

# Chapter 20

## Multilevel Institutional Approaches to Support Deeper Integration in ASEAN

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This chapter should be cited as  
Hoekman, B. (2025), 'Multilevel Institutional Approaches to Support Deeper Integration in ASEAN', in Rillo, A.D and B. Shepherd (eds.), *Where Next? Priorities for the ASEAN Economic Community Post-2025*. Jakarta, Indonesia: Economic Research Institute for ASEAN and East Asia, pp. 453-470.

## 20.

# Multilevel Institutional Approaches to Support Deeper Integration in ASEAN

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## 1. Introduction

The Association of Southeast Asian Nations (ASEAN) Economic Community (AEC) aspires to become a single market where goods, services, people, and capital can move freely across members' borders. Unlike formally institutionalised common markets, such as the European Union (EU), the AEC does not have supranational institutions. ASEAN operates as a free trade arrangement, with ASEAN Member States (AMS) retaining sovereignty over external trade policies for non-ASEAN states. In contrast to customs unions such as the East African Community or the South African Customs Union, ASEAN does not impose a common external tariff or require a mechanism to share collected import tariff revenue. As extensively analysed in the literature (e.g. Pelkmans [2024]), ASEAN's model is unique. It views integration as a means to achieve economic growth and regional security rather than as an end in itself, avoiding the ambition of formal economic, monetary, or political union. Members retain control over economic and regulatory policies whilst balancing negative integration (commitments to limit specific policies, such as tariffs) and positive integration (measures to adopt common regulatory standards, good regulatory practices or mutual recognition of standards amongst AMS) to facilitate intra-ASEAN trade, investment, and mobility. Cooperation is based on a goal-setting strategy (Young, 2017) and informal intergovernmental organisation (Vabulas and Snidal, 2013; Snidal and Vabulas, 2021).

In considering institutional arrangements to deepen integration amongst AEC members post-2025, this chapter takes as its premise that moving towards additional legally binding treaties, pooling of sovereignty, and delegation of decision-making and enforcement to supranational bodies is neither in the cards nor necessarily desirable for dealing with the extent of emerging regional and global challenges. Instead, the chapter discusses mechanisms and institutional approaches that deepen regional cooperation whilst conforming to ASEAN's revealed preference for a goal-oriented, soft law, and coordination model.

This chapter is structured as follows: Section 2 reviews the current state of ASEAN's institutionalisation. Section 3 examines intergovernmental arrangements and institutional approaches that could further deepen intra-ASEAN trade integration and respond to a rapidly changing regional and global geo-economic landscape. Section 4 explores domestic regulatory regimes and security cooperation. Section 5 outlines conclusions.

## 2. The ASEAN Institutional Framework<sup>1</sup>

Many observers have long argued that ASEAN lacks sufficient institutionalisation to achieve its stated objective of creating a single integrated market for goods, services, investment, and the movement of people (Pitakdumrongki, 2017). This perspective often assumes that successful market integration requires creating common institutions with the power to initiate, enforce, and adapt rules and commitments made by AMS and to revise legislation and rules to keep them fit for purpose as circumstances change. Comparisons to the European Union (EU) – generally recognised as the most successful regional economic integration agreement – frequently underlie this view, either implicitly or explicitly.<sup>2</sup> In ASEAN, however, the member states retain control over the integration process and associated cooperative efforts, supported by a Secretariat with very limited agency and no decision-making authority or delegated powers.<sup>3</sup>

Consequently, ASEAN's institutional framework has evolved as a complex and multifaceted network, comprising an ever-expanding constellation of councils, committees, working groups, task forces, initiatives, programmes and projects that address an ever-increasing number of issues and policy areas.<sup>4</sup> This structure engages a diverse range of government agencies within ASEAN states and includes collaboration with external partners. The networked, member-driven nature of ASEAN adds to this complexity by enabling initiatives that do not necessarily involve all AMS, embodying a variable geometry approach. This flexibility extends to the actors involved in projects and initiatives, which may comprise sub-national government bodies (e.g. municipalities), international organisations, and non-ASEAN partner countries. As discussed subsequently, ASEAN's flexible structure allows for experimentation with institutional arrangements to achieve deeper integration across policy domains, an approach less constrained than the hard law-based frameworks of common markets.

Since its creation in 1967 as an informal intergovernmental organisation aimed at enhancing regional security through dialogue and cooperation around shared values, ASEAN has taken periodic steps to establish and strengthen its institutional framework. A major step towards institutionalisation occurred in 2007 with the adoption of the ASEAN Charter, transforming ASEAN into a formal intergovernmental

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<sup>1</sup> This section draws extensively on information provided on the ASEAN homepage. For a succinct yet comprehensive discussion of ASEAN's many components involved in economic integration, see Elms (2020).

<sup>2</sup> A substantial body of regionalism literature also examines this subject. See, for example, Sbragia (2008) and Börzel and Risse (2016).

<sup>3</sup> For an analysis of the history of the ASEAN Secretariat, see Nair (2016).

<sup>4</sup> ASEAN's documentation includes an extensive array of acronyms, comparable to, if not exceeding the acronym density found in EU documents.

organisation, whilst still largely limiting delegation, pooling, and associated sovereignty costs. The apex decision-making body in ASEAN is the Leaders' Summit, where heads of state meet annually. The ASEAN Coordinating Council (ACC), comprising ministers of foreign affairs, who meet twice a year, is responsible for implementing summit decisions and preparing the summit agenda. The ACC operates in consultation with, and is informed by, three domain-specific community councils: the ASEAN Political Security Community (APSC), the AEC, and the ASEAN Socio-Cultural Community (ASCC). Several other ASEAN bodies report to the ACC, including the Joint Consultative Meeting, the Committee of Permanent Representatives, and ad hoc working groups on specific issues, such as the Working Group on Public Health Emergencies or those addressing requests for membership (currently Timor-Leste).

The three community councils function at the ministerial level, with each AMS designating a minister responsible for implementing the council-specific Blueprints. The Blueprints, adopted by the ASEAN Summit, outline the goals within each of the three broad domains, or pillars. The current Blueprints run through 2025.<sup>5</sup> The community councils are linked to and oversee the work of sector- and issue-specific working groups, working committees, and task forces of national officials, who address the policy areas defined by ASEAN Summit agreements and decisions. Each community council convenes twice a year. The APSC and ASCC are usually represented by foreign affairs ministers, mirroring the ACC, whereas the AEC Council includes ministers in charge of economic affairs, often overseeing trade and industry. Each council is chaired by the minister from the member state holding the ASEAN's rotating chairmanship for the year.

The APSC Council is responsible for implementing the APSC Blueprint, which focuses on political development, norm-setting, conflict prevention and resolution, and post-conflict peace-building mechanisms. Unlike the other two community councils, its activities are largely centred on dialogue and coordination rather than joint action. The ASCC Council, tasked with implementing the ASCC Blueprint, is supported by the senior officials committee for the ASEAN Socio-Cultural Community (SOCA), which fosters collaboration amongst ASCC sector bodies, including establishing working groups for specific issues areas as needed. The Coordinating Conference on the ASCC (SOC-COM), a subsidiary body meeting at least annually, gives SOCA technical and operational support. SOC-COM includes representatives from ASCC sector bodies, the Committee of Permanent Representatives, relevant bodies from the political security and economic pillars, ASEAN entities and the ASEAN Secretariat. Similarly, the AEC Council coordinates the work of AEC sector ministerial bodies,<sup>6</sup> supported by national senior economic officials and the ASEAN Secretariat. The Secretariat works closely with national economic officials to monitor, coordinate, and consult with sector ministerial bodies on implementing the AEC Blueprint measures. Community council meetings are generally preceded by preparatory meetings of senior officials. For example, the AEC Council meeting is preceded by a senior economic officials meeting and includes subsidiary bodies such as the ASEAN Free Trade Area (AFTA) Council and the ASEAN Investment Area (AIA) Council. These preparatory meetings ensure that national officials from line ministries and sector regulators regularly interact on ASEAN-related matters, discussing the state of play in areas covered by the Consolidated Strategic Action Plan, which lays out actions to be pursued at the national level.

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<sup>5</sup> A high-level task force was established in 2022 to draft suggestions for the ASEAN Community Post-2025 Vision.

<sup>6</sup> The national ministries meet regularly, exemplified by the ASEAN Finance Ministers' and Central Bank Governors' Meeting, which addresses a range of ASEAN initiatives pertaining to financial services regulation, liberalisation, and taxation. The finance ministers and central bank governors oversee working committees, working groups, and task forces dealing with matters ranging from implementing financial services liberalisation under the ASEAN Framework Agreement on Services and its successor, the ASEAN Trade in Services Agreement. They also manage initiatives within the ASEAN Banking Integration Framework, capital account liberalisation, and the enhancement of the bilateral tax treaty network amongst AMS.

Given the cross-sector nature of many policy areas and issues addressed by the Blueprints and associated action plans, platforms have been developed to promote coordination across ASEAN bodies and policy coherence amongst national government agencies. Key initiatives include ASEAN connectivity and integration programmes that seek to bridge development gaps amongst member states.<sup>7</sup> The Initiative for ASEAN Integration supports this goal, focusing on financial aid and technical assistance from more developed AMS, with support from partner countries and international organisations, to bolster infrastructure, human resources, and information and communication technology networks in Cambodia, the Lao People's Democratic Republic (Lao PDR), Myanmar, and Viet Nam, enhancing their capacity to meet ASEAN commitments (ASEAN, 2020).

The Committee of Permanent Representatives, comprising national ambassadors, supports the work of the community councils and sector ministerial bodies and acts as a liaison between AMS and the ASEAN Secretariat. Permanent missions of AMS coordinate closely with their ASEAN national secretariats, which serve as focal points for implementing ASEAN decisions. The ASEAN Secretariat, based in Jakarta and led by a secretary-general with a 5-year non-renewable term, supported by four deputies from different AMS, provides administrative services and support. Its mandate is to 'facilitate and coordinate ASEAN stakeholder collaboration in realising the purposes and principles of ASEAN as reflected in the ASEAN Charter' (ASEAN, 2024).

With a budget of approximately US\$22 million to US\$25 million and a staff of 400 (Nair, 2016; Elms, 2020),<sup>8</sup> the Secretariat is relatively small for an intergovernmental organisation with ambitions to establish an economic community. The Secretariat's limited discretionary budget results in a high dependence on in-kind contributions from member states and grants from non-ASEAN partner countries, such as Japan, Australia, New Zealand, the United States, European countries, and the EU, amongst others. Resources from these donors support ASEAN-related cooperation projects and programmes. Since 2009, over US\$1.8 billion has been allocated to such activities, distributed across socio-cultural (45%), economic community (40%), political and security (9.5%), and cross-cutting connectivity and capacity-building projects (5%).<sup>9</sup> The complementary ASEAN Foundation promotes community building by fostering awareness of the ASEAN identity, encouraging people-to-people interactions, and supporting collaboration amongst the business sector, civil society, academia, and other stakeholders.<sup>10</sup> The ASEAN Infrastructure Fund, co-funded and administered by the Asian Development Bank (ADB), provides loans for infrastructure projects across the region, with the bank serving as the lender of record for the initiatives.<sup>11</sup>

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<sup>7</sup> The first objective seeks to attain 'a seamlessly and comprehensively connected and integrated ASEAN that will promote competitiveness, inclusiveness, and a greater sense of Community'. The initiative focuses on strengthening physical, institutional, and people-to-people linkages, guided by the Master Plan on ASEAN Connectivity 2025, which encompasses five areas: sustainable infrastructure, digital innovation, seamless logistics, regulatory excellence, and people mobility.

<sup>8</sup> No recent budget figures have been published by the Secretariat. One reason for the limited budget scale is ASEAN's commitment to equal financial contributions from all AMS (Article 30 of the ASEAN Charter), which differs from gross domestic product or trade-weighted contributions used in many other international organisations. However, differentiated contributions are applied in some ASEAN-related bodies, such as capital contributions to the ASEAN Infrastructure Fund (Menon and Fink, 2019).

<sup>9</sup> In 2022, approximately US\$65 million was disbursed, with almost 80% allocated to socio-cultural and environment-related projects (ASEAN, 2023a).

<sup>10</sup> The ASEAN Foundation had a budget of US\$2.6 million in 2022, mostly sourced from corporate contributions (some 70%) and external partners (20%).

<sup>11</sup> The fund includes an inclusive finance facility and an ASEAN catalytic green finance facility. To date, it has committed US\$520 million to nine projects, with a total portfolio of around US\$3 billion, including co-financing from ADB. For more information, see ASEAN (2024).

Several consultative mechanisms and associated entities complement ASEAN's core bodies. Created in 2009, the ASEAN Intergovernmental Commission on Human Rights serves as a consultative body tasked with promoting and protecting human rights and fundamental freedoms. The ASEAN Inter-Parliamentary Assembly offers a platform for parliamentarians from member states to interact on ASEAN-related matters, whilst the Council of ASEAN Chief Justices facilitates similar dialogue amongst judicial leaders. These bodies, however, are limited to consultation and dialogue, lacking any co-decision-making powers, and are officially designated as 'entities associated with ASEAN'. The Charter allows for the accreditation of associated entities, provided they adhere to ASEAN's purposes, principles, policies, and decisions.<sup>12</sup>

To help realise a more integrated economic community, AMS have negotiated several agreements, including the AFTA, which encompasses the ASEAN Trade in Goods Agreement, the ASEAN Framework Agreement on Services – transformed into the ASEAN Trade in Services Agreement in 2019 – and the ASEAN Comprehensive Investment Agreement. The agreements are binding and enforceable through arbitration and dispute settlement panels, as stipulated by the ASEAN Protocol on Enhanced Dispute Settlement Mechanism, the latest version of which came into force in June 2022. These agreements reflect ASEAN's gradual transition towards greater formalisation, or legalisation, in certain domains of economic policy. According to the ASEAN website, ASEAN has concluded 74 legal instruments, including agreements on trade liberalisation in goods and services, along with various associated protocols.<sup>13</sup> The coverage of services liberalisation has gradually expanded with the addition of protocols – 12 to date. Other agreements include the ASEAN Services Facilitation Framework (2024), the ASEAN Agreement on the Movement of Natural Persons (2012, updated in 2022), and the 2019 ASEAN Agreement on Electronic Commerce. ASEAN has developed numerous mutual recognition arrangements (MRAs) for goods and services providers,<sup>14</sup> including the recent 2023 ASEAN Authorised Economic Operator Mutual Recognition Arrangement (ASEAN, 2023b).<sup>15</sup> Some of the MRAs emphasise good regulatory practices, including the use of international standards. For example, the 2024 ASEAN Food Safety Regulatory Framework Agreement references international standards and regulatory practices promoting consistency across member states.<sup>16</sup>

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<sup>12</sup> The ASEAN Charter defines five types of entities: members of parliament and the judiciary, think tanks and academic institutions, civil society organisations, business associations, and other stakeholders. There are currently around 80 accredited entities, including 48 civil society organisations and 16 business organisations (ASEAN, 2024).

<sup>13</sup> See ASEAN Legal Instruments. [https://agreement.asean.org/search/by\\_pillar/2/12.html](https://agreement.asean.org/search/by_pillar/2/12.html) (accessed 27 April 2024).

<sup>14</sup> For example, on engineering services, nursing services, architectural services, surveying qualifications, medical practitioners, dental practitioners, accountancy services, and tourism services, as well as good manufacturing practice inspection for manufacturers of medicinal products.

<sup>15</sup> The goal is to ensure that an authorised economic operator (AEO) certified in one AMS is recognised by authorities in other AMS countries, allowing for faster cargo within ASEAN. The AEO MRA aligns with standards set by the World Customs Organization SAFE Framework, aimed at securing and facilitating global trade.

<sup>16</sup> Research suggests that the various service MRAs have had limited effectiveness in promoting intra-ASEAN exchanges and temporary movement of professionals (ASEAN and World Bank, 2013; Fukunaga, 2015; Hamanaka and Jusoh, 2016; Intal, 2017; Menon et al., 2018).

ASEAN's numerous trade-related agreements are complemented by trade agreements with partner countries, including Australia, China, Hong Kong, India, Japan, New Zealand, and the Republic of Korea. Many of these agreements were complemented by the 2020 Regional Comprehensive Economic Partnership (RCEP), which includes ASEAN alongside Australia, China, Japan, New Zealand, and the Republic of Korea. Each free trade agreement established joint committees and subsidiary bodies to oversee the implementation and operation of the agreement, supervise and coordinate the work of these bodies, and consider issues pertinent to the operation of the agreement. Formal dispute settlement mechanisms in the more comprehensive agreements, including RCEP, follow the approach used in the 1947 General Agreement on Tariffs and Trade: single-stage binding arbitration by tribunals (panels) if consultations and mediation fail to resolve the matter.<sup>17</sup>

### 3. Mechanisms to Support Trade Integration: Beyond Monitoring

This brief overview of ASEAN's institutional framework illustrates the multifaceted and complex nature of ASEAN cooperation. Member states define broad goals, set specific targets, and implement actions through a mix of formal and informal mechanisms. Although ASEAN's trade agreements and national trade commitments are binding and enforceable, dispute settlement processes are rarely used. When AMS have sought arbitration for trade disputes, they have generally done so through the World Trade Organization (WTO). The underlying assumption is that implementing agreements is in each member's national interest, with the recognition that varying national priorities and capacity constraints call for gradual, differentiated implementation and the provision of technical and financial assistance. Notably, external parties – including multilateral development banks and non-ASEAN partner states – play an important role in providing such assistance.

ASEAN's success is conditional on national actions to achieve agreed targets and mutual support mechanisms to address political economy factors that affect the incentives of national interest groups to either support or oppose reforms (Das, 2017; Jones and Hameiri, 2020; Denney et al., 2024). ASEAN trade agreements have effectively removed tariffs on intra-ASEAN trade in goods. However, less progress has been achieved in reducing the trade barriers posed by non-tariff measures (NTMs), notwithstanding efforts to facilitate trade by reducing red tape at borders through initiatives such as single windows, authorised economic operator programmes, and other trade facilitation measures. Slow progress in reducing trade costs associated with NTMs and regulatory heterogeneity reflects political economy dynamics within ASEAN states, capacity constraints amongst lower-income members, and the lack of penalties for failing to implement good regulatory practices.

Realising and sustaining deeper market integration calls for institutional frameworks to define goals and guide concerted action amongst AMS. This is essential both in areas of formal commitments, such as trade liberalisation, and in areas of voluntary cooperation, where the focus is on identifying and adopting agreed good practices. So far, ASEAN's approach has centred on defining broad visions (the Blueprints),

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<sup>17</sup> There is no second-stage appeal process, such as the appellate body introduced by the WTO in 1995. Dispute settlement mechanisms generally do not apply to disputes concerning sanitary and phytosanitary measures, electronic commerce, economic cooperation, or competition.

strategic action plans, and monitoring national actions to implement commitments and meet agreed goals or targets. Monitoring contributes to reporting, dialogue, and mutual peer review amongst AMS, assessing both compliance with specific agreements and performance based on outcome indicators.

The 2007 ASEAN Charter assigns a monitoring function to the ASEAN Secretariat, although it does not specify the coverage or process. In 2008, the AEC Scorecard was introduced to monitor and assess progress towards market integration (ASEAN, 2010), measuring the implementation of the AEC Blueprint 2015 measures by AMS. The scorecard relied on a self-assessment system rather than standardised metrics. There were two versions of the AEC scorecard: an internal (confidential) version, reporting implementation details to ASEAN economic ministers and summit meetings, and a version intended to be published biannually (Rillo, 2017). The ASEAN and World Bank (2013) initiative, a joint venture to assess ASEAN economic integration achievements, expanded on the scorecard approach. Although originally intended as a regular report, it was only published once, as a decision was made to discontinue the scorecard exercise.<sup>18</sup>

Das (2012, 2017) and Sukma (2014) assess the implementation of the AEC Scorecard, highlighting a common criticism: the approach to measuring compliance involved a binary characterisation of commitment implementation (i.e. yes or no), without adequately examining the effects of implementation. In 2015, ASEAN reported that 93% of the Blueprint 2015 trade-related commitments had been attained (Das, 2017), yet there was no analysis of whether or to what extent this performance yielded tangible benefits for ASEAN stakeholders. The scorecard approach has since been replaced by the AEC Monitoring and Evaluation programme, which abandoned the simplistic binary characterisation of compliance in favour of monitoring sector work programmes and activities using specific key performance indicators, such as utilisation rates of zero-duty regimes and growth in the share of intra-ASEAN trade and investment flows (ASEAN, 2017), as well as reporting a range of socio-economic indicators. However, these broader indicators are not necessarily driven by ASEAN activities, and there is no assumed causal relationship between the outcome indicators and ASEAN programmes or projects. These general indicators are published in the ASEAN Community Progress Monitoring System reports, issued at 5-year intervals. The first report was issued in 2007, followed by reports in 2012 and 2017 (ASEAN, 2017).

It remains unclear what value these periodic reports add, given that many performance indicators are not directly associated with ASEAN agreement implementation or national commitments. Many indicators used in the monitoring reports are compiled and reported by international organisations such as the World Bank, the United Nations Economic and Social Commission for Asia and the Pacific, and the World Economic Forum. There is a need to focus on documenting extant policies pertinent to ASEAN's core programmes and projects, assessing their evolution over time – specifically, whether the policies align with the objectives and goals of the ASEAN Blueprints. The assessment includes evaluating whether there is convergence across ASEAN states in policy usage, a reduction in sector regulatory heterogeneity, and changes in the trade costs for firms in committed policy areas. It includes analysing the economic effects of policy changes along with the opportunity costs of not achieving agreed policy reforms across AMS. Such information is necessary for fostering informed dialogue, drawing lessons from past actions, and understanding what has worked, what has not, and why. These processes are critical for identifying reasons behind observed progress shortfalls and, perhaps even more importantly, recognising factors that have contributed to successful reforms. Such insights are key to designing approaches that address specific issues impeding progress within individual countries or groups of countries.

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<sup>18</sup> The ASEAN–World Bank report appears to have faded without impact. A subsequent think tank report assessing ASEAN integration, issued 5 years later by Menon, Todd, and Arujunan (2018), does not even reference it.



To establish an effective starting point, institutional mechanisms must be in place to generate and regularly update information on current and evolving applied policies, allowing for consistent tracking of changes over time. Whilst the scorecard approach focused narrowly on formal compliance – typically as reflected in legislative or regulatory adoption or amendments – assessing the implementation status of actions to achieve agreed goals is important. Rather than defining compliance in narrow legal terms, which may be of limited salience from an economic perspective and ASEAN's commitment to adopting growth-promoting and regionally stabilising good practices, the emphasis should shift towards tracking progress and outcomes. Consequently, monitoring activities should prioritise applied policies and their actual effects.

International organisations already collect data on many policies. Information on NTMs affecting trade in goods is collected by the United Nations Conference on Trade and Development (UNCTAD) and the International Trade Centre (ITC); services trade policies are compiled by the World Bank, the WTO, and the Organisation for Economic Co-operation and Development (OECD); and investment policies are tracked by UNCTAD. Independent academic initiatives, such as Global Trade Alert (GTA) (2024), further enhance these efforts by monitoring trade-related policies in real time. All these efforts cover ASEAN countries, enabling AMS and the Secretariat to use the data to assess policy trends, which is essential for realising ASEAN's economic integration goals. The process has been, and continues to be, utilised effectively. Examples include collaboration between the Economic Research Institute for ASEAN and East Asia (ERIA) and UNCTAD to collect NTM data, assess differences in product-specific NTMs across AMS, and track trends over time, as well as to estimate the tariff equivalents of NTMs (Ing, Fernandez de Cordoba, and Cadot, 2016; Ing and Cadot, 2017; Knebel and Peters, 2019). The ASEAN Secretariat has collaborated with the World Bank to assess progress in integrating ASEAN markets for goods, services, and investment (ASEAN and World Bank, 2013).

NTMs are often linked to domestic product regulation and thus apply equally to domestic and foreign products. From a trade facilitation perspective, the challenge lies in reducing unnecessary trade restrictions undercutting the regulatory objectives underlying specific NTMs, such as consumer health and safety or environmental protection. This can be done through harmonisation, which involves adopting common standards, or through mutual recognition of conformity assessments and certification regimes. In practice, however, NTM regimes may unnecessarily impede trade due to the way they are enforced at borders by government agencies or due to redundant requirements, such as duplicate paperwork or inspections that have already been undertaken by authorities in another ASEAN state. Reducing these trade-impeding effects of NTMs is particularly complex given that national authorities remain responsible for both setting and enforcing standards. A commitment to cooperation requires a problem-solving mindset, supported by a multi-track institutional framework that identifies approaches to reducing NTM-related trade and administrative costs.

In the ASEAN context, several proposals have been made to address these issues. Ing et al. (2016) and Ing and Cadot (2017) propose creating an institutional mechanism within the ASEAN Secretariat to foster NTM transparency through continuous NTM data collection and dissemination, coupled with a trade facilitation fund for training, infrastructure improvements, and related support. They propose creating or leveraging existing national NTM committees to review NTMs at the national level. Ing and Cadot (2017) note that the committees should be endowed with technical staff capable of performing analytical reviews and producing recommendations for regulatory reforms to be submitted to policymakers. Regulatory bodies in AMS have such capacity and could share staff training with assistance from the ASEAN Secretariat and development partners, providing soft regulatory convergence through shared methodologies and concepts. Findlay and Hoekman (2021) suggest leveraging national committees on trade facilitation (NCTFs), which bring together different government agencies responsible for border

regulations and include private sector representation (e.g. business associations or chambers of commerce).<sup>19</sup> All AMS have NTFCs, as mandated by the WTO Trade Facilitation Agreement, and these can serve as focal points for convening representatives from line ministries. ASEAN governments could use NCTFs to solicit inputs from the private sector on NTM-related trade and investment barriers and to discuss options for policy reform and enhanced regulatory cooperation.

A similar approach can be applied to services trade and digital policies that affect trade. As with NTMs for goods, various international organisations and academic initiatives have engaged in compiling information on applied services trade policies and regulatory measures affecting trade and investment in services, including digital services and regulations on cross-border data flows. The World Bank and the WTO, alongside the OECD, have compiled services trade restrictiveness indices (STRIs) by collecting granular information on applied policies. Similar efforts are underway for digital trade. For example, the European University Institute, working with the UN Economic Commissions, has compiled a database on digital trade policies (Ferracane, 2022). As with NTMs affecting trade in goods, these data provide a basis for tracking changes in applied policies and analysing their impacts on trade and investment. Such analysis is important for identifying priority areas for reform and fostering cooperation amongst AMS, enabling them to better realise regulatory goals whilst facilitating greater trade in digital services. Such an analysis could be done by the Secretariat in collaboration with these organisations or ERIA. Recent progress includes a joint project between the ASEAN Coordinating Committee on Services and the OECD, aimed at compiling ASEAN-specific services trade restrictiveness indicators for logistics, telecommunications, construction, and computer services (OECD, 2022).

Greater transparency and analysis of trade-related regulations can be complemented by adopting specific trade concern (STC) processes, akin to those used by the WTO, with an emphasis on addressing NTM-related trade costs through problem-solving. In the WTO committees on sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBTs), STCs facilitate discussions on new or modified technical product requirements under consideration or adoption by members. Similar trade concerns are also discussed in other WTO bodies.<sup>20</sup> Most STCs are resolved through dialogue amongst officials with expertise in both the technical and the legal or economic aspects of the given policies. The large number of STCs relative to formal dispute settlement cases, particularly regarding measures justified by national security, highlights the value of STC given the increasing invocation of national values and security concerns to justify trade measures (Hoekman, Mavroidis, and Nelson, 2023). In ASEAN, adopting an STC approach would not require notification processes as in the WTO. Instead, it could be based on data from the UNCTAD/ITC NTM database, STRIs, and digital trade restrictiveness measures, with the GTA providing a valuable source of information on recent policy measures and a basis for technical-level dialogue amongst member state officials.<sup>21</sup> An STC process would benefit all members, including those receiving inquiries, by supporting ASEAN integration goals and serving as a platform for learning and understanding the effects and effectiveness of policies.<sup>22</sup> Deliberations around STCs would provide an opportunity to discuss the policy objectives underlying specific measures and identify feasible

<sup>19</sup> These committees are required by the WTO Agreement on Trade Facilitation. See Hoekman (2016) and Belastegui (2020).

<sup>20</sup> Since 1995, some 6,000 questions – similar to STCs – have been raised within the Committee on Agriculture (CoA) review process. From mid-October 2014 to mid-October 2019, over 1,150 concerns were raised in 129 formal meetings of 17 WTO committees and councils, excluding the SPS and TBT committees and the CoA (Wolfe, 2020).

<sup>21</sup> The WTO Trade Policy Review Mechanism serves as a potential complementary source of data, although it covers fewer policy measures.

<sup>22</sup> The activities suggested here can and should add value to existing policy compilations by evaluating the extent to which policies are applied differentially in intra-ASEAN transactions, an aspect that current databases only capture to a limited extent.

instruments to achieve these goals more efficiently and at a lower cost to international trade. Analysing the effectiveness and opportunity cost of policies could also serve as a counterbalance to the limited, if any, consideration often given in domestic policymaking to the possible consequences of policy choices on third parties. Allowing trade officials to raise questions in an ASEAN committee could stimulate domestic discussions on the trade effects of regulations that may not have been thoroughly considered during the policymaking process.

The community of national trade officials and regulators driving ASEAN's work can contribute to incorporating trade concerns into domestic policymaking, raising awareness of the opportunity cost associated with specific NTMs. An important benefit of an STC process and the resulting dialogue within ASEAN lies in the reluctance of members to use dispute settlement mechanisms. An STC approach is much less adversarial and fosters an understanding of national constraints and contexts. It offers a pathway for ASEAN-based cooperation to support AMS in addressing capacity or political economy challenges that impede the implementation of agreed good practices.

#### **4. Supporting Regulatory Regionalism Through Experimentalist Governance Frameworks**

Jones and Hameiri (2020) characterise ASEAN as an example of regulatory regionalism, where goals and agreed good practices (rules) are established for implementation by government agencies. Rather than empowering ASEAN institutions, such as the Secretariat, regulatory regionalism focuses on transforming member states to align with mutually agreed, regionally defined goals. This cooperative approach confronts two basic challenges: obtaining consensus on what constitutes good practice and ensuring the implementation of agreed good practices in specific policy areas. Whilst defining good practice is primarily a technical matter that can be addressed by national regulators and officials, implementation encounters both capacity limitations and political economy constraints. Interest groups that perceive reforms as contrary to their interest may oppose and block the adoption of new norms (Jones, 2015). Since implementation remains a national responsibility, interagency conflicts and bureaucratic competition can impede progress towards adopting better practices (Das, 2017). Karim, Irawan, and Mursitama (2021) analyse Indonesia's experience with the 2014 ASEAN Banking Integration Framework, showing how domestic political economy forces – particularly resistance from local banks more focused on protecting their home market than expanding into other ASEAN markets – led to the limited adoption of this ASEAN framework.

Institutional mechanisms that adopt multi-level, inclusive governance approaches can help address policy-related trade frictions by assessing whether regulatory measures pursue similar goals and whether enforcement systems are equivalent. Achieving such alignment requires a shared understanding of regulatory purposes (identifying the problem to be solved), the possible responses, and the best approach given local conditions. Progress in these areas can be made through a series of tasks (Findlay and Hoekman, 2021):

1. Improving transparency of applied policies through dialogue and learning.
2. Undertaking independent analysis of policies, their objectives, and their impacts.
3. Consulting and exchanging information on the objectives of regulatory policies and the regulatory regimes used in each country to implement national policies.
4. Identifying alternative options and defining good practices.
5. Identifying reform constraints, including political economy forces, and identifying practical responses based on experience.

Such a process can create a body of agreed technical knowledge and goodwill amongst national regulatory agencies. Haas (1992) refers to stakeholders and experts linked in this way as an epistemic community. Engaging with salient epistemic communities facilitates international cooperation in policy domains that require substantial technical knowledge as a foundation for cooperation. Haas defines such communities as groups of professionals who share the following:

- Normative and principled beliefs that provide a value-based rationale for the community's actions.
- Causal beliefs, derived from their analysis of practices to address problems in their domain, that serve as the basis for understanding linkages between possible policy actions and desired outcomes.
- Validity standards, including criteria for weighing and validating domain-specific knowledge.
- Common practices aimed at addressing problems to enhance social welfare.

The literature on experimentalist governance provides a framework for designing institutional mechanisms that support a bottom-up process to achieving integration goals (Marx et al., 2022). The experimentalist approach is characterised by four core features: (i) stakeholders commit to a non-hierarchical decision-making process; (ii) shared problems are identified and open-ended goals are agreed upon to address them; (iii) responsibility and discretion are delegated to lower-level actors with contextualised knowledge to implement these goals in their respective settings; and (iv) regular feedback is provided through monitoring, evaluation, and peer review, which informs policy and practice revisions (de Búrca et al., 2013). In this approach, state actors and relevant stakeholders jointly define goals and associated metrics (baselines and targets), delegate implementation to lower-level governance actors, and recognise that interventions must remain flexible and dynamic. Effective operational monitoring, performance analysis, and feedback are essential to support learning and adjust processes and joint actions to achieve common agreed objectives. This continuous feedback loop is a critical element, distinguishing this type of monitoring and evaluation (M&E) from traditional M&E, which typically serve as a retrospective accountability measure. Here, M&E function as a diagnostic tool for problem-solving, providing insights to refine and adapt policies over time as goals evolve (Kuznetsov and Sabel, 2017).<sup>23</sup> Building institutions capable of linking experimental efforts across countries could accelerate the design of regional regulations (Menon and Fink, 2019).

Experimentalist governance approaches require states to cooperate with stakeholders to define goals and approaches for achieving them. Whilst ASEAN has traditionally been reluctant about delegating functions, there are notable examples. One is the ASEAN Infrastructure Fund, which provides a platform for public-private partnerships for investments required under the ASEAN Connectivity Masterplan. ASEAN has delegated the fund's management and administration to ADB, entrusting ADB with operational responsibilities on ASEAN's behalf (Menon and Fink, 2019). Costoya (2022) provides an early

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<sup>23</sup> The approach parallels the shift in development economics towards diagnostics and experimentation. See, for example, Rodrik (2010).

example of experimentalist governance within ASEAN: the Smart Cities Network, which involves city-to-city partnerships, bringing together city governments and local stakeholders to pool knowledge and coordinate actions around shared goals such as smart infrastructure and addressing climate action. Although this network addresses a common problem through open-ended goals, it involves multiple stakeholders in non-hierarchical decision-making. Although it delegates responsibility and discretion to lower-level actors, it lacks an institutionalised feedback and peer-review mechanism for continuous improvement of rules and practices. Cotoya argues that the Smart Cities Network should extend beyond mere reporting and monitoring and be backed by an ASEAN entity 'tasked with discovering across member states scalable and replicable real sector projects in the area of smart and sustainable urbanization'.

Hoekman and Sabel (2019) discuss how experimentalist governance can be further implemented through open plurilateral agreements (OPAs) between states. This cooperative model is flexible, allowing varying levels of intra-ASEAN participation and the inclusion of non-ASEAN actors. OPAs can complement trade agreements and foster domain-specific integration. Plurilateral initiatives present a pragmatic, efficient path forward for like-minded states to pursue shared goals, especially in areas such as digital economy regulation, cross-border data flows, and climate change mitigation. OPAs enable countries to deepen cooperation beyond the scope of trade agreements such as RCEP. Embedding plurilateral initiatives in the WTO framework offers both participants and nonparticipants a means to uphold a multilateral, rules-based trade order, even as cooperation increasingly operates through variable geometry in a multipolar economy. AMS, such as Singapore, are already pursuing digital economy agreements. Expanding these to cover more ASEAN states and allowing non-ASEAN economies to participate would promote both intra- and extra-ASEAN trade and investment flows. Such efforts are already in train, reflected in the decision by ASEAN leaders in 2023 to launch negotiations on a Digital Economy Framework Agreement in support of an open, secure, interoperable, competitive, and inclusive regional digital economy (ASEAN, 2023c).

## 5. Platforms for Leveraging the Private Sector and Epistemic Communities

A central aspect of these recommendations is the compilation of information on applied policies, analysis of their effectiveness, and engagement with diverse stakeholders, including the private sector and civil society organisations. Such collaborative co-production has potential payoffs in terms of technical design and implementation of blueprints because of greater perceived legitimacy and ownership of ASEAN cooperation and associated national reforms.

Whilst ASEAN has progressively increased its engagement with civil society and business organisations, this interaction has mostly been limited to consultation and dissemination activities rather than collaborative efforts with civil society organisations (CSOs). Research indicates that CSOs perceive ASEAN as technocratic and dominated by state-to-state interactions, with limited inclusivity in decision-making processes. Gerard (2015) argues that ASEAN's inclusion of civil society functions more as a means to legitimise market-building reforms, with participatory mechanisms largely limited to supportive groups. Chandra, Abdulrahim, and Almuttaqi (2016) note that engagement processes, such as annual meetings between ASEAN bodies and CSOs, reflect the agenda and interests of AMS and lack sufficient diversity. To enhance these processes, ASEAN should move beyond viewing engagement as a one-way dissemination

channel for its programmes and projects. Instead, it should seek meaningful feedback and input from non-state stakeholders. This shift implies a need to relax the restrictive criteria for becoming an associated entity and to involve CSOs actively in tracking the progress of adopted recommendations.

The ASEAN Secretariat and the ASEAN–Business Advisory Council (BAC) have been pursuing such an approach that should be bolstered and widely adopted. Acting as a business consultative mechanism, the ASEAN–BAC reports annually to the AEC Ministerial meetings and the ASEAN Summit on its activities, including meetings and interactions with ASEAN governments, joint business councils (with counterpart business associations from ASEAN trading partners),<sup>24</sup> and the Secretariat. Each year, ASEAN–BAC launches legacy projects, which enable businesses to support the implementation of the AEC Blueprint and broader ASEAN objectives through concrete projects or programmes rather than limiting their contributions to government recommendations. However, Karim and Heryanto (2022) note that ASEAN–BAC suffers from understaffing and inadequate financing, as its regional secretariat is funded by the previous year’s chair country.

Menon and Fink (2019) argue that the imperatives of regional governance call for agile and flexible approaches that enable governments to respond rapidly to changing circumstances whilst still addressing market failures and attaining non-economic objectives. Essential to this approach is rapid learning and the integration of insights from businesses and other stakeholders into rule-making processes. They suggest that the ASEAN Secretariat evolve into a platform organisation supporting an ecosystem of multi-stakeholder expert groups. The Secretariat would convene and oversee the composition of working groups, guiding them in developing policy proposals for ASEAN endorsement, which, if approved, would be ratified by each AMS and adopted into domestic law. To fulfil this role effectively, the ASEAN Secretariat would need a larger budget and expanded staffing to operate the platform model effectively.

A valuable approach for bringing together an epistemic community is through a knowledge platform, a forum designed to foster substantive, evidence- and analysis-based discussions of the impacts of sector-specific regulatory policies. Such platforms involve businesses, officials (such as trade policy officials), and regulators, with analysts contributing value by interpreting policy information and helping to safeguard the public interest. The objectives of such platforms are consistent with approaches long employed by some inter-governmental organisations. The OECD, for example, already serves as an institutional hub for this type of engagement.

Business support and engagement are essential and set this model apart from existing government–stakeholder consultation mechanisms. Private sector actors bring direct, practical insights, which analysts can build on by evaluating the costs involved in businesses’ adjustment strategies and the potential benefits of reforms. For businesses, the value of such collaborative analytical engagement lies in the opportunity to address cost-raising issues. This benefit can be especially significant for smaller firms, which often face greater challenges adapting to NTMs. More generally, active business engagement allows consideration of the implications and needs arising from shifts in market conditions and technological innovation.

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<sup>24</sup> There are about a dozen such ASEAN+1 councils, complemented by sector- or issue-specific associations, such as the ASEAN Youth Entrepreneurs Council and the ASEAN Women Entrepreneurs Council.

A potential response to these challenges, proposed in the trade policy literature, is the creation of supply chain partnerships. These partnerships bring together key actors in global value chains (GVCs) to identify trade frictions and determine whether policy changes could help reduce them (Hoekman, 2014). The concept is similar to public–private policy dialogue platforms, online knowledge portals, and regional or national roundtables established by international organisations to pursue objectives such as environmental sustainability and corporate social responsibility.<sup>25</sup> The concept is related to multi-stakeholder initiatives focused on private governance within value chains, fostering dialogue amongst private sector actors to establish voluntary production standards, certify producers, and monitor compliance.

Findlay and Hoekman (2021) suggest a variation on this idea: value chain platforms that focus on the impact of policies on the organisation and operation of value chains. The platforms aim to facilitate deliberation and cooperation amongst regulatory government agencies, the businesses operating within and impacted by GVCs, and the research community, with the goal of identifying ways to reduce value chain frictions. Unlike traditional national business–government dialogue mechanisms, a value chain approach takes a multi-sector, cross-cutting perspective, spanning all significant activities in a production network. It leverages the practical knowledge of suppliers and buyers within the chain, along with insights from experts across diverse academic and practical disciplines. This approach complements conventional informational lobbying, advocacy by companies, and corporate governance initiatives focused on sustainability and social responsibility, which are increasingly prominent in international business–government–CSO relations.<sup>26</sup> The framework can be grounded in economic policy theory, which provides a conceptual framework for deliberation and the ex-ante and ex-post assessments of policies, acknowledging their inherent complexities.

Elements of such deliberation already occur in ASEAN, but more could be done to bring in outside expertise, including that of regulators, international organisations, practitioners, and industry representatives, to discuss emerging issues that are pertinent to the overall integration goal. The discussions should not centre on compliance but on sharing experiences and learning about new developments and opportunities for potential cooperation, thus complementing the regular work of committees. There would appear to be significant scope to leverage extant epistemic communities and support such communities to engage with each other and with responsible government officials. An important contribution a platform can make to support deliberations is to provide independent objective empirical analyses of the likely economic impacts and incentive effects created by the policies pursued by a major state. ASEAN Secretariat staff, equipped with the necessary expertise and analytical capabilities, could deliver rigorous quantitative and qualitative assessments of policy effectiveness and spillover effects. This work could be further enhanced through collaboration with organisations such as ERIA, ADB, and other international organisations with relevant technical expertise, as well as with international business organisations that possess insights into pertinent value chains.

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<sup>25</sup> For example, the Food and Agriculture Organization of the United Nations Sustainable Food Value Chains Knowledge Platform; the OECD Initiative for Policy Dialogue on Global Value Chains, Production Transformation and Development; the World Bank's Global Partnership for Social Accountability Knowledge Platform; and the United Nations UN Global Compact on Supply Chain Sustainability.

<sup>26</sup> A project described by Gray et al. (2022) exemplifies many key features of a value chain platform. Its purpose was to examine the standards, laws, and regulations affecting various products exported from Indonesia to Australia. Participants included regulatory officials from both countries, businesses from relevant sectors (food, drugs, and herbal well-being products), and researchers who also organised the activities. The project adopted a value chain approach, linking efforts to regulatory reform cooperation. Participants shared insights on specific bilateral transactions and worked collaboratively to remove impediments encountered.



## 6. Conclusion

Over more than 50 years, ASEAN has demonstrated significant dynamism in pursuing its regional cooperation and integration objectives. This progress has been accompanied by increasing institutionalisation, all whilst maintaining a fundamental commitment to an intergovernmental, AMS-driven framework for cooperation. Whilst ASEAN has made substantial progress in market integration, achieving a fully unified single market remains a significant objective. The task includes addressing longstanding challenges related to political economy factors that impede the implementation of trade facilitation initiatives, notably in reducing the trade-impeding effects of NTMs. The agenda has grown as trade in services and the expansion of the digital economy bring to the fore new areas of domestic regulation that impact trade and investment flows. ASEAN faces a range of new challenges, from rapid technical change and rising geopolitical rivalries amongst major economic powers to the unilateral use of trade and investment policies motivated by non-economic objectives, such as environmental concerns and national security.

Regional cooperation offers a means for member countries to confront and manage the spillover effects of these external dynamics. The flexible structure of ASEAN provides opportunities for experimentation in collective responses to shared challenges, without requiring the delegation of sovereignty to central institutions. ASEAN's networked nature can be further harnessed by establishing multilevel, domain-specific platforms that engage key epistemic communities, providing a foundation for institutional innovation to advance regional integration objectives and address global challenges. Opening ASEAN processes to meaningful participation by these epistemic communities – who bring expertise, interest, and knowledge of specific policy domains – is a potential path forward to leverage the network dimension of cooperation in ASEAN.

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