

LEGAL PERSPECTIVE ON ASEAN ECONOMIC COMMUNITY

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Abstract

Since 2015, the ASEAN Economic Community (AEC) applied in its member countries, including Indonesia. The preparation effort is regulatory legislation related to the AEC as a guide to achieve country's goals. The research aims to focus on how to inventory of the AEC regulations and how to find out in passing the AEC. The method uses the normative juridical approach and qualitative descriptive data analysis method. These research results that have a global market share, exporting country, investment destination country, a liberalization of ASEAN goods trade, large demographic bonuses, open services sector, and smoother capital flows constantly. While the challenge is the elevation of the rate of export-import and the inflation rate, the negative impact of broader capital flows, the similarity of export products which is still diverse must be solved. The Indonesian Government has an authority to regulate the role and function through its policies optimally, because of the opportunities and the existence of Indonesia. It is a matter of course that each member country to face AEC still not enough of expectations.

Keywords: AEC, ASEAN, Law, Regulation

I. Introduction

Association of nations in Southeast Asia, known as The Association of Southeast Asian Nations (ASEAN) was established in 1967 through the Bangkok Declaration. The original members were Indonesia, Malaysia, Singapore, Philippines and Thailand (five countries). The five countries at that time can be united because the country has the same political interests of the anti-communist state. When ASEAN is established with the principle of respect for sovereignty, not intervening in the domestic / internal affairs of the country concerned and consensus decision-making. The principle is still valid today.

In terms of organizational and institutional perspective, ASEAN shows its development not only in the form of economic, social and cultural cooperation but moves towards to the political cooperation that will have further implications and requires thought and research.

The ASEAN horizon to interact both regionally and internationally can be observed in the meetings or sessions between ASEAN member countries and other International Organizations as the Subject of International Law which is a collective agreement to establish a declaration, treaty or agreement. Such as: the Kuala Lumpur Declaration, November 27th 1971 on the Zone of Peace Freedom and Neutrality Declaration; Declaration of ASEAN Concord, Denpasar, Bali, February 24th 1976 on A Common Bond Existing Among the Member State of the ASEAN; Treaty of Amity and Cooperation in South East Asia, Denpasar, Bali February 24th

1976; Agreement on the Establishment of the ASEAN Secretariat, February 24th 1976. Therefore, this organization has been equipped with five instruments, namely: the Kuala Lumpur Declaration 1971 Treaty of Amity and Cooperation in SEA 1976 Agreement of the ASEAN Secretariat, and the Bangkok Declaration in 1967.

Even the expansion of ASEAN is not only limited to inward looking but also strived for cooperation with other regional organizations. Even this effort is not in vain that with the holding of an official dialogue with the European Economic Community through Special Coordinating Committee on ASEAN (SCCAN) and ASEAN Brussels Committee (ABC) since 1972. Hereupon in 1975, reinforced by a Joint Study Group ended up happening either ministerial meeting of ASEAN as well as from the EEC which successfully produced the Co-operation Agreement, March 7th, 1980.

ASEAN cooperation as well as South East Asian Business (SEABC and so on). This cooperation of institutionalization has an important meaning in strengthening the existence of ASEAN international forum who have a role in the international political arena.

Cooperation between ASEAN members and inter-International Organization also shows that ASEAN is more steady in the international society, in international and regional issues as well as the effectiveness of the provisions of International Law become more real as the principles and rules governing relations between countries.¹

When ASEAN was established based on political interests, after past 25 years, these countries have formed a group of countries is based on economic interests, known as the "ASEAN Free Trade Area" or AFTA was established in 1992 as a counterweight to the groups formation of economies in the continent of America, North America Free Trade Agreement (NAFTA) and the European continent, the European Economic Community (EU).

AFTA itself is felt by ASEAN countries still can not be a mainstay to face the external pressure from China and India. The existence of such external pressure made ASEAN countries that originally formed AFTA requires a more intensive integration level and comprehensive, called ASEAN Economic Community as well as the European Economic Community. Although both groups of countries in ASEAN and Europe call it a "Community", but the sense of community in Europe is different from the sense of community in ASEAN. In Europe, these societies are formed and countries as members of the European community are surrendering their sovereignty, while in ASEAN, the society is formed without submitting its sovereignty.

¹ Soekotjo Hardiwinoto, *Pengantar Hukum Internasional*, Badan Penerbit Universitas Diponegoro, Semarang, 1994, hlm.246.

ASEAN Economic Community consists of four pillars, namely:

1. The unity of the market and production base;
2. The ASEAN region that has competitiveness;
3. Equitable economic development;
4. ASEAN entering to the global economy.

Given the importance of external trade for ASEAN and strategies of economic development in ASEAN countries are outward looking, ASEAN Economic Community blueprint contains 4 framework or pillars of the ASEAN Economic Community, namely:²

1. ASEAN as a single market and production base with an element of international free flow of goods, services, investment, skilled labor and liberal capital flows.
2. ASEAN as a region with high economic competitiveness, with elements competitive regulations, consumer protection, intellectual property rights, infrastructure development, taxation and e-commerce.
3. ASEAN as a region with equitable economic development with elements of the development of small and medium enterprises, and the initiative of ASEAN integration for CLMV (Cambodia, Laos, Myanmar and Vietnam) countries contained in the Initiative for ASEAN Integration.
4. ASEAN as a region fully integrated into the global economy with a coherent approach to the economic elements outside the region, and increase participation in global production networks.

To achieve the four pillars of the necessary operational steps consisting of:

1. First pillar, freedom of goods movement, services, investment, capital and professional workforce;
2. Second pillar, consumer protection, cooperation in the Intellectual Property Rights, regional cooperation in infrastructure development, an agreement on double taxation, encourage the growth of e-commerce;
3. Third pillar, encourage the enhancement of Small Medium Business, narrowing the gap among ASEAN countries (CMLV countries);
4. Fourth pillar, strengthen the relationship with the outside parties of the ASEAN.

² Bagus Setiawan Hardono, *Masyarakat Ekonomi ASEAN (MEA): Awal Kebangkitan Indonesia?*, http://www.hukumpedia.com/bagus_hardono/masyarakat-ekonomi-asean-asean-economic-community-awal-kebangkitan-indonesia

2. Research Methods

The research aims to focus on how to inventory of the AEC regulations and how to find out in passing the AEC. The method uses the normative juridical approach and qualitative descriptive data analysis method.

It uses descriptive analysis method, using the literature, documentary study and field research related to the main substance of the study. After the data have been collected, the next process is to identify, to clarify, and to analyze systematically; And finally all this research results are presented in a compiled final report.

3. Result and Discussion

3.1. Illustration of The ASEAN in Concisely

Initially before ASEAN was made and the ASEAN Charter was signed, ASEAN is an international organization which the status can be said semi-international organizations. This is due to the absence of a rule of law and a formal legal framework underlying the activities of its members. ASEAN nowadays as an international organization that already has a charter certainly has a formal legal framework and legal binding to its members. The legal basis of ASEAN which has changed from just the Bangkok Declaration to an ASEAN Charter must have brought about a change in terms of legally binding force for its members.

The process of drafting the ASEAN Charter formulated by the High Level Task Force (HLTF), which consists of ten representatives of each member. The formulation of the ASEAN Charter concept was conducted in 13 meetings which took place from January to October 2007. The ASEAN Charter was signed on November 20th, 2007 by the ten ASEAN member countries at the 13th ASEAN Summit in Singapore, subsequently ratified by each member countries. By having the constitution of the ASEAN Charter providing the legal basis for all ASEAN activities both internally and externally, making ASEAN an international regional organization entity having legal personality, as clearly defined in the ASEAN Charter:

"ASEAN, as an inter-governmental organization, is hereby conferred legal personality ...".³

ASEAN is a forum for cooperation between independent and sovereign states where the independence of each member country is respected and not diminished since the founding of the association. Cooperation of countries in Southeast Asia is more focused in the economic and socio-cultural field that aims to accelerate economic and socio-cultural growth for the foundation of the development of Southeast Asia society is eternal and peaceful.

³ Piagam ASEAN, Pasal 3

Southeast Asia region is one of geopolitical and geo-economic strategic areas. It is realized by countries both inside and outside the region, that Southeast Asian countries make efforts to raise regional cooperation both intra and extra regional such as Association of Southeast Asia (ASA); Malaysia, Philippines, Indonesia (Maphilindo); Southeast Asian Ministers of Education Organization (SEAMEO) and Asia and Pacific Council (ASPAC).⁴

The geopolitical development of Southeast Asia after 1965 was heating up, ultimately pushing Southeast Asian countries to seek joint solutions through a form of cooperation that could improve their lives and at the same time alleviate mutual suspicion and strengthen the stability of Southeast Asian regional security. On that basis, Consultative meetings held intensively between Foreign Ministers of Indonesia, Malaysia, Philippines, Thailand, and Singapore, hereupon produces a draft Joint Declaration.

ASEAN's position has grown steadily and is increasingly taken into account with a wider reach and more popular in both regional and international forums. The establishment of ASEAN which Indonesia is one of the initiator, was announced in a Declaration (Bangkok Declaration, August 8th, 1967) that determines the cooperation framework between the ASEAN countries to maintain national identity member countries in accordance with the ideals and aspirations of their people. So the background of its formation is the real motivation of member countries, especially in the economic, social and cultural fields to establish regional cooperation which is also linked with cooperation to promote regional peace and stability through respect, legal arrangement and justice of Southeast Asian countries which follows the principles of the United Nations Charter (*to promote regional peace and stability through a binding respect for justice and the rule of law in the relationship among the United Nations Charter*).⁵

The aim of ASEAN which set out in the Bangkok Declaration in detail are as follows:

1. To Accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to Strengthen the foundation for a prosperous and peaceful community of Southeast Asian Nations;
2. To promote regional peace and stability through abiding respect for justice and the rule of law and the relationship among countries of the region and adherence to the principles of the United Nations Charter;

⁴ Thontowi J. & Iskandar P. (2006), *Hukum Internasional Kontemporer*, Bandung: Refika Aditama

⁵ See Bangkok Declaration

3. To promote active collaborations and mutual assistance on matters of common interest in the economic, social, cultural, scientific technical and administrative fields;
4. To Provide assistance to each other in the form of training and research facilities in the educational, professional, technical and administrative spheres;
5. To Collaborate Effectively more for the greater utilization of Reviews their land agricultural industries, the expansions of Reviews their trade Including the study of the problems of international commodity trade, the improvement of Reviews their Transportations and communications facilities and the raising of the living standards of Reviews their peoples;
6. To promote South East Asian Studies;
7. To maintain close and beneficial cooperations with existing international and regional Organizations with Similar aims and purposes and explore all evenous for even closer cooperation among Themselves.

ASEAN was established on August 8th, 1967 in Bangkok after signing a declaration called the Bangkok Declaration or also known as the ASEAN Declaration by representatives of five countries, namely:

1. Adam Malik (Minister of the Presidium of Political Affairs / Minister of Foreign Affairs of the Republic of Indonesia);
2. Tun Abdul Razak (Deputy Prime Minister, Minister of Defense and Minister of National Development of Malaysia);
3. Narciso Ramos (Minister of Foreign Affairs of the Philippines);
4. S. Rajaratnam (Minister of Foreign Affairs of the Singapore);
5. Thanat Khoman (Minister of Foreign Affairs of the Thailand).

August 8th, 1967 has meaning and historical value for the nations in Southeast Asia, which was the date of birth or the establishment of a new organization of regional cooperation in Southeast Asia and the legal basis for ASEAN Bangkok Declaration. On this basis, the provisions contained in the declaration have binding powers for member states.⁶

When the ASEAN still based on the ASEAN Bangkok Declaration, ASEAN activities based on the principles as set out in the Treaty of Amity and Cooperation (TAC) in 1976, namely:

1. Mutual respect for independence, sovereignty, equality of territorial integrity and the identity of the entire nation;

⁶ See Bangkok Declaration

2. The right of every countries to regulate the country free from foreign interference, subversion and coercion;
3. Not interfere with the internal affairs of other countries;
4. Resolving disputes peacefully;
5. Not using threats or weapons to solve inter-state problems;
6. Effective cooperation among member countries.

Based on the Bangkok Declaration, the organizational structure of ASEAN, comprising of the ASEAN Ministerial Meeting (AMM), the ASEAN Standing Committee (ASC), that led by the Minister of Foreign Affairs of the country which is the Chairman of the ASC members include Ambassador of ASEAN member countries placed on the country, Chairman of the ASC, permanent committees and ad-hoc committees and the National Secretariat in each of the ASEAN member countries.

The reality in the subsequent development Brunei Darussalam also participated (accession/adhesion) to become the sixth ASEAN members formally accepted in Jakarta, January 7th, 1984. The legal basis is the signed declaration by the six Minister of Foreign Affairs of ASEAN, and since then Brunei Darussalam is bound by the provisions outlined by ASEAN or in other words Brunei Darussalam declares to accept the ASEAN provisions in force in its country. And also the existence of a provision in the Bangkok Declaration which states:⁷

"That the association is open for the participation of all states in the South East Asian Region. Subscribing to the aforementioned aims, principles and purposes".

Therefor it is not limited to the five countries that signed the Bangkok Declaration but is open to all Southeast Asian countries. Not only Brunei Darussalam, nor the Khmer Republic, Laos, Burma (now Myanmar) and Vietnam. In relation to other International Organizations it can also be proved that there are important foundations: to be called the International Organization must meet three conditions: Statutes, Permanent Members, and Permanent Agencies. Statute is a formal provision for an International Organization which the content is the work basis for the organization.

The various forms of these statutes are using declaration, pact, charter or treaty. Since Bangkok Declaration 1967 was signed, to realize the intent and purpose and to raise cooperation with international organizations both regional and international residing in other regions, it has

⁷ See Bangkok Declaration

been decided between members about the elaboration of the policy line set forth in Bangkok Declaration of 7th item which reads:⁸

"To maintain close and beneficial cooperation with existing international and regional organizations with similar aims and purposes, and explore all evenings for even closer cooperation among themselves".

This provision is the juridical basis for establishing cooperative relations with other International Organizations. (See Bangkok Declaration)

ASEAN was formed through the format of a "declaration" which is not binding, indicating that the founders of ASEAN does not want to cede sovereignty to the institution of ASEAN as well as carried out by the member states of the European Community that its formation by the "Treaty", known as "Mastricht Treaty" which is binding.

According to Ji Xin Bai, ASEAN has a uniqueness that adhering to the principle of "ASEAN Way" which did not intervene to domestic politics:⁹

"... ASEAN way of non recognition in domestic affairs in politics risk being translated and relegated to recognition of mutual interest in economics. In the absence of strong regional institutions and any sanction mechanism for non compliance and non cooperation, only peer pressure incentives to respect community commitments. "

Ji Xin Bai further stated as follows:¹⁰

"That some ASEAN countries do not fully ratify the instruments as the executor of the ASEAN Economic Community, for instance, if the national interest is compromised, Indonesia will delaying ratification of "Open Sky Policy", the Multilateral Agreement for Full liberalization of Air Freight Services (MAFLAS). Indonesia views if the "Open Sky Policy" opened the ASEAN countries other aircraft can reach more airports in Indonesia compared to the country, such as Singapore.

The Philippine Constitution prevents foreigners from buying up more than 40% of domestic stocks, Thailand limits foreigners to enter into tourism businesses outside Thailand freely "

According to Forbes Indonesia (November 2014):¹¹

⁸ See Bangkok Declaration

⁹ Jones L. (2009), Nuffield College Oxford, *ASEAN and the Norm of Non-Interference in Southeast Asia: A Quest for Social Order*, p 2

¹⁰ Jones L, *opcit*, p 4.

¹¹ Siti Aisyah Rachmawati (2014), Forbes Indonesia, *Towards AEC*, in <http://forbesindonesia.com/berita-763-towards-aec.html>

"... yet naby Indonesia business market is still preoccupied with just the Indonesian market, and do not have much regional outlook. So local industries could be harmed by new competition without well managed regional plan ... "

In 2006 after the signing of the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter at the 11th ASEAN Summit. The process of the Charter drafting started rolling through the establishment of *the Eminent Persons Group (EPG) on the ASEAN Charter*, which makes recommendations for the preparation of the ASEAN Charter.¹²

3.2. General Overview of ASEAN Economic Community

ASEAN Economic Community is a cooperative relationship undertaken by ASEAN countries, which consists of Indonesia, Singapore, Laos, Malaysia, Vietnam, Philippines, Brunei Darussalam, Cambodia, Thailand, and Myanmar. ASEAN Economic Community is a integration form in the economic sector where there is free trade among ASEAN member countries that has been agreed together among leaders of ASEAN countries to transform ASEAN into a more stable, prosperous and competitive region in economic development. Characteristics of ASEAN Economic Community itself include:¹³

1. Based on single market and production;
2. Very competitive economic area;
3. Areas of fair economic development; and
4. The integrated region in the global economy.

ASEAN Economic Community was formed with the goals to make ASEAN region as a competitive production place so that ASEAN products have competitiveness in global market and increase trade among ASEAN member countries and to realize ASEAN Vision 2020. The achievement is done through 5 (five) pillars, namely: Free flow of goods, services, investments, skilled labor, and free capital flows.

The benefit of the ASEAN Economic Community itself is to provide large and broad opportunities for Indonesian products, lower production costs for entrepreneurs or producers who previously required capital goods and auxiliary materials from other ASEAN member

¹² ASEAN Selayang Pandang, *www.deplu.go.id*, terakhir diakses pada bulan Juni 2016

¹³ Badan Standardisasi Nasional, 2013, *Draft Strategi Standardisasi Nasional 2015-2025*, Jakarta, BSN, hlm. 9.

countries and included marketing and cooperation costs in running the business in other ASEAN countries.¹⁴

ASEAN Economic Community implemented January 1st, 2016 has a long history. Beginning in December 1997 during the ASEAN Summit in Kuala Lumpur, the ASEAN leaders decided to transform ASEAN into a stable, prosperous, and highly competitive region with an equal level of economic development and a deepening socio-economic and poverty gap.

At the ASEAN Summit in Bali in October 2003, ASEAN leaders declared that the ASEAN Economic Community is the goal of regional economic integration (Bali Concord II) by 2020. In addition to the ASEAN Economic Community, the ASEAN Security Community and ASEAN Socio-Cultural Community are the other two integral pillars of the community ASEAN to be formed. These three pillars are expected to work closely in establishing the ASEAN Community by 2020.

Furthermore, in August 2006, at the 38th ASEAN Economic Ministers Meeting in Kuala Lumpur, Malaysia agreed to draft an integrated "blueprint" to accelerate the establishment of the ASEAN Economic Community by identifying the various characteristics and elements of the ASEAN Economic Community by 2015 according to Bali Concord II, with clear objectives and timeframes in implementing various measures and flexibility that have been agreed previously to accommodate the interests of all ASEAN member countries.

On January 13th, 2007 when the 12th ASEAN summit ASEAN leaders affirmed a strong commitment to accelerate the establishment of the ASEAN Community by 2015 in line with ASEAN Vision 2020 and the Bali Concord II and signed the Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015. Specifically, leaders agreed to accelerate the establishment of ASEAN Economic Community into 2015 and transform ASEAN region into an area where there is free flow of goods, services, investment, and skilled labor, as well as a more free flow of capital.¹⁵

ASEAN Economic Community 2015 or commonly called AEC is a community-shaped structure. ASEAN Economic Community 2015 is an agreement to create a fair and equitable trade situation through the reduction of tariffs on goods trade where there are no tariff barriers nor non-tariff barriers for ASEAN member countries. With the ASEAN Economic Community is expected to improve the economic competitiveness of ASEAN countries by making ASEAN as

¹⁴ Agus Sutrisno dalam *Langkah Antisipatif Pemprov dalam Menghadapi Masyarakat Ekonomi ASEAN/MEA*, diakses pada tanggal 18 November 2015

¹⁵ Sumber buku pedoman Masyarakat Ekonomi ASEAN, *Menuju ASEAN Economic Community*, Departemen Perdagangan

the world's production base of markets, to attract investment and increase trade among ASEAN members. The beginning of the ASEAN Economic Community began in 1997 when there was an economic crisis in Asia that caused damage to the economy and the emergence of social and political changes in some ASEAN countries. This crisis shook most countries such as Indonesia and Thailand, so their commitment to negotiate liberalization of service sector at ASEAN level can not run effectively. After ASEAN countries begin to recover from the Asian crisis shake, they see again the potential of ASEAN to advance the welfare of each country. In this context new initiatives emerge to make ASEAN more effective and integrated.¹⁶ The important thing that the regional economic integration bring more single market and equality.

The heads of state of ASEAN at the ASEAN Summit 9th in Bali, i.e. Indonesia in 2003, agreed to establish the ASEAN community in the fields of political security (ASEAN Political-Security Community), Economics (ASEAN Economic Community 2015), Social and Cultural (ASEAN Socio-Culture Community known as Bali Concord II. For the formation of the ASEAN Economic Community 2015, ASEAN agreed embodiment is directed at the implementation of regional economic integration refers to the ASEAN Economic Community Blueprint which refers to the following four pillars:¹⁷

1. ASEAN as a single market and a single production base that is supported by elements of the free flow of goods, services, investment, skilled labor and free flow of capital;
2. ASEAN as a region with high economic competitiveness, withal elements of competition rules, consumer protection, intellectual property rights, infrastructure development, taxation and e-commerce;
3. ASEAN as a region with equitable economic development with elements of the development of small and medium enterprises, and the initiative for ASEAN integration CMLV countries (Cambodia, Myanmar, Laos and Vietnam)
4. ASEAN as a fully integrated region into the global economy with elements of a coherent approach in economic relations outside the region, and increase participation in global production networks

From these characteristics can be concluded that business actors in each country will get a competitor from nine other countries. However, consumers in each country will be satisfied with a diverse selection of goods from nine other countries. With the creation of ASEAN Economic

¹⁶ Farikha Rahmawati, ASEAN Economic Community, https://www.academia.edu/9070390/Asean_Economic_Community_2015

¹⁷ ASEAN Economic Community 2015

Community, business actors in ASEAN countries get a new challenge to improve the quality and affordable price so that it can compete with the products of other ASEAN countries. ASEAN Economic Community which implemented January 1st, 2016 has a long history. Beginning in December 1997 during the ASEAN Summit in Kuala Lumpur, the ASEAN leaders decided to transform ASEAN into a stable, prosperous, and highly competitive region with an equal level of economic development and a deepening socio-economic and poverty gap.

At the ASEAN Summit in Bali in October 2003, ASEAN leaders declared that the ASEAN Economic Community is the goal of regional economic integration (Bali Concord II) by 2020. In addition to the ASEAN Economic Community, the ASEAN Security Community and ASEAN Socio-Cultural Community are the other two integral pillars of the community ASEAN to be formed. These three pillars are expected to work closely in establishing the ASEAN Community by 2020.

3.3. Regulation of ASEAN Economic Community in International Law and Indonesian National Law

In the course of the ASEAN Economic Community 2015, Indonesia must take preparatory steps in order to benefit optimally as possible and to avoid possible negative impacts that will arise. One of the devices that need to be prepared is government arrangement through various regulations. In order to safeguard the sovereignty and economic independence in the face of the ASEAN Economic Community by 2015, needs policies that fully disseminated among the central government, local government and society as a whole. Implementation of the strategic steps the government arranges would need harmonization of the various actors and sectors.

There are many regulations to face the ASEAN Economic Community which are the ASEAN Consultative Committee for Standards and Quality (ACCSQ) Working Group 1 on Standards Harmonization and Mutual Recognition Arrangement (MRA) is a forum for standardization cooperation of ASEAN which handles the harmonization of standards and agreements on mutual recognition of trade facilitation ASEAN towards the ASEAN Economic Community in 2015. The results of this trial WG1 informed that some of the products working group has identified common standards for products traded in ASEAN. To avoid the bottleneck caused by the differences in standards, agreed in the ASEAN Policy Guideline on Standards and

Conformance that the harmonization of standards in ASEAN will use the standards and conformity assessment procedures internationally.¹⁸

In the standardization forum ASEAN, namely ACCSQ, has formed seven Product Working Group (PWG), namely the PWG on Electric and Electronic Products, PWG on Pharmaceutical, PWG on Cosmetics, PWG on Wood-based Products, PWG on Prepared Foodstuff, PWG on Automotives and PWG on Traditional Medicine and Health Supplements .

A. The rules of International Law, namely:

1. Bangkok Declaration 1967 ;
2. Kuala Lumpur Declaration 1971 ;
Zone of Peace, Freedom and Neutrality Declaration 1971
3. Declaration of ASEAN Concord 1976 ;
A Common Bond Existing Among the Member State of the ASEAN
4. Treaty of Amity and Cooperation in South East Asia 1976 ;
5. Agreement on the Establishment of the ASEAN Secretariat 1976 ;
6. Bali Concord II ;
7. ASEAN Charter ;
8. ASEAN Economic Community Blueprint ;
9. The ASEAN Framework Agreement on Services (AFAS) ;
10. ASEAN Free Trade Area (AFTA) ;
11. ASEAN Economic Community 2015 .

B. The rules of Indonesian Law, namely:

1. Constitution of the Republic of Indonesia 1945 ;
2. Act of Indonesia # 5 of 1999 concerning on Antitrust and Unfair Business Competition ;
To provide power for the Commission for the Supervision of Business Competition of Indonesia in carrying out the task of dealing with cases related to healthy competition involving various stakeholders.
3. Act of Indonesia # 6 of 2011 concerning on Immigration ;
4. Act of Indonesia # 13 of 2003 concerning on Labor ;
5. Presidential Decree # 5 of 2008 concerning on Focus on Economic Program 2008 - 2009, which is the bottom line: instructs made earnest efforts in promoting national

¹⁸ http://www.bsn.go.id/main/berita/berita_det/6308/Hasil-Sidang-ACCSQ-Working-Group-on-Standards-and-MRA--ACCSQ--WG1

economic growth, preservation of natural resources, increasing energy security and environmental quality ;

6. Presidential Decree # 11 of 2011 concerning on fulfillment of commitments blueprint of the ASEAN Economic Community/AEC 2015 ;

Concrete form will also be sustained Government commitment as an institution to be the establishment of the National Committee composed of representatives of central and local government, Ministers, Governors, businesses, observers and the public to prepare all elements of the nation in welcoming the ASEAN Economic Community 2015.

7. Presidential Decree # 6 of 2014 concerning on improvement of national competitiveness. Improvement of national competitiveness based on the following strategies:

- 1) Developing a national industry, focusing on priority industry to secure the domestic market and fulfill the market of ASEAN , small and medium industries, the development of human resources and research, the application of National Standardization.
- 2) Agricultural development, focused on increasing direct investment and market access.
- 3) Marine and fisheries development, through institutional strengthening, strengthening the domestic market, strengthening and improvement of the export market.
- 4) Energy development, focusing on the electricity sub-sector and the reduced use of fossil energy (fuel), the development of sub-sectors of new energy, renewable energy and conservation.
- 5) Infrastructure development, which focus on connectivity and infrastructure development of the payment system.
- 6) The development of a national logistics system.
- 7) banking development
- 8) Investments Development, which focus on improving the rule of law, business regulation and investment expansion.
- 9) Small Medium Industries development through an ease financing, capacity building effort, and empowerment.

- 10) Workforce development, which focus on improving the competence and labor productivity.
 - 11) Health development, focused on increasing the resilience of the domestic herbal market and market access.
 - 12) Trading development through stabilization and strengthening of the domestic market, increased exports and international cooperation, the development of financing export facilities, public education about the ASEAN Economic Community in 2015.
 - 13) The development of tourism in a tourism event.
 - 14) Development of entrepreneurship focusing on entrepreneurial beginners and expanding the role of young entrepreneurs.
8. Government Regulation # 102 of 2000 concerning on National Standardization
- 1) Article 12 (1) National Standardization valid throughout the territory of the Republic of Indonesia
 - 2) Article 13 The application of National Standardization is done through certification and accreditation activities.
 - 3) Article 15 Entrepreneurs who implement the National Standardization compulsorily applied, must have a certificate or National Standardization.
 - 4) Article 18 (1) The perpetrator is prohibited to manufacture or distribute goods or services, which do not fulfill or are not in accordance with the National Standardization has enforced compulsorily.
9. Act of Indonesia # 7 of 2014 concerning on Trade
- Article 6, every businessmen must publish the Indonesian language label on every product sold in Indonesia.
10. Regulation of the Minister of Trade # 31 of 2010 has been enhanced with the Regulation of the Minister of Trade # 57 of 2012 concerning on the Organization and Administration of Ministers of Trade with the mission of improving the competitiveness of exports, improve supervision and consumer protection, and conducting the security of the implementation on development program the domestic trade both have a roll to given the policy.
11. Regulation of the Minister of Industry of Indonesia #76 / M-IND / PER / 9/2015 concerning on the compulsory enforcement of National Standardization of Tire.

12. Regulation of the Minister of Industry of Indonesia #79 / M-IND / PER / 9/2015 concerning on the compulsory enforcement of National Standardization of Helmet Riders Two Wheel Motor Vehicles.
13. Regulation of the Minister of Industry of Indonesia # 80 / M-IND / PER / 9/2015 concerning on the compulsory enforcement of National Standardization of Glass.
14. Regulation of the Minister of Industry of Indonesia # 81 / M-IND / PER / 9/2015 concerning on the compulsory enforcement of National Standardization of Ceramics.
15. Regulation of the Minister of Industry of Indonesia # 82 / M-IND / PER / 9/2015 concerning on the compulsory enforcement of National Standardization of Cement.
16. Regulation of the Minister of Industry of Indonesia # 83 / M-IND / PER / 9/2015 concerning on the compulsory enforcement of National Standardization of Glass For Building - Block Glass.
17. Regulation of the Minister of Industry of Indonesia # 96 / M-IND / PER / 11/2015 concerning on the compulsory enforcement of National Standardization of Biscuits.
18. Regulation of the Minister of Industry of Indonesia # 100 / M-IND / PER / 11/2015 concerning on the compulsory enforcement of National Standardization of Palm Cooking Oil.
19. Regulation of the Minister of Industry of Indonesia # 106 / M-IND / PER / 11/2015 concerning on the compulsory enforcement of National Standardization of single inorganic fertilizers.
20. Presidential Decree No. 37 of 2014 concerning on the National Preparatory Committee for Implementation of the ASEAN Economic Community
 - 1) Establish the National Committee for the implementation of the ASEAN Economic Community.
 - 2) The National Committee duties are: coordinate the preparation for the implementation of the ASEAN Economic Community, coordinate the acceleration of national competitiveness, taking the rare step for overcome obstacles in the preparation and implementation of the ASEAN Economic Community.
 - 3) National Committee led by the Coordinating Minister for Economic Affairs.
 - 4) In performing its duties, the National Committee formed by implementer team and local work teams.

3.4. Indonesian Policy to Facing the ASEAN Economic Community 2015¹⁹

1. Indonesian Economic Overview

- a. Indonesia is the largest country in ASEAN in terms of the number of population, territory and gross domestic product
 - 1) The total territory of Indonesia amounted to 1.860.360 km² (42%) of the region of ASEAN;
 - 2) Total population of 231.3 million people (39%) of the total population in ASEAN;
 - 3) Indonesia's Gross Domestic Product (GDP) reached 846 billion USD (40.3%) of the entire GDP in ASEAN.
- b. Indonesia's economic growth is quite high and relatively stable in the ASEAN is growing in the range of 6.1 to 6.5% at 3 years.

2. Overview of the Indonesia's Readiness Competitive Towards the ASEAN Economic Community 2015

- a. The results of the identification of readiness of Indonesia in the trade sector of goods are:
 - 1) Indonesian Trade Balance of the countries of ASEAN since 2005, has always had significant increase of deficit every year;
 - 2) Indonesia export trade has been dominated by the goods in the form of raw material such as coal, vegetable oil, gas, and petroleum (40% of all exports Indonesia);
 - 3) The leading export products are: textiles and textile products, electronics, rubber, palm oil, forest products, footwear, automotive, shrimp, cocoa and coffee. Meanwhile the potential superior products include: skin and skin products, medical devices, herbal medicines, processed foods, essential oils, fish and dairy products, handicrafts, jewelry, spices, and stationary except paper.
- b. The results of the identification of readiness of Indonesia in the trade sector of goods is:

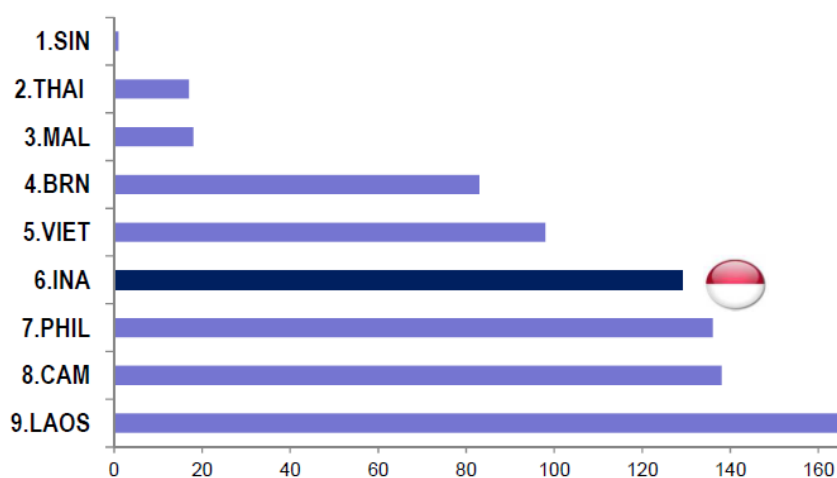
¹⁹ Deputi Bidang Koordinasi Kerjasama Ekonomi Internasional Kementerian Koordinator Bidang Perekonomian, *Tujuan Persiapan Menuju ASEAN Economic Community/AEC 2015*, Jakarta, 2013, hal. 35-40

- 1) preference utilization rates are still relatively low (below 50%); the SKA utilization of the ATIGA is 28.18%, the ASEAN-China FTA 44.18%, and ASEAN-Korea FTA 28.15%.
 - 2) The competitiveness of Indonesian products in general is relatively weaker than the major industrialized countries of ASEAN such as Singapore, Malaysia and Thailand
- c. The results of the identification of readiness of Indonesia in the trade sector of services are:
- 1) The contribution of the services sector in the economy of Indonesia is currently at about 45% of GDP. Contribution of the services sector in 2025 is expected to reach 70% of GDP (MP3EI target);
 - 2) These national quite a lot but in terms of quality of service and supporting airport still inadequate;
 - 3) Health care quality in Indonesia is quite good, but it just in the big city and the price is also relatively expensive. Not to mention the health workforce and the infrastructure built in Indonesia still be in under the others state of ASEAN ;
 - 4) The level of tourists visiting Indonesia is relatively low compared with the others countries of ASEAN, although Indonesia has the potential for enormous tourism in the natural resources, cultural and historical heritage;
 - 5) The quality of labor in Indonesia is relatively still lower than the labor force in others countries of ASEAN .
- d. The results of the identification of readiness of Indonesia in investment sector are:
- 1) The Act of Indonesia concerning on Investment that is used today is Act of Indonesia # 25 of 2007, but there are still some objections and perceived that does not yet support investment
 - 2) Preparation of Reservation List-ACIA Indonesia using the base of the Negative List Investment (NLI) (Presidential Decree 36 of 2010). But the problem is the rule in the NLI could be reviewed every three years and may be even less open.
 - 3) Many regulations in each sector published later set on FEP and contrary to the rules contained in the DNI.
- e. The results of the identification of readiness of Indonesia in the investment sector are:

- 1) The flow of Foreign Direct Investment (FDI) to Indonesia than the total FDI into ASEAN is relatively low compared with that flow into Singapore, Thailand and even Vietnam
 - 2) Factors that could cause impaired FDI flows are:
 - a) lack of infrastructure,
 - b) Labor issues (wages, demonstration),
 - c) legal certainty and
 - d) security.
- f. Infrastructure:
- 1) Indonesia budget for infrastructure spending for the lowest, 2% from the GDP (Ideally infrastructure spending 5%). For comparison Vietnam: 8%, and China: 10%.
 - 2) The condition of the road infrastructure in Indonesia is the worst in ASEAN .In addition, the length of roads in Indonesia is also the shortest in ASEAN (ADB, 2011).
 - 3) About 36% of the road network reported destroyed or damaged heavily, inadequate and of low quality (ADB 2007).
 - 4) The motorway is only 770 km (1.82% of total highway); growth in the last 1dekade only 3% per year
- g. Logistics sector:
- 1) The main problems related to logistics are concerned with the distribution of goods to consumers.
 - 2) Long queues at the port;
 - 3) Logistic bottlenecks from the port to the industrial export zones ;
 - 4) The Government has tried to make improvements through:
 - a) The teamworks formation of debotllenecking;
 - b) Directorate of Logistics in the Ministry of Trade;
 - c) 2011-2025- MP3EI Connectivity Strategy;
 - d) National Logistics system with the motto domestically integrated and globally connected;
 - 5) Regional coordination still needs to be improved;
 - 6) Regulatory reform in the various sub-sectors of the logistics needs to be done to reduce costs

h. Business climate

Rank of Businessmen in ASEAN 2012



i. The Regulation Form:

- 1) Overlaps between central and local regulations;
- 2) No management review of the stock of regulation;
- 3) There is no clearing house institutional of the regulation;
- 4) The quality of regulation which is not fulfill the rules of good regulation; not doing Regulatory Impact Analysis (RIA), a public consultation has not run as decided.
- 5) Difficulty in making changes and invalidation of outdated regulation outdated or issuance of new regulations (eg Labor Law).
- 6) Matters are presented in the OECD study on *Regulatory Reform* in Indonesia (2012), World Bank and other international institutions.

Various opportunities to meet Indonesia in the ASEAN Economic Community in general can be described as follows:²⁰

a. Potential Market World

Indonesia is the largest population in the region (40% of the total population of ASEAN). It can make Indonesia as the country productive and dynamic economy that can lead the ASEAN market in the future with the mastery of the market and

²⁰ Masnur Tiurmaida Malau, Aspek Hukum Peraturan dan Kebijakan Pemerintah Indonesia Menghadapi Liberalisasi Ekonomi Regional: Masyarakat Ekonomi ASEAN 2015 dalam Jurnal Rechtsvinding Volume 3 Nomor 2 Tahun 2014, hal. 171-172

investment opportunities. Is a potential market which has an territory and the quantity.

b. Investment destination

Indonesia is a country of ASEAN investors. The proportion ASEAN countries of investment in Indonesia reached 43%, or nearly three times higher than average proportion of investment ASEAN countries in ASEAN which will account for 15%.

c. Opportunities as Exporter Country

Indonesia likely as the exporting country, where the value of Indonesian exports to intra-ASEAN only 18-19% whereas outside ASEAN ranged 80-82% of the total exports. This means that opportunities to increase exports to the intra-ASEAN remains to be improved so that the rate of increase in intra-ASEAN exports to the balance with the rate of increase of intra-ASEAN.

d. The Goods Trade Liberalization of ASEAN

ASEAN goods trade liberalization will ensure the smooth flow of goods to the supply of raw materials and finished products in the ASEAN region due to tariff and non tariff barriers no longer exist. Market conditions in the region that is already free in itself will encourage manufacturers and other businesses to produce and distribute high quality goods efficiently so as to compete with products from other countries. On the other hand, consumers also have a diverse selection of alternatives that can be chosen according to the needs and abilities, from the cheapest to the most expensive. Indonesia as one of the major countries which also have high levels of integration in the electronics sector and comparative advantages in natural resource-based sectors, a great opportunity to develop the industry in these sectors in the country.

e. Demography Bonus

Indonesia as the country with the largest population number will acquire its own advantages, the so-called demographic bonus. Comparison of the productive population of Indonesia and other ASEAN countries was 38: 100, which means that for every 100 residents of ASEAN, 38 are Indonesian citizens. This bonus is expected to still be enjoyed at least until 2035, which is expected by the number of productive population will be able to sustain economic growth and increasing per capita income of the Indonesian population.

f. Open Services Sector.

Service sectors that have been established, namely tourism, healthcare, aviation, and e-ASEAN, and will be followed by logistics.

g. Capital Flow.

In terms of the withdrawal of foreign capital flows, ASEAN as a region, known as a destination for global investment.

4. Conclusion

The regulation or the ASEAN Economic Community legislation stated in the regulation laws of both the National Law of the member countries of ASEAN and international law related with the ASEAN Society. The Indonesian government policy to face the ASEAN Economic Community in 2015 is to increase competitiveness to face economic integration and enhance the potential of the domestic market.

Integrating or unifying existing commitments in the ASEAN Economic Community by the Master Plan for the Acceleration and Expansion of Indonesian Economic Development (MP3EI) has established six (6) corridors economic advantage include natural resources, industries and services, tourism and food, the production process of mining and energy nationally, the process and the production of fishery, agriculture, plantation, oil, gas, and mining, the growth center of food, fisheries, energy and national mining. Indonesia should immediately repairing the physical infrastructure through the construction or improvement of infrastructure such as transportation, freeway, ports, telecommunications, revitalization and restructuring of the industry, and others.

The regulatory reformation held immediately for adjustment, preparation and regulatory improvements collectively and individually. Institutional and governance reform that substantially blueprint for the ASEAN Economic Community Blueprint is also a joint reform program that can be used as reference for reform in the country members of ASEAN .

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