

## Prospective for a Canada-ASEAN Free-Trade Agreement

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While Canada has been a long-standing partner of the Association of Southeast Asian Nations, there has been a noticeable upswing in Canada-ASEAN relations of late. This has largely been due to the initiative shown by Canada as part of its efforts to increase its engagement with the region. Ottawa appointed a Resident Ambassador to ASEAN in 2009, acceded to the Treaty of Amity and Cooperation in 2010, and supported the creation of the Canada-ASEAN Business Council in 2012. It also set up permanent missions in Cambodia and Lao People's Democratic Republic (PDR), which means that Canada now has a presence in all 10 Southeast Asian member states as well as within ASEAN as an organization, a clear signal of the country's interest and commitment to Southeast Asia.

To deepen economic engagement in the region, discussions are now moving to a possible Canada-ASEAN Free Trade Agreement (FTA). In anticipation of a government-led feasibility study, the Asia Pacific Foundation of Canada, the Canada-ASEAN Business Council, the Business Council of Canada, and the University of British Columbia recently released a research report. Their research indicated that a Canada-ASEAN FTA could potentially generate between CAD \$4.8-10.9-billion in bilateral trade, which would benefit a wide range of firms and workers.<sup>70</sup>

While the Canada-ASEAN FTA certainly has merits and is a note-worthy aspirational goal in the long-term, there are some serious practical challenges to negotiating an ASEAN wide agreement. There is an argument in Canada that, since the pathway to success may be long, it is therefore more imperative that the negotiating process get started sooner rather than later. This may be true, but it also means diverting scarce resources on both sides to a project with limited prospects for results in the short run. Much more sensible is to build up from existing commitments with individual ASEAN states developed through the Trans-Pacific Partnership or TPP (with Brunei, Malaysia, Singapore and Vietnam) and new potential bilateral agreements to create a future ASEAN-wide FTA.

### **ASEAN's weak institutional structure**

ASEAN does not have the kind of supportive institutional structure needed to negotiate and conclude a comprehensive, high quality FTA with Canada in the near term. The ten member states of ASEAN operate much more independently from one another than their rhetoric might suggest.

For example, there is no built-in mechanism that moves ASEAN members forward to

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<sup>70</sup> *The ASEAN Advantage: Exploring Canada's Trade Potential*, Asia Pacific Foundation of Canada, Canada-ASEAN Business Council, Business Council of Canada, and University of British Columbia (2017), 4, <http://www.asiapacific.ca/research-report/aseanadvantage-exploring-canadas-trade-potential> Accessed on 8 August 2017.

common positions. By way of contrast, the European Commission has the authority for developing EU-wide policies, including on trade. The Commission brings forth proposals that may or may not be approved by the Council of Ministers at the EU –whether or not the Council of Ministers ultimately approves the policy proposal by the Commission is not key here. What is important is that the Commission is responsible for developing proposals in the name of the EU. This means that a common negotiating position can be developed by the EU because the Commission is there to shepherd the process. This is why the EU can act as a single negotiating entity at the trade table.<sup>71</sup>

ASEAN has no such mechanism. There is no comparable institutional body within ASEAN that is charged with, or authorized to, develop a common negotiating position. Neither the ASEAN Secretariat nor the rotating Chair of the organization is given the mandate to negotiate for all ASEAN members. Without a common negotiating position developed prior to formal FTA discussions, the negotiation process is likely to be subject to hold-ups, opportunism or simple foot-dragging by individual ASEAN countries.<sup>72</sup>

In practice, negotiating an ASEAN-wide FTA will not take place cleanly at a Canada-ASEAN level, but will effectively entail negotiating 10 separate bilateral FTAs. This is the simple and straightforward part. What follows will be the more challenging and time-consuming process of coming up with an overall agreement that balances and accommodates the differing levels of ambition among negotiating parties.

### **The development gap between ASEAN countries**

This brings us to the next point, which is the wide development gap between individual ASEAN countries. This is most striking with respect to their differing levels of GDP and trade dependency. At one end, Singapore has a GDP per capital of US\$51,855 and trade the equivalent of 326% of its GDP, which contrasts starkly with Cambodia's US\$1,203 and 47% in 2015.<sup>73</sup>

This variation results in ASEAN members having significantly differing trade policies, and in consequence, varying levels of ambition in negotiating an FTA. A case in point here is the breakdown of the talks for an EU-ASEAN FTA in 2009. For example, while the EU wanted a broader and more comprehensive agreement, which included issues such as labour standards, intellectual property rights, and climate change, ASEAN as a whole was not willing to go beyond a FTA purely focused on goods. Given that the former group of issues were priorities for the EU, and most of the ASEAN members were far from ready at the time to discuss them, it is perhaps not surprising that when taken together with the

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<sup>71</sup> Mary T. Yeung, Nicholas Perdikis, and William Alexander Kerr, *Regional Trading Blocs in the Global Economy: The EU and ASEAN* (Edward Elgar Publishing: 1999), 144.

<sup>72</sup> Ibid.

<sup>73</sup> World Bank, *Trade (% of GDP)* (2016), <http://data.worldbank.org/indicator/NE.TRD.GNFS.ZS> Accessed 8 August 2017.

Myanmar issue, the negotiations collapsed.<sup>74</sup>

It would be worthwhile here to note that the failure of EU-ASEAN negotiations over a FTA took place despite agreement over the very significant economic and, for ASEAN, strategic benefits that such an agreement would have produced. This is even more surprising given that both organizations have a strong preference for FTAs as a means of furthering their interests.<sup>75</sup> However with the benefit of hindsight, we can now see how their mismatch in priorities and approaches to FTAs, taken together with the diversity of ASEAN and its lack of institutional structures to produce an agreed upon set of goals, led to the demise of the EU-ASEAN FTA.

The failure of the EU-ASEAN FTA is instructive in highlighting the type of issues that will crop up should Canada pursue an FTA with ASEAN as a bloc. On one hand, it will have to contend with Indonesia, which has introduced a raft of protectionist-leaning measures over the past few years, and could be averse to a high-standard trade agreement that might challenge the leading economic positions of its domestic companies.<sup>76</sup> On the other hand, a bloc-wide agreement will also include Singapore, an open economy, which will likely support and advocate for a high standard trade agreement. This difference in national objectives will be compounded by the fact that the less-developed economies of ASEAN such as Cambodia, Laos, and Myanmar lack officials with the capacity to engage in high-level trade and investment agreements.<sup>77</sup>

On this count, much has been made of the ASEAN Economic Community (AEC) that entered into force with great fanfare on 31 December 2015. With its launch, the tacit and instinctive assumption is that it will produce a more consolidated ASEAN that will act as a more cohesive negotiating bloc. Without downplaying the massive integrationist leaps made by ASEAN, sobriety should drive any analysis. In spite of the various commitments entered into under the AEC, ASEAN is still missing the necessary institutional glue, which could take the form of an overarching regional mechanism that ensures the smooth coordination of the vast array of government actors from different national agencies and countries and translate them into clear, collective positions.<sup>78</sup> Barring this, and taken together with its adherence to consensus, ASEAN will likely fall-back on its time-tested lowest-common denominator approach, likely to produce a conservative and underwhelming result.

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<sup>74</sup> The “Myanmar issue” relates to the type of government at the time and the difficulty the EU faced in working with such a counterpart in ASEAN. Duan Xuan Loc, *Opportunities and Challenges in EUASEAN Trade Relations*, EU-Asia Centre (July 2012), [http://www.euasiacentre.eu/pub\\_details.php?pub\\_id=60](http://www.euasiacentre.eu/pub_details.php?pub_id=60). Accessed 8 August 2017.

<sup>75</sup> *Ibid.*

<sup>76</sup> Murray Hiebert, *The E3 Initiative: The United States and ASEAN Take a Step in the Right Direction*, Center for Strategic and International Studies (December 2012), <https://www.csis.org/analysis/e3-initiative-united-states-and-asean-take-step-right-direction> Accessed 8 August 2017.

<sup>77</sup> *Ibid.*

<sup>78</sup> Elodie Sieller, “The ASEAN Economic Community: The Force Awakens?” *The Diplomat* (January 2016), <http://thediplomat.com/2016/01/the-asean-economic-community-the-force-awakens/> Accessed 8 August 2017.

External observers have been buoyed by the success of the ASEAN, Australia, New Zealand FTA (AANZFTA) and the high-standard agreements it reached. Canada may see something that can be replicated in its own FTA with ASEAN. However, this optimism might be misplaced for two reasons. First, ASEAN has a fully packed schedule for the foreseeable future. In addition to managing the more than 1000 meetings a year on the ASEAN schedule, member states are fully engaged with concluding the Regional Comprehensive Economic Partnership (RCEP) negotiations with six major parties in Asia, including China, Japan, South Korea, India, Australia and New Zealand. These talks are likely to continue at least through the end of 2017 and probably roll over into 2018. The agreement will not come into force until 2019 and implementation will be time consuming for many ASEAN members.<sup>79</sup> Second, 2017 marks the 50<sup>th</sup> anniversary of ASEAN and members will be looking to deliver a bumper sticker that will best portray ASEAN as a strong and credible organization. To this end, their efforts will be channeled towards the successful launch of the RCEP.

Moreover, even if they were looking at a parallel FTA to suddenly start on, ASEAN would be more likely to revive the dormant EU-ASEAN FTA. While Canada is the 9<sup>th</sup> largest trading partner with ASEAN with total two-way trade between ASEAN and Canada in 2015 estimated at US\$11.8 billion, it only accounts for 0.5% of ASEAN's total trade.<sup>80</sup> The EU, on the other hand, is ASEAN's third largest trading partner after the US and China, with more than US\$200.8 billion in trade in goods and services in 2014. The EU was also ASEAN's second largest trading partner, behind only China, in 2013.<sup>81</sup> Hence it stands to reason that from an optics angle, an EU-ASEAN FTA would be a bigger coup.

### **The trade-security nexus for ASEAN**

A final point on the topic of ASEAN FTAs is that there is an unspoken but obvious security aspect in its choice of FTA partners thus far. China, India, Japan, Korea are regional powers who have an outsized influence on the security architecture of the region. Australia and New Zealand, besides being in the immediate periphery of the region, are also parties to the Five Power Defence Arrangements alongside Singapore and Malaysia.

Despite the recent uptick in Canada-ASEAN ties, in truth Ottawa still lags behind other key players in the region.<sup>82</sup> Ottawa also remains locked out of key regional institutions like the East Asia Summit. Moreover, media coverage of Canada's ASEAN pivot is sparse in Southeast Asian countries.

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<sup>79</sup> For ASEAN countries (Brunei, Malaysia, Singapore and Vietnam) are likely to be busy with the implementation of the Trans-Pacific Partnership as well.

<sup>80</sup> ASEAN Secretariat, 2017. *Overview of ASEAN-Canada Dialogue Relations*, <http://asean.org/storage/2012/05/Overview-of-ASEAN-Canada-Dialogue-Relations-March-2017.pdf>. Accessed 8 August 2017.

<sup>81</sup> Ji Xianbai, "Time to Revisit an ASEAN-EU FTA?" *The Diplomat* (June 2015), <http://thediplomat.com/2015/06/time-to-revisit-an-asean-eu-fta/> Accessed 8 August 2017.

<sup>82</sup> Jim Della-Giacoma, "Engaging ASEAN: What Next for Canada?" Asia Pacific Foundation of Canada, <https://www.asiapacific.ca/canada-asia-agenda/engaging-asean-what-next-canada> Accessed 11 August 2017.

Canada is rapidly ramping up its diplomatic presence in Southeast Asia, but Ottawa will likely need more time to enter the public consciousness in Asia before it is deemed a partner that should be admitted to such institutions and offered an FTA deal.

### **Implications for Canada**

A more sensible approach for Canada would be to follow the EU lead. After the suspension of the EU-ASEAN FTA, the EU shifted its approach to forging closer bilateral trade ties with four individual ASEAN member states: Singapore, Malaysia, Vietnam, and Thailand. The EU-Singapore FTA was concluded in 2015 and is moving towards ratification and entry into force. This agreement served as the template or model for all others in the region. The EU-Vietnam agreement is following right behind. The EU has recently launched negotiations with Indonesia, and negotiations with Malaysia, Thailand, and the Philippines are also in various stages of progress. When these are concluded, the EU will return to the bloc-to-bloc strategy and, since each of the individual deals are built on broadly similar commitments, crafting a final agreement should be more straightforward than it was in 2009.

Similarly, Canada can start by negotiating bilateral FTAs with individual ASEAN countries. These FTAs can be thought of as pathfinder agreements that can be stitched together to form an eventual Canada-ASEAN FTA. Importantly, these individual FTAs will signal Canada's interest and commitment to be more engaged in the region.

Concurrently, Canada should move forward to ratify the Trans-Pacific Partnership (TPP) at eleven members. The TPP can then serve as a platform for expanding its economic ties with all of Southeast Asia. Secondly, the TPP can serve as a high-standard template that can be selectively ported over to these bilateral FTAs.

Importantly, with the current increase in headcount in Southeast Asia and additional funding, officials based in the region can begin to lay the groundwork for these FTAs by building trade capacity and reducing anxiety in capitals about entering high-standard trade talks with Canada. Importantly, these efforts could be shown as being in line with, and advancing, existing ASEAN objectives.

For example, as part of its capacity building efforts, Canada could help to develop information and communications technology principles that will help guide policymakers in the region on issues such as the flow of information across borders, local content requirements, and the role of regulatory bodies. This project can be shown as being in support of ASEAN in its larger project of boosting connectivity between ASEAN economies. But importantly for Canada, this can lay the foundation for future FTAs on digital trade/e-commerce in the region. These are key deliverables for ASEAN in 2018 and part of the AEC Blueprint 2025.

In short, while ASEAN may look like an enticing FTA partner as a whole, the practical realities of launching talks now are likely to take up valuable resources while delivering

little in the near or even medium term. Instead, Canada will be better served to begin with bilateral negotiations with able and willing partners, building on its TPP relationships. These can be supplemented by Canada's good reputation in developing and delivering capacity building projects of various sorts in other ASEAN member states that compliment the future pathway to an ASEAN-wide free trade agreement with Canada.