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Beyond the Secretariat: Addressing Governance Issues in ASEAN Economic Community

ASEAN economic integration has come a long way since the signing of the ASEAN Preferential Trading Arrangements in 1977. International cooperation has yielded concrete results such as raising the member's economic growth and well-beings and the region's competitiveness. The recent attempt to enhance cooperation is the ASEAN Economic Community (AEC), which was established in October 2003 when the Declaration of ASEAN Concord (or Bali Concord II) was adopted at the 9th ASEAN Summit. AEC's main objective is to transform ASEAN into "a single market and production base, turning the diversity that characterises the region into opportunities for business complementation making ASEAN a more dynamic and stronger segment of the global supply chain" (ASEAN 2003). Although AEC is set to be commenced by 2015, countries must look beyond 2015 as integration process continues. Thus, questions namely "How can AEC be advanced further?" or "How can implementation problems be lessened or overcome?" must be seriously addressed as such issues can prevent ASEAN from realizing its economic potentials.

Past studies have recognized implementation challenges and offered recommendations to improve them, but a puzzle remains. Intellectuals have been perplexed by the fact that institutions were found to improve developments in some areas, not in the others. This puzzle stems from neglecting how the dynamics between institutional **functions** and actors' governing principles shape institutional effectiveness. Such ignorance can yield substantive implications. For example, resources could be wasted on building institutional frameworks that turn out to be unable to advance AEC. Also, ASEAN's inability to create institutions to resolve cooperation problems may tempt some regional states to pursue bilateral agreements with external players, further undermining regional integration effort.

This paper attempts to shed light on the puzzle of why some institutional solutions fare better than the others in advancing AEC by exploring “institutional effectiveness”, which is defined as the ability to extract states’ compliance and cooperation. This paper argues that institutional effectiveness is a product of an interaction between institutional functions and actors’ governing principles. Thus, the independent and dependent variables are institutional function and institutional effectiveness, respectively. Actors’ governing principles act as the intervening variable.

By “institutional functions”, I mean tasks which particular entities perform. “Governing principles” refer to “beliefs of fact, causation, and rectitude” (Krasner 1983:2). Specifically, institutional effectiveness hinges on a degree of compatibility between the functions which institutions perform and governing principles adopted by players. “Compatibility” means the ability between institutional functions, on the one hand, and players’ governing principles, on the other, to work well together. A higher degree of compatibility connotes that entities’ functions are less likely to clash with actors’ governing principles. As a result, these institutions tend to be more effective in extracting countries’ compliance and cooperation. In contrast, if institutions’ tasks conflict with the governing principles the participants abide to, a lower degree of compatibility results. Consequently, these entities are likely to be less effective in getting compliance and cooperation from states.

ASEAN’s governing principles are reflected in the “ASEAN Way” which emphasizes the notions of non-interference in other domestic affairs and respect of national sovereignty. As a result, regionalism is usually achieved through informality, flexibility, consultation and conflict

avoidance (Acharya, 1999).¹ Consensus-based decision-making is adopted in most cases. Peer pressure is generally employed to ensure compliance (Asian Development Bank 2010: 125). Although some hailed that the Charter has transformed ASEAN into a more rule-based organization, it is worth noting that the text did not change regional states' adherence to the governing principles (Jetschke 2009: 418). Although these notions are sometimes upheld by non-ASEAN countries, evidence suggests that ASEAN's strong penchant to non-interference and national sovereignty is prevalent and these elements have shaped ASEAN's regional integration process since its inception (Vandewalle 2014: 4).

Regarding institutional effectiveness, I posit that ASEAN's governing principles (i.e. the "ASEAN Way") are likely to be less compatible with AEC institutions performing monitoring functions. This renders them less effective in lessening implementation issues and making AEC progress. By contrast, ASEAN's governing principles tend to work better with institutions harmonizing technical rules or procedures. Consequently, these institutions are likely to be more effective in advancing AEC.

This study's contributions are multi-faceted. First, it mends the literature gap by investigating the effect of an interaction between institutional **functions** and actors' governing principles on institutional effectiveness. The theoretical framework outlined in this paper can enhance our general understanding of why certain institutions perform better than the others in extracting states' compliance and fostering cooperation. Moreover, insights from the analyses enable policymakers to adjust the functions of certain institutions so that they would be more effective in reducing implementation problems. Resource will not be wasted on crafting solutions which are less likely to work with the governing principles of particular countries.

¹ The ASEAN Way has not only been used in ASEAN internally, but also adopted in wider contexts, especially ASEAN's engagement with outside powers. Accordingly, the ASEAN Way is sometimes called the "Asian Way", "Asia-Pacific Way", or "Pacific Way" (Acharya, 1997; Mahnubani, 1995).

This paper is organized as follows. Part I discusses previous studies' contributions to address AEC challenges and points out remaining research gaps. Part II presents a theoretical framework and elaborated on the hypotheses. Methodology such as case selection rationales and data sources is mentioned in the third section. Part IV analyzes cases of non-tariff barrier (NTB) elimination and trade facilitation to demonstrate how an interface between institutional functions and players' governing principles affect institutional effectiveness. The final section summarizes.

It should be noted that this paper does not aim at comparing ASEAN with other regional arrangements. Although a comparison across regional projects (e.g. ASEAN and the European Union (EU)) could yield insights into the effect which the interface between institutional functions and actors' governing principles has on institutional effectiveness, such analysis is beyond the paper's scope, which focuses on explaining the progress within AEC across issue areas. Realizing that such assessment is very useful, suggestions for future research are presented in the conclusion section.

I. AEC Implementation Challenges: Contributions from Previous Research

Recent challenges facing AEC lie in its implementation phase. The 2012 Scorecard revealed that the overall progress was around 67.5% for the 2008-2010 period. Pillar IV ("Integration into the Global Economy") was most advanced as 85.7% of its measures was fully implemented. However, the rate of the remaining Pillars' fared less than 70% (ASEAN Secretariat 2012). The advancement speed also tapered off as the rate of Phase I (2008-2009) was 87.6 % while that of Phase II (2010-2011) shrank to only 54.4%.

The Scorecard system failed to capture the actual implementation at a domestic level because it reported the figures in aggregate terms and did not identify reasons behind delays in specific issue areas. Accordingly, experts have conducted additional studies to probe further

implementation problems. For example, Dee (2011)'s analysis of ASEAN states' policy changes in services sectors between 2008 and 2010 unveiled that although at least some headway had been made, discriminations against foreign suppliers and restrictions on foreign employees were prevalent. The Asian Development Bank Institute (ADBI) (2014: 179) found that in the realm of competition policy, Singapore, Indonesia, Malaysia, Thailand and Vietnam had in place the legislations, but the introduction of these laws in the other states remained doubtful.

Regarding a solution to ameliorate implementation problems, experts have suggested enhancing the power of regional institutions (Severino 2006; Wong et al. 2011) which are limited and weak (Capannelli 2013b; Charlertmpalanupap 2008: 112). The ADBI Report (2014: 270) posited that empowering regional institutions such as the Chair, Secretariat and Secretary-General, and Committee of Permanent Representatives (CPR) is a must. Other advice includes bolstering the Secretariat's monitoring capacity and incorporating private sector feedback into the evaluation of policies' effectiveness, creating new institutions, giving the existing ones the authority to enforce rules on individual states, and adopting a more flexible decision-making system (Capannelli 2013a; Chia 2013).

Although the recommendations are useful, they have missed examining how an interaction between such institutional **functions** and ASEAN's underlying governing principles shapes regional integration progress. As Jayant Menon (2014) mentioned, the "flexibility that characterises ASEAN cooperation, the celebrated 'ASEAN way', may hand member states a convenient pretext for non-compliance."

Furthermore, my study can mend the knowledge gap within works on international institutions. As much effort has been garnered towards understanding the institutional "design", little attention has been paid to study the "functions" of entities and how the functions interact

with players' governing principles. For instance, Koremenos et al. (2001) explored why institutions differ in terms of design in five dimensions: membership, scope² (what issues institutions govern), centralization (whether tasks are performed by single or multiple agents), control (how collective decision is made), and flexibility (how institutions accommodate future circumstances). Because this work emphasizes "design", it ignores examining institutional "functions", which this paper assesses.

To sum up, the literature gap persists as past studies have little explored the influence of an interface between institutional functions and ASEAN's governing principles in shaping entities' effectiveness. Specific to the study of AEC's progress, one must take into account dynamics between the **functions** of regional institutions and ASEAN's governing principles, which are outlined below.

II. Theoretical Framework

I take a neoliberal institutionalist approach which posits that countries wanting to deal with economic interdependence and overcome collective action challenges set up institutions to achieve these ends. Thus, institutions are created to enable states to reach certain goals such as decreasing transaction costs, monitoring compliance and detecting defection, and identifying a focal point where interests converge (Keohane 1984; Williamson 1985).

Why do different institutions perform dissimilar tasks? Game theory can shed light on this puzzle as such framework considers interdependent decision-making or how rational players (e.g. states) interact to make their decisions. Collective action problems in different issue areas

² Although my research does not aim at exploring what shapes the scope of issues which particular ASEAN institutions govern, some studies found that the ASEAN Way partly explained why regional institutions avoided governing issues that cut much into the internal affairs of the members (Kahler 2012). For more detailed findings, see Goldstein et al. (2001), Kahler (2000), and Khong and Nesadurai (2007).

emerge from dissimilar logics of cooperation (Stein 1982; Yoshimatsu 2006). Hence, it requires institutions to perform different functions to achieve or maintain such cooperation.

A collaboration game is reflected in the logics of the Prisoner's Dilemma (PD). A case of removing trade barriers including non-tariff barriers (NTBs) usually resembles the PD game as outlined in the existing research (Russett et al. 2005: 299-300). NTBs can come in several forms such as technical measures, pre-shipment inspection, and import licensing.

As Table 1 demonstrates, each country (A and B) must choose between abolishing NTBs (cooperate) or refusing to do so (defect). Under the condition of no or little communication between the nations, a collaboration game punishes the complier and rewards the defector. For example, if A defects (i.e. refuse to eliminate its NTBs) but B cooperates (i.e. eradicate its NTBs), A will gain at the expense of B (A's payoff = 4, B's payoff = 1). In short, A enjoys the benefits of exporting its goods to B, while protecting its markets from the penetration of B's goods. On the contrary, if B cheats (i.e. refuse to terminate its NTBs) when A cooperates (i.e. undertake NTB removal), B will walk away with the greatest payoff while A suffers the lowest yield ((A's payoff = 1, B's payoff = 4). Because A and B do not know much about what strategy the other side will adopt, each of them is likely to cheat, meaning that both sides decline to do away with their NTBs. Mutual protectionism results, yielding the sub-optimal outcome (A's payoff = 2, B's payoff = 2) as opposed to pareto-optimal outcome when they both cooperate (A's payoff = 3, B's payoff = 3).

One may contend that in reality actors interact repeatedly which resembles an iterated PD game, not a one-shot game as in Table 1. Axelrod and Hamilton (1981) showed through computer simulations that players can deploy a tit-for-tat strategy in a repeated game to punish the defector to demonstrate that cooperation can evolve in any PD scenarios. However, little real-

world evidence has proven that NTB elimination aligns with an iterated PD game. Also, “these arguments tend to break down when other states find it difficult to determine whether a state has violated commonly agreed rules due to ambiguity and incomplete information” (Yoshimatsu 2006: 117). Hence, the logic of a one-shot PD still holds.

To sum up, every participant has an incentive to cheat in NTB case. To achieve cooperation, institutions must perform monitoring tasks by keeping track on states’ behavior and disseminate the information to other countries. Monitoring tasks create a condition of “I know that you realize that I know” which suppresses an incentive to defect (Garret and Weingast 1993: 174-175). Moreover, if cheating still happens, monitoring can detect the cheater. Once the non-complier is identified, the other states can punish the former to make it follow the NTB agreement, which can enhance cooperation.

Table1: The Payoff Matrices of the Prisoner’s Dilemma (PD) Game

		Country A	
		Remove NTBs (cooperate)	Refuse to remove NTBs (defect)
Country B	Remove NTBs (cooperate)	3, 3	1 , 4
	Refuse to remove NTBs (defect)	4 , 1	2 , 2

When applying such intuitional solutions on ASEAN, the interface between monitoring functions and the ASEAN Way reveals a low degree of compatibility as these elements tend to clash with each other. As regional states strongly adhere to the principles of national sovereignty and non-interference, allowing certain entities to monitor state behavior is perceived as a substantive compromise of sovereignty. Research shows that when supranational bodies are created to perform monitoring functions, Southeast Asian countries exhibit reluctance to allow these agencies to oversee their conduct (Collins 2007).

To conclude, due to low compatibility of the interplay between institutional functions and the ASEAN Way, entities undertaking monitoring tasks tend to be less effective in extracting cooperation from ASEAN's participants and leading to less progress in cooperation. Formulated as a hypothesis:

Hypothesis 1: Due to a low degree of compatibility between institutions performing monitoring functions and ASEAN's governing principles, these entities are likely to be less effective in extracting compliance from the participating nations and advancing cooperation progress.

While collective effort to do away with NTBs resembles a PD game, evidence confirms that cooperation problems in other areas such as trade facilitation reflect the logics of a coordination game (Hoekman 2014; WTO 2015: 64-65).

Table 2: The Payoff Matrix of a Coordination Game

		Country C	
		Approach X	Approach Y
Country D	Approach X	5 , 3	1 , 1
	Approach Y	1 , 1	3 , 5

In a coordination game (Table 2), both states (C and D) share an interest to work together, hence there is no incentive to cheat at the beginning (Koremenos et al. 2001: 776). In the case of trade facilitation cases, ASEAN nations commonly agreed to consolidate their cargo clearance systems. Although nations have little incentive to defect, a challenge to cooperation may arise if they disagree on which option to be chosen among available alternative, hence the issue of multiple equilibria. Illustratively, the consolidation of cargo clearance regimes requires states to adjust their laws and regulations and there exist many ways to make adjustments. To each participant, different modalities yield it different amounts of costs and/or benefits than the

other means, which can result in conflict over the selection of a common pathway. Suppose there are two ways to enhance trade facilitation – approach X and Y (i.e. multiple equilibria). If C wants to adopt method X because doing so brings a bigger net payoff to the country than relying on method Y (C's payoff when adopts approach X = 5, C's payoff when uses approach Y = 3). On the contrary, D desires to use approach Y as it gives him a greater net yield than implementing approach X (D's payoff when adopts approach Y = 5, D's payoff when uses approach X = 3). Driven by different preferences, C and D dispute on the adoption of the approach/modality. If their disagreement cannot be resolved, cooperation breaks down

To accomplish cooperation in this situation, institutions must undertake harmonizing functions. “[I]nstitutions are expected to perform information gathering and informal consultation about the preferences and policies of the states” (Yoshimatsu 2006:119) to help the latter arrive at a commonly agreed modality. Concerning trade facilitation, entities harmonize or align different national customs procedures or systems to lower inconsistencies among them. Such alignment modality must be conducted to best address the participants' preferences. In this way, these institutions help states accomplish cooperation.

Regarding the degree of compatibility of the interaction between harmonizing tasks and ASEAN's governing principles, it tends to be high as these functions work well with the actors' values of non-interference and national sovereignty. For instance, harmonizing technical rules and procedures requires a lesser degree of compromise of national sovereignty. One reason is because rule and procedure alignments can be crafted in a way that permits regional states to maintain some room to maneuver, such as allowing countries to employ their own policies to manage their customs clearance system. In this way, harmonization as a function does not cut

much into the ASEAN's notions of non-interference in others' internal matters and national sovereignty.

In sum, harmonizing tasks are more compatible with ASEAN's governing principles, enabling these entities performing these functions to be highly effective in getting more compliance and cooperation from the participants. A hypothesis hence contends:

Hypothesis 2: Due to a low degree of compatibility between institutions performing harmonizing functions and ASEAN's governing principles, these entities are likely to be highly effective in extracting compliance from the participating nations and advancing cooperation progress.

One may posit that the effectiveness of the institutions addressing NTB removal and of those tackling trade facilitation differs not because of the interaction between entities' functions and actors' governing principles as I demonstrated. Rather, domestic political considerations explain why the progress of trade facilitation cooperation tends to be greater than that of NTB elimination. In short, NTB eradication is a more politically sensitive matter as states have to protect certain industries while trade facilitation cooperation involves mostly technical issues, rendering it less politically sensitive. Although domestic political dynamics may play a role, one cannot dismiss the influence of players' governing principles on institutional effectiveness. Past studies have confirmed that the interface between the tasks institutions perform and ASEAN's values contributed to the effectiveness of regional entities to push forward cooperative progress. For instance, Collins (2012)'s research on ASEAN's effort to fight infectious diseases showed that the "primacy of non-interference can also be witnessed in the area of monitoring and evaluation" . . . [which involves] . . . reporting how effective the measures are that are have put in place." Sharing this information "is at odds with guarding against neighboring interference in domestic affairs." Consequently, this conflict explained the involved parties' failure to disclose the information to the ASEAN Monitoring and Evaluation system" (Collins 2012: 51).

III. Methodology

I chose to conduct my analyses on NTB termination and trade facilitation because of data availability. These cases also differ in terms of institutional functions, enabling a comparative assessment. In other words, regional institutions aim at eradicating NTBs perform a monitoring function while entities purposed to enhance trade facilitation undertake a harmonizing task. Moreover, NTBs and trade facilitation are the main components of “free flow of goods” under the AEC framework. As commerce has long been crucial to ASEAN’s economies, developments made in the two areas will help realize ASEAN’s long-term potential as they significantly enhance regional production networks and supply chains as well as regional integration and growth.

This paper does not aim at scrutinizing all initiatives adopted to address NTBs and trade facilitation. Rather, it focuses on investigating major agendas because progress made by such projects largely contributes to the areas’ overall implementation. Therefore, concerning NTB abolishment and trade facilitation, the NTB identification project and ASEAN Single Window were examined respectively.

The independent variable (institutional **functions**) was measured by the tasks institutions perform. They can be either monitoring or harmonizing. The intervening variable (actors’ governing principles) was held constant because ASEAN still exhibits some continuity in maintaining the “ASEAN Way” (Vandewalle 2014). The dependent variable (institutional effectiveness) was assessed by progress made in the area. As for data sources, several archives such as official agreements, press releases, scholarly works, and newspaper articles were consulted.

IV. Case Analyses

Case 1: Non-Tariff Barrier Elimination

While the world has witnessed tariff reduction through bilateral and multilateral agreements, other barriers and measures have been employed as protectionist instruments since the 1970s. Such policies have been found to be more economically harmful to countries and the global trading system than tariffs (Bosworth 1999). In ASEAN, while the average tariff rate is less than 5%, the ongoing utilization of NTBs raised the average import costs per 20-square-foot container from \$US 435 in 2005 to \$US 2,035 in 2010 (ASEAN Secretariat 2013a: 20). This indicates that trade liberalization achieved through tariff reduction and elimination may be void as alternative protectionist tools are used to distort international trade and undermine efforts towards regional integration. As Jayant Menon pointed out, it is unlikely that the AEC targets will be met by 2015 due to difficulties in executing measures to deal with NTBs (China Daily 2014).

Governing Institutions

ASEAN-wide attempts to tackle NTBs can be traced back to the 1977 Preferential Trading Agreement, when member states pledged to lower both tariff and non-tariff barriers. Regional commitments were re-emphasized in the 1987 Memorandum of Understanding on the Standstill and Rollback on Non-Tariff Barriers among ASEAN Members. The 1992 ASEAN Free Trade Agreement (AFTA) adopted several measures to terminate NTBs such as updating the working definition of non-tariff measures (NTMs) and NTBs, and establishing the ASEAN NTM Database. The Blueprint rolled out actions such as abiding to the Protocol on Notification Procedures³, and specified the deadlines for NTB removals for individual members, with by 2010 for Brunei, Indonesia, Malaysia, Singapore, and Thailand, by 2012 for the Philippines, and

³ The Protocol was purposed to disburse advanced warnings of such policy actions having potentials to negatively impact the implementation of the Common Effective Preferential Tariff (CEPT) scheme.

by 2015 with flexibilities for Cambodia, Laos, Myanmar and Vietnam (CLMV) (ASEAN Secretariat 2007: 7). Additionally, the 2009 ASEAN Trade in Goods Agreement (ATIGA) further improved provisions to address NTBs via codifying measures and creating monitoring mechanisms (ASEAN 2009, Chapter 4).

In terms of institutional architecture (Figure 4.1), the main body responsible for NTB matters is the Coordinating Committee for ASEAN Trade in Goods Agreement (CCA). CCA supports the Senior Economic Officials' Meetings (SEOMs), which then supports the AFTA Council. The ASEAN Secretariat serves as a coordinator to support CCA, SEOM, and AFTA Council (ASEAN Secretariat 2014).

Figure 4.1: Institutions Governing ASEAN's NTB Matters

Source: ASEAN Secretariat (author's illustration)

As explained in Part II, because collective action problems in NTB termination can be demonstrated by a collaboration game, institutions addressing such issue must perform monitoring tasks. Regarding ASEAN, some mechanisms were established to oversee the participants' NTB elimination. For instance, the ASEAN Database on Non-Tariff Measures (NTMs) which stores information about the countries' NTMs was created in 2004. NTMs refer to any government policies that distort trade or undermine the global economic welfare. The

Database is compiled via members' official self-reports. In 2005, the criteria for identifying NTBs were established to detect actual NTBs within the Database.

The NTB identification process works as follows. Each government sends the list of its self-reported NTMs to the Secretariat which then categorizes the NTMs into three boxes. Green Box consists of NTMs that could be justified because they do not discriminate against imports in favor of domestic goods. Amber Box comprises NTMs which trade-restriction effects are subject to further discussion. Red Box contains clear-cut NTBs (i.e. NTMs which discriminate import and hamper trade) which stipulate immediate elimination. The Secretariat's classification result is then reviewed by members. After that, CCA decides on which NTBs will be terminated and specifies removal time frames.

Institutional **Functions**, Governing Principles, and Institutional Effectiveness

As outlined above, the involved institutions addressing ASEAN's NTB problems perform monitoring tasks. The ASEAN NTM Database and the criteria for identifying NTBs are purposed to track states' cooperation and detect non-compliance. Despite such mechanisms, progress in expelling NTBs has been disappointing. In August 2012 at the 44th ASEAN Economic Ministers' Meeting (AEM) in Siem Riap, Cambodia, concerns were raised on the pervasiveness of NTBs after the AFTA Council had found that governments have adopted NTMs in regional trade (The Nation 2012). Constructing the ASEAN NTM Database, which is a crucial component of NTB elimination, has been very slow (Chia 2013). Specifically, ASEAN has struggled to make comprehensive the NTM inventory (Austria 2013: 39). The compilation of NTM information is far from being complete because some countries failed to declare their NTM usage. Or even when they reported, little evidence was given on whether the measures were justified and how they were employed (i.e. in a discriminatory format).

What explains little progress in ASEAN's NTB removal effort? An answer lies in a degree of compatibility between monitoring functions and actors' governing principles. In other words, the ASEAN NTM Database and the NTB identification criteria perform monitoring tasks which cut right into the values of non-interference and sovereignty upheld by ASEAN states. As a result, such functions clash with ASEAN countries' governing principles, yielding little progress in regards to NTB eradication.

The under-reports of NTM notifications by the member states reflected a conflict between these functions and ASEAN's governing principles. The countries' declaration of their NTM utilization tended to be incomplete. In most cases, the purposes of NTMs and implementation were not provided. (Pasadilla 2013: 42). Despite that fact that the governments agreed to start identifying NTMs in the electronics sector⁴ at the 43rd AEM in August 2011 (ASEAN 2011), an issue of under-reporting remained prevalent.

Moreover, Okabe (2012)'s analysis revealed the divergence between NTMs actually employed and members' notifications. For example, the incidents of NTMs of electronic equipment (HS Code 85) were high in Cambodia and Brunei, but these states sent few notifications. Thailand imposed a high number of NTMs on electrical shavers and hair clippers (HS Code 8510), but it did not declare such usage. Mismatches between self-reports and actual NTMs utilized were also documented in other items. For example, while Indonesia, Malaysia, the Philippines and Thailand imposed NTMs on carriages, wheelchairs and their parts (HS Code 8713 and 8715), only the Philippines declared its usage in the ASEAN Database. In addition, evidence surfaces that regional states engaged in a "color-changing game." Pasadilla (2013: 43) discovered that several governments attempted to move their NTMs likely to be put in the Red

⁴ The other two sectors were automobiles and textiles.

Box (or counted as NTBs) by the Secretariat's classification to the Green Box by citing legitimate justifications.

In sum, low compatibility between the entities' monitoring **functions** and ASEAN's governing principles explained why regional effort to abolish NTBs yielded little advancement. Monitoring mechanisms such as the NTM Database and NTB identification clashed with ASEAN's notions of non-interference and national sovereignty. ASEAN countries perceived that these entities perform monitoring tasks which ultimately undermined their desire to retain sovereignty and authority over their external trade policy. Consequently, these nations were reluctant to cooperate as reflected by their under-reporting of NTM utilization and attempts to "re-colored" their NTBs to "safe" NTMs. Thus, little progress has been witnessed in this area.

Case 2: Trade Facilitation

Trade facilitation is another important element in achieving free flow of goods under the AEC framework. Beyond tariffs, customs and regulatory procedures have been found to hinder ASEAN trade. For example, custom clearance in Indonesia involves 4 and 8 documents, and takes 23 and 17 days for imports and exports respectively (World Bank 2013: 76). Exporting companies in the Philippines "complained about the many documentation required, the detailed requirements in packaging and labelling, and procedures in inspection and testing." (UNCTAD 2009: 59). In Laos, "lack of publications and changing/unclear implementation of rules and regulations related to trade" made the movements of goods costly (World Bank 2008: 109).

Governing Institutions

ASEAN was among the first organizations conceptualizing a regional single window idea as a way to tackle trade facilitation issues, with a key initiative being the ASEAN Single

Window (ASW). The ASW was coined in 2003 at the 9th ASEAN Summit in Bali, Indonesia when the Leaders agreed to construct an online trade facility to accelerate cargo clearance.

The governments in 2005 endorsed the Agreement to Establish and Implement the ASEAN Single Window (ASW Agreement), and in 2006 the Protocol to Establish and Implement the ASEAN Single Window (ASW Protocol). The ASW's main objective is to simplify, harmonize and standardize customs and related systems to reduce transaction time and cost and increase trade efficiency. In short, the initiative aimed to ease transport of goods across borders by creating a single point of data submission and procession, and decision-making for cargo releases. To achieve the ASW, a network of the National Single Windows (NSWs) must be formed. With successful execution, NSWs let businesses lodge information only once to all government agencies involved in customs clearance, and allow the agencies to make decisions via one channel (ASEAN 2005). Because NSWs are building blocks to a wider ASW, progress largely hinges on that of NSWs in individual countries.

Regional commitments were reiterated in the 2009 ATIGA which contained measures addressing trade facilitation and customs in Chapters 5 and 6 respectively. ATIGA's Article 45 calls on members to carry out actions outlined in the 2008 ASEAN Trade Facilitation Work Programme aiming to consolidate trade facilitation measures among ASEAN countries. Consolidation can be achieved by, among others, simplified customs clearance and documentation procedures, consistent legislations relating to customs and sanitary and phyto-sanitary measures, and Internet-linked systems (ASEAN 2009: 29).

Regarding governing institutions (Figure 4.2), a main entity managing the ASW is ASW Steering Committee (ASWSC) established in November 2005. The Committee held its first meeting in March 2007 and created two supporting bodies –Working Group on Technical

Matters (TWG) and Working Group on Legal and Regulatory Matters (LWG), which assist the former in creating technical and legal architectures respectively. TWG and LWG meet about 3-4 times a year. The ASWSC usually meets once or twice per year to make decisions on recommendations by TWG and LWG. ASWSC reports to the ASEAN Directors-General of Customs, which reports to SEOM. The ASEAN Secretariat serves as a coordinator supporting SEOM, Customs Directors-General and ASWSC.

Figure 4.2: Institutions Governing the ASEAN Single Window

Source: ASEAN Secretariat (author's illustration)

As per the progress in trade facilitation, ASEAN has witnessed strong advancement in this area. At the time of the writing, Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand have their NSWs in operation while CLMV are developing their NSWs to meet the

2015 deadline. Among CLMV, Vietnam is the fastest in creating its NSW as the country launched the Automated Cargo Clearance and Customs Intelligence (VNACCS/VCIS) system in April 2014 (Vccinews, 2014). Cambodia and Myanmar are the only two states which have yet started any concrete NSW programme. The ASW web portal was formally launched in 2013, containing “information on the development and progress of the ASEAN Single Window project and National Single Windows of members of the group” (ASEAN Secretariat 2013b). The ASW Pilot Project⁵ was carried out between 2009 and 2013 in Brunei, Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam. The assessment conducted in 2013 concluded that all seven participants successfully tested the ASW model.

Institutional **Functions**, Governing Principles, and Institutional Effectiveness

Impediments to trade facilitation tend to stem from a “too many documents, too many agencies” problem. Private actors are requested to send information to several involved bureaus such as customs, banking and insurance community, transport industry and other related agencies. These entities may request different kinds of forms to be filled and different types of supporting documents to be attached. As stated earlier, challenges to cooperation in this case stems from difficulty in choosing one option among other alternatives (i.e. a problem of multiple equilibria). ASEAN participants agreed to consolidate their cargo clearance systems but diverged on how it would be done. To achieve cooperation, institutions undertake harmonizing functions by aligning different rules and procedures to make them work together in a unified manner and address the parties’ interests.

⁵ The Pilot Project consists of three components. The first one is to create the structure allowing the exchange of information regarding customs clearance. The second component sets up the infrastructure necessary for the Project’s implementation. Component 3 evaluates the Programme’s accomplishments and advises on how to better implement the ASW (The Royal Malaysian Customs Department 2013).

Harmonizing rules and procedures **appeared** in the implementation of the ASW Pilot Project. The Programme took a “federated approach” which integrates NSWs to constitute the ASW as “a regional facility to enable a seamless, standardised and harmonised routing and communication of trade and customs related information and data for customs clearance and release from and to NSWs.” (ASEAN 2010: 3). To make NSWs “inter-operable” with one another, governments must adjust rules and procedures through the adoption of certain unified measures, which are either international standards (e.g. business processes) or regional ones (e.g. ASEAN Data Model⁶). Individual members must also connect their NSWs through the ASW gateway. This set-up makes the ASW a regional focal point conducting multilateral data exchange (Figure 4.3).

Figure 4.3: ASEAN Single Window Architecture

⁶ ASEAN Data Model specifics standard data elements for trade documents such as bills of lading, airway bills, cargo manifest, commercial invoices and certain certificates.

Source: ASEAN Single Window Portal, available at
http://asw.asean.org/images/ASW_Animation.swf

The harmonizing **functions the institutions undertake** turned out to work well with ASEAN's principles of national sovereignty and non-interference. This modality of a regional single window involves harmonization of rules and procedures which permits ASEAN countries to retain policy autonomy over their customs management. Because NSWs are still governed by domestic laws, national authorities (e.g. customs and related agencies) can adopt approaches or build facilities appropriate to their NSWs' needs and conditions.

Moreover, the ASW scheme allows ASEAN governments can enjoy certain degree of information security. For example, the ASW performs a Regional Services (RS) function involving operating a set of applications supporting the network. The RS function only records transmissions of trade and customs data for maintenance purposes, not the contents themselves (ASEAN 2010:3-4). Accordingly, the members can keep to themselves trade- and customs-related information and did not view the adoption of ASW as undercutting the principles of national sovereignty and non-interference in others' internal affairs which they dearly guard

In addition, the ASW structure clearly separates three different data domains (Benjelloun et al. 2012). The Regional Domain, where the ASW network is situated, is accessible by governments only. The National Domains consist of individual NSWs. The External Domain is where a business community logs in to provide trade and customs information and submit related documentation. Although private actors are unable to directly access the Regional Domain, they can still enjoy the benefits of the ASW. Such distinct divisions between Regional and National Domains and between National and External ones work well with ASEAN's notions of non-interference and national sovereignty. The separations further ensures governments that they can

still manage their own NSWs such as mobilizing resources and enhancing joint participation of key actors (e.g. customs agencies and logistics operators) without little intervention from the ASW.

To conclude, compared with NTB eradication, more progress made by the ASW linked to higher compatibility between institutional **functions** and ASEAN's governing principles. Harmonization of rules and procedures involved in constructing the ASW did not conflict with ASEAN's principles as the architecture permits governments room to maneuver, furthering the upholding of the values of national sovereignty and non-interference in others' internal matters. As a result, greater institutional effectiveness was seen in the area of trade facilitation.

V. Conclusions

This article has investigated an interplay between institutional **functions** and values upheld by states have on institutional effectiveness, which have been under-examined by the past studies. It also provides a theoretical framework useful to bolster our understanding of why particular institutions perform better than the others in getting more compliance and cooperation from countries. The account advanced here is that institutional effectiveness – the ability to extract states' compliance and cooperation – is explained by dynamics between institutional **functions** and actors' governing principles. The higher the compatibility between these two factors, the higher the degree of institutions' effectiveness, and vice versa.

The analyses revealed the following findings. Development in trade facilitation was more advanced than that in NTB elimination. It is because institutional solutions to achieve cooperation in NTB termination (under a collaboration game) must carry out monitoring functions, namely overseeing states' behavior. However, these functions clashed with ASEAN's governing principles of national sovereignty and non-interference in others' domestic matters.

Delegating authority to supranational bodies has faced strong resistance from several ASEAN governments. Therefore, little progress was witnessed in the area of NTB abolishment. In contrast, implementation fared better in trade facilitation. It is because the institutions responsible for advancing the progress in this area perform harmonizing functions, as seen in the ASW model which harmonizes technical rules and procedures related to customs clearance. As the case demonstrated, there existed higher compatibility between these tasks and ASEAN's governing principles. Harmonization as a function did not find to clash with the notions of national security and non-interference in other states' internal affairs. This resulted that more headway has been made in the area of trade facilitation.

Despite the findings offered, this paper contains certain limitations, leaving room for future research. First, the hypotheses were assessed using only two cases. More cases are needed to test the validity of these hypotheses and further strengthen the analysis. For example, services liberalization, especially the Mutual Recognition Agreements (MRAs) can be used as a case for harmonization.

Second, this study has not explored in depth the role of the ASEAN Secretariat as a coordinator among key institutional bodies governing NTB elimination and trade facilitation. This role is significant as it can affect information exchange among the involved stakeholders and cooperation outcomes. For example, when the Secretariat coordinates among related agencies, informational flow among states is improved, raising the effectiveness of institutions performing their monitoring tasks in reaping compliance from participating nations. In other words, the Secretariat can disseminate information about states which refuse to remove NTBs. In this way, other countries can know who the cheaters are and undertake necessary punishment measures accordingly. An incentive to defect can thus be lessened, leading to more cooperation.

Despite the significance of the Secretariat's coordinating role, little has been known about how such role is actually carried out. For instance, the 2005 Agreement to Establish and Implement the ASEAN Single Window stated that the Secretariat shall coordinate among SEOM, the ASEAN Directors-General of Customs and other related bodies, but did not specify how this coordination is conducted. Therefore, future studies should examine these Secretariat's coordinating roles in shaping institutional effectiveness.

Moreover, my work has not compared ASEAN's integration progress with that of other regional arrangements such as EU to link the dynamic between institutional functions and members' governing principles to the advancement of their collaboration. Unlike ASEAN, the EU integration process hinges on the notion of transfer of sovereignty (Vandewalle 2014: 4), I suspect that ASEAN's governing principles can partly explain why its integration advancement lagged behind that of EU. As noted by Ravenhill (2008: 474), ASEAN's progress was slower than "what has been achieved within the European Union . . . on the elimination of tariffs and non-tariff barriers." Therefore, interested scholars should conduct such assessment as doing so would improve our understanding of the dynamics between institutional functions and players' governing principles in explaining the effectiveness of entities.

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