

**UNIVERSITY OF LAW OF HO CHI MINH CITY
FACULTY OF PUBLIC ADMINISTRATIVE LAW**

LL.M Lecturer Nguyễn Việt Anh Lân
Post-graduates from Macquarie University in Sydney, Australia
Contact: 0918.180.996
Email: nvalan@hcmulaw.edu.vn

**LEGAL FRAMEWORKS OF HARMONISATION OF LAWS
TOWARDS ECONOMIC INTEGRATION: AN ASEAN PERSPECTIVE**

Abstract:

The environment that existed when the process of legal harmonisation first started more than a century ago is significantly different from what it is now. The creation of rules and their domestic application have both gotten increasingly difficult. Today, a variety of tools can be used to create and put into effect uniform rules. The main driving force behind ongoing efforts to harmonize internationally is to increase legal predictability and clarity. When it comes to ASEAN, it has been raised that the level of competition law and landscape policy is still inconsistent with the EU's roadmap. There are some exceptions if adopting the EU lexicon of establishing the ASEAN Economic Community (AEC). This paper will make the case that ASEAN may benefit from the EU's experience and use the EU's system of competition law as a model for its own set of competition laws and policies. The study begins by analyzing the various regional impulses that have resulted in various strategies for regional economic integration and competition law. Their governing structures are examined in the second section. The harmonisation of laws within the ASEAN legal framework is highlighted in the final section along with any lessons that might be learnt.

Keywords:

ASEAN, economic integration, technical barriers to trade, public health framework ,standards, conformance, conformity assessment, harmonisation, free trade area, trade facilitation, regulation, mutual recognition agreement, industry association

Overview:

The circumstances in which the legal harmonisation process began more than a century ago are very different from those in place today. Both rule-making and domestic implementation have become more complex. A wide range of tools may now be applied to formulate and implement uniform rules. The major motivation behind worldwide efforts to harmonize continues to be improving legal certainty and predictability. However, experience with legal harmonisation and the rise in legal writing interest have led to new arguments for the link between law and economics. Arguments supporting the beneficial effects of legal harmonisation and law reform in lowering transaction costs and promoting global trade are particularly pertinent.

Moreover, the work of legal harmonisation involves many organisations including both governmental institutions and private sector representatives. Additionally, the rise of supranational organisations, of which the European Union (EU) provides the ultimate example, has added a new element to the law-making process, with possibly far-reaching consequences. Specifically, the European Union's competition policy and legal regime is instrumental in the functioning of the single market in the EU. The member states accepted to transfer decision-making power to the European Commission to allow for effective enforcement of competition law, crucial for the well-functioning of the Single Market. It is discussed that as a source or point of reference for creating ASEAN own model of competition policy and legal tools, ASEAN might draw inspiration from the EU's experience and employ the EU competition law framework. Nevertheless, the development of ASEAN's own competition regime will not follow exactly the roadmap of the EU due to the different approaches towards regional economic integration, legislative frameworks, and institutional structures.

A thorough understanding of legislation reform, political sensitivity, creative strategic thinking, cooperative efforts, and continual involvement are necessary to come up with acceptable solutions to the problems that lay ahead. I reckon that the resources that ASEAN member states (AMS) have already put into the legal harmonisation and law reform process more than warrant this sustained work.

When it comes to ASEAN, it has been raised that the level of competition law and landscape policy is still inconsistent with the EU's roadmap. There are some exceptions if adopting the EU lexicon of establishing the ASEAN Economic Community (AEC). Although the roadmap of EU would be potentially applied into the aim of erecting the AEC, whether the EU competition law regime will serve as a template for ASEAN owing to its pursue

a greater economic integration with inauguration of the ASEAN Economic Community.

Challenges for the ASEAN Economic Community' s roadmap:

One of ASEAN's main goals is to complete the ASEAN Economic Community (AEC) by 2015 to achieve economic integration in Southeast Asia. Even though removing or reducing tariffs is required to achieve economic unity, it is obviously insufficient. The reduction and elimination of Technical Barriers to Trade (TBT), which are obstacles to the movement of commodities from one country to another within the area, is a crucial aspect of the trade facilitation measures that must be put into place if this objective is to be accomplished.

All states have standards, laws, compliance requirements, and conformance measures that are used to guarantee the quality and safety of goods that their population will eventually use or consume. However, sometimes these policies are implemented to the point where they serve as trade barriers by limiting or forbidding the export or import of specific items. Although protecting human health and safety is the main goal of enacting such laws, these rules also aim to safeguard the environment, animal and plant life, and their health.

Products' qualities, such as their weight, design, shape, size, and performance, as well as their labeling and packaging choices, are described in standards. The consumers in the importing nations stand to gain from this. National governments implement these norms. Occasionally, laws are passed to encourage technical standardisation and guarantee the interoperability of imported goods.

As ASEAN strives to put the AEC into effect by 2015, efforts are being taken to make sure that nations don't impose standards and conformity measures that would limit trade of goods under the ASEAN Free Trade Area (AFTA). Additionally, the use of an excessive number of such measures raises expenses for producers and sellers, which are eventually borne by the consumers for whom these policies are intended.

The term "standardizing" describes the harmonization and addition of international standards, procedures, and guidelines to national standards. By doing this, it may be made sure that national standards don't conflict with other standards and, as a result, don't hinder trade by limiting the flow of goods.

Technical rules, in the context of the area, refer to the convergence of product safety regulations and the harmonisation of regulatory requirements in ASEAN's Regional Technical Regulations. To ensure the free flow of commodities, they also involve the harmonization of obligatory technical procedures such registration and pre-market approval requirements. To ensure the creation of an ASEAN single market, these regulations must converge.

The mutual recognition of the outcomes of conformity assessments, or mutual recognition agreements, is related to conformity assessment methods (MRA). Through the mutual recognition of conformity results provided by designated conformity assessment boards, ASEAN member states can assess conformity in this way (CABs). The signatories of any MRA, including bilateral MRAs between member states, are subject to this recognition of conformity outcomes. When used properly, MRAs serve as a building block towards the creation of the ASEAN single market. ASEAN will be able to concentrate on further regulatory convergence and harmonisation as the AEC develops and as rules become more aligned.

This paper will make the case that ASEAN may benefit from the EU's experience and use the EU's system of competition law as a model for its own set of competition laws and policies. The study begins by analyzing the various regional impulses that have resulted in various strategies for regional economic integration and competition law. Their governing structures are examined in the second section. The harmonisation of laws within the ASEAN legal framework is highlighted in the final section along with any lessons that might be learnt.

I. Two distinct environments:

1. EU's competition law regime:

In the 1960s, ¹regulation 17/62.7 was adopted, establishing the foundations of European competition law. As envisioned as a tool to create the common market and strengthen the fundamental concept of free movement that supported the European Community, integration was initially the primary objective of competition law within the framework of ²*the Treaty of Rome of 1957*. Then, the ³*Single European Act of 1986* and the development of the Single market increased competition in new markets, particularly the service markets that State-owned firms had previously monopolized. As a result, regulation

¹ Council Regulation (EEC) No. 17/62 of 6 February 1962: First Regulation implementing Articles 85 and 86 (now 101 and 102) of the Treaty.

² The Treaty of Rome 1957.

³ The Single European Act 1986.

became a second function of European competition law. As a result, one of the first supranational policies in the European Union was EU competition law.

Although the argument over the objectives of EU competition law is still ongoing, writers have mostly focused on four of them: equity, economic freedom (plurality and consumer choice), economic efficiency, and consumer welfare (Geradin et al., 2012). The idea of fairness has two aspects: firstly, who it must be "fair" to; and secondly, what qualifies as "fair" or "unfair" behavior. It supports the ordoliberal idea that all competitors should play by the same set of rules. When the European Commission determines that a company in a dominant position must share its intellectual property rights or raise its prices to facilitate the entry of its competitors, this is put in action. Economic freedom is the notion that market participants must be free to operate in the market because, as the "Harvard School" emphasized in the 1950s, the less consolidated a market, the better the prices and options for the customer. Lastly, it is acknowledged that raising economic efficiency would ultimately also advance consumer welfare, which is described as the ultimate objective of EU competition legislation in various documents by the Commission.

From a broader perspective, these objectives are motivated by the desire to achieve ⁴*"an increasingly closer union among the peoples of Europe"* and a single market with unrestricted trade in products, labor, services, and capital. The Article of the Treaty Establishing the European Community (TEEC) that guarantees unrestricted competition was deemed by the European Court of Justice (ECJ) to be *"a fundamental provision [...] essential for the accomplishment of the tasks entrusted to the Community and, in particular, for the functioning of the internal market"* in 1999. Due to the connection between competition policy and the founding principles of the European Community, EU competition law primarily serves as a tool of public policy to advance those objectives, and one of the most important measures supporting European integration is competition policy.

2. Comparison between the EU and ASEAN:

Realistically evaluating what ASEAN may learn from the EU requires a thorough understanding of the distinctions between the two organizations. First and foremost, the EU is a connected land mass with a long coastline and is more homogeneous than ASEAN, which is a region with a big marine domain and nations that are fiercely protective of their sovereignty (in terms of socio-economic environment and political and legal structures). Southeast Asian and

⁴ Preamble of the Treaty of Rome (1957).

European states' approaches to regionalism are influenced by their varied geographies and historical settings.

The economic development of the EU and ASEAN is likewise at quite different stages. Compared to the EU, the economy of ASEAN is modest. Different regional cooperation models are represented by the EU and ASEAN. ⁵Founded in 1967 with the goals of autonomy and regional collaboration rather than unification, ASEAN is a traditional realist form of intergovernmental regional organization. Before 1992, none of the major ASEAN papers used the word "integration." Although ASEAN does not have any supranational structures, on occasion the AMS will pool their sovereignties when national and regional interests coincide to speak with a single voice in the face of a shared threat. In ASEAN, regionalism was intended to promote national development, not to restrain sovereignty. To deal with the reality of economic interdependence, ASEAN began to discuss institutionalization after the Asian financial crisis of 1998. The concept of establishing an ASEAN Community was first proposed in 2003 according to ⁶Declaration of ASEAN Concord II (also known as Bali Concord II).

Plummer (2006) went into detail about the differences between the subjective settings that the EEC faced in the 1950s and ASEAN today. He contends that while nation-state formation in ASEAN is much more recent than it was in the EEC, some AMS still place a high premium on it. He also underlines how much more open the world market is now than it was in the 1950s, which has a significant impact on the global economic situation. As a result, there were distinct factors at play when the AEC was needed than when the EEC was established (Plummer, 2006)⁷.

As for economic development, ASEAN includes a wider range of nations. Cambodia and Laos are considered to have less developed economies, while Myanmar are in the transitional stage. The most developed economies are Singapore, Indonesia, VietNam, Malaysia and Thailand. The political systems that make up AMS are also diverse. Strengthening regional collaboration was the main objective rather than pursuing regional integration.

⁵ Chung-in Moon, 'ASEAN international organization' (Britannica) < <https://www.britannica.com/event/Asian-financial-crisis> > accessed 16 September 2022

⁶ Declaration of ASEAN Concord II

⁷ Michael G. Plummer, 'The ASEAN Economic Community and the European Experience' (2006) 1 ADB < <https://www.adb.org/sites/default/files/publication/28458/wp01-plummer.pdf> > accessed 17 September 2022.

ASEAN is too diverse to take a planned regionalist approach like the EU. As a result of the need to concentrate on nation-building and the fact that several Southeast Asian country states have only recently emerged from colonialism, AMS are not particularly inclined to compromise their independence by sharing sovereignty with their neighbors. Regional economic integration in Southeast Asia has thus been influenced more by market forces than by governmental policies.

3. AEC is not the EU single market and the needs of competition law:

The disparities between the EU and ASEAN described above have generated two divergent approaches to a single market.⁸ To establish a true Free Trade Area, trade must occur at borders, beyond borders, and across borders (FTA). Fiscal and monetary union would also be required to pass the test of a single market, which requires a uniform pricing across nations. The adoption of unequal tax rates would remove price distortions, while monetary union would remove any costs associated with foreign exchange transactions (Reyes, 2004).

The key goals of the AEC are creating (i) a single market and production base, (ii) a highly competitive economic region, (iii) a region of equitable economic development, and (iv) a region fully integrated into the global economy.⁹ However, there is lack of proof that ASEAN leaders have any political motivation for creating a single market a la the EU. The AEC will be a single market, but it won't go as far as a fiscal and monetary union and won't even be a customs union, as agreed upon by the leaders of ASEAN. A customs union is intended to coordinate national external trade policies rather than take the place of them. The elimination of intra-ASEAN tariffs and non-tariff barriers, the establishment of a "ASEAN Single Window" as a single point of contact for intra-ASEAN customs clearance procedures, the harmonization of technical standards, and the introduction of mutual recognition of professional qualifications in specific sectors rather than generic recognition are all necessary for the creation of a single market and production base in ASEAN.

⁸ Michael Bordo, Lars Jonung and Agnieszka Markiewicz, 'A fiscal union for the euro: Some lessons from history' (Vox EU, CEPR, 21 September 2011) <<https://cepr.org/voxeu/columns/fiscal-union-euro-some-lessons-history>> accessed 18 September 2022.

⁹ *ASEAN Economic Community Blueprint* (2008)

As a result, ASEAN is aiming for a "FTA plus" or a "common market minus" arrangement rather than a single market modeled after the EU.¹⁰ The "FTA plus" strategy would include a zero-tariff ASEAN FTA as well as some aspects of a common market, like increased freedom of movement for skilled labor and capital. A completely integrated market would be the goal of the "common market minus" strategy, but it would still permit member states to reserve deeper integration for a later stage. In addition, both the AEC and the ASEAN Charter provide neither for supranational institutions nor for enough resources to support an EU-style single market. The point is the gaps of geographical and industrial development amongst AMS, the ASEAN's single market cannot be accomplished until these gaps are filled.

Although ASEAN does not intend to create a Single Market à la the EU, it has made clear that it intends to further economic integration in the area to increase the region's competitiveness. As a result, there is also a higher expectation that ASEAN will foster favorable business and investment environments. A clear legislative framework for competition can aid in the development of trade and investment liberalization within the ASEAN market.

According to the AEC's description, the region's competitive environment depends on the application of competition law. This goal is very similar to the one outlined in EU competition law and strategy. It seeks to lower market barriers, deter anti-competitive behavior, benefit ASEAN consumers and small- and medium-sized businesses (SMEs), and so promote regional integration and the development of a single market.

Furthermore, ASEAN regional competition law and policy are crucial for the promotion of a proper competitive balance between intra- and extra-ASEAN economic businesses given that "open regionalism" in ASEAN aims for the least discriminatory impact on non-members.

II. Diverging legislative frameworks:

1. EU's competition law:

Due to its institutional structure, which emphasizes integration, the EU chose supranational competition laws. Their main objective is to hasten market integration, and they are codified in the ¹¹*Treaty on the Functioning of the*

¹⁰ Fukunari Kimura, 'Reconstructing the Concept of "Single Market and Production Base" for ASEAN beyond 2015' (2013) ERIA < <https://www.eria.org/ERIA-DP-2013-25.pdf> > accessed 18 September 2022.

¹¹ Treaty on the Functioning of the European Union.

European Union (TFEU). A number of rules and directives that are meant to be observed by all MS are added to the TFEU. The creation "of the competition regulations necessary for the functioning of the internal market" is only within the purview of the EU (Art. 3 TFEU). However, MS also have separate and unique national competition laws and national competition bodies, which may agree on certain things while disagreeing on others.

EU competition law is primarily composed of two provisions: limiting restrictive agreements' impact on competition and prohibiting the misuse of a dominant position (Article 101 TFEU) (Article 102 TFEU) respectively. Article 107 of the TFEU, which deals with state aid, prohibits the government of MS from attributing help that distorts competition to firms.¹² Regulation 139/2004 covers control of mergers, acquisitions, and joint ventures. The non-discrimination principle found in Article 18 TFEU, which forbids discrimination based on nationality, is a principle of particular significance in the competition law.

The EC also publishes notices and recommendations that are not legally binding but that outline the intent and application of the various Articles and Regulations. National competition laws must be applied in conjunction with Community laws under Article 3 of¹³ *Council Regulation (EC) No. 1/2003 of 16 December 2002 (the so-called "modernization regulation," which became effective 1 May 2004)*. This requirement makes EU competition law uniform not only at the EU level but also at the national level (Luu, 2012; Jones, 2006). As a result, EU competition law is a complicated and comprehensive body of regulations that has resulted in a high degree of convergence in EU competition law.

2. ASEAN's approach to the competition regulatory regimes:

As is to be expected, ASEAN has taken a soft law approach to competition, in contrast to the EU. The latter has received support from the ASEAN Experts Group on Competition (AEGC), a platform for discussion and collaboration on competition law and policy that was created in the region in 2007. It has published a¹⁴ *Handbook on Competition Policy and Law in ASEAN Member States for Business* and¹⁵ *the ASEAN Regional Guidelines on Competition Policy* (2010) (launched in 2010 and updated in 2013). Based on AMS experiences and internationally suggested practices, it has prepared

¹² Council regulation (ec) no. 139/2004 of 20 january 2004 on the control of concentrations between undertakings (the EC merger regulation).

¹³ Council Regulation (EC) No 1/2003 of 16 December 2002.

¹⁴ Handbook on Competition Policy and Law in ASEAN for Business 2019.

¹⁵ the ASEAN Regional Guidelines on Competition Policy (2010) (launched in 2010 and updated in 2013).

Guidelines on Developing Core Competencies in Competition Policy and Law for ASEAN (2012).

These principles encourage collaboration, the exchange of best practices among AMS, and the development of a culture of competition law by offering a common framework. Many people have questioned their efficacy. ¹⁶"The guidelines may be part of the process of drafting political and legal decisions on competition issues in the ASEAN countries," says Carol Osborne (Economist, Partner, HoustonKemp, Singapore, 2015), "but it is difficult to expect them to be an efficient tool for economic integration of the less developed ASEAN countries."

The member states of ASEAN vary significantly and may have differing (second-order) objectives for their competition policies depending on, amongst other factors, their development, size and resources. In this context, the Guidelines' explicit recognition of the need for competition policy to balance trade-offs and choices can be seen as a key strength of their design, rather than weakness.

Furthermore, it is not evident that such variations in the competition laws are necessarily at odds with regional integration given current circumstances. In the longer term, competition policies that support the development of the lower-income Member States may well be more likely to encourage the goals of regional integration than imposed policies that may potentially result in a widening in the development gap.

The four pillars of the AEC discussed above do not necessarily rely on harmonised laws but will be furthered by competition policies that are effective in encouraging efficiency, preventing anti-competitive conduct and encouraging development.

As a result, the ASEAN harmonized approach to competition law simply seeks to reduce the differences between national laws, leaving differences in detail to be determined by national lawmakers. As a result, it is less strict than the uniform EU competition legislation and is based on a network of support and collaboration.

¹⁶ Carol Osborne, 'The Role of the ASEAN Guidelines on Competition Policy in the Economic Integration of the ASEAN Countries' (HoustonKemp, April 2015)
<<https://static1.squarespace.com/static/534dc926e4b0a1bf05ab48dc/t/55486940e4b0df39e8318601/1430808896525/Competition+Guidelines+and+the+AEC.pdf>> accessed 18 September 2022.

III. ASEAN General Principles for Harmonisation of Regulatory Regimes:

1. The harmonisation of regulatory regime for Economic Integration in ASEAN:

All Member States should agree on the goals before defining the harmonised regulatory scheme. It takes a significant concerted effort by regulatory bodies across Member States over a considerable amount of time to harmonize regulatory systems. Such an endeavor is only appropriate if there are significant measurable goals in keeping with the AEC goal of fostering economic integration and cohesion with greater freedom of movement of commodities. Such objectives should strengthen the implementation of the ASEAN Trade in Goods Agreement (ATIGA) and will include:

- Removal of unnecessary technical barriers to trade (TBTs).
- Addressing relevant non-tariff measures (NTMs) among ASEAN Member States.
- Facilitation of trade.
- Upgrading of regulation to ensure safety, consumer health, environmental protection, consumer protection and meeting other social objectives.

Not all regulations need to be harmonised as some regulations serve a specific domestic need in particular Member States. It should be established that the identified objectives are valid for the whole of ASEAN and not for a limited number of Member States.

¹⁷The Harmonised Regulatory Regime should lead to reduced TBTs and serve to enhance ASEAN Economic Integration. Technical restrictions result in trade restrictions for goods moving across borders. The harmonization of regulatory systems would compel Member States to evaluate their current laws to ensure compliance. It must be assured that harmonised rules do not impose additional, more significant restrictions than those imposed by the current laws in effect in the ASEAN Member States. Harmonization should enhance market integration and result in a significant decrease of barriers.

2. Competence of Conformity Assessment Bodies to support Harmonised Regulatory Regime:

¹⁷ Hill, Hal Menon and Jayant, 'ASEAN Economic Integration: Features, Fulfillments, Failures and the Future' (2010).

The unified regulatory framework ought to function as a response to justifiable public interests and worries.¹⁸ The justification for regulatory regime harmonisation should show that the benefits to the public are well-defined. The way these issues are handled should be evaluated for compliance with the pertinent technical regulatory requirements of the WTO/TBT agreement and the pertinent sanitary and phytosanitary measure provisions of the WTO/SPS agreement.

The competence of the conformity assessment bodies should be guaranteed through accreditation based on the standards in¹⁹ the *ASEAN Guidelines for Accreditations and Conformity Assessment* or through other equivalent means when requirements for conformity assessment are included in harmonised regulatory regimes.

Based on dialogue between the appropriate authorities of Member States, the use of third-party conformity assessment bodies in the implementation of technical regulations may be approved for certain sectors. Member States are encouraged to allow accredited third-party conformity assessment organisations to conduct conformity assessments for items with comparatively lower risks.

3. Facilitating participation in global value chains based on the use of ASEAN harmonised standards:

As a first preference, standards that have been harmonised in accordance with the ASEAN Guidelines for Harmonized Standards should be indicated when compliance with standards is a condition of harmonised regulatory regimes.²⁰ International standards may be explicitly referred to in the harmonised regulatory regime where relevant ASEAN Harmonised Standards are not available, and suggestions may be made for these international standards to be adopted as ASEAN Harmonised Standards. When suitable international standards are not available, other standards may be used as a reference in accordance with the ASEAN Guidelines for Harmonised Standards's order of priority for identifying suitable standards and the steps taken to have these standards adopted as ASEAN Harmonised Standards.

¹⁸ Commission Implementing Decision (EU) 2020/1835 of 3 December 2020 on the harmonised standards for accreditation and conformity assessment – OJ L 408, 4 December 2020, p. 6–11.

¹⁹ The ASEAN Guidelines for Accreditations and Conformity Assessment.

²⁰ ASEAN promotion centre on Trade, Investment and Tourism, *Global value chains in ASEAN: A Regional Perspective* (Paper 1 Revised, 2019), p. 16.

To ensure that the regimes produced promote ASEAN enterprises' participation in global value chains, the Harmonization of Regulatory Regimes should take advantage of international regulatory cooperation and international mutual recognition arrangements, when these are available.

Utilizing international initiatives that have resulted in the harmonisation of requirements or regulations on a global scale benefits ASEAN in a number of ways. By adopting these globally harmonised standards, ASEAN can avoid creating its own standards on its own. Benefits result from the entrenched skills and knowledge, and regional industries will also conform to the demands of markets outside of ASEAN. As a result, ASEAN can utilize international platforms without incurring the extra expenses and resource demands associated with developing parallel platforms for harmonizing regulatory requirements. Additionally, these regional and global agreements enable ASEAN Member States to take part in the creation of globally standardised publications.

4. Harmonization of Regulatory Regimes to prevent unjustified demands on resources and infrastructure:

The implementation of the provisions of the harmonised regulatory regime should not incur disproportionately high costs due to infrastructure and resource requirements.

²¹The complexity and methods chosen in a technical regulation will determine the type of resources and infrastructure needed. Member States that lack the necessary resources or infrastructure may run into problems and experience delays in implementation. When establishing the harmonised regulatory framework, the accessibility of infrastructure, qualified employees, and operational expenses should be taken into account.

To protect the unique interests of the Micro, Small and Medium Enterprise (MSME) sector:

²²The unified regulatory framework should protect the interests and well-being of the MSME sector and not have a negative effect. A significant section of ASEAN's population earns a living through the MSME sector, which also supports the economies of Member States.

²¹ Pierre-Louis Lezotre, 'Value and Influencing Factors of the Cooperation, Convergence, and Harmonization in the Pharmaceutical Sector' *Elsevier Public Health Emergency Collection* (Netherlands, 17 January 2014) 172 - 175.

²²Paul Vanderberg, 'The Micro, Small and Medium Enterprises (MSMEs) and the global economy crisis' (2009) <https://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_ent/documents/publication/wcms_108413.pdf> accessed 19 September 2022.

Technical rules may include onerous requirements, high entry barriers, and disproportionately high expenses for MSME. These aspects should be taken into consideration while choosing the measures, and if necessary, additional safeguards should be made to protect the MSME to ensure its survival.

5. The harmonisation of regulatory regimes incorporated Good Regulatory Practice (GRP) principles:

To create harmonised regulatory regimes, ²³the *ASEAN GRP Core Principles*, and the *ASEAN Guidelines on Good Regulatory Practices (GRP)* should be consulted. To ensure a level playing field for trade, industry, and consumers in ASEAN, the regulatory measures chosen should be commensurate to risks encountered, not overburden industry, add unnecessary expenses, and be fair to all stakeholders.

Recommendation for Harmonisation of Standards and Regulations:

It will be easier to conduct intraregional trade and assure consistency of thought if standards and regulations in different business and industry sectors are harmonized or aligned. Standards and rules ought to follow recognized international best practice. ²⁴The automotive, pharmaceutical, financial services, food and beverage, rail and road infrastructure, to name a few, are just a few of the industries affected by this area.

Different licensing and homologation procedures have been seen in ASEAN's automotive industry, depending on local needs. On top of the previously required international requirements, local agencies frequently demand that manufacturers adhere to local necessary certification criteria. Due to the needless duplication of processes, this redundancy has a significant impact on ASEAN's costs and turnaround times. More importantly, this will directly affect the idea of an ASEAN-wide manufacturing base that would allow for the free movement of automobile products within the region. As a result, this will reduce ASEAN's

²³ ASEAN Guidelines on Good Regulatory Practices.

²⁴ ERIA, 'The Harmonization of Standards in the ASEAN', in Scoles, S.D (ed.), *Harmonization of Standards and Mutual Recognition Agreements on Conformity Assessment in Indonesia, Malaysia, Thailand, and Viet Nam*. ERIA Research Project Report 2015-14, <http://www.eria.org/RPR_FY2015_No.15_Chapter_3.pdf> pp.5-7.

investment opportunities even more, which will prohibit the region from becoming a major participant in the automobile industry because it will be limited to serving domestic markets.

There are a few areas that need attention if ASEAN is to grow its financial markets in a large and comprehensive way with long-term, medium-term, and short-term effects. Both the home and the regional spaces contain these focal points. In the domestic market, the establishment of standards and a single platform, as well as the development of financial market infrastructure, are required. The creation of a regional framework for creating a shared technical foundation for the financial markets is crucial. International standards and best practices should be studied in those countries where there is currently no infrastructure to support financial services to ensure that any implementation results in a system that won't need to be replaced in the future to comply with ASEAN financial integration or with international standards and best practices.

The attainment of financial literacy is crucial in both domestic and regional contexts since it eventually leads to financial inclusion. Governments must make a deliberate effort to educate the public on the capabilities of the financial services sector, citizens' rights, how to use financial services, and a fundamental grasp of financial instruments.

References:

Primary sources:

- ASEAN Guidelines on Good Regulatory Practices.
- *ASEAN Economic Community Blueprint* (2008)
- Council Regulation (EEC) No. 17/62 of 6 February 1962: First Regulation implementing Articles 85 and 86 (now 101 and 102) of the Treaty.
- Council regulation (ec) no. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC merger regulation).
- Council Regulation (EC) No 1/2003 of 16 December 2002.
- Declaration of ASEAN Concord II.
- The Treaty of Rome 1957.
- The Single European Act 1986.
- Treaty on the Functioning of the European Union.
- Preamble of the Treaty of Rome (1957).
- Handbook on Competition Policy and Law in ASEAN for Business 2019.
- The ASEAN Regional Guidelines on Competition Policy (2010) (launched in 2010 and updated in 2013).

Secondary sources:

- ASEAN promotion centre on Trade, Investment and Tourism, *Global value chains in ASEAN: A Regional Perspective* (Paper 1 Revised, 2019), p. 16.
- Carol Osborne, 'The Role of the ASEAN Guidelines on Competition Policy in the Economic Integration of the ASEAN Countries' (HoustonKemp, April 2015)
<<https://static1.squarespace.com/static/534dc926e4b0a1bf05ab48dc/t/55486940e4b0df39e8318601/1430808896525/Competition+Guidelines+and+the+AEC.pdf>> accessed 18 September 2022.
- Chung-in Moon, 'ASEAN international organization' (Britannica)<
<https://www.britannica.com/event/Asian-financial-crisis>> accessed 16 September 2022
- Michael G. Plummer, 'The ASEAN Economic Community and the European Experience' (2006) 1 ADB <<https://www.adb.org/sites/default/files/publication/28458/wp01-plummer.pdf>> accessed 17 September 2022.
- Michael Bordo, Lars Jonung and Agnieszka Markiewicz, 'A fiscal union for the euro: Some lessons from history' (Vox EU, CEPR, 21 September 2011) <<https://cepr.org/voxeu/columns/fiscal-union-euro-some-lessons-history>> accessed 18 September 2022.
- Fukunari Kimura, 'Reconstructing the Concept of "Single Market and Production Base" for ASEAN beyond 2015' (2013) ERIA <<https://www.eria.org/ERIA-DP-2013-25.pdf>> accessed 18 September 2022.
- Hill, Hal Menon and Jayant, 'ASEAN Economic Integration: Features, Fulfillments, Failures and the Future' (2010).
- The ASEAN Guidelines for Accreditations and Conformity Assessment.
- Pierre-Louis Lezot, 'Value and Influencing Factors of the Cooperation, Convergence, and Harmonization in the Pharmaceutical Sector' *Elsevier Public Health Emergency Collection* (Netherlands, 17 January 2014) 172 -175.
- Paul Vanderberg, 'The Micro, Small and Medium Enterprises (MSMEs) and the global economy crisis' (2009)<https://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_ent/documents/publication/wcms_108413.pdf> accessed 19 September 2022.
- ERIA, 'The Harmonization of Standards in the ASEAN', in Scoles, S.D (ed.), *Harmonization of Standards and Mutual Recognition Agreements on Conformity Assessment in Indonesia, Malaysia, Thailand, and Viet Nam*. ERIA Research Project Report 2015-14,
<http://www.eria.org/RPR_FY2015_No.15_Chapter_3.pdf> pp.5-7.