

AIA-PLUS: BUILDING ON FREE TRADE AGREEMENTS (ASEAN AND FIVE DPs- CER, CHINA, INDIA, JAPAN, KOREA)

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Authors :

Dr. Denis Hew (Team Leader)

Mr. Rajenthiran Arumugam

Dr. Hur Jung

Dr. Rahul Sen

Dr. Hadi Soesastro

Dr. Shin Jang Sup

Professor M.Sornarajah

Dr. Toh Mun Heng

Dr. Ray Trewin

Dr. Jose L Tongzon

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In addition to the above authors, the following experts have also contributed in reviewing this report: Mr. Rodolfo Severino, Professor Ross Garnaut, Professor Christopher Findlay, and Professor Peter Drysdale

ABSTRACT

Over the past decade, there has been a proliferation of free trade agreements (FTAs) in the region. ASEAN is currently negotiating with five of its major dialogue partners (DPs), namely, Australia and New Zealand (CER), China, India, Japan and Republic of Korea (ROK). This study examines the investment relations between ASEAN and its DPs and aims to design a model framework for investment negotiations for ASEAN, which could be applied to all five DPs.

This study takes a unique approach by using two distinct disciplines, i.e. economics and law, and examines the range of FTA negotiations already in progress by ASEAN and among ASEAN members. It also undertakes strategic competitive analysis of each DP vis-à-vis ASEAN which is then used to formulate policy strategies. These strategies are translated into individual template investment agreements between ASEAN and each DPs.

It is recognized that ASEAN already has an investment treaty, the ASEAN Investment Area (AIA) Agreement, which aims to liberalize the flow of foreign investment as well as protect foreign investment. Hence any investment treaty negotiated with non-member states of the region should capture these essential features with some cautious measures. The strategic competitive analysis finds that ASEAN stands to gain from entering into bilateral FTAs with these five DPs. While there is a limited degree of competition in some areas of manufacturing between ASEAN and these DPs, there exist far more complementarities. Hence, the research findings provide a strong basis for ASEAN in negotiating bilateral FTAs with a focus on expanding investment flows with all these DPs.

One of its main policy recommendations is for ASEAN to consider a “second generation” AIA that can be used as the basis for negotiating the Investment Chapter in the comprehensive agreements with the DPs. This second generation AIA should immediately accord national treatment to all investors and should apply non-discrimination in opening up industries to foreign investment. The second generation AIA is no longer based on the concept of regional investment promotion by increasing intra-ASEAN investments. It is mainly focused on making the region an attractive platform for global investments. Such a platform would be consistent with one of the ASEAN Economic Community’s main goals of creating an integrated production base that links up with the global supply chain.