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DIRECTORATE B

POLICY DEPARTMENT

WORKSHOP

TRADE AND ECONOMIC RELATIONS WITH ASEAN
WORKSHOP
DG EXPO POLICY DEPARTMENT FOR
THE COMMITTEE ON INTERNATIONAL TRADE (INTA)
THURSDAY, 28 FEBRUARY 2013
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14.30-17.00 ROOM: 6Q-2

Trade and economic relations with ASEAN

Chairman: Vital Moreira

- The EU’s and ASEAN (Association of Southeast Asian Nations) trade relations
- Prospective EU-ASEAN free trade agreements with focus on Singapore, Malaysia and Vietnam

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PROGRAMME OF THE WORKSHOP

DIRECTORATE GENERAL FOR EXTERNAL POLICIES
Policy Department and Committee on International Trade

WORKSHOP

THE EU TRADE AND ECONOMIC RELATIONS WITH
THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)

Brussels
József Antall Building
Room 6Q2
Thursday, 28 February 2013
14.30 to 17.00

PROGRAMME

14.30 Welcome and introduction to the workshop by INTA Chairman Prof. Vital Moreira

14.45 Address by Mr Mauro Petriccione Director, DG Trade, European Commission

15.00 Address by H.E. Ambassador Ong Eng Chuan (Singapore)
H.E. Ambassador Dato' Zainuddin Yahya (Malaysia)
H.E. Ambassador Pham Sanh Chau (Vietnam)

First round of questions and answers

15.45 A moving target: EU's trade strategy towards ASEAN
Presentation by Prof. Jacques Pelkmans, the Centre for European Policy Studies (CEPS)

15.55 EU-ASEAN FTAs: does one size fit all? Focus on Singapore, Malaysia and Vietnam, Presentation by Dr Lurong Chen, the United Nations University Institute on Comparative Regional Integration Studies (UNU-CRIS)

16.05 Second round of questions and answers

16.50 Closure of the workshop by INTA Chairman Prof. Vital Moreira
BIOGRAPHICAL SUMMARIES OF THE SPEAKERS

**Prof. Jacques Pelkmans**

Jacques Pelkmans is Senior Fellow at the Centre for European Policy Studies in Brussels and visiting professor at the College of Europe in Bruges. Between 2001 and August 2012 he was Jan Tinbergen Chair and Director of the Economics department at the College of Europe (Bruges). A Ph.D. in economics from Tilburg University, he has been associated professor of economics at the European University Institute in Florence, professor of Economics at the European Institute of Public Administration (Maastricht) and professor for European Economic Integration at Maastricht University. He has held part-time positions at the WRR (think-tank of the Dutch Prime minister), founding Director at the European Institute of Asian Studies (EIAS) in Brussels and at the Vlerick Business School (Gent, Leuven Beijing, St. Petersburg). His research interests comprise several specialized areas in European economic integration (e.g. EU regulation, the internal market, European standards, regulatory impact assessment, EU trade and investment policy) and economic aspects of ASEAN economic integration.

**Dr. Lurong Chen**

Dr. Lurong Chen is a Research Fellow at the United Nations University (UNU) Institute of Comparative Regional Integration Studies (UNU-CRIS) in Bruges. He holds a Ph.D. in international relations, with specialization in international economics from the Graduate Institute of International Studies, Geneva (IUHEI, Geneva). His current research interests are centered on Asian regionalism, production sharing and economic integration, and trade in services.

Before he joined UNU-CRIS, he had a working experience in the World Trade Organization and in private sector.

At the present workshop, Dr. Lurong Chen is presenting a paper drafted by the European Institute for Asian Studies (EIAS) under direction of Mr. Ludo Cuyvers, Professor emeritus of the University of Antwerp, chairman of EIAS.
PART I: SUMMARY OF THE WORKSHOP

On February 28th 2013, the International Trade Committee of the European Parliament (INTA) organized a Workshop on the EU trade and economic relations with the Association of South East Asian Nations (ASEAN).

The double aim of the Workshop was to provide an overview of the status quo of the emerging EU trade & investment agreements with ASEAN or its countries as well as to obtain an informed and analytical perspective on EU trade strategy towards this region, in the wider context of the dynamic environment characterizing the Asia Pacific region.

The workshop was divided in two panels: in the first one emphasized the negotiators’ or officials’ perspective, starting with an authoritative address by Mauro Petriccione (Director, DG Trade) and the policy statements of the Ambassadors of Singapore, Malaysia and Vietnam; the second panel consisted of two contributions from independent analysts, first Prof. Jacques Pelkmans (CEPS, Brussels) – basing his intervention on a study for the INTA Committee co-authored by Federica Mustilli (CEPS) – on the overall trade and investment strategy towards ASEAN and Dr. Lurong Chen (UNU-CRIS, Bruges) focusing more specifically on Singapore, Malaysia and Vietnam. Each panel was followed by a lively debate with interventions from members of the INTA Committee and other participants.

In the first panel, INTA chairman Vital Moreira observed with satisfaction that the EU Council had given a mandate to negotiate with Thailand. The chairman introduced Mauro Petriccione who argued that EU trade performance had prevented the EU from suffering an even deeper recession. ASEAN has always played a crucial role as commercial partner (third after US and China) nowadays more than in the past. The 2006 Global Europe strategy is yielding concrete results also for ASEAN, especially after the conclusion of the EU-Singapore FTA. This FTA is a good model in terms of depth and ambition but it should not be seen as a straight jacket or a blue-print for other negotiations in the region. In the short run, he argued, the bilateral approach will be the only possible strategy since a region-to-region agreement has proven to be difficult (bilateral agreements are indeed building blocks for a region-to-region strategy). He discussed the ongoing negotiations or preparatory talks with other ASEAN partners, emphasizing in particular the good progress with Malaysia, the pre-negotiating phase for Indonesia and the Philippines and the start of negotiations with Vietnam and Thailand. The possibility of success depends on the degree of ambition of such agreements, which, in turn, is a consequence of a simultaneous domestic reform process.

He concluded that the big show in town is the transatlantic partnership that, in terms of potential, can be considered to be in competition with TPP; however, Mr. Petriccione rather regards it as complementary. Each initiative able to create a business friendly trade and investment environment is indeed more than welcome.

The following speaker of the first panel was H.E. Ambassador of Singapore Ong Eng Chuan giving his view on the conclusion of the negotiations between EU and Singapore last December and other negotiations ongoing between EU and other ASEAN countries. He noted that the average annual growth potential for the next four years is about 5.5%, and the increasing economic integration among the ASEAN countries makes this debate extremely important and timely. He held a plea to consider ASEAN as a whole. Ambassador Ong briefly discussed substantive points of the EU-Singapore FTA such as mutual market access (characterized by immediate duty free access for EU imports while for Singapore it will take 5 years to have the same treatment). Mr. Ong regards the EU-Singapore FTA as a pathfinder for a possible EU-ASEAN FTA. The agreement is very comprehensive since most of the items
in the EU interest are actually included. For instance, environment, legal, financial, telecoms, maritime transport and postal services, government procurement and sustainable development are all topics fully included in the agreement. NTBs are covered and so are geographical indications. Once the agreement will be ratified, he said, GIs will be registered in Singapore and the relevant products will fully enjoy WTO and IPR protection. He concluded that EU and ASEAN should intensify trade and investment relations and he looks forward to the ratification of the agreement by the members of the European Parliament.

As noticed by Prof. Moreira, negotiations with Malaysia are going on but not so swiftly. This observation introduced the intervention made by the **H.E. Ambassador of Malaysia Dato’ Zainuddin Yahya** who started his speech by recalling the last developments of the EU-Malaysia trade relations. After eight rounds of negotiations, first launched by in 2010, notwithstanding the good progress as a clear indication of commitments, there are still some difficulties in specific areas such as public procurement, IPRs competition, and sustainable development. Ambassador Yahya made a distinction between two – in his view rather different - aspects of the current talks. First, he stressed the importance of what he called ‘core trade issues’ such as market access, rules of origin and trade facilitation, which should be considered as priorities in trade negotiations for providing growth and increasing productivity. Second, there are what he sees as ‘peripheral issues’ such as IPRs and competition that can shift the focus of the trade negotiations and can derail the progress made. It is important, he argued, to reach a reasonable deal in which both parts can be equally satisfied and if some issues still need to be tackled, it is also possible to address them after the ratification of the agreement. Malaysia is highly committed to promote the values relevant for the EU and wants to conclude the deal as soon as possible with mutual satisfaction. The Ambassador expressed the hope that the commitment of the EU in other talks with other commercial partners will not compromise or slow down talks with Malaysia.

Last intervention of the Panel 1 was made by **H.E. Ambassador of Vietnam Pham Sanh Chau** expressing his gratitude for the invitation and great satisfaction observing the high level of attendance of the Workshop. Vietnam just concluded the second round, after launching the negotiations last June. During his speech, he made two main points: ambassador Pham stressed the importance of moving fast in the negotiations of FTAs not only with Vietnam but with the entire region, especially after the visit of Mr. Barroso and Mr. Van Rompuy who had confirmed the economic importance of strengthening the relations between the two areas as an important source of growth. Moreover, the EU should have a proactive role after the failure of the Doha round, not least in the light of the developments in the Asia Pacific area through talks on TPP and ASEAN+6 (RCEP). Second, the need to move faster also hinges on the complementarity of the structure of the two economies. He concluded by stating that this is the right moment to act for a successful deal, with active support of European and ASEAN business industries and NGos.

The second panel began with the presentation of **Jacques Pelkmans (Senior Fellow, Centre for European Policy Studies)** who first called attention to the EU / Indonesian Vision Group Report of 2011 proposing a deep and comprehensive EU-Indonesia free trade agreement as a good basis to start negotiations. Though less ambitious than the EU / Singapore agreement, it might well be a suitable template for other ASEAN countries. Prof. Pelkmans identified four rationales of the EU trade strategy towards ASEAN: a commercial rationale, driven by economic size and growth, level of protection against the EU exports and the whole dynamics of competitive regionalism that plays an important role inside and outside ASEAN; an economic rationale based on trade and FDI contributing to EU growth; and a diplomatic as well as a political one. There was no time to set out the history of trade (2006-2013) negotiations between EU and ASEAN (this can be read in the background paper as published in April) but the harsh attitude and practices of Myanmar was one obstacle and the very different degrees of
willingness to open up to the EU yet another to successfully pursue a region-to-region approach between 2007 and 2009. The emergence of the ASEAN Economic Community (AEC) [which in name and by virtue of some principles suggests a similarity with the European Economic Community although it is not correct] is crucial: there are elements such as their ‘single market’ (deepening and widening AFTA, yet not comparable to the EU) and the notion of ASEAN as a ‘production base’, with a host of liberalizing provisions on NTBs, investment, services, improving customs, and even touching upon IPRs and competition which overlap considerably with the expectations of the EU for such negotiations.

For INTA, EU trade policy should be coherent in a number of ways. First, coherent with the general EU trade strategy of 2006 and 2010 as well as with EU 2020. The background paper finds that coherence is broadly satisfied, but with some caveats. The Trade, Growth and World Affairs strategy of 2010 however does not have many details on ASEAN unlike the one of 2006. This latter was published half a year after the EU-ASEAN vision group report, which shows some discrepancies in areas like sustainable development, public procurement, export restrictions/taxes and good governance. Furthermore, in ASEAN the EU is playing the card of competitive regionalism by taking advantage of a strong inclination of me-too market access strategies of ASEAN countries. Coherence of liberal ASEAN and EU trade & investment policies with domestic reforms is critical for the ultimate success and smooth functioning of such agreements. In ASEAN countries this is a condition sine qua non, as also emphasized by Mauro Petriccione in the first panel. For example, the fact that Thailand first obtained explicit political support from its parliament of the negotiations mandate is a hopeful sign. The final point addressed by Mr. Pelkmans concerned the dynamics in the Asia Pacific area with the proliferations of FTAs and region-wide attempts as well (not only ASEAN+1 but also RCEP and TPP). The question on the RCEP is to what extent this agreement can actually achieve deep and comprehensive market integration and not just a good coordination of the already existing agreements between the different partners. The TPP can be regarded as an unsolicited help for the EU in opening up Asian markets more generally.

Dr. Lurong Chen (UN University Institute of Comparative Regional Integration Studies) concluded the second panel by presenting a paper jointly prepared with the European Institute of Asian Studies. Mr. Chen focused his attention on Singapore, Malaysia and Vietnam (more details in their background paper) and, more specifically, on what is going to be the impact of EU-Singapore FTA on the future strategy towards the region. On the possibility of having an EU-ASEAN FTA, he made three points: first, ASEAN countries look very similar in terms of growth strategies strongly affected by the Japan's trade and FDI strategy in East Asia. International trade is a key variable for the growth strategy of these countries and for this reason they are keen on boosting the liberalisation process. Second, a successful conclusion of a FTA can provoke a domino effect by forcing other countries, previously less willing, to join an agreement. Finally, he concluded that the evolution of market integration of the East Asian region is strongly influenced by two dominant markets, China and Japan, even if neither is actually more important than the other.

A lively discussion followed both interventions, with MEPs from INTA, European business (BusinessEurope, Tyre manufacturers, other) as well as others querying the panel.
PART II: A MOVING TARGET: EU’S TRADE STRATEGY TOWARDS ASEAN
Jacques Pelkmans and Federica Mustilli

1. INTRODUCTION AND OVERVIEW

Whereas before 2006, EU relations with ASEAN focused on broader political objectives and economic as well as development cooperation, besides occasional alliances between the two groups in the WTO, this changed with the new trade and investment strategy of the Union called Global Europe. The present study for the INTA committee of the European Parliament analyses the implementation of the new strategy seeking to conclude an ambitious and comprehensive region-to-region free trade area. The title of the study, suggested to us by the European Parliament, is appropriate: given the dynamics of today’s trade and investment policy at the regional and bilateral levels, one can indeed speak of a ‘moving target’. The paper first focuses on the several rationales of the EU’s ASEAN strategy and its coherence with its original intentions as well as with EU2020. A short status report is provided for the seven years since early 2006. Now that ASEAN-country-to-EU agreements are concluded or negotiated, the coherence between these respective agreements is an important criterion for the EU. However, the present study will only touch upon this, because the comparison between the first three negotiations in the ASEAN group is done in the (accompanying) second study for INTA and its workshop of 28 February 2013. Subsequently, the potential of and obstacles to a (later) region-to-region agreement are reviewed. This is linked to the achievements of the ASEAN Economic Community (AEC) by 2015 as well as the credibility of the domestic reforms of ASEAN countries implied by ambitious trade and investment agreements. Both the AEC and ‘deep’ FTAs with the EU can only work well when ministries other than trade (and regulatory agencies) in ASEAN countries employ coherent strategies of domestic implementation of economic openness and regulatory adaptation. The coherence of the EU approach to ASEAN FTAs with respect to other recent and comparable FTAs negotiated by the EU is also analyzed. Finally, the wider dynamic context of ASEAN FTAs in East Asia, the RCEP (East Asia FTA) and the TPP (over the Pacific) is sketched because it is of great relevance to understand ASEAN’s positioning. However, it also matters for EU negotiators and ultimately for a level-playing field in East Asian market access for European business.

2. SEVEN YEARS OF ASEAN / EU COMMERCIAL DIPLOMACY

2.1 Economic, commercial, diplomatic and political rationales

In 2006, the European Commission proposed to initiate trade negotiations with ASEAN, the group of ten South–East Asian countries. In the 2006 Global Europe strategy communication, the seven-years EU moratorium on engaging in new regional trade agreements was ended. The EU found itself as the only one left, amongst the leading trade powers in the world, which refused to conclude new forms of economic regionalism so as to maximize incentives to pursue the multilateral Doha Development Round. This ‘leadership’ foundered in the strong currents of a new, competitive economic regionalism everywhere in the world economy. Even countries such as Japan and South Korea, long advocates of singular multilateralism, succumbed to the siren songs of ‘going regional and bilateral’. Meanwhile, the Doha Round went into a coma and it has unfortunately never woken up anymore. When economic

1 COM (2006) 567 of 4 October 2006, Global Europe, competing in the world
Workshop: Trade and economic relations with ASEAN

Regionalism or a flurry of bilateral free trade areas (FTAs) grow into a scramble for better market access than one’s competitors, abstention by the EU will inevitably lead to greater discrimination of EU companies when trying to enter markets outside Europe. Hence, ending the moratorium was a rational decision – the EU simply had little choice.

Global Europe employs, as ‘key economic criteria’ for new FTA partners, (a) “market potential (economic size and growth)” and (b) the level of protection against EU exports, both tariffs and non-tariff barriers - NTBs. In addition, the dynamics of competitive regionalism and bilateralism, even when all the FTAs are WTO-compatible, are said to be a factor. The reason is the same as noted above: disparities in market access to attractive growth markets between companies from different countries can be a hindrance in building market shares, a hindrance that may, at times, have lasting effects on the capacity of reaching critical mass for effective competition. This is just as truer for tariff disparities, if large enough, as for NTBs. Global Europe concludes:“Based on these criteria, ASEAN, Korea and Mercosur… emerge as priorities. They combine high levels of protection with large market potential and they are active in concluding FTAs with EU competitors.” These three criteria together can be said to form the commercial rationale for initiating FTA negotiations with ASEAN.

Behind the commercial motives, one can discern a deeper economic rationale as well. The subtitle of Global Europe is “a contribution to the EU’s growth and jobs strategy”. EU exports and foreign direct investments (FDI) are regarded as drivers of EU growth, in particular if EU companies can participate in fast-growing economic activity in the world’s growth markets. Unfortunately, in Global Europe, there is little recognition of the benefits of competitive imports into the EU. For consumers and industries using competitive inputs for their production, EU openness and low or no protection is essential. Apart from a remark in passing², the strategy is all about the supply side and market access elsewhere. Along with economic growth, there are also repeated references to ‘competitiveness’ and job creation. These are complicated topics, because any significant further opening of the economy, in the EU or elsewhere, will induce intersectoral and possibly interregional adjustment processes as well as affect the demand for lower and high skilled jobs in labour markets. The net effects might be positive, although this has to be analyzed carefully with sound economic models, but there may be temporary losers, too. Reasonably flexible labour and product markets and anticipatory adjustment policies are likely to reduce adjustment to a temporary issue. If the economy is growing steadily, such adjustment processes are likely to be relatively unproblematic. However, with low or zero growth, such adjustment can be painful and quite costly for regions and workers. Adjustment assistance may be crucial in such circumstances.

The references to ‘competitiveness’ can mean several things to several people, indeed, to several types of companies, to distinct sectors and in more vaguer terms to (EU) countries. Once the term competitiveness is not applied to firms but e.g. sectors or countries, what is really meant is economic performance, ultimately resulting in earning power, the foundation for prosperity. Economic performance may well benefit from better access to growth markets, whether via trade or FDI, if (i) the companies in the relevant sectors are competitive vis-à-vis other non-local companies trying to obtain access, as well as vis-à-vis local companies in the target country, (ii) the EU, with its companies at least in some sectors, would be amongst the first countries concluding FTAs, so that critical mass and/or distribution networks (etc.) can be built up. However, this reasoning would neglect global value chains

² “The case for openness is undermined if its benefits do not reach citizens.” This should not be misunderstood: the text strongly rejects protectionism (p. 5) and ‘protecting import-substituting sectors’ is argued to be inefficient.
³ One can assume that the removal of protection in the target country provides opportunities in the target countries for non-local companies (say, EU or US or Japanese ones), otherwise trade protection would long have been reduced to trivial barriers in WTO or bilaterally.
where EU enterprises, whether as leader or as supplier, are more interested in intermediate, rather than final, products in most markets. In such value chains, other factors play a critical role such as infrastructure and logistics, reliable services provision (from transport to professional services), IPRs, acceptable conditions for management from Europe to enjoy inward and outward mobility and efficient customs processing. In fact, it is too little realized that global value chains, more often than not, by-pass regular trade and investment restrictions of many countries. A lot of various stages of intermediate production take place in Export Processing Zones (EPZs), notably in East Asia. EPZs fall outside regular trade policies, because production sites remain in these zones and (almost) all output is exported after (some) local value has been added. In 2010 there were no less than 3600 EPZs in the world! In China, even today, apparently more than 40% of goods exports still originate from EPZs. ASEAN countries have many EPZs as well. Unfortunately, statistics and economic analysis of EPZs is underdeveloped since countries are not very keen to publish the data. Another form of by-pass is tariff drawbacks which many multinationals routinely negotiate in East Asia. Tariff revenue earned on the imports of intermediates of company X, typically a foreign one, is given back once the processed (semi-) manufactured good is exported again. In both instances, negotiating a FTA may only help somewhat to “level the playing field” for companies not in EPZs and not benefiting from tariff drawbacks, little more. Insofar as value chains are the source of the phenomenal growth in intra-East-Asian trade and FDI, they have developed despite of, rather than due to, the recent waves of FTAs in the region. One may therefore conjecture that the new FTAs should stimulate trade outside value chains much more. What matters for EU companies capable of leading value chains or supplying to them (from sites in Europe) are the factors specified above, whether opening up services, customs facilitation, simpler origin rules, IPRs, investment liberalization, possibly reducing selected NTBs, etc. The economic rationale of stimulating growth and jobs in the EU by concluding FTAs with ASEAN and/or its countries is therefore probably sound but highly complicated to analyse authoritatively. As long as economic growth in ASEAN remains as high and steady as it is (even during the crisis), the cumulative growth effect (with EU companies participating) might well overcompensate all these subtle complications.

There are also diplomatic and political rationales for negotiating FTAs with ASEAN. EU and ASEAN have developed good and very cooperative relations over several decades 4. The EU is a respected ASEAN Dialogue partner, a long-standing donor in development questions both inter-regionally and bilaterally with less developed ASEAN countries (not to speak of EU countries with ASEAN developing countries) and a faithful supporter of the ASEAN integration process via a range of technical cooperation programmes. These good diplomatic relations have led to cooperation in international organisations, too. In the WTO ASEAN and the EU took the lead on financial services in the late 1990s (when the US was dragging its feet) and both joined the WTO Information Technology Agreement (ITA) of 1999 reducing tariffs on ICT goods to zero. 5 The EU and ASEAN are at the roots of ASEM, the Asian – Europe Meeting of political leaders held every two years. Given the waning development rationale of EU support (as ASEAN successfully grew to middle income status – and Singapore to developed country status – except for Lao PDR, Myanmar and Cambodia, with Vietnam well under way), the multilateral, regional and unilateral trade liberalization of ASEAN since the early 1990s and the rapid shift away from agricultural and natural-resource-based to industrializing economies, it is befitting to shift to other forms of constructive diplomacy with ASEAN as well. This is the diplomatic rationale.

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4 For surveys of EU / ASEAN relations in the 1980s and 1990s, see e.g. Pelkmans, 1993, Luhulima, 1993, Pelkmans, 1997 and Chee, 1997.

5 Incidentally, the ITA is yet another reason why value chains in East Asia often escape the impact of FTAs. Value chains are relevant only in certain sectors and ICT goods are a prominent one. FTAs are largely irrelevant for ICT goods, so important in East Asian chains, due to ITA.
The political rationale hinges in particular on the special position and philosophy of ASEAN in the Asia Pacific and Asia overall. ASEAN as a group is large, its peoples amount to 550 million inhabitants and still growing fast (though that growth is now declining). But it is not an emerging superpower. Indeed, in a somewhat different way than the EU, ASEAN is not a country, let alone a mighty power. It is, much like the EU, a civil community: it pursues a common foreign policy in a highly pragmatic fashion, but military or defence questions remain taboo. Its long-standing Dialogues with all its strategic partners present together (ranging from Japan, the US, India, China, Russia, Australia and the EU), have proven to be rewarding in the longer run. Via ASEAN the EU has been brought into the crucial Asian Regional Forum on security questions, even though the EU is not a Pacific power. ASEAN’s consistent non-intervention and non-nuclear doctrine as well as its strong emphasis on peaceful and consultative diplomacy on the many problems in the South China Sea and adjacent waters have earned it a central place in the ‘high politics’ of the wider region, despite the lack of any ‘hard’ instruments of foreign and security policy. It would be difficult to imagine that any other major power in Asia would be so keen to associate the EU with the region. Enriching this most valuable relationship with deeper cooperation, and if possible, FTAs can be regarded as the political rationale.

2.2 Moving target? What happened between 2006 and 2013?

The EU Council of ministers gave the negotiation mandate for an EU/ASEAN free trade area in April 2007, with seven of the ten ASEAN countries, the other three being still at a low level of development. The mandate is somewhat special, it is a region-to-region approach. The only other one is that with Mercosur. Whereas Mercosur has properties of a customs union (though incomplete), ASEAN is clearly and purely a FTA itself which means that it does not have a common trade policy. The (optimistic) assumption behind the mandate that this would nevertheless not present a major obstacle has probably been based on the experience of ASEAN in East Asia. Before 2006, ASEAN had been negotiating so-called ASEAN+1 FTAs with China, Japan, Korea and later India and Australia –New Zealand. In fact, the one with China is really a framework agreement, accompanied by country-to-country FTAs ‘under’ the umbrella agreement. Of course, something similar might have been attempted by the EU and ASEAN.

However, there were two reasons why this approach foundered: (a) Myanmar’s harsh autocratic regime had led to EU sanctions and neither this country nor ASEAN appeared willing or capable to give the EU any assurances of a change for the better – the EU would have lost credibility if it had proceeded despite this attitude of Myanmar; (b) the EU/ASEAN Vision Group report of 2006 (see below) notwithstanding, early negotiations quickly revealed that inside ASEAN enormous disparities persisted in the willingness to open up beyond goods markets, so critical for the EU. Early 2009 both sides agreed to put the negotiations ‘on hold’. Late 2009 the EU initiated an EU-to-ASEAN-country approach, with Singapore first in line, later followed by Malaysia and Vietnam. In the words of the Commission, these developments ‘rekindled’ a renewed interest of three bigger ASEAN countries: Thailand, Indonesia and the Philippines, a classic example of ‘competitive regionalism’. At the moment, a joint scoping exercise has been initiated with Indonesia, based on an ambitious EU/Indonesia Vision Group report of 2011, embraced by both minister Pangestu and Commissioner De Gucht. A scoping exercise with Thai trade negotiators has led to an EU negotiating mandate with Thailand in February 2013. The Philippines has not yet decided to initiate a joint scoping effort as a basis for FTA negotiations.

One should also see this in context. The continuous dynamism in East Asian trade policies probably has direct consequences for EU/ASEAN negotiations as well, in two ways: the experiences make ASEAN countries more confident when having to make concessions and enter new areas, and the typical ‘gradual deepening’ practiced in Asia should help the EU/ASEAN negotiations to deepen over time rather than necessarily in a single move. Inside ASEAN the building up of the AEC by 2015 has
everything to do with the strengthening of ASEAN as a ‘production base’ for multinationals and global value chains, which would seem to accord well with a range of demands the EU has expressed in e.g. services, FDI, IPRs, customs modernization, competition policy cooperation, public procurement and more rational approaches to regulation and NTBs, including mutual recognition.

2.3 A short history of EU / ASEAN commercial diplomacy : 2006 - 2013

This sketch will touch upon the preparatory phase in 2006 until the mandate early 2007, the actual region-to-region negotiations until 2009 (when they were put on hold), the switch to an ASEAN country approach, the lower priority in the 2010 trade strategy of the European Commission and the special approach the EU and Indonesia undertook towards the scoping now ongoing.

The EU Council of trade ministers gave the negotiation mandate for EU / ASEAN in April 2007 with seven of the ten ASEAN countries as a group. But in reality there had been some preparation much earlier. Because ASEAN as a group began to negotiate FTAs with e.g. China (2001) and Japan, later with Korea and India as well, the EU began to discern possibilities already before the EU moratorium on new FTAs had been lifted. However, it is important to realize that these ASEAN+1 FTAs (as they are called in Asia) are in fact framework agreements which combine three aspects : (a) a general commitment to negotiate country-based bilaterals with the help of agreed principles ; (b) negotiation calendars and dates, but not deadlines, with great flexibility and full of intentions and ‘endeavours’ ; (c) an ‘early harvest’, a kind of minimum commitment of initial liberalization with specifics and short deadlines, as a confidence building measure. It should also be realized that ASEAN’s success in concluding such framework agreements is remarkable because ASEAN’s AFTA is a free trade area, typically without a common trade policy. Knowing that the ASEAN Secretariat is purposefully kept very weak and under-resourced by ASEAN Member States, it cannot take the lead (and is not allowed to) so that agreeing on common trade concession packages such as an early harvest and a commitment to liberalisation principles amounts to a truly intergovernmental exercise.

Following this tradition, the EU and ASEAN set up a so-called Vision group to explore how a EU / ASEAN FTA (or framework) could be approached. The 2006 Vision Group report 6 recommended a two-pillar structure, namely a WTO-compatible FTA and an expanded ASEAN-EU economic cooperation. For ASEAN, the economic cooperation pillar is seen as just as crucial as the FTA pillar because ASEAN considers ‘capacity building’ as a pre-requisite to withstand the opening up of specific submarkets. Indeed, the Vision report says that a “reinforced partnership” be based on cooperation, facilitation and liberalisation, and, for the four least developed ASEAN countries, the sequence could be a focus on the first two before liberalisation commitments are negotiated (p. 9). The negotiation framework suggested principles which would seem to remain below the EU ambition in Global Europe : tariff elimination of (only) 90 % of tariff lines (hard core protection is typically found in the rest) over 7 years, with open provisions for more; for services and investment, the coverage would have to be ‘substantial’ but focus is solely on the absence of discrimination (which is necessary but often insufficient for effective market access), although it does include allowing transfer of funds; and a range of other principles on competition, IPRs, public procurement (but with strong reservations of some ASEAN countries) and efficient and binding dispute settlement. The language of these other principles sounds re-assuring but not entirely convincing, knowing how ASEAN countries have worked on similar principles inside ASEAN.

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The actual negotiations between the EU and ASEAN were unfortunately a failure waiting to happen. The stumbling block was the harsh regime of Myanmar and the EU’s manifest conviction that it could not negotiate in earnest such a deep form of cooperation and liberalisation with a country that violated human rights to such an intolerable degree. The EU sanctions and their underlying rationale would have lost all credibility. Secret attempts to get Myanmar to show sufficient flexibility to break this taboo turned out to be futile. ASEAN was in a hopeless position. It is widely known that ASEAN leaders and their peoples were sharing a similar view on the Myanmar leadership as the EU, but the consistent and strict ASEAN policy of non-interference in domestic affairs prevented them from agreeing in public with the EU, let alone to drop Myanmar in the negotiations. From interviews it has become clear that the negotiations themselves were not making much progress either; this might be due to the complex intergovernmental set-up with all ASEAN countries together without an initial common position (as the Vision group report was not binding). Still, no less than nine negotiation rounds were held until March 2009 when both sides “agreed to put negotiations on hold”, in part because “existing levels of liberalization and negotiation objectives differed widely among countries in the group”.

In 2009, the EU felt compelled to switch to a country-by-country approach, now that the underlying growth imperative has become even more persuasive in the crisis. Moreover, right from the start of the crisis it became clear that its impact on East Asia was significantly less than on Europe, so that ASEAN markets could be seen as even more attractive as growth areas. The EU approached Singapore as the most advanced economy, and a major recipient of EU FDI for decades. Singapore was soon followed by Malaysia and Vietnam, and later still by Thailand. One can ask the question whether this country-by-country approach still reflects the strategic thinking of Global Europe. Separate FTAs with relatively small economies seem not to be in keeping with the economic size & growth criterion in Global Europe. The official argument that, in the longer run, the EU remains interested in an ASEAN-wide agreement is not necessarily convincing, even if the region-to-region negotiations are formally only ‘put on hold’, not ended.

In 2010 the EU launched the EU2020 strategy. All Commissioners with important policy portfolios wrote strategy documents showing how their approach would be supportive of the EU 2020 (smart, sustainable and inclusive) growth strategy. For trade and investment, Commissioner De Gucht came out with Trade, Growth and World Affairs: trade policy as a core component of the EU’s 2020 strategy. The pro-competitive philosophy of EU trade strategy remains the same. The intricate linkage between internal (especially the single market and regulation) and external EU is re-emphasized and the approach is reformulated in EU2020 terminology, that is, smart, sustainable and inclusive growth. Due to progress or results with other FTA negotiations (Korea, Peru, Colombia, Central America concluded; advanced with India, Canada and Singapore) and the failure of the EU/ASEAN-wide negotiations, the priority for ASEAN has vanished. But the EU should make “good use of fast-growing regional trade in East Asia” and link “into the rapidly growing network of free trade areas in that region”. Hence, the Commission will “seek to expand and conclude bilateral negotiations with ASEAN countries, beginning with Malaysia and Vietnam...”. In March 2012 the European Commission reports that the progress with Malaysia and Vietnam has rekindled interest in the Philippines, Indonesia and Thailand. Ultimately, “bilateral FTAs should serve as building blocks for a region-to-region agreement”. This would hinge on

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7 Famous is a remark from former Malaysian Prime Minister Mahathir, upon his return from Rangoon, that he felt the Myanmar leadership were a disgrace, highly unusual frankness in ASEAN political circles.
9 COM (2010) 612 of 9 November 2010
‘a critical mass of bilateral FTAs with ASEAN countries’ and on the completion of the ASEAN Economic Community, planned for 2015.

Indonesia seems to have presented a special problem for the European Commission. There are signals that, after 2006, EU negotiators found it difficult to ‘read’ the Indonesian preparedness to open up in a genuine fashion. Indonesia is by far the largest ASEAN country and has gone through many domestic political, institutional and economic reforms ever since the fall of Suharto. Recent economic growth is steady and robust, also during the crisis, reaching some 6% - 7% in the last few years. After Commission president Barroso visited president Yudhoyono in December 2009, they took a decision to set up a High Level Group, later called the Vision Group, in 2010 to explore the potential for a bilateral Indonesia / EU FTA-plus. The fully unanimous Vision Group report of June 2011 11 proposes an ambitious and comprehensive (wording from Global Europe) CEPA, a Comprehensive Economic Partnership Agreement, considerably more ambitious than the ASEAN/EU Vision group in 2006. This is clear from e.g. the commitment to remove tariffs on 95% of the tariff lines, with at least 95% of the trade value as well, the triangular complementarity of market access, facilitation and capacity building with a view to enable Indonesia to move up the value-added ladder of exports and overcome tough EU SPS requirements, a Doha-plus objective for services, specific proposals for ‘greening’ Indonesian exports, an agenda for investments (market access, fewer restrictions on doing business in Indonesia for foreign-owned enterprises, and the pursuit of one single BIT with the EU instead of the 17 BITs of today), accommodation of Geographic Indications (GIs) on both sides and detailed proposals on how to enable public-private partnerships for large infrastructural works so badly needed in Indonesia, whether for trade, logistics or local production. Both trade minister Pangestu and Commissioner De Gucht have publicly embraced the report as a basis to initiate negotiations. However, the sensitivity about adjustment questions following the Indonesia / China FTA rendered it politically very difficult for the Indonesian government to begin the usual scoping exercise right away. Although the EU / Indonesian CEPA is almost entirely ‘complementary’ rather than ‘competitive’ in product overlap – in contrast to Chinese exports to Indonesia, which vigorously compete 12 with local goods – Indonesia felt compelled to take time to persuade parliamentarians and the wider public (Indonesian business was in favour all along) about the benefits and low risks of the CEPA. In December 2012, the EU and Indonesia have begun a scoping exercise based on the Vision Group report.

3. THE ECONOMIC AND COMMERCIAL RATIONALE: A CLOSER LOOK

3.1 ASEAN’s Economic Outlook

A very important reason why the EU gives priority to ASEAN for FTA negotiations is the record of ASEAN economic growth (even in the crisis) and the expectations of continued high growth in the medium run. A number of ASEAN countries have enviable growth records. Singapore is of course in a special class, having joined the ranks of high income developed countries a while ago, but starting from a predicament of poverty and isolation in 1965 (after the break-up with Malaysia). But also Malaysia and Thailand are generally regarded as successful growth models for as much as perhaps two decades or more, only interrupted by the Asian financial crisis in 1997/8. The Philippines and Indonesia were

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12 However, it should be noted that Indonesia greatly expanded its exports of goods to China as well, but these tend to be different goods or do not originate from SMEs.
typically suffering from severe domestic restrictions and protectionism for a long time and recorded only moderate though secular growth. Vietnam emerging out of communism has developed quickly recently and opened up ever more by joining the WTO as well as several FTAs. What is new since the early 2000s are the numerous and deep political and economic reforms in Indonesia, resulting (with a lag) in a higher secular growth rate of around 5 % - 7 % recently, and the new confidence in the Philippines with a ‘clean’ government for the first time in 5 decades \(^1\). The last two years one witnesses a remarkable boost in Philippines’ economic growth – the question now is whether this is sustainable.

In the following we shall provide the most recent data on economic growth in the ASEAN region. ASEAN-10\(^1\) GDP growth was expected to accelerate to 5.2% in 2012 mainly thanks to the strong Thai rebound and the unexpected investment-driven growth in the Philippines (see Figure 1). Most of ASEAN economies are growing under a loose monetary policy, following a period of severe tightening, together with the adoption of accommodative fiscal measures taken by some countries.

**Figure 1 GDP Growth (%), Southeast Asia**

![GDP Growth Chart](source)

As shown in Table 1, ASEAN-5 will show a moderate acceleration compared to 2011, with a real GDP going from 5.4%, in 2012 to 5.8% in 2013, characterized by a general steady growth scenario across countries with the exception of Thailand, now fully recovered from the natural disasters of 2011. A sudden drop can be noticed in Singapore where forecasts for 2012 are well below the 4.9% of real GDP registered in 2011 (about 2.9%). Inflation in ASEAN is expected to slow down thanks to the decline in commodity prices while current account imbalances are expected to be reduced, although unevenly across the countries. This reflects the external and internal risks which open economies can encounter when trading partners suffer from a deep cyclical downturn. Overall, the growth trend will not exceed those of China and India that, notwithstanding the growth deceleration, will enjoy 8.2 and 6% respectively, confirming the leading role in Asia.

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\(^1\) President Cory Aquino was of course a shining exception but in the early post-Marcos years the country was devastated by the consequences of the plundering of thousands of companies by the Marcos clique.

\(^1\) ASEAN-10 includes Indonesia, Malaysia, Singapore, Viet Nam, Lao People’s Democratic Republic, Thailand, Philippines, Cambodia, Brunei Darussalam and Myanmar.
The economic and trade dependence of ASEAN countries from advanced economies as well as from China (although, as we will show later, in less strong way than usually defined), has contributed to a moderate slowdown in the growth projections for 2012 because most of the countries strongly rely on external export demand. As shown by Figure 2, real GDP growth in ASEAN-5 (Indonesia, Thailand, Malaysia, Philippines and Vietnam) will be slightly higher in 2012-2013 than over 2000 – 2007 (Fig 2, panel A) while it will slowdown in China, India and other advanced economies (Singapore, among them). Nevertheless, exports to China remains a powerful driver of growth in the East Asia region as is shown in Figure 2, Panel B, so much so that it may well compensate the stagnating export growth to e.g. crisis-ridden Europe and the US.

**Figure 2 Indicators on economic growth in Asia**

**Panel A**

1. Real GDP Growth (compound annual rates of change between 2012–13 and 2000–07; percent)

**Panel B**

2. Exports to China (percent of GDP)

Indonesia is one of the best performers among the ASEAN-7 countries (the ones negotiating between 2007 and 2009) with an expected GDP growth for 2012 of 6.3% and a forecasted 6.6 % for 2013 (see Table 2). Increased consumer and government spending supported by a strong domestic demand, low interested rates and large investment in infrastructure are among the reasons of its sustainable growth. Indonesia is running a current account deficit equal to 2.3% of GDP. Apart from trade agreements

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**Table 1 Different Economic Indicators in Asia, 2011, 2012 and 2013**

<table>
<thead>
<tr>
<th></th>
<th>Projections</th>
<th>Projections</th>
<th>Projections</th>
<th>Projections</th>
</tr>
</thead>
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<td>Asia</td>
<td>5.8</td>
<td>2.4</td>
<td>2.8</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>1.3</td>
<td>2.3</td>
<td>2.3</td>
<td>1.6</td>
</tr>
<tr>
<td>Advanced Asia</td>
<td>4.1</td>
<td>2.1</td>
<td>3.6</td>
<td>3.6</td>
</tr>
<tr>
<td>Newly Industrialized</td>
<td>3.6</td>
<td>2.7</td>
<td>3.6</td>
<td>4</td>
</tr>
<tr>
<td>Asian Economies</td>
<td>4</td>
<td>1.3</td>
<td>3.9</td>
<td>1.4</td>
</tr>
<tr>
<td>Korea</td>
<td>5.7</td>
<td>1.8</td>
<td>3.5</td>
<td>5.3</td>
</tr>
<tr>
<td>Taiwan Province of</td>
<td>4.9</td>
<td>2.1</td>
<td>2.9</td>
<td>5.2</td>
</tr>
<tr>
<td>China</td>
<td>7.8</td>
<td>6.7</td>
<td>7.2</td>
<td>6.5</td>
</tr>
<tr>
<td>India</td>
<td>9.2</td>
<td>7.8</td>
<td>8.2</td>
<td>5.4</td>
</tr>
<tr>
<td>ASEAN-5</td>
<td>4.5</td>
<td>5.4</td>
<td>5.8</td>
<td>5.9</td>
</tr>
<tr>
<td>Indonesia</td>
<td>6.5</td>
<td>6.6</td>
<td>6.3</td>
<td>5.4</td>
</tr>
<tr>
<td>Thailand</td>
<td>0.1</td>
<td>5.6</td>
<td>6</td>
<td>3.8</td>
</tr>
<tr>
<td>Malaysia</td>
<td>5.1</td>
<td>4.4</td>
<td>4.7</td>
<td>5.2</td>
</tr>
<tr>
<td>Philippines</td>
<td>3.9</td>
<td>4.8</td>
<td>4.8</td>
<td>4.7</td>
</tr>
<tr>
<td>Vietnam</td>
<td>5.9</td>
<td>5.1</td>
<td>5.9</td>
<td>18.7</td>
</tr>
<tr>
<td>Other Developing</td>
<td>5</td>
<td>5.1</td>
<td>4.9</td>
<td>10.6</td>
</tr>
<tr>
<td>Asia</td>
<td>5</td>
<td>5.1</td>
<td>4.9</td>
<td>10.6</td>
</tr>
</tbody>
</table>

Source: WEO (2012)
signed and in effect negotiated intergovernmentally by the entire ASEAN region, some Indonesian FTAs meanwhile exist or are under negotiation, in particular with India, Australia, Korea and possibly soon the EU. Talks started also with the US and Chile (Asian Development Bank (2013)) while the FTA with Japan is fully in effect.

Contrary to Indonesia, the good forecast for GDP in Philippines\(^{15}\), about 5.5\% in 2012, is driven in part by a better performance on external demand (see also positive and increasing current account balance, sustained by large remittances and receipts from business outsourcing). The positive trend of this country is also supported by an improved institutional and political environment rendering investment opportunities more attractive. On trade policy, economic and trade agreements in which the Philippines are involved are signed by ASEAN, except for one comprehensive economic cooperation agreement signed and fully in effect with Japan.

Table 2. Selected economic indicators for Indonesia and The Philippines

<table>
<thead>
<tr>
<th></th>
<th>Indonesia 2012</th>
<th>Indonesia Update 2013</th>
<th>Philippines 2012</th>
<th>Philippines Update 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>GDP Growth</td>
<td>6.4</td>
<td>6.3</td>
<td>6.7</td>
<td>6.6</td>
</tr>
<tr>
<td>Inflation</td>
<td>5.5</td>
<td>4.4</td>
<td>5</td>
<td>4.5</td>
</tr>
<tr>
<td>CA Balance (% of GDP)</td>
<td>-0.1</td>
<td>-2.1</td>
<td>0.2</td>
<td>-1.4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>GDP Growth</td>
<td>4.8</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Inflation</td>
<td>3.7</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>CA Balance (% of GDP)</td>
<td>2.1</td>
</tr>
</tbody>
</table>

Source: ADB estimates (2013) ADO = Asian Development Outlook

3.2 European trade with & investment in ASEAN

EU27 represents the third commercial partner for ASEAN (after China and Japan) with a total value of trade equal to € 182 bn, which is about 10.5\% of total trade of ASEAN (DG Trade, 2013). For the EU, instead, ASEAN as a whole is the fifth commercial partner after US, China, Russia and Switzerland with a trade volume of € 164 bn, almost 5\% of the total volume traded extra EU27. The EU is running a deficit in the balance of trade in goods since 2009 and a surplus in services (see Figure 3). 38.9\% of ASEAN exports to EU27 are represented by machinery and transport equipment (around 8.4\% of total EU imports in this category), 19\% by general manufactured and 12.1\% by chemicals and related products. On the imports composition, slightly over 50\% is represented by machinery and 14.2\% by chemicals; together, the two categories account for almost 5\% of the total EU export to the world (in the sectors mentioned).

\(^{15}\) The World Bank in Global Economic prospects forecasts 6.0 \% for 2012 and 6.2 \% for 2013.
On foreign direct investment, EU is a net investor in the main ASEAN countries with a persistent surplus across countries. However, as Figure 4 shows, the big recipient of FDI is Singapore and once removed the residual FDI flows are rather low.
3.3 ASEAN's interest in the EU economy

The ASEAN interest in the European market is particularly focused on machinery and transport equipment, manufactured articles and chemicals. As shown by Table 3, a residual category of goods traded is composed of food and live animals, manufactured goods and crude materials (excluding fuels). It is clear from the Table that the main three categories exported to the EU by ASEAN countries do not exceed 9% of the total EU imports in each sector, with one outlier in animals and vegetables oils fats and waxes (in fact, overwhelmingly palm oil) that represents more than 50% of EU total imports. Overall, there is a small ASEAN surplus (see Figure 5) except in some manufactured goods.

Table 3 Trade Pattern between ASEAN and EU, 2011 (SITC Classification)

<table>
<thead>
<tr>
<th>Sector</th>
<th>ASEAN's EXPORTS to EU</th>
<th></th>
<th>ASEAN's IMPORTS from EU</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Machinery and transport equipment</td>
<td>38.9</td>
<td>8.4</td>
<td>Machinery and transport equipment</td>
<td>50.3</td>
</tr>
<tr>
<td>Miscellaneous manufactured articles</td>
<td>19.2</td>
<td>8.4</td>
<td>Chemicals and related products</td>
<td>14.2</td>
</tr>
<tr>
<td>Chemicals and related products</td>
<td>12.1</td>
<td>7.5</td>
<td>Manufactured goods classified chiefly by material</td>
<td>11.2</td>
</tr>
<tr>
<td>Food and live animals</td>
<td>7.5</td>
<td>8.4</td>
<td>Miscellaneous manufactured articles</td>
<td>7.3</td>
</tr>
<tr>
<td>Manufactured goods classified chiefly by material</td>
<td>6.6</td>
<td>3.4</td>
<td>Food and live animals</td>
<td>4.1</td>
</tr>
<tr>
<td>Crude materials, inedible, except fuels</td>
<td>5.9</td>
<td>7.2</td>
<td>Commodities and transactions</td>
<td>3.3</td>
</tr>
<tr>
<td>Animal and vegetable oils, fats and waxes</td>
<td>4.6</td>
<td>50.2</td>
<td>Mineral fuels, lubricants and related materials</td>
<td>3</td>
</tr>
<tr>
<td>Mineral fuels, lubricants and related materials</td>
<td>2.5</td>
<td>0.5</td>
<td>Crude materials, inedible, except fuels</td>
<td>2.4</td>
</tr>
<tr>
<td>Commodities and transactions</td>
<td>1.7</td>
<td>2.9</td>
<td>Beverage and tobacco</td>
<td>2.3</td>
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<tr>
<td>Beverage and tobacco</td>
<td>0.2</td>
<td>2.7</td>
<td>Animal and vegetable oils, fats and waxes</td>
<td>0.1</td>
</tr>
</tbody>
</table>

Source: European Commission, DG Trade (2013)

Figure 5 Trade balance by sectors, 2011 (SITC Classification)

Source: European Commission, DG Trade (2013)

3.4 Simulated impact and economic welfare effects of an ASEAN/EU FTA-plus

The European Commission funded a study analyzing the sustainability impact assessment of an EU-ASEAN FTA. The analysis has been conducted for ASEAN-7 (by excluding the effect on Laos, Cambodia and Myanmar). First, the study applied a quantitative and qualitative methodology in evaluating three

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scenarios corresponding to three different degrees of ambitions of the negotiations (limited, extended and extended plus). Then, a second phase has been carried on the basis of a qualitative in-depth assessment (mainly through literature review, expert interviews and consultations) of all the possible direct and indirect effects both at micro and macro level. Subsequently, the study deeply analyzes five horizontal issues and ten case studies, amongst them, financial services, fisheries, cereals and grains, IPRs and Competition Policy. Finally, their conclusions and policy implications relate to how the implementation of an FTA can affect the two negotiating sides and through which phases the negotiation might best be conducted.

The overall assessment of a potential FTA was positive, with economic variables such as GDP, income, trade and employment all rising, for all ASEAN countries in all three scenarios. The same variables increase, but only slightly, for the EU, especially in terms of GDP and national income (more information on the main economic variables affected is in Table 4). A detailed approach based on the specific reductions of some tariff measures and the removal of barriers to trade in services shows that the total income effects are bigger for the EU-Singapore partnership. Other economies could benefit from an FTA thanks to tariffs and NTBs removal such as Vietnam, Thailand and Philippines. In terms of sectors, EU will benefit from the agreement in particular for the increase in trade in services under all the three scenarios, especially in sectors like trade and business services in which the EU gets the most value added. The other sectors foreseen to expand are ASEAN manufacturing sectors as a consequence of more labour-intensive resources. Potential shifts are taken into account in the medium term as a consequence of trade liberalization and dynamic effects of a more intense competition.

**Table 4 Main economic variables affected**

<table>
<thead>
<tr>
<th></th>
<th>ASEAN</th>
<th>EU</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Real Income</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Income</td>
<td>substantial increase</td>
<td></td>
</tr>
<tr>
<td>GDP</td>
<td>substantial increase</td>
<td></td>
</tr>
<tr>
<td>Wage levels</td>
<td>increase</td>
<td></td>
</tr>
<tr>
<td>CPI</td>
<td>moderate increase except Malesia</td>
<td></td>
</tr>
<tr>
<td>Demand of high skilled labour</td>
<td>increase in Thai, Philippines and Singapore</td>
<td></td>
</tr>
<tr>
<td>Sectors</td>
<td>cereal and grains (in the short-run)</td>
<td>Textile clothing and footwear</td>
</tr>
<tr>
<td><strong>Investment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reallocation of Capital</td>
<td>Substantial effects in Singapore and Thailand</td>
<td></td>
</tr>
<tr>
<td>Cost of doing business</td>
<td>NTBs required (on IPRs and competition policy)</td>
<td></td>
</tr>
<tr>
<td>Trade and investment restrictiveness</td>
<td>Increase in productivity capacity, advanced technologies and products</td>
<td>Increase in services and non-production related activities</td>
</tr>
<tr>
<td>FDI</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Trade</strong></td>
<td></td>
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</tr>
<tr>
<td>Trade flows</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Expected GDP growth</td>
<td></td>
<td>export value expected to increase by more than 1%</td>
</tr>
<tr>
<td>Lowering FDI restrictiveness</td>
<td>export value expected to increase between 8.3% and 35%</td>
<td>Singapore will gain the most</td>
</tr>
<tr>
<td></td>
<td></td>
<td>reduction in trade costs for services, by up to 6.3 percent in insurance services, 5.5 percent in communication services and 4.9 percent in both transport and other business services</td>
</tr>
</tbody>
</table>

Source: Authors’ specification based on the results of ECORYS (2009)
A second study assessing the economic impact of a potential EU-ASEAN agreement was commissioned by DG Trade in 2006\textsuperscript{17}. The study estimated the impacts of the FTA by using a computable general equilibrium model named MIRAGE and the most detailed data available at that time (goods classification at 6-digits level). The three scenarios estimated are: firstly, the total dismantling of tariffs on goods and the removal of 50% of trade barriers in services. The second estimation consider the possibility of introducing a list of specific products excluded from the agreement while in the third one, the authors consider a \textit{pre-experiment} scenario in which EU FTAs with different members (Mercosur, ASEAN and OECD members) are included. Conclusions drawn by the econometric estimation are the following: first, assuming a tariff dismantling starting in 2008, ASEAN members would have gained 2% GDP by 2020. The larger part of this gain would be associated with the liberalization of services, indeed, according to the results of the work assert the liberalization of trade in goods would not be effective without the liberalization of the service sector. The benefit is computed for almost all countries in the area, which should also help a bilateral approach in the negotiations. Third, by including the list of excluded products, welfare gains for ASEAN and the EU should further increase (in this scenario, methodology and assumptions of the first scenario are applied)\textsuperscript{18}. Finally, the third scenario considers the agreement in conjunction with other potential agreements concluded by the EU such as EU-MERCOSUR, EU-Japan and EU-US: the successful implementation of these agreements would barely alter the positive welfare gains of EU-ASEAN.

3.5 **Global value chains: how is ASEAN as a location positioned?**

The increase of economic interdependence between ASEAN and its commercial partners currently suffering from the crisis is noteworthy. For almost two decades of intense trade relations, ASEAN countries have become more open than other Asian partners and more than the EU and Northern America (see Table 5)

| Table 5 Trade/(Nominal) GDP ratio by Region (%) |
| --- | --- | --- | --- | --- |
| | 1990 | 2000 | 2010 | 2011 |
| Asia | 30.1 | 40.4 | 54.1 | 57.3 |
| Southeast Asia | 89.4 | 130.8 | 107.2 | 116.1 |
| ASEAN 4 | 62.9 | 103.7 | 78.1 | 86 |
| BCLMV | 75.3 | 84.4 | 110.1 | 130.8 |
| Singapore | 293.1 | 289.3 | 292.3 | 299.4 |
| EU | - | 57.6 | 62.5 | 67.2 |
| US & Canada | 18.4 | 25.6 | 27.4 | 29.9 |
| World | 31.1 | 40.2 | 48 | 51.9 |

\textit{Notes:} ASEAN 4: Indonesia, Malaysia, the Philippines and Thailand. BCLMV: Brunei, Cambodia, Laos, Myanmar and Vietnam. Source: ADB Calculations (2012)

The degree of openness captured by the trade/GDP ratio hides another phenomenon which is less visible from – indeed, complementary to - traditional statistics: the role of ASEAN in global value chains

\textsuperscript{17} The report has been prepared by Houssein Boumellassa, Yvan Decreux and Lionel Fontagne (CEPII-CREM) TRADE/05/H3/01/1c http://trade.ec.europa.eu/doclib/docs/2007/may/tradoc_134706.pdf

\textsuperscript{18} According to the authors, there are two caveats to take into account to understand this results: firstly, the high level of aggregation of products has caused the dispersion of smaller impacts. The second reason lies in the different assumptions behind the agriculture and industrial sectors. (In particular, the model assumes perfect competition for agriculture while it considers increasing returns to scale for industrial goods).
and the manifold implications of this strategy. Unlike traditional views about trade policy, where countries (or a group of integrated countries like the EU) negotiate on mutual market access, global value chains are based on fragmentation of the production process over different locations, each one dealing with distinct stages of intermediate products (including services) and their eventual assembly into final products. Much more than in traditional views of trade as final products going to other country markets, enterprises exploit locational advantages, sectoral expertise and experience throughout a longer value chain. For these enterprises, trade does not take place between countries but between firms dispersed over many locations in various countries. Therefore, it is very likely that each country in ASEAN contributes only in a relatively limited phase of the production of a specific product, that is, adds relatively little value (and even less in euros when wages are low). Indeed, a country can import a still simple intermediate product, process and export it for further processing elsewhere. Hence, traditional trade statistics are probably misleading given the considerable risk of double counting, in particular when products can be imported, transformed and re-exported to the same country. In other words, most of the value of what is exported has been imported first. Thus, exports in nominal euro terms are in fact drastically inflated and more precise statistics on the value-added content of exports are required.

Before discussing the meaning of value added in trade for ASEAN countries, a rough first indicator of their contribution to the global value chain is the trade in intermediates. As shown in Figure 6, growth of trade in intermediates between Asian regions is particularly important and suggestive of the rising importance of regional production networks. According to recent studies on the region, Asian countries exhibit a high degree of diversity in wages and labour supply, which in turn facilitates the fragmentation over a range of locations. Once the local investment regimes are liberalized, the business opportunities to profitably fragment the value chains further throughout South East Asia are augmented. There is no doubt that e.g. Korean, Taiwanese and Japanese companies have pursued such strategies, and to a lesser extent European and American multinationals. Chinese enterprises and – at least as much if not more - subsidiaries of multinationals in China (and their EPZs) have recently developed intense supply relationships inside such value chains between some ASEAN countries and the assembly operations located in China. These chains are concentrated in electronics and specialized chemicals; for cars, the chains are still dominated by Japanese automotive companies and increasingly Korean ones.

**Figure 6 Contributions to Export Growth by Stages of Production-Asian Sub-regions (%)**

![Figure 6](image)

Notes: Primary goods include foods and beverage, fuel, lubricants and primary industrial supplies; Intermediate goods include processed goods mainly for industry and parts and components for capital goods and transport equipment. Capital goods include machinery and equipment used by producers as inputs for production. Consumption goods are household goods and government final product purchases.

Source: ADB calculations from UN Comtrade Database (2012)
Figure 6 shows clearly for South East Asia that the growth of exports is dominated by intermediates in 2000 and this already high share has increased to some 80% of the growth in 2010. However, the contribution supplied by trade in intermediates is not the only determinant able to define the value added of an economy. Data on the value-added contents of trade is still scarce but new projects carried out by international organizations are beginning to fill this gap. A better reading of the trade balance in terms of value-added rather than in nominal value in euros is important for trade negotiators and domestic policy makers. An example is provided by Indonesia. According to recent figures on value-added, Indonesia mainly produces inputs which are further processed by Asian partners and subsequently exported to third (typically, European and North American) countries. The consequence is that in terms of value added, imports from China are much lower than in nominal euro terms. Value added analysis is likely to modify, as shown by Figure 7, bilateral trade deficits/surplus data significantly, sometimes reversing the final sign. For instance, with China Indonesia runs a nominal 2009 deficit of 376 million USD in the ordinary trade statistics while in value-added terms this would become a surplus of 486 million USD (see Figure 7). Note that, in Figure 7, the Indonesian trade surpluses with Korean and Japan are much lower in value added terms than in nominal US dollars. This is due to the relatively low value added of Indonesian processing at the present stage of development, whilst imports from Korea and Japan probably already comprise significant value added in the first place.

**Figure 7 Nominal Trade balance vs. Value added Trade Balance for Indonesia in 2009**

![Figure 7 Nominal Trade balance vs. Value added Trade Balance for Indonesia in 2009](source: OECD (2013))

The Indonesian position in global value chains is concentrated in sectors like machinery, electronics and textiles as shown in Figure 8, giving a higher foreign value-added share of exports only in these three sectors.

With respect to services, Indonesia shows a lower degree of participation in global value chains, reflecting both low services value added of gross exports (only 21%) and the lack of interlinkages between manufacturing industries and business and related services (see Figure 9).

**Figure 8 Value-added content of Indonesia gross exports, by industry, 2009**

![Figure 8 Value-added content of Indonesia gross exports, by industry, 2009](source: OECD (2013))
3.6 Why the ASEAN Economic Community matters for the EU?

ASEAN has decided in the October 2003 Bali ASEAN summit to deepen and widen AFTA into an ASEAN Economic Community (AEC) by 2015. The AEC considerably raises the economic integration ambitions of ASEAN\textsuperscript{19}. The Bali vision is at best rudimentary. ASEAN has a tradition of their political leaders announcing inspiring but vague goals and instructing ministers to elaborate the edifice within a time frame. That is how AFTA emerged from the Singapore ASEAN Summit in January 1992, almost without any (public) analytical and instrumental preparation. Yet, AFTA became a reality in a little over a decade, at least insofar as tariffs and rules of origin are concerned. In 2009 many disparate decisions were consolidated in ATIGA (ASEAN Trade in Goods Agreement). In the process, liberalization was accelerated and exclusion lists were reduced significantly. The AEC is following a similar pattern, be it that lessons have been learned (both from AFTA and from EU1992): by 2007/8 a very detailed Roadmap with ‘deliverables’ and deadlines was agreed, further improved and refined in 2010, and flexibly adapted since, and Scoreboards are employed to track progress\textsuperscript{20}. The AEC matters for the EU because the AEC liberalizes wholly or partly many areas of a potential FTA with the EU. Of course, this liberalization is intra-ASEAN only, except where regulatory provisions have to be MFN based, benefiting any WTO trade partner. The AEC hardly comprises common regulation as ASEAN remains highly decentralized. Nevertheless, once such deepening and widening of their own AFTA goes as far as ‘free flows’ of goods, services and investment, plus ‘freer’ flow of capital and some degree of facilitation of movements of business persons and skilled labour, whilst finally getting (more) serious about internal dispute settlement and beginning to explore issues such as competition, IPRs and ASEAN infrastructure, one deals with a different ASEAN, readying itself to move up the ladder of comparative advantage. The AEC should not be compared with the old EEC (despite the suggestive label) but there is no doubt that the group wants to be an attractive region to invest in and to better connect with global value chains. Indeed, besides what ASEAN calls its ‘single market’, the aim is to develop an attractive production base

\textsuperscript{19} A study on economic integration in ASEAN and its effect on EU has been published in 2011\textsuperscript{19}. The idea is to bolster the strategic position of ASEAN as a FTA hub and leader in new trade initiatives in the Pacific area. The study concludes that the level of ambition of such initiatives is likely to be limited to tariffs reductions as deeper implementation could face more obstacles. There is appreciable uncertainty about the content the ASEAN FTAs with respect to the reduction or removal of protectionist regulatory issues and non-tariffs measures. The study concludes that the effect on the EU production structures will be very limited, no matter what degree of integration will take place; however, the small effects taken together can cause export market losses. The ASEAN-Japan FTA seems to have the most negative effect on EU export structures in particular due to the correlations between the exports composition. See Wojciech Paczyński and Michael Gasiorek, 2011, CARIS for European Commission’s Directorate General for Trade under the framework contract TRADE 07/02) http://trade.ec.europa.eu/doclib/docs/2011/may/tradoc_147874.pdf.

for world industry and services. From an EU negotiating perspective, this seems to be good news because it should become easier to discuss market access issues with the ASEAN partners than without the AEC. In addition, the insistence on being an attractive investment area and the eagerness to link in with global value chains, now that ASEAN has become more industrialized and prosperous, accord well with the EU approach to negotiate a comprehensive and ambitious FTA-plus. The details of the AEC would move us far beyond the remit of the present study for the EP INTA committee 21, but we conjecture that, at this stage, these details are not yet essential for the EU-to-ASEAN-countries negotiations.

4. COHERENCE OF EU / ASEAN STRATEGY WITH EU TRADE POLICY AND EU2020

The coherence of the EU / ASEAN negotiations so far with the overall EU trade strategy was well established at the outset in 2007. One can discern, upon close reading of the 2006 Vision report, that ASEAN was somewhat hesitant with respect to some selected aspects. Thus, in the 2006 Vision Group report, sustainable development is directly coupled to economic cooperation, not to the prospective FTA itself. Public procurement was objected to by several ASEAN countries. The question of export duties and restrictions is not even mentioned in the Vision Group report. Language is kept rather vague although invariably pro-active. However, one has to realize that this is how ASEAN works. It is revealing to contrast the 2006 Vision report with the Commission’s assessment after the initial failure to make progress on the region-to-region negotiations: ‘one difficulty… arose from significant structural differences within ASEAN, which meant that existing levels of liberalisation and negotiation objectives differed widely among countries in the group’ 22. This problem will not go away so easily. There are three reasons to be optimistic in this respect: one is that East Asian and Asia-Pacific FTAs (including the TPP negotiations) entail a dynamism which tend to confront hesitant ASEAN countries with demands for commitments rather similar to the ones the EU is seeking; another is the realization of the AEC by 2015 or so; a third is the competitive scramble inside ASEAN for FDI and specific market access to the EU. Time may therefore be a good friend of the EU negotiators whilst the ambitious agreement with Singapore (see the accompanying second paper for the INTA committee) might help to set the stage for other ASEAN countries, too.

One can argue, with good reasons that coherence will suffer from the (ASEAN) country-by-country approach. No doubt, this is correct. The choice here is political. Does one wish to stick to the EU’s strategic aims in negotiations which, by definition, involve counterparts with a different agenda and diverse interests? Doing this stubbornly might simply result in failures. Giving in and settling for lower ambitions and less coverage is likely to provide results, but these are perhaps below expectations. Moreover, it should not be forgotten that ASEAN has a tradition of going step by step, not only inside ASEAN but also with its FTA partners. Thus, the China / ASEAN framework agreement has later been supplemented by services and investment agreements. The same happened with Japan. Coherence is therefore a matter of judgment, in the light of what is feasible, and not merely a strict discipline.

The EU trade strategy does not explicitly refer to priorities amongst the many elements of ambitious and comprehensive FTAs. Setting priorities would facilitate the ultimate assessment of coherence, by verifying whether at least the priorities have been more or less realized and against what concessions in other aspects. Such an approach would be helpful in negotiations with trading partners for which the

21 See Pelkmans, 2013, forthcoming, for an in-depth analysis of the AEC and its meaning.
22 SEC (2010) 1268, op. cit., p. 8
size criterion would be satisfied but which are reticent to reduce or eliminate relatively high protection over a broader spectrum of sectors and issues. At some point, the EU would have to make up its mind: no agreement if unambitious with respect to the EU’s priorities and if not very encompassing. Admittedly, negotiators might feel constrained by all too clear priorities, especially as this can be played out by trading partners seeking more leeway to maintain barriers.

The coherence of the EU trade strategy with EU2020 is carefully elaborated in the Commission’s 2010 Trade, Growth and World Affairs communication (op. cit.). Under ‘smart growth’, the Commission rightly stresses the critical importance of “keeping a competitive edge in innovative, high-value products, generating long term and well-paid jobs”. Starting from this premise, it is argued that services and FDI are critical for EU trade policy to be effective for growth. In addition, advocacy for greater openness of public procurement of trading partners as well as symmetry, given the already existing EU’s openness, is asserted to support growth of EU business in foreign markets. Other questions which are related to ‘smart growth’ include the extension of the ITA on ICT goods, enhanced regulatory cooperation (and leverage the achievements in EU regulation in the single market) and the temporary movement of people, notably managers and engineers. Apart from public procurement – a sensitive issue in ASEAN – this reasoning will probably be appreciated by trading partners. A better ITA, some opening in services and fewer restrictions of FDI seem acceptable in ASEAN, the issue being how far the latter two might stretch. Regulatory cooperation and the temporary movement of people might be more difficult, in particular the former. This is not only true because ASEAN itself has no tradition of harmonisation and hardly in mutual recognition, but also because other important trading partners of ASEAN (US, Japan, China, Australia) may well insist with ASEAN on other forms or methods of regulatory convergence.

EU2020 focuses on ‘inclusive growth’ as well, an issue more or less ignored in Global Europe, except for development. Job creation emanating from more two-way trade possibly goes together with temporary losers. The Commission stresses the European Global Adjustment Fund which could ‘equip people to adapt to … changes’. However, the Fund has proven to be ineffective at best. Europe’s national welfare states and active national labour policies are far better instruments to help workers overcome temporary salary losses and be re-skilled, if necessary, to find new employment. A revised GSP is also mentioned, simpler and more geared to poor countries. In the case of ASEAN, this will mean that some (low) medium-income countries will lose GSP privileges for EU market access, whereas the three poorest one will continue to benefit. On trade and development the EU has traditionally been quite active. It is argued that trade openness coupled with reforms and the removal of structural impediments is likely to serve development best. In ASEAN the combination of ‘capacity building’ and opening up has been regarded as balanced, something the EU has already pursued in ASEAN and is clearly prepared to continue or possibly expand.

The third pillar of EU2020 is sustainable growth. With respect to climate change, EU trade policy should be pursued through the elimination of barriers to trade in environmental goods and services, not via new obstacles like border tax adjustments. The strategy affirms that FTAs with the EU ought to comprise a sustainable development chapter, but no details are given. In ASEAN the earlier aversion against sustainability is waning but in some ASEAN countries EU demands are typically seen as unduly cost-raising and therefore a competitive disadvantage in world markets. On energy sustainability, EU trade policy is translated in efforts to “diversify energy supplies” and promote trade in sustainable energy “where barriers in third countries impede the rapid development of the EU’s renewable energy industry”. Sustainability is given an interesting twist where the supply of raw materials comes to the fore. “The sustainable and undistorted supply of raw materials… is of strategic importance for the competitiveness of the EU economy”. The EU will use current trade rules to the maximum. Cleverly, the argument is put forward that restrictions on the supply of raw materials often causes serious damage to
developing countries – given MFN, this might put some pressures on raw materials exporters to engage in negotiations to discipline such practices. Nowhere can one find specific references to the problem of export taxes which is intensifying in ASEAN as well (in particular, Malaysia and Indonesia).

However, EU trade strategy is much wider. What the Commission calls its enforcement and implementation agenda comprises many issues which are recognized as legitimate and justified. However, the link with EU2020 is at best indirect. One may mention IPRs, trade defence instruments as well as competition and state aids rules.

5. COHERENCE AMONG EU / ASEAN AGREEMENTS

It is worthwhile seeking ambitious and comprehensive FTAs with all ASEAN middle or high income countries, but not at all costs. It is also advisable to use the ambitious Singapore template as a guide to remind other ASEAN countries of what is possible in ASEAN, even though it is no secret that other ASEAN countries will all have some problems or even ‘red lines’ with this template. In the second paper (by EIAS and Lurong Chen) for INTA on the EU / ASEAN negotiations, the present subject is addressed at much greater length. Our remarks will therefore be brief.

First of all, it is too early to assess the coherence of the various agreements with ASEAN countries for the simple reason that only Singapore has signed one with the EU. The Commission has already declared that this agreement is as good as that with Korea, and even better in some selected aspects. Still, in March 2013 even this agreement is only known by its contours as the literal text is not available at the time of writing. Moreover, an investment chapter on which little disagreement seems to exist will be added any day now. The negotiations with Malaysia are ongoing but will have to wait until after the elections (probably April). The negotiations with Vietnam have barely started and those with Thailand still have to be initiated although a mandate has now been agreed by Council. Indonesia has only just begun a joint scoping exercise with the EU and these are confidential. However, in the Indonesian case, the rough contours are based on the 2011 EU / ASEAN Vision Group report (op. cit.). If Indonesia would follow the Vision group report of 2011 as it has indicated it would, it would pass as an ambitious approach for a low middle income country and it would no-doubt be comprehensive, even if it would succumb to strong pressures not to incorporate public procurement. The Philippines has informally shown interest but the government waits with joint scoping until the results of an economic impact study of the Philippines Development Institute will be published. As noted before, Philippines’ recent economic growth has been surprisingly high, possibly as a response to the election of an anti-corruption and pro-reform government.

6. AN ASEAN-WIDE FTA WITH THE EU: POTENTIAL AND OBSTACLES

As noted before, formally the EU / ASEAN FTA negotiations have been put on hold early 2009. A region-to-region agreement is therefore still on the horizon. Meanwhile, one paralyzing obstacle would seem to be out of the way: Myanmar. The prudent but significant political reforms in Myanmar have been welcomed almost everywhere and signal a road towards greater freedom and a minimum of democratic debate. If maintained and pursued further, this stumbling block can quickly be forgotten. Indeed, Myanmar is positioning itself to receive FDI as a contribution to more rapid development and this is not going to happen outside mining industries unless political reforms lend the country’s leadership a minimum of respectability.
Given ASEAN’s incredible disparities in the levels of development and income per capita, still large even when ignoring Singapore, it makes sense to concentrate on six or seven ASEAN countries and extend EBA or GSP (plus economic and development cooperation) to the other three (including Myanmar). ASEAN has concluded five FTAs with other Asian countries in the last decade. These are framework agreements and tend to be accompanied by country-to-country FTAs later (see section 8 below). This demonstrates that there is a potential for a common FTA. The question for the EU is: can such an agreement add sufficient value and incentives to the country-to-country agreements, once these would have been signed? Would a region-to-region FTA be ambitious and comprehensive from the start or, at least, would it have potential to be gradually developed into such an agreement?

At best, the EU should expect a combined region-to-region framework agreement with a range of EU-to-ASEAN-countries agreements. The virtues of a framework agreement are unlikely to consist in direct legal commitments of market access – not even an ‘early harvest’ because the framework agreement does not come first, as was the case with ASEAN/China – but in the broader political commitments to continue the search for better market access (as ASEAN always does itself), the connection between plain trade issues and ‘capacity building’ (critical for ASEAN’s support), the staging of opening more sensitive areas later (e.g. elements of public procurement; deeper FDI liberalization e.g. raising the ownership shares to 100%; etc.) and linking best-endeavours in policy domains such as competition policy and IPRs with the EU/ASEAN agenda on economic cooperation. Moreover, it should be explored whether the AEC of 2015 cannot be extended, perhaps selectively, to the EU in exchange for EU commitments or intensified cooperation. What the EU cannot expect is that the ASEAN-level agreement itself will be ‘ambitious and comprehensive’ in legal terms for at least two reasons: first, the differences between ASEAN countries are simply too great today to expect their common approach to be more than the lowest common denominator, although this denominator may itself become more ambitious over time; second, one should not forget that ASEAN is a free trade area itself and, beyond trade and investment, a highly decentralized organization where Member States enjoy far-reaching regulatory and other policy autonomy. Thus, even the AEC does not change the crucial fact that ASEAN does not have a common trade policy and is not interested in forming a customs union, let alone higher stages of economic integration. Whereas the INTA committee is interested in the ‘coherence’ of the EU FTAs with the trade strategy as agreed in 2006 and 2010, this is still about policy oriented rather than legal inconsistencies, let alone inconsistencies between EU Member States. The latter is not possible in the EU due to trade policy being an exclusive EU competence. In ASEAN, however, individual countries have been negotiating FTAs independent of (and prior to) framework agreements (e.g. Thailand with Australia one decade ago) as well as with third countries, without there ever being a framework agreement for ASEAN as a whole on the horizon. Strictly spoken, this is entirely in keeping with the nature of ASEAN being a FTA itself, because in any FTA national trade policy vis-à-vis third countries is autonomous. Nevertheless, it does not take much imagination to suspect that such ‘autonomous’ national trade policies can create frictions in the group or cause non-ASEAN countries to claim market access or other concessions not to be ‘nullified’ or undermined by later ASEAN-wide agreements. Hence, for the EU to insist too much on an ASEAN-wide approach can backfire due to the incredible complexities in reconciling or overcoming existing bilateral commitments.

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23 It is true that one plank in the Roadmap of the AEC is entitled “coherent approach towards external economic relations” based on ASEAN “centrality”. But the wording is (as one might expect) uncommitting and rather vague.
7. COHERENCE OF THE EU / ASEAN STRATEGY WITH OTHER RECENT EU FTAS

Global Europe is clear about the EU’s aims: the FTAs ought to be “comprehensive and ambitious in coverage”. The following aspects or chapters of negotiation are mentioned:

i. highest possible degree of trade liberalization;
ii. far-reaching liberalisation of services;
iii. a new ambitious model of EU investment agreement should be developed;
iv. full parity (at least) with FTAs signed (by ASEAN or its countries) with other countries that are competitors to the EU;

v. quantitative import restrictions and export taxes (and any other export restrictions) should be eliminated;
vi. tackle NTBs through regulatory convergence;

vii. strong trade facilitation provisions;

viii. stronger provisions for IPR (including enforcement) and competition;
ix. good governance in financial, tax and judicial areas where appropriate;

x. simpler and more modern rules of origin;
xi. strengthen sustainable development through bilateral relations, including (could include) provisions about labour standards and environmental protection;

xii. Take into account the development needs and effects on poor countries’ preferential access to EU markets.

No doubt, this list is ambitious and comprehensive. It clearly reflects a desire on the part of the EU to exploit its comparative advantage which is no longer found in relatively (low skilled) labour-intensive industrial mass production and less than before in repetitive or relatively simple services which can be off-shored. But it takes two to tango: the ambition and wide coverage has to be agreed by ASEAN or ASEAN country partners to a sufficient degree. This agreement hinges on the level of development, which – in ASEAN - differs extremely sharply between its Member States, on the relative importance of the EU as a leading export market for them (which also differs between ASEAN countries) and on certain strategic interests (e.g. export taxes of Indonesia and Malaysia) which some countries are unlikely to give up. It will also be dependent on the compatibility between the ASEAN FTAs with Asia-Pacific countries (including the US) and the ones to be negotiated with the EU (one area of clear incompatibility is Geographic Indications, where the US insists on a trade mark based approach and the EU on a – costly - registration system). Finally, such ‘deep’ FTAs boil down to fairly intrusive domestic reforms for several ASEAN countries when it comes to services, discrimination against foreign ownership, public procurement (not many ASEAN countries are members of the plurilateral GPA) and domestic competition policies. How intrusive and difficult such reforms would be after the AEC has been completed in 2015 or later, remains to be seen. On the part of the EU, a joint strategy with respect to investment (both investment protection and market access for FDI) has become possible after the Lisbon treaty went into force but, quite understandably, this amounts to a transformation for EU Member States and has caused delays (e.g. with Singapore, until 2012). With the Singapore precedent, it might be come much easier to accomplish similar moves with other ASEAN countries. There is also the subtle issue of how far the EU would be advised to go in areas such as sustainability, which (in EU eyes) comprises a huge spectrum of questions such as core ILO conventions and several climate issues. ASEAN countries are not always convinced, rightly or wrongly, that this insistence is purely ethical or serves the world’s public good ‘commons’ of the climate, and might well serve as a pretext to reduce the competitiveness of the relevant sectors for protectionist reasons.
The recent EU (ambitious) FTAs signed or in force include: South Korea, Peru & Colombia and Central America. Negotiations under way refer to India (surely a less ambitious outcome), Canada (as an advanced economy, an ambitious and comprehensive FTA is less of a problem; some specific issues are outstanding) and Japan (barely beginning, and an advanced economy). The new initiative with the US (again, an advanced economy and a leader in trade and investment liberalization) is even less comparable and details beyond the High Level group exercise still have to be worked out. The table below gives a sketchy comparison of the FTAs with Korea, with Peru/Colombia and the indicative list of essential aspects in Global Europe (which, presumably, should be in the minds of the EU negotiators for ASEAN).

Table 6 Sketchy comparison of FTAs with Korea and Peru/Colombia and Global Europe

<table>
<thead>
<tr>
<th>List in Global Europe</th>
<th>EU/Korea</th>
<th>EU/Peru -Colombia</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tariff liberalization, highest possible degree</td>
<td>98 % of all tariff lines after 7 years, agro-fish takes longer</td>
<td>Full tariff elimination for industrial &amp; fisheries</td>
</tr>
<tr>
<td>2. Services</td>
<td>Far-reaching liberalisation</td>
<td>Far-reaching liberalisation</td>
</tr>
<tr>
<td>3. Investment</td>
<td>Far-reaching liberalisation</td>
<td>Far-reaching liberalisation</td>
</tr>
<tr>
<td>4. Full parity with FTAs signed by trading partner with EU competitors</td>
<td>Only candidate is KORUS, and parity is accomplished</td>
<td>(authors are not aware of any candidate FTA coming close)</td>
</tr>
<tr>
<td>5. Quantitative import restrictions and export taxes</td>
<td>agreed</td>
<td>agreed via adherence to WTO NTB rules</td>
</tr>
<tr>
<td>6. Tackle NTBs through regulatory convergence</td>
<td>Far-reaching, largely based on EU regulatory model; good regulatory practices, cooperation on standards and regulatory; four detailed sector-specific annexes (cars, pharma/med. devices, chemicals and consumer electronics)</td>
<td>Fairly advanced; notification and comments on draft technical regulations; encouragement of recourse to international/ regional standards; disciplines on labeling and marking requirements</td>
</tr>
<tr>
<td>7. Strong trade facilitation</td>
<td>Range of provisions, comprehensive benchmark for modern and trade-friendly customs and border procedures</td>
<td>some</td>
</tr>
<tr>
<td>8. Stronger provisions for IPR and competition</td>
<td>TRIPS-plus, with respect to copyright, designs and GIs (160 for the EU); far-reaching competition policy commitments on anti-trust (later, for services), subsidies and aid to state-owned companies; see also 2009 cooperation agreement on anti-competitive activities</td>
<td>Extensive IPR agreement, including for 100 EU GIs; provisions to defend these rights locally; Anti-trust approach, as well as transparency on subsidies</td>
</tr>
<tr>
<td>9. Good governance in financial, tax and judicial areas</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
</tbody>
</table>
10. Simpler and more modern rules of origin

Some moves towards simpler ROO, but some restrictive requirements have remained (Protocol 1)

More flexible system, with cumulation with other Andean Countries, Central America and Peru

11. Sustainable development

Firm, high level commitments on labour and environmental standards; strong monitoring mechanisms with e.g. civil society

Firm commitments to effectively implement core ILO conventions and 8 environmental ones; transparency, arbitration and civil society clauses

12. Dispute settlement (not explicitly in Global Europe)

WTO-based but much faster; also a more informal mediation mechanism (a la SOLVIT)

WTO-based with transparency and sequencing; mediation like in Korea

The table shows clearly that as far as these two FTAs are concerned, the Global Europe approach has worked. The table can be employed as a swift tool to verify what ASEAN would be willing to comply with. For Singapore this seems not to be a problem; quite the contrary, according to news releases the EU/Singapore FTA is at least as ambitious as the Korea one. The verification in cases of other ASEAN country FTAs might well lead to far lower scores, although this remains speculation at the moment.

8. COHERENCE AND DYNAMICS OF ASEAN+1 FTAs, RCEP AND TPP

ASEAN has concluded five FTAs in the realm of ASEAN+6, that is, with Korea, Japan, China, India and Australia/New Zealand. The ASEAN+6 refer to regular summits of the East Asian countries (although India is manifestly South Asia and one can debate about Australia/New Zealand). These five FTAs are denoted as ASEAN+1 agreement. These ASEAN+1 FTAs are shallow in liberalization of goods and even more so of services. In part, this is due to the nature of these FTAs, as framework agreements. Both their scope and tariff reductions as well as services liberalization commitments differ between all five ASEAN+1 FTAs, often in complex ways. Moreover, they apply different rules of origin, thereby causing increasing complications for business attempting to exploit the FTAs, in the presence of global or regional value chains and other interdependencies. This is referred to as the ‘spaghetti bowl’ and Asian business (e.g. before APEC summits) has often complained about the lack of serious consultation with business, resulting in Gordian knots for business (value chain) strategy and logistics. Beyond ASEAN, also Asian trading partners of ASEAN are not disciplined in negotiating FTAs with other partners than ASEAN. A survey by Zhang & Minghui, (2011), shows in detail how a wide spectrum of regulatory provisions in such agreements concluded by Japan, by Korea and by China differs with individual ASEAN countries (and e.g. Mexico, Pakistan or Chile) as well.

Therefore, one might discern from Europe an unstoppable dynamism in proliferating FTAs, but a closer look reveals that this has turned out to be a mixed blessing. The term ‘coherent’ is certainly not applicable. Rather, the outcome for East Asian business is confusing, irritating or simply irrelevant (for example, companies avoiding to exploit the FTA as rules of origin impose too much red tape, or create inconsistencies or a loss of time-to-market). This has alarmed political leaders in East Asia and in November 2012 the ASEAN+6 summits decided to launch the RCEP, the regional comprehensive economic partnership, another term for an East-Asian-wide FTA. In terms of the AEC, this would seem to be a clear example of ASEAN-centrality in re-shaping existing FTAs in East Asia with a view to make them more coherent and eventually accomplish one giant framework agreement for East Asia (with Australia and New Zealand, as well as India). One can probably best regard this initiative as a response to the problems of global value chains and international business more widely as well as the
increasingly important, if not cardinal, role of China in East Asian trade and investment. Although for reasons of initial leadership as well as diplomatic neutrality, the RCEP is based on the notion of ASEAN “centrality”, one can also read the first signals of it becoming a China-centered East Asian trade agreement. The RCEP does not only incorporate ASEAN+1 FTAs but also covers the triangular trade and investment talks between Korea, Japan and China (despite the tensions in the South China and Korean seas). Recently, a triangular investment agreement was concluded, studies of a FTA between the three have been published and a secretariat of the “CJK” has been established in Seoul. A first analytical assessment of the RCEP by Fukunaga & Isono, (2013), demonstrates that a non-shallow and meaningful regional FTA will be quite difficult, however, due to the numerous inconsistencies and the vested interests behind them. In turn, ASEAN will be careful to ascertain compatibility with the emerging AEC as well.

However, there might be another driver of this prospective East Asian FTA, namely, the Trans Pacific Partnership (TPP) led by the US but with a somewhat selective participation originating from APEC. Six ASEAN countries are not in TPP and neither is China; some non-Asian APEC countries are in and recently NAFTA partners Mexico and Canada joined the talks. The US made a U-turn in 2009/10 when Obama began to realize that the US might lose out in access to buoyant and lucrative East Asian markets. The initial TPP was subscale. It was crucial to persuade Japan and Korea as well as NAFTA partners to join so as to obtain critical mass and a genuine Asia-Pacific deal. No doubt, there was and is an element of commercial strategy as well: the initiative is reflecting the strongly market-based US approach to liberalization, both deep and with wide coverage not unlike the thrust of the EU strategy. The US and its TPP allies worry that an East-Asia-centric RCEP might eventually be dominated by China’s state-centered and mercantilistic model. The TPP is quite ambitious in intention. It is hoped that the foundation being developed at present can serve as a template to lure in new adherents. However, TPP will not be easy, to put it mildly. The APEC Bogor goals (dating from the mid-1990s) were never even within reach in an area as diverse as the Asia Pacific group. With more intrusive instruments, greater market opening (for instance, near 100 % tariff removal, highly sensitive agriculture issues with the entire spectrum of trade protection and near-free trade, ambitious services and FDI provisions, disciplines for state owned enterprises) and a wider scope, TPP risks running into quicksand, victimized by its own ambition. Nevertheless, as an alternative to RCEP (including CJK), it may still serve a useful purpose of instilling greater dash into RCEP. Indirectly, this might also benefit the EU search for market opening in East Asia, be it in ASEAN or its RCEP partners.

There is little doubt that RCEP and TPP are extremely important for ASEAN and its AEC. This renders the work of EU negotiators not merely tactical but indeed strategic. The EU does have an influence via ASEAN, if its country by country approach begins to be successful, as well as via a FTA with Japan, if not via an investment agreement with China. The TPP can be seen as an unexpected help to heighten the interest in opening up in earnest e.g. with the EU.
9. CONCLUSIONS AND RECOMMENDATIONS

The EU’s initiative to initiate FTA negotiations with ASEAN seven years ago is slowly beginning to pay off but perhaps not in the way the EU was hoping for at the outset. Both Myanmar, at the time, and profound differences in willingness between ASEAN countries to grant market access to the EU and between ASEAN and the EU prevented an EU / ASEAN-wide agreement from being ‘ambitious and comprehensive’. It has also been problematic, despite a preparatory Vision Group report, in that ASEAN as a free trade area itself did not start with a clear and well-considered common position. The EU should not take lightly that ASEAN is a purely intergovernmental organization, rendering common trade negotiations very heavy-handed and inefficient, whilst national trade policy autonomy of ASEAN countries is hardly or not disciplined inside the ASEAN group. What helps on the other hand is that the incredible dynamism in East Asian trade policies, in particular the proliferation of FTAs and their later upgrading, generates and intensifies pressures to engage in ‘competitive economic regionalism and bilateralism’ as long as such FTAs are WTO compatible. The success of concluding a very deep FTA with Singapore and the stimulus this might give for the negotiations with Malaysia, Vietnam and Thailand, or soon Indonesia, seems to confirm that ASEAN is a ‘moving target’ for the EU. It is still possible to venture some hope for a region-to-region framework agreement several years from today, although this would always be combined with specific and legally committing country agreements. What is crucial for the EU to realize is that ASEAN and also its Member States are used to go step by step: even less ambitious agreements often do have the potential to be deepened later on. In the present climate in East Asia, the continuous dynamism makes this ever more likely in the medium run. Also, the AEC creates a business environment which is more conducive for better market access in ASEAN than, say, a decade ago.

There is no doubt that the EU choice to engage with ASEAN is strategically justified, given the criteria specified in Global Europe: overall economic size and growth, lingering protection reducing market access considerably and active in concluding FTAs with EU competitors. With current annual growth averages, ASEAN GDP would double in little more than a decade from today. Moreover, ASEAN has become crucial in the East Asian economy, not least because it is already exploiting value chains throughout the entire region, and, with the AEC programme until 2015, it hopes to become far more attractive for linking in via FDI and trade in the global value chains of the future, in particular more and more with China. There are also good reasons to believe that EU companies have not invested nearly as much in ASEAN as the enormous potential of ASEAN would expect them to do.

Today’s EU-to-ASEAN-countries approach will unfold as a gradual process where incentives for more ‘competitive economic regionalism’ will be intensified once several FTAs will be concluded with the EU. The EU is helped by the East Asian context, dominated by two competing strategies to render the numerous FTAs compatible or ‘coherent’, eventually culminating in huge region-wide overall framework agreements: one is the RCEP, led by ASEAN and jointly agreed by its ASEAN+6 partners China, Korea, Japan, India, Australia and New Zealand, the other being the TPP led by the US, now joined by Japan, Korea as well as NAFTA partners Canada and Mexico, but without China and with only four of the ten ASEAN countries. Although both strive for liberalization and greater market access, it is suspected that the economic philosophies underlying the two strategies are quite different, the RCEP giving more scope for lingering protectionism in e.g. state-owned enterprises, industrial policy autonomy and services, for instance. Nevertheless, the contest between these two strategies can serve as an unsolicited help and stimulus for the EU in dealing with ASEAN (and indeed other East Asian countries) when it comes to market access.
Recommendations:

a. The EU should continue its current approach to ASEAN- countries / EU trade and investment agreements, going for ‘ambitious and comprehensive’ agreements but keeping in mind that ASEAN countries (mainly developing countries, after all) are used to go step-by-step. Therefore, even when the initial ambitions cannot be fully achieved, provisions for ‘deepening’ or upgrading of the agreements ought to be firm enough to be credible and with datelines.

b. Investment agreements, separate or as a chapter, including both investor protection (an EU-wide BIT) and significantly better market access, should be a priority amongst the many elements of what together would make up an ‘ambitious’ agreement.

c. Once the ‘big four’ of ASEAN (Indonesia, Philippines, Thailand, Vietnam) and Malaysia are all engaged in negotiation rounds, the European Commission and ASEAN should jointly explore in a study whether, how and in what domains the AEC can be externalized towards the EU. Alternatively, it could be explored what minimum EU/ASEAN platform can be agreed based on the AEC commitments or accomplishments inside ASEAN.

d. Complementary to item c., an in-depth study could be made of ways to remove or overcome NTBs (other than SPS measures) or NTMs in ASEAN. The NTM issue is long around in ASEAN, from even before AFTA, and it has never been dealt with in earnest. There may well be several reasons for this inhibition to address such barriers, but one important motive is the profound hesitation in ASEAN countries to accept generic links between their trade policies and domestic regulatory and licensing / inspection policies. ASEAN countries have had difficulties accepting such generic links inside ASEAN – in sharp contrast with daily practice and routine in the EU, following a common system of EU law both for free movement and for EU regulation – and this makes it next to impossible to tackle convincingly the removal of NTMs. Other reasons might include the absence of reference to voluntary industrial standards, with a few exceptions, and the lack of a credible framework for mutual recognition. Without tackling NTBs such as technical barriers and other NTMs (e.g. licensing, etc.), market access to ASEAN might remain problematic in a range of comparative advantage sectors for EU companies.

e. Item d. reflects a more general issue which is critical for ambitious and credible FTAs (also e.g. for services and other domains). Apart from the coherences which have been discussed in this study for INTA, there is one crucial other coherence requiring a deeper and long-term commitment: ambitious and comprehensive FTAs are and must be intrusive for domestic regulation and policies other than trade or investment. This is daily routine for the EU given the Union’s internal market and trade policy regime, but understandably regarded as a radical curtailment of domestic policy autonomy in ASEAN countries. The coherence between trade and domestic regulatory strategies requires credible and sustained support from the entire government and indeed probably from its parliament, too! This approach has been called a “lock-in” of domestic reforms via trade policy (dating back to when and why Mexico joined NAFTA) and it is just as valid for EU / ASEAN negotiations. For EU negotiators and the EP as well, ASEAN countries seeking such a coherence between domestic and external commitments will of course be far more credible partners for an ambitious and comprehensive agreement.

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24 EU negotiator Mauro Petriccione made a similar point during the EP INTA workshop on EU / ASEAN trade negotiations of 28 February 2013. The present authors wholeheartedly agree with his remark.

25 Note that Thailand, before returning to the EU with its own mandate, has sought a serious discussion in parliament and subsequent political backing.
10. REFERENCE LIST


Boumellassa, H., Decreux, Y. and L. Fontagne (2007), Economic Impact of a Potential Free Trade Agreement between the EU and ASEAN, for the European Commission DG TRADE/05/H3/01/1c.

Chee, P.L. (1997), ASEAN’s policies towards the EU, in: S.Y. Chia & J. Tan, eds, ASEAN & EU, forging new linkages and strategic alliances, Singapore, ISEAS.


COM (2010) 612, Trade, Growth and World Affairs: Trade Policy as a core component of the EU’s 2020 strategy, November


OECD and WTO, Trade in value-added: concepts, methodologies and challenges, Joint OECD and WTO Note, see http://www.oecd.org/sti/ind/49894138.pdf

OECD, (2013), Measuring Trade in Value Added- Country notes on Indonesia, see http://www.oecd.org/sti/ind/TiVA_Indonesian.pdf
Paczyński, W., M. Gasiorek et al., (2011) Economic Integration in South East Asia and the Impact on the EU, European Commission, DG Trade under the framework contract TRADE 07/02.

Pelkmans, J. (2013), The ASEAN Economic Community, a conceptual approach, paper for the ASEAN & Law project, NUS & New York University, Singapore, forthcoming

Pelkmans, J., (1993), ASEAN-EC relations in the 1990s, in : L.T.Lee & A. Whemhoerner, ed.s, ASEAN and the EC in the 1990s, Singapore, Singapore Institute of International relations, NUS.

Pelkmans, J., (1997), A Bond in search of more substance : reflections on the EU's ASEAN policy, in: S.Y.Chia & J. Tan, ed.s, ASEAN & EU, forging new linkages and strategic alliances, Singapore, ISEAS


1. EXECUTIVE SUMMARY

1.1 ASEAN’s economic situation

Singapore, Malaysia and Vietnam are three representative ASEAN member states, they are in different stages of development, Singapore is a high-income country, Malaysia is a high middle-income country and Vietnam is a low-middle income country. They by and large are developing according the so-called “flying geese” pattern, which was initiated by Japan in the 1950s. When fitting the Southeast Asian countries in this “flying-geese” formation, Singapore is in the small second tier of “geese” together with Taiwan, Hong Kong and South Korea, coming after the first “goose” Japan, while Malaysia and Vietnam are in the third and the forth tier respectively.

The three countries experience high economic growth, which is mainly export-driven. The openness of their economies as measured by the ratio of international trade to GDP is ranging from 1.7 (for Malaysia and Vietnam) to 3.9 (Singapore). During the time period between 2000 and 2010, they cumulatively absorbed over 350 billion US dollar foreign investment.

Singapore – High skilled people, innovative economy, and distinctive global city

The Singaporean vision is to build a “distinctive global city” characterized by high skilled people and an innovative economy. It aims to be a global and regional hub for multiple activities, particularly in trade and finance.

Free market policies and practices together with government intervention in macroeconomic management and economic factor allocation are playing an equally important role in Singapore (the so-called “Singapore Model”). Together with its strong business and regulatory policies, factors such as the country’s strategic geographic position, a vast natural seaport (Singapore is one of the busiest ports in the world, above Rotterdam and Hong Kong), a highly skilled workforce and a favourable tax regime, have helped Singapore create a conducive business environment for foreign companies.

Agriculture’s contribution to the Singaporean economy is virtually irrelevant. It absorbs 0.1% of its labour force and accounts for almost zero percent of Singapore’s GDP. In comparison, services and industrial activities accounted for 70% and 30% respectively of Singapore’s GDP in 2011. The petroleum and petrochemicals and manufacturing are the two major industries in Singapore. The country has the third largest oil refinery in the world, behind Rotterdam and Houston. Yet Singapore has been specialised in digital and electronics manufacturing for the past decades and it considers biomedical and pharmaceutical manufacturing as its future industries. Singapore is also a global leader in financial services. It has the world’s fourth largest foreign exchange market after London, New York and Tokyo. It is also recognised as one of the premier asset management centres in Asia. Tourism is the other major service industry. It contributed almost one-tenth of Singapore’s GDP in 2011.

Singapore is a strong advocate of free trade. It applies MFN duty free to all imports of non-agricultural goods and an average tariff rate of 98.8% on imports of agricultural goods. There are, however,
restrictions based on environmental, health, or public security concerns. For instance, the imports of rice requires import licensing in order to ensure food security and price stability.

Europe gradually gained in importance as Singapore's leading foreign investor in the 1995 to 2005 period. Europe's share of investment in this period rose from 31% to 43%, which is at the cost of the declining share of Asia and North America.

**Malaysia – to achieve the promise of a developed nation status by 2020**

Malaysia’s vision is to achieve the promise of a developed nation status by 2020. Malaysia is moving towards a multi-sector economy from being much a raw materials producer in the past.

The country is wealthy in natural resources. Its agriculture industry is responsible for about one tenth of its GDP. Rubber and palm oil are Malaysia’s key agricultural products. It is rich in oil and natural gas reserves, which is part of the foundation of high economic interdependence between Malaysia and Singapore. Industry was responsible for 41% of Malaysia’s GDP in 2011. In particular, electronic components contribute a significant share in Malaysia’s manufactures and exports. The country is one of the largest exporters of semiconductor devices and electrical goods and appliances in the world. The concerted development of the service industry is part of the national development strategy to venture into new growth areas and broaden the economic base for exports. According to the 10th Malaysia Plan (RMK 10), the goal for the service industry is to achieve 61% of GDP share by 2015 – with an annual growth of 7.2%.

Around 77% of Malaysia’s imports are MFN duty free. According to WTO statistics, the simple average of Malaysian import duties is 6.5%, with 10.8% for the agricultural goods and 5.8% for the non-agricultural goods.

**Vietnam – from a low medium income to a (high) middle-income country by 2020**

Vietnamese vision in the next ten years is to evolve from a low-medium income country to a (high) middle-income country. Since 1989, the government launched reforms under the “Doi Moi” or “renovation”. Vietnam was implementing structural reforms for modernizing the economy and generating competitive export-driven industries and reaffirmed its commitment to financial liberalisation and international integration. As the world’s second fastest growing economy, Vietnam has managed to reduce its poverty level and create job opportunities for the vast labour force.

The employment in agriculture remains relatively high although the contribution of agricultural output to GDP is declining. The country is working towards expanding its industrial base with assistance from Japan, which has donated approximately US$180 million as aid to finance small-medium sized enterprises. The main industries include food processing, construction and manufacturing. The country has already become a food processing base with an annual growth rate of 20-30%. It is also steadily becoming the global manufacturing centre of garments, textiles, leather products, mobile phones, electronics, IT and engineering.

Vietnam’s trade with other Asian economies constitutes approximately 80% of its total trade. Its development lags behind that of Singapore or Malaysia, and so does its progress in multilateral trade liberalisation. Its tariff binding coverage is 100% and the simple average of applied import duties on agricultural goods was 17% in 2010. Less than half of its imports are subject to MFN duty free.
1.2 EU-SINGAPORE FTA: a building block towards an EU-ASEAN FTA

On 16 December 2012, the European Commission announced the conclusion of the EU-Singapore Free Trade Agreement (FTA) negotiations. This important event initiated a key stage towards the ratification of the agreement that is likely to “level the playing field in Singapore and is a stepping stone to a greater engagement across Southeast Asia”. As was the case with the FTA concluded between the EU and the Republic of Korea (ROK), this new agreement has been described as a model and a template for future negotiations with other countries in Southeast Asia.

The establishment of an interregional EU-ASEAN FTA has been an important goal for the EU since April 2007, when it opened negotiations with the Association of Southeast Asian Nations (ASEAN), with the intention of concluding a common agreement with seven of its ten member states. However, negotiating with ASEAN as a single block proved a complicated task, causing the suspension of the process in favour of bilateral negotiations with the separate ASEAN member states.

With the financial crisis affecting the EU since 2008, the “Global Europe” trade strategy that Brussels published in 2006 appears even more relevant, as Asia has now become a centre of economic growth in the world. Being the EU’s largest trading partner in Southeast Asia and already having negotiated a comprehensive FTA with the United States, Singapore was best placed to take up the pioneering role. Subsequent trends have only re-enforced this perception, confirming Singapore to act as a hub for European companies in Southeast Asia, becoming an even more significant partner for the EU, with bilateral trade growing by 41% between 2009 and 2011.

**The EU-Singapore FTA: what has been negotiated?**

The EU-Singapore FTA (EUSG FTA) is said to be a mutually beneficial and genuinely comprehensive agreement. With the exception of some areas that have not been included for obvious reasons (such as rail transport), the agreement touches on tariff elimination, non-tariff barriers (NTBs), public procurement and provisions on the rules of origin. Negotiations reached a very high level of ambition. The EU-Singapore FTA is the first one to be branded as a “Green FTA”, addressing issues such as green growth and NTBs in the renewable energy sector, while including a specific chapter on sustainable development which contains terms on the liberalisation of environmental services and specific rules on illegal fishing and logging.

Key issues that were on the table during the negotiations included liberalisation of services, public procurement and investment, while geographical indications and rules of origins demonstrated differences between the EU and Singapore. The EU has sought Singapore’s best current commitments and says to have additionally obtained valuable new commitments in a range of sectors: telecommunications, environmental services, engineering and architectural services, postal services, maritime transport, and computer services. European service suppliers will thus enjoy the most preferential conditions for access to Singapore’s market. Both the EU and Singapore agreed to implement a far-reaching liberalisation of the service sector, as well as to remove domestic regulations impeding this process.

In the area of public procurement, the provisions of the draft agreement go beyond the commitments earlier agreed by both the EU and Singapore under the WTO Plurilateral Agreement on Government Procurement. While market access for investment has been negotiated already, the chapter on

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26 Laos, Cambodia and Myanmar were not included as Laos and Cambodia are under the ‘Everything But Arms’ (EBA) regime and Myanmar had been withdrawn from the EU ‘General System of Preferences’ (GSP) scheme in 1997 before getting back the EBA status in September 2012.
investment protection – a competence only recently acquired by the EU – is still to be finalised, as the European negotiators only obtained the mandate to start negotiations in 2011.

Geographical indications are of paramount importance to the European Union. However, Singapore is lacking a dedicated register to protect them, instead implementing a US-style trademark regime. With the resources required to establish such a register from scratch, this particular chapter was a difficult one to conclude with the EU, leading both parties to finally agree to establish an EU-style register.

**How can the EU-Singapore FTA compare to both the EU-ROK and the US-Singapore FTA?**

When concluded in 2009, the EU-ROK FTA was described as a model for negotiations with other Asian partners, in particular Singapore. Therefore, the two agreements share certain general aspects, for instance on services, NTBs and sustainable development, with the details diverging to reflect market specificities. Moreover, the EU-ROK FTA does not include an investment protection chapter, as the Lisbon Treaty was not yet in force when the mandate was initially approved by Council.

The US-SG FTA, in force since 2004, provided a baseline for the EU in its negotiations with Singapore. The agreement covers the entire spectrum of trade-related issues, from tariffs on goods to rules of origin, market access, liberalisation of services and investment. Commitments in fields such as services or public procurement are comparable in both FTAs. On specific topics, the EU has even gone further. Finally, the US-Singapore FTA facilitated EU-Singapore negotiations on competition, as Singapore had already committed itself to enacting a competition law and had established a Competition Commission in 2005.

**The EU-Singapore FTA: a model for the rest of ASEAN member states?**

The EU-Singapore FTA is the first step towards the wider EU objective of an eventual EU-ASEAN FTA. Negotiations with Malaysia have started in October 2010, although due to the recent elections in Malaysia the negotiations have been on hold for some time until the new government is ready to take some political decisions and advance the negotiations. Negotiations with Vietnam were launched in June 2012, while negotiations with Thailand started on 6 March 2013. Scoping exercises are well underway with Indonesia, under discussion with the Philippines.

However, negotiations between the EU and Malaysia are currently on hold due to the need for policy decisions on the Malaysian side and pending elections. The challenges in the negotiations include public procurement (Malaysia has not negotiated this area before), intellectual property/Geographical Indications, alcoholic beverages and automotive sectors. As for Vietnam, issues such as tariff reductions, competition policy, public procurement, equity participation caps in the services sector and the enforcement of intellectual property rights might become difficult issues in finding a mutually beneficial and ambitious agreement. Moreover, both Malaysia and Vietnam are developing powers, leaving them to be more competitive on low-priced goods and more tempted to protect emerging local industries. An FTA with either of them will neither be quick nor easy. With Vietnam, political issues concerning human rights may enter the stage, an aspect that might impact on the Parliamentary ratification now required since the entry into force of the Lisbon Treaty.

The EU-SG FTA is a starting and turning point for future negotiations with other ASEAN countries, especially for the norms it sets into place in sectors such as services, investment, public procurement and sustainable development. Yet, the near absence of tariffs and the Singapore’s existing level of liberalisation clearly facilitated the process of negotiations, which will not be possible to reproduce entirely with other ASEAN members. It remains to be seen whether other Southeast Asian trade partners will be as willing to liberalise their markets according to the Singapore model.
Market access for investment and services, intellectual property rights (IPR), GIs and public procurement will be key - and for them partially novel - topics for future negotiations with other ASEAN member states.

In conclusion, the EU-SG FTA will rather take up the role of a baseline for future Asian FTAs than it could become a real model. The considerable economic differences between Singapore and other ASEAN member states, illustrated by ongoing negotiations with Malaysia and Vietnam, show that there can be no guarantee that many chapters successfully addressed in the Singapore Agreement – such as GI or public procurement – can easily be resolved on same or similar terms. Moreover, as mentioned earlier, the European Parliament must now assent to every trade agreement concluded by the European Union.

The EU will have to realise that an EU-ASEAN FTA will not go beyond the lowest common denominator of ASEAN member states policy preferences, which is mirrored in the ASEAN acquis, unless what goes beyond that leads to the codification of cooperation provisions in the EU’s bilateral FTAs which are also linked to the establishment of strong institutional mechanisms, thus allowing the development of economic integration disciplines in the future.

A model “EU-Singapore” FTA to be sold off the shelf to the rest of ASEAN and Asia is wishful and wistful thinking. The ultimate target of an EU-ASEAN FTA that is in both regions’ interests will follow from using Singapore as a key building block within a wider framework to establish bilateral FTAs that are congruent and which can be knitted together as a single interregional agreement over time. The pace will be largely set by that of ASEAN’s own economic and political integration. The road that leads there is still long and uncertain, raising questions such as “How ASEAN will evolve and how strong the economic community will be it establishes?”, “How will the EU approach negotiations with other ASEAN countries? Will it lower - have more realistic - expectations after creating a precedent with the EU-Singapore FTA that reflects the exceptional nature of Singapore within ASEAN and the Region?”, and last but not least, “How will trade dynamics in Southeast Asia evolve, and in which direction will it push ASEAN member states?”.
**List of abbreviations**

<table>
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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<tr>
<td>CETA</td>
<td>Comprehensive Economic and Trade Agreement</td>
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<td>Cu m</td>
<td>Cubic Meter</td>
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<td>EU</td>
<td>European Union</td>
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<td>EUSG FTA</td>
<td>EU-Singapore Free Trade Agreement</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>FTA</td>
<td>Free Trade Agreement</td>
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<td>GDP</td>
<td>Global Domestic Product</td>
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<td>GI</td>
<td>Geographical Indications</td>
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<td>GPA</td>
<td>Plurilateral Agreement on Government Procurement</td>
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<td>IMP3</td>
<td>Third Industrial Market Plan (Malaysia)</td>
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<tr>
<td>IPR</td>
<td>Intellectual Property Rights</td>
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<td>LNG</td>
<td>Liquefied Natural Gas</td>
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<td>MFN</td>
<td>Most Favoured Nation</td>
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<td>MICE</td>
<td>The Meetings, Incentives, Conferencing and Exhibitions Industry</td>
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<td>MNC</td>
<td>Multinational Company</td>
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<td>NTB</td>
<td>Non-Tariff Barrier</td>
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<td>RMK10</td>
<td>Rancangan Malaysia ke-10 (10 Malaysia Plan)</td>
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<td>ROK</td>
<td>Republic of Korea</td>
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<td>SGX</td>
<td>Singapore Exchange</td>
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<td>SPC</td>
<td>Singapore Petroleum Company</td>
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<td>TPP</td>
<td>Transpacific Partnership</td>
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<td>US</td>
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<td>WTO</td>
<td>World Trade Organisation</td>
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INTRODUCTION

On 16 December 2012, the negotiations between the EU and Singapore on a bilateral free trade agreement (FTA) were concluded, leading to the second EU FTA with a key trading partner in Asia (the first being with Korea). Although a bilateral FTA, the EU-Singapore FTA is, no doubt, also a major point of reference for on-going and future free trade negotiations with other ASEAN countries.

As early as 2006, the European Union publicly stated the goal of reaching an interregional EU-ASEAN FTA. It all officially started with a statement by EU Commissioner Peter Mandelson in Kuala Lumpur on 17 May 2006, during a talk on the future of EU-ASEAN trade relations for the EU-Malaysian Chamber of Commerce and Industry: “I believe that the case for an [EU-ASEAN] FTA is a strong one and I will put it to the European Member States”. For the outside world, this remarkable statement was followed on 6 December 2006 by the formal request by the European Commission to the EU member states for a mandate to initiate the negotiating process. The negotiation directives for the European Commission were given in May 2007.

It soon became clear that due to the institutional differences between the EU and ASEAN (being a mere “FTA plus”), the huge differences in the levels of development of the ASEAN countries – and therefore of their objective interests in the outcomes of an EU-ASEAN FTA – as well as to the diplomatic position of Myanmar, the then still boycotted pariah of ASEAN, the inter-regional strategy was abandoned. In December 2009, EU Member States gave the green light for the EC to pursue negotiations towards Free Trade Agreements with individual ASEAN countries. Such bilateral FTAs could act as building blocks that may be upgraded into a region-to-region agreement. The EU-Singapore FTA should, therefore, be looked at also from this perspective.

The present paper is the report which was prepared by a research team co-ordinated by the European Institute for Asian Studies (EIAS) for the Workshop “Trade and Economic Relations with ASEAN”, which was organised in Brussels on 28 February 2013 by the European Parliament’s Committee on International Trade. The research team consisted of researchers from EIAS (Brussels), the Centre for ASEAN Studies of the University of Antwerp (Belgium), the United Nations University/Centre for Regional Integration Studies (Bruges, Belgium) and consultancy firm Point (Brussels).

The research was hampered from the outset by the text of the agreement still remaining undisclosed, as being under review by legal teams from the European Union and Singapore. In spite of this drawback, reasonable insight in the main provisions could be gathered by available press communiqués and related documents – both from official and unofficial sources, as well as by interviews of key witnesses.

The focus of the paper is on the major provisions of the EU-Singapore Free Trade Agreement (EUSG FTA) and on the extent that this agreement can serve as a “template” in the FTA negotiations between the European Union and other ASEAN countries, in particular Malaysia and Vietnam.

In the next section, a brief economic profile is sketched of Singapore, Malaysia and Vietnam, as well as the key characteristics of the trade policy of these countries. This is followed by section 6.3 which investigates what, according to various sources, has been negotiated between the EU and Singapore, together with elements which can be traced back to previous FTAs of the EU and the US with other Asian countries. The previous “landmark” FTAs which are taken for comparative purposes into account

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27 For an early assessment and “announcement of a future failure” at that time, see Cuyvers, “An EU-ASEAN Free Trade Agreement: Reflections on issues, priorities, strategies”, CAS Discussion paper No 53, University of Antwerp: Centre for ASEAN Studies, October 2007, which was also used as the keynote address at the Workshop “The EU-ASEAN FTA: Perspectives of European Business”, European Institute for Asian Studies, Brussels, 28 September 2007.

28 The EU negotiations with Thailand were officially launched on 6 March 2013.
here, are the EU-Korea FTA and the US-Singapore FTA. The comparison will allow a tentative assessment of the continuity and discontinuity in the provisions of the EUSG FTA, in other words, where these provisions are also found in the two “landmark” FTAs considered, and were the EUSG FTA provisions differ.

Section IV then explores the question: to what extent can the EUSG FTA become a model for the EU FTAs under negotiation with other ASEAN countries. Therefore major issues on the negotiation table with Malaysia and Vietnam, as well as the status of the EU’s FTA negotiations with both countries, is reviewed. This, in turn, allows one to draw some lessons as to how and to what extent, the EUSG FTA can be considered as an essential building block in the construction of an EU-ASEAN FTA. The final section concludes and attempts to give further food for thought.

3. THE ECONOMIC SITUATION IN SINGAPORE, MALAYSIA AND VIETNAM

In the present section, we review the main characteristics of the economic structure and performance, as well as relevant trade policy characteristics of Singapore, with which the FTA negotiations were concluded. With reference to Malaysia and Vietnam, the negotiations had already proceeded sufficiently.

3.1 Singapore — A distinctive global city with an innovative economy and high-skilled population

3.1.1 The Singapore Model

Singapore strongly advocates free market policies and practices. Meanwhile, government intervention is evident in macroeconomic management and major factors of production such as land, labour and capital resources. Both the market and the state have equally strong roles in the Singaporean economy.

The Singapore Model was born out of necessity, as the country was required to open up its economy towards external markets due to its relatively small domestic market. However, the inherent vulnerability of depending on external markets compelled the government to enact economic policies that would safeguard the country from perturbations in the global market. It also triggered the Singapore government to actively encourage new industries to develop in order to respond to the needs of the global market.

Singapore is the only Asian country to bear an AAA credit rating from all three major credit rating agencies – Standard & Poor’s, Moody’s and Fitch. According to the 2011 Index of Economic Freedom, Singapore is the second freest economy in the world. Moreover, its business freedom score is exceptionally high, as it only takes three days to start a business, compared to the world’s average of thirty-four days. Apart from strong business and regulatory policies, other factors such as the country’s strategic geographic position, its vast natural seaport, a highly skilled workforce and a favourable tax regime, have created a conducive business environment for companies and industries.

3.1.2 Economic structure

Singapore has major geostrategic importance in Asia. After the British colonised Singapore in 1819, the island quickly became the centre of the trade route between India and China. Today, Singapore is the busiest port in the world, above Rotterdam and Hong Kong. Many multi-national companies (MNCs)
have also set up regional headquarters in Singapore, due to its high degree of globalisation and accessibility to other markets. Singapore aspires to be a global and regional hub for multiple activities, particularly in the fields of trade and finance.

In 2010, 0.1% of Singapore's labour force was active in agriculture, with a further 30.2% in industry and 69.7% in services. Services and Industry respectively accounted for 73% and 27% of Singapore's GDP in 2010. The contribution of agriculture was virtually irrelevant, accounting for zero% of the GDP.

The petroleum and petrochemicals industry in Singapore is one of the biggest in the world, importing oil from other countries before refining them for export and further use in other countries. Singapore is home to the third largest oil refinery in the world, after Rotterdam and Houston. The Singapore Petroleum Company (SPC) is a leading player in the petroleum industry and is engaged in the exploration, production, refining and distribution of petroleum and petrochemicals.

Manufacturing is another major industry in Singapore. Although the city-state has been specialised in digital and electronic manufacturing for the past forty years, it diversified into other forms of manufacturing. Thanks to government initiatives and subsidies, biomedical and pharmaceutical manufacturing are seen to be the future for Singapore industries.

Singapore is also a global leader in services, particularly in finance. Singapore’s banking system is considered to be among the strongest in the world, nurturing the fourth largest foreign exchange market in the world after London, New York and Tokyo. The Singapore Government Securities is the only Asian-based market, besides Japan, to be part of the Citigroup World Bond Index. The Singapore Exchange (SGX) was also the first demutualised, integrated securities and derivatives exchange in the Asia-Pacific. Altogether, Singapore is recognised as one of the premier asset management centres in Asia, with more than 200 international asset management firms.

Tourism is the second major service industry in Singapore, next to finance. In 2010, tourist arrivals to Singapore hit a record of 11,638 million visitors with tourist receipts of more than S$18.8 billion. Thanks to government initiatives, tourism has diversified into niche markets such as medical tourism, the gaming industry and the MICE (Meetings, Incentives, Conferencing and Exhibitions) industry. With the advent of the two new integrated resorts in 2010, tourism expenditure in sightseeing and entertainment grew by an astonishing 1834% in 2010.

3.1.3 International trade and investment

International trade is of paramount importance for Singapore. A large percentage of trade is conducted to meet domestic demand for energy, food, and other necessities. Singapore also a regional centre of entrepôt trade, as well as of value-adding activities, whereby raw materials are imported, before refining them for re-export. Altogether, 47% of Singapore's exports consist of re-exports.

As a strong advocate of free trade, Singapore has relatively few trade barriers. Trade partners with the Most Favoured Nation (MFN) status have zero tariff rates applied to their products, except for the product lines for alcoholic beverages. There are, however, some import restrictions, based mainly on environmental, health, and public security concerns. The importation of rice also requires import licensing in order to ensure food security and price stability.

Singapore is the eighteenth largest exporter of oil in the world. In 2010, Singapore exported 1,374 million barrels of oil per day. On the other hand, Europe, North America and Asia were the major FDI contributors to Singapore. Between 1995 and 2005, Europe gradually gained in importance as Singapore's leading foreign investor, with Europe’s share in investment rising from 31 to 43% in this period. Although the absolute amount of foreign investments in Singapore from Asia and North
America increased during the same period, their shares recorded a decline. Asia recorded a share decline from 33 to 24%, whereas North America’s share shrunk from 21 to 15%.

The United Kingdom, Switzerland, the Netherlands, Norway and Germany were some of the major foreign investors from Europe to invest in Singapore. Japan was its largest Asian foreign investor. Most of the FDI flows between 1995 and 2005 went into major sectors of Singapore’s economy, such as (1) financial services and the insurance services sector, (2) hotels and restaurants, (3) the manufacturing sector, (4) wholesale trade and the retail trade sector.

### 3.2 Malaysia – Towards the developed nation status by 2020

Malaysia’s economy witnessed an economic boom in the 1970s, after which it expanded from a raw materials producer to a more diversified economy. The country’s rich natural resources ensure sustained development in agriculture, forestry and mining. Economic growth is also attributed to its bordering the Malacca Straits, an important international shipping crossroad, thus also promoting Malaysia’s international trade in an important way. Malaysia’s well developed manufacturing sector produces a diverse range of goods.

#### 3.2.1 Economic structure

Malaysia’s economic development can largely be attributed to its wealth of natural, agricultural and forestry resources. Major products include cocoa, rice, rubber, coconuts, pepper, subsistence crops, timber, palm oil and natural oil. In 2010, Malaysia’s agricultural industry was responsible for approximately one tenth of its GDP with rubber and palm oil being the country’s key agricultural products by far. Malaysia is the second largest producer of palm oil in the world, producing more than 17.7 million tonnes of palm oil in 2008. The majority of Malaysia’s palm oil is exported to China, the EU, Pakistan, the US and India. Malaysia also accounts for one third of the world’s rubber exports, serving for export to countries such as the US and Japan mainly in the production of automotive components. Currently, Malaysia is holding 2.9 billion barrels of proven oil reserves and 2.35 trillion m3 of proven natural gas reserves. This makes them ranked respectively 32nd and 17th in the world.

Malaysia’s industrial sector accounts for 41% of the country’s GDP in 2010. Key industries of Peninsular Malaysia include rubber, palm oil processing and manufacturing, light manufacturing, pharmaceuticals, medical technology, electronics, tin mining and smelting, logging, and timber processing. The Eastern Malaysian states of Sabah and Sarawak are keenly focused on logging, petroleum producing and refining, as well as agro-processing.

Malaysia’s diversified manufacturing sector is the backbone of its economy, which growth is visible in its contribution of 30% to the GDP in 1999 as compared to 13.9% in 1970. Malaysia possesses abundant natural resources such as minerals, liquefied natural gas (LNG), petroleum and tin. In addition, electronic components contribute a significant share in Malaysia’s manufactures and exports. The country is the largest exporter of semiconductor devices and electrical goods and appliances in the world.

Services have been growing in economic importance in the past few years. In 2010, the service sector was responsible for 49% of the GDP. Malaysia’s service sector predominantly comprises of Islamic banking, finance, telecommunications and tourism. The concerted development of the service industry is part of the national development strategy to venture into new growth areas and broaden the economic base for exports. It is expected to provide the basis for sustained economic growth, as according to the 10th Malaysia Plan (RMK10), the goal for the service industry is to reach a share in GDP of 61% by 2015 – with an annual growth of 7.2%. Under the IMP3, non-government services are
targeted to grow at an average annual rate of 7.5%. Construction services are also expected to increase annually by 5.7%.

In April 2009, the Malaysian government introduced new licences for investment banking, Islamic banking, takaful (Islamic insurance) and insurance business. The threshold for foreign equity ownership was also raised from 49% to 70%, thus allowing foreign banks to open new branches and micro-credit facilities in the country.

3.2.2 International trade and investment

Malaysia’s main export goods include electronic equipment, petroleum and liquefied natural gas, wood products, palm oil, rubber, textiles, and chemicals. Its main import items include: electronics, machinery, petroleum products, plastics, vehicles, iron and steel products, as well as chemicals.

3.3 Vietnam – From a low-income country to a high/middle-income country by 2020

In 2001, Vietnam reaffirmed its commitment to pursue financial liberalisation and international integration. Since then, structural reforms have been implemented to modernise the economy and to create competitive export-driven industries. Its 2007 WTO membership has secured Vietnam a place in the integrated global market and reinforced its internal economic reform process.

Vietnam has become the world’s second fastest progressing economy. Agricultural dependency in total output shrank from 25% in 2000 to 20% in 2007. Poverty levels declined and Vietnam succeeded in creating job opportunities for its vast labour force. Nevertheless, the economic slump in 2008-2009 made it difficult to continue its job creation programme.

3.3.1 Economic structure

Although Vietnam’s agricultural output declined, employment in the sector remained comparatively high. In 2005, 60% of the labour force was concentrated in agriculture, forestry and fishing, although production in the agricultural sector was responsible for merely 30% of Vietnamese exports. The reduced government monopoly on rice exports converted Vietnam into one of the world’s largest rice exporters.

By 2010, Vietnam’s insurance sector was expected to account for 4.2% of GDP through increasing life and non-life insurance premiums, accounting for respectively $2 billion and $562 million.

Although it is still mainly a primary sector producer and exporter, the Vietnamese government has strongly expanded the country’s industrial base. Supporting industrial zones have been built in several locations, including the Que Vo district and the Bac Ninh province. For years, Japan has been the major donor of Vietnam, thus helping the development of the country’s auxiliary industries with approximately US$180 million of aid financing SMEs since 2008. Moreover, there is a high prospect of developing supporting industries, such as the garment, textile, leather, electronics, IT, automotive and engineering sectors, with additional priority being given to livestock and aquaculture industries. The latest technology and business solutions are being employed to serve the increasing domestic and export demands.

Vietnam’s main industries include food processing, construction and manufacturing, while steadily becoming a global manufacturing centre with a diversified industrial base.
3.3.2 International trade and investment

Vietnam's major trading partners are Japan, Singapore, Hong Kong, Taiwan, Korea and the European Union, its trade with other Asian economies accounting for approximately 80% of the total trade. The main Vietnamese exports are petrochemicals, construction, cement, power generation/electricity, food and beverages, paper and pulp, plastic and rubber.

Although agricultural products are ranking highly on the list of export items, this may change along with the rise of Vietnam's industrial base. The most significant export products include crude oil, textiles and garments, rice, coffee, rubber, coal, aquaculture and processed forest products. Vietnam's main imports are petroleum products, steel, fertilizer, electronics, machinery and equipment.

3.4 Comparison of the trade policy situation

Table compares trade policy indicators of Singapore, Malaysia and Vietnam, showing a picture of three countries which widely differ in the level and scope of protection of their domestic market of agricultural and manufactured goods, services, as well as capital investment. All three countries are witnessing impressive growth rates of both exports and imports. Their different level of economic development is also clearly reflected in the data (e.g., the amounts and structure of services imports and the importance of the agricultural sector).
### 3.4.1 Table - Trade policy indicators

<table>
<thead>
<tr>
<th>TRADE POLICY</th>
<th>Singapore</th>
<th>Malaysia</th>
<th>Vietnam</th>
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<tbody>
<tr>
<td>Trade Policy Review</td>
<td>24, 26 July 2012</td>
<td></td>
<td></td>
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<tr>
<td>GPA accession</td>
<td>20 October 1997</td>
<td>Observer</td>
<td></td>
</tr>
<tr>
<td><strong>Tariffs and duty free imports</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Tariff binding coverage (%)</td>
<td>69.7</td>
<td>84.3</td>
<td>100</td>
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<tr>
<td>MFN tariffs</td>
<td>Applied 2011</td>
<td>Applied 2010</td>
<td>Applied 2010</td>
</tr>
<tr>
<td><strong>Simple average of import duties</strong></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>All goods</td>
<td>0.0</td>
<td>6.5</td>
<td>9.8</td>
</tr>
<tr>
<td>Agricultural goods (AOA)</td>
<td>0.2</td>
<td>10.8</td>
<td>17.0</td>
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<tr>
<td>Non-agricultural goods</td>
<td>0.0</td>
<td>5.8</td>
<td>8.7</td>
</tr>
<tr>
<td>Non ad-valorem duties (% total tariff lines)</td>
<td>0.0</td>
<td>0.7</td>
<td>0.1</td>
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<tr>
<td><strong>MFN duty free imports (% 2010)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>in agricultural goods (AOA)</td>
<td>98.8</td>
<td>76.9</td>
<td>44.5</td>
</tr>
<tr>
<td>in non-agricultural goods</td>
<td>100.0</td>
<td>77.4</td>
<td>44.0</td>
</tr>
<tr>
<td>Services sectors with GATS commitments</td>
<td>67</td>
<td>73</td>
<td>105</td>
</tr>
<tr>
<td>Contribution to WTO budget (%)</td>
<td>2.254</td>
<td>1.137</td>
<td>0.379</td>
</tr>
<tr>
<td><strong>Import duties collected (% 2008-2010)</strong></td>
<td></td>
<td></td>
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<tr>
<td>in total tax revenue</td>
<td>0.0</td>
<td>6.1</td>
<td>...</td>
</tr>
<tr>
<td>to total imports</td>
<td>0.0</td>
<td>1.0</td>
<td>...</td>
</tr>
<tr>
<td><strong>Number of notifications to WTO and measures in force</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Outstanding notifications in WTO Central Registry</td>
<td>6</td>
<td>24</td>
<td>29</td>
</tr>
<tr>
<td>Goods RTAs - services EIAs notified to WTO</td>
<td>19 - 15</td>
<td>11 – 7</td>
<td>8 – 4</td>
</tr>
<tr>
<td>Anti-dumping (30 June 2011)</td>
<td>...</td>
<td>6</td>
<td>...</td>
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</tbody>
</table>

29 Based on the most recent WTO Trade Policy Review.
<table>
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<tr>
<th>Policy Department DG External Policies</th>
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<tbody>
<tr>
<td>Countervailing duties (30 June 2011)</td>
</tr>
<tr>
<td>Safeguards (26 October 2011)</td>
</tr>
</tbody>
</table>

**Number of disputes (complainant - defendant)**

| Requests for consultation | 1 – 0 | 1 – 1 | 2 – 0 |
| Original panel / Appellate Body (AB) reports | 0 – 0 | 1 – 0 | 1 – 0 |
| Compliance panel / AB reports (Article 21.5 DSU) | 0 – 0 | 1 – 0 | 0 – 0 |
| Arbitration awards (Article 22.6 DSU) | 0 – 0 | 0 – 0 | 0 – 0 |

**SERVICES**

| Commercial services exports (million US$) | 128 891 | 34 913 | 8 769 |
| export annual growth rate (%), 2005-2011 | 10      | 10     | 13    |
| Commercial services imports (million US$) | 113 827 | 37 490 | 11 707 |
| import annual growth rate (%), 2005-2011 | 11      | 9      | 18    |
| Share in world total exports | 3.09 | 0.84 | 0.21 |
| Breakdown in economy’s total exports by principal services item |
| Transportation | 28.8 | 13.9 | 28.6 |
| Travel | 14.8 | 52.3 | 64.1 |
| Other commercial services | 56.4 | 33.8 | 7.3 |
| Share in world total imports | 2.88 | 0.95 | 0.30 |
| Breakdown in economy’s total imports by principal services item |
| Transportation | 29.3 | 34.9 | 70.3 |
| Travel | 17.8 | 27.5 | 14.6 |
| Other commercial services | 52.9 | 37.6 | 15.1 |
4. THE EU-SINGAPORE FTA: CONTINUITY AND DISCONTINUITY COMPARED

On December 16 2012, the European Commission announced the conclusion of the EU-Singapore Free Trade Agreement (EUSG FTA) negotiations. This important event initiated the stage towards the ratification of the agreement that is likely to “level the playing field in Singapore and is a stepping stone to a greater engagement across Southeast Asia”. As was the case with the FTA concluded between the EU and the Republic of Korea (ROK), this new agreement has been described as a model and a template for future negotiations with other countries in South-East Asia.

The establishment of an integral EU-ASEAN FTA has been an important goal for the EU since April 2007, when it opened negotiations with the Association of Southeast Asian Nations (ASEAN), with the intention of concluding a common agreement with seven of its ten member states.30 However, negotiating with ASEAN as a single block proved a complicated task. The stalemate mostly arose from three reasons, (1) that ASEAN is still lacking supranational authority, (2) the economic heterogeneity of the ASEAN countries and (3) the political quandary that Myanmar was at the time.31

Yet, with Asia increasingly becoming the centre of economic growth, the region was remaining very attractive and a solution had to be found in order for Europe to tap into Southeast Asia’s vast economic potential. In 2008, following the logic dictated by the “Global Europe” trade strategy which the EU had published earlier in 2006, the decision was altered to enter into bilateral negotiations with the ASEAN countries, maintaining the establishment of an integrated ASEAN-EU FTA as the final goal. With the recent financial crisis badly affecting Europe, the Global Europe Strategy started to appear increasingly relevant and early successes had to be gained to set the entire process on track.

Therefore, the EU had to identify relevant candidates to enter into the negotiation process. In particular, the process envisaged countries that would fit the criteria Brussels had established with its “Global Europe” strategy, including being a major EU trading partner and having provided strong evidence with regard to delivering capacities during FTA negotiations. Being the EU’s largest trading partner in Southeast Asia and already having negotiated a comprehensive FTA with the United States, Singapore was top ranked to take up the pioneering role.32 Subsequent trends have only re-enforced this perception, confirming Singapore to act as a hub for European companies in Southeast Asia, becoming an even more significant partner for the EU, with bilateral trade growing by 41% between 2009 and 2011.

5. THE EU-SINGAPORE FTA: WHAT HAS BEEN NEGOTIATED?

5.1 Broad description

The EU-Singapore FTA (EUSG FTA) is said to be a mutually beneficial, genuinely comprehensive agreement. With the exception of some areas that have not been inserted for obvious reasons- such as

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30 Laos, Cambodia and Myanmar were not included, as Laos and Cambodia are under the ‘Everything but Arms’ (EBA) regime, and Myanmar had been withdrawn from the EU ‘General System of Preferences’ (GSP) scheme in 1997 before getting back EBA status in September 2012.

31 For an early assessment of this issue, see Cuyvers, Chen and De Lombaerde, “ASEAN-EU FTA Negotiations: Waiting for Godot?”.

32 For an early indications on the potentials of an EU-Singapore FTA, see Vandergeest, Brenton, Cuyvers, and Messerlin, “Sharing Benefits of Globalisation: A EU-Singapore Free Trade Agreement”.

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air and rail transport, as well as agriculture. The agreement touches on most trade-related issues such as tariff reduction, non-tariff barriers (NTBs), public procurement and provisions on rules of origin. Negotiations reached a very high level of ambition, which explains their surprising duration. Indeed, although negotiations had been foreseen to end by summer 2012, an extra six months proved necessary to attain the aspired level of commitments. Importantly, the EUSG FTA is the first FTA to be branded as “green”, addressing issues such as green growth and NTBs in the renewable energy sector, while also including a specific chapter on sustainable development.

Although the negotiations have been concluded, the text of the agreement has still a long way to go before entering its implementation phase. Translation and legal assessment could take up to six months. Only after this crucial translation and legal review, the formal ratification procedure can start, with debates among the Member States and within the European Parliament. However, hopes are high that the agreement can be adopted by the European Parliament before the end of this parliamentary session in 2014. As indicated in the introduction, this also implies that our assessment of the EUSG FTA is not based on the official text of the agreement, which is embargoed, but on a review of preparatory documents, memo’s, communiqués and interviews with key witnesses.

5.2 Main Chapters

Singapore has no export sector in which the EU has a defensive interest. Hence, key issues during the EUSG FTA negotiations were relating to services, public procurements and investment. On the issue of geographical indications (GIs) and rules of origin sharp differences between the EU and Singapore emerged. Both issues were deemed essential to the European Union and GIs were never before included in trade agreements by EU trading partners prior to discussions with Brussels, making the negotiation process even more complex.

5.2.1 Services

The service sector proved to be one of the EU’s key offensive interests in its negotiations with Singapore and a tough topic to discuss. The outcome attained by Brussels is of tremendous importance. As was the case with the US almost ten years ago, Singapore seems to have agreed to a fairly beneficial agreement. Both parties will carry out a far-reaching liberalisation of their services market and will remove domestic regulations impeding this process. At the same time, new commitments were made in areas such as environmental, engineering, architectural, postal and computer services, telecommunications and maritime transports.

In terms of market access for services, the EUSG FTA can probably be considered as one of the best agreements ever negotiated, due to three main reasons. Firstly, the number of markets opened is very high. Secondly, many horizontal provisions have been agreed upon, with the aim of cutting back on arbitrary decisions of the authorities, resulting in better rules on licensing (a well-known trade-barrier) and mutual recognition of diplomas and certifications, for example in architecture. Finally, for several sectors, the EU succeeded in inserting elements originating from the EU acquis to ensure a level-playing field for European companies. Those principles will, among other measures, translate into an independent regulator in the field of telecommunications, one of the most important sectors for European players. Such insertion of the EU acquis is remarkable as it is a rather new phenomenon in FTA negotiations.

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33 European Commission Memo/19/993, 16 December 2012.
Additionally, the EU was very interested in opening up the market of financial and banking services. Indeed, the liberalisation of retail banking was considered a very difficult issue to negotiate. Although it is already a saturated sector in Singapore, the EU wanted to create a precedent for its negotiations with other ASEAN countries. Singapore thus made concessions but could not compromise on every issue put forward by Brussels.

Notwithstanding satisfaction regarding the final agreement, the EU also made strong commitments in various areas important to the City-State, such as architecture, engineering, e-commerce and the restaurant sector.

5.2.2 Public Procurements

Although the European Union and Singapore are parties to the WTO Agreement on Government Procurement (GPA), some provisions of the draft EUSG FTA reach beyond the GPA text, especially for tendering procedures, rules of transparency and non-discrimination. Overall, the European Commission deems it reached a better agreement in public procurement than the United States previously did. Indeed, the EU has a more open sub-national procurement market, providing it could offer Singapore wider access to its market, obtaining significant commitments from the City-State.

5.2.3 Investment

Before the entry of the Lisbon Treaty on 1 December 2009, the EU only had the authority to negotiate market access for investment, representing the right for these investments to enter one’s market and territory. Since the Lisbon Treaty is in vigour, the EU acquired an additional competence in the field of investment protection, which is the right, once the investments have been made, to be protected from being confiscated by national authorities. As a consequence, the EU can now include a specific investment chapter in its trade agreements.

In its negotiations with Singapore, discussions on market access for investments have been going rather smoothly. However, as the official mandate to start negotiations on investment protection only arrived mid-2012, the talks on this chapter have not been finalised yet. As it is not considered a difficult topic, hopes are high for an agreement to be reached soon. Therefore, as the investment chapter will be much shorter than the free trade agreement itself, the procedure could go much faster too, resulting in an addendum to catch up in time to be included in the actual FTA before being finalised.

5.3 Hurdles

As previously mentioned, some topics like geographic indications and rules of origin were considered as hurdles during the EUSG FTA negotiations.

5.3.1 Geographical Indications

Geographical indications (GIs) are, like trademarks, a domain of Intellectual Property Rights (IPRs). They aim at protecting products – mainly goods but sometimes also services – that possess “a specific quality, reputation, or other characteristics attributable to that geographical origin and the production and/or procession and/or preparation that take place in the defined geographical area”.\textsuperscript{34} The system established by the EU has been adopted by an increasing number of countries worldwide. The EU

\textsuperscript{34} Wattanapruntripaisan, “Trademarks and Geographical Indications: Policy Issues and Options in Trade Negotiations and Implementation”.

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register offers protection not only to wine and spirits but also to foodstuff. Hence, it comes as no surprise that its imposition to third partners, who protect GI through other means, may encounter resistance. Singapore, like the United States, Australia, New Zealand and Japan, does not have a dedicated registration system for GIs but used its trademark regime to protect them. A main difference between the system applied by Singapore and by the EU is that according to the European system, the GI has priority, even if the trademark had been registered before.

Originally, Singapore had no geographical indication to protect. Yet, the negotiations proved tough, as the EU asked the City-State to set up an entire system from scratch, a very resource consuming procedure. However, Singapore was aware of the importance and sensitivity of the issue for the EU and finally agreed to establish an EU-style register. The aim is to demonstrate Singapore's willingness to set up such a system. Compared to the ongoing negotiations with Canada on the Comprehensive Economic and Trade Agreement (CETA), the result obtained by the EU in the EUSGFTA is quite positive.

The ongoing negotiations of the Transpacific Partnership (TPP) complicated the EU's negotiation position with Singapore, as the United States were pushing for the trademark approach in the TPP agreement. Seen in the long-term perspective, the provisions included in all bilateral FTAs are essential, as they may serve as a critical mass when time comes to set up a global system.35

Regarding other IPR domains, the EU considers it obtained positive commitments on copyrights, a field in which Singapore applied a US-inspired system. Indeed, both partners agreed on increasing the remuneration rights on certain creative activities and on a better enforcement of IPRs, although criminal sanctions are not foreseen to be included.36

5.3.2 Rules of origin

Singapore was very determined to achieve a favourable agreement on the rules of origin. This chapter was initially perceived to be a delicate one. However, the matter was settled much faster than expected. Although Singapore is not a competitor of the EU in very sensitive sectors such as cars or shoes, Singapore's produce is not the real bone of contention, as its expensive land and labour make the City-State less competitive than other Southeast Asian low-income countries. The core issue for the EU was to prevent third countries (like China for example) to abuse the system by exporting their goods duty free via Singapore.

Sensitivities were to be considered on both sides, with agriculture as a key issue for the EU and the assurance for Singapore to be able to re-export or use imports from other ASEAN countries. This “ASEAN origin cumulation”, points at the regional cumulation of origin which is allowed under the present EU GSP system, however this has never been clearly included in any FTA before, although the concept is familiar from the EU’s General System of Preferences which currently applies to the region. However, from the EU point of view there were fears of important import competition of products from other ASEAN countries entering the EU duty free through Singapore.

The EU-Singapore agreement on rules of origin is considered to be balanced and satisfying to the European Member States. European companies follow the rules of modern trade and manufacturing, globally spreading their value chain. Therefore, regional cumulation of origin would allow EU companies to source from other ASEAN countries through such provisions in the EUSGFTA. The EU does not aim at countering the phenomenon of ASEAN cumulation, as it is its final goal to reach a

35 For more information see Wattanapruttipaisan, “Trademarks and Geographical Indications: Policy Issues and Options in Trade Negotiations and Implementation”.
36 European Commission Memo/12/993, 16 December 2013.
region-to-region agreement, implying that economic integration between ASEAN countries is in its interest and must thus be encouraged. GIs, services and rules of origin were the last items at the negotiation table and Singapore used their agreement with GIs and the EU request about the liberalisation of services as a bargaining chip to reach agreement on its requested definition of rules of origin.

5.4 The Sustainable Development Chapter and the EU 2020 Strategy

In recent trade negotiations, the EU has been adamant on the necessity to include a sustainable development chapter in the final text, the content of which is not perceived as demanding, as it mostly refers to international conventions already signed by the partners. Unlike the US, the EU does not link those clauses to sanctions. Nevertheless, even if the EU only wants to initiate consultative mechanisms, partner countries are very often reluctant to be lectured on those matters, linking them with national or even regional pride and sovereignty (cfr. the “Asian values” discussions in the past). The underlying idea is to enshrine those principles so that “trade supports environmental protection and social development” and to involve civil society in this project.37

Labour standards, however, were not a polemical topic with Singapore as the country has already made ambitious commitments at the global level. Up to now, Singapore has ratified 27 ILO conventions (of which 23 currently in force38), among which six fundamental or so-called “core” conventions (on forced labour, on equal remuneration, on the right to organise and collective bargaining, on minimum age and on worst forms of child labour). The sustainable development chapter was thus one of the first to be concluded in the negotiations.

The EUSG FTA is branded as the EU’s first “green” FTA, containing specific terms on the liberalisation of environmental services such as waste removal and rules on illegal fishing and logging. As was the case for other chapters as well, the items included in the sustainable development chapter were not much of a problem for Singapore, but the issues will have to be addressed during the FTA negotiations with other ASEAN countries, for which the EU FTA with Singapore will set a clear precedent.

6. THE EU-SINGAPORE FTA: INFLUENCES FROM PREVIOUS FTAs?

Before assessing the impact of the EUSG FTA on future and ongoing negotiations with ASEAN countries, it is important to consider previous agreements that were considered landmarks for both the EU and Singapore and may have influenced the EUSG negotiations. These are the EU-Korea FTA and the US-Singapore FTA. When the EU-Korea FTA had just been signed, it was described as a model for Singapore and negotiations with other ASEAN countries. On the other hand, the landmark US-Singapore FTA provided Singapore with negotiations experience with a leading Western economy. Moreover, the provisions of the US-Singapore FTA gave both the European and Singaporean negotiators a benchmark and bottom-line.

37 European Commission Memo/12/993, 16 December 2013.
6.1 The EU’s landmark agreement: The EU-Korea FTA

6.1.1 General description

The EU-Korea FTA (EUROK FTA) entered into force on 1 July 2011, the first “new generation of FTA” the EU signed with an Asian country. At the time of its conclusion, the EUROK FTA was said to be the most comprehensive free trade agreement negotiated by the European Union. It covered all areas crucial to the EU’s competitive position, ranging from services liberalisation and investment competition to non-tariff barriers (NTBs) in areas such as intellectual property rights, public procurement, and technical barriers. The EU considers the EUROK FTA as the most ambitious EU FTA and a “benchmark” for future FTAs the EU aims to conclude with countries with a similar level of development. The EUROK FTA mirrors the level of EU’s ambitions in the negotiations of the EUSG FTA.

From the EU perspective, South Korea and Singapore share an important common characteristic, explaining the European interest to sign an FTA with them. Both are fast growing and dynamic Asian markets for EU exports, and, their booming markets enable the EU to expand exports of its competitive sectors such as the chemical industry (including cosmetics and pharmaceuticals), machinery sector, food and beverages.

Even more strategic interests are to be found in the services sector where the EU enjoys a strong comparative advantage, which will benefit from further liberalisation in banking, finance and insurance. An FTA will secure EU market access to both South Korea and Singapore in comparison to its main competitors such as the US and Japan.

One of South Korea’s key motivations in concluding an FTA with the EU originates from its desire to provide Korean exporters better access to the large EU market, meanwhile enhancing Korea’s global competitiveness by improving factor productivity and by fuelling competition in the domestic market. A similar mechanism would be there for Singapore.

6.1.2 Comparison with the EU-Singapore FTA

When concluded in 2009, the EUROK FTA was described as a model for negotiations with other Asian partners, in particular Singapore. The two agreements, therefore, share provisions, for instance regarding services, NTBs and sustainable development, with diverging details to reflect market specificities.

a) Tariff reduction and rules of origin

Singapore had only six tariff lines, so the chapter on tariff reduction was easily finalised. However, the situation was more complex with South Korea. Seoul and Brussels agreed to eliminate 98,7% of the duties in trade value for both industry and agriculture. In principle, all customs duties on industrial goods would be fully removed within 5 years, with the exception of a number of agricultural products. Regarding rules of origin, the EU accepts 55% local value added in most manufactures and 40 to 45% for cars and for the most sensitive consumer electronic items. For the first time, the EU allows the “Duty Drawback” scheme (DDB) in a bilateral agreement, under which duties paid on parts and components used for final products will be refunded when the final products are exported.

b) Investment

The EUROK FTA contains a substantial section on market access for investment. However, as the Lisbon Treaty was not yet in force when the mandate was initially given by the Council, the European
negotiators had no competence for investment protection, which therefore was not included in the negotiations with Seoul.

c) **Non-Tariff Barriers**

The EUROK FTA incorporates fundamental rules on Non-Trade Barriers (NTBs). All export duties are prohibited. Particularly, the inclusion of strong and precise clauses on standards and technical barriers to trade (TBT) illustrates that standards and technical regulations are an essential element of the new generation EU FTAs. The EUROK FTA contains legal binding commitments to adopt international standards in electronics (safety standards) and automobiles, while further regulatory cooperation is foreseen in the pharmaceutical and medical device sector.

The EUROK FTA is a fair benchmark when it comes to assessing measures fighting NTBs, especially in sensitive sectors for the EU like car manufacturing, electronics or pharmaceuticals. The agreement established with Singapore is quite similar and contains annexes on NTBs, addressing the duplication of testing and the alignment with international standards.

Six areas have been discussed: electronics, motor vehicles and vehicle parts, pharmaceuticals, renewable energy generation, meat and meat products and authorised operative schemes. As both countries had legitimate concerns, the end result proved very balanced with half of the issues quickly addressed, while the rest was left for the end of the negotiations. The real novelty with the EUSG FTA is the fourth annex reflecting the special attention given by both countries to green aspects of trade, aiming at facilitating investments in renewable energy and stimulating green growth. With Singapore, being a developed country with similar environmental preoccupations, such a commitment was not difficult to obtain. Beyond being an important precedent in introducing environmental concerns into trade agreements, the focus on the green aspects of trade is also a strategic move for the EU, as East Asia will need to catch up on its “green” technology, leaving an opening for EU companies to fill the space and play an important role in the transmission of know how.

d) **Government Procurement**

The EUROK FTA includes a WTO plus chapter on government procurement. In addition to reaffirming commitments to the WTO Government Procurement Agreement (GPA), the EUROK FTA expands procurement opportunities to public work concessions and “Built-Operate-Transfer” (BOT) contracts, providing extra opportunities for European suppliers who are globally competitive in areas such as transport equipment, public works and utilities.

e) **Services**

At the time of its conclusion, the European Commission considered the EUROK FTA the most ambitious FTA for services ever concluded by the European Union. It goes well beyond existing commitments in the WTO’s General Agreement on Trade in Services (GATS) in the area of financial services, telecommunications, maritime transport services, and e-commerce. In particular, it allows EU satellite broadcasters to operate directly cross-border into South Korea, which goes beyond the Korean commitments made in the KORUS FTA. The provisions on legal services are similar to those presented in the KORUS FTA.

When assessing the FTAs, it is enlightening to consider internal politics and to analyse the agreements from this perspective. In the case of the EUROK FTA, the Korean government wanted to modernise the service sector by pushing for further liberalisation. For such a difficult move, an FTA negotiation provides an excellent scapegoat, allowing the government to push for hard policies.
f) **Geographical Indications**

Regarding GIs, Singapore adopted a slightly different approach than Korea, wanting to ensure they could defend the system to be created at the international level, for instance while negotiating the TPP. In the EUROK FTA, there is a full section of a chapter devoted to GIs and around 160 were registered, apart from the usual spirits.39

g) **Sustainable development**

In the EUROK FTA, provisions are included on establishing shared commitments and cooperation on trade and sustainable development. Both sides commit not to lower the enforcement of labour standards or environmental standards and Korea agreed to modify its draft legislation on CO2 emissions. The chapter on sustainable development in the EUROK FTA served as a model for the EUSG FTA and the provisions are therefore very similar, even if the phrasing may be somewhat different.

It will be clear that the EUROK FTA belonging to a new generation of WTO+ EU FTAs with an important regulatory content, also the EUSG FTA will prove to be a WTO+ agreement, creating a level playing field and ensuring regulatory issues to be properly addressed.

6.2 **Singapore’s landmark agreement: the US-Singapore FTA**

6.2.1 **General Description**

The US-SG FTA, in force since 2004, provided a baseline for the EU in its negotiations with Singapore. Indeed, the text covers the entire spectrum of trade-related issues, from tariffs on goods to rules of origin, market access, services and investment. At the conclusion of the US-SG FTA, USTR (the US Trade Representative) declared that the agreement would be described as a real breakthrough in terms of competition policy, e-commerce and public procurement. The text contained major progress in IPRs, which once implemented, allowed Singapore to attract many foreign investments and to emerge as a regional centre for multinational pharmaceutical companies.

The US FTAs with Singapore and Korea were both negotiated under the “Fast Track” procedure (which expired in June 2007). The US-SG FTA was approved by the US Congress, whereas in contrast, the KORUS FTA (as well as the US FTAs with Peru, and Colombia) was negotiated with “Fast Track” authority, but in early 2007 it became clear that these agreements would not win Congressional approval without modifications involving more enforceable labour and environmental provisions. They featured only one labour provision subject to dispute resolution – the requirement to effectively enforce domestic labour laws, not including fundamental labour standards. The US FTA provisions on labour laws and international conventions have not been the same over time, giving rise to a “spaghetti bowl” of differences.40

Singapore made concessions mostly on access for American service providers, especially in financial services (the lifting of the ban on new licenses for American banks, allowing for unlimited number of branch locations, while giving the possibility to apply for access to ATMs) and on public procurement. On legal services, progress was made with the recognition of several law degrees (Harvard University, Columbia University, New York University, the University of Michigan) and the admission of some of the top US lawyers to take the Singapore bar.

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39 Pollet-Fort, “The EU-Korea FTA and its Implications for the Future EU-Singapore FTA”.

40 Cuyvers and De Meyer, “Market driven promotion of international labour standards in Southeast Asia – the corporatization of social justice”.

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The US-SG FTA and the EUSG FTA are broadly similar but the EU obtained at least a parity of what the US negotiated and, as was the case for services and other chapters, Brussels considers it bargained a better deal. Of course, for Singapore, the US-SG FTA was negotiated during a different period of time and with another trading partner. Therefore, in some areas, the EU negotiated a better agreement, but in other cases, the US pulled the better end of the string. On services, the situation of what has been achieved seems to be comparable. However, the question of environmental and labour issues was not formally raised by the US\textsuperscript{41} and the text includes commitments not to reduce or weaken the respective labour or environmental standards as a means to attract trade or investment - an obligation enforceable through a dispute settlement mechanism.

6.2.2 Comparison with the EU- Singapore FTA

\textbf{a) Services}

In the case of US-SG negotiations, market access for services was a key issue. The final agreement provides substantial access with exceptions clearly listed, following the negative listing approach. However, the EU favoured the use of positive listing with the City-State, which is the approach generally chosen by other ASEAN countries as well, except for Singapore. Although approaches are not as decisive as many may believe, it was a first disagreement that needed to be overcome. What matters in the end is the substance and a negative listing approach does not automatically imply that the FTA will have a wider scope.\textsuperscript{42} In the case of Singapore, the EU institutions claim they bargained for commitments at least equivalent to the US agreement\textsuperscript{43}, even though the approaches were different.

\textbf{b) Competition}

In its FTA with the US, Singapore committed itself to enact a competition law and to establish a competition commission by January 2005. This clearly facilitated the EU’s task and “Competition” was considered to be one of the easiest chapters to conclude during the EUSG FTA negotiations. The final agreement contains comprehensive rules on competition and state aid and a dispute settlement mechanism.

\textbf{c) Rules of origin}

Rules of origin in the US-SG FTA established either a percentage of the product’s value or an operation that has to take place in Singapore, for the product to be deemed originating from the City-State. Some exceptions were made in the field of IT products and medical devices through an Integrated Sourcing Initiative (ISI), listing products that do not need to comply with the rules of origin to benefit from the duty free regime. ISI allows for streamlined customs procedures and a lighter burden on the shoulders of the companies. In 2003, the list contained 155 products, but this was expanded by express consent of the US Congress.\textsuperscript{44} The initiative was deeply criticised by civil society as labour and environmental clauses in the FTA do not apply to factories located outside Singapore, who benefit nevertheless from the duty free regime.

\textsuperscript{41} Nanto, “The US-Singapore Free trade Agreement: Effects After Three Years”.
\textsuperscript{42} Pollet-Fort, “The EU-Korea FTA and its Implications for the Future EU-Singapore FTA”.
\textsuperscript{43} European Commission Memo/12/993, 16 December 2013.
\textsuperscript{44} Pollet-Fort, “The EU-Korea FTA and its Implications for the Future EU-Singapore FTA”.
7. THE EU-SINGAPORE FTA – A MODEL FOR FTAs WITH OTHER ASEAN TRADE PARTNERS?

The EU-Singapore FTA is the first step in achieving the wider EU goal of a comprehensive EU-ASEAN FTA. As stated by the European Commission, the EUSG FTA “will level the playing field in Singapore and is a stepping stone to a greater engagement across Southeast Asia”. EU negotiations with Malaysia started in October 2010 and in June 2012 with Vietnam, while negotiations with Thailand opened on 6 March 2013. Scoping exercises are well underway with Indonesia and under discussion with the Philippines, while Brunei may be offered a tweaked version of the Singapore Agreement at the appropriate time.

7.1 Status of the negotiations with Malaysia

Negotiations for a Malaysia-EU FTA (MEUFTA) were officially launched in October 2010. So far, seven rounds of talks have taken place, of which the last one in April 2012. The next round will be scheduled after the Malaysian General Elections, to take place at the latest by 27 June 2013. In the meantime, preparatory work is carried out by technical working groups. Both the ruling party and the Malaysian opposition are considered trade-friendly, so the election is expected not to have a major impact on trade negotiations, neither with the EU, nor with the US in the framework of the TPP.

Malaysia is considered to be halfway on the path towards concluding an FTA. It is no secret that although both the EU and the US are pushing for reforms in the same areas, such as transparency or competition, they are competitors in the Asia-Pacific region. Regarding some specific issues their opinions diverge significantly, e.g., the protection of GIs.

The agreement between Brussels and Kuala Lumpur is expected to be a very comprehensive one, covering the entire range of trade-related issues: market access for goods, services and investment, rules of origin, regulatory measures (SPS, TBT), competition, IPRs, public procurement and sustainable development. However, if Malaysia’s previous FTA negotiations need to be scrutinised in order to shed some light on a future agreement with the EU, Malaysia’s track record could appear as rather worrisome. Negotiations with the US have been paused since 2009, as Malaysia could not resolve 58 contentious issues tabled in 2007 by Washington. Nonetheless, Kuala Lumpur is now involved in several negotiation processes, such as the TPP and the RCEP, and is thus acquiring experience and knowledge on trade-related issues, which may facilitate talks with the EU.

Malaysia is the EU’s second largest trade partner in ASEAN, mostly exporting machinery and transport equipment (63,3%), chemicals and related products (11,6%) and manufactured goods (9,4%), while importing machinery and transport equipment (62,1%), chemicals products (12,2%) and manufactured goods (10,8%). Trade in services – a key sector for the EU - is still limited but has been growing steadily in recent years.

7.1.1 Key sectors in the negotiations

As is the case for every trade negotiation, some issues attract more attention and require more time to be concluded than others. Issues that Malaysia never addressed in previous FTA negotiations, such as public procurement, competition or IPRs, constitute some of those key topics.

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45 European Commission, Memo/12/993, 16 December 2012.
a) **Government procurement (GP)**

Some areas of government procurement are very sensitive for Malaysia, as like many developing countries, it considers public procurement as a policy tool. Malaysia has never before included a chapter on public procurement in its previous FTAs and is not a member of the WTO GPA. Kuala Lumpur even formed a coalition to resist the inclusion of a multilateral agreement on public procurement in the WTO Doha round.\(^{46}\) Hence, discussions on GPA commitments are politically sensitive for Malaysia and the level of ambition is challenging. Besides, Malaysia often questions the openness of the European procurement market, pointing at de facto obstacles such as language barriers. Indeed, as detailed offers are often only available in Member States' official languages, it is a very challenging task for Malaysian companies to respond to calls for tender.

Given the chances of the EU settling on a GP chapter only addressing transparency issues or containing too many exceptions, are low and this part of the agreement is anticipated to require lengthy discussions.

b) **Intellectual Property Rights (IPR)**

The EU and Malaysia may encounter difficulties in discussing IPR issues, notably in the field of pharmaceuticals. Many NGOs raised concerns on a potential increase in the prices of medicines. The Malaysian authorities responded to criticisms by a thorough explanation of safeguards measures and other mechanisms available to deal with the expressed concerns, which proves the government will be ready to put in some efforts to convince its population.\(^{47}\) It seems that the EU and Malaysia are sharing the same views on access to generic medicines but in this agreement they will need to strike the right balance between allowing for access to medicines and ensuring protection of innovative medicines.

Malaysia has a different system of patenting, applying the concept of global and not national exhaustion. So far, the question has not been resolved during negotiations but the EU has proposed a compromise.

Finally, Malaysia does not have a dedicated register to protect GIs, yet its legal arrangement is TRIPS-consistent, providing for additional protection for spirits and wines. Creating such a specific system – similar to Singapore's - will have a significant cost in terms of resources required, and once created, the register would apply to all trade partners, without reciprocity, except in the EU. Subsequently, Malaysia will need time to assess its potential gains from the establishment of an EU-style register and whether it would be beneficial on a long-term basis.

c) **Competition**

Malaysia has introduced a new Competition Act, effective since January 2012. However, it reflects an approach that is very different from European competition law, focusing mostly on antitrust matters while the EU's is offering an overarching vision, addressing transparency issues and subsidies. Considering the recentness of the legislation, Malaysia will require some time to figure out its efficiency before settling on a final competition chapter with the EU. In addition to those areas that are new to negotiations for Malaysia, some other chapters may be more difficult to conclude due to national sensitivities.

\(^{46}\) See Tham "Negotiating for a Malaysia-EU FTA – Contesting Interest from Malaysia's Perspective".

\(^{47}\) Ibidem.
d) **Services**

Services will be crucial for the EU, as foreign ownership in Malaysia is capped in most subsectors. Key areas would be business, financial, communication and transport services. The Malaysian government has taken several unilateral initiatives such as opening 27 subsectors in 2009 in the field of computer and related services, health and social services, tourism, transport, rental and leasing, supporting and auxiliary transport and business services, with another 18 subsectors to be opened in 2012.48 Even if these commitments are unilateral and do not automatically imply that Malaysia will agree on enshrining them within an international instrument, it seems to set a clear trend and the Malaysian authorities will have to take these commitments into account while negotiating trade agreements with third partners.

The issue of opening the service sector is a very sensitive one, as an opening to a 100% foreign ownership implies the end of the policy of positive discrimination of the Bumiputras, which ensures a mandatory 30% Bumiputras ownership for services, a rule that has already been withdrawn for manufactures. This sensitivity was reflected in the need felt by the Malaysian authorities to precise that their 27 subsectors liberalised in 2009 were sectors in which the Bumiputra were not really present.

The EU requested to discuss several areas such as postal and mail services, maritime services and telecommunication. It also brought up financial and professional services, such as legal services and architecture, both more sensitive to Malaysia. Discussions may heat up if the EU sets too many country exceptions to opening up individual EU service sectors, as Malaysia feels that once it opens a sector, it does so entirely. Therefore, the idea of excluding several EU Member States, depending on the sector, may not be accepted easily by the Malaysian counterpart.

The presence of the Malaysian government in the service sector will not facilitate the talks, as they will be more reluctant to compromise.

e) **Palm oil**

Malaysia’s key offensive sector is palm oil. Indeed, the sector has great significance for its economy and the EU is the second export destination for that product, after China. Negotiations on the liberalisation of palm oil are still ongoing. Outside the FTA process, Malaysia has raised concerns about the sustainability criteria in the RED Directive. Using criteria such as biodiversity losses triggered by the deforestation that takes place when a tropical rainforest or peat-swamp forest is reassigned to oil-palm cultivation. This qualification will have an impact as the EU Renewable Energy Directive (RED) allows granting tax credits to renewable fuel sources when the sustainability criteria of at least 35% less greenhouse gas emissions than traditional fossil fuels, is met. Emitting only 19% less greenhouse gas, palm oil biofuel made in Malaysia cannot qualify for the tax credit and Kuala Lumpur has thus criticised the directive as arbitrary, even threatening to bring the case before the WTO. Without the tax credit, Malaysian biofuel is unable to compete with the European rapeseed oil biofuel, which qualifies for the tax credits as it emits 38% less greenhouse gas than traditional fossil fuels. Moreover, the presence of the government and state in the sector through equity ownership will increase the pressure and reluctance to compromise.

f) **Automotive Sector**

The automotive sector will be Malaysia’s first defensive interest. Indeed, the local market is very well protected by import duties and excise duties, approved permits, sales taxes and other NTBs. The local automotive industry is a national symbol of pride and has given birth to two Malaysian cars: the Proton, created in 1983, and Perodua, created in 1993. Perodua, having gained important market share, is partly

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48 http://myservices.miti.gov.my/web/guest/autonomous
owned by Daihatsu, a subsidiary of Toyota, which means better R&D funding and better management of problems linked to economies of scale. After the conclusion of an MEUFTA, the Malaysian car industry will have to meet international standards, which is seen in Malaysia as an efficient way to increase its competitiveness in the sector. Looking at the economic partnership agreement Malaysia concluded with Japan in 2005, it is likely that Kuala Lumpur will accept to reduce at least tariffs in the sector. Concessions to be made on other NTBs such as excise duties or sales taxes remain however to be seen.

g) Sustainable Development

As the MEUFTA will include a chapter on sustainable development, it will probably serve to address the challenges Malaysia currently faces, such as biodiversity loss caused by deforestation and the intensification of agriculture and aquaculture. Malaysia is a member of the Roundtable on Sustainable Palm Oil and hence should comply with its social and environmental standards.

Nevertheless, beyond pragmatic issues, Malaysia does share many EU principles, even if not contained in a law but rather reflected in non-legislative tools such as best practices. Therefore, this chapter of the MEUFTA should be concluded easily. Some administrative matters may require more time, including the composition of the group involved in the monitoring mechanism. The EU wants NGOs and advocacy groups to take part in the process, but Malaysia may request specific guarantees, such as a pre-agreed list. Even if this seems rather unimportant, it is Malaysia’s first experience with this kind of mechanism and the authorities do not want to set a precedent that they could regret later. Negotiations are on hold due to ongoing policy reviews on the Malaysian side and the recent elections. Negotiations on investment protection will commence once the Commission has obtained the mandate foreseen for the second half of 2013 and as soon as Malaysia is again ready to take some important political decisions in the aftermath of the recent general elections.

7.2 Status of the negotiations with Vietnam

The EU started its negotiations on the Vietnam-EU FTA (VEFTA) in June 2012, shortly after a renewed Partnership and Cooperation Agreement (PCA) was concluded by the two partners. The negotiations aim at reaching a comprehensive agreement covering not only tariff issues but also NTBs, public procurement, regulatory issues (like Sanitary and Phytosanitary measures, SPS), competition, services and sustainable development. Currently, only 38% of the Vietnamese exported goods enter the EU duty-free under MFN treatment and another 14.5% are eligible for this under the EU GSP.

So far, three rounds of negotiations have taken place. The first one in Hanoi in October 2012, the second one in Brussels in January this year and the third one in April in Ho Chi Minh City. All issues have been discussed, including inter alia foods and services, investment, intellectual property, TET, SPS, government procurement, trade and sustainable development. As Vietnam needs to address further domestic reforms, the talks might however turn out to be complex on several issues.

Vietnam is only the 5th partner of the EU in ASEAN, with Hanoi mostly exporting manufactured articles (41,1%), machinery and transport equipment (29%), food and live animals (18,6%), while importing machinery and transport equipment (47,2%), chemicals or related products (16%) and manufactured goods (12,3%). In the past, Vietnam faced several anti-dumping duties, notably on bicycles and leather footwear.

50 http://www.aseanaffairs.com/vietnam_news/trade/vietnam_eu_trade_talks_begin
7.2.1 Key topics

The agreement aims at tariff elimination for 90% of the products, which will mainly help the EU exporters of the many products that are currently protected in Vietnam by high tariffs, such as cars, machinery and automatic appliances, steel, chemicals and pharmaceuticals, food and alcoholic beverages. Vietnam will probably focus on tariff elimination by the EU for textiles, garments, footwear and food.

As for services, equity participation caps should be addressed by the EU negotiators, especially in the banking sector. Enforcement of IPR commitments, transparency of tendering procedures and the introduction of protections for GIs should also be addressed.

Unlike Singapore, Vietnam does not have an efficient competition policy and state-owned enterprises (SOEs) are currently absorbing most of the available credit without producing proportional growth and employment. Negotiating a Competition chapter with the EU may well help Vietnam’s government to push for more commercially-oriented SOEs.

On issues related to customs and trade facilitation, technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPS), the EU will pursue commitments that go beyond what Vietnam already agreed to at the WTO level. Furthermore, the aim is to insert a comprehensive sustainable development chapter in the agreement.

7.3 Implications of the EU-Singapore FTA for a future EU-ASEAN FTA

7.3.1 The EU’s view: a future model

The EUSG FTA is a starting and turning point for future negotiations with other ASEAN countries. Taken into account that it covers every WTO+ aspect of trade, the EUSG FTA can be considered as a benchmark, if not a model, for future negotiations with other ASEAN countries. The temptation is even stronger than in the case of the EUROK FTA since, unlike South Korea, Singapore is a proper ASEAN member and therefore the EUSG FTA will have impact when a region-to-region FTA will be under discussion. The European Union clearly inserted elements in the agreement, such as the chapter on public procurement and sustainable development, that are less relevant to Singapore, only with due regard of future negotiations and the precedent the EU thus created. The EUSG FTA not only provides a strong baseline but also reflects the EU’s expectations in sensitive fields, hence allowing ASEAN member states to be better prepared when entering negotiations with their European partner.

On the EU side, there is a clear willingness to use the text as a model, especially for the norms it puts into place in trade in services, investment, public procurement or sustainable development. Yet, the near absence of tariffs and the high quality of Singapore’s regulations clearly facilitated the process of negotiations, a situation which will not be possible to reproduce in negotiations with other ASEAN members. The EU has to keep in mind that its other Southeast Asian trade partners may neither be as willing nor able to liberalise their markets according to the Singapore model. Even in the regional context of the ASEAN Trade in Goods Agreement (ATIGA), Singapore liberalised its market more than other ASEAN countries such as e.g., Malaysia, which only opened 60-65% of its market. Moreover, the internal agenda of the individual ASEAN countries will be a key criterion, like in South Korea where the FTA negotiations helped pushing for the modernisation of the service sector. On the one hand, no FTA is possible without an internal reform agenda, but on the other hand, internal resistance can also make it impossible to reach an agreement, especially on certain chapters.
7.3.2 What can we learn on specific issues?

As mentioned, one of the reasons that made Singapore such a good candidate for a first bilateral FTA was its previous demonstration provided by the US-SG FTA that it could deliver on a wide range of issues. As far as other ASEAN countries are concerned, the track record is less encouraging as their previously negotiated trade agreements are much more shallow or as, occasionally, such negotiations were stalled as in the case of the US-Thailand FTA.\footnote{On this issue, see Pupphavesa, Cuyvers, Chaisrisawatsuk, and De Lombarde, “Negotiating the Thailand-US Free Trade Agreement”.
} Mostly, only tariffs are addressed and sensitive sectors are excluded, which implies that many of the topics that are crucial to the EU have never been discussed in the context of an FTA negotiation by the other ASEAN countries.

Areas like market access for investment and services or public procurement are (and will be) very important in the FTA negotiations with Malaysia and Vietnam. Investment protection, however, should not be a tough issue. Some country-specific questions may arise, like these relating to spirits or halal requirements for Muslim countries\footnote{For instance, in Malaysia, the halal requirements that apply only to meat and meat-products are stricter than in some other Muslim countries.} but following the EU’s logic, no good can be left out and all should be included in a final agreement. The addition of “green aspects” in the EUSG FTA, such as the fourth NTBs annex or the accent on green growth, will probably be expected from other ASEAN partners as well.

Regarding public procurement and IPRs, the discussions with other ASEAN countries will probably not follow the path left by Singapore, but risk to replicate the EU-India FTA negotiations. Indeed, while dealing with New Delhi, the EU was already forced to lower its expectations on public procurement, taking for instance into consideration India’s determination – as is the case with many developing countries – to protect its domestic ‘infant’ industries. Most ASEAN countries do not present the same level of existing IPRs regulations as the European Union and therefore, the IPR chapter may become a solid bone of contention. In comparison, negotiations on GIs should generally be easier, considering that several ASEAN countries have GI systems in place with similar features as the EU’s. GI protection in the ASEAN countries could have a very positive impact allowing to “revitalise and help preserving rural regions, ethno-cultures and skills, increase environmental quality and bio-diversity”.\footnote{Wattanapruttipaisan, “Trademarks and Geographical Indications: Policy Issues and Options in Trade Negotiations and Implementation”.
} The precedent set by the EU with Singapore will thus be very helpful as it can not only serve as a model but also allow ASEAN countries to witness the consequences of establishing an EU-style register on Singapore’s economy.

In the manufacturing and agricultural sector, the EUSG FTA will not be of great help to European and Asian negotiators. On the one hand, both South Korea and Singapore do not have a strong agricultural sector and thus avoided lengthy discussions on the topic. Nevertheless, with due consideration of the economies of the other ASEAN countries, agriculture is not expected to become a difficult issue for future negotiations (only poultry in Thailand can possibly raise attention). It would be less surprising if Asia would become defensive, as the EU is the world first exporter of agricultural products.

On the other hand, concerning manufacturers, tariff elimination was easily finalised with Singapore as the country only had six tariff lines. The other ASEAN countries, however, have more tariff lines and higher tariffs to consider, and therefore have more leverage. Talks on sanitary and phitosanitary (SPS) measures should also lead to consensus as problems with Asian countries are more related to food
quality than to divergence in terms of norms. What will be key is the establishment of common food safety standards.

Finally, while Singapore had no car industry, the EUSG FTA does contain provisions on automotive standards. The automotive industry is a very sensitive sector in Europe and the EU needed to introduce specific provisions to serve as a model for future negotiations with the other ASEAN countries. Not many ASEAN members are representing an economic threat to the EU’s automotive industry and therefore, issues relating to that sector should not become the main hurdle in negotiation with ASEAN members (with the exception of Malaysia for which the local automotive industry is one of the most important sectors and a symbol of national pride, protected by many NTBs).

8. CONCLUSIONS AND ISSUES FOR FURTHER CONSIDERATION

8.1 Regional Dynamics

The TPP negotiations are moving forward, regardless of any EU action. In many aspects this is not a disadvantage, as the US has many requests similar to these of the EU. Two different counterparts requesting the same effort makes it easier to gain field. Only with respect to GIs is the US moving in an opposite direction in their negotiations. According to ASEAN representatives, this is not a zero-sum game, as the advantages acquired by one will also be given to the other. For instance, in the field of public procurement, the question is whether to open them to third partners and not to which third partner it should be opened. The EU also needs to seize the momentum created by the unwillingness of ASEAN nations to be left behind once the first FTA with the EU has been signed.

8.2 Non-trade issues in trade

Since the Lisbon Treaty entered into force in 2009, the European Parliament (EP) has acquired new competences in trade. The European Parliament has now to assent every trade-related agreement concluded by the European Union. As the EP previously stated, no FTA will go through the Parliament without the third country prior signing a Partnership and Cooperation Agreement. Therefore, particular issues unrelated to trade may be of great importance, such as human rights, the death penalty or environmental matters. Singapore is very close to conclude its PCA negotiations with the EU and Vietnam already wrapped them up in June 2012. However, discussions with Malaysia are still on-going. Dynamics in the EP may change with the 2014 elections and the International Trade Committee may become more politicised than was the case before.

The EU-SG FTA, has so far not provoked any clash within the European Parliament. However, as it was the case with South Korea, a parallel agreement on safeguard regulations, even if the sectors that it would address are still uncertain, would be politically desirable to get the FTA easily adopted in the EP plenary. Disagreements will probably become more salient when Vietnam and Malaysia will be discussed.

Under the Lisbon Treaty, trade is part of the EU’s external policy and thus required to follow the objectives established within that framework. Trade is a foreign policy tool that the EU uses to export its core societal norms to third partners, yet not always in a coherent way. Indeed, why would the EU complain about death penalty in Singapore and Japan without raising the issue in the framework of talks with the United States? The answer has to be found elsewhere: the economic importance of the partner, the potential impact of such statements or the strategic issues then at stake.
With the financial and economic crisis which the EU is presently facing, it has an even bigger incentive to conclude FTAs with new partners. However, questions arise as to whether the EU can still bear the costs of such a normative policy. Has the EU lost too much leverage and economic attractiveness to hope for compliance from its partners? The need to gain access to new growing markets may require turning off its usual criticisms. The question is, however, to what extent this should be done and what is the subtle balance the EU must strike?

8.3 A model? Singapore, the exception in ASEAN

A model “EU-Singapore” FTA to be sold off the shelf to the rest of ASEAN and Asia is wishful and wistful thinking. The ultimate target of an EU-ASEAN FTA which is in the interest of both regions, will follow from using the EUSG FTA as a key building block within a wider framework to establish bilateral FTAs that are congruent and which can be knitted together as a single entity over time. The pace will be largely set by that of ASEAN’s own economic and political integration. The region now aims at becoming an ASEAN Economic Community with free movement of goods, services, investments and skilled labour by 2015. However, as just another ASEAN+1 FTA, an EU-ASEAN FTA will not go beyond the lowest common denominator of ASEAN member states policy preferences, which is mirrored in the ASEAN acquis.54

With the creation of the ASEAN Economic Community in 2015 it will be timely for the EU and ASEAN to initiate the discussion on how to combine the bilateral FTAs between ASEAN countries and the EU. By then, and from this perspective, bilateral negotiations between the EU and individual ASEAN countries should have progressed as far as possible and with as many ASEAN partners as possible. Indeed, the bigger the critical mass the EU creates, the better the final deal. For instance, a common set of legislation regarding rules of origin, thanks to bilateral negotiations between the EU and individual ASEAN members, could be very helpful in the building of a single market. However, the EU needs to remain realistic about ASEAN’s ambitions in terms of liberalisation within the Asian bloc. Even if better integrated on paper, what will be the concrete result?

In this respect it is important for the EU to fully take into account that in as much as it wants to go beyond the ASEAN acquis, this mostly will materialize in the codification of cooperation provisions in its bilateral FTAs that are linked to the establishment of strong institutional mechanisms and can allow the development of economic integration disciplines in the future. One should realize that such cooperation provisions “with an institutional backbone”, will often create provisions in the future EU FTAs with ASEAN countries which will lead to commitments from the individual partner countries going beyond where the partner country for various reasons is willing or able to go. In turn, it will be these provisions in future FTAs with ASEAN countries which often will increase the number of common denominators in the bilateral FTAs and allow coverage and depth in a future EU-ASEAN FTA.

The road that leads to an EU-ASEAN FTA is evidently still long and uncertain, raising questions such as “How ASEAN will evolve and how strong the economic community will be it establishes?”, “How will the EU approach negotiations with other ASEAN countries? Will it lower - have more realistic - expectations after creating a precedent with the EU-Singapore FTA that reflects the exceptional nature of Singapore within ASEAN and the region at large?”, and last but not least, “How will trade dynamics in Southeast Asia evolve, and in which direction will it push ASEAN member states?”. All those questions will probably find an answer in the next couple of years, but it is more than likely that these answers will be the EU’s favoured ones.

54 On this issue, see Kleimann “Beyond Market Access? The Anatomy of ASEAN’s Preferential Trade Agreements”.
9.  BIBLIOGRAPHY

EUROPEAN COMMISSION, Overview of FTA and Other Trade Negotiations, updated on 14 January 2013.


YEAN, Tham Siew, “Negotiating for a Malaysia-EU FTA – Contesting Interests from Malaysia’s Perspective”, Asia.Vision, n°57, November 2012

ARMANOVICA, Marika, “EU-Malaysia economic and trade relations”, Policy Briefing, September 2012

ARMANOVICA, Marika, “EU-Vietnam economic and trade relations”, Policy Briefing, September 2012


EUROPEAN COMMISSION, Facts and Figures: EU trade agreement with Singapore, Memo/12/993, 16 December 2012


POLLET-FORT, Anne, “The EU-Korea FTA and its Implications for the Future EU-Singapore FTA”, Background Brief, n°4, EU Centre in Singapore, June 2011


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