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RESEARCH NOTE

The ASEAN Economic Community and New Regionalism: A Neorealist Analysis

William J. Jones

Abstract
The ASEAN Charter proposed by the Eminent Persons Group in 2006 and drafted by the High-Level Task Force is seen as a progressive step forward in the deepening and evolution of ASEAN regional integration. With its signing and ratification, ASEAN will attempt to transform its character to be a regional institution in form and function both within the region and internationally. The purpose of this paper is to assess the development of the ASEAN Economic Community ("AEC") to see if it intends to build a community or is a neorealist extension of traditional practice by ASEAN's member states by assessing the AEC from a "new regionalism" perspective. It is the view of this writer that the ASEAN Economic Community as currently structured is used to keep and/or increase national order and interests in the face of destabilizing forces of globalization. This critique will assess the ASEAN Economic Pillar as a component of New Regionalism from a theoretical neorealist perspective, thereby attempting to identify components which have contributed to an economic community forming in ASEAN in the post-Cold War period and to possibly identify some critical factors indicating where ASEAN regionalism will lead.

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Introduction

ASEAN is considered to be the most successful regional organization of the contemporary period for the "third world." As a consequence of its longevity, it is perhaps unfairly juxtaposed, compared and measured against the world's most successful regional organization, the European Union (Guangsheng 2006, p. 62, Plummer 2006). Debate surrounding the newly ratified ASEAN Charter, which came into effect with the full ratification of its ten member states and was completed in October 2008 (ASEAN Secretariat, 2008), ranges from constructivist optimism stressing path-oriented norms and value-creation to critical realist assaults. Current arguments, while being relevant and enriching to the debate about ASEAN as a relevant regional institution, are simply part of a larger question. Exactly what was created with the ASEAN Charter and the impetus for institutional change that led to

the creation of this document and its pillar system? Interpretations and analyses concerning ASEAN within the sphere of international relations have tended to maximize the role of nation-states within the theoretical discourse of realism or constructivism.[1] The economic pillar of ASEAN created by the ASEAN Charter has suffered from a lack of institutionalization and implementation of agreements. Rhetorically, this is supposed to institutionalize a dispute settlement mechanism, which seeks deference to community needs as opposed to strictly national interests (ASEAN Charter, 2007, Articles 24 & 25). Parallel to this, it also enshrines its principles of engagement, which are the identical to the Bangkok Declaration, and subsequent agreements subscribing to non-interference and sovereignty commonly referred to as "the ASEAN Way" (ASEAN Charter 2007, Article 2).

With this as a basis for inquiry, I shall argue that the ASEAN economic pillar is a continuum product of "New Regionalism," in particular economic determinants, which have produced a stylized open regionalism without the ingredients necessary to foster an institutional economic community. Structural realist conceptions of state primacy will be applied as reasoned judgment for the current state of ASEAN affairs. I shall assess the development of ASEAN's economic pillar in a bid to show that ASEAN economic regionalism is a reactive measure to maintain state sovereignty and an obstacle to community-building. In the first section, I shall form a theoretical conception of New Regionalism as a neorealist paradigm. In the second section, factors generating the formation of AFTA will be considered, followed by an assessment of the Asian financial crisis and the effects of regional trade agreements (RTAs). Lastly, I shall analyze the ASEAN Charter and show that no mechanisms are actually present to stimulate community-building.

During times of perceived and real crisis, ASEAN member states choose national interests to achieve short-term gains in domestic stability rather than long-term gains for the larger community to which they belong (Hill & Menon 2010, p. 26; Jones & Smith 2006, p. 126). Their economic and political spheres have clearly stayed separate, with limited non-utilitarian effects based on the probability of circumstances rather that the possibility of influencing ASEAN's behavior. The timing of agreements to counter external forces and internal considerations about external stimuli serve as a gauge for realist findings, as well as the degree to which

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[1] L. Jones (2009). See A. Acharya (2001) for a constructivist assessment of ASEAN regional-security structures and dispute settlement in a historical context. See A. Chong (2010) on current issues facing international theorists in trying to grasp the essence of Southeast Asia without the constraints of Western knowledge structures. See M. Beeson (2009) for a constructivist account of regional security cooperation and conflict resolution within the context of "the ASEAN Way."

competencies and transference of political decision-making are separated. Furthermore, it will be shown that ASEAN's economic and political spheres remain distinctly separate in both form and function, as its economic structures allow for an economic character, yet do not permit an institutional economic identity to form.

New Regionalism & Structural Realism

In his seminal piece, *Theory of International Politics*, Kenneth Waltz states that [political] structures are organized according to three principles: ordering, function/s, and capacity to act (Waltz 1979, p. 82). Furthermore, he contends that in the "international political system, economic markets are formed by the coaction of self-regarding units. International structures are defined by the primary political units of an era, be they city states, empires, or nations. Structures emerge from the coexistence of states. No state intends to participate in a formation of a structure by which it and others will be constrained […] systems are formed and maintained on a principle of self-help that applies to the units" (Waltz 1979, p. 91). It should be noted that Waltz clearly delineates economic and political spheres when considering state action; specifically, identity formation does not take place, but rather displays character traits within exclusive fields. While this is perhaps a somewhat simplistic assumption, it raises the ability of getting a structured focus, not intertwining, thus confusing impetus of action in each sphere. I argue that by not blending political and economic identities, structural realism allows for analysis of systemic actor concerns and decisions. By separating spheres in relation to ASEAN regionalism, a few caveats come to the fore. These are no political sovereignty transfers, no social policy harmonization, limited cooperation in security affairs, but quasi-institutional frameworks for enhanced cooperation and state social learning in the economic realm. Understandings of international relations theory from neorealist perspectives tend to strictly focus on the "international" aspect of state behavior and decision making (Keohane, 1993). This is problematic, for in the contemporary world, the "international" is very much intertwined with the "national" or domestic. Contending domestic positions of elite stability and security are transposed into the international arena of state interests, hence behavior. ASEAN member states' domestic concerns about economy, their financial situation, and stability have fostered economic cooperation far in excess of traditional international security concerns.

Neorealist theories as argued by Brooks are formulated on opportunity costs of calculated state interests based on a rationale of subjective probability rather than possibility (Brooks 1997, p. 452). Brooks' analysis offers an insight into the causations of AEC initiatives and formation, as domestic elites and decision makers have formed the AEC to act as a barricade in the event of probable threats to economic instability. Furthermore, community-building vs. weak institutionalization conforms to short-term as opposed to long-term goals (Brooks 1997, p. 458). The

AEC's development is due to reactionary regional measures relating to the worst probable outcomes in the short term for ASEAN member states rather than with a view to long-term tradeoffs. Loss of competitiveness abroad for export-led economic growth and social unrest as a result of the Asian economic crisis, demonstrated the need to for Southeast Asian states and leaders to insulate their economies from competition and instability generated overseas. Domestic unrest was directly connected to the feasibility and success of the Southeast Asian developmental state economic model, which has forced ASEAN states to adopt — albeit grudgingly — the slow institutionalization of economic cooperation.

The conception of states as units to ensure their continued operation in the international economic system is central to New Regionalism and ASEAN. According to Sørensen, "international forces help shape domestic environments and domestic processes help shape systemic conditions" (Sørensen 2009, p. 228). In a neorealist light, new regionalism is simply an extension of consistent state practice to perpetuate itself in an anarchic world by structuralizing defense mechanisms to guard against persistent external threats. In the context of ASEAN and its Economic Community, New Regionalism is a logical manifestation of domestic trade structures, external developments of increased regionalism in Europe and North America and the regional rise of China.

In order to get a rough idea of what "new regionalism" is, one can first look at its opposite, "old" regionalism. The taxing tendencies of the latter were "towards integration, federalism, and diminishing national sovereignty. On the other hand, two tendencies drive new regionalism — nationalism and interdependence" (Sutherland 2009, p. 317). On the surface, nationalism and interdependence seem to be a dichotomous relationship, but in the context of contemporary regionalism, it is, in fact, a binary one. This binary aspect is nationalism and the need to perpetuate itself despite globalizing forces; it is a driving force that enables the state to reach out for otherwise anomalous relationships. The critical difference between old and new regionalism, then, is in the fundamental understanding of the time/space differential in the Westphalian concept of nation-states. While the former internally pushed sovereignty out in a centrifugal manner, the opposite is the case for the latter. This is due to certain characteristics of the Southeast Asian region, viz. the propensity towards safety and support of the Westphalian system of national delineation. Thus, regionalism serves to minimize external disorder in order to stabilize internal order.

The region should not be understood as the critical point of inflection, but rather in the sense argued by Hettne and Söderbaum, where the region itself is "transformed from a passive object to an active subject, capable of articulating the transnational interest of the emerging region" (Hettne & Söderbaum 2002, p. 38). Furthermore, the region and its organization as a construct should not be conceived of as the primary phenomenon but rather, a rational interpretation of national interests against

external factors. Regional organizations should be analyzed as a "second-order phenomenon" (ibid.) where they are the product of national political, social, and economic endeavors and the ultimate expression of national interests that can best be addressed in concert rather than individually. Given that Southeast Asia is a heterogeneous entity without any clearly delineated "natural" boundaries, ASEAN as a regional construct is attempting to give its member states a sense of formal identity by shifting from a *de facto* entity to a *de jure* one that operates under state-driven intergovernmental bargaining (Hettne & Söderbaum 2002, p. 41).[2]

Väyrynen succinctly points out that "the formation of regions takes place at the interface between global economic and technological forces and national realities" conducive to a non-spatial format. The intention is not that this transformation from the status of an "imagined region" to a formal region is reactive, but rather part of a continuum to support nation-state interplay within the wider context of the globalized economy and state system "intended to control access to a particular region to protect it against the process of globalization" (Väyrynen 2003, p. 32). The thrust of Väyrynen's argument lies at the core of new regionalism, which is interdependence born and bred from the weakness of the nation-state and its central place in regional construction and social orders. It is a rational response by nation-states reacting to perceived and real threats in order to find a new mechanism for regulating eroding state boundaries.

Primary factors contributing to the rise of a new regionalism model are found in the monetary volatility of the 1970s, culminating in the mid-1980s with the Plaza Accords of 1985. The immediate post-Cold War milieu saw nation-states attempting to redefine order and purpose in a multidimensional and multilevel setting. Väyrynen argues that "an end to the bipolar cleavage [led] to a restoration of regional sovereignty […] Changes in the international structure and new security challenges were expected to push the development of regionalism, providing order and stability" (Väyrynen 2003, p. 28). Nation-states which were largely impervious to global capital flows and FDI in the paradigm of old regionalism have augmented policy so that "scores of economically less advanced countries have abandoned the basically autarkic, anti-market, policies they followed […] and are now actively trying to join the multilateral trading system" (Eithier 1998, p. 1149). With this said, the ASEAN Economic Community accesses New Regionalism as a defensive mechanism against FDI loss and asymmetric economic shocks in order to secure FDI and trade markets against regionalization abroad and the rapid growth of regional competitors, namely China. Moreover, development of the AEC is an extension of trade liberalization features of its member states. The striking peculiarity of the AEC is that it promotes ASEAN members' status quo in international trade rather than fostering a symbiotic community growth model.

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[2] This has increasingly become the case since a legal status was given to ASEAN by its Charter, now both *de jure* and *de facto*.

AFTA & New Regionalism

The most developed of ASEAN's three pillars is the AEC, owing its advanced status to initiatives begun in the early 1990s and formalized in the ASEAN Free Trade Agreement. Bowles sums up the multidimensional nature of AFTA and regional focus shift towards region building by pointing out that the implementation of AFTA came against the backdrop of ASEAN concerns over competition in capital and investment. Competition arose specifically from Eastern Europe, Latin America, the Gulf region and the former Soviet Union as well as from positive regional undertakings — specifically, the Single European Act and Common Market instituted by the European Economic Community and NAFTA (Bowles 1997, p. 224). Additionally, with the completion of the single European market, the fall of communism and the European Union's extension of preferential trade privileges to former communist states of Central and Eastern Europe; ASEAN member states (specifically, Thailand, Malaysia, and Indonesia) lost major European markets, which were now uncompetitive.

The primary internal AFTA instrument used to develop internal cohesion and trade growth was the Common Effective Preferential Tariff (CEPT) Scheme. The CEPT is considered a positive integrative measure of regulation due to inclusion lists of products, which led to average CEPT tariff rates falling from 12.76% to 2.91% (Kesavapany 2005, pp. 92-93). The CEPT was formalized in 1992 with the express purpose of reducing tariff lines to between 0-5% on a range of over 44,000 products (ASEAN Secretariat-CEPT 1992). This is considerable in light of Indonesia's exceedingly high nominal tariff rates in the 1960s, which were upwards of 85% (Guangsheng 2006, p. 65) and the core five ASEAN countries accounting for upwards of 96% of total ASEAN trade totals in 2003.[3] The CEPT should not be taken out of context and considered a resounding success of ASEAN regional integration. The effects of creating economic interdependence by compressing and internalizing trade have largely not materialized — by and large, ASEAN countries still trade more intensively with third countries than with each other in their export and import sectors (Jones 2008, p. 742).

Numerous problems were encountered with CEPT implementation, most notably the limited usage of the CEPT to cut tariff rates. As Cuyvers et al. demonstrate, only 5% of all intra-ASEAN trade has been facilitated by use of the CEPT. Baldwin attributes an even lower rate of usage, 3%, with JETRO (2002) data showing a mere 11% of Thailand's AFTA exports and 4.1% of Malaysian exports actually using the CEPT (Medalla & Yap 2007, p. 63). An alternative reading of the problematic CEPT attributes lack of usage to lack of unified Rules of Origin standards, giving little

[3] It is further mentioned that a World Bank Report of 2004 found unilateral measures from developing countries contributed some 60% of trade liberalization since the 1980s. The significance of this correlation is that as the "core" of ASEAN, its five original members have hugely contributed to the success of AFTA, as they comprised over 96% of total ASEAN trade in 2003.

guidance to the private sector as to member-state regulations. Medalla and Yap demonstrate that the greatest proportion of intra-ASEAN trade is prevalent in products that already have low preference margins, lower, in fact, than it would cost for states to comply. Additionally, they state that "over 90% of trade among the ASEAN 4 [Malaysia, Indonesia, Thailand, and the Philippines] occurs in commodities where preferences are below 25% [...] making ROO compliance costs of more than 10% simply too high and making the FTA immaterial" (Medalla & Yap 2007, pp. 63-64). Hapsari and Mangunsong further find that CEPT tariffs were higher that most-favored-nation privileges (MFN), leading to no substantial change in intra-regional imports and underutilization of the CEPT (Hapsari & Mangunsong 2006, p. 7).[4] Cuyvers et al. attribute this poor performance to the intransigence of ASEAN member states, which fail to create much awareness among firms in the private sector for fear of losing tariff revenue, while in states that already have low tariff regimes in place, the difference in CEPT rates and existing rates was so negligible that it was not utilized (Cuyvers et al. 2005).

Given that ASEAN intra-trade figures hover between 20-25% of total trade, lack of CEPT usage becomes elemental, as it does not provide opportunity costs for intra-regional sourcing, since manufacturing sectors largely source from outside the region. Structural problems of low intra-regional trade thresholds, weak Rules of Origin calculations that hover at the low content requirement level of 40%, poor customs clearance processes and procedural costs associated with weak regulations, and vague customs costs are felt to be primary to blame. The apparent "success" of the CEPT scheme lies in its inapplicability, as it applied to products that were already subject to low tariffs. This permits two readings, the first being that ASEAN members were already positioned to liberalize in these products anyway, and secondly that the CEPT offered such low opportunity costs that utilizing it was redundant. Both readings inherently render the argument that was made by the ASEAN Secretariat moot, viz. that the CEPT was instrumental in AFTA's formation; instead, they point towards the CEPT and AFTA being rather superfluous instruments of integration.

The CEPT should be seen as a primer to induce recalcitrant states to function together in light of a common external threat of market share loss. The internal utilitarianism of this is highlighted when intra-ASEAN trade flows are considered. At the time of its inception, intra-regional trade flows were very low, only averaging around 20% of total trade aggregates in 1986 (Jones 2008, p. 742), and they have remained low up to the present day (ASEAN Secretariat, intra- and extra-ASEAN trade 2008), comprising roughly the same figure as in the 1970s (Srinivasa-

[4] Hayakawa, Kazunobu et al. 2009 find that AFTA utilization rates were 15 to 20% for exports and 11 to 16% for imports between 2003 and 2006. They cite the same reasons as those stated above: producers were not aware of AFTA tariffs, and ROO certification was cumbersome and involved extra costs.

Raghavan 2007, p. 222).[5] Using the ASEAN Secretariat as evidence, Jones lucidly puts this issue into perspective by stating that "while trade with traditional industrial markets remained robust, [the] share of intra-ASEAN trade remained low with intra-ASEAN exports constituting 22.75% in 2001 […] the share was 21.4% in 1993 when AFTA was formed" (Jones & Smith 2006, pp. 137-138). The importance of intra-regional trade flows and FDI must be seen in the context of the time when ASEAN's primary economic capacity was manufacturing, encompassing 61.3% of intra-ASEAN trade in 1990, up from 28.2% in 1980. Bowles strikingly shows that the majority of this manufacturing trade was composed of intra-industry trade and specialization, ranging from 91% in the Philippines to 64% in Thailand (Bowles 1997, p. 222). FDI sourcing for ASEAN member states is largely dependent on OECD source countries. As Hay has shown, by 1991-92, massive inflows of FDI that ASEAN states had enjoyed during the 1980s were being diverted to China (Hay 1996, pp. 254-274). Furthermore, as Nesadurai points out, in 2000 the ASEAN Secretary-General produced figures showing "a fall in investment in ASEAN from $28 billion in 1997 to $13 billion in 1999. Moreover, the report also showed that the ASEAN economies received only 17% of FDI flows to Asian developing countries in 1999, compared with about 60% in the early 1990s. China, on the other hand, received about 60% in 1999, up from 18% during the early years of the decade" (Nesadurai 2003b), p. 249; see also Piei 2005, pp. 106, 109).

Intra-regional trade flows should not be taken out of context to infer that they are a prerequisite for ASEAN institutionalization; rather, they reflect the dependence of ASEAN members' economies on external markets in their terms of trade. ASEAN states are highly dependent on export- and market-driven enterprise within the global economy, and as such, ASEAN's purpose is to act as a springboard for member states, enabling them to engage in extra-regional trading on a regional scale while supporting national economic strategies and domestic industries. National economic-policy strategies inherently favor demand-side strategies, and ASEAN as a regional bloc serves member states in the economic arena while sacrificing political aspects of overt sovereignty losses associated with supranational institution-building and its derivative effects of functionalist spillover.

External factors were critical in stimulating AFTA and ASEAN's new regional behavior, as "forming a regional bloc was no longer premised on the need to be more independent of the global economy but rather was seen as a measure to ensure continued participation in it" (Bowles 1997, p. 224). Singaporean Prime Minister Goh Chok Tong summed up the need to regionalize by stating: "unless ASEAN can match the other regions in attractiveness both as a base for investments and as a market for their products, investments by multinational companies are likely to flow

[5] By 2008, intra-ASEAN trade flows were only 26.8% in total; the stark contrast in the interdependence of member states is striking, with the Lao PDR conducting 84.12% of its total trade within ASEAN and Thailand only doing 19.7% of its total trade with other members.

away from our part of the world" (ibid). FDI, as Nesadurai clearly argues, was a geographic, multidimensional predicament: ASEAN leaders were confronted on the one hand with growing integration stemming from their traditional export markets (Nesadurai 2003a, chapter 3) and regionally were beginning to feel increasing competition in manufacturing and the loss of FDI to China and India (Soesastro 2005, p. 9). Furthermore, ASEAN leaders realized that regional trade liberalization instruments could be an effective tool against the declining FDI flows witnessed in the early 1990s (Nesadurai 2005, chapter 10). The central argument posed here is that ASEAN's transformation and new economic character was led by economic necessity in the immediate chaotic post-Cold War environment to reclaim export markets, sources of FDI, and maintain the relevance of Southeast Asia as a region. AFTA as a collective regional undertaking seeks to underpin the primacy of its member states while accessing an organizational collective to find a new footing in the post-Cold War environment. Given the limited increase in intra-regional trade and trade deflection rather than trade-creating characteristics of FTAs, AFTA can be seen as a distinctive set of actions to attract FDI in the face of greater competition, distinctly attached to domestic development needs of member states rather than a region-building initiative (Ping 2008, p. 78). With intra-industry trade being fundamental to AFTA trade increases, it is further evidence that ASEAN states have enhanced cooperation in the economic sphere largely to the benefit of domestic industrial interests for state-centric export production to the detriment of regional community-building. If community-building were a priority, it would be more appropriate to form a customs union with a unified common external tariff wall. Yet ASEAN states have chosen the more optimal short-term state prerogative in an FTA without harmonized external tariffs or, as will be demonstrated, a remedy for member states that sign FTAs and RTAs unilaterally to the detriment of community formation.

Effectively, AFTA is a rear guard employed by ASEAN states to help them sustain their international trade positions, which were being undermined, rather than aspire to a community-trade preference. This calls into question the validity of the roots of the AEC as a way to undertake trade and achieve community interdependence on a regional governance level. Given the lack of stimulus in deferring to a regional growth model, instead opting for national maintenance utilizing a regional functionary brings the fundamental question to the fore: Is the AEC a community-builder or not? It would appear that problems associated with AFTA and its primary instrument, the CEPT, coupled with lack of oversight, implantation regimes, and intuition vis-à-vis regional creationism left it a rear-guard tool for national strategies of dependence on export markets and manufacturing production while paralleling domestic industries' support structures.

The Asian Crisis & Increased Regionalism

Singapore is the most avid member of ASEAN when it comes to promoting regionalism. The country expressed its concerns about the issue in 1996, with Singaporean Prime Minister Goh Chok Tong questioning what ASEAN would do after achieving its AFTA tariff schedules in 2003. This led to the ASEAN Vision 2020, but the financial crisis that was soon to come put ASEAN integration on hold as member states' policies took on an internal defense character (Abad Jr. 2003). The financial crisis which began in Thailand in 1997 not only proved to be a catastrophe for a number of countries but also a remarkable opportunity for regional integration. Cuyvers et al. regard the crisis as the direct correlate for regionalization as well as providing an external force to "respond to other regional trading blocs" (Cuyvers et al. 2005, pp. 9-10). As an internal consideration, Stubbs argues that the crisis distinctly showed the ineffectiveness of ASEAN as well as the vulnerability of nations to external shocks (Stubbs 2002, p. 448). ASEAN's Secretary-General Severino exclaimed that the only choices available to SEA nations aside from closer integration were "domination by more powerful states and mighty corporations [leading to the] rise of narrow nationalism" (cited in Ahmad & Ghoshal 1999, p. 761).

One concrete regional response in the immediate aftermath of the crisis was the creation of the ASEAN Surveillance Process in 1998, which installed collective monitoring of member states' financial and monetary situation The importance of the aforementioned is, as Abad Jr. states, instituting a peer review process in the policy sphere of economics on a national and — more importantly — a regional basis (Abad Jr. 2003). Leading on from a consultative procedure instigated in 1998 was the formalization of an extra-regional initiative intimately linked to financial cooperation, viz. the Chiang Mai Initiative of 2000. The CMI had its roots in the Asian financial crisis and Japanese "Miyazawa Plan" as an alternative approach to the ill-received IMF bailout. Given that the CMI is part of the larger ASEAN +3 framework, it is integral to the insulation of ASEAN member states from external shocks via the global economy and its movements of capital as a direct response to the crisis of 1997. Additionally, by including China and Japan in the CMI via APT, ASEAN and its member states can engage their largest regional competitor (China) and their greatest source of FDI (Japan). This positions ASEAN strategically in between Japan and its partner America as well as its largest regional threat. Park and Stubbs both point to the CMI and greater emphasis on East Asian regionalism with ASEAN as the core of regional frameworks as being stimulated in large measure by the failed policy prescriptions which were attributed to a wholesale surrender to the Washington Consensus austerity measures and reforms (Park 2006, chapter 4 and Stubbs 2002, p. 448). The importance of these developments in the sphere of economics serves to show that integration as a mode of conduct among ASEAN member states was largely stimulated by external factors. The product was to shelter

and provide a measure of sovereign stability to nations and populations that had been adversely effected by being connected, hence vulnerable to the world economy. Nationalism as stimulated by the very real threat of undermining state sovereignty due to being intimately involved in the world economy was the primary stimulus for regional initiatives.

Finding common ground in the matter of regional economic defense sheltered the member states while serving the dual purpose of allowing ASEAN countries to provide stability in a regional response while building stronger linkages to their primary partners and competitors within East Asia. ASEAN is capable of being an agent for regional response in the aftermath of a regional crisis. As Beeson surmises, "finally making progress on economic integration within the region might […] be one way of re-establishing ASEAN's authority and credibility" (Beeson 2009, p. 31). However, while the massive scale of upheaval which came from the Asian financial crisis should have prompted significant change, core ASEAN member states chose sovereign intergovernmentalism as a framework in order to guard their national fallback positions rather than actively engaging in community-building in a substantive institutional framework. This reactionary stance is indicative of the probability of a regional crisis striking once again and causing major social unrest. Yet since rebounding economically in 2000-2001, core ASEAN member states have slowed the pace of institutional reform and only instituted short-term measures rather than the deeper structural reforms that were needed. This view is further substantiated by Elliot and Ikemoto, who found that intra-regional trade creation and its coefficient of import sourcing had negligible effects upon regional stances and interdependence conversely had a strong correlation to trade diversion for core ASEAN economies following the Asian crisis (Elliott & Ikemoto 2004, p. 16). They further argue that a strong variable for the stimulus of AFTA implementation after the crisis and increases in trade were attributable to depreciated exchange rates, high rates of intra-industry import sourcing, and use of different ASEAN production and assembly bases for export orientation (ibid.). Elliot and Ikemoto's data prove that the economic concerns of private industry trumped national to regional community preferences. As such, AFTA and the AEC clearly have an economic character that is not reflected in the political characteristics of ASEAN.

Open Regionalism & RTAs

The proliferation of RTAs coming from ASEAN's two fastest movers and instigators in trade liberalization, Singapore and Thailand, highly correlate with the weakness of ASEAN and its secretariat. It is instructive to note Ravenhill's argument in this regard, as he concludes that the weakness of regional trade institutionalization can be attributed to the lack of a *common external tariff*, which Singapore in particular avidly rejects (Ravenhill 2006, chapter 7). To date, Singapore has signed twelve FTAs (Singapore FTAs 2010), while Thailand has signed seven of them (Nagai

2002, p. 9). This would seem to be detrimental in the context of regional solidarity and development, but makes abundant sense when viewed from the rationale of structural realism.[6] As the new millennium approached, it became apparent — as Daquila and Huy point out — that the pace of ASEAN integration had stalled due to the crisis and ASEAN countries' inability to get their economies and trade regimes in order, leading to the famous phrase stated by Singapore's Prime Minister Goh Chok Tong that "those who can run faster should run faster […] and should not be restrained by those who don't want to run at all" (Daquila & Huy 2003, p. 912). Inherently, RTAs and the rapid proliferation of FTAs can be indicative of an advanced status economically or a high degree of political initiative. The benefits of the aforementioned meet largely around the ability to achieve deep integration in specific sectors among FTA/RTA parties, which ASEAN member states have been incredibly slow to adopt (Rajan 2005).

By using this fallback position, Singapore, so Daquila and Huy argue, may have been able to stimulate other more recalcitrant ASEAN members such as Malaysia into changing their market liberalization positions. Malaysia stands out here, as goods liberalization and even telecommunications and other services came into consideration, in effect speeding up the pace of trade liberalization due to unilateral action (Daquila & Huy 2003, p. 915). The signing of the Bali Concord II in 2003 can be judged against the backdrop of the aforementioned, as it recognized the need for dynamism and the need to push forward with integration (ASEAN Secretariat-Bali Concord II 2003), as was reiterated in the Vientiane Action Programme one year later (ASEAN Secretariat: Vientiane Action Programme 2004). Action taken by Singapore and Thailand to liberalize trade independently due to the frustratingly slow pace of ASEAN economic integration may have been a crucial stimulus for regional overtures to third countries, stimulating ASEAN to finally sign its first regional economic cooperation agreement with Japan in 2008.

The nature of ASEAN in terms of its ASEAN Way, highly disproportionate income levels, and unofficial character has led to frustration in trade talks, slow implementation of AFTA, and forced some members to strike a path of their own. When one views the regionalism taking place within ASEAN with respect to its economic pillar/community, the rationale of its recent initiatives point to what Rössler states is an open regionalism devoid of prominent legalistic single-market hopes to build intra-regional trade; instead, ASEAN seems to want to "position [itself] in the world economy as a trading bloc in competition to North America and

[6] Nagai analyzed Thailand's trade policy in his 2002 study. Although he found Thais to be enthusiastic about liberalization, he was unable to find any policy coherence or reason for this enthusiasm in the context of a holistic and purposeful basis in Thailand's stance on FTA trade policy. Many of Nagai's government interviewees simply expressed an enthusiasm about FTAs because other states were engaged in this policy behavior without drawing on any proper research data as to the effects it might have. This leads one to believe that a policy as such expresses the nature and importance of ASEAN regionalism towards member states (in the context of Thai trade policy).

the EU" (Rössler 2009, p. 316). The regionalism in question by virtue of its prior initiative in the nascent AEC is maintaining ASEAN as a base for export processing and manufacturing in a global supply chain of multinationals, and is consequently a credible region for attracting FDI. The exuberance shown by ASEAN's members in signing unilateral FTAs and RTAs serves as a push factor helping ASEAN to enter into FTAs/RTAs bilaterally while simultaneously strengthening intergovernmental decision-making and the continued non-institutional character of the AEC.

Structuralism & the ASEAN Charter

The "ASEAN Way" as a discourse of interstate relations among ASEAN states and the wider world is quite pronounced in that state-centered initiatives come to the fore as a *modus operandi* for regional action. When evaluating the AEC and ASEAN Charter, the salient characteristics of state supremacy embodied in inter-governmental processes come to the fore. But one means of market regulation stands out as an inchoate structure against an otherwise drab background, viz. the AEC dispute settlement mechanism ("DSM"). Structural theory shows that the seemingly novel characteristics of the DSM in the ASEAN Charter simply reflected structures congruent to ASEAN's past and exhibit no significant break from past models. If the ASEAN Charter is as revolutionary as Secretary-General Pitsuwan states, making it more people-oriented and raising the accountability of the member states to historic regional levels (Muqbil 2009), there should then be clear regulatory structures which contravene nation-state power sourcing, especially with respect to the Economic Pillar.

The Charter stipulates in Article 24.3 that disputes arising from economic agreements will be settled in accordance with ASEAN's Protocol on [the] Enhanced Dispute Settlement Mechanism of 2004 (APEDSM) (ASEAN Charter 2007, Article 24.3). Reference for dispute settlement with the APEDSM is allowed for if not adjudicated prior to settlement proceedings by member parties to the Senior Economic Officials Meeting (SEOM). The composition and selection of panels, appeals, and the SEOM are subject to decisions by member-state officials, whereby decisions and recommendations for implementation are solely based on member-state compliance and oversight by the aforementioned. Sanctions are listed as suspending of concessions or obligations until compliance is achieved (ASEAN Secretariat-DSM 2004, Article 16.2) or in a worst-case scenario suspension of obligations under other sectors of the same agreement of equivalent effect (ASEAN Secretariat-DSM 2004, Article 16.3b). However, if a party to the dispute objects to the findings, then arbitration proceedings shall be entered into and arbitrated by either the original panel or an arbitrator chosen by the Secretary-General (ASEAN Secretariat 2004, Article 16.7). Yet prior to formal arbitration, proceedings are undertaken; Article 4 mandates the use of good offices, conciliation, or mediation on a bi- or multilateral basis and may utilize the Secretary-General acting in an *ex*

officio capacity (ASEAN Secretariat-DSM 2004, Article 4). This informal format is a clear manifestation of the ASEAN Way, whose characteristics are consultation and consensus as a negotiation and decision-making process. In effect, the Economic Pillar/AEC does not deviate from the past practices or structures of ASEAN at all, which were completely nation-state-bound and served state interests. By sectoralizing the economic sphere from political, general, or Charter disputes, it becomes evident that internal anarchy due to arbitrary market interventions by member states is constrained to a certain degree by allowance for access to dispute settlement by "regional or local governments or authorities within the territory of a Member State" (ASEAN Secretariat 2004, Article 16.10). General and Charter disputes within this context are clearly manifest and compartmentalized as political disputes or internal social disputes to be decided by the ASEAN Summit by means of consensus. Conversely, economic disputes are adjudicated by means of arbitration, which is one crucial step down from the courts. This clearly shows state-centered structural maneuvering by funneling the DSM to state officials and informal proceedings that are not institutionalized by means of sovereign rights transfers, or acquiescing to a formally recognized legal structure to mitigate disputes independently with the right of inquiry.

Aside from economic disputes, which are specified and have a specific nature, Article 25 provides for arbitration, good offices, or mediation for Charter or ASEAN instrument disputes that are different from general disputes (ASEAN Charter 2007, Article 25). This, again, does not deviate from the norm of decision-making as put forth in the Treaty of Amity and Cooperation. As per compliance of DSM decisions/recommendations, findings are submitted to the ASEAN Summit for a decision, which once again works on the same consensus, state-led premise as before (ASEAN Charter 2007, Article 27). Furthermore, all ASEAN coordinating councils, sectoral ministerial bodies, and community councils direct the final decision-making protocol or mandate compilation to the ASEAN Summit, which is attended by the heads of the member states. The supposedly strengthened ASEAN Secretariat has the function of facilitating and monitoring implementation of ASEAN agreements and participating in meetings of coordinating councils, summits, etc. What is most telling here is that the Secretary-General and the Secretariat will "carry out the duties and responsibilities of this high office in accordance with the provisions of this Charter and relevant ASEAN instruments, protocols and ***established practices***" (ASEAN Charter 2007, Article 11.2a). Established practice is interesting, as it sheds some light on the intentions of the framers of such a high-profile document in that established practice — which has led to the stifling of community-building — is set as the mandate for interaction for the organization's highest ambassador.

The DSM is critical for self-regulating institution-building and could provide a key mechanism for dynamic ASEAN regionalism. It can be assumed that upon the completion of an ASEAN common market, ASEAN states will come into conflict

with each other regarding their trade-regulation regimes. As the DSM is currently constructed, it is not sufficient to allow for economic dynamism due to its being under the final say of the very institution that has kept ASEAN from achieving institutional capacity, viz. the ASEAN Summit. Freedom coming from an independent DSM or court of arbitration beyond the direct control of ASEAN political ministers would fundamentally change the character of ASEAN, allowing for a distinct economic identity to develop free of any direct political interference associated with the ASEAN Way. With the ASEAN Charter, ASEAN heads of state had an opportunity to institutionalize the economic pillar with capacity and a secretariat with investigatory competence and prosecutorial prerogatives. Instead, they chose to make economics and trade subservient, hence fully under the control of ASEAN's national politics.

Conclusion

The difficulty in fixing a functional institutional structure to ASEAN's initiatives, rhetoric and treaties in fact determines an analysis of ASEAN from one of open regionalism. Its salient characteristics are high fluidity, exhibiting a strong tendency for new regionalism's features of limited nationalism, necessary intra-regional development, state-interest-led initiatives, and sovereign fixations. Yet all these characteristics are inextricably influenced by external affairs and the perceived need to react to maintain symbiotic relations on a regional level. The ASEAN economic pillar is a reactionary measure against possible fractious effects of RTAs largely stimulated by external influences, such as the need for trade-creation, greater competition in the global political economy, the rise of China and its entry into the WTO, the highly diverse nature of development in ASEAN countries, and the inability to reach a consensus on trade liberalization rapidly.

The ASEAN Charter differs in content from its predecessor treaties, as it is beginning to institutionalize in order to cope with the increasing obligations due to trade deals and security cooperation. The clearest manifestation of this is the creation of Dispute Settlement Mechanisms (ASEAN Charter 2007, Articles 24 & 25) akin to WTO arbitration enshrined in the Charter in order to deal with oversight and dispute mitigation due to the changing nature of ASEAN as a regional constellation. Dispute mitigation in this form is designed specifically to foster cooperation and social learning by lowering transaction costs and risk by shared cooperation and obligation, yet it is based on unsupervised compliance. For all the rhetoric about regional solidarity and unity, the AEC's development does not manifest any regional positioning in offensive competition to other regional economic organizations, but is a defensive mechanism used by ASEAN member states to compete with one another for competitive overseas markets (Jones and Smith 2006, p. 107). Competition in this form is at the expense of true integration and interdependence. When viewed through the lens of new regionalism, ASEAN

shows that regional development conforms to structural realist conceptions of state practice and primacy. Structures that are present in ASEAN are simply a reification of past practice devoid of any substance as far as institutional community-building is concerned, which can lead to a sovereign transfer of rights and power from member states.

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