

Chapter 3

Investment Climate Study of ASEAN Member Countries

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CHAPTER 3

Study of the Investment Climate of ASEAN Member Countries

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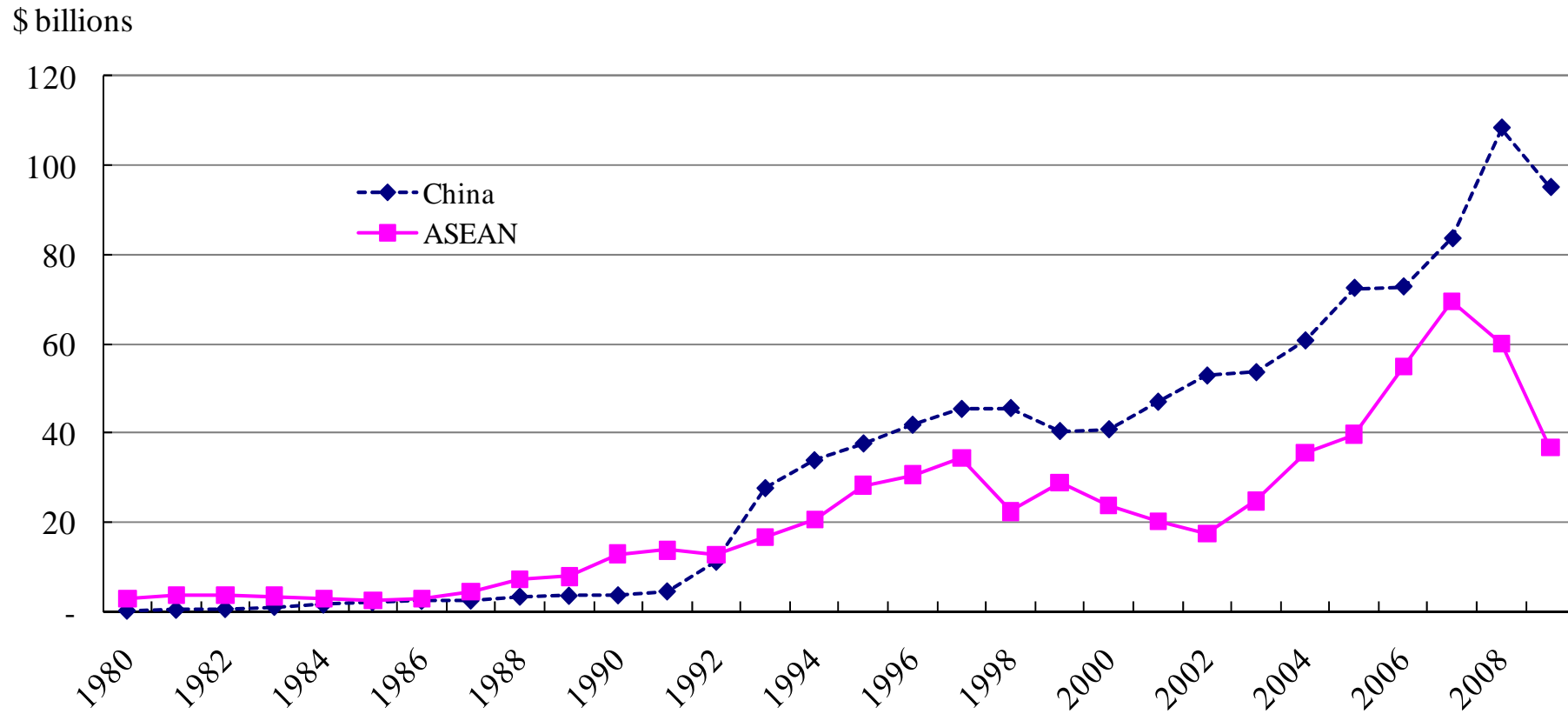
This paper analyzes the FDI climates of the ASEAN countries faced by Japanese and non-Japanese foreign firms conducting operations in ASEAN, with a view of identifying impediments to FDI not only in the policies but also in their implementation and enforcement and providing useful information to policy makers interested in attracting FDI. Although we found wide variations among countries, ASEAN countries as a whole tend to have relatively improved the explicit investment climate so far as FDI liberalization is concerned. Direct barriers to FDI, however, still remain, and further efforts to reduce them by ASEAN countries are necessary. At the same time, the reduction of indirect barriers to FDI or the promotion of FDI facilitation is also indispensable. Particularly important areas for improvement include institutional problems, complicated and delayed procedures, underdeveloped infrastructure, inflexible labor market conditions, and problems involving taxation regulations. Our findings indicate the need for further liberalization of FDI policies and promotion of facilitation measures for ASEAN countries in order to successfully attract FDI. In order to achieve these goals, we would like to make several policy recommendations. First, in order to promote FDI policy liberalization, the ASEAN countries should use various existing frameworks, such as WTO/GATT's Trade Related Investment Measures (TRIMs) agreement, bilateral investment treaties (BITs), free trade agreements (FTAs), and other legal frameworks. In particular, ASEAN should use the ASEAN Comprehensive Investment Agreement (ACIA). Second, to overcome obstacles concerning FDI facilitation, the ASEAN countries should actively draw on various cooperation programs with developed countries to improve human resources engaged in the implementation and enforcement of FDI policies. Possible multilateral and regional sources of technical assistance in this area may be UNCTAD, the OECD, and ERIA. Third, monitoring of the achievement of FDI liberalization and facilitation has to be emphasized, in order to achieve a freer FDI environment. In this regard, a monitoring mechanism should be established in ASEAN, if it has not been established yet, or in ERIA.

1. Introduction

Many countries are eager to attract foreign direct investment (FDI), as FDI can contribute to economic development and growth in the FDI recipient countries. FDI has been proven to contribute to economic growth through various channels. FDI can bring not only financial resources for fixed investment but also technologies and managerial know-how, which play crucial roles in promoting economic growth in the recipient countries. Moreover, FDI enables the recipient countries to be engaged in various networks, such as the production, sales, procurement, and information networks of foreign multinational corporations (MNCs), major suppliers of FDI, resulting in an improvement of efficiency in production and marketing. Indeed, in East Asia FDI has helped enable East Asian countries to achieve high economic growth through these factors.

The members of the Association of Southeast Asian Nations (ASEAN) have been quite successful in attracting FDI in recent years (Figure 1.1). After reaching a trough in 2002, FDI inflows to ASEAN continued rising noticeably until 2007. In the five years from 2002 to 2007 FDI inflows to ASEAN more than quadrupled from \$17 billion to \$69 billion (Table 1.1). In 2008 ASEAN as a whole, however, experienced a substantial decline in FDI inflow by approximately \$10 billion or 13.8 percent from 2007. There are wide variations in the changes in FDI inflows in 2008 among the ASEAN members, all of which recorded a more or less steady increase prior to 2008. Indonesia achieved a notable increase while Singapore, the Philippines and many other countries saw a decline. In 2009, ASEAN countries witnessed an additional decline of FDI, reflecting the global financial crisis that started in the fall of 2008; Indonesia, Malaysia, Thailand, and Vietnam, in particular, experienced significantly reduced FDI inflows. As a result, FDI flows into ASEAN as a whole reached back to mid-2000s levels.

Figure 1.1 FDI Inflows to ASEAN and China: 1980-2009



Source: UNCTAD Foreign Direct Investment Database

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

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	1990-2009
Brunei	7	6	7	8	6	583	654	702	573	748	549	526	1,035	3,375	334	289	434	260	239	311	10,645
Cambodia	0	0	33	54	69	151	294	168	243	232	149	149	145	84	131	381	483	867	815	533	4,981
Indonesia	1,092	1,482	1,799	2,003	2,191	4,419	6,245	4,729	-207	-1,838	-4,495	-2,926	232	-507	1,896	8,336	4,914	6,928	7,919	4,877	49,089
Lao PDR	6	7	8	36	59	88	128	86	45	52	34	24	25	19	17	28	187	324	228	157	1,558
Malaysia	2,611	4,043	5,138	5,741	4,581	5,815	7,297	6,323	2,714	3,895	3,788	554	3,203	2,473	4,624	4,064	6,060	8,401	8,053	1,381	90,759
Myanmar	225	235	149	92	135	318	581	879	684	304	208	192	191	291	251	236	428	258	283	323	6,262
Philippines	550	556	776	1,238	1,591	1,459	1,520	1,249	1,752	1,247	2,240	195	1,542	491	688	1,854	2,921	2,916	1,520	1,948	28,253
Singapore	5,575	4,887	2,204	4,686	8,550	11,535	9,682	13,753	7,314	16,578	16,484	15,093	6,381	11,800	20,054	14,374	27,680	31,550	22,725	16,809	267,715
Thailand	2,575	2,049	2,151	1,807	1,369	2,070	2,338	3,882	7,492	6,091	3,349	5,061	3,335	5,235	5,862	8,048	9,460	11,238	10,091	5,949	99,451
Viet Nam	180	375	474	926	1,945	1,780	1,803	2,587	1,700	1,484	1,289	1,300	1,200	1,450	1,610	2,021	2,400	6,739	8,050	4,500	43,814
ASEAN10	12,821	13,640	12,739	16,591	20,496	28,218	30,541	34,358	22,310	28,793	23,595	20,169	17,291	24,712	35,468	39,630	54,967	69,481	59,922	36,787	602,529
China	3,487	4,366	11,008	27,515	33,767	37,521	41,726	45,257	45,463	40,319	40,715	46,878	52,743	53,505	60,630	72,406	72,715	83,521	108,312	95,000	976,851

Source: UNCTAD, Foreign Direct Investment Database.

Although ASEAN members have been experiencing favorable performance in attracting FDI in recent years, their performance has been overshadowed by China. After being surpassed by China in the early 1990s in terms of FDI inflows, ASEAN has not been able to regain the commanding position it had in the 1980s. Although China continued attracting FDI successfully in 2008 when FDI inflows to ASEAN declined, it experienced a decrease in FDI inflows in 2009 as well.

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

In light of the observation that the FDI policy regime and FDI policy environment play important roles in determining FDI inflows, this study sheds light on the FDI policy environment and evaluates it for ASEAN countries. We adopt two approaches to achieve our objective. First, we use the information on barriers to FDI available from the survey compiled by the Japan Machinery Center for Trade and Investment (JMC), (JMC survey hereinafter) and attempt to identify the issues preventing FDI liberalization and facilitation raised by Japanese firms, based on 10 categories of FDI impediments.² Use of the information provided by the companies would reveal the true impediments to FDI. Second, we conduct an original survey on the investment climate for (domestic and) foreign firms in ASEAN10, following the same categories used in the 1st approach, and try to capture the features of investment climate from the perspective of non-Japanese firms operating in ASEAN10. By combining the results

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

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

using the above-mentioned two surveys, we should be able to discern the policy-related impediments to FDI in ASEAN countries.

It is hoped that our study will contribute to a deeper understanding of the FDI policy environment of ASEAN countries and to help them formulate FDI policy. In particular, the results of this study may provide useful information to the ASEAN country governments which have committed to creating an ASEAN economic community by 2015, where free flow of FDI would be realized.

The structure of the study is as follows. Section 2 examines FDI policy environments by assessing the information collected from Japanese companies. Section 3 uses our original survey on investment climate, which is conducted for domestic and foreign firms in ASEAN10, and evaluates FDI policy environments. Section 4 concludes the study by presenting policy recommendations.

2. Assessment of FDI Environments based on a Survey of Japanese Firms

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

2.1. The Methodology and the Data used for the Analysis

We classify the problems and obstacles faced by Japanese firms operating in ASEAN countries into ten categories (Table 2.1). The ten categories are divided into two groups, one consisting of four categories of problems related to FDI liberalization and six categories of problems related to FDI facilitation. This classification, which has been proposed by Urata, Ando, and Ito (2007), is based on a literature survey and discussions among the members of a committee including representatives of APEC Business Advisory Council (ABAC) Japan, the Japan Machinery Center for Trade and Investment (JMC), the Ministry of Trade, Investment, and Industry (METI) Japan, and university professors (APEC Study Committee with JMC as

the secretariat in 2007).

Table 2.1 10 Major Categories of Issues to be Solved for FDI Liberalization and Facilitation

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

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

The four categories of impediments concerning FDI liberalization are i) restrictions on foreign entry, ii) performance requirements, iii) restrictions on overseas remittances and controls on foreign exchange, and iv) restrictions on the movement of people and employment requirements.³

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

³ Category i) corresponds to 1.restrictions on foreign entry and 21.restrictions on foreign ownership of land in the JMC survey. Similarly, category ii) corresponds to 2.local content requirements, 3.export requirements, and 18.technology transfer requirements: category iii) 11.foreign remittances, 12.control of foreign exchange, and category iv) 16.employment in the JMC survey.

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

The six categories of impediments related to FDI facilitations are as follows: v) “lack of transparency in policies and regulations concerning investment (institutional problems)”, vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)”, vii) “insufficient protection of intellectual property rights (IPRs)”, viii) “labor regulations and related practices excessively favorable to workers”, ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, and x) “restricted competition and price controls”.⁴

Categories v) “lack of transparency in policies and regulations concerning investment” and vi) “complicated and/or delayed procedures with respect to investment-related regulations” cover issues concerning various investment-related regulations in terms of institutional problems and implementation problems, respectively. Category v) “lack of transparency in policies and regulations concerning investment” is specifically concerned with sudden and/or frequent changes (without notification in advance), non-transparency, ambiguity in various investment-related regulations and lack of certain regulations, while category vi) “complicated and/or delayed procedures with respect to investment-related regulations” covers problems in implementing regulations on establishments, approval of foreign entry, taxation, customs clearance, withdrawal/reorganization of operations, arbitrary and/or inconsistent interpretation and implementation of various regulations, and other such matters. Examples of problems in categories vii) “insufficient protection of IPRs”, viii) “labor

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

regulations and related practices excessively favorable to workers”, ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, and x) “restricted competition and price controls” include the following: insufficient protection of IPRs and issues involving patents for category vii), non-modern labor regulations that are excessively favorable to workers, such as difficulty in firing workers, drastic/frequent changes in minimum wage levels, never decreasing wages, and restrictions on temporary workers for category viii), underdeveloped physical infrastructure and logistics, shortages of human resources such as management staff and engineers, and high turnover ratios for category ix), and oligopolistic market structure and monopolistic pricing for category x).

Most of the problems classified into categories iv) to x) are not necessarily discriminatory measures aimed at foreigners but are, rather, measures driven by domestic issues. These impediments could, however, directly and indirectly prevent potential investment from entering the economy. In other words, if a country solves these problems and improves the investment climate, it would receive a larger amount of investment than without such improvements. Of 10 major categories for FDI liberalization and facilitation, six are those concerning FDI facilitation. We emphasize the importance of implementing FDI facilitation measures, in addition to FDI liberalization measures, as will be discussed in the following section.

We conduct the analysis based on the methodology discussed above by using information obtained from the survey conducted by the Japan Machinery Center (JMC) for Trade and Investment. The JMC collects and compiles the detailed survey, “Issues and Requests for Trade and Investment Activities by Country/Region” annually. This survey is based on responses to the “questionnaire on the problems in trade, investment, and production activities abroad,” conducted by the Japan Business Council for Trade and Investment Facilitation (JBCTIF). The JBCTIF has approximately 150 industry associations as members. The respondents to the questionnaire are its members that are involved in trade and FDI activities. We employ the 2010 version of the JMC survey (JMC survey 2010 hereafter), which was conducted from November 2009 to January 2010, with responses from 38 industry associations (in the case of ASEAN10). Note that this survey does not provide individual firm data, and thus does not allow us to calculate ratios such as those of firms that identify the specified impediments to the total sample of targeted firms. For a comparison, we also employ the results in Urata, Ando, and Ito (2007), based on the 2005 version of this survey

(JMC survey 2005 hereafter), Urata and Ando (2009) based on the 2008 version (JMC survey 2008), and Urata and Ando (2010) based on the 2009 version (JMC survey 2009).

2.2. The Results

Table 2.2 summarizes the results of our analysis of the investment climate in 2010 in the ASEN10 countries, showing the number of incidents by category and country. Since the JMC survey deals with precisely the problems raised by firms in many industry associations that are members of the JBCTIF, we first collect all the information on the countries concerned and identify the problems by country. We then classify these problems into 10 categories and collate them for all the countries, as shown in Table A.2.1 in the Appendix. Table 2.2 is constructed based on Table A.2.1. By way of comparison, Table 2.3 presents the results of a similar analysis of the investment climate in 2005, 2008, and 2009.⁵

⁵ See Table A.2.2 for the detailed information on FDI issues in 2005, 2008, and 2009.

Table 2.2 Investment Climate in ASEAN10 Economies in 2010: the Number of Incidents by Category and Country

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam	Total	Share by category (%)
(a) The number of Japanese affiliates in each country	1	10	659	6	759	10	419	991	1,577	332	4,764	
(b) Issues to be solved for FDI liberalization and facilitation												
<u>FDI liberalization</u>	0	0	19	1	14	8	8	1	20	10	81	21%
i) Restrictions on foreign entry	0	0	9	1	8	2	7	0	8	5	40	10%
ii) Performance requirements	0	0	5	0	3	0	0	0	3	0	11	3%
iii) Restrictions on overseas remittances and controls on foreign currency transactions	0	0	2	0	1	6	1	0	6	3	19	5%
iv) Restrictions on the movement of people and employment requirements	0	0	3	0	2	0	0	1	3	2	11	3%
<u>FDI facilitation</u>	0	14	64	13	43	20	31	5	55	64	309	79%
v) Lack of transparency in policies and regulations concerning investment (institutional problems)	0	5	22	1	11	7	4	0	16	20	86	22%
vi) Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)	0	3	29	6	15	8	13	0	25	22	121	31%
vii) Insufficient protection of intellectual property rights	0	0	1	0	2	0	0	0	1	0	4	1%
viii) Labor regulations and related practices excessively favorable to workers	0	0	2	0	5	0	8	2	2	5	24	6%
ix) Underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives	0	6	8	6	7	5	6	3	10	13	64	16%
x) Restricted competition and price controls	0	0	2	0	3	0	0	0	1	4	10	3%
Total	0	14	83	14	57	28	39	6	75	74	390	100%

Data source: authors' calculation, based on Toyo Keizai (2008) for (a) the number of Japanese affiliates abroad and JMC (2010) for (b) the issues to be solved for FDI.

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

Table 2.3 Investment Climate in ASEAN Economies in 2005, 2008, and 2009: the Number of Incidents by Category and Country

	ASEAN10 in 2009												ASEAN10 in 2008												ASEAN7										
	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam	Total	Share by category (%)	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam	Total	Share by category (%)	2005							Total (2005)	Total (2008)	Total (2009)	Total (2010)
																									Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Viet Nam				
FDI liberalization	0	0	17	0	11	8	10	1	19	8	74	20%	0	0	14	0	11	7	9	1	15	9	66	21%	0	10	17	11	3	16	16	73	59	66	72
i) Restrictions on foreign entry	0	0	10	0	5	2	7	0	8	3	35	10%	0	0	10	0	5	2	6	0	8	4	35	11%	0	5	4	6	1	6	5	27	33	33	37
ii) Performance requirements	0	0	3	0	3	0	0	0	3	2	11	3%	0	0	2	0	3	0	0	0	2	2	9	3%	0	2	5	2	0	1	5	15	9	11	11
iii) Restrictions on overseas remittances and controls on foreign currency transactions	0	0	2	0	1	6	2	0	5	2	18	5%	0	0	0	0	1	5	2	0	3	2	13	4%	0	1	4	1	0	3	4	13	8	12	13
iv) Restrictions on the movement of people and employment requirements	0	0	2	0	2	0	1	1	3	1	10	3%	0	0	2	0	2	0	1	1	2	1	9	3%	0	2	4	2	2	6	2	18	9	10	11
FDI facilitation	0	14	51	4	44	20	42	6	50	58	289	80%	0	16	28	4	33	21	48	6	45	49	250	79%	1	52	36	37	6	53	34	219	209	251	262
v) Lack of transparency in policies and regulations concerning investment (institutional problems)	0	5	13	0	13	8	7	0	12	18	76	21%	0	5	5	1	8	8	11	0	14	12	64	20%	1	14	10	10	1	14	6	56	50	63	73
vi) Complicated and/or delayed procedures with respect to investment-related regulations	0	3	23	1	14	7	16	0	24	19	107	29%	0	5	11	1	10	7	16	0	20	18	88	28%	0	21	14	12	0	24	14	85	75	96	104
vii) Insufficient protection of intellectual property rights	0	0	1	0	2	0	3	0	1	1	8	2%	0	0	2	0	3	0	3	0	2	1	11	3%	0	4	3	1	0	2	2	12	11	8	4
viii) Labor regulations and related practices excessively favorable to workers	0	0	2	0	5	0	10	3	3	4	27	7%	0	0	2	0	5	0	10	3	3	4	27	9%	0	3	5	6	3	3	2	22	27	27	24
ix) Underdeveloped infrastructure, shortages of human resources, and insufficient investment	0	6	9	3	8	5	6	3	9	13	62	17%	0	6	6	2	7	5	8	3	5	11	53	17%	0	8	4	8	2	9	8	39	40	48	47
x) Restricted competition and price controls	0	0	3	0	2	0	0	0	1	3	9	2%	0	0	2	0	0	1	0	0	1	3	7	2%	0	2	0	0	0	1	2	5	6	9	10
Total	0	14	68	4	55	28	52	7	69	66	363	100%	0	16	42	4	44	28	57	7	60	58	316	100%	1	62	53	48	9	69	50	292	268	317	334

Data source: Urata, Ando, and Ito (2007), Urata and Ando (2009), Urata and Ando (2010), and Table 2.2.

Four points should be kept in mind in interpreting these results. First, some problems can be classified into categories that are different from those in Table A.2.1. Some may be classified into two or more categories. In constructing Table A.2.1, such problems are classified into the most relevant categories in our classification.

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

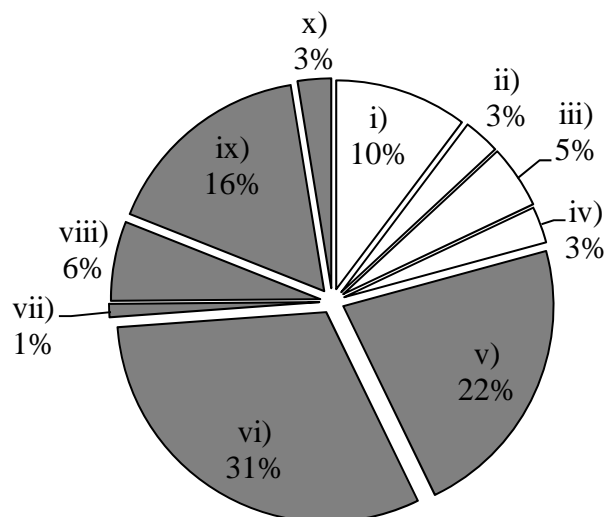
Third, there is a possible bias in the identification of the problems in that the number of incidents tends to be high in countries where a large number of FDI projects are undertaken. As mentioned above, the respondents to the questionnaire on which the JMC survey is based are those engaged in trade with and/or investment in the countries concerned, and are not individual firms. Therefore, the countries in which Japanese firms are more active in trade and investment, or those which Japanese firms consider to be attractive investment locations, may tend to have a larger number of incidents since they are more likely to face various problems through their operations (Table 2.2). At the same time, the countries with fewer problems identified here do not necessarily receive a large amount of investment. The countries with a smaller number of Japanese firms involved may have a larger number of issues, in practice, than those identified here if firms were not able to enter those countries due to impediments, and the actual investment climate was not known. We will consider this point in interpreting the results for the individual countries below.

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

Table 2.2 and Figure 2.1 give an overall picture of direct and indirect impediments to investment in ASEAN10. Various kinds of indirect barriers to FDI exist in the region: 79 percent of the total problems identified (309 out of 390) are concerned with FDI facilitation. This finding indicates that there is plenty of room to improve FDI facilitation in order to promote FDI in ASEAN. In particular, more than half the problems fall into two categories v) institutional problems (lack of transparency in policies and regulations on investment) and vi) implementation problems (complicated and/or delayed procedures with respect to investment-related regulations; these account for 22 percent and 31 percent of the total

incidents, respectively. Although neither institutional nor implementation problems are necessarily discriminatory against foreign firms, as discussed above, they need to be resolved to promote investment activity in the region.

Figure 2.1 Decomposition of the Incidents into 10 Categories: ASEAN10 in 2010



Data source: Table 2.2.

Note: i) to iv) indicates four categories for FDI liberalization and v) to x) indicates six categories for FDI facilitation. Figures express shares of each category. See Table 2.2 for 10 categories.

The major problems identified in many countries for category v) are underdevelopment, lack of transparency, ambiguity, sudden changes, frequent changes, and uncertainty over various legal regulations and institutions, particularly those concerning taxation, investment incentives, safety and environmental standards and conformity, and financial markets (including exchange rates). The major problems for category vi) are complexity, delay, difficulty, and inefficiency of various administrative procedures; arbitrary interpretation in implementing regulations; corruption; smuggling; particularly complicated customs clearance procedures; delayed, difficult, inefficient, and complicated procedures for visa applications and renewals; import tariff reimbursement/exemption; value-added tax exemption (including non-implementation) procedures; taxation; and withdrawal of business; arbitrary and/or

inconsistent interpretation and implementation of safety certification; customs clearance; and arbitrary tax collection.⁶

Categories v) and vi) are followed by another category classified under FDI facilitation: category ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (16 percent of total incidents). It suggests that access to necessary infrastructure, human resources, and investment incentives is also an important factor for firms in making the decision to enter a new country or expand operations in the host country. Major problems in category ix) are as follows: difficulty in hiring and securing human resources due to shortages of management staff and engineers; high turnover ratios; underdevelopment of industrial infrastructure such as electric power, paved roads and transportation, and ports; insufficient investment incentives for the development of supporting industries; and immaturity of financial markets.

Categories other than v), vi), and ix) are arranged in descending order in terms of the percentage of the total number of incidents: category i) restrictions on foreign entry (10 percent), category viii) labor regulations and related practices excessively favorable to workers (6 percent), category iii) restrictions on overseas remittances and controls on foreign currency transactions (5 percent), category ii) performance requirements (3 percent), category iv) restrictions on the movement of people and employment requirement (3 percent), category x) restricted competition and price controls (3 percent), and category vii) insufficient protection of IPRs (1 percent). Although relatively low percentages for the categories for FDI liberalization imply that issues involving direct barriers to FDI (problems preventing FDI liberalization) are not as serious as those involving indirect barriers to FDI (problems preventing FDI facilitation) in the region, they are critical impediments in some low-income countries.

Major problems for category i) include prohibition of or restrictions on foreign entry (for specific sectors); restrictions on foreign ownership ratios, joint venture requirements (with specified business partners); and restrictions on foreign ownership of land. The problems for category viii) include; difficulty in firing workers, wage-related issues such as rapidly rising wage levels; dramatic increases in minimum wage levels; and no allowance for lowering wage levels; and labor regulations and related practices that are excessively favorable to workers. The problems for category iv) include: a nationality requirement for directors; restrictions on

⁶ Delays in procedures are sometimes a result of their complicated nature.

hiring foreigners including a requirement to hire local people (or specific types of local people); and difficulty and tightened issuance conditions in obtaining and/or renewing visas. The problems for category vii) include: widespread counterfeiting and pirating goods due to insufficient protection of IPRs; lack of intellectual property rights treaties; and infringement of trademark rights and patents. Those for category ii) include: local content requirements and their strengthening investment incentives linked with export requirements; technological transfer requirements; and hiring local people. Those for category iii) include: restrictions on overseas remittances and restrictions on the amount, use of, foreign currencies. Those for category x) include: monopolistic energy supply and discriminatory raising of its prices, and discriminatory pricing for loads at ports.

To capture changes in the investment climate in ASEAN countries, let us compare the patterns of pervasiveness of the identified problems in 2010, with those in 2005 provided by Urata, Ando, and Ito (2007), those in 2008 provided by Urata and Ando (2009), and those in 2009 provided by Urata and Ando (2010). ASEAN countries available for a comparison between 2010/2009/2008 and 2005 are composed of seven countries that are the members of both ASEAN and APEC. Table 2.3 presents the results for the investment climate in 2009/2008 in ASEAN10, and in 2005 in ASEAN7: it shows the number of incidents by category and country. Recently, the total number of issues for ASEAN10 has gradually increased from 316 in 2008 to 363 in 2009, and to 390 in 2010; the number of issues related to FDI liberalization increased from 66 in 2008 to 74 in 2009, and to 81 in 2010, while the number of issues in the FDI facilitation sub-category were 250, 289, and 309 over the same three-year period. This does not necessarily indicate the implementation of new barriers and would partly reflect more active and deeper operations by Japanese firms in ASEAN countries than before. Such a growing number, however, clearly implies that further efforts to improve the investment climate through various liberalization and facilitation measures are expected.

As the figure suggests, ASEAN7 as a whole maintained a more or less equal number of issues directly preventing FDI, while it saw a significant increase in the number of issues indirectly preventing FDI: the number of incidents drops from 73 to 72 for FDI liberalization, though the number of incidents rises from 219 to 262 for FDI facilitation. In particular, issues due to complicated and/or delayed procedures with respect to investment-related regulations (implementation problems) increase from 85 to 104. This suggests that ASEAN countries explicitly improved their investment climate but at the same time, more and more indirect

barriers to FDI emerged, partly reflecting more active and deeper operations by Japanese firms in ASEAN countries than before, who are therefore more likely to face various problems through their operations.

Wide variations among the ASEAN countries, however, do exist. Although we cannot strictly conduct a comparative analysis among the countries due to the nature of the survey, the tables provide several interesting findings. First, various problems have prevailed in Indonesia, Malaysia, the Philippines, Thailand, and Vietnam. Second, among those five countries, Indonesia (from 62 to 83), Thailand (from 69 to 75), and Vietnam (from 50 to 75) have increased in terms of the total number of issues by five or more. In particular, for Vietnam, a country that has recently attracted a significant amount of new FDI, the number of incidents increased substantially in categories for institutional problems and implementation problems for investment-related policies and regulations and underdeveloped infrastructure and shortages of human resources. Third, in terms of both FDI liberalization and facilitation, the number of issues identified in the Philippines has decreased, while in Indonesia, Thailand, and Vietnam the number of issues in both categories have increased. Fourth, in Laos, one of newcomers to ASEAN, the number of issues identified increased rapidly from 4 in 2008/2009 to 14 in 2010, though the number is not so large yet, per se.

To sum up, the explicit investment climate in ASEAN economies as a whole tend to have relatively improved as the number of the incidents revealing problems preventing FDI directly declined so far as FDI liberalization is concerned. Direct barriers to FDI, however, still remain. Further efforts by ASEAN countries to reduce them are necessary, if they want to attract FDI. At the same time, the reduction of indirect barriers to FDI or the promotion of FDI facilitation is also indispensable, as the increasing number of issues identified in categories for FDI facilitation suggests. Particularly important areas for improvement include institutional problems, complicated and delayed procedures, underdeveloped infrastructure, inflexible labor market conditions (such as difficulty in hiring and firing workers and burdensome labor regulations and wage-related issues), and problems involving taxation regulations (including double taxation problems due to lack of double taxation treaties). As mentioned above, further indirect barriers to FDI have tended to emerge, partly reflecting more active and deepening operations by Japanese firms in ASEAN countries than before, who are therefore more likely to face various problems because of their operations. Thus the increasing number does not necessarily indicate the implementation of new barriers. However, this growing number

clearly implies that further efforts to improve the investment climate through various facilitation measures are expected.

Discussion by country

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

Brunei (0 incident, 1 Japanese affiliate)

For Brunei, no problems are identified in JMC Survey 2010, though one problem was identified in JMC Survey 2005 in category v) lack of transparency in policies and regulations concerning investment: ambiguity of government procurement procedures. It should be noted that few Japanese affiliates operate in Brunei, leading to low probability of incidents.⁷

Cambodia (14 incidents, 10 Japanese affiliates)

The categories with issues identified are v) lack of transparency in policies and regulations concerning investment (5),⁸ vi) complicated and/or delayed procedures with respect to investment-related regulations (3), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (6). The examples include underdevelopment, ambiguity, and lack of transparency of various legal regulations and institutions for category v), complexity of administrative procedures of customs clearance, arbitrary interpretation in implementing customs and taxations, and corruption for category vi), inadequate infrastructure such as electricity supply, road and traffic, and telecommunication, and underdevelopment of financial markets for category ix).

⁷ In Brunei, some non tariff measures (NTMs) are applied to many tariff lines, including technical measures for food industries, automatic licensing measures and import quotas for machinery industries, and automatic and non-automatic licensing measures for the chemical and timber industries. These measures may influence the investment climate indirectly. See Ando (2009) and Ando and Obashi (2010) for an analysis of NTMs, using frequency ratios of NTMs by type and industry.

⁸ The number of incidents is shown in parenthesis.

Indonesia (83 incidents, 659 Japanese affiliates)

Major categories are vi) complicated and/or delayed procedures with respect to investment-related regulations (29), v) lack of transparency in policies and regulations concerning investment (22), i) restrictions on foreign entry (9), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (8). While the number of incidents fluctuated in the categories concerning FDI facilitation among 52 in 2005, 28 in 2008, 50 in 2009, and 64 in 2010, the number of issues steadily increased in those relating to FDI liberalization from 10 in 2005 to 14 in 2008, 17 in 2009, and 19 in 2010. As a result, the total number of incidents increased from 62 in 2005 to 83 in 2010. One should note that the number of incidents of restrictions on foreign entry, which is one of the categories for FDI liberalization, increased from 5 to 9. Such a change seems to have been caused by the introduction of a more restrictive “new negative list” (in effect since July 2007) which specifies the sectors in which no foreign entry is allowed, as well as sectors subject to certain conditions for foreign equity participation, particularly in the service sectors. Examples include complexity, delay, and inefficiency of various administrative procedures, arbitrary interpretation in implementing regulations, and corruption under category vi), underdevelopment, ambiguity, and sudden and frequent changes of various legal regulations and institutions under category v), restrictions on foreign ownership ratios in specific sectors mainly in services sectors and joint venture requirements under category i), and insufficient infrastructure under category ix).

Lao PDR (14 incidents, 6 Japanese affiliates)

The main categories in which issues were identified are vi) complicated and/or delayed procedures with respect to investment-related regulations (6) and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (6). Examples include delayed customs clearance procedures under category vi) and inadequate infrastructure such as electrical power, roads and traffic and shortage of human resources under category ix). As mentioned above, in Laos there was a rapidly increase in the number of issues identified from 4 in 2008/2009 to 14 in 2010, though the number per se is not

particularly large yet, due to increasing number of indirect impediments to FDI. Such a rapid increase would reflect very recent active and deepening operations by Japanese firms in ASEAN countries, which are, in turn, more likely to face various problems. However, this apparently implies the necessity of FDI facilitation.

Malaysia (57 incidents, 759 Japanese affiliates)

The number of incidents increased in categories for FDI facilitation, mainly in categories covering institutional and implementation problems for investment-related regulations, while the number decreased in categories for FDI liberalization. As a result, the total number of incidents slightly increased from 53 to 57. The major categories are vi) complicated and/or delayed procedures with respect to investment-related regulations (15), v) lack of transparency in policies and regulations concerning investment (11), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (7). Examples include complexity, delays, and difficulty of administrative procedures and arbitrary interpretation in implementing regulations under category vi), lack of transparency and instability of regulations and taxation issues under category v), and difficulty in hiring and securing human resources due to shortages of management staff and engineers, high turnover ratios, and issues involving investment incentives, and inadequate infrastructure such as electricity supply and road and traffic under category viii).

Myanmar (28 incidents, 10 Japanese affiliates)

The total number of incidents did not change from 2008 to 2010. The major categories are v) lack of transparency in policies and regulations concerning investment (7), vi) complicated and/or delayed procedures with respect to investment-related regulations (8), iii) restrictions on overseas remittances and controls on foreign currency transactions (6), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (5). The examples are underdevelopment and ambiguity of legal systems, and regulations such as the multiple exchange rate regime, double taxation due to lack of tax treaties, and taxation under category v), complexity and delay of administrative procedures such as customs clearance and overseas remittances under category vi), ambiguity and

strengthened regulations on overseas remittances and various controls on foreign currency transactions under category iii), and underdevelopment or lack of infrastructure such as electricity supply, ports, and airports under category ix).⁹

The Philippines (39 incidents, 419 Japanese affiliates)

The number of incidents in the Philippines increased in categories for FDI facilitation from 37 in 2005 to 42 in 2009, particularly due to a growing number of issues related to implementation problems for investment-related policies and regulations and labor regulations and practices excessively favorable to workers. However, the number of incidents rapidly drops in 2010. Consequently, the total number of incidents decreased from 48 to 39. The major categories are vi) complicated and/or delayed procedures with respect to investment-related regulations (13), viii) labor regulations and related practices excessively favorable to workers (8), i) restrictions on foreign entry (7), and ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (6). The issues in the Philippines are spread widely across many categories: complexity, delays, and inefficiency of administrative procedures, arbitrary interpretation in implementing regulations, and corruption under category vi), various labor restrictions under category viii), restrictions on foreign entry into specific sectors under category i), and high turnover ratios, underdeveloped infrastructure such as electricity and road and traffic, and insufficient incentives for foreign investment and supporting industries under category ix).

Singapore (6 incidents, 991 Japanese affiliates)

For Singapore, the categories with a positive number of incidents, although they are very few in number, are ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (3), viii) labor regulations and related practices excessively favorable to workers (2), and iv) restrictions on the movement of people and employment requirements (1). The issues reflect rapid increases in wage levels, the increasingly heavy burden of employee pensions, the burden of educational funding, and difficulty in hiring and

⁹ See Ando (2009) for multiple exchange rate regimes in Myanmar.

securing human resources due to shortages of management and engineers, and high turnover ratios.

Thailand (75 incidents, 1577 Japanese affiliates)

Thailand is the country where the number of Japanese affiliates is the largest among ASEAN countries, and thus it potentially receives many requests to improve its investment climate. The number of incidents increased in both the FDI liberalization and FDI facilitation categories from 16 to 20 and from 53 to 55, respectively. As a result, the total number of incidents slightly rose from 69 to 75. The major categories, in which incidents are recorded are vi) complicated and/or delayed procedures with respect to investment-related regulations (25), v) lack of transparency in policies and regulations concerning investment (16), ix) underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives (10), and i) restrictions on foreign entry (5). Examples include complexity and delays in administrative procedures and arbitrary interpretation in implementing regulations under category vi), underdevelopment and lack of transparency of various regulations and taxation issues under category v), restrictions on foreign entry under category i), and high turnover ratios and inadequate infrastructure under category ix).

Vietnam (74 incidents, 332 Japanese affiliates)

Vietnam has been active in hosting FDI in recent years, and thus an increasingly large number of issues are likely to be reported; the total number of incidents gradually increased from 50 in 2005 to 58 in 2008, and from 66 in 2009 to 74 in 2010. The number of incidents noticeably increased in categories for FDI facilitation from 34 to 64, particularly due to a growing number of issues related to institutional problems and implementation problems for investment-related policies and regulations, and underdeveloped infrastructure and shortage of human resources. Consequently, the total number of incidents increased, though the number declined in categories for FDI liberalization as a whole from 16 to 10. Major categories in which incidents are registered incidents are vi) complicated and/or delayed procedures with respect to investment-related regulations (22), v) lack of transparency in policies and regulations concerning investment (20), and ix) underdeveloped infrastructure,

shortages of human resources, and insufficient investment incentives (13). The examples are complexity and delay of administrative procedures and arbitrary implementation of customs clearance under category vi), underdevelopment, ambiguity, and sudden changes in various regulations under category v), and underdeveloped infrastructure and difficulty in hiring and securing human resources due to shortages of management staff and engineers under category ix).

3. Assessment of FDI Environments based on a Survey of Firms in ASEAN

This section analyzes the FDI environments of ASEAN countries by using our original survey of foreign firms (mainly non-Japanese firms), sometimes with domestic firms, in ASEAN10.

3.1. The Methodology and the Data used for the Analysis

In order to collect information on the evaluation of investment climate by firms, mainly non-Japanese foreign firms operating in ASEAN10, we conduct an original survey, following the same categories used for the analysis in Section 2.

The questionnaire employed for the analysis is presented in Table 3.1. It is composed of two parts, namely: company profile and survey on investment climate. In the part of survey on investment climate, firms are asked to evaluate the seriousness of the 10 kinds of impediments in conducting business in the country of operation at present, by indicating the most appropriate rating from one to five (1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem). In particular, for the category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, the following three sub-categories are added to identify which factors are more serious: ix-1) “underdeveloped infrastructure, ix-2) shortages of human resources, and ix-3) insufficient investment incentives. Based on the results of the survey, with some detailed information if available, this section evaluates the investment climate in ASEAN10.

Table 3.1 The form of questionnaire

A. Company Profile			
Name	:	_____	
Address	:	_____	
Industry classification (refer to the appendix table at the end)	:	_____	
Major products/services	:	_____	
Foreign equity ratio (share of foreign equity in total equity):	:	_____	%
Name of the principal foreign investor:	:	_____	
Nationality of the principal foreign investor:	:	_____	
Foreign equity ratio of the principal foreign investor:	:	_____	%
Paid-in capital	:	_____	
Year of establishment	:	_____	
Form of establishment (please check one of the following):			
<input type="checkbox"/>	Newly established by a single company	<input type="checkbox"/>	Merger & acquisition
<input type="checkbox"/>	Newly established as a joint venture	<input type="checkbox"/>	Others
Types of operation (please check one of the following):			
<input type="checkbox"/>	Sales and marketing	<input type="checkbox"/>	Manufacturing and processing
<input type="checkbox"/>	R&D		
Employment	:	_____	
Total number of full-time employees	:	_____	
Total number of full-time foreign employees	:	_____	
Total number of part-time employees	:	_____	
Sales (total)	:	_____	
Percentage of exports in total sales	:	_____	%
Percentage of exports to the principal foreign investors in total exports:	:	_____	%
Royalty income	:	_____	
Purchase (total)	:	_____	
Percentage of imports in total purchases	:	_____	%
Percentage of imports from the principal foreign investors in total imports:	:	_____	%
Total assets	:	_____	

B. Survey on the Investment Climate
<i>We would like you to consider the investment climate in the ASEAN countries</i>
1. On a scale 1 (no problem) to 5 (extremely serious problem), please evaluate the seriousness of the impediments in conducting business in the country of operation at present (2010) for the 10 kinds of impediments below, and check the most appropriate rating for each category (1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem)
(i) Restrictions on foreign entry
(ii) Performance requirements
(iii) Restrictions on overseas remittances and controls on foreign currency transactions
(iv) Restrictions on the movement of people and employment requirements
(v) Lack of transparency in policies and regulations concerning investment (institutional problems)
(vi) Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)
(vii) Insufficient protection of intellectual property rights (IPRs)
(viii) Labor regulations and related practices excessively favorable to workers
(ix) Underdeveloped infrastructure, and shortages of human resources
ix-1) underdeveloped infrastructure
ix-2) shortages of human resources
ix-3) insufficient investment incentives
(x) Restricted competition and price controls
2. Please make comments (or provide precise information), if any, on the impediments to FDI for the 10 categories (see B.1 in the questionnaire)
3. Please write down below your suggestions for improving the country's investment climate:

Industry classification

Industry classification	Industry code	
Agriculture, fishery, forestry	10	
Mining	20	
Construction	30	
Manufacturing	Food processing	40
	Textiles and apparel	41
	Wood, pulp and paper	42
	Chemical products	43
	Iron and steel products	44
	Non-ferrous metal products	45
	General machinery	46
	Electronic and electric machinery	47
	Transport equipment	48
	Precision machinery	49
Other manufacturing	50	
Services	Distribution	60
	Transportation services	61
	Communication services	62
	Financial services	63
	Other services	64

Table 3.2 summarizes the details of surveys for each country. The method of collecting surveys and the number of firms in the survey varies across countries, depending on the situation of the country; either via e-mail, in face-to-face interviews, via post, or a combination of them are used.¹⁰ In addition, the number of responding firms in each country is unfortunately not so large due to various reasons and constraints, ranging between 3 and 35 respondents. The nationalities of the firms being surveyed are varied, with at least three different nationalities represented in each country.

Table 3.2 The details of surveys for ASEAN10

	How to conduct a survey	The number of firms to send questionnaires (have interviews)	The number of firms with responses	The returned ratio
Brunei	E-mail (with phone and interviews)	30	3	10%
Cambodia	Face-to-face interviews, e-mail, and personnel	96	35	36%
Indonesia	Face-to-face interviews	40 to 55	12	22%-30%
Laos	Postal (majority) and email and fax (minority)	12	8	67%
Malaysia	E-mail	Over 2000	34	About 2%
Myanmar	Face-to-face interviews	30	22	73%
Philippines	Phone, fax, and e-mail	100	27	27%
Singapore	Online survey and e-mail	About 80	15	About 19%
Thailand	Postal and e-mail (majority) and fax (minority)	72	10	14%
Vietnam	Survey and postal	40 + Over 100	5	About 3%

Tables 3.3 and 3.4 present some features of firms in the surveys. First of all, most of the firms in the surveys are in manufacturing or services industries; 72 percent of the firms in ASEAN10 as a whole in the surveys are in the manufacturing sectors and 24 percent are in the service sectors (Table 3.3). In particular, the textiles and apparel sector has the second largest share among those firms involved in manufacturing, following the ‘other manufacturing’ sector; many firms in this sector are observed in Cambodia, Myanmar, and Vietnam. If we look at by-country industry shares, the textiles and apparel sector is the largest in Cambodia (46 percent), Laos (25 percent), Myanmar (29 percent), and Vietnam (20 percent), which suggests how active this sector is in these countries, though firms in the surveys are not necessarily the representative of whole country. Similarly, the electronics and electrical machinery sector is (one of) the largest in the Philippines (30 percent) and Thailand (11 percent), the other manufacturing sector is the largest in Malaysia (47 percent) and Indonesia

¹⁰ See Table A.3.1 for detailed explanation of the method to conduct surveys.

(25 percent), and the service sector is the largest in Brunei (33 percent for financial services, for instance) and Singapore (27 percent for distribution, for example). Singapore appears to be the most active country for the service sectors among the 10 countries.

Table 3.3 The industry distribution

Industry	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	ASEAN10
(1) The number of firms											
Agriculture, fishery, forestry	0	1	0	0	0	0	0	0	2	0	3
Mining	0	0	0	1	0	0	0	0	0	0	1
Construction	0	2	0	1	0	0	0	0	1	0	4
Manufacturing											
Food processing	0	3	0	0	4	3	0	1	1	3	15
Textiles and apparel	0	16	1	2	4	7	0	0	0	6	36
Wood, pulp and paper	0	0	0	0	1	0	1	0	0	0	2
Chemical products	0	0	0	2	0	0	0	0	0	3	5
Iron and steel products	0	0	0	0	0	1	0	1	0	5	7
Non-ferrous metal products	0	0	0	1	3	0	0	0	0	0	4
General machinery	0	0	0	0	1	1	2	0	0	0	4
Electronic and electric machinery	0	0	1	0	3	1	8	0	1	4	18
Transport equipment	0	0	1	0	2	0	6	0	0	4	13
Other manufacturing	0	1	3	1	16	5	6	0	1	5	38
Services											
Distribution	0	1	0	0	0	3	2	4	0	0	10
Transportation services	0	1	0	0	0	0	0	2	0	0	3
Communication services	0	3	1	0	0	0	0	0	0	0	4
Financial services	1	2	3	0	0	0	0	1	0	0	7
Other services	2	5	2	0	0	3	2	6	3	0	23
Total	3	35	12	8	34	24	27	15	9	30	197
(2) Share											
Agriculture, fishery, forestry	0%	3%	0%	0%	0%	0%	0%	0%	22%	0%	2%
Mining	0%	0%	0%	13%	0%	0%	0%	0%	0%	0%	1%
Construction	0%	6%	0%	13%	0%	0%	0%	0%	11%	0%	2%
Manufacturing											
Food processing	0%	9%	0%	0%	12%	13%	0%	7%	11%	10%	8%
Textiles and apparel	0%	46%	8%	25%	12%	29%	0%	0%	0%	20%	18%
Wood, pulp and paper	0%	0%	0%	0%	3%	0%	4%	0%	0%	0%	1%
Chemical products	0%	0%	0%	25%	0%	0%	0%	0%	0%	10%	3%
Iron and steel products	0%	0%	0%	0%	0%	4%	0%	7%	0%	17%	4%
Non-ferrous metal products	0%	0%	0%	13%	9%	0%	0%	0%	0%	0%	2%
General machinery	0%	0%	0%	0%	3%	4%	7%	0%	0%	0%	2%
Electronic and electric machinery	0%	0%	8%	0%	9%	4%	30%	0%	11%	13%	9%
Transport equipment	0%	0%	8%	0%	6%	0%	22%	0%	0%	13%	7%
Other manufacturing	0%	3%	25%	13%	47%	21%	22%	0%	11%	17%	19%
Services											
Distribution	0%	3%	0%	0%	0%	13%	7%	27%	0%	0%	5%
Transportation services	0%	3%	0%	0%	0%	0%	0%	13%	0%	0%	2%
Communication services	0%	9%	8%	0%	0%	0%	0%	0%	0%	0%	2%
Financial services	33%	6%	25%	0%	0%	0%	0%	7%	0%	0%	4%
Other services	67%	14%	17%	0%	0%	13%	7%	40%	33%	0%	12%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

Table 3.4 The form of establishment, the type of operation, and foreign equity ratio: the number of firms

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam	ASEAN10
(1) The number of firms											
Form of establishment											
1: Newly established by a single company	1	24	2	6	7	10	11	12	5	24	102
2: Newly established as a joint venture	0	6	2	1	1	10	2	0	1	6	29
3: Merger & acquisition	0	2	6	1	1	2	0	1	0	0	13
4: Others	2	2	1	0	2	2	11	2	1	0	23
1&2									1		1
Total	3	34	11	8	11	24	24	15	8	30	168
Type of operation											
1: Sales and marketing	0	10	1	4	0	6	2	12	1	0	36
2: Manufacturing and processing	2	21	3	4	19	15	23	3	4	30	124
3: R&D	0	3	0	0	0	0	0	0	0	0	3
1&2			2			1			2		5
2&3					1						1
1&2&3					2				1		3
Total	2	34	6	8	22	22	25	15	8	30	172
Foreign equity ratio (FER)											
Domestic (FER=0)	3	1	0	3	3	0	0	2	0	0	12
Foreign: minority-owned (0<FER<=50)	0	2	1	0	6	2	1	3	4	2	21
Foreign: majority-owned (50<FER<100)	0	7	8	2	8	9	5	1	1	6	47
Foreign: wholly-owned (FER==100)	0	18	1	3	10	12	13	9	3	22	91
Total	3	28	10	8	27	23	19	15	8	30	171
(2) Shares											
Form of establishment											
1: Newly established by a single company	33%	71%	18%	75%	64%	42%	46%	80%	63%	80%	61%
2: Newly established as a joint venture	0%	18%	18%	13%	9%	42%	8%	0%	13%	20%	17%
3: Merger & acquisition	0%	6%	55%	13%	9%	8%	0%	7%	0%	0%	8%
4: Others	67%	6%	9%	0%	18%	8%	46%	13%	13%	0%	14%
Type of operation											
1: Sales and marketing	0%	29%	17%	50%	0%	27%	8%	80%	13%	0%	21%
2: Manufacturing and processing	100%	62%	50%	50%	86%	68%	92%	20%	50%	100%	72%
3: R&D	0%	9%	0%	0%	0%	0%	0%	0%	0%	0%	2%
Foreign equity ratio (FER)											
Domestic (FER=0)	100%	4%	0%	38%	11%	0%	0%	13%	0%	0%	7%
Foreign: minority-owned (0<FER<=50)	0%	7%	10%	0%	22%	9%	5%	20%	50%	7%	12%
Foreign: majority-owned (50<FER<100)	0%	25%	80%	25%	30%	39%	26%	7%	13%	20%	27%
Foreign: wholly-owned (FER==100)	0%	64%	10%	38%	37%	52%	68%	60%	38%	73%	53%

Notes: The total number of firms is not consistent with the number in Table 3.2 for some countries, due to missing data. Regarding type of operations and form of establishment, the major category cannot be identified for some firms because they chose multiple categories.

Second, regarding the type of operations, manufacturing and processing are the most typical operations for firms in the surveys for ASEAN as a whole (72 percent) as well as for all individual countries except Singapore; as the pattern of industry distribution implies,

sales and marketing are the most typical operations for Singapore (80 percent).

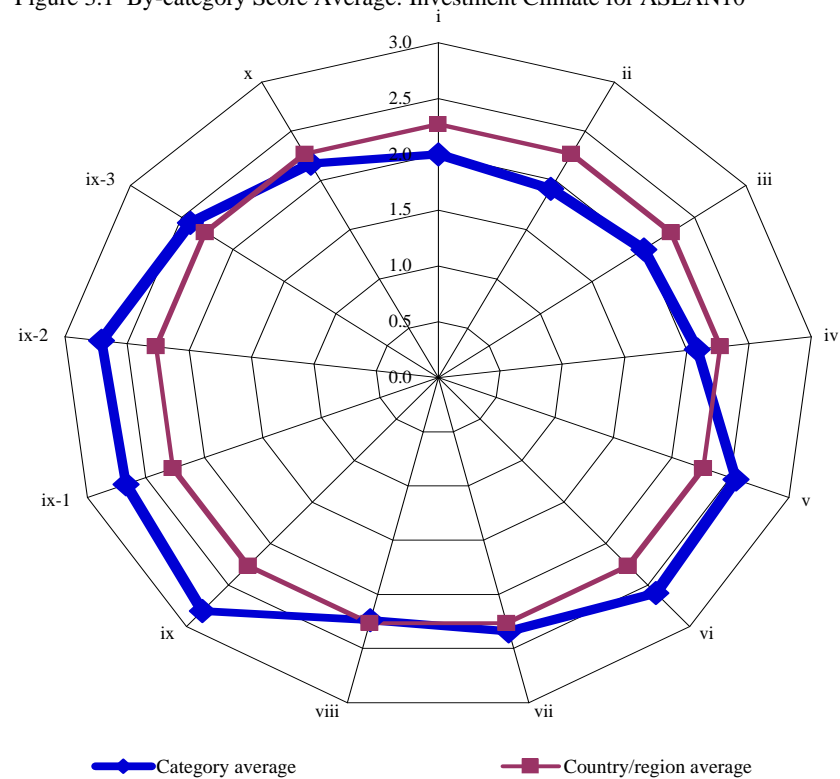
Third, as for the form of establishment, new establishment by a single company is the most common form for ASEAN as a whole (61 percent) and for all individual countries except Indonesia. As the data on foreign equity ratio suggests, more than half of the firms in the survey are wholly foreign-owned firms. Firms that are newly established as joint ventures are the second most common form of establishment (17 percent of firms in the survey). For firms in the survey of Indonesia, merger and acquisitions are the major form of establishment, and the majority-owned firms with foreign equity ratio of between 50 percent and 100 percent are the most numerous.

3.2. The Results

Figure 3.1 demonstrates by-category average scores of investment climate in 2010 in ASEAN as a whole; the seriousness of the 10 kinds of impediments in conducting business in the country of operation, with scores from one for “no problem” to five for “extremely serious problem”. Since the number of firms in the survey significantly varies across countries, a category average for ASEAN10 is calculated, based on each of the 10 countries’ average scores in each category.¹¹ Figure 3.1 also shows a regional average, which is the average of 10 categories’ average at the country level, for ASEAN as a whole. The regional average is 2.3, suggesting that the overall perception of the investment climate is between “slight problem” and “substantial problem” on average. In other words, the problems and impediments in conducting business in ASEAN are on average not so serious.

¹¹ When category averages are calculated, using all samples in the survey directly, they are similar to the scores in Figure 3.1, but some of them are a little lower.

Figure 3.1 By-category Score Average: Investment Climate for ASEAN10



1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem

Note: score average for ASEAN10 is calculated, based on the country average for 10 countries.

FDI liberalization

- i Restrictions on foreign entry
- ii Performance requirements
- iii Restrictions on overseas remittances and controls on foreign currency transactions
- iv Restrictions on the movement of people and employment requirements

FDI facilitation

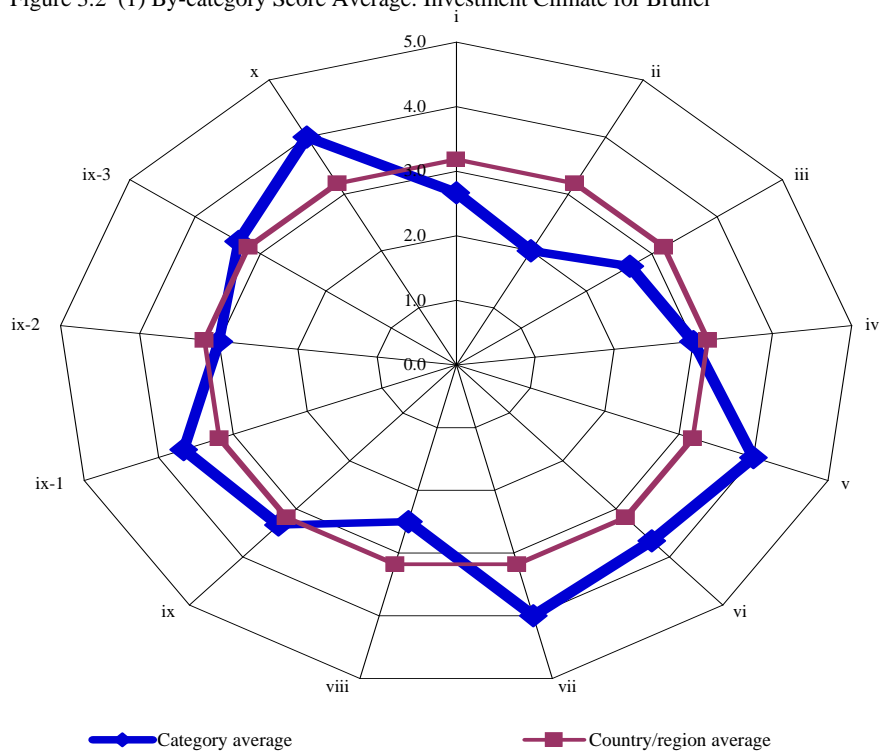
- v Lack of transparency in policies and regulations concerning investment (institutional problems)
 - vi Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)
 - vii Insufficient protection of intellectual property rights
 - viii Labor regulations and related practices excessively favorable to workers
 - ix Underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives
 - ix-1 Underdeveloped infrastructure
 - ix-2 Shortages of human resources
 - ix-3 Insufficient investment incentives
 - x Restricted competition and price controls
-

The scores, however, vary among the 10 categories. As the figure shows, category v) “lack of transparency in policies and regulations concerning investment (institutional problems)”, category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)”, category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, in particular, are more serious than others; scores are 2.5, 2.6, and 2.8, respectively. This is perfectly consistent with the results of the analysis conducted in section 2, using the information obtained from a survey on Japanese firms. It indicates that there is plenty of room to improve FDI facilitation in order to promote FDI in ASEAN. Although neither institutional nor implementation problems are necessarily discriminatory against foreign firms, they need to be resolved in order to promote investment activity in the region.

When we focus on the category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, scores are slightly higher for sub-categories ix-1) “underdeveloped infrastructure” (2.7) and ix-2) “shortages of human resources” (2.7) than for category ix-3) “insufficient investment incentives” (2.4). This implies that underdeveloped infrastructure and shortages of human resources, in particular, are relatively more serious issues in conducting business in ASEAN10.

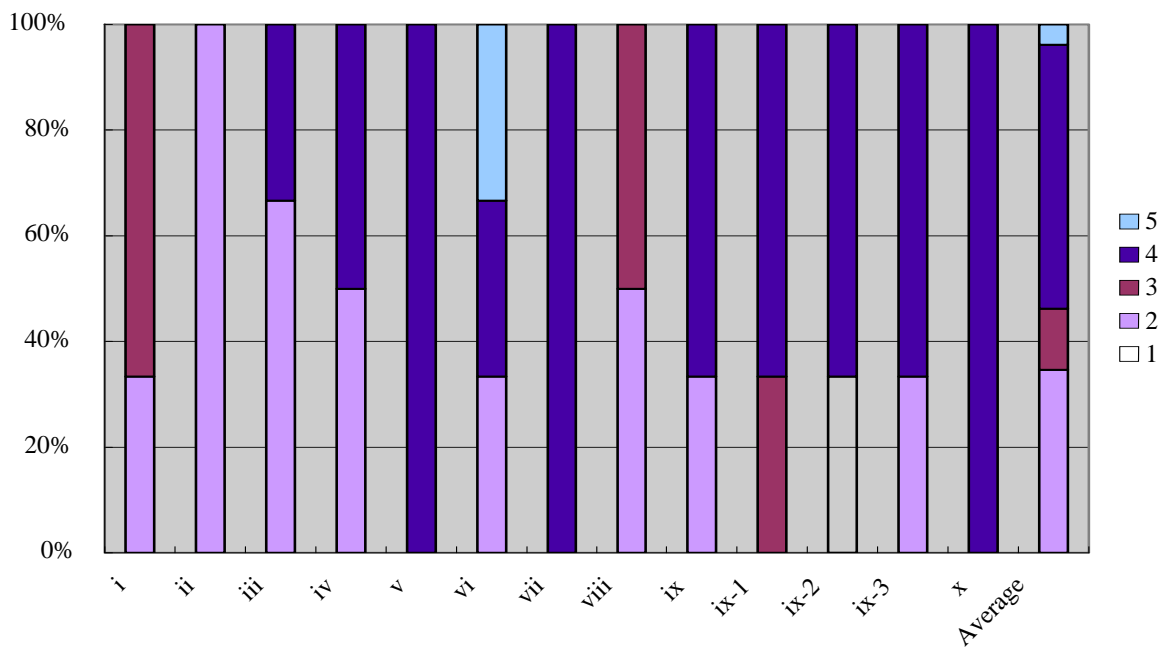
Let us discuss features of the investment climate by country. Figures 3.2 and 3.3 present by-category score average and shares by score and category for individual countries of ASEAN10.

Figure 3.2 (1) By-category Score Average: Investment Climate for Brunei



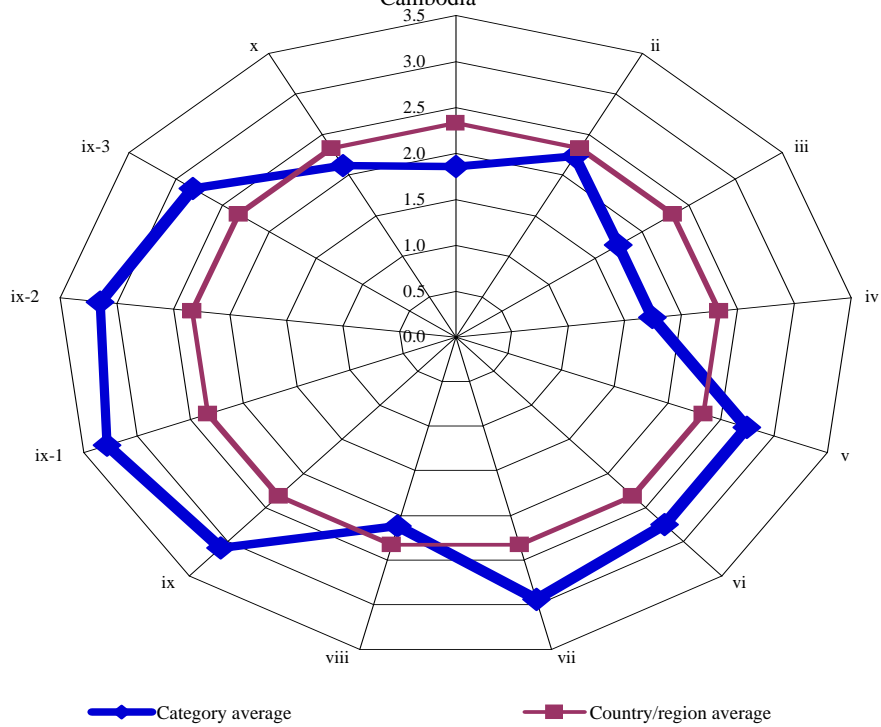
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (1) Shares by Score and Category: Investment Climate for Brunei



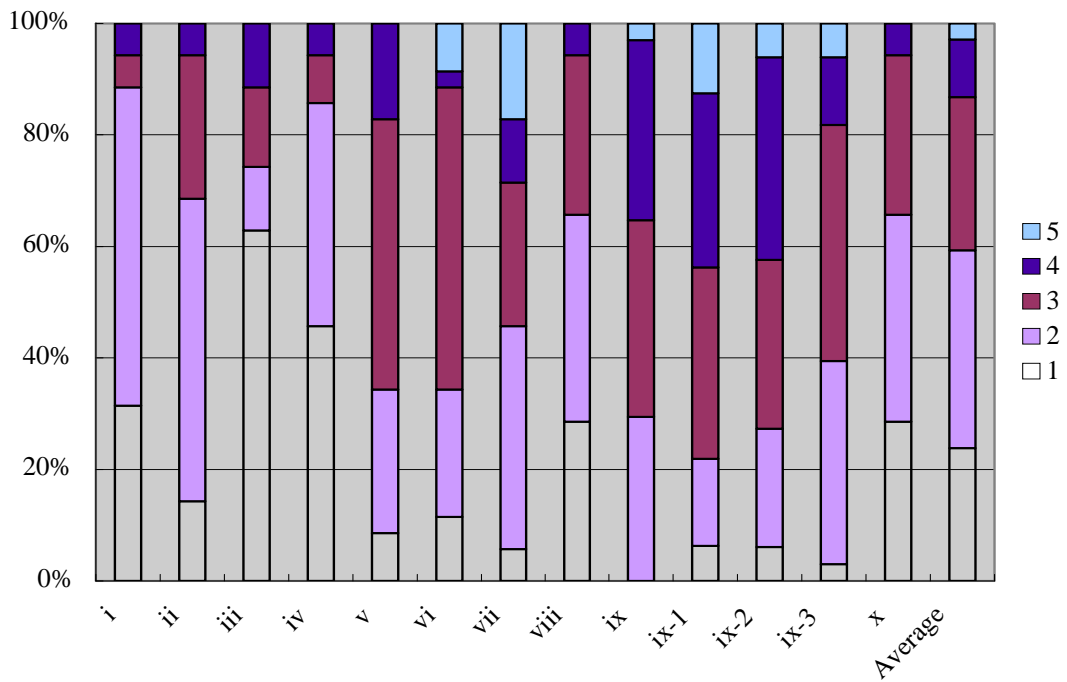
See notes for Figure 3.2.

Figure 3.2 (2) By-category Score Average: Investment Climate for Cambodia



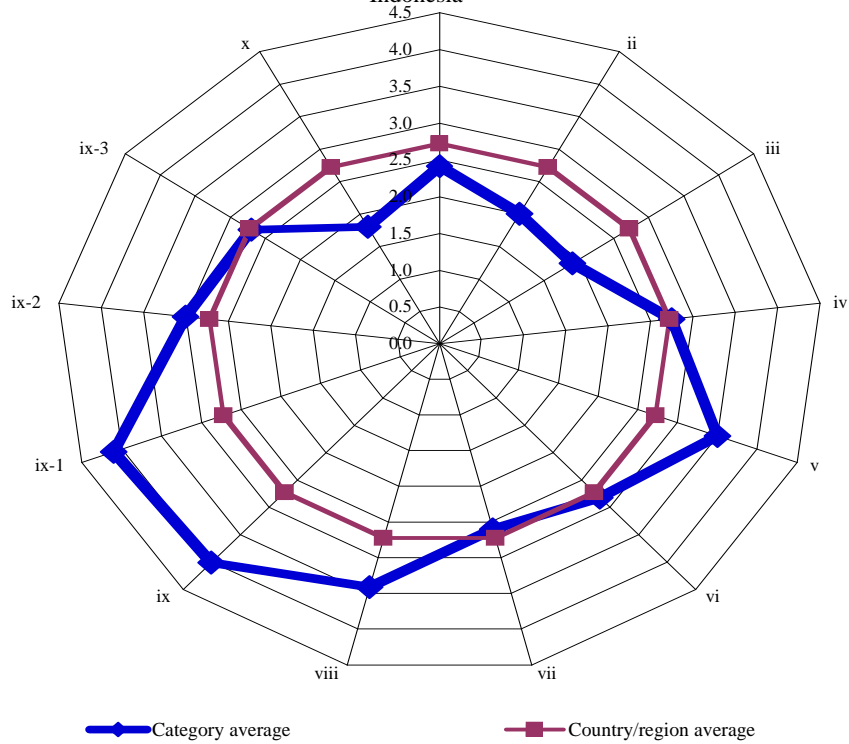
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (2) Shares by Score and Category: Investment Climate for Cambodia



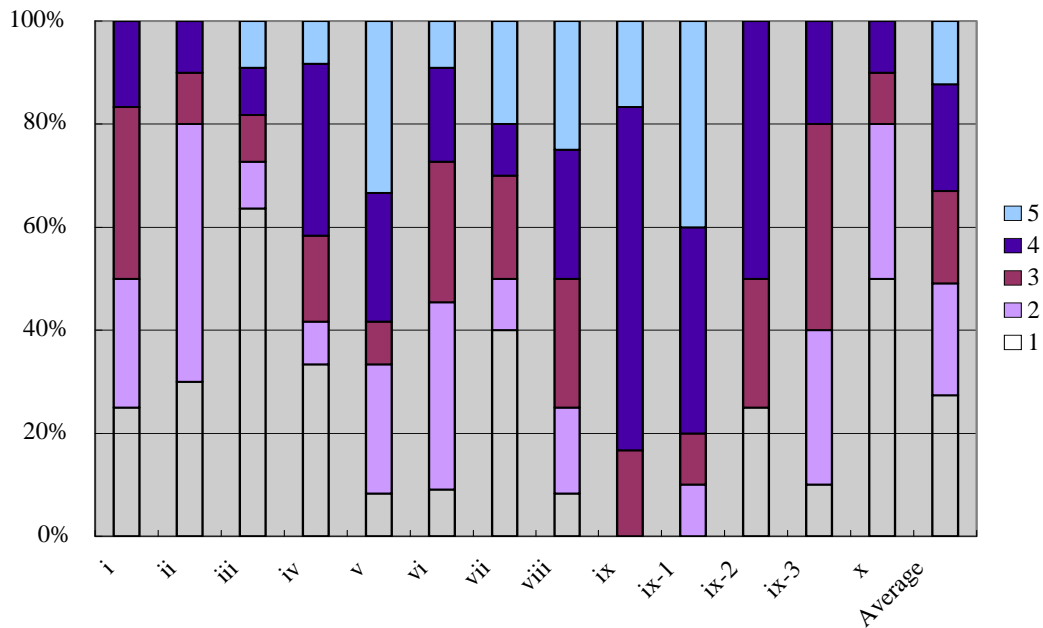
See notes for Figure 3.2.

Figure 3.2 (3) By-category Score Average: Investment Climate for Indonesia



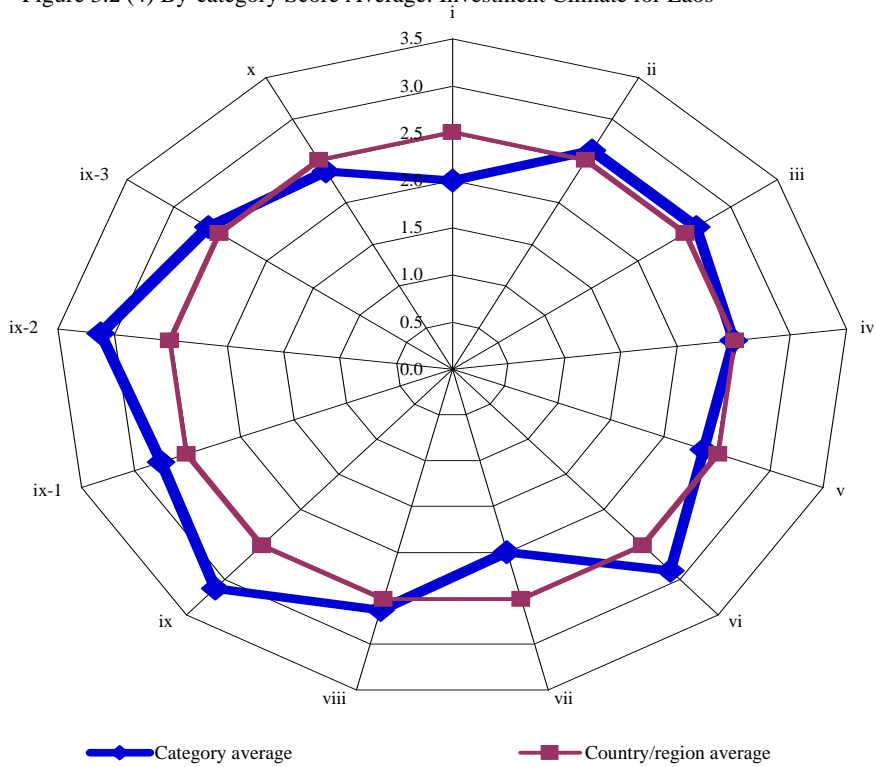
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (3) Shares by Score and Category: Investment Climate for Indonesia



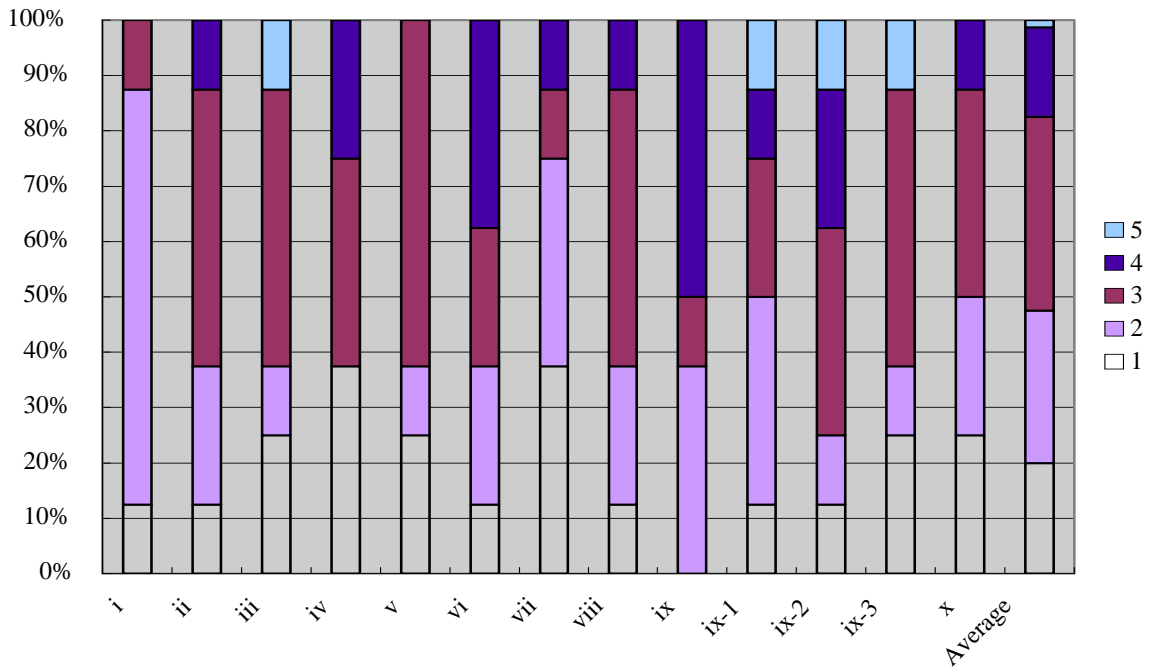
See notes for Figure 3.2.

Figure 3.2 (4) By-category Score Average: Investment Climate for Laos



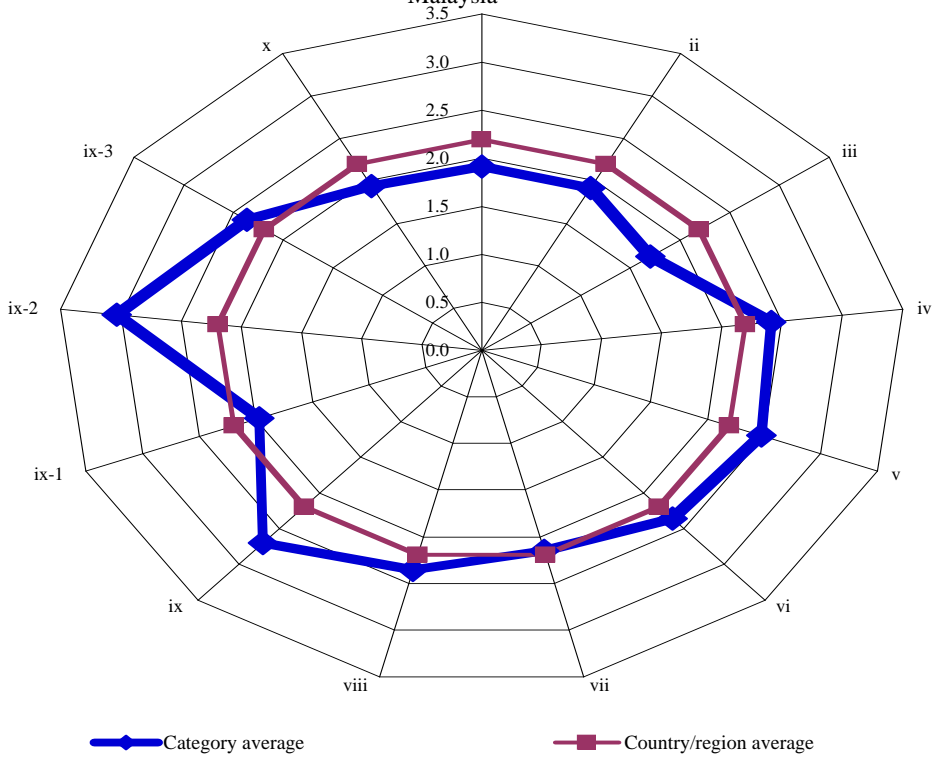
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (4) Shares by Score and Category: Investment Climate for Laos



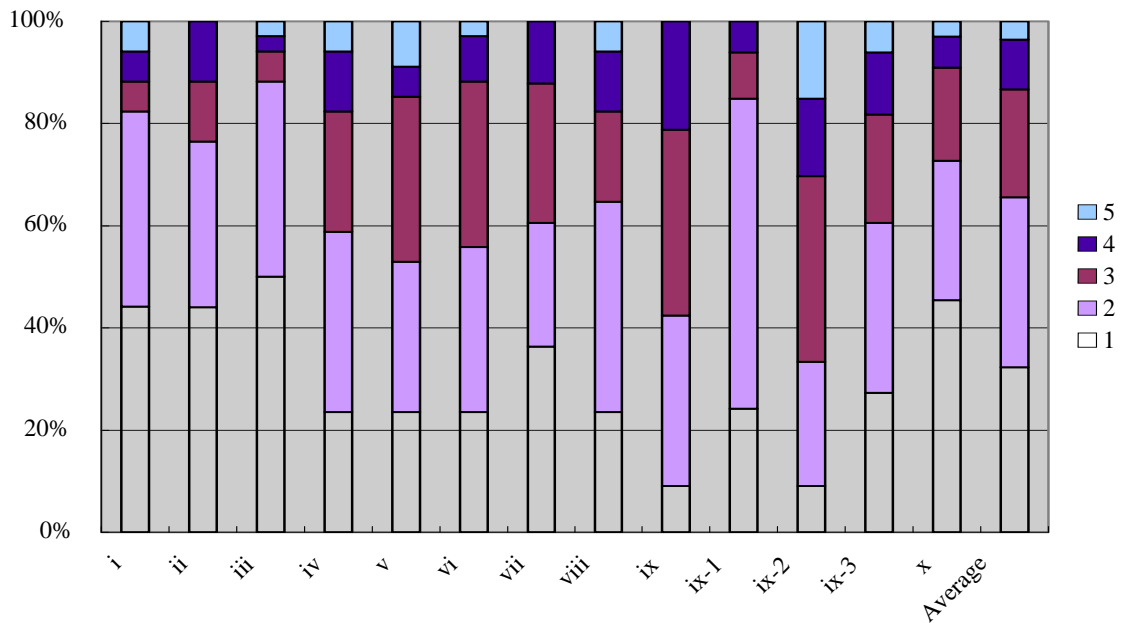
See notes for Figure 3.2.

Figure 3.2 (5) By-category Score Average: Investment Climate for Malaysia



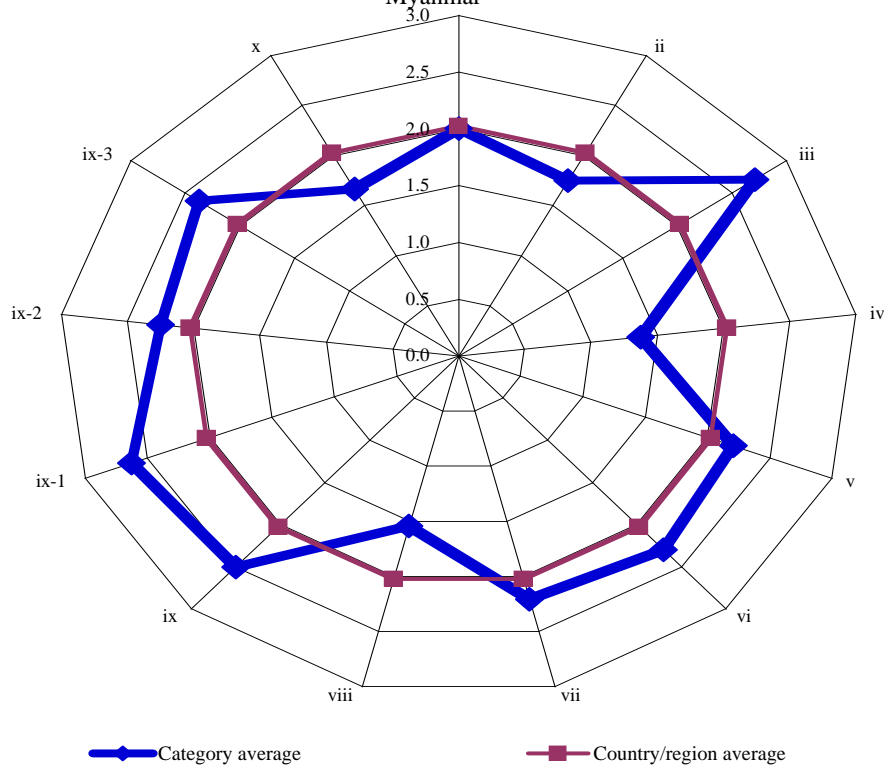
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (5) Shares by Score and Category: Investment Climate for Malaysia



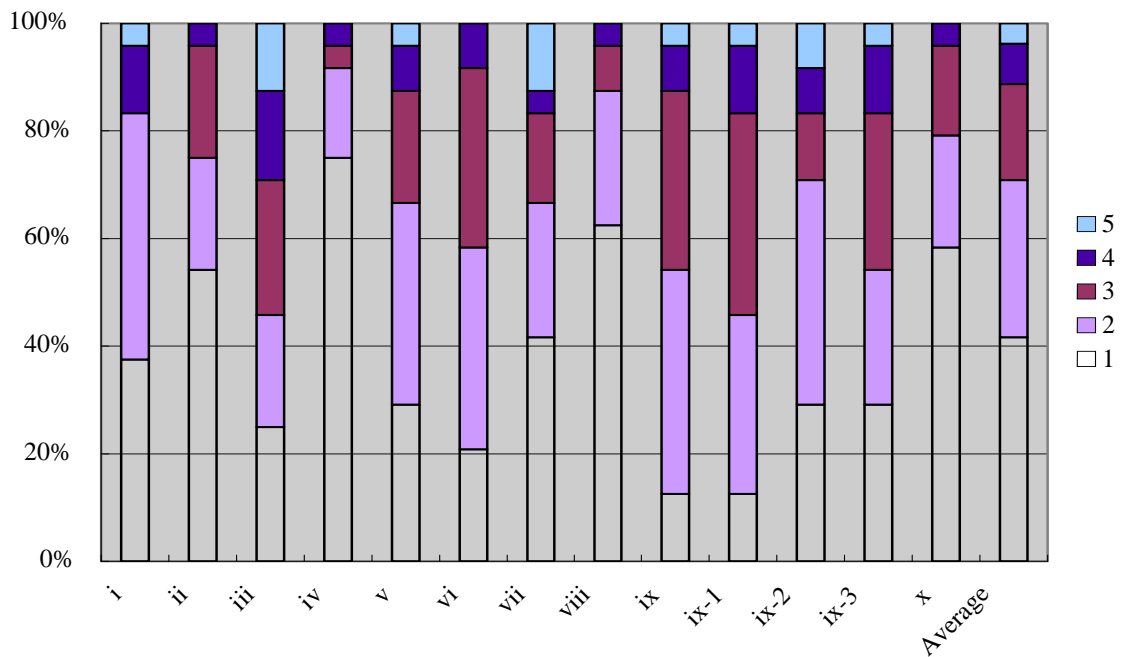
See notes for Figure 3.2.

Figure 3.2 (6) By-category Score Average: Investment Climate for Myanmar



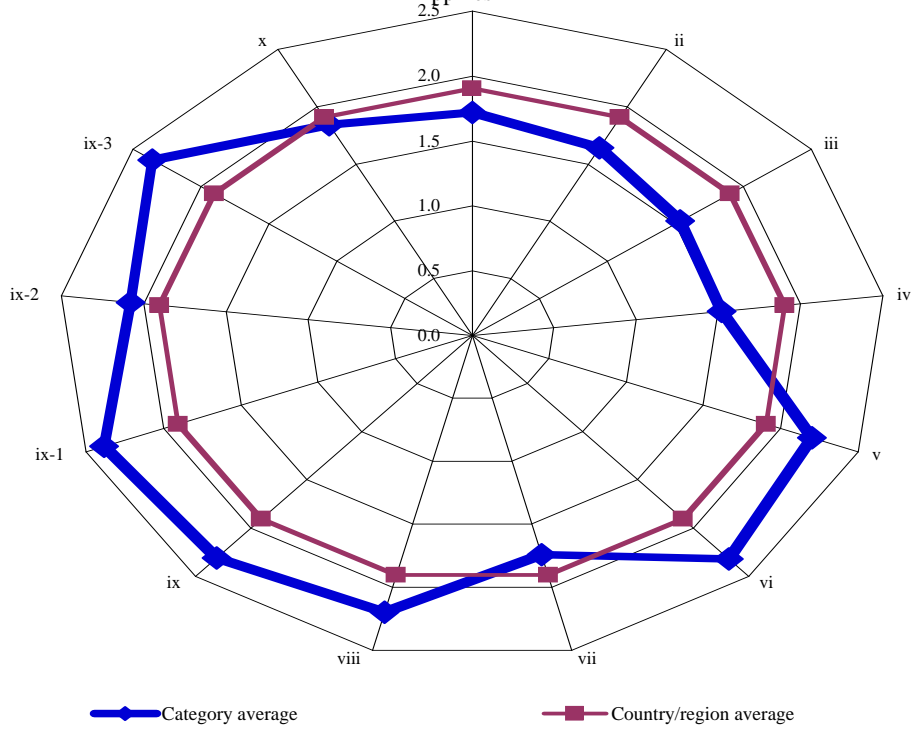
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (6) Shares by Score and Category: Investment Climate for Myanmar



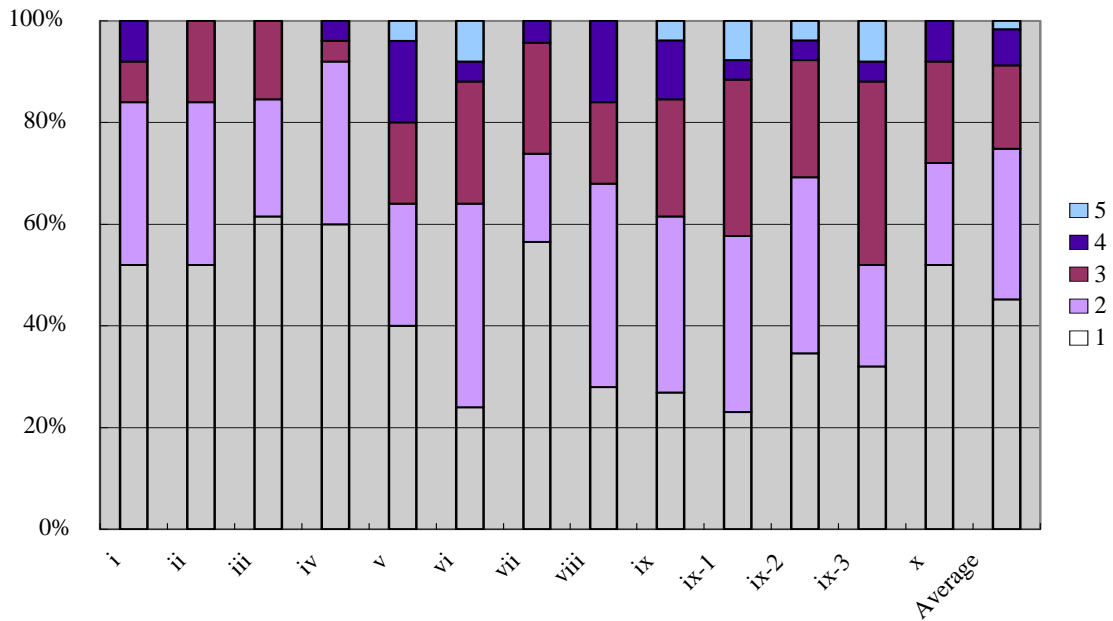
See notes for Figure 3.2.

Figure 3.2 (7) By-category Score Average: Investment Climate for the Philippines



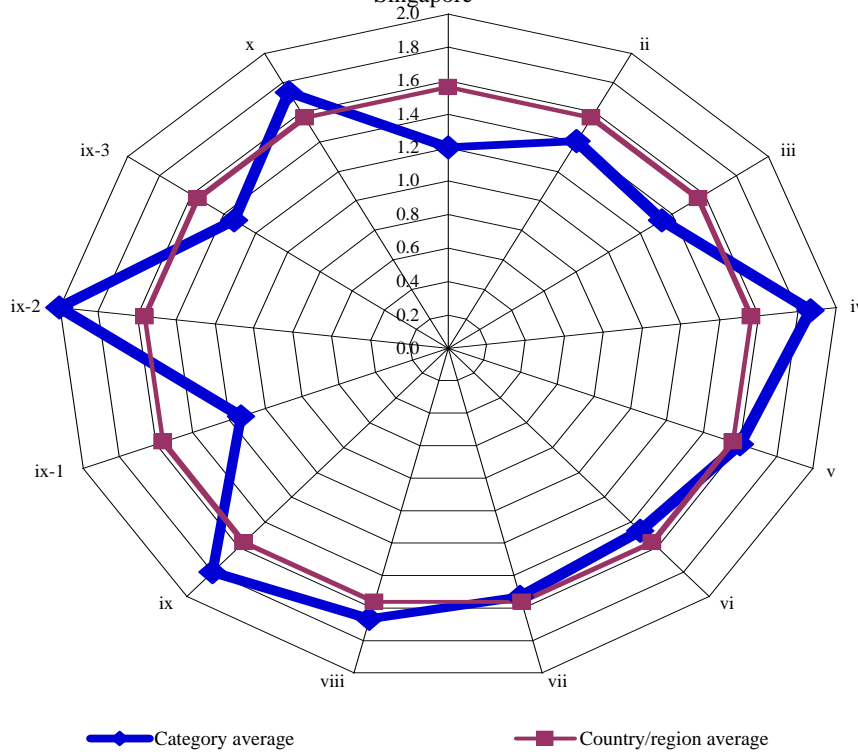
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (7) Shares by Score and Category: Investment Climate for the Philippines



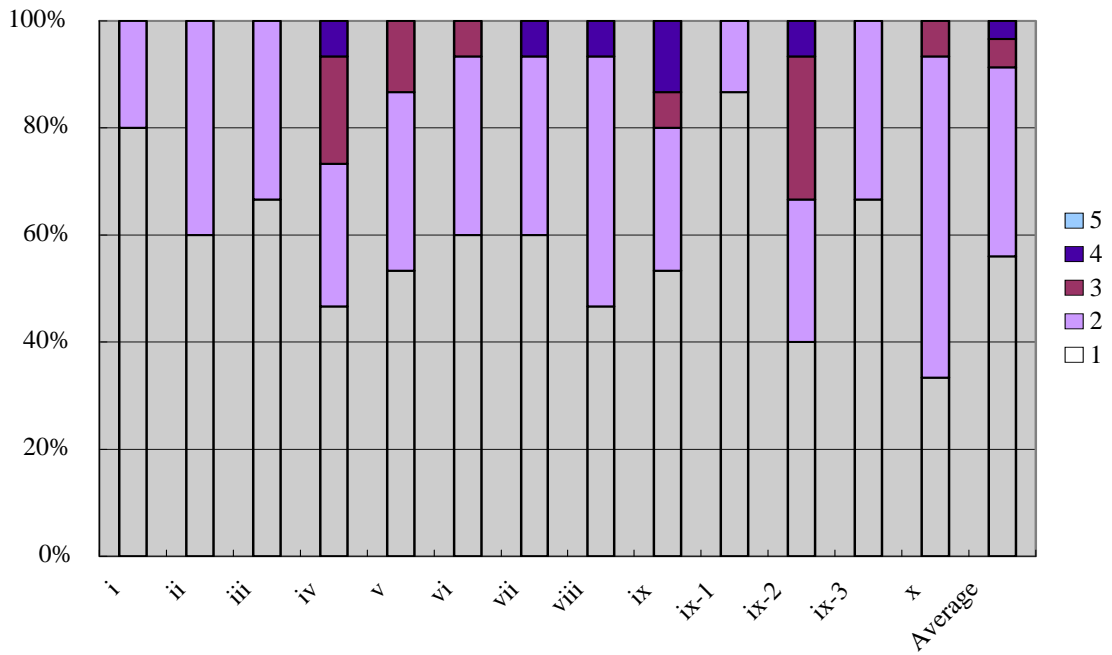
See notes for Figure 3.2.

Figure 3.2 (8) By-category Score Average: Investment Climate for Singapore



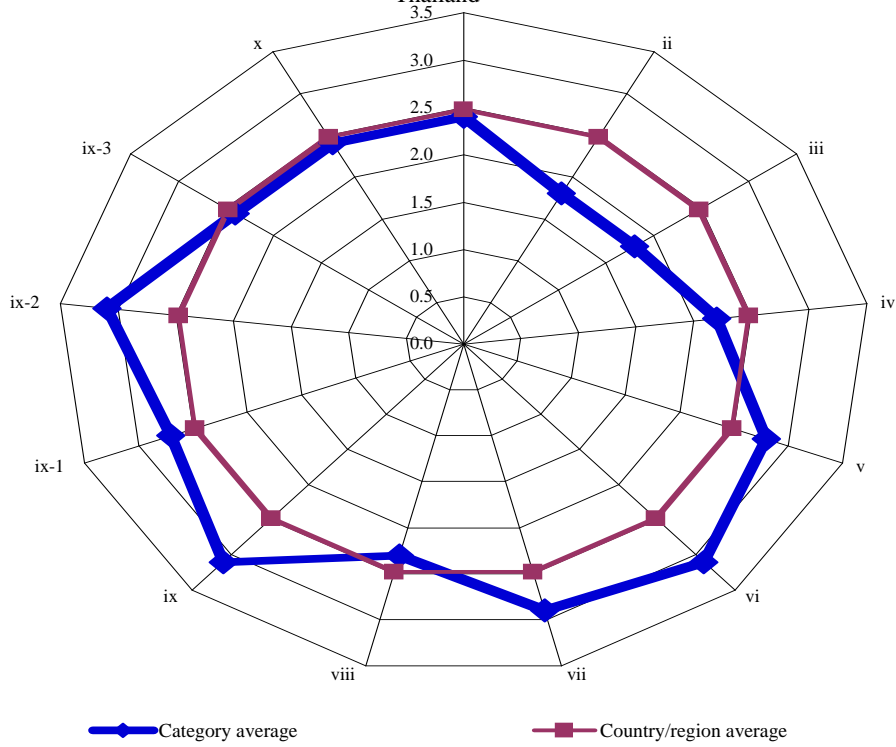
1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem
See Figure 3.1 for category.

Figure 3.3 (8) Shares by Score and Category: Investment Climate for Singapore



See notes for Figure 3.2.

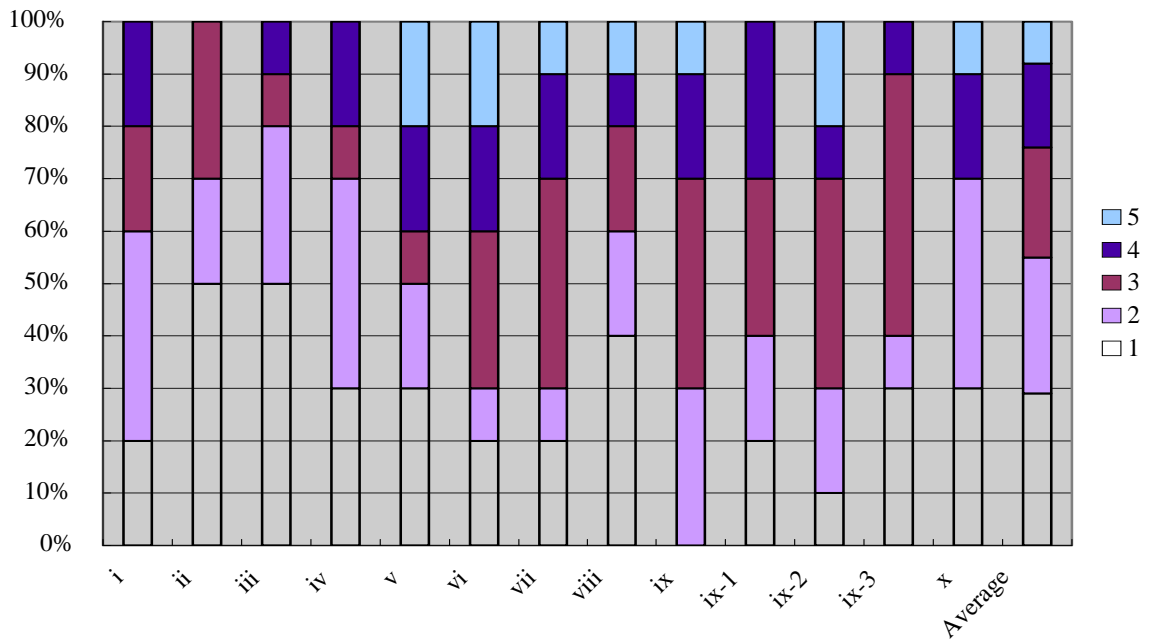
Figure 3.2 (9) By-category Score Average: Investment Climate for Thailand



1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem

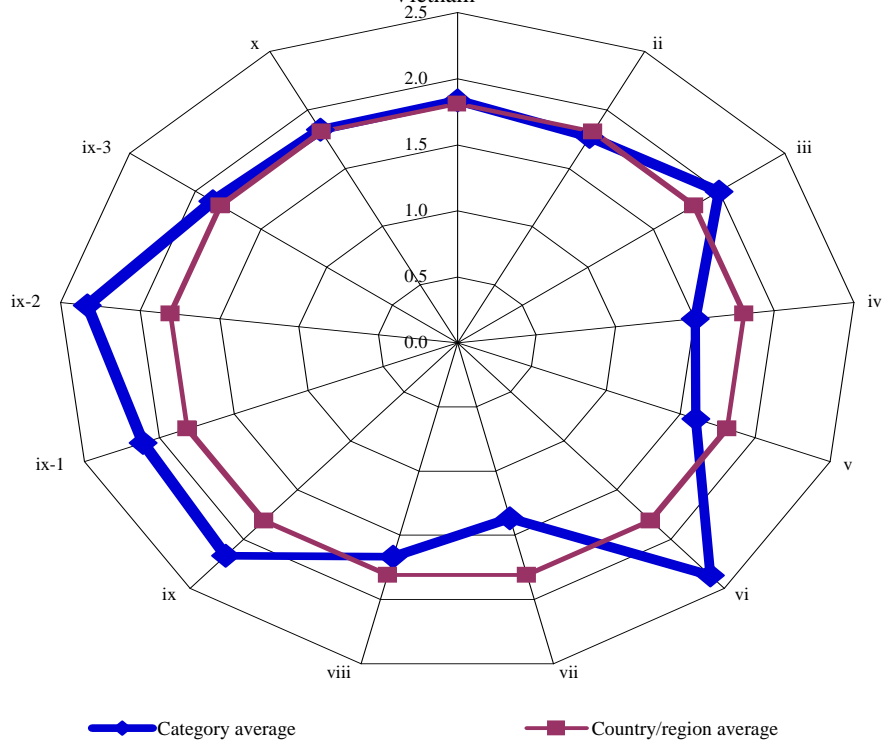
See Figure 3.1 for category.

Figure 3.3 (9) Shares by Score and Category: Investment Climate for Thailand



See notes for Figure 3.2.

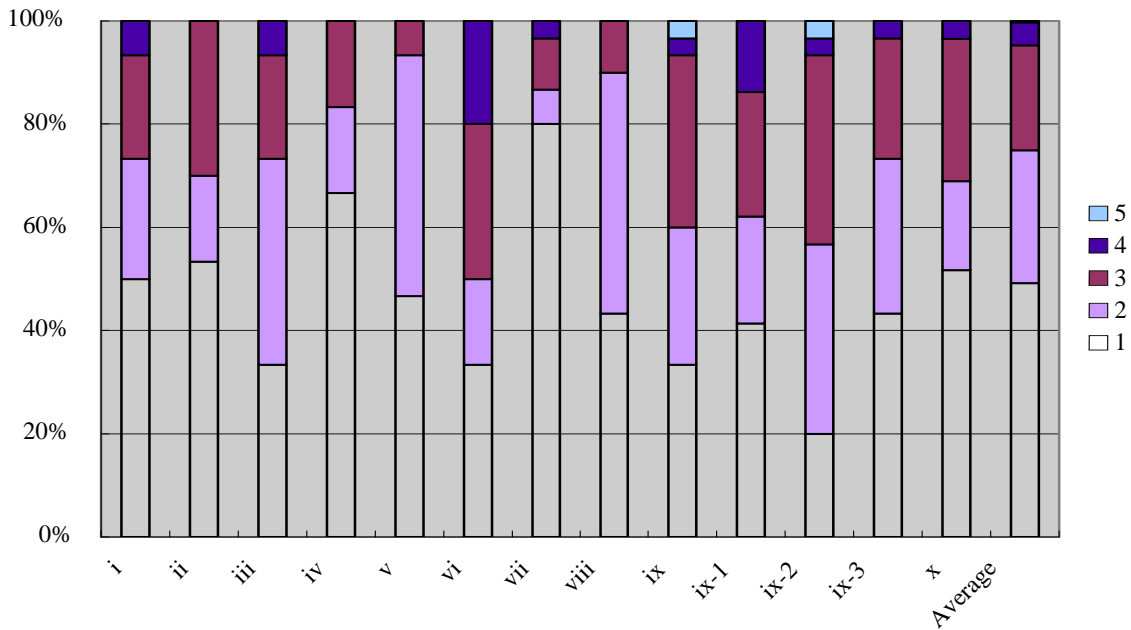
Figure 3.2 (10) By-category Score Average: Investment Climate for Vietnam



1 = No problem; 2=Slight problem; 3=Substantial problem; 4= Serious problem; and 5= Extremely serious problem

See Figure 3.1 for category.

Figure 3.3 (10) Shares by Score and Category: Investment Climate for Vietnam



See notes for Figure 3.2.

Brunei (3 firms)

Since the number of firms in the survey is very limited, discussion on their features is omitted.

Although the number of firms in the survey is small, according to the survey, category v) “lack of transparency in policies and regulations concerning investment (institutional problems)”, category vii) “insufficient protection of IPRs”, and category x) “restricted competition and price controls” are the most serious; all firms in the survey gave a score of 4 (serious problem). Category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” and ix-1) “underdeveloped infrastructure”, with score of 3.7, indicates that these are also relatively serious barriers. These areas need improvement.

Cambodia (35 firms)

The textile and apparel is the major sector for firms in the survey. Over 60 percent of the firms are engaged in manufacturing processing activities and about 30 percent are in sales and marketing activities. As for the form of establishment, around 70 percent of the firms are the ones newly established by a single company, and close to 20 percent are joint ventures. Regarding capital structure, 64 percent of the firms are wholly-owned and 25 percent are majority-owned foreign firms. Six out of 35 firms export (nearly) all of their products, and eight of them buy over 80 percent of total purchases from abroad.

The country average of scores for investment climate is 2.3. Among 10 categories, category v) “lack of transparency in policies and regulations concerning investment (institutional problems)” with a score of 2.7, category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” with a score of 2.7, category vii) “insufficient protection of intellectual property rights (IPRs)” with a score of 2.9, and category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 3.1 have higher scores which are higher

than the country average. More than 60 percent of firms in the sample view these areas as “substantial problem”, “serious problem”, or “extremely serious problem”. These problems need to be improved as a priority.

Regarding the category “lack of transparency in policies and regulations concerning investment”, current policies and regulations, including tax-related regulations, are not clear enough, which gives room for officers to interpret them differently. As a result, informal processing and facilitation fees are required when things become unclear and complicated. As for the category “complicated and/or delayed procedures with respect to investment-related regulations”, similar to transparency in policies and regulation, complicated procedures and regulations, delays in procedures, and bureaucracy are viewed as substantial problem. For instance, firms have to undergo many procedures for exports, which is time consuming and costs are high, resulting in making firms becoming less competitive. As for the category “insufficient protection of intellectual property rights (IPRs)”, the law on IPRs in Cambodia is at an early stage of development. Regarding the category “underdeveloped infrastructure, and shortages of human resources”, scores for sub-categories imply that ix-1) underdeveloped infrastructure (with a score of 3.3) and ix-2) shortages of human resources (3.2), in particular, need to be significantly improved.

The following are the examples of issues in some of the other categories. Regarding i) “restriction on foreign entry” (with a score of 1.9), about 11% of firms regard it as a substantial problem or serious problem that restricts foreign entry. According to laws on investment in Cambodia, foreign firms are not allowed to invest in the area such as gemstones, clay bricks both hollow and solid, tiles, rice milling, wood and stone carving, and silk-wear etc. Foreign firms are also prohibited from owning land, which could be an obstacle for investment in real estate and other sectors such as agriculture. Category iii) remittance and control on foreign currency transactions (with a score of 1.7) is the least serious because Cambodia doesn’t restrict capital flows and the US dollar is usually used for trading and transactions. As for category iv) restrictions on the movement of people and employment requirements, 30 out of 35 respondents recorded no problem or only slight problem. According to Cambodia Labor Law, however, there is a quota for foreign employees; up to 10 percent of the total number of employees can be foreigners (a request with justification is necessary when firms want to recruit a higher proportion of foreign employees). Although this quota is usually enough for firms to operate, this could be some burden. Category x) restricted competition and price

controls (with a score of 2.1) is less serious, compared with other areas; about one third of the firms regard this area as no problem. However, some firms view this area as being a serious problem. For example, the Ministry of Post and Telecommunication regulate the minimum tariff rate for the service providers to ensure the level of competition.

Indonesia (12 firms)

The majority sectors for firms in the survey are other manufacturing (25 percent) and financial services (25 percent), followed by other services (17 percent) and textiles and apparel, electronic and electric machinery, transport equipment, and communication services (8 percent, respectively). More than half of the firms in the survey take the form of M&A, and 80 percent of firms in the survey are majority-owned foreign firms. Compared with other countries, the proportion of firms that are newly established by a single company is much lower (18 percent), and M&A and joint venture are the major forms of establishment because, in some sectors, the form of wholly foreign-owned firms are not allowed (the form of joint-venture is requested). About 50 percent of the firms are engaged mainly in manufacturing and processing activities, and close to 20 percent are in sales and marketing activities (2 firms out of 11 are involved in both activities, and we can not identify which is the major one.).

The country average of scores for investment climate is 2.7. Among 10 categories, category v) “lack of transparency in policies and regulations concerning investment (institutional problems)” with a score of 3.5, category viii) “labor regulations and related practices excessively favorable to workers” with a score of 3.4, and category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 4.0 have higher scores than the country average. Almost all firms in the survey regards these areas as being problematic, and more than half of the firms view these areas as a “serious problem” or “extremely serious problem”. It suggests how serious these issues are and how important it is to improve these areas.

Regarding the category “lack of transparency in policies and regulations concerning investment, many respondents complain that BKPM (Investment Coordinating Board) often changes regulations and do not regularly disseminate the information, and too many

procedures for investment are requested. The current regulation from the head of BKPM does not state precise requirements concerning investment. A company may try to contact BKPM official or come to the BKPM office for consultation on the requirements for the license, and this kind of process causes a lack of transparency. However, many respondents agree that the procedures in BKPM have been much better in the last three years in terms of corruption anymore, but it is still the case that firms are asked to give an ‘entertaining fee’ of around Rp 300,000 per year to the officials.

As for the category “Labor regulations and related practices excessively favorable to workers”, there are many complaints; laws are excessively favorable to workers and most of the decisions are given in their favor even if they are wrong. Moreover, a firm has to submit a full labor report to the Ministry of Manpower at the regional level frequently (monthly, quarterly, and biannually); it has been reported that government officials can ask for illegal fee of around Rp 15,000 per worker in order that the labor report can be registered in the government office.

Regarding category ix) “underdeveloped infrastructure, and shortages of human resources”, all firms regard this area as a “substantial problem”, “serious problem”, or “extremely serious problem. In particular, sub-category ”ix-1) underdeveloped infrastructure (with a score of 4.1) is the most serious; over 90 percent of firms regard this as a “serious problem”, or “extremely serious problem”. All respondents agree that land transport urgently needs to be improved, while telecommunication has been improving in recent years. Telecommunication and Internet access, however, remain below the levels of those in neighboring countries. Availability and reliability of electricity is still a serious problem. Regarding shortages of human resources, for example, firms need more specialists in both technology and marketing, engineers in the oil and gas industry, top business management, and manpower with high levels of English proficiency.

Examples of the issues in some of other categories are as follows: as for performance requirements, an expatriate employee issue is identified. The government asks for proof of knowledge transfer conducted in a company whenever an extension of the foreigners’ residency permit is conducted each year; for example, proof that on-the-job training is conducted in a company during the corresponding year.

Regarding restrictions on the movement of people and employment requirements,

there are restrictions for this category but companies can find ways to get around the regulations; many of them use the service of agents to manage the process of hiring foreign workers. However, if firms do not use agents, the procedures take longer than stated in the regulations, and also more costly due to many illegal fees. For instance, the legal visa fee for a working visa application for a foreigner is Rp 55,000, but the illegal fee may reach more than Rp 300,000. To get a KITAS (Indonesian temporary domicile card), the legal fee is Rp 770,000 but the illegal fee may be more. The bribery mostly occurs in the immigration office at a regional level. The procedure in the directorate general of immigration at central level has been better since the introduction of an online system in September 2010. In addition, USD 1200/year has to be paid to the Ministry of Manpower for every foreigner working in a company for DPKK/Dana pengembangan keterampilan tenaga kerja (Fund for improving workers' skills).

As for category vi) complicated and/or delayed procedure with respect to investment-related regulations (implementation problems), for instance, the procedure for the Excise and Duties Directorate is better than before since they now have EDI (Electronic Data Interchange) to facilitate importers and exporters in tracking the company's goods. However, there is a case that complicated procedures with respect to investment in Indonesia somewhat prevent parent companies from increasing their investment in Indonesia, particularly in building new establishments.

Laos (8 firms)

The majority of firms in the survey are in the textiles and apparel (25 percent) and chemical products (25 percent) sectors. Newly establishment by a single company is the most common form of establishment in Laos: 75 percent of firms take this form. All the firms are engaged in either manufacturing and processing activities or sales and marketing activities. In terms of capital structure, firms in the survey are either domestic, majority-owned, or wholly foreign-owned.

The country average of scores for investment climate is 2.6. Among the 10 categories, category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” with a score of 2.9 and ix)

“underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 3.1 have higher scores than the country average. Almost all firms in the survey regard these areas as being a problem, and more than 60 percent of firms view them as a “substantial problem”, “serious problem”, or “extremely serious problem”. These responses suggest how the importance of improving these areas is.

For ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, which is the most problematic category in Laos, in particular, a score for sub-category ix-) shortages of human resources (3.1) is higher than those for the other sub-categories (2.8 and 2.6).¹² This indicates a necessity to supply sufficient skilled labor or develop human capital to match demand.

Some typical issues are raised in the survey. For instance, the investment approval process is not very quick as indicated in Law 2. Law enforcement is another issue since many laws have been introduced but are still weak in terms of enforcement. The current labor law seems to give greater preference to labor, which causes ineffectiveness of labor in many workplaces.

Malaysia (34 firms)

All firms in the sample are in the manufacturing sector; major ones are food processing (12 percent), textile and apparel (12 percent), non-ferrous metal products (9 percent), electronic and electric machinery (9 percent), and other manufacturing (47 percent). Also, almost all firms are involved in manufacturing and processing activities. Over 60 percent of firms in the survey are those newly established by a single company, but capital structure varies across 4 groups: domestic firms (11 percent), minority-owned (22 percent), majority-owned (30%), and wholly-owned (38 percent). Although the data for ratios of exports to total sales and imports to total purchases are available only for a few firms, those with high export ratios and/or import ratios are wholly foreign-owned firms.

The country average of scores for investment climate is 2.2. Among the 10 categories, category v) “lack of transparency in policies and regulations concerning

¹² Domestic firms regards issues of underdeveloped infrastructure more serious while foreign firms see issues of shortage of human resource more substantial.

investment (institutional problems)” with a score of 2.5 and category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 2.7 have much higher scores than the country average. Almost a half of firms consider category v) as being a “substantial problem”, “serious problem”, or “extremely serious problem” and close to 60 percent of firms regard category ix) similarly. In particular, among infrastructure, human resources, and investment incentives, shortages of human resources are more serious than others; a score for sub-category ix-2) “shortages of human resources” is 3.0, which is much higher than 2.0 or 2.4 for the other sub-categories. This indicates that the biggest concern is a shortage of human resources, and it is important to improve this area to host further investment. According to the survey, it is very difficult to get general workers, skilled workers, technicians and engineers locally. What the government could do is to a) allow more legal foreign workers to work in the industry and b) encourage practical training for skilled workers, technicians and engineers. What universities could do is to train more engineers for the industry.

Malaysia is trying to get out of the middle-income trap and move on to high-income status. In order to realize this transition, it is important to foster innovation and creativity, and thus not only FDI for assembling-type but also FDI that can foster innovation and creativity will become increasingly important.

Myanmar (24 firms)

Major sectors of firms in the survey are food processing (13 percent), textiles and apparel (29 percent), other manufacturing (21 percent), distribution (13 percent), and other services (13 percent). Regarding the form of establishment, most firms are newly established either by a single company or as a joint venture. Over two-thirds of the firms are involved in manufacturing and processing activities and the rest are in sales and marketing. As for capital structure, more than half of the firms are wholly foreign-owned firms, and about 40 percent are majority-owned; no domestic firm is included. For trade, among firms that indicate export ratio to total sales and import ratios to total purchases, most of them sell all of their products/services abroad and source all purchases from abroad.

The country average of scores for investment climate is 2.0. Among the 10

categories, category iii) “restrictions on overseas remittances and controls on foreign currency transactions” with a score of 2.7 and category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 2.5 have much higher scores than the country average. Around half of firms view these areas as a “substantial problem”, “serious problem”, or “extremely serious problem”. Among infrastructure, human resources, and investment incentives, infrastructure is seen as a more serious issue than others; the sub-category score for ix-1) “underdeveloped infrastructure” is 2.6. These findings suggest that the biggest concerns are restrictions on overseas remittances and controls on foreign currency transactions, followed by underdeveloped infrastructure, which needs to be improved in order to host a larger amount of FDI.

The examples of “restrictions on overseas remittances and controls on foreign currency transactions” are dual exchange rates, unstable financial market, restricted overseas remittances, and restricted foreign currency transactions. There is also a complaint that it takes at least one month to get approval from the Central Bank for all foreign exchange settlement and overseas payments; although the government issues a Foreign Exchange Certificate (FEC) which is equivalent to US\$, overseas payments are not allowed to be made from FEC accounts, and the Bank issues FECs only when one withdraws money from a US\$ account. These issues are consistent with issues identified in the analysis in Section 2, Ando (2009), and Ando and Obashi (2010). The examples of “underdeveloped infrastructure” are underdevelopment of electricity supply, roads, telecommunications, road, transportation, water supply, and security.

Other major problems include issues such as lack of transparency and/or frequent and sudden changes in policies and regulations, prohibition of land ownership by foreigners, and shortage of local skilled labors.

The Philippines (27 firms)

Major sectors of firms in the survey are electronic and electric machinery (30 percent), transport equipment (22 percent), and other manufacturing (22 percent). Regarding the form of establishment, most firms are either newly established by a single company or others. Over 90 percent of firms in the survey are involved in manufacturing and processing

activities and the rest are in sales and marketing. As for capital structure, close to 70 percent of firms are wholly foreign-owned firms, and 26 percent are majority-owned; no domestic firms are included. For trade, most firms that fill out export ratio to total sales and import ratios to total purchases sell either all or almost all of their products/services abroad and source a large proportion of their purchases from abroad.

The country average of scores for investment climate is 1.9. Among the 10 categories, categories that have higher scores than the country average are category v) “lack of transparency in policies and regulations concerning investment (institutional problems)” with a score of 2.2, category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” with a score of 2.3, category vii) “insufficient protection of intellectual property rights (IPRs)” with a score of 2.2, and category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 2.3. Over 30 percent of firms view these areas as “substantial problem”, “serious problem”, or “extremely serious problem”. Among infrastructure, human resources, and investment incentives, infrastructure and investment incentives are more serious than the rest; sub-category scores for ix-1) “underdeveloped infrastructure” and ix-3) “insufficient investment incentives” are 2.4.

Examples of issues with category vi) related to complicated investment regulations and implementation problems are delays in processing of import commodity clearance due to lack of streamlined procedures, delays in application for royalties under the Japan-Philippines tax treaty, delayed issuance of environment permits, ineffective dissemination of information on changes in procedures, too much government bureaucracy, slow processing of applications, uncoordinated regulations among government agencies resulting in inconsistencies in interpretation and implementation of rules, delays in issuance of implementing rules and regulations of government programs, and problems in processing of business permits by local government units.

Regarding category ix) “underdeveloped infrastructure, shortages of human resources, and investment incentives”, the examples of issues include the lack of basic facilities such as airports, bridges, farm-to-market roads, as well as the high cost of power and logistics. In terms of lack of transparency in investment policies and regulations (category v), major issues include non-unification of fiscal incentives among various economic zones in the country, corruption, and too much bureaucratic red tape.

The examples of issues in some of other categories include non-diminution of benefits despite demotion of an employee, which does not provide an incentive for worker to perform well, complicated labor laws, overprotection of workers, and labor cases that take many years to be resolved with respect to labor regulations. The government needs to change its labor rules to allow investors to terminate employees and allow sub-contracting of workers. There are also restrictions on foreign ownership of land. Although foreigners are able to own land in practice by establishing a separate land holding company, this practice results in additional costs and resources in maintaining two separate legal entities. Protected sectors such as legal services, construction, and shipping need to be liberalized.

In summary, reducing power costs and building more infrastructures like roads and railway system to link the various ports, zones and markets are required to improve the investment climate in terms of infrastructure. It is important to relax nationality requirements and liberalize protected sectors such as legal services, construction, and shipping to foreigners. To improve automation in business transactions, and streamline and simplify business processes, changes in government polices and regulations must be disseminated effectively, and consistent and stable investment-friendly laws and policies should be introduced. It is also important to relax labor laws particularly those related to security of tenure and difficulty in terminating workers. Strengthening IPRs is a challenge and IPR enforcement is another important area to be improved.

Singapore (15 firms)

Most firms in the survey operate in the services sectors: distribution (27 percent), transportation services (13 percent), financial services (7 percent), and other services (40 percent). Regarding the form of establishment, 80 percent of firms in the survey are newly established by a single company. In terms of type of operations, 80 percent of firms in the survey are involved in manufacturing and processing activities and the rest are in sales and marketing. As for capital structure, 60 percent of firms are wholly foreign-owned firms, 20 percent are minority-owned, 7 percent are majority-owned, and 13 percent are domestic firm. The information on international trade is very limited.

The country average of scores for investment climate is 1.6, which is lower than

those for most ASEAN 10 countries. In other words, Singapore is the best in terms of investment climate in ASEAN10. Among the 10 categories, category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” with a score of 1.9 and category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, with a score of 1.8, have much higher scores than the country average. While about half of firms in the survey regard these areas as “no problem”, over 20 percent of firms view these areas as “substantial problem” or “serious problem”. Among infrastructure, human resources, and investment incentives, shortages of human resources are seen as more serious than the rest; the score for sub-category ix-2) “shortages of human resources” is 2.0, which is the biggest concern in Singapore.

In general, the investment climate is favorable in Singapore, except for labor issues. There are issues of shortage of workforce and job hopping; typical turnover rates of workers can cause a problem and requires continuous attention, and supply of well skilled, experienced, and internationally accredited local project managers are insufficient. Singapore’s unemployment rate is at a low 2% which exacerbates the talent crunch problem faced by many foreign as well as local firms. In addition, labor costs in Singapore are high relative to the other ASEAN nations, thereby driving up business costs.

Thailand (10 firms)

Firms in the survey operate in the following 6 sectors: agriculture, fishery, and forestry (22 percent), construction (11 percent), food processing (11 percent), electronic and electric machinery (11 percent), other manufacturing (11 percent), and other services (33 percent). The form of establishment with the largest number of firms in the survey is new establishment by a single company. Regarding the type of operations, half of firms are engaged in manufacturing and processing activities and 13 percent of firms are in sales and marketing. As for capital structure, 50 percent of firms are minority-owned foreign firms, 38 percent of firms are wholly foreign-owned firms, and 13 percent are majority-owned; no domestic firms are included. For trade, the ratios of exports to total sales and/or import to total purchases are low for most firms, though the number of firms that submitted this data is quite small.

The country average of scores for investment climate is 2.5. Among the 10 categories, those that have higher scores than the country average are category v) “lack of transparency in policies and regulations concerning investment (institutional problems)” with a score of 2.8, category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” with a score of 3.1, category vii) “insufficient protection of intellectual property rights (IPRs)” with a score of 2.9, and category ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 3.1. 70 percent of the firms view categories vi), vii), and ix) as a “serious problem” or “extremely serious problem”. In particular, category ix) “underdeveloped infrastructure, shortages of human resources is regarded as being a problem (to a varying degree) by all firms in the sample. Among infrastructure, human resources, and investment incentives, shortage of human resources is more serious than the rest; the score for sub-category ix-2) is 3.1.

The examples of issues with regard to “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” include insufficient coordination among ASEAN countries in terms of the implementation of common standards and practices and becoming a single market; considering the increasing influence of China and India, lack of sufficient coordination as a region may slow or delay FDI inflow to ASEAN member countries. Also, there are some difficulties in importing plants due to differing interpretations of quarantine requirements. There are many requirements that are complicated and open to interpretation, which need clarification.

As for category vii) “insufficient protection of intellectual property rights (IPRs)”, examples of issues include almost impossible registration of brands, ineffective enforcement of IPR laws, lack of confidence in how to protect breeders’ rights for new plant varieties resulting from breeding programs, and insufficient IPR protection and law enforcement in terms of software piracy. Although the Creative Economy initiative has resulted in some improvement, the software piracy rate is still at 75 percent.

Regarding category ix) “underdeveloped infrastructure, shortages of human resources and insufficient investment incentives, shortages of human resources, particularly engineers and management with the skills necessary for the industries concerned, those with language proficiency and communication skills, and skilled workers in specific fields, are examples of problems to be solved. To improve this situation, it may be important for the

government to cooperate with the private sector (with very generous tax benefits) in establishing training schools and vocational schools to provide sufficient human resources, or at least to be more flexible in issuing work permits for foreigners to fill the shortage of human resources. In addition, infrastructure should be significantly upgraded; for instance traffic problems, insufficient prevalence of Internet access, and insufficient cost-effective logistics and communication.¹³

Vietnam (30 firms)

All firms in the survey operate in the manufacturing sectors: food processing (10 percent), textiles and apparel (20 percent), chemical products (10 percent), iron and steel products (17 percent), transport equipment (22 percent), and other manufacturing (22 percent). Regarding the form of establishment, all firms are either newly established by a single company (80 percent) or newly established as a joint venture (20 percent). Also, all firms in the survey are involved in manufacturing and processing activities. As for capital structure, over 70 percent of firms are wholly foreign-owned firms, the rest are majority or minority foreign-owned firms; no domestic firms are included. For trade, most firms sell all of their products either internationally or to the domestic market; only a few firms sell more or less half to the international market, and the rest to the domestic market. On the other hand most firms, except for a few firms, import about 60 percent to 70 percent of their purchases; in other words, about 30 percent are purchased locally.

The country average of scores for investment climate is 1.8. Among the 10 categories, categories that have higher scores than the country average are category iii) “restrictions on overseas remittances and controls on foreign currency transactions” with a score of 2.0, category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)” with a score of 2.4, and category

¹³ Thailand is ranked 88th out of 139 countries in WEF/GCR in Broadband Internet Subscription, 86th in Internet users and 75th in Internet Bandwidth. These infrastructures need to be improved in order to harness the country’s creative and innovation potential.

ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives” with a score of 2.2. Over 60 percent of firms regard these areas as having some problems. Among infrastructure, human resources, and investment incentives, shortages of human resources are viewed as more serious than the rest; the score for sub-category ix-2) “shortages of human resources” is 2.3.

According to the survey, procedures for overseas remittances and controls on foreign currency transactions are complicated and take a long time; payments in USD are also difficult. Regarding category vi) “complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)”, administrative procedures particularly for investment licensing, customs, and taxes require too much time, have to pass through many doors, and are cumbersome, sometimes involving corruption or extra fees. They need to be simplified, transparent, and efficient. Concerning ix) “underdeveloped infrastructure, shortages of human resources, and insufficient investment incentives”, examples of issues include poor infrastructure including land transport (regular traffic jams), port system (absence of deep sea ports), and unstable electricity supply, and lack of (highly) skilled workers.

4. Concluding remarks and policy recommendations

Our analysis of the FDI climates of the ASEAN countries faced by Japanese and non-Japanese foreign firms conducting operations in ASEAN revealed that impediments to FDI are found not only in the policies but also in their implementation and enforcement. Although we found wide variations among countries, ASEAN countries as a whole tend to have relatively improved the explicit investment climate as the number of the incidents revealing problems directly preventing FDI declined in so far as FDI liberalization is concerned. Direct barriers to FDI, however, still remain. Further efforts to reduce them by ASEAN countries are necessary, if they want to attract FDI. At the same time, the reduction of indirect barriers to FDI or the promotion of FDI facilitation is also indispensable, as the increasing number of issues identified in categories for FDI facilitation suggests. Particularly important areas for improvement include institutional problems, complicated and delayed

procedures, underdeveloped infrastructure, inflexible labor market conditions (such as difficulty in hiring and firing workers and burdensome labor regulations and wage-related issues), and problems involving taxation regulations (including double taxation problems due to lack of double taxation treaties).

Our findings indicate the need for further liberalization of FDI policies and promotion of facilitation measures for ASEAN countries in order to successfully attract FDI. In order to achieve these goals, we would like to make several policy recommendations. First, in order to promote FDI policy liberalization, the ASEAN countries should use various existing frameworks, such as WTO/GATT's Trade Related Investment Measures (TRIMs) agreement, bilateral investment treaties (BITs), free trade agreements (FTAs), and other legal frameworks. In particular, ASEAN should use the ASEAN Comprehensive Investment Agreement (ACIA). Second, to overcome obstacles concerning FDI facilitation, the ASEAN countries should actively draw on various cooperation programs with developed countries to improve human resources engaged in the implementation and enforcement of FDI policies. Possible multilateral and regional sources of technical assistance in this area may be UNCTAD, the OECD, and ERIA. Third, monitoring of the achievement of FDI liberalization and facilitation has to be emphasized, in order to achieve a freer FDI environment. In this regard, a monitoring mechanism should be established in ASEAN, if it has not been established yet, or in ERIA.

Before ending this paper we would like to emphasize the need to collect more information on the impediments faced by foreign firms by expanding the number of samples under the survey we conducted this year, in order to formulate appropriate policies to attract more FDI. A lack of sufficient amount of information on FDI impediments precluded us from identifying the relationship between the characteristics of firms on the one hand and the types of problems encountered by the firms on the other hand. For example, some types of impediments may affect small and medium enterprises (SMEs) more significantly than large firms. If this is the case, the government should provide further support for SMEs. Another possibility might be that some types of issues are more serious for wholly foreign-owned firms than joint-venture firms, due to less information and weaker connection with local governments and local markets. If this is the case, more facilitated and non-discriminatory procedures for investment should be built. At the same time, we have to note that the restriction on the form of establishment, i.e., joint-venture requirements, itself may directly affect entry of foreign firms and reduce FDI. Besides, some problems may be more serious for firms in some industries

than those in others. To identify such tendencies, if any, we need to conduct a wider-scale survey. In order to expand the survey, it is important not only to obtain financial support but also to develop capable researchers who can undertake the survey and analyze the results of its survey.

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Table A.2.1 Investment issues in ASEAN Countries for 2010

Category	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam
i) Restrictions on foreign entry									
Existence of prohibition and restriction on foreign entry	○	○	○		○				
Prohibition of foreign entry for specific sectors	○								
Restriction on foreign entry for specific sector: distribution service sector	○								○
Restriction on foreign entry for specific sector: retail sector	○		○						○
Restriction on foreign entry for specific sector: wholesales sector		○							
Restriction on foreign entry for specific sector: no allowance of establishment of branches of general commercial bank		○							
Restriction on entry for specific sector: license requirement in the construction industry (license required only for foreign firms; no issuance of licenses for foreign-owned firms with more than 40% ownership)	○	○	○		○				
Restriction on foreign entry for specific sector: license requirement for integration, closing down, and movement of services centers					○				
Restriction on foreign entry for specific sector: stop of registration and renewal of licenses for trade								○	
Restriction on entry for specific sector: licensing of transport business allowed only to a single company (monopoly with a company runned by the former prime minister's family, in exclusion of foreign and other local companies)		○							
Restriction on entry for specific sector: limited approval of license for domestic sea freight distributor (discriminatory against foreign companies; exclusive approval of Filipino and Filipino wholly-owned partnership and companies with Filipino ownership ratio of more than 60%)			○						
Prohibition on foreign ownership ratio for specific sector: bid on government procurement		○	○						
Restriction on foreign ownership ratio for specific sector: non-manufacturing sector (restrictions on various types of services such as distribution and marketing)		○							
Restriction on foreign ownership ratio for specific sector: remaining regulations for manufacturing firms		○							
Restriction on foreign ownership ratio for specific sector: service sector (restrictions on the majority-owned foreign firms)	○				○				
Restriction on foreign ownership ratio before obtaining certificate of investment									○
Restriction on foreign ownership ratio for specific sector: linked with export ratio	○		○						
Joint venture issue: restrictions on foreign ownership ratios and joint venture requirement (including reduction in maximum foreign ownership ratios)	○								
Joint venture issue: joint venture requirement with a state enterprise, application of regulations for the government sector	○						○		
Minimum foreign capital requirement								○	
Land ownership and use: restrictions on (prohibition of) land ownership by foreign-owned firms			○		○				○
Land ownership and use: a lump-sum payment of land-use fee, implemented only for foreign-owned firms									○
Restrictions on the form of establishment of offices to support branches and affiliates					○				
Discriminatory treatment on Japanese firms vis-à-vis U.S. firms					○				
ii) Performance requirements									
Home country insurance principle (obligation)		○							
Local content requirement: link between local content ratio and tariff rate	○								
Local content requirement: requirement to use local firms (Bumiputra firms)		○							
Local content requirement: increasing ratios of local content requirement/ strengthening of requirement	○								
Local content requirement: insufficient ability of indigenous firms to satisfy local content requirement	○								
Local content requirement: local content requirement for government requirement	○								
Link with preferential treatment: requirement to hire local labors					○				
Link with preferential treatment: export ratio (export requirement)					○				
Link with preferential treatment: technological transfer requirement		○							
Government licensing requirement for royalty, brand-use fee, etc									
Obligation of local purchases of for coal	○								
Obligation of using ship with national flag for transportation under government procurement					○				
iii) Restrictions on overseas remittances and controls on foreign currency transactions									
Restriction on overseas remittances: difficulty in remittances of compensation for intangible assets and services in foreign currencies					○				
Restriction on overseas remittances: reinforcement and lack of transparency in restrictions on remittances in foreign currencies								○	
Restriction on overseas remittances: higher withholding rates for interest, dividends, and royalties in tax treaty					○				
Control on local currency transactions in offshore market	○				○				
Double exchange rates								○	
Foreign currency transactions: restrictions on having foreign currencies					○			○	
Foreign currency transactions: requirement to obtain foreign currencies from exports to get import licenses					○			○	
Foreign currency transactions: restrictions on currency convertibility with foreign currencies (prohibition of local currency exchange with JP yen)								○	
Foreign currency transactions: difficulty in getting foreign currencies, foreign exchange settlement, and foreign payment									○
Foreign currency transactions: difficulty in foreign exchange settlement for transactions in the local market									○
Foreign currency transactions: restriction on the way of using foreign currency deposits					○				
Difficulty in currency hedging (including forward exchange contracts of PE status)	○	○	○		○				
Restriction on "netting"								○	
Royalty payment: restrictions on royalty and strict method of calculating royalty									○
iv) Restrictions on the movement of people and employment requirements									
Mandatory employment of local labor: general	○								
Mandatory employment of local labor: employment of Malaysians with a priority (including request for handover of managing directorship)		○							
Restriction on hiring foreigners: employment quota for foreigners or restriction on foreign employment ratio				○	○				
Restriction on hiring foreigners: tightening restrictions on foreign employment (no allowance of exception for foreigners married with local people)	○								
Restriction on hiring foreigners: modification and tightening of restrictions on foreign employment		○							
Visa issue: difficulty in obtaining working visa, tightening of issuance condition (including cases of certain engineering or investors only), restriction on visa issuance					○				○
Visa issue: shortened period for validity of visa									○
Visa issue: introduction of obligation to obtain entry visa	○								
Visa issue: inconsistent procedures for visa application among embassy and consulates					○				

(Continue)

Category	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam
v) Lack of transparency in policies and regulations concerning investment (institutional problems)									
Underdevelopment, lack of transparency, and delay of implementation of regulations (inadequate implementing regulations and prolonged delays in their issuance): general	○					○		○	
Underdevelopment of legal system: no assurance of documentation for rules of tariffs under AFTA (CEPT tariffs)	○								
Underdevelopment of legal system: implementation rules of EPA					○				
Underdevelopment of legal system: insufficient system of tax-related dispute settlement									○
Underdevelopment of legal system: stock market and credit market						○			
Underdevelopment of legal system: financial system such as credit transactions									○
Underdevelopment of legal system: regulations on mortgage, lien, and hypothec									○
Underdevelopment of legal system: foreign exchange system (double exchange rates)								○	
Underdevelopment of legal system: temporary system of opening governments' windows responsive to emergency imports									○
Underdevelopment of legal system: insufficient economic system based on domestic currencies						○			
Underdevelopment of legal system (insufficiency): inadequate ax-related dispute settlement by the third party government	○								
Underdevelopment of legal system (insufficiency): double taxation due to lack of tax treaty								○	
Underdevelopment of legal system (inadequacy): obligation of issuing official receipts									○
Underdevelopment of legal system: unreasonable requirement of signature for imported products under domestic law									○
Underdevelopment of legal system: delay in issuing domestic regulations for ASEAN Cosmetic Directive	○								
Underdevelopment of legal system: different HS tariff classification from that of Japan					○				
Underdevelopment of legal system (inadequacy): no assurance of official receipts									○
Lack of transparency in legal system: tax-related administrative procedure and the method of tax calculation									○
Lack of transparency in legal system: no assurance of guideline for tax system of transfer pricing	○								
Lack of transparency in legal system: final tax rate for construction services and the procedure	○								
Lack of transparency in legal system: disapproval criteria of tax investigation	○								
Lack of transparency in legal system: complicated labor law	○								
Lack of transparency in legal system: ownership of land and its utilization system						○			
Lack of transparency in legal system: investment incentives	○								
Lack of transparency in legal system: licenses and approvals for construction					○				
Lack of transparency in legal system: an introduction of international practices		○							
Lack of transparency in legal system: disclosure of information on changes in regulations		○						○	
Ambiguity of legal system: the date to start digital broadcasting		○			○				
Ambiguity of legal system: the date of issuance, contents, and retroactive application of tax regulations	○								
Ambiguity of legal system: disparity of tariff rates among similar products	○								
Ambiguity of legal system: foreign exchange laws		○							
Ambiguity of legal system: export restrictions						○			
Ambiguity of legal system: detailed information on market research in expanding business									○
Ambiguity of legal system: inconsistency between country's tariff classification and ASEAN's									○
Ambiguity of legal system: definition of tariff classification (items)									○
Ambiguity of legal system: treatment of reinvoice under the third-country FTA					○				
Ambiguity of legal system: criteria to calculate IPP tariffs	○								
Ambiguity of legal system: method to calculate tax								○	
Ambiguity of legal system: criteria of imposing tax for PE	○				○				
Ambiguity of legal system: approval and license criterion of investment-related regulations								○	
Ambiguity of legal system: criteria and details of approval for divestment obligation	○								
Ambiguity of legal system: criteria to select the lease for afforestation							○		
Ambiguity of legal system (insufficiency): tariff classification for parts and components									○
Sudden modification of legal system (introduction): new tax (value-added tax for export processing firms)									○
Sudden modification of legal system: withholding tax regulations for lease contract					○				
Sudden modification of legal system (setting): sudden setting of holidays	○	○							
Sudden modification of legal system: issues of laws and regulations without sufficient period for adjustment									○
Sudden modification of legal system: reduction of export incentives									○
Sudden modification of legal system: no application of tax treaty due to sudden changes in criteria of application	○								
Sudden and frequent modification of legal system: laws and notices (general)	○								○
Instability of legal system: instable foreign capital law and definition of foreigners					○				
Instability of legal system: possible changes in investment incentives			○						
Instability of legal system: automobile-related taxation system									○
Instability of legal system: possible tightening regulations on market access to the retail firms					○				
Instability of legal system: regulations on foreign workers	○								
Instability of legal system: possible regulations inconsistent with WTO (requirements on investment and production etc as eco-car promoting policy)					○				
Instability of legal system: unconstitutional lawsuit for environment-related administrative procedures					○				
Instability of legal system: application of bidding for coal mining after completing the contract agreement	○								
Taxation issue: extremely high value-added taxes			○						
Taxation issue: dual taxation due to inconsistent interpretation of tax system for technical assistance					○				
Taxation issue: tax exemption discriminatory between national and non-national cars		○							
Taxation issue: contradictory interpretation of definition of residents under revised income tax law									○
Taxation issue: high commodity tax, registration fee, owner fee and for automobiles			○						
Taxation issue: inadequate reserve criteria for taxation regulations					○				
Taxation issue: tax on adverse spread					○				
Taxation issue: commercial and export tax (local production and exports and imports)								○	
Taxation issue: no application of reimbursement of commodity tax for imported parts		○							
Taxation issue: long-term retroactive period for tax investigation	○								
Taxation issue: strengthening tax regulations for transfer pricing, change in method of calculating tax, and threat of dual taxation	○								
Safety and environmental standards and certification issue: unique technical standard and safety certification (iron and steel, plug etc)					○				
Safety and environmental standards and certification issue: inconsistency with the international standards					○				
Safety and environmental standards and certification issue: unreasonable standard of waste water treatment and waste water quality management	○	○							
Safety and environmental standards and certification issue: unreasonable tightening of regulations for radiological examination		○							
Import restriction: import restriction by import quota and import licensing (build-up car, steel, and color copy machine)		○							
Import restriction: difficulty in obtaining import licenses	○								○
Export restriction: export tax and coordination with customs for exports and imports									○
Long-term procedures for labor dispute	○								

(Continue)

Category	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam
vi) Complicated and/or delayed procedures with respect to investment-related regulations (implementation problems)									
Complicated procedures: approval and license procedures for new investment							○		
Complicated procedures: procedures for transactions of bonded goods between trade-processing firms	○								
Complicated procedures: procedures for equipment lease and rental certification									○
Complicated procedures: purchasing procedures of foreign currencies	○								
Complicated procedures: approval and license procedures for merge, dissolution, or relocation of the service center					○				
Complicated procedures: renewal of import licensing (short period in effective)								○	
Complicated procedures: preparation of invoices of imported materials for each incentives					○				
Complicated procedures: obligation of pre-registration of import quota for parts that can not be purchased domestically	○								
Complicated procedures: pre-shipment inspection	○		○						
Complicated procedures: signature requirement for all pages of documents submitted to government agencies and ministries					○				
Complicated procedures: procedures for exception of import tariffs		○							
Complicated procedures (too-detailed): BOI approval and reporting procedures					○				
Complicated procedures (too-detailed): procedures for BOI tax exemption for reexports					○				
Complicated procedures (too-detailed): tax payment procedures for withholding tax					○				
Complicated procedures: procedures for exemption of value added tax	○								
Complicated procedures: changes in the format of certificate of resident receipt applied to tax treaty	○								
Complicated procedures: obligation of local currency settlement	○								
Complicated and delayed procedures: customs clearance (including clearance certificate requirement, AFTA origin certificate procedures and management, enforcement of certificate of origin document registration, off-shore trade customs clearance, and inefficiency of customs clearance)						○		○	○
Complicated and delayed procedures: conformity and assessment		○							
Complicated and delayed procedures: procedures to apply for working visa and its renewal (including work permit)	○	○	○		○				○
Complicated and delayed procedures: obtaining export and import licensing								○	○
Complicated and delayed procedures: procedures for overseas remittance									
Complicated and delayed procedures: tax regulations-related procedures	○		○						
Complicated and delayed procedures: AFTA procedures	○								
Complicated and delayed procedures: import tariff reimbursement and tax exemption procedures		○			○				○
Complicated and delayed procedures: government approval procedures for withdrawal		○							
Complicated and delayed procedures: BOI export and import approval and reporting procedures for products, materials, equipments, defective products and rejected materials					○				
Complicated and delayed procedures: patent registration application procedures					○				
Delayed procedures: import custom clearance and cargo inspection (including uncertainty)		○					○		○
Delayed procedures: procedures for licensing (general)	○							○	○
Delayed procedures: procedures for licensing of waste disposal									○
Delayed procedures: delayed procedures to transfer licensing permit from central government to regional government	○								
Delayed procedures: stock reshuffle procedure	○								
Delayed procedures: procedures for land registration		○							
Delayed procedures: oversea payment								○	
Delayed procedures: permission of oversea remittance								○	
Delayed procedures: renewal of import licensing and automatic import licensing for dangerous goods					○				○
Delayed procedures: removal of ATIGA tariffs					○				
Delayed procedures: safety standard and assessment					○				
Delayed procedures: issuing final settlement of tax		○							
Delayed procedures: examination of safety qualification		○							
Delayed procedures: civil execution procedures					○				
Delayed procedures (including difficulty): procedures for prepayment of corporate tax reimbursement	○								
Delayed procedures (including difficulty): difficulty in obtaining AICO approval									○
Delayed procedures (including difficulty): renewal of business license								○	
Delayed procedures (including non-refunding and difficulty): value-added tax reimbursement procedures	○		○		○				
Delayed procedures (including non-refunding): corporate withholding tax reimbursement procedures					○				
Difficulty in procedures: corporate tax advance declaration and payment procedures		○							
Inefficiency of procedures: administrative procedures for afforestation							○		
Inefficiency of procedures (including corruption): investment approval procedures	○				○				
Disunity of procedures: inconsistent procedures and interpretation among administrative officials	○	○	○						○
Complicated corporate tax prepayment system	○								
Complicated banking business resulting from the regulations requiring banking transactions in rupiah	○								
Lack of transparency and multiple procedures for borrowing in foreign currencies	○								
Complicated L/C import system (iron and steel products)			○						
Insufficient enforcement of environmental protection									○
Security and environment standard, standard recognition issue: rigorously of marking systems					○				
Security and environment standard, standard recognition issue: obligation to acquisition the Philippines National Standards for steel pipes, steel stick			○						
Arbitrary application of system: disunity of legal interpretation and implementation (including disunity and inconsistency of implementation of product safety certification system, excessive power of local officials, etc.)	○	○			○				
Arbitrary application of system: diversity of implementation and interpretation by customs (including arbitrary tariff classification and tariff evaluation, difference with international rules, inequity of tariff rate application and ITA nonperformance)	○	○							
Arbitrary application of system: arbitrary corporate tax examination					○				
Arbitrary application of system: arbitrary and corrupt tax collection (including back taxes and tax on business corporations)	○				○				
Inflexible application of systems: judgement of application fees imposed by customs	○								
Disunity of legal interpretation for application of system: rules of origin					○				
Inconsistent interpretation of legal system: inconsistent requirements among customs in accepting ASEAN's Certificate of Origin									○
Insufficient notification and understanding of changes in legal systems and procedures among administrative offices							○		○
Disunity of regulations, controls, and legal interpretation for application among relevant ministries and agencies							○		
Insufficiency and disunity of executive power in local regions									○
Insufficient legal enforcement (insufficient announcement of EPA Certification of Origin procedure)	○	○			○				○
Authorities' acquiescence for misconduct		○			○				○
Special personal connection and political bribery and corruption of public savants (including collusion and corruption in customs)	○	○				○			○
Unanimous voting at the board meeting of joint ventures									○
Prohibitive port charge and departure tax	○								
High costs for custom clearance									○
Heavy burden of value-added tax			○						
High luxury tax imposed on imported or domestically produced goods	○								
Inconsistent tax collection									○
Irrational traffic regulation			○						
Business tax			○						
Difficulties in the process of reimbursement of prepaid tax and so on			○						
High chages for the land lease for afforestation							○		
Irrational payment due for public utility charges			○						
Rampant smuggling	○					○		○	○

(Continue)

Category	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam
vii) Insufficient protection of intellectual property rights (IPRs)									
IPRs: widespread counterfeit goods and pirated copy goods due to insufficient protection of IPRs	<input type="checkbox"/>					<input type="checkbox"/>			
IPRs: insufficient crackdown on counterfeit goods at the border, delayed appraisal during suspension of imports and uncertainty of disposal of seized articles		<input type="checkbox"/>							
IPRs: unratified IPR treaty (global treaty)		<input type="checkbox"/>							
viii) Labor regulations and related practices excessively favorable to workers									
Difficulty in firing workers: retirement and firing regulations excessively protective for workers	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>				<input type="checkbox"/>
Difficulty in firing workers: unfair judgment of a labor court			<input type="checkbox"/>						
Wage: substantial raising, frequent and arbitrary revision and disparity control of minimum wage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						<input type="checkbox"/>
Wage: rapid increase in wage level (raising of labor cost)		<input type="checkbox"/>							
Wage: disapproval of and difficulty in demotion and salary cut		<input type="checkbox"/>			<input type="checkbox"/>				
Difficulty in renewing employment contract and obligation of permanent employment									<input type="checkbox"/>
Official fixed rates of gaps among different categories in salary table									<input type="checkbox"/>
Illegal strike									<input type="checkbox"/>
Payment of costs for labor-related court		<input type="checkbox"/>							
Labor union issues: moderation of authorization to organize labor union			<input type="checkbox"/>						
Restrictions on the period to hire temporary workers			<input type="checkbox"/>						
Irrational regulations on ages of young workers			<input type="checkbox"/>						
Excessive holidays and/or work absence		<input type="checkbox"/>							
Specificity of working time			<input type="checkbox"/>						
Unreasonably high wage rates for working on holidays			<input type="checkbox"/>						
Prohibition of employing contract workers			<input type="checkbox"/>						
Greater burden of employees' pension				<input type="checkbox"/>					
Burden of educational fund				<input type="checkbox"/>					
ix) Underdeveloped infrastructure, shortage of human resources, and insufficient investment incentives									
Difficulty in hiring and securing human resources due to shortage of management staff and engineers (including brain drain of IT engineers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>
High turnover ratio and job hopping practices		<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>		
Infrastructure issue: increased risk of power shortages and electrical power supply (instability)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Infrastructure issue: underdeveloped road and traffic	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Infrastructure issue: underdevelopment and lack of seaport infrastructure	<input type="checkbox"/>							<input type="checkbox"/>	<input type="checkbox"/>
Infrastructure issue: inadequate spaces for railway and underdeveloped containerized railway transportation					<input type="checkbox"/>				
Infrastructure issue: creaky existing infrastructure	<input type="checkbox"/>								
Infrastructure issue: delayed delivery due to traffic jam in cities									<input type="checkbox"/>
Infrastructure issue: inadequate public sanitation	<input type="checkbox"/>	<input type="checkbox"/>							
Infrastructure issue: insufficiency and underdevelopment of waste disposals									<input type="checkbox"/>
Infrastructure issue: insufficient air transport infrastructure					<input type="checkbox"/>			<input type="checkbox"/>	
Infrastructure issue: underdeveloped telecommunication infrastructure/roadband internet network access		<input type="checkbox"/>				<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Infrastructure issue: remarkable difference between a plan to develop logistics and the progress of construction (highway, subway, et al.)									<input type="checkbox"/>
Incentives issue: disparity of incentives in the same zone due to project-by-project grant of BOI incentives (irrationality)					<input type="checkbox"/>				
Incentives issue: shrinking of incentives for foreign investors according to the change of investment promotion areas					<input type="checkbox"/>				
Incentives issue: insufficient exemption of import tariffs imposed on capital goods within economic zone			<input type="checkbox"/>						
Incentives issue: elimination of tax incentives and export promoting policies for firms in industrial park according to WTO accession									<input type="checkbox"/>
Incentive issues: review of tax exemption for parts used in producing exports, which are subject to anti-dumping duties					<input type="checkbox"/>				
Incentives issue: insufficiency, shrinking and ambiguity of incentives for foreign investors (high-tech industry; petroleum gas, oil refinery, petrochemistry)	<input type="checkbox"/>								
Incentive issues: application of investment allowance and reinvestment allowance only for manufacturing		<input type="checkbox"/>							
Incentives issue: absence of incentives for parts manufacturer									<input type="checkbox"/>
Incentives issue: insufficient incentives for foreign finished car maker and discriminatory favorable incentives for national cars		<input type="checkbox"/>							
Incentives issue: insufficient BOI tax incentives					<input type="checkbox"/>				
Incentives issue: insufficient tax incentives other than BOI incentives (corporate tax and withholding tax under tax treaty)					<input type="checkbox"/>				
Insufficient incentive for nurture of supporting industries (including local industrial development policy)									<input type="checkbox"/>
High tax rate: corporate tax		<input type="checkbox"/>							
High tax rate: individual income tax									<input type="checkbox"/>
Financial market: immature financial market						<input type="checkbox"/>			<input type="checkbox"/>
Financial market: underdeveloped foreign currency exchange system						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial market: underdeveloped capital market						<input type="checkbox"/>			
Public security: frequent occurrence of theft			<input type="checkbox"/>						
Political instability					<input type="checkbox"/>				
Underdeveloped system to prevent disasters: Strength of Buildings, Bird flu, Dengue fever	<input type="checkbox"/>								
x) Restricted competition and price controls									
Discriminatory high pricing for electricity, water, diesel for industrial use		<input type="checkbox"/>							
Excessive government intervention for pricing systems: standard export pricing and obligation of domestic supply for coal	<input type="checkbox"/>								
Ministerial regulation to allow price cap settings for electricity provided by state-owned power company	<input type="checkbox"/>								
High price due to monopoly by the government: industrial waste disposal		<input type="checkbox"/>							
Price reporting requirement to the Department of Commerce					<input type="checkbox"/>				
Government-designated trading company system									<input type="checkbox"/>
Monopolistic pricing									<input type="checkbox"/>
Discriminate pricing for loads at ports									<input type="checkbox"/>
Adversity such as high pricing due to oligopoly of operators		<input type="checkbox"/>							<input type="checkbox"/>
Double pricing between domestic and foreign investment									<input type="checkbox"/>

Data source: authors' preparation, based on JMC survey 2010.

Table A.2.2 Investment issues in ASEAN Countries for 2005, 2008, and 2009

Category	2009							2008							2005											
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	
Issues																										
i) Restrictions on foreign entry																										
Existence of prohibition and restriction on foreign entry	○	○	○	○						○	○	○								○	○	○	○	○	○	○
Restriction on foreign entry for specific sector: distribution service sector		○						○		○							○			○					○	
Restriction on foreign entry for specific sector: coal mining industry		○								○										○						
Restriction on foreign entry for specific sector: retail trade		○	○					○		○	○							○				○				
Restriction on foreign entry for specific sector: no allowance of establishment of branches of general commercial bank			○							○																
Restriction on entry for specific sector: license requirement in the construction industry (license required only for foreign firms; no issuance of licenses for foreign-owned firms with more than 40% ownership)	○	○	○	○						○	○	○	○									○				
Restriction on foreign entry for specific sector: license requirement for integration, closing down, and movement of services centers					○								○													
Restriction on foreign entry for specific sector: stop of registration and renewal of licenses for trade								○									○									
Restriction on entry for specific sector: licensing of transport business allowed only to a single company (monopoly with a company runned by the former prime minister's family, in exclusion of foreign and other local companies)		○								○											○					
Restriction on entry for specific sector: limited approval of license for domestic sea freight distributor (discriminatory against foreign companies; exclusive approval of Filipino and Filipino wholly-owned partnership and companies with Filipino ownership ratio of more than 60%)			○									○										○				
Prohibition on foreign entry for specific sector: bid on government procurement		○								○											○					
Restriction on foreign ownership ratio for specific sector: non-manufacturing sector (restrictions on various types of services such as distribution and marketing)		○								○											○					
Restriction on foreign ownership ratio for specific sector: service sector (restrictions on the majority-owned foreign firms)	○			○						○			○											○		
Restriction on foreign ownership ratio for specific sector: linked with export ratio	○	○								○	○											○				
Joint venture issue: restrictions on foreign ownership ratios and joint venture requirement (including reduction in maximum foreign ownership ratios)	○									○															○	
Joint venture issue: joint venture requirement with a state enterprise politically	○									○										○						
Minimum foreign capital requirement				○			○						○				○							○		
Land ownership and use: restrictions on (prohibition of) land ownership by foreign-owned firms	○	○	○					○		○	○	○					○			○	○	○	○	○	○	○
Land ownership and use: a lump-sum payment of land-use fee, implemented only for foreign-owned firms																	○								○	
Restrictions on the form of establishment of offices to support branches and affiliates				○									○										○			
Discriminatory treatment on Japanese firms vis-à-vis U.S. firms				○								○											○			
ii) Performance requirements																										
Home country insurance principle (obligation)		○								○											○					
Local content requirement: link between local content ratio and tariff rate								○													○				○	
Local content requirement: exclusion of foreign-owned firms from domestic procurement																					○					○
Local content requirement: requirement to use local firms (Bumiputra firms)		○									○										○					
Local content requirement: planning of local content requirement policy for automobiles																						○				○
Local content requirement: requirement for increasing local content ratios	○							○										○								○
Local content requirement: insufficient ability of indigenous firms to satisfy local content requirement	○									○										○						
Local content requirement: difficulty in satisfying the requirement for EPZ firms to obtain import duty exemption for parts				○																						
Performance requirements such as the amount of investment, export, production, etc. (including export requirement)																					○				○	
High percentage of direct exporting obligation																					○					○
Link with preferential treatment: requirement to hire local labors				○									○								○					○
Link with preferential treatment: export ratio (export requirement)				○									○								○					○
Link with preferential treatment: technological transfer requirement		○																				○				○
Government licensing requirement for royalty, brand-use fee, etc																									○	
Enforcement of obligation to conduct continuing exploration and survey for coal mine rights ownership	○									○											○					
iii) Restrictions on overseas remittances and controls on foreign currency transactions																										
Restriction on overseas remittances: difficulty in remittances of compensation for intangible assets and services in foreign currencies				○								○														
Restriction on overseas remittances: reinforcement and lack of transparency in restrictions on remittances in foreign currencies								○									○									○
Restriction on overseas remittances: restrictions on upper bound of in-advance payment			○								○															
Restriction on overseas remittances: difficulty in overseas remittance of the payment for foreign projects																										
Restriction on overseas remittances: partly																						○				
Restriction on overseas remittances: prohibitive tax imposed on remittances (including tax on profit remittances)																								○	○	
Control related to local currency: control on local currency transactions in offshore market	○		○										○								○	○				
Control related to local currency: restricted financing in Baht for non-residents																								○		
Sudden introduction and modification of foreign exchange transaction controls																						○				
Double exchange rates								○																		
Foreign currency transactions: restrictions on having foreign currencies																						○				
Foreign currency transactions: restrictions on having and using foreign currencies in the domestic market				○			○										○					○				
Foreign currency transactions: requirement to obtain foreign currencies from exports to get import licenses								○									○									
Foreign currency transactions: difficulty in foreign exchange settlement and foreign payment								○																	○	
Foreign currency transactions: restriction on the way of using foreign currency deposit				○								○												○		
Foreign currency transactions: restriction on the withdrawal through foreign currency accounts								○																		
Difficulty in currency hedging (including forward exchange contracts of PE status)	○	○	○	○						○	○						○									
Restriction on "netting"								○									○				○					
Royalty payment: restrictions on royalty and strict method of calculating royalty								○									○									
Royalty payment: exclusion of imported parts, etc. from royalty calculator																										○

(Continue)

Category	2009								2008							2005									
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam
iv) Restrictions on the movement of people and employment requirements																									
Mandatory employment of local labor: general																									
Mandatory employment of local labor: employment of Malaysians with a priority (including request for handover of managing directorship)		o									o										o				
Mandatory employment of local labor: nationality requirement of directors (including president and board members in investment trust companies)			o								o												o		o
Restriction on hiring foreigners: employment quota for foreigners or restriction on foreign employment ratio				o	o							o	o									o	o	o	o
Restriction on hiring foreigners: modification and tightening of policies regarding foreign workers		o									o											o			
Restriction on hiring foreigners: restriction on hiring and visa issuance to mainland Chinese workers																									
Visa issue: discontinued issuance of multiple-entry visa																									
Visa issue: application fee for re-entry																									
Visa issue: difficulty in obtaining working visa, tightening of issuance condition (including cases of certain engineering or investors only), restriction on visa issuance					o			o				o				o						o		o	o
Visa issue: tightening of visa renewal (difficulty in renewal of multiple-entry visa; including suspension of renewal procedures in US)																							o		o
Visa issue: restricted entry by SMEs due to prerequisite conditions for working visa issuance																								o	
Visa issue: no work permit under foreign temporary workers for construction engineering																								o	
Visa issue: introduction of obligation to obtain entry visa		o									o											o			o
Visa issue: inconsistent procedures for visa application among embassy and consulates					o																	o			
Discriminate period of residency permit between those with and without university degree																								o	
v) Lack of transparency in policies and regulations concerning investment (institutional problems)																									
Underdevelopment, lack of transparency, and delay of implementation of regulations (inadequate implementing regulations and prolonged delays in their issuance): general		o			o	o					o		o	o							o				
Underdevelopment of legal system: implementation rules of EPA					o								o												
Underdevelopment of legal system: stock market and credit market					o								o												
Underdevelopment of legal system: regulations on mortgage, lien, and hypothec									o																o
Underdevelopment of legal system: financial system such as credit transactions									o																o
Underdevelopment of legal system: foreign exchange system (double exchange rates)									o																o
Underdevelopment of legal system: exchange contract																									
Underdevelopment of legal system: temporary system of opening governments' window responsive to emergency imports									o																o
Underdevelopment of legal system: insufficient economic system based on domestic currencies						o								o											
Underdevelopment of legal system: re-organization of operations													o												
Underdevelopment of legal system: unreasonable requirement of signature for imported products under domestic law									o																
Underdevelopment of legal system: delay in issuing domestic regulations for ASEAN Cosmetic Directive		o																							
Underdevelopment of legal system (insufficiency): Corporate Separation Law and merger law																									o
Underdevelopment of legal system (insufficiency): Building Law, and Fire Defence Law, and related laws and regulations																									o
Underdevelopment of legal system (insufficiency): legislation about handling of chemicals and hazardous materials																									o
Underdevelopment of legal system (insufficiency): regulations on dishonor																									o
Underdevelopment of legal system (insufficiency): inadequate ax-related dispute settlement by the third party government		o																							o
Underdevelopment of legal system (insufficiency): double taxation due to lack of tax treaty									o																o
Underdevelopment of legal system (inadequacy): inadequate protection of depositors																									o
Underdevelopment of legal system (inadequacy): obligation of issuing official receipts									o																o
Underdevelopment and inconsistent implementation of legal system (insufficiency): foreign exchange law and taxation system														o											o
Lack of transparency in legal system: disapproval criteria of tax investigation		o																							
Lack of transparency in legal system: complicated labor law		o																							
Lack of transparency in legal system: ownership of land and its utilization system						o								o											
Lack of transparency in legal system: restrictions on equity transfer for joint venture companies											o														
Lack of transparency in legal system: regulations on tax laws																									
Lack of transparency in legal system: investment incentives		o	o								o	o										o			
Lack of transparency in legal system: withdrawal rules																									
Lack of transparency in legal system: conditions of employment																									o
Lack of transparency in legal system: licenses and approvals for construction																									o
Lack of transparency in legal system: an introduction of international practices											o														o
Lack of transparency in legal system: disclosure of information on changes in regulations											o														o
Lack of transparency in legal system: conditions on application for contract of technical assistance											o														o
Ambiguity of legal system: the date to start digital broadcasting			o	o																					
Ambiguity of legal system: disparity of tariff rates among similar products											o														
Ambiguity of legal system: introduction of emission control regulations (including unrealistic policies)																							o		
Ambiguity of legal system: foreign exchange laws			o	o							o	o											o		
Ambiguity of legal system: export restrictions						o									o										
Ambiguity of legal system: detailed information on market research in expanding business																									
Ambiguity of legal system: inconsistency between country's tariff classification and ASEAN's																									o
Ambiguity of legal system: definition of tariff classification (items)																									o
Ambiguity of legal system: treatment of reinvoice under the third-country FTA						o																			
Ambiguity of legal system: method to calculate tax									o																
Ambiguity of legal system: government procurement procedures																							o		
Ambiguity of legal system: approval and license procedures by administrative institutions																									o
Ambiguity of legal system: approval and license criterion of investment-related regulations									o	o															o
Ambiguity of legal system: partnership requirement																									
Ambiguity of legal system: criteria and details of approval for divestment obligation		o																							
Ambiguity of legal system (insufficiency): regulations on disposal of industry wastes																									o
Ambiguity of legal system (insufficiency): tariff classification for parts and components									o																o
Lack of implementation of legal system: environmental control																									
Sudden modification of legal system: general (including absence of legal stability)																									
Sudden modification of legal system: capital control and other controls																									
Sudden modification of legal system: incentives for foreign investors																									o
Sudden modification of legal system: raising of import tariffs																									
Sudden modification of legal system (introduction): new tax (value-added tax for export processing firms)																									o
Sudden modification of legal system: custom clearance (e-custom clearance)						o																			
Sudden modification of legal system (setting): sudden setting of holidays			o	o							o	o													o
Sudden modification of legal system: issues of laws and regulations without sufficient period for																									
Sudden modification of legal system: reduction of export incentives																									
Sudden modification of legal system: criteria to prepare financial statements																									
Sudden and frequent modification of legal system: laws and notices (general)																									o
Modification and publicity of legal system: difficulty in accessing information on regulations and practices, and insufficient efforts to disseminate information on their revision			o										o												o
Instability of legal system: instable foreign capital law and definition of foreigners					o																				o
Instability of legal system: possible changes in investment incentives													o												
Instability of legal system: automobile-related taxation system																									o
Instability of legal system: tax holiday regime																									o
Instability of legal system: possible tightening regulations on market access to the retail firms																									o
Instability of legal system: regulations on foreign workers											o														o
Instability of legal system: possible regulations inconsistent with WTO (requirements on investment and production etc as eco-car promoting policy)						o																			o

Category	2009								2008								2005									
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	
Issues																										
Difficulty in procedures: corporate tax advance declaration and payment procedures																										
Inefficiency of procedures (including corruption): investment approval procedures																										
Inefficiency of procedures (including corruption): obtaining licenses for operations in the construction sector																										
Disunity of procedures: inconsistent procedures and interpretation among administrative officials																										
Complicated corporate tax prepayment system																										
Complicated banking business resulting from the regulations requiring banking transactions in rupiah																										
Complicated offsetting of debtors and creditors account in foreign trade transactions																										
Complicated handling of BOI incentives																										
Complicated approval and licensing for automobile price																										
Complicated L/C import system (iron and steel products)																										
Insufficient enforcement of environmental protection																										
Security and environment standard, standard recognition issue: regorousness of marking systems																										
Security and environment standard, standard recognition issue: obligation to acquisition the Philippines National Standards for steel pipes, steel stick et al.																										
Ambiguous implementation of antitrust law																										
Arbitrary application of system: disunity of legal interpretation and implementation (including disunity and inconsistency of implementation of product safety certification system, excessive power of local officials, etc.)																										
Arbitrary application of system: diversity of implementation and interpretation by customs (including arbitrary tariff classification and tariff evaluation, difference with international rules, inequity of tariff rate application and ITA nonperformance)																										
Arbitrary application of system: arbitrary corporate tax examination																										
Arbitrary application of system: arbitrary and corrupt tax collection (including back taxes and tax on business corporations)																										
Arbitrary application of system: extension of valid period of license for air forwarder																										
Inflexible application of systems: judgement of application fees imposed by customs																										
Disunity of legal interpretation for application of system: rules of origin																										
Inconsistent interpretation of legal system: inconsistent requirements among customs in accepting ASEAN's Certificate of Origin																										
Disunity of legal interpretation for application of system: acquisition of indigenous rights for land-use																										
Disunity of regulations, controls, and legal interpretation for application among relevant ministries and agencies																										
Disunity of legal interpretation for application of system: discriminately application for foreigners of a criteria of environment at the office																										
Insufficient notification and understanding of changes in legal systems and procedures among administrative offices																										
Inconsistent interpretation of regulations and laws among related officials																										
Insufficient legal enforcement (insufficient announcement of EPA Certification of Origin procedure)																										
Inconvenience of centralized authorization rights (including disapproval of PROSEC licensing procedures in rural areas)																										
Special personal connection and political bribery and corruption of public savants (including collusion and corruption in customs)																										
Unanimous voting at the board meeting of joint ventures																										
Prohibitive port charge and departure tax																										
Introduction of value-added tax to free trade zones																										
Heavy burden of value-added tax																										
Prohibitive individual income tax																										
Income tax at the source for expensive expenses of the use																										
High luxury tax imposed on imported or domestically produced goods																										
Collection of technology promotion funds																										
Inconsistent tax collection																										
Irrational traffic regulation																										
Business tax																										
Difficulties in the process of reimbursement of prepaid tax and so on																										
Irrational payment due for public utility charges																										
Irrationality of listed company provision																										
Existence of excessive regulations such as X-ray controls																										
Heavy burden of individual income tax																										
Restricted transfer of the equity share																										
Difficulty in obtaining plans of governments																										
Excessively strict foreign exchange control																										
Signature requirement for document submitted to government and other public offices																										
Discrimination against foreign firms provided by the Board of Investment																										
Rampant smuggling																										
Rampant illegal import of used cars																										
Deemed tax valuation system																										
vii) Insufficient protection of intellectual property rights (IPRs)																										
IPRs: widespread counterfeit goods and pirated copy goods due to insufficient protection of IPRs																										
IPRs: insufficient crackdown on counterfeit goods at the border , delayed appraisal during suspension of imports and uncertainty of disposal of seized articles																										
IPRs: unratified IPR treaty (global treaty)																										
Trademark right: underdeveloped and insufficient trademark right protection system																										
viii) Labor regulations and related practices excessively favorable to workers																										
Difficulty in firing workers: retirement and firing regulations excessively protective for workers																										
Difficulty in firing workers: judgment of a labor court																										
Wage: absence of minimum wage system (no minimum wage system and high labor cost)																										
Wage: substantial raising , frequent and arbitrary revision and disparity control of minimum wage																										
Wage: rapid increase in wage level (raising of labor cost)																										
Wage: disapproval of and difficulty in demotion and salary cut																										
Strike: easy implementation of strike and long-term strike practices																										
Illegal strike																										
Payment of costs for labor-related court																										
Labor union issues : moderation of authorization to organize labor union																										
Restrictions on the period to hire temporary workers																										
Irrational regulations on ages of young workers																										
Labor-management agreement and practices excessively favorable to workers; difficulty in revision of conservative labor regulations and vested conditions of employment																										
Misuse of medical leave																										
Excessive holidays and/or work absence																										
Abuse of family and medical leave system																										
Specificity of working time																										
Unreasonably high wage rates for working on holidays																										
Prohibition of employing contract workers																										
Restriction on transfer of insurance officials among companies																										
Greater burden of employees' pension																										
Burden of educational fund																										
Heavy burden of obligation to distribute taxable profits and profit sharing dividends to employees																										

(Continue)

Category	2009							2008							2005											
	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Indonesia	Malaysia	Philippines	Singapore	Thailand	Cambodia	Laos	Myanmar	VietNam	Brunei	Indonesia	Malaysia	Philippines	Singapore	Thailand	Vietnam	
ix) Underdeveloped infrastructure, shortage of human resources, and insufficient investment incentives																										
Difficulty in hiring and securing human resources due to shortage of management staff and engineers (including brain drain of IT engineers)	○	○	○				○	○		○	○	○								○	○	○	○	○		
High turnover ratio and job hopping practices	○	○	○							○	○	○									○	○	○	○	○	
Infrastructure issue: underdeveloped (industrial) infrastructure (general)										○	○	○								○	○	○	○	○	○	
Infrastructure issue: increased risk of power shortages and electrical power supply (instability)	○	○	○	○	○	○	○	○		○	○	○	○	○	○	○	○	○		○	○	○	○	○	○	
Infrastructure issue: underdeveloped road and traffic	○	○	○	○	○	○	○	○		○	○	○	○	○	○	○	○	○								
Infrastructure issue: underdevelopment and lack of seaport infrastructure	○							○	○	○																
Infrastructure issue: inadequate spaces for railway and underdeveloped containerized railway transportation					○								○													
Infrastructure issue: creaky existing infrastructure																				○						
Infrastructure issue: poor public physical distribution services																				○						
Infrastructure issue: underdeveloped intermediate distribution																				○						
Infrastructure issue: inadequate public sanitation	○	○								○	○										○					○
Infrastructure issue: runaway cost of public utilities (instability)																				○						
Infrastructure issue: insufficiency and underdevelopment of waste disposals								○												○		○				○
Infrastructure issue: delayed delivery due to traffic jam in cities								○												○						
Infrastructure issue: underdeveloped telecommunication infrastructure/roadband internet network access	○				○			○			○									○						
Infrastructure issue: insufficient air transport infrastructure								○					○													
Infrastructure issue: remarkable difference between a plan to develop logistics and the progress of construction (highway, subway, et al.)								○																		
Incentives issue: disparity of incentives in the same zone due to project-by-project grant of BOI incentives (irrationality)																									○	
Incentives issue: shrinking of incentives for foreign investors according to the change of investment promotion areas					○																					
Incentives issue: absence of investment incentives for the construction industry																									○	
Incentives issue: insufficient incentives for existing foreign-owned firms																								○		○
Incentives issue: insufficiency, shrinking and ambiguity of incentives for foreign investors (high-tech industry; petroleum gas, oil refinery, petrochemistry)	○									○											○	○				○
Incentives issue: insufficient exemption of import tariffs imposed on capital goods within economic zone		○									○															
Incentives issue: elimination of tax incentives for industrial park								○																		
Incentive issues: review of tax exemption for parts used in producing exports, which are subject to anti-dumping duties					○																					
Incentive issues: application of investment allowance and reinvestment allowance only for manufacturing	○																									
Incentives issue: absence of incentives for parts manufacturer								○																		○
Incentives issue: insufficient incentives for foreign finished car maker																									○	○
Incentives issue: insufficient BOI tax incentives					○																				○	
Incentives issue: insufficient tax incentives other than BOI incentives (corporate tax and withholding tax under tax treaty)					○																					
Incentives issue: discriminatory favorable incentives for national cars	○									○											○					
Insufficient incentive for nurture of supporting industries (including local industrial development policy)	○	○						○	○	○	○										○				○	
Issues of local suppliers in terms of delivery time and quality																										○
High tax rate: corporate tax																					○					
High tax rate: individual income tax																					○					
Financial market: immature financial market								○													○					○
Financial market: underdeveloped foreign currency exchange system						○	○	○							○	○	○					○				○
Financial market: underdeveloped capital market						○	○	○							○	○	○					○				○
Insufficiency of medical institutions										○	○											○				
Public security: frequent occurrence of theft										○	○															
Political instability		○								○	○															
Underdeveloped system to prevent disasters: Strength of Buildings, Bird flu, Dengue fever	○				○																					
x) Restricted competition and price controls																										
Monopoly / unilateral increase in price of energy supply										○											○					
Discriminatory high pricing for electricity, water, diesel for industrial use		○																			○					
Discriminatory rise in fuel price for industrial use	○									○											○					
Excessive government intervention for pricing systems: standard export pricing and obligation of domestic supply for coal	○																									
Arbitrary regulation to allow price cap settings for electricity provided by state-owned power company	○																									
High price due to monopoly by the government: industrial waste disposal		○																								
Price reporting requirement to the Department of Commerce					○								○												○	
Government-designated trading company system								○																	○	○
Monopolistic pricing								○																	○	○
Discriminate pricing for loads at ports								○																	○	○
Double pricing between domestic and foreign investment																									○	○

Data source: Urata and Ando (2010) (original data: authors' preparation, based on JMC surveys).

Table A.3.1 The detailed method to conduct a survey

Brunei	<p>The Survey was initially sent by e-mail and subsequently followed up by phone calls and interviews for clarification of response for those that responded by e-mail and/or fax.</p> <p>Companies are members of the Brunei Darussalam International Chamber of Commerce & Industry and ad hoc SME's in the private sector.</p>
Cambodia	<p>A number of methods to deliver questionnaires are used; 1. for companies with easily access (in terms of location), staff were sent to meet the respondents directly (if they were available during the working time for sink tank). 2. for companies with a difficulty in access, emails are used. 3. the questionnaires were sent through friends and connections who are working in the target companies (usually this is the most effective method and have highest response rate). 4.,the face to face</p> <p>Firms located in Phnom Penh and surrounding area were selected by checking the website of Cambodia Chamber of Commerce, different professional business associations, and different Cambodia-Foreign Business Associations, and among them, 120 companies are picked up from the compiled list (examples: from GMAC (Garment Manufacturing Association in Cambodia),</p>
Indonesia	<p>We checked out our own connections and friends of CSIS who seemed to be keen on filling the</p> <p>Most of them are friends of CSIS and/or companies who had been our respondents from the</p>
Laos	<p>The majority of questionnaires are sent by postal, and few are sent by email and fax.</p> <p>Foreign firms were selected from the most well known.</p>
Malaysia	<p>The survey was sent by email, with the assistance of the Federation of Malaysian Manufacturers and Vistage Malaysia.</p> <p>The Federation of Malaysian Manufacturers, because of its very large number of members, does not have the resources to identify foreign firms to email the questionnaires to, and thus emails we re sent to everyone. On the other hand, Vistage Malaysia, because of its very much smaller number of members, was able to send the questionnaires only to members who are non-Japanese MNCs.</p>
Cambodia	<p>The face-to-face interviews is applied.</p> <p>We selected foreign firms for interview from the list of firms provided by five industrial zones in</p>
The Philippines	<p>The questionnaires were sent through fax and email.</p> <p>A masterlist of foreign companies operating in three economic zones is created: PEZA (Cavite and Laguna), SBMA (Zambales), and CDC (Pampanga). The members of Philexport, leading exporters' group in the Philippines as well as a list of regional headquarters from the Board of Investments are also included. From the masterlist, sample firms are randomly selected.</p>
Singapore	<p>The original questionnaire was converted into an online survey form using Google Form. We approach the various chambers of commerce and provided an email template for them to send to</p> <p>Only foreign firms are selected, based on the country (e.g. US, Europe, Japan, etc).</p>
Thailand	<p>The questionnaires were directly sent to foreign companies with various methods; postal mail, e-mail and fax. We also asked cooperation from the foreign chambers of commerce to send the questionnaires to their board of directors and members via e-mail., and consistently followed up</p> <p>1. We checked top-ten countries that have highest FDI in Thailand during 2005-2009 (5 years) by using source from Bank of Thailand (2010): Singapore, Netherlands, Hong Kong, United States, Switzerland, Germany, United Kingdom, Malaysia, South Korea, and France. (Due to the survey's instruction, Japan is not included although it is on the first ranking of countries with highest FDI in Thailand.). 2. We selected companies from these countries based in Thailand. 3. In the process, we tried to cover all industry size; small, medium and large companies, as well as industry types as the</p>
Vietnam	<p>Two methods are used: (1) surveys and (2) postal mail. For survey, we cooperated with statistics office in Hanoi and Ho Chi Minh City.</p> <p>industries (garment, electric, electronics, motor spare parts and some other firms in manufacturing areas). For the mail survey, we major focus on manufacturing firms and also some firms in service industry.</p>