrayed above. With input from the above-mentioned stakeholders, the study could first identify sectors of the economies across the two continents and among the states where labour mobility would be deemed feasible. This would be complemented by defining the technical criteria needed in the process of education and skills recognition. To this end, the policy experiences of the partners already

engaged in such skills and/or education recognition processes would play an important role in creating a common understanding of such practices and helping build consensus on solutions and their practical implementation.

**The Asia–Europe Foundation (ASEF)** is an institution of the ASEM, with the capacity to initiate and carry out programmes on *labour mobility* cooperation. ASEF has already organised workshops on the topic, engaging labour migration experts from the government, non-governmental organisations, international organisations, the private sector, and academia from the two continents. Drawing upon this experience and the outcomes of the previous work, new initiatives and policy suggestions could be devised by the ASEF in collaboration with international organisations active on labour mobility policies throughout Asia and Europe, among which are ILO and the International Organization for Migration (IOM) and other foundations focusing on labour mobility and migration more generally from the two continents. Their work should be submitted to relevant ministries from ASEM, in particular, immigration authorities and economic, social, and labour entities from the member states, and serve as a knowledge base for policies to be devised within the ASEM context.

**Student/academic mobility.** ASEM’s Education Ministers’ Conference could be the key institution addressing mobility of students between Asia and Europe, by proposing policies that enable degree recognition among academic institutions. Here the experience of the EU with ERASMUS programmes is of particular importance. Also, dual degree programmes could facilitate student and academic staff mobility between the two regions.

**Rights of migrants.** ASEF could also play a key role with regard to policies on the rights of migrants, in collaboration with other entities from ASEM, e.g. the Labour and Employment Ministers’ Conference as well as other organisations from Europe and Asia, and international organisations, such as ILO and the International Organization for Migration (IOM). Having already gained substantial expertise on human rights in general, through the various seminars organised on the topic, ASEF could engage actively with the relevant stakeholders and prepare policy recommendations on migrants’ rights. Such recommendations could be further advanced on the agenda of the high-level Conference of Labour and Employment Ministers.

In sum, for an enhanced people-to-people connectivity and facilitated flow of labour across Asia and Europe, ASEM, as a dialogue and policy cooperation forum, could consider a holistic approach to mobility, where aspects covering economic-related mobility, academic/student exchanges, rights of migrants, as well as control and border management are discussed together. In addition, enabling a horizontal coordination among key state and non-state participants concerned by human mobility would foster policy discussions and open the door for exchanges of good practices in the field, while at the same time enabling the design and implementation of concrete policies.

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