

East Asia FTAs: ASEAN Perspectives

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1. Introduction

East Asia is the only remaining region without a regional trade agreement like the EU or NAFTA, although it was regarded as a fast growing region and its development model was greatly referred to as a “miracle” before the financial crisis in 1997. Apart from economic reasons, the struggles over regional leadership and the lack of a leading country have hindered the development of East Asia regionalism.

However, after the financial crisis, the development model for East Asia has been proposed a new paradigm to find the new export destination beside U.S. market. Since the U.S. demand for imports face a fierce competition in its markets and the expansion of trade deficit situation, East Asia have to rely on itself. That is the creation of its own demand, establishing an East Asia FTA may be one of the solution for that question. The free trade agreement between ASEAN and the big three North East Asia countries, namely Japan, Korea and China, as a new development model was proposed and often called ASEAN+3.

2. The Proliferation of East Asia PTAs

2.1 The Decade of PTAs

In the first three decades of GATT, from the late 1940s to 1970s, the trend toward multilateral free trade dominated toward other forms of bilateral free trade such as Customs Unions (CU) or preferential trade agreements (PTA). Indeed, except

the European Union (under a series of names) case, most of CU or PTA which were formed during that time were complete failure or relatively unimportant.

However, in 1967 the Association of Southeast Asian Nations (ASEAN) which originally covered Indonesia, Malaysia, Philippines, Singapore and Thailand decided to become a free trade area. ASEAN Free Trade Area (AFTA) was proposed by Thailand in 1991. According to WTO rules, AFTA is a PTA, which uses Enabling Clause to govern, and has no services agreement included. After 1990s, the trend of PTAs was arisen as table 2.1 recorded for regional and bilateral trade agreement, involving East Asia countries notified to WTO. Moreover, the table 2.2 shows the PTA in East Asia that signed/entered into force and also the under negotiations. Therefore, with only one PTA (AFTA) in early 1990s, the proliferation of PTAs/FTAs after that were the evidences of the decade of PTAs in 1990s.

2.2 Understanding the Proliferation of East Asia PTAs

The new wave of East Asia PTAs in 1990s was a result from following motives.

(1) APEC's failure on liberalization

The problem with APEC is its unaccomplishments records. According to the Bogor Declaration of free trade and investment goal throughout the region by 2010 for the developed members and 2020 by the developing members, there was a confuse and lack of progress in concrete terms. The failure to complete Early Voluntary Sector Liberalization (EVSL) in 1997 was a concrete evidence for unaccomplishments. Since APEC members relied heavily on voluntary instead of reciprocity process, the EVSL failure showed a significant flaw in the principle of voluntarism embodied in APEC.

Moreover, the failure of the 1999 WTO Ministerial Conference in Seattle provided another incentive for APEC members to divert from multilateral into bilateral to adapt the PTA as a route to liberalization.

(2) The Asian Crisis in 1997

The economic crises in 1997 which started from Thailand and spread throughout countries in East Asia region have contributed to the move toward bilateral approach. There was a strong perception that Westerner investors had created the full blown of crisis by pulling out their investments from Asia. Asian financial cooperation was an initiative to reduce risk of financial contagion and unusual exchange rate instability from the Asian crisis experiences. More economic interdependence among member of this region is need and has led to the proposals for regional cooperation in monetary and economic coordination.

(3) The dependence on the U.S. market

It is undeniable that most of East Asian countries extremely depend on the U.S. market as a definitively export destination. With the growing huge current account deficits and fierce competition from other regions, there is a risk the dollar could sharply depreciate and destabilized Asian economics once again. In view of this, East Asia must reduce its dependence on export outside the region especially US and base its economic growth on domestic or regional demand in order to stabilize the regional economy. ASEAN, by East Asian Vision Group, eventually proposed to establish an East Asia Community as an ultimate goal to achieve.

(4) China and Domino Effect

The rapid growth and relatively more important trading partner and destination for direct investment of China push Asia-Pacific countries to cooperate with. The need to have trade and investment relation with China is undeniable a result of growing importance of China in this region. Therefore, as PTAs proliferate, a domino effect increases the incentive for other countries to join or form competing agreements. Result of ASEAN-China FTA is the evidence that push Japan to announce the similar proposal to ASEAN. Korea and India also follow the similar pattern in order to join the same wagon. As a result, ASEAN seems to be a strategic hub in this region.

Table 2.1
Selected Regional and bilateral preferential trade agreements involving
East Asia developing member countries notified to WTO

Agreement	Date of entry into force	GATT/WTO Notification date	Related provisions	Type of agreement	Cat.	WTO+	Notes and comments
Bangkok Agreement	17-Jun-76	02-Nov-76	Enabling Clause	PTA-regional	1	N	Originally comprises Bangladesh, India, Korea < Lao PDR, and Sri Lanka, PRC acceded 1-Jan-02, notified 29-Jul-04
AFTA	28-Jan-92	30-Oct-92	Enabling Clause	PTA-regional	1	N	Includes the Southeast Asian DMCS
New Zealand-Singapore	01-Jan-01	19-Sep-01	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
Lao PDR-Thailand	20-Jun-01	29-Nov-91	Enabling Clause	PTA-bilateral	1	N	
Japan-Singapore	30-Nov-02	14-Nov-02	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
EFTA-Singapore	01-Jan-03	24-Jan-03	GATT Art.XXIV GATS ART.V	FTA-cross-regional	2	Y	Services agreement included
ASEAN-PRC	01-Jul-03	21-Dec-04	Enabling Clause	PTA-regional	1	N	
Singapore-Australia	28-Jul-03	01-Oct-03	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
PRC-Hong Kong, China	01-Jan-04	12-Jan-04	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
PRC-Macao, China	01-Jan-04	12-Jan-04	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
US-Singapore	01-Jan-04	19-Dec-03	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
Korea-Chile	01-Jan-04	19-Dec-03	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
Thailand-Australia	01-Jan-05	05-Jan-05	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
Thailand-New Zealand	01-Jan-05	02-Dec-05	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included
Korea-Singapore	02-Mar-06	24-Feb-06	GATT Art.XXIV GATS ART.V	FTA-bilateral	2	Y	Services agreement included

AFTA = ASEAN Free Trade Area; ASEAN = Association of Southeast Asian Nations; Cat. = Category; ECO = Economic Cooperation Organization; EFTA = European Free Trade Association; GATS = General Agreement on Trade in Services; GATT = General Agreement on Tariffs and Trade; GSTP = Global System of Trade Preferences; MSG = Melanesian Spearhead Group; SAARC = South Asian Association for Regional Cooperation; SAPTA = SAARC Preferential Trading Arrangement; SPARTECA = South Pacific Regional Trade and Economic Co-operation Agreement; WTO+ = agreement goes beyond countries' WTO commitments. an AFTA supersedes ASEAN 1967, which is a non-notified regional PTA among Indonesia, Malaysia, Philippines, Singapore, and Thailand; other members acceded later: Brunei Darussalam (1984), Viet Nam (1996), Myanmar and Lao People's Democratic Republic (1997), and Cambodia (1998).

Notes: Category 1 = "shallow integration", category 2 = "deep integration." "N" denotes that agreements are not WTO+, and "Y" signifies that they have WTO+ features.

Source : adapted from ADB (2006)

Table 2.2
Selected Preferential trade agreement involving
East Asia developing member countries not notified to WTO

Signed preferential trade agreement involving ADB DMCs			Preferential trade agreement in negotiation involving ADB DMCs		
Agreement	Signed/entered into force	Notes	Agreement	Notes	
PACER	2001	a	ASEAN-CER	ASEAN plus FTA-cross-regional	
Thailand-Bahrain	2002	FTA-bilateral	ASEAN-India	ASEAN plus FTA-regional	
Thailand-India	2003	FTA-bilateral	ASEAN-Japan	ASEAN plus FTA-regional	
Thailand-PRC	2003	FTA-bilateral	ASEAN-Korea	ASEAN plus FTA-regional	
PICTA	2003	b	PRC-Australia	FTA-bilateral	
Singapore-Jordan	2004	FTA-bilateral	PRC-Chile	FTA-bilateral	
Taipei, China-Panama	2004	FTA-bilateral	PRC-New Zealand	FTA-bilateral	
PRC-Pakistan	2005	FTA-bilateral	Hong Kong, China-New Zealand	FTA-bilateral	
Korea-Singapore	2005	FTA-bilateral	Zealand	FTA-bilateral	
Singapore-India	2005	FTA-bilateral	Indonesia-Australia	FTA-bilateral	
Taipei, China-Guatemala	2005	FTA-bilateral	Japan-Indonesia	FTA-bilateral	
Thailand-Peru	2005	FTA-bilateral	Japan-Philippines	FTA-bilateral	
Japan-Malaysia	2005	FTA-bilateral	Japan-Korea	FTA-bilateral	
Tran-Pacific SEP	2006	c	Japan-Thailand	FTA-bilateral	
			Korea-Canada	FTA-bilateral	
			Korea-Mexico	FTA-bilateral	
			Korea-US	FTA-bilateral	
			Malaysia-New Zealand	FTA-bilateral	
			Malaysia-Pakistan	FTA-bilateral	
			Malaysia-US	FTA-bilateral	
			Singapore-Canada	FTA-bilateral	
			Singapore-Kuwait	FTA-bilateral	
			Singapore-Mexico	FTA-bilateral	
			Singapore-Pakistan	FTA-bilateral	
			Singapore-Panama	FTA-bilateral	
			Singapore-Peru	FTA-bilateral	
			Singapore-Qatar	FTA-bilateral	
			Singapore-Sri Lanka	FTA-bilateral	
			Taipei, China-Honduras	FTA-bilateral	
			Taipei, China-Nicaragua	FTA-bilateral	
			Thailand-US	FTA-bilateral	
			PRC-GCC	FTA-cross-regional	
			PRC-SACU	FTA-cross-regional	
			Korea-EFTA	FTA-cross-regional	
			Thailand-EFTA	FTA-cross-regional	

ASEAN = Association of Southeast Asian Nations; BIMSTEC = Bay of Bengal Initiative for Multi-sectoral Technical and Economic Cooperation; CER = (Australia and New Zealand) Closer Economic Relations; DMC = developing member country; EFTA = European Free Trade Association; GCC = Cooperation Council for the Arab States of the Gulf; PACER = Pacific Agreement on Closer Economic Relations; PICTA = Pacific Island Countries Trade Agreement; SAARC = South Asian Association for Regional Cooperation; SACU = Southern African Customs Union; SEP = Strategic Economic Partnership.

^a Nonreciprocal PTA: Australia and New Zealand extend tariff preferences to Pacific Island Forum countries, FTA between CER and Pacific Island Forum countries by 2011 (ADB DMC members include Cook Islands, Fiji Islands, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga; non-ADB DMC members include Niue). DMCs Palau, Marshall Islands, Tuvalu, and Vanuatu have signed but not ratified the agreement. ^b Limited PTA among Pacific Island Forum countries as identified above, to become FTA by 2010 for Forum Island Countries and by 2012 for small island states and least developed countries. To date, PICTA members include Cook Islands, Fiji Islands, Kiribati, Papua New Guinea, Niue, Nauru, Samoa, Solomon Islands, Tonga, and Vanuatu. Tuvalu has signed but not ratified. Niue is not an ADB DMC. ^c FTA-cross-regional: Brunei Darussalam, Chile, New Zealand, and Singapore.

Source : adapted from ADB (2006)

3. Major Characteristics and Coverage of East Asia PTAs

According to table 2.1, ASEAN Free Trade (AFTA) is the foremost PTA involving East Asia developing member countries which entered into force. The Bangkok Agreement which launched in 1976 is considered inactive due to a little progressed for almost two decades. After the collapsed of WTO Ministerial conference in Seattle in 1999, bilateral agreements have proliferated rapidly either between individual countries or between group of countries such as ASEAN and a single country. Without any PTA in the North Asian region (Japan, Korea, Hong Kong SAR and Taiwan), ASEAN may be considered to play a significant role, at least temporarily, as a strategic hub in the region. ASEAN-China FTA is a regional PTA that sparks the idea of East Asia new network of PTAs. Japan, Korea, India and CER followed this idea as a domino effect which increases the incentive for these countries not to be left behind. This section will investigate major characteristics and coverage of AFTA with CER and NAFTA as compatible cases. Moreover, ASEAN-China and EU-Chile are introduced to see the different which might occur from PTA between group of countries and a single country.¹

3.1 General Characteristics

There aspects namely, tariffs, agriculture and rules of origin are used as criteria to evaluate the different.

Tariffs

Center piece of AFTA is the Common Effective Preferential Tariff (CEPT) agreement, signed in 1992, as a preferential tariff reduction in goods among members. Goal is to gradually reduce 0% tariffs in 10 years for 6 initial signatories (2003) and lastly within 2010 for new member such as Cambodia. In table 3.1 Negative list approach was all pursued except ASEAN-China, and exceptions were spelled out. Elimination of all tariffs is usually in delay after entered into force except CER.

Agriculture

¹ or between South-South (ASEAN-China) and North-South (EU-Chile)

Although agriculture products are major product of ASEAN members, but it still make up majority of those products on the sensitive (exemption) lists in CEPT agreement. In CER, there is no special provision for agriculture as in AFTA even Australia and New Zealand are also the same major agriculture produced countries. Agriculture seems to receive special treatment and in many cases is totally excluded from the scheme. The early harvest provision in ASEAN-China is an attractive case since it includes sensitive products such as agriculture in HS01-08 among the same major agriculture produced countries. This initiative will be considered successful if it creates further liberalization.

Rules of Origin

In order to avoid importation of all goods through the lowest member countries of PTA without production base, goods entering a member country must have origin in some certain degree in the partner country. AFTA and ASEAN-China FTA involve in the almost the same in rules of origin. Both agreements allow for cumulative not less than 40% of its content originates from any member states. However, a rule of origin seems to vary from the relatively simple and bilateral as in cases of AFTA, ASEAN-China and CER to more complex and product specific in the cases of NAFTA or EU-Chile. The more strict in enforcement and implementation of rules of origin, the more in costs will occur and can constitute a trade barrier as a result.

Table 3.1
Tariffs, Agriculture and Rules of Origin

	AFTA	CER	NAFTA	China-ASEAN	Chile-EU
Tariffs	<ul style="list-style-type: none"> * Negative list approach * Goal of 0% tariffs * 6 initial signatories to reach 0% in 2003 (2006 for Vietnam, 2008 for Lao PDR and 2010 for Cambodia). * The agreement allows each country to maintain a temporary exclusion list (TEL), a sensitive list (SL) and a general exclusion list (GE). * Goods on the temporary exclusion list will be phased into the Inclusion list by: 2000 for most manufactured products (2003 Vietnam, 2005 Laos and Myanmar, 2008 Cambodia) and 2003 for most agricultural products (2006 Vietnam, 2008 Laos and Myanmar, 2010 Cambodia) * Article 9(B) of the CEPT allows products to be excluded from tariff concessions for reasons of protection of national security, protection of human, animal and plant life and health and protection of articles of artistic, historic or Archaeological importance. Malaysia has placed 53 tariff lines on this list – 32 on alcohol and 21 on weapons. Only Thailand, Philippines and Myanmar have not included alcohol on this list. * Malaysia was given the flexibility to delay until 2005 the inclusion of the 218 tariff lines on completely 	<ul style="list-style-type: none"> * Negative list approach. * Elimination of all tariffs achieved in 1992. 	<ul style="list-style-type: none"> * Negative list approach. * Duties reduced to 0% * National treatment accorded (with some exceptions e.g. Logs from Canada) “virtually all” Canada-US trade is tariff free, exceptions include Canada’s supply managed sectors (e.g. Dairy and poultry) as well as sugar, dairy peanuts and cotton in the US. * As of January 1st 2001 Mexican tariffs on Canadian products fell to 0-4%, except for some agricultural products subject to tariff-rate quotas (e.g. Corn, barley and dry edible beans) and also on dairy and poultry products. * Mexican tariffs on corn are to be phased out over 15 years. Tariffs between the US and Mexico will be eliminated over a five or ten year period. 	<ul style="list-style-type: none"> * Positive list approach. * On the 4th November 2002 a framework agreement (FA) was signed between ASEAN and China to begin tariff elimination. * Tariffs will be reduced, or eliminated by 2010 for the original ASEAN-6 and by 2015 for Vietnam, Laos, Cambodia and Myanmar. * The FA commits China and ASEAN to reduce tariffs on “early harvest” products, which are mainly agricultural and represent about 10% of all tariff lines. They include live animals, meat, fish, dairy, trees, vegetables and fruit and nuts (i.e. chapters 1-8 of the harmonized system). A country may specify products to put on its exclusion list. * These early harvest products will have a tariff elimination schedule beginning no later than January 1st 2004, spanning 3 years. * negotiations for nonearly harvest goods must be completed by 30 June 2004. * Countries can choose which products to put on a ‘sensitive track’, but a ceiling on the number of products allowed on this track will be imposed. * WTO requirements to eliminate tariffs on “substantially all trade” shall be met. 	<ul style="list-style-type: none"> * Negative list approach * 10 year transition period over which time 97.1% of trade will be fully liberalized. * End result should see 100% full liberalization of industrial trade, 80.9% full liberalization of agricultural trade and 90.8% full liberalization of fisheries trade. * Industrial goods being imported into the EU from Chile will be divided into 2 categories, duties on the first category will be eliminated immediately, the duties on the second will be eliminated progressively by 2006. * Industrial imports from the EU into Chile are divided into 3 categories, with the first eliminating duties immediately, the second progressively by 2008, and the third by 2010. * There is extensive liberalization of fisheries products. * According to the “Evolution Clause”, during the third year after the entry into force of the agreement, the parties will examine product by product, the possibility of deepening tariff concessions for agricultural and processed agricultural goods.

	<p>knocked down (CKD) and completely built up (CBU) automotive products, which it has not yet included in the CEPT scheme.</p> <p>* The Protocol on Special Arrangements for Sensitive and Highly Sensitive Products and Unprocessed Agricultural Products signed in 1999 provides that sensitive products will be offered for tariff concessions between January 2001 and January 2003 (Vietnam has until 2013, Laos and Myanmar 2015, and Cambodia until 2017). Highly sensitive products will be introduced for tariff concessions in 2005, but the ending rate can be determined individually. Sensitive products include poultry and swine products, coffee, tea, copra, manioc and rice. Malaysia has also included tropical fruits, tobacco, tobacco products and sugar. Indonesia, Malaysia and the Philippines have included rice in the highly sensitive list. Malaysia has the right to impose a 20% duty on rice if the need arises.</p> <p>* In December 2002 it was announced that Malaysia would reduce tariffs on automobiles to 20% by 2005, but would offset the concessions with increased excise duties. The current tariffs range between 43% and 300%.</p>				
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	AFTA	CER	NAFTA	China-ASEAN	Chile-EU
Agriculture	<p>*Agricultural products still make up majority of those products on the “sensitive lists”.</p> <p>* By 2003 87% of unprocessed agricultural goods will be phased into the CEPT agreement. Sensitive agricultural goods must be phased in by 2010</p>	<p>* No special provisions for agriculture. The general rules apply to all products.</p>	<p>* Commitments to reduce tariffs are bilateral among the parties.</p> <p>* Between the US and Mexico all non-tariff measures affecting agricultural trade were eliminated in January 1994.</p> <p>*All agricultural tariffs are to be phased out over 5, 10 and 15 years, resulting in free trade by 2008.</p> <p>* Sensitive areas such as corn, dried beans, vegetables, orange juice and sugar receives longer transition periods.</p> <p>* Between the US and Canada agricultural barriers remain, between Canada and Mexico market access provisions apply only to goods qualifying under the strict rules of origin.</p> <p>* Members are required to consult before additional measures may be taken.</p> <p>* The US and Canada maintain a ‘snap-back’ provision whereby a temporary duty can be applied to fresh fruit and vegetables when import prices fall below a certain percentage of the monthly import price and planted acreage of the product is within certain limits.</p>	<p>* The “early harvest” provision in the framework agreement deals mostly with agricultural products.</p> <p>This is a positive step towards liberalization, not an exception or restriction.</p>	<p>* The EU has special provisions for agriculture whereby 33% of agr. Trade will be liberalized upon entry into the agreement, a further 55% in 2007, 12% in 2010 and the remaining 0.2% in 2012.</p> <p>*Chile will extend similar preferential liberalization to the EU resulting in 81.9% of tariffs being eliminated by 2012.</p> <p>* It appears that the majority of chapter 4 (‘Dairy produce; birds’ eggs; natural honey; edible products of animal origin, not elsewhere specified or included’) is not covered by the agreement. Some tariff rate quotas are to be introduced for cheese, natural honey is to be liberalized within 7 years, while ‘other animal products’ are generally included.</p> <p>* For EU imports tariff rate quotas are to be used on many agricultural goods and certain fisheries goods, within three different categories, those for which the quota will increase by 10% a year, those increasing by 5% and no increase. It seems that certain types of cow, fowl, geese, ducks, and turkeys are not included in the liberalization. Ham, pig fat, bacons, common wheat, rye and barley, most rice, flour, and ‘other cereals’, malt, sugar beet, sugar cane and most other forms of sugar are excluded. Tropical fruit and nuts, olive oil and crude oil do not appear to be included either. Flavored or colored sugar syrups are excluded.</p> <p>* On the part of Chile, airy products are excluded, some tariff rate quotas will be introduced for cheeses.</p>

	AFTA	CER	NAFTA	China-ASEAN	Chile-EU
Rules of Origin	<p>*A product shall be deemed to be originating from ASEAN Member States, if at least 40% of its content originates from any Member States.</p> <p>*The value of non-originating materials, parts or produce shall be the CIF value at the time of importation.</p> <p>*cumulative rules of origin state that products which are used in a Member State as inputs for a finished product eligible for preferential treatment in another Member State shall be considered as products originating in the Member State where working or processing of the finished product has taken place, provided that the aggregate ASEAN content of the final product is not less than 40%.</p>	<p>* There are two minimum requirements for goods to be considered to have originated in the free trade zone:</p> <ul style="list-style-type: none"> - The last process of manufacture of the good must be in either Australia or New Zealand - At least half the factory or works cost of the goods must be made up from expenditure on originating materials, labor or inner containers. 	<p>* A good is classified as originating if it is wholly obtained in the territories of one or more of the member parties, or if it is wholly produced in the NAFTA territories from originating materials. It can also qualify as originating if the non-originating materials used in the production process undergo sufficient change in tariff classification as set out in Annex 401.</p> <p>* The NAFTA rules of origin are very restrictive.</p> <p>* Products must be made within NAFTA countries or from NAFTA materials, from NAFTA materials, rather than foreign ones. If they are made of foreign materials then the final product must be significantly processed in a NAFTA country such that it meets certain requirements, such as a regional value content of a certain percentage (50 per cent or 60 per cent depending on the method used).</p> <p>* NAFTA also sets out special rules of origin that apply to automotive products, textiles and clothing and some agricultural products.</p> <p>* There are special, more stringent, rules of origin for automotive goods and textiles and apparel. After a transition period, automotive and light vehicles will need to be comprise 62.5 per cent NAFTA origin, and other vehicles and automotive parts, 60 per cent.</p> <p>* Rules for textiles and apparel dictate that they must be produced from fibre made in a NAFTA country.</p> <p>* The test is a "de minimus" rule, which allows the amount of nonoriginating textiles used to be up to 7 per cent. There are several exceptions to the rule such as products with small quantities of non-</p>	<p>* a product shall be deemed to be originating if:</p> <ul style="list-style-type: none"> (i) Not less than 40% of its content originates from any Party; or (ii) If the total value of the materials, part or produce originating from outside of the territory of a Party (i.e. non-ACFTA) does not exceed 60% of the FOB value of the product so produced or obtained provided that the final process of the manufacture is performed within the territory of the Party. <p>*The value of the non-originating materials shall be:</p> <ul style="list-style-type: none"> (i) the CIF value at the time of importation of the materials; or (ii) the earliest ascertained price paid for the materials of undetermined origin in the territory of the Party where the working or processing takes place. <p>*Cumulative Rule of Origin states that products which are used in the territory of a Party as materials for a finished product eligible for preferential treatment under the Agreement shall be considered as products originating in the territory of the Party where working or processing of the finished product has</p> <p>*Product Specific Criteria : Products which have undergone sufficient transformation in a Party shall be treated as originating goods of that Party. Products which satisfy the Product Specific Rules provided for in Attachment B shall be considered as goods to which sufficient transformation has been carried out in a Party.</p>	<p>* Goods can be considered as originating if they are wholly obtained in the territory of a party, or if they contain nonoriginating materials but undergo sufficient transformation as set out in appendices II and II(a)</p> <p>* Assembly, washing packing, simple painting, ironing of textiles, husking, bleaching, polishing, peeling, stoning, polishing etc are considered insufficient to confer status of originating goods.</p> <p>* The rules of origin allow for bilateral accumulation within the territories of the parties.</p>

			<p>NAFTA yarn or fabric, or items in "short supply".</p> <p>* Rules of origin for a number of electronic products (e.g. Computers, Telecommunications equipment and TVs) are based strictly on a tariff change structured to require that key processes are carried out in North America. For example television receivers with a picture tube of more than 14 inches in diameter can only be considered to be originating if the picture tube is produced/ assembled in North America.</p> <p>* NAFTA allows for bilateral, but not full accumulation. Absorption applies.</p>		
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3.2 Coverage beyond Merchandise

Beyond originated focus on tariff reduction on goods, AFTA and CER were both gradually move into the comprehensive topics such as services, investment, labor mobility, customs and etc. This approach differs from the all-inclusive approach in the Americas, for example NAFTA, which all PTA topics in trades and services were formulated from the outset in framework agreement. Therefore, the newer trade agreements illustrate the commitments that go beyond free trade. In other words, they include behind border provisions ranging from customs cooperation to competition policy and related laws.

Table 3.2 shows what are beyond tariff reduction. For AFTA as compare to CER, NAFTA or EU-Chile commitments, there is no significant indication that AFTA members are willing to loose their power on external policy. AFAS², which is an agreement on trade in services cooperation signed by ASEAN members in 1995 after AFTA, is in situation of lack in progress. Although many rounds of negotiations, common sectors that scheduled to be liberalized are limited into seven sectors³. The area of the Mutual Recognition Arrangements (MRAs) are being negotiated and remaining unclear how to achieve. It can be said that there is no concrete commitment in AFAS when compared to AFTA. Several factors may contribute to the delay in AFAS but major factor may come from the readiness to liberalize their service sectors. Hence, minimum pledge not to exceed GATS Commitment (or so called GATS plus) is offer to request-and-offer format. That is why the ASEAN+1 such as the ASEAN-China agreement can be completed quite fast for goods but not for services since there is no common position among ASEAN members in this area. Voluntary nature of the commitment which allows

² ASEAN Framework Agreement on Services adopted a positive list approach and required to list their horizontal (all sectors) and sector-specific national treatment and market access commitments in a schedule.

³ Namely : financial services, air transport, telecommunication, tourism, business services, construction and maritime transport.

a country to “not offer” in certain areas due to the different levels of economic development is also the addition explanation factor behind the delay.

The problem of different in level of economic development among ASEAN members can overcome by allow the factor of productions such as labor flow freely. However, ASEAN does not envisage to develop its formation further to a customs union or a common market⁴ which result to some cooperation in domestic policies, standards and the most import certain provisions for labor mobility. Table 3.3 illustrates the degree of labor mobility under agreements. APEC, ASEAN-China and AFTA are all behind NAFTA, CER, EFTA and EU in this area.

Moreover, ASEAN tends to be more loosely formulated and less detailed in the agreements when compared to Europe or the Americas model. There is no supranational institution to monitor implementation and settle disputes. ASEAN Secretariat uses to coordinate and facilitate ASEAN related activities, but does not enforce rules. Therefore, informal consultations and negotiations are common for dispute settlements which mean they may not be implemented consistently.

⁴ A custom union is PTA in which the external tariffs are adjusted to a common level while internal tariffs among members are eliminated. A common market is a custom union which permits free movement in factors of production among member countries.

Table 3.2

Provisions Beyond Tariff Reduction : Selected Asia-Pacific PTAs

	AFTA	ACCEP	CER	NAFTA	EU-Chile
Quantitative restriction	Eliminated	Eliminated	Eliminated	Apply WTO consistency	Permitted for some products
Antidumping	No specific provision	No specific provision	Not allowed	Permitted under specific rule	Apply WTO consistency
Countervailing duties	No specific provision	No specific provision	Apply WTO consistency	Permitted under specific rule	Apply WTO consistency
Export/import subsidies	No specific provision	No specific provision	No export subsidies allowed	Permitted, but very restrictive	Permitted under WTO
Safeguards	No safeguards	Permitted under specific rules	No safeguards	Permitted under specific rule	Permitted under specific rule
Standard and conformances, technical barriers, and sanitary and phytosanitary measures	Mutual recognition and harmonization	Mutual recognition and harmonization	Mutual recognition and harmonization	Mutual recognition and harmonization	Mutual recognition and harmonization
Provision for customs harmonization	Included	Included	Included	Included	Included
Rules on government procurement	No specific provision	No specific provision	Included	Included	Included
Provision to facilitate movement of person and labor mobility	Some provisions, but not free labor mobility	No specific provision	Relatively free labor mobility	Some provisions, but not free labor mobility	Some provisions, but not free labor mobility
Harmonization of competition policy and law	No specific provision	No specific provision	Some provisions for harmonization	Cooperation, but not harmonization	Cooperation, but not harmonization
Intellectual property and e-commerce	Promoting cooperation	Promoting cooperation	Some provisions in progress	Extensive provisions	Extensive provisions
Transport and communication	Promoting cooperation	Promoting cooperation	General provisions under services	Extensive provisions	Promoting Cooperation
Labor standards	No specific provision	No specific provision	No specific provision	Provisions on labor standards	Provisions on labor standards
Dispute settlements	Mainly consultations	Consultations followed by panel arbitration	Mainly consultations	Consultations followed by panel arbitration	Consultations followed by panel arbitration

Sources: Scollay (2003) and respective free trade agreement documents evaluated by author

Table 3.3
Summary of Agreements by degree of labor mobility

Degree of labor mobility under agreement	Agreements
Full labor mobility	EU, EFTA, CER
Market access for certain groups	NAFTA, US-Singapore, US-Chile, Japan-Singapore
Based on GATS Mode 4. with additional provisions or limitations	AFTA, New Zealand-Singapore, EU-Chile
No effective provisions for labor mobility	APEC, ASEAN-China

Source : World Bank (2005) and author

4. Economic Effects of East Asia PTAs

To evaluate the economic effects of the East Asia regionalism through ASEAN+3, eight hypothetical FTAs were assumed and simulated. First, the economic effect of the big three bilateral FTAs in Northeast Asia, namely, China-Japan, China-Korea, Japan-Korea and CJK FTA are estimated. Another block to examine is the four cases of bilateral FTAs between ASEAN and three Northeast Asia countries, namely, ASEAN-China, ASEAN-Japan, ASEAN-Korea and ASEAN+CJK or so called ASEAN+3. Tariff elimination which usually call trade liberalization is used as a policy variable to evaluate. Recent FTAs are comprehensive, including services, investment, and also non-tariff barriers. Therefore, tariff elimination alone can not be expected to represent full economic effects of an FTA. However, it is very difficult to quantify the non-tariff barriers for simulation. Thus, the economic effects of an FTA conclusions are considered here under a zero tariff for all goods and services scenario.

Table 4.1 in the upper block is the simulation impact of FTAs in Northeast Asia reported in both economic (equivalent in USD.) welfare and percent change in GDP. Most of welfare gains are contributed to either Japan or

Korea. China manages to earn welfare or GDP gains only in case of CJK with slim positive margin. For East Asia FTAs in the lower block, ASEAN-China FTA does not bring any gains to China. In contrast, ASEAN seems to get the biggest gain in FTA with China among three Northeast Asia partners. Japan and Korea do not manage to get any better off in A-CJK (ASEAN+3) compared with CJK case while ASEAN gain the most better off in welfare term from m.USD. -1,743.43 in CJK to m.USD. 1,646.44 in A-CJK. High Tariff rate in table 2 for China may be the main reason for her poor FTA position.

As a matter of fact, ASEAN-China and ASEAN-Korea FTA are already concluded while ASEAN-Japan FTA is pending with so many problems. Furthermore, FTAs in Northeast Asia seem to far from a word of success. Even Japan's Ministry of Foreign Affairs indicates⁵ that Korea is its most important FTA partner to cope with China's aggressive FTA policy, but Japan's position to exclude agricultural sector and the situation of no assurance of benefits from FTA with Japan are both reasons behind the failure to conclude J-K FTA.

Considered in trade liberalization aspect, the difficulties to consolidate multiple FTAs into a single FTA such as ASEAN+3 depend highly on the sequencing pattern of the existed FTAs. Single East Asia FTA may be a long term target to reach while each pair of FTAs is a strategic framework in mid term. Without agreement between Northeast Asia countries, Thailand may use ASEAN as regional FTA hub in order to attain the benefits of trade expansion and FDI inflows from spokes in three Northeast Asia countries. Since it is desirable for China to construct its own independent regionalism with ASEAN rather than participating in an FTA led by either Japan and/or Korea. Like China's regionalism, Korea seems to walk in the same path as it reached conclusion with ASEAN ahead of Japan. Two spokes are already established. As a criteria for a hub, a country must equip with economic power to lead others,

⁵ Ministry of Foreign Affairs, Japan (2002), "Japan's FTA strategy".

advanced trading systems, and possesses political and diplomatic capabilities. ASEAN or its members must pass these criteria to recognize as a hub. Moreover, ASEAN does not use its own synergy effects as it should, The concluded ASEAN-China and ASEAN-Korea FTA were done on a basis of ten contracts between ten countries members of ASEAN and China/Korea, not a single contract between two parties (A-C or A-K) as expected. This pattern of contract might do more harm than good to the future of ASEAN. As the benefits from economy of scale and/or scope will be diluted, role of ASEAN either in economics or politics aspect may consider at risk from its own FTAs.

Table 4.1
The Impact of Trade Liberalization (Zero Percent Tariff)

FTAs in Northeast Asia

	C-J		C-K		J-K		CJK	
	Welfare ¹	GDP ²	Welfare	GDP	Welfare	GDP	Welfare	GDP
China (C)	-690.88	-2.78	365.76	0.34	-158.67	-0.06	508.2	0.13
Japan (J)	5,184.29	1.12	-408.89	-0.13	987.71	0.22	5,337.94	1.13
Korea (K)	-818.37	-0.63	6,306.39	1.12	31.57	0.13	5,253.16	0.44
ASEAN ³ (A)	-1,072.46	-0.49	-576.40	-0.25	-194.04	-0.09	-1,743.42	-0.78
ROW	-3,057.68	-0.20	2,355.74	-0.07	-707.56	-0.04	-5,806.68	-0.30

FTAs in East Asia

	A-C		A-J		A-K		A-CJK	
	Welfare	GDP	Welfare	GDP	Welfare	GDP	Welfare	GDP
China (C)	-675.54	-0.13	-395.54	-0.12	-204.27	-0.03	278.66	-0.01
Japan (J)	-639.13	-0.11	1,343.90	0.37	-220.81	-0.04	5,897.39	1.30
Korea (K)	-302.71	-0.21	-261.47	-0.21	574.25	0.64	5,613.26	0.73
ASEAN (A)	2974.23	1.28	580.52	0.33	211.06	0.11	1,646.44	0.68
ROW	-1,845.08	-0.03	-2,164.13	-0.09	-841.53	-0.02	-9,904.92	-0.41

Note : 1. Welfare unit in million USD

2. GDP as % Δ

3. Refer to ASEAN6 ; Thailand, Malaysia, Philippines, Singapore, Indonesia and Vietnam

4. estimated by GTAP version 6

5. Row = rest of the world

Table 4.2
tariff rate

Unit : %

	China (C)	Japan (J)	Korea (K)	ASEAN (A)	ROW
1. Food	206.89	55.32	64.01	88.76	160.88
2. Mnfcs	25.13	26.6	26.25	19.71	19.24
3. Svces	0	0	0	0	0.01
Total	232.01	81.92	90.25	108.47	180.13

Source : GTAP Version 6 data base

5. ASEAN perspectives and Policy Implications

5.1 Hub and Spoke for ASEAN

Benefits in forming FTA in East Asia measured in either welfare or GDP under ASEAN perspectives are quite clear. The simulations of FTAs in East Asia in table 4.1 show the contradict situations for ASEAN. If East Asia Regionalism under ASEAN+3 (A-CJK) can be achieved, benefits will occur no matter the counterpart country will be A-C, A-J or A-K. However, ASEAN will be in disbenefits situation, if the big three in Northeast Asia can form FTA among themselves. Therefore, the race as a hub for ASEAN is matter, according to this simulation. In fact, ASEAN-China FTA (A-C) is a done deal and also an ASEAN-Korea (A-K) FTA which has much more in progress than ASEAN-Japan (A-J) FTA. None of Northeast Asia countries likely to complete bilateral or regional FTA in the foreseeable future. ASEAN through a series of ASEAN+1 FTAs demonstrate as one to become a strategic regional hub status.

5.2 East Asian Community : How ?

East Asia's interest in forming FTAs came from the recognize that the EU and NAFTA are very successful precedent FTAs in promoting economic growth. As the EU members continue to widen and deepen the regional economic integration, while the Americas are now attempting to from an FTAA., it is quite likely that the emergency of an

East Asia Community is a desirable and unavoidable situation for East Asia Countries. However, big question is how to achieve that common community goal.

It is undeniable that the recently proliferation of RTAs/FTAs in East Asia region are competitive liberalizations. Opening markets is not a race and should proceed cautiously to avoid unnecessary costs which many be arisen from trade diversion or trade deflection⁶. The two principle organizations in East Asia for regional economic dialogue namely APEC and ASEAN should be primary choice for substantive intra-regional formulation. The question is which one?

Apart from the mentioned earlier of the unaccomplishments problem with APEC, the principle of APEC trade liberalization which is based on unilateral liberalization in accordance with the most-favored-nation (MFN) is not get along with the rapidly changed in situation in late 1990s. Many Asia-Pacific countries tend to use bilateral and/or regional PTAs which departed from APEC's principle of open regionalism. As a matter of fact, the recent East Asia PTAs mostly are preferential in nature since they discriminate in favor of their members.

The main problem with ASEAN, ASEAN+1 or ASEAN+3 is that which scope should be used to represent or as a mean to achieve East Asia community. With the most widening scope, ASEAN+3, it still leaves out several important economies that have ties with ASEAN or +3 countries such as Australia, New Zealand or Taiwan. ASEAN-CER FTA is an example of words and deed. Under institutional aspect, ASEAN is in good position to create East Asian community and become a hub if it chooses to have tied with CER since both are formed more than 10 years ago. However, at present cross-regional FTA such as ASEAN-CER is still in negotiation process with slow progress in relative to other ASEAN+1 agreements.

⁶ The situation when imports shift to enter the countries of free trade agreement through the lowest tariff FTA member

