

ASEAN-in-Practice Episode 2-2 Transcript

Denis: Thank you for joining us in the second part of the podcast episode with Maes Alconcel. We certainly learnt quite a bit about the trade policy challenges that ASEAN is currently facing. And we will be diving even deeper into this topic in part 2. Let's talk about food security, which is a main concern for many Southeast Asian countries. And many of them will be affected by any kinds of export restrictions or export bans on food staples.

Is there competition among ASEAN, Southeast Asian countries that produce similar agriculture good to export and has that impacted the trade facilitation across these countries?

Maes: Yeah, that's again a very difficult question. ASEAN they've been focusing on increasing cross-border trade into ASEAN. But it has reached a certain level and it stayed on that level.

It's basically because when I was doing research studies about these things, especially I work very closely with the F& B sector in the region. And because ASEAN, they're producing similar homogeneous products. So somehow when you're producing similar products, it doesn't make sense for you to trade with one another, right?

Especially when you have the same or similar products available in your country. So, the way you would do it is, I would trade it with other countries that are not producing similar products or services. That's where I think the competition comes in. So, it's not competition in terms of intra-ASEAN trades, but competition when it comes to trading with external parties of ASEAN.

But I wouldn't say that it's hindering how ASEAN wants to enhance trade facilitation. Because again, if they manage to enhance trade facilitation, especially if they're harmonized on their regulations. Proceed to simplify their procedures, you know, that would actually attract investments into the region from other countries.

So, I don't think it's hindering them. It's more of their more focus on looking at their own country and nobody's on top looking at how all the ASEAN governments can work together to be able to have a more concerted effort so that it doesn't look like they're competing with one another when it comes to their trade with and out of ASEAN.

Denis: Is there a role these ASEAN FTAs or RCEP in ensuring food security?

Maes: Yes, definitely. In RCEP, actually, in all ASEAN FTAs, I would say, they've always focused, because when you talk about F&B sector, the key measures that they need to deal with the Sanitary and Phytosanitary Measures (SPS) Agreement and fight the sanitary measures, right? And in intra-ASEAN, ASEAN plus one FTAs, RCEP, they've always highlighted on how to address the challenges that companies face when it comes to SPS and Technical Barriers to Trade (TBT).

So, there's always specific provision, specific chapters dealing with SPS, TBT. In RCEP, I've seen how, again, they tried to strengthen whatever they have in all the ASEAN Plus One FTAs and even their commitments in the WTO and put it in the RCEP. The issue when it comes to ensuring food security in relation to the SPS measures, TBT measures, and other relevant measures when it comes to cross border, cross border trade of F&B products, agricultural products.

It's the implementation of these commitments, let's say one example, notification. So, before you can implement a new measure, or even if you want to change revised existing measure, you need to notify in the WTO, they have that. And in the WTO, ASEAN have been very compliant with their notification commitment.

In ASEAN, I seldom see an ASEAN country notifying the other ASEAN countries that they're implementing a new measure or revising their existing measures. I don't think it's intentional. I could see that it's more of the structure, the organizational institutional structure in one country. The people who are dealing with The WTO notification may not necessarily be the same as the people dealing with the

notification in ASEAN. They may not necessarily be talking with one another so that when they notify the WTO, but they don't tell their colleagues handling ASEAN, that they have these new measures.

So, it's weak implementation of commitments that, for me, is the main challenge when it comes to ensuring food security. Also, just to highlight, ASEAN actually came up with guidelines on how to implement NTM in healthcare sector and, of course, the F&B sector, because they would want to ensure food security and safety, especially because during the pandemic, when every country, they are closing their borders, then suddenly those countries that are not producing food, they don't have access to as a basic need.

So, ASEAN came up with this ASEAN NTM guideline that when similar crisis like the COVID 19 pandemic happened, then ASEAN governments will make sure that there's still free flow, cross border flow of these basic commodities in the region. Again, the problem is how ASEAN is implementing these commitments.

To be fair to ASEAN, I've always been comparing the commitments that they have in the region versus the one in WTO, for instance, or in any other trade platform. They're actually quite good in coming up with commitments. And if they're only implement them really well, the businesses would be happy about it.

Denis: It's good you mentioned that implementation of ASEAN commitments, which is also about compliance. And ASEAN does have a Dispute Settlement Mechanism, DSM for short, but as far as I know, it's never been used, right? But if ASEAN is going to try to integrate all their economies, invariably there's going to be more trade disputes, right? So, how do you see a way forward? And it's also difficult to take it up to the WTO because they have their own problems with their own Dispute Settlement Mechanism framework? So, what's the way forward?

Maes: Again, that's a very good question. The DSM, the dispute settlement mechanism in ASEAN, I would say it, it's like it never existed. It's there, it is in all ASEAN FTAs, there's a provision, there's a specific chapter on DSM. But I've been doing ASEAN for 18 years now, I've never heard any country use it, and it's mainly because it's cultural. ASEAN, they've always treated each other as brothers and sisters. So, they, as much as possible, they would want to address issues informally, in a manner where they don't have to take them to legal disputes.

So, they've tried actually to make sure that though they're not using the DSM, for instance, do other stuff that would ensure implementation of their commitments. But before I go that, just to mention as well that aside from, of course, the cultural aspect of not using the DSM, because nobody has ever used the DSM dispute mechanism in ASEAN, so the structure was never really developed in such a way that when a country has a problem, then I would want to use the ASEAN DSM. Then right away, you can start discussing the issues.

So, an example of that, the Philippines, for instance, the Philippine government, together with the private sector, private company in the Philippines. Way back, I was still a trade negotiator then. They wanted to use the ASEAN DSM for a tobacco issue in Thailand.

Given the, it may be easier and faster because only ASEAN, only 10 countries, the Philippine government wanted to use the ASEAN DSM. But then the time to establish the structure was taking some time. That's when the government and this private entity said, let's just go to the WTO instead, because you know, the longer we wait, the more we are losing out.

So that's why they actually went again to the WTO. But with the WTO not working at the moment, I think it's about time for ASEAN to look at how they can enhance the implementation usage of the dispute settlement mechanism in ASEAN FTAs. So probably even without having cases at the moment, I would encourage ASEAN and their FTA partners.

So, when a case comes in, how should we start discussing about it? How should we structure the DSM in such a way that having, you know, solutions would be easier, discussions would be easier? Like even the panels, for instance, they can already identify, right? And they should know what the common issues are. What are common sectors that companies usually have issues for them to probably just to try it out? But

aside from that, of course, because if it's cultural, it's not easy to change that mindset, right? It would take some time. So, there are other ways on how they can try to strengthen implementation of commitments in ASEAN.

For instance, they can adopt a system, which we also mentioned in our trade facilitation key takeaway from the private sector study, the name and shame ranking system, like the ease of doing business of the World Bank or wherein you give credit, you celebrate those countries that are doing well. And of course, it's very shameful for you to be at the bottom.

So, then that's when countries would try to improve on implementing their commitments. Because I saw that when they were doing the AEC blueprint scorecard. So, whenever they would issue the scorecard report, then countries, the governments would be, okay, which commitments haven't we implemented? What's the status?

And then they would go to the specific government agency that's supposed to be implementing that to ask them, oh, so what's the problem? So, you know, it somehow worked before, I would say, when they had the AEC blueprint scorecard. But another way to enhance the implementation of trade commitments in ASEAN in the reverse of proof system, where it's the ASEAN government saying or trying to prove that they're compliant with their commitment. So, it's the reverse way of proving compliance with their commitment. So that when they couldn't prove that they're compliant with their commitment, then what are the things that can be done, right? I've seen as well, other FTAs now, trade agreements where they, introduced the snapback approach when one country is not compliant with their commitments or not respecting their commitment in the trade agreement. Then, they could also implement or penalize that country that's not respecting their own commitment. I would say if another way to do it, I would also like to mention there's also a mechanism, a trade facilitation tool called ATIF (ASEAN Trade Facilitation Framework) in ASEAN.

Since the ASEAN dispute settlement mechanism, it's not really being used. So, they came up with ASSIST (ASEAN Solutions for Investments, Services and Trade) in ASEAN since the dispute mechanism is not really working. So, they came up with this. It is a more of informal way of discussing the issues. It's a consultative mechanism where the government and the private sector can discuss the issues that businesses are facing when it comes to cross border trade in the region.

The only problem there, why the business sector. They're also somehow not optimistic about it. It's because whenever they raise issues there, the ASEAN government, they respond in such a way that it's not really addressed. So again, the businesses would be - What's the point of me raising my concern through the platform when you're not even addressing the issue?

And the timeline, though, of course, it's not easy for governments to shorten the timeline for them to respond, but in the private sector. For time, as you mentioned, it's money, so the more they wait, the more they're losing. So, the ASSIST mechanism, it's actually good to discuss issues that can be addressed in the long term, but not in the short term - like when my shipment is at the border, I wouldn't use the ASSIST.

Denis: Critics of ASEAN integration would look at things like low utilization rate of ASEAN FTAs and also low intra-regional trade, right? For instance, ASEAN intra-regional trade has been for the longest time about whoever for about 20 odd percent. Do you think that this sort of indicates that the various trade initiatives that ASEAN are not very effective?

Maes: Not necessarily, I would say. So, when I was doing a study on FTA utilization in the region, the main issue that has been identified, and even here in Singapore, you know, I was with the Singapore Business Federation, and we've been promoting use of FTAs by Singapore-based companies. Utilization is also low based on business sentiment.

It's not because they're not. One is really the lack of awareness of these FTAs, how it will benefit them. Companies, they're very practical. They will only use things when they know that it will reduce their cost and it will increase their profit. So, if there is nothing for them to benefit from, why would they even use the FTAs, right?

So, It's more of government should be able to communicate, convey to the businesses how these FTA can increase my competitiveness, increase my supply chain resilience, especially with we experienced COVID 19 and now the climate change risk, it's there. So, the lack of awareness, that's number one issue.

Then, of course, the technical know-how. How can I comply with the rules of the FTAs for me to be able to take advantage of, for instance, the tariff savings, right, the rules of origin? How can I ensure that my product is originating or compliant with the origin criterion for my specific product? And how can I prove that my product is originating?

So that's where the certificate of origin comes in, the procedure of. These are the things that are actually hindering companies from taking advantage of that. Another concern that I've seen why companies, especially if in the F&B sector, why they're not using the FTAs, they have limited resources.

In ASEAN, 95 to 99 percent are M/SMEs. They have limited resources. So, they're limited resources. They use them to comply with the regulation. So, the regulatory compliance. So, the FTA part of it, of course, that's another, you know, resources that I need to provide, right? For me to be able to comply with the rules of origin criteria.

To submit my certificate of origin, those kinds of things. And if you have limited resources, you will definitely just focus on regulatory compliance. When I'm not compliant with a regulation or a measure of one country and shipment is already at the border, I can be penalized, right? If I'm not compliant. Or my customs clearance would be delayed. And the more the delay, the more cost that companies need to pay. So, if you try to weigh the cost of non-complying with the trade regulations and the benefits that you can get from FTAs, of course, right, the regulatory compliance, companies will focus on the regulatory compliance more than the FTA.

So, companies that are more established, I would say, when it comes to regulatory compliance and strategy, that's when they look at FTAs, though they don't see that the FTAs could also address their issues, especially with the diverging trade regulation of countries, because in the FTAs, you have harmonization, mutual recognition arrangements, have the same simplification commitment. So, companies should also look at FTAs as something where they can pursue their agenda, especially when it comes to harmonization of NTM's agenda.

So, it's always been like that. It's hard to change because it means that businesses They need to look at their entire value supply chain because FTAs are supposed to be a strategy for them to diversify, which is very important to ensure resilience. So again, companies in the region, they're not really focused in catering for the markets in the region.

They're target markets are outside of the region, but I think what would be good to see, and maybe this would somehow increase the inter-ASEAN trade, for instance, if they would know which countries are producing, you know, especially the raw material that they are sourcing, for instance, from China, but then probably they're available in the region, then actually that would kind of help, but I think there's no platform yet where they can get all this information.

One example is the Philippines, it has the EU-GSP Plus, right, the Generalized System of Preferences. And for Philippine companies to be able to take advantage of the GSP, EU-GSP Plus, they can source raw materials that are not available in the Philippines from the neighboring ASEAN countries. But they don't know that.

And many of them, they're still sourcing the raw materials from China. Of course, those process products, they won't be able to comply with the rules of origin requirements under the EU-GSP plus because they source their raw materials from China. So again, it's more of increased awareness of companies that these kinds of arrangements, they exist.

And if governments or even business support organizations, if they can point out what are the raw materials, where can I source them so that my process products, if I would want to export it to the

developed countries or countries outside of ASEAN, and then it's easier for me to get sourced around the region.

Denis: Let's go a bit more macro. Besides RCEP, you also have CPTPP, the Comprehensive Progressive Trans-Pacific Partnership, and more recently, the IPEF, the Indo-Pacific Economic Framework, which was launched last year, which quite a number of ASEAN member states are also members of these two trade or economic blocs. It's getting a bit messy.

We've got all these different types of regional trade agreements or economic bloc, and you talked about spaghetti bowl. So, it's going to be very difficult for businesses, particularly SMEs to operate with all these different types of trade arrangements.

Maes: Definitely, definitely. Because as I mentioned, every FTA would have its own procedures. So, if I'm a small company, how can you expect me to know all these things, right? With limited resources, of course, it's impossible for me. But if you look at from a positive point of view, it's actually better than not having anything at all. Because if you don't have all these trade arrangements, there is no mechanism or arrangement where I can take advantage of it.

These trade arrangements, trade agreements, they're there for companies if they would want to take advantage of them. Of course, companies can always trade with one another on using the general scheme where they don't have these extra benefits. So, even if you have all these statements, as you mentioned, but it's better than not having anything at all.

Denis: ASEAN, currently, the policy makers are in the process of developing a new strategic blueprint, I believe, and they'll be talking to thinktanks, experts like yourself, on what should be put in that new AEC blueprint over the next 10, 20 years. What would be in your wish list, or to do list, that should be in that new strategic document?

Maes: I think I've highlighted these to ASEAN many times. I don't think that they need new initiatives. What they need to do is actually strengthen the implementation of existing initiatives. If they can increase transparency. If they can simplify, harmonize existing regulations, procedures, if they enable a more open communication, consultation between the government, private sector, the academia, and any other sector, then that would also promote partnerships, closer collaboration, cooperation with one another.

That's actually more important than coming up again with all these new initiatives. But at the end of the day, the question is, are we implementing it? If we're implementing them, are we implementing them in such a way that they're aligned with the needs of the business sector? Do we listen to the business sector when we implement or define and implement these initiatives, these measures?

Those kinds of things I would say. And then probably just try to see how all these existing measures are linked together. I think that's the one thing that's missing because they have a lot of initiatives. Every sectoral body, sectoral committee, they have different initiatives, but how actually they complement one another towards main objective agenda.

So, for me, it's I hope the next AEC Blueprint would just make sense of all these measures, how they can reinforce one another, so that the main objective of having this ASEAN economic integration, it's really there, and even the ASEAN centrality, they can achieve ASEAN centrality. It's basically policy coherent.

Denis: Right, so it's not really new initiatives, it's more a question of working on existing initiatives, consolidation, perhaps streamlining, and making them work.

Maes: Yeah, and probably just upgrading just to take into consideration the business environment at the moment. But the way to do that, I would say, is probably come up with like a built-in mechanism wherein when this thing happens, then you have more flexibility to adjust the measures rather than, oh, I need to have a new agreement again so that I can be able to take into consideration with that specific situation kind of thing.

Denis: We've covered a lot of detail, but is there any other things that you would like to highlight on ASEAN trade issues and challenges?

Maes: I guess my final word to everyone, not just for the government or the private sector, for everyone even in academia, I think ASEAN is there. Things may be slow. It's not how we want things to be, but it's there. I commend how the government, they respect one another. I commend how I've never seen anyone saying I'm backtracking my commitment. I think what would be good for ASEAN to do is. To be more collaborative, to be more open with one another, the government, they're not perfect, but they're doing their job, the business sector as well.

Of course, they also have a role when it comes to the ASEAN economic integration. So, everyone has its own role. I hope we stop blaming the government. It's not doing this, not doing that. Oh, the private sector should be doing this as well. I hope they can be more open with one another, be more collaborative, cooperative, um, and actually that's the reason why I'm an independent consultant.

I provide advice to both governments in the private sector. The best structure, that's where you see really positive outcomes, not only for the businesses, but the entire region, the entire economy, even those in rural areas, the ASEAN people. It's when you see the government, the private sector, and other sectors like the academia working together.

Denis: Thank you so much, Maes, for taking the time today to speak with us. It's been very insightful and educational. We certainly learnt a lot about ASEAN's trade policy issues and challenges and the role it plays in economic integration and to support the ASEAN Economic Community by 2025. In fact, we had to split this podcast into two parts because Maes has been a wealth of information and given us so many real-world examples.

Thank you again for taking part in the podcast episode, and I hope that all of you will look forward to the coming episodes ahead.

*This podcast was recorded on September 25, 2024.