

ASEAN Law and Policy

Seminars 9 and 10

ASEAN Economic Community-Building (Pillar 2: Economic)

- The rise of ASEAN economic cooperation – a way of confidence-building, improving relations, and keeping the peace
- The movement towards intensifying intraregional economic relationships through the Rule of Law and Institutions
- The region's dependence on international trade and foreign direct investment – are bilateral and external multilateral arrangements more favoured than ASEAN intraregional arrangements?
- Status and effect of pre-Charter ASEAN economic instruments
- ASEAN Economic Community – what it seeks to achieve (single market and production base) and how it goes about doing so (ASEAN Charter and the AEC Blueprint)
- Post-Charter (and refreshed pre-Charter) economic instruments and institutions – ASEAN Trade in Goods Agreement (2010), ASEAN Comprehensive Investment Agreement (2012), ASEAN Framework Agreement on Services (1995), ASEAN Protocol on Enhanced Dispute Settlement (EDSM)
- AEC 2025 – is there any difference between AEC 2025 and AEC 2015?
- Improvements in monitoring compliance under AEC 2025
- Is the ASEAN Community-building propelled by (flexible-political) cooperation or (legal) integration? How likely is it to be attained? What more should be done?

Reading list

- Tan Lay Hong, Will ASEAN Economic Integration Progress Beyond a Free Trade Area? 53(4) ICLQ (2004) 935-67 (relevant pages advised according to questions below)
- Jacques Pelkmans, The ASEAN Economic Community: A Conceptual Approach (CUP, 2016). (Chs. 2-4 generally but relevant pages advised according to questions below)
- Stefano Inama and Edmund W. Sim, The foundation of the ASEAN Economic Community: an institutional and legal profile (CUP, 2015) (Chs. 2-3 generally but relevant pages advised according to questions below)
- [Sem 9] December 2015 Fact Sheet on the AEC: <https://www.asean.org/storage/2012/05/56.-December-2015-Fact-Sheet-on-ASEAN-Economic-Community-AEC-1.pdf>
- [Sem 10] Sanchita Basu Das, Huge Challenges Await AEC 2025, ISEAS Perspective 2016 No. 48 (29 August 2016) https://www.iseas.edu.sg/images/pdf/ISEAS_Perspective_2016_48.pdf
- [Sem 10] Jayant Menon and Anna Cassandra Melendez, (Re)realising the ASEAN Economic Community, East Asia Forum (24 August 2017) <http://www.eastasiaforum.org/2017/08/24/rerealising-the-asean-economic-community/>
- [REPEAT OF SEM 6 topic in Sem 10] AEC 2025 Monitoring and Evaluation Framework (replaces AEC Scorecard) at <http://asean.org/storage/2012/05/Towards-AEC-2025-Monitoring-ASEAN-Economic-Integration.pdf>
 - [Note: General information on AEC monitoring can be found at <http://asean.org/asean-economic-community/aec-monitoring/>]

ASEAN instruments (from CIL treaties database or www.asean.org):

- ASEAN Charter (2007)
- ASEAN Economic Community Blueprint (2007-15)
- ASEAN Economic Community Blueprint (2016-25)
- AEC Scorecard (2012)
- Bali Concord II and its Annex (2003)
- ASEAN Trade in Goods Agreement (2010)

- ASEAN Comprehensive Investment Agreement (2012)
- ASEAN Protocol on Enhanced Dispute Settlement (EDSM) (2004)
- ASEAN Framework Agreement on Services (1995)
- ASEAN Economic Community 2025 Consolidated Strategic Action Plan

Further Reading

General AEC

- Other chapters of Pelkmans; Inama and Sim,
- Jacques Pelkmans, Understanding the ASEAN economic community: pragmatism versus conceptualism, 25(5) Asia Pacific Business Review (2019) 619-36.
- Edmund W. Sim (2020): ASEAN Further Enhances its DSM (EDSM 2019), 7 Indonesian Journal of International and Comparative Law (2020) 279.
- Lee Jones, Explaining the failure of the ASEAN Economic Community: the primacy of domestic political economy, Pacific Review (2015).
- Imelda Deinla, The Development of rule of Law in ASEAN, Chapter 7: Soft Regulation and Informal Rule-Making in the ASEAN Economic Community (2017, Cambridge University Press)
- Kelly Gerard (2018) ASEAN as a “Rules-based Community”: Business as Usual, Asian Studies Review, 42:2, 210-228
- An Introduction to the ASEAN Economic Community (AEC) 2015, <https://www.asean.org/storage/images/2015/October/outreach-document/Introduction%20to%20AEC-2.pdf>
- The ASEAN Economic Community <https://asean.org/asean-economic-community/#:~:text=The%20establishment%20of%20the%20ASEAN,and%20over%20622%20million%20people.&text=It%20succeeded%20the%20AEC%20Blueprint,which%20was%20a%20adopted%20in%202007>
- What is the ASEAN Economic Community? <https://www.businesstimes.com.sg/hub-projects/deepening-asean-economic-integration/what-is-the-asean-economic-community>

COVID-19

- ASEAN Policy Brief: Economic Impact of COVID-19 Outbreak on ASEAN https://asean.org/storage/2020/04/ASEAN-Policy-Brief-April-2020_FINAL.pdf
- ASEAN Policy Brief: Assessing ASEAN Economic Policy Responses in a Pandemic https://asean.org/storage/2020/06/ASEAN-Policy-Brief-02_31-May-2020.pdf
- ASEAN Policy Brief: Trade Measures in the Time of COVID-19: The Case of ASEAN https://asean.org/storage/2020/07/ASEAN-Policy-Brief-3_FINAL_.pdf
- OECD COVID-19 crisis response in ASEAN Member States (May 2020)
- Strengthening ASEAN’s Economic Resilience In Response To The Outbreak Of The Coronavirus Disease (Covid-19) <https://asean.org/strengthening-aseans-economic-resilience-response-outbreak-coronavirus-disease-covid-19/>
- ASEAN Integration Report 2019
- Opportunity for ASEAN in supply chain shifts due to trade war, virus: Tharman <https://www.straitstimes.com/business/economy/opportunity-for-asean-in-supply-chain-shifts-due-to-trade-war-virus-tharman>

Seminar 9

(I) ASEAN economic cooperation and integration – the road to the AEC

1. (Read Tan Lay Hong, pp.936-943, 948-960) What did ASEAN economic cooperation look like in the 1980s and 1990s? What were the barriers to economic integration back then and why were they so?
2. (Read Pelkmans, pp.75-115. You may also want to refer to the Bali Concord II and its Annex.) Pelkmans highlights the evolution of the AEC in ASEAN discussions.
 - a. Do these shed light on how the AEC came about and why certain features of the AEC are deemed important? Which features do you think these are?
 - b. Please identify the key economic concepts of the AEC, define them, and detail the complexities in the activation/actuation of each concept.
 - c. Does the AEC match up to the common understanding of these concepts in the international order?
3. (Read Inama and Sim, pp.27-42; 46-57) What does ASEAN want to achieve in its regional economic cooperation? Where is this enshrined?
 - a. Is ASEAN clear on what and how it wants to achieve this goal?
 - b. How does ASEAN's economic ambition and its actions to realise this goal compare with (1) the European Union (EU) and (2) the North Atlantic Free Trade Agreement (NAFTA)? What do the latter 2 institutions do?
 - c. What is the main instrument that fleshes out the Charter's economic commitments? According to this instrument, what are the essential tasks that ASEAN needs to do to realise the AEC? Is this instrument clear in its directives on what must be attained each step of the way?
 - d. What are the other important instruments that are meant to build the AEC? Elaborate a bit about them.

Seminar 10

(II) The AEC – Analysis and Assessment from Legal and Policy Perspectives

4. (Read Tan Lay Hong, pp 943-944, 946-948 on the Balassa Stages, and Pelkmans, pp.116-132, 151-163) Moving on to the practicalities and the specifics, we look at the single market and production base.
 - a. Where do you think ASEAN's position is on the Balassa Stages? Why? Do you think ASEAN will move beyond its present stage?
 - b. Identify the specific instruments that serve to realize the single market and production base (ATIGA, AFAS, etc.). Are there specific provisions that are geared towards maintaining or advancing ASEAN's position on the Balassa Stages?
 - c. Should the AEC try to fit the Balassa model better? Or should ASEAN develop its own model?
5. (Read Inama and Sim, pp.58-59 (AFTA), 75-76 (ATIGA), 77-90 (Rules of Origin), 90-108 (NTMs), 116-121 (ASEAN Single Window), 121-124 (ACIA), 127-129 (AFAS), and Pelkmans, pp.20-24) There are great challenges to ASEAN economic integration. In this question we examine the possible obstacles in the ASEAN regional and national set-ups which make realising the AEC difficult.
 - a. Identify and explain some of the difficulties raised by Inama and Sim that prevent ASEAN from realising a single market and production base.
 - b. Refer to Pelkman's modern stages approach to economic integration. Some would argue that ASEAN is FTA/FTA+. Discuss why this is so with reference to the AEC.
 - c. Discuss how the rise of China and India as competitors, and the impact of COVID-19 would have on ASEAN economic integration.
6. The AEC 2025 Blueprint seeks to improve on the AEC 2015 Blueprint. Which are the key improvements in your opinion and what is your assessment of them?
7. (Read Inama & Sim pp.49-57) Refer to the discussions and readings from Seminars 5 and 6 on dispute settlement mechanisms. What is the AEC Scorecard? What are its traits? Why is it novel? What are its pros and cons? Do you think it aids the ASEAN economic integration project? Contrast the Scorecard with other ASEAN monitoring mechanisms.
8. (Related to Seminar 6) What are the features of the new AEC 2025 Monitoring and Evaluation Framework? How does this enhance compliance beyond the original AEC Scorecard? What are the obstacles and challenges to this new mechanism?