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EU-ASEAN: Shared Objectives, Severed Trust

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EXECUTIVE SUMMARY

- After 45 years of diplomatic dialogue, EU-ASEAN relations continue to dawdle, lacking real ambition or political will from either side to invest more in the relationship. Even after a recent upgrade in the relationship to a strategic partnership (and continued pressure from the business communities on both sides to do more), the potential of the EU-ASEAN relationship is still not well understood by policymakers.
- Due to factors that are largely outside of EU's control, the region-to-region engagement has settled on incrementalism on technical issues (like air transport) or selective bilateral engagement on trade and digital economy. Meanwhile, China has been making inroads with its Belt and Road Initiative; Japan leans on CPTPP and bilateral assistance, and the Biden administration has launched the IPEF. Due to the many trade disputes, it was no surprise that ASEAN granted strategic partner status to even Russia and New Zealand before considering the EU.
- The palm oil conflict with ASEANs largest democracies (Indonesia, Malaysia) has been allowed to escalate to a point where it can no longer be compartmentalised to a trade issue. The absence of actual economic injury among Malaysian and Indonesian farmers also proves that the palm oil conflict is not an economic issue that can be settled financially, but about high politics and a matter of principles. New EU legislation on due diligence for deforestation and corporate sustainability, market regulation on forced labour, carbon border adjustment measures, foreign subsidies, and data governance are likely to result in further retaliation and escalation.
- Rightly or wrongly, ASEAN democracies do not perceive that the EU has yet earned the right to be heard. Hence, the EU needs to be aware of how it projects its values and interests in the region, understanding that it does not command moral authority; or that ASEAN operates differently based on personal engagement between leaders and shared interests. Conversely, ASEAN leaders should not simply write off EU-engagement as a middle-management preoccupation due to its technical nature, but rather see the EU as a counterweight in the region.
- ASEAN as a collective can serve as a strategic and transformative instrument. Washington, Beijing, Tokyo, and even London, are all shifting their focus to the region, concluding that the race for influence over the Indo-Pacific ultimately boils down to influence over ASEAN.

INTRODUCTION

The latest EU-ASEAN summit – the Commemorative Summit on 13 December 2022 –¹ was in many ways symptomatic of the state of play of the EU-ASEAN relationship. Unfortunately, there were few deliverables and outcomes at the grand commemoration of 45 years of diplomatic relations.

The key announcement was the repackaging of the EU funding into the Global Gateway –² Europe's response to China and the Quad's soft power diplomacy. But reminiscent of the anachronistic donor-recipient relationship, it made little fanfare in the ASEAN capitals – and seven months on, details are still scant. Also, the absence of any Myanmar political representative at the Summit also reminded us of the political realities, while the EU-ASEAN disagreement over how to address Russia's attack on Ukraine was also apparent in the Joint Leaders' Statement. The reality of region-to-region ties is not quite "*a robust relationship that reflects shared trust*", as EU Council President Charles Michel had described at the Summit.³

The Council President is not wrong. A trusted partner in a complex world is not just a resourceful ally with shared objectives – it also means a reliable and predictable counterpart. Both ASEAN and the EU are lauded as a force for stability in their respective regions. They share the same collective self-interest and face the same choices between Chinese and US unilateralism. Yet, despite the apparent shared interest in navigating today's power politics without getting embroiled in the bifurcation. We may be stuck along the same narrow path between *America First and China Dream* – but surprisingly, ASEAN and the EU rarely walk side by side.

Despite their history and many similarities, ASEAN is still underappreciated in European capitals, compared to the importance attached to it by Beijing, Tokyo, Delhi or Washington. Even among the most forward-looking EU senior officials, 'system thinking' tends to focus on the forthcoming transformation of Africa rather than influencing Indo-Pacific powerhouses. Some EU leaders even feel that attention on the Indo-Pacific depreciates Europe's global relevance, not realising that it is such naivete that undermines their influence in the first place.

To this day, ASEAN features in EU strategic planning primarily as a target market. Despite an upward trajectory in economic activity – largely owing to ASEAN's growth recovery and Europe's increasing dependency on overseas growth – the political and institutional relationship continues to be held back by the EU's difficulty in cooperating with partners that have values or political sensitivities that differ from their own. Instead, Brussels seems surprised when told that EU regulations with a negative impact on ASEAN are met by hostile citizen reactions.

¹ European Council, EU-ASEAN commemorative summit, 14 December 2022. Accessed at: <https://www.consilium.europa.eu/en/meetings/international-summit/2022/12/14/>

² European Commission, Statement by President von der Leyen following the EU-ASEAN Commemorative Summit, 14 December 2022. Accessed at: https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_7740

³ European Council, Remarks by President Charles Michel at the EU-ASEAN business summit, 13 December 2022. Accessed at: <https://www.consilium.europa.eu/en/press/press-releases/2022/12/13/intervention-du-president-charles-michel-lors-du-sommet-des-affaires-ue-asean/>

This is evident not least from previous policy briefs that examined the list of obstacles to a cordial trading relationship with the ASEAN Member States. Many of the highlighted issues in the previous papers are beyond Europe's control – like the lasting martial rule in Myanmar – while other issues are deliberate creations or the product of negligence. Specifically, some new EU regulations targeting deforestation, forced labour, carbon leakage or investments tend to be dealbreakers for ASEAN countries, rather than incentives for domestic reforms.

Given such thresholds, the EU must selectively engage with ASEAN Member States through bilateral interactions on issues where there are potentially mutually beneficial outcomes. And the strategy of focusing on what is actually possible has borne fruit, not least in the recent conclusion of bilateral FTAs and PCAs. But these experiences do not instil confidence in the coming, more difficult negotiations. Conversely, ASEAN countries have also come to prefer dealing with individual European countries rather than the EU institutions, which they regard as inflexible proxies.

This policy brief presents the view that there are many deliverables within reach, but the EU's relevance in the Indo-Pacific cannot be held together by opportunism and incrementalism. Compromises through trade agreements or regulatory reforms no longer bridge the differences with the ASEAN countries who are also presented with more constructive and less costly forms of engagement with the US, China and the Quad.

FROM BILATERALISM TO INCREMENTALISM

The ASEAN-EU commercial relationship is still robust thanks to a perfect complementarity between the regions. Europe offers high-quality goods and professional services, and ASEAN can satisfy the demand for raw materials, commodities, and future growth. As a result, trade in goods amounted to more than €210 billion in 2022, and services added another €100 billion in bilateral turnover.⁴

But Europe is not only dependent on exporting industrial equipment and capital goods to the emerging countries for its balance of payment. Since Europe must invest its surplus capital abroad in faster-growing economies, the strong growth prospects in South-East Asia are another factor: The EU was also the largest investor in the region in terms of FDI flows until 2019 when it was overtaken by both the US and Japan, but only due to the statistical implications of Brexit.

In that respect, the short-term GDP outlook for ASEAN shows strong GDP growth for 2023 that is driven by domestic consumption, healthy labour markets, and a return of the tourism receipt.⁵ The long-term prospects are sustained by both productivity growth and demographic dividend, while augmented by Chinese demand. ASEAN GDP is likely to overtake India and

⁴ Eurostat, 2023

⁵ ASEAN Briefing, ASEAN Economic Outlook 2023, January 2023. Accessed at: <https://www.aseanbriefing.com/news/asean-economic-outlook-2023/#:~:text=The%20ASEAN%20region%20will%20remain,conditions%20and%20tightening%20monetary%20policy>

Japan by 2030.⁶ Given such prospects, China, the US, India, Japan, and Australia are all vying for influence and preferential access into ASEAN, eroding any advantage Europe currently reaps from being one of ASEAN's earliest investors. The most obvious example is perhaps how China's investments into ASEAN doubled between 2011 and 2020.⁷

The EU may be one of the largest traders and investors in South-East Asia, but that success is mainly attributable to the initiatives by the private sector rather than policy interventions. Judging by how the EU-ASEAN Business Summit – held by the business associations in conjunction with the Commemorative Summit – presented a more positive outlook than its government counterpart, the European business community seems to prioritise ASEAN higher than their governments. Nevertheless, the commercial ties will reach a theoretical limit without the political capital of governments: Trade or investments naturally grow where governments make concerted efforts to bridge regulatory divergences. But weak or frayed diplomatic relations present risks that businesses try to avoid.

But understandably, Europe's immediate attention is consumed by the war in its eastern neighbourhood. The long-term and systemic planning focuses upgrading its engagement with Africa on trade, renewable energy, and migration. Such prioritisation is evident in the Horizon Europe Research Programmes or the current Multi-annual Financial Framework, where the EU support to Sub-Saharan Africa is 15 times larger than that to ASEAN.⁸ The EU's thinking on East Asia also remains strongly Sino-centric, where its relations with strategic actors like Japan or India are functions of its China strategy. Notably, its much belated Indo-Pacific strategy has in practice become a strategy on how to deal with China.

Some political red lines for region-to-region engagement with ASEAN – like the situation in Myanmar and Cambodia – were highlighted in previous papers and are still ubiquitous. Under such constraints, the EU finds it naturally easier to selectively engage with the ASEAN Member States bilaterally, and focusing on issues where there are potentially mutually beneficial outcomes.

While such a strategy has borne fruit – as evident in the recent conclusion and implementation of the FTAs with Singapore in 2019 and Vietnam the year after – but not before judicial or parliamentary scrutiny over internal EU competencies or labour issues. Other successful outcomes include the EU-Singapore Digital Partnership and Digital Trade Principles and the signing of the Partnership and Cooperation Agreements (PCAs) with Malaysia and Thailand.

The experiences of the "easier" FTAs (with Singapore and Vietnam) do not instil confidence in the ongoing EU-Indonesia CEPA negotiations, given the politics surrounding sustainability issues, nor the impending restart of the EU-Thailand FTA in 2023, or other negotiations for that matter. ASEAN countries have also capitalised on the division among the EU Member States, preferring

⁶ <https://asean.org/wp-content/uploads/2022/12/investment-report-2023.pdf>

⁷ ASEAN Secretariat, ASEAN Investment Report 2022, <https://asean.org/wp-content/uploads/2022/10/AIR2022-Web-Online-Final-211022.pdf>

⁸ European Commission, EU-Africa cooperation in Research & Innovation (factsheet), 2022. Accessed at: https://research-and-innovation.ec.europa.eu/strategy/strategy-2020-2024/europe-world/international-cooperation/eu-africa-cooperation_en

to deal with them individually rather than engaging the EU institutions. While FTAs fall under the EU competence, Member States engage ASEAN through MoUs on technical cooperation, capacity building, or infrastructure investments that are aligned to ASEAN diplomacy and interests. Furthermore, the European country that most ASEAN countries see as most relevant or present in the Indo-Pacific is (somewhat regrettably) the UK, which is already easing its trade frictions with ASEAN countries and moving quickly to close agreements that it was unable to negotiate as part of the EU.

It is evident that the bilateral track has limited mileage, especially given that the EU is uniquely equipped to engage with ASEAN at both economic and regional levels along its economic and political dimensions, which China and the US cannot. Nor could the bilateral approach induce further regional integration within ASEAN or promote regionalisation, the EU capacity building efforts in the past has been instrumental for economic integration within ASEAN, especially for the documentation of internal barriers (provided through the ASEAN Regional Integration Support (ARISE) programme between 2016 and 2022.⁹

Such positive synergies can also be found in recent incremental successes like the conclusion of Comprehensive Air Transport Agreement (CATA) in 2022, which replaced all previous bilateral aviation agreements with a common set of rules within a single framework for air services. CATA shows how ASEAN and Europe can achieve tangible outcomes when interests, societal benefits and institutional competences align – and provided that the political capital is there.

MORE SEEDS OF PUBLIC DISTRUST

In view of the stagnating EU-ASEAN relationship, there is little denying that ASEAN governments have devoted their attention to more resourceful partners that are better able to coordinate their private sector interests and public sector opportunities. And cognisant of the region's desperate need for infrastructure financing, China's Belt and Road Initiative (BRI) has invested more than US\$20 billion each year into ASEAN and has since concluded 24 investment projects in various sectors, with more than 70 other projects in progress.¹⁰ ASEAN is particularly keen on tapping on China's post-Covid rebound, with an uptick of high-level exchanges with their central and provincial governments planned for 2023.

Elsewhere, Japan and Korea are also crucial sources of funds and credit. Japan is particularly viewed favourably as a regional leader in East Asia, a leading investor and donor that is trusted by ASEAN governments. ASEAN-Japan relations are also likely to be upgraded to a higher-tier, comprehensive strategic partnership before the end of this year. All ASEAN states have also ratified the RCEP, further cementing ASEAN centrality among its closest trading partners. Also, the ASEAN contingent of the CPTPP has ratified the Pan-Pacific agreement (with the exception

⁹ EEAS, ASEAN Regional Integration Support from the EU (ARISE) Programme holds Closure Event, June 2017. Accessed at: https://www.eeas.europa.eu/node/28337_en

¹⁰ Zheng, W, Assessing the Belt and Road Initiative in Southeast Asia amid the COVID-19 Pandemic (2021-2022), 2022/57, ISEAS-Yusof Ishak Institute; Yu, K, The Belt and Road Initiative in Southeast Asia after COVID-19: China's Energy and Infrastructure Investments in Myanmar, 2021/39, ISEAS-Yusof Ishak Institute.

of Brunei), and seven ASEAN countries are joining the Biden administration's regional initiative, the Indo-Pacific Economic Framework for Prosperity (IPEF).

In light of such competition, ASEAN capitals perceive that Europe is disengaging. The first rule of diplomacy is always to show up: Commission President Ursula von der Leyen's first and only visit to an ASEAN Member State was in November 2022 – but only to attend the G20 Summit in Bali. ASEAN leaders may not fully appreciate the internal division of labour between the EU institutions, and her interest in ASEAN and the Indo-Pacific is thought of as lacking – leaving HRVP Josep Borrell or Council President Charles Michel to front the necessary diplomatic engagements. In a similar vein, Trade Commissioner Valdis Dombrovskis' last-minute absence at the ASEAN Economic Ministers meeting in Cambodia last year was also noticed, whereas the US, India, Japan, Australia, and New Zealand had sent ministerial representatives to Phnom Penh. Even China (still under strict lockdown), participated remotely.

It is thus not surprising that ASEAN countries do not feel respected by the EU. And in return, they rarely recognise the utility of EU institutions. This is no more clearly reflected than in the fact that ASEAN had designated China, Japan, South Korea, India, the US, Australia, New Zealand – and even Russia – as strategic partners before the EU was acknowledged in 2020, and the decision to do so came after many years of hold up by the palm oil conflict before finally being put to litigation at the WTO. In the meantime, the ties with China, Australia, India, and the US have since been upgraded to "comprehensive" strategic partnerships, once again reflecting ASEAN's key engagement priorities.

In previous ECIPE policy briefs on EU-ASEAN relations, two stumbling blocks to regional engagement were highlighted –¹¹ namely the situation in Myanmar and the palm oil dispute. The former issue – the 2021 coup and the subsequent martial rule in Myanmar – is a factor that is clearly out of Europe's control and creates uneasiness among ASEAN Member States and the EU alike. Nonetheless, it constrains the policy space for full regional engagement.

The EU is approaching the Rohingya crisis with some caution by engaging neighbouring Bangladesh and providing irregular and token humanitarian aid, at 43 million euros in February 2023 divided between Bangladesh and Myanmar.¹² The EU has been careful not to overstep its diplomatic and legal boundaries over the issue, and support ASEAN's own initiatives – the so-called Five-Point consensus. For now, the EU-ASEAN dialogue proceeds by excluding Myanmar from both internal ASEAN and meetings with the EU, which puts most region-to-region deliverables (including the regional FTA) on the back burner once again.

The second issue – the treatment of palm oil in Europe – is at the nexus between Europe's sustainability ambitions and the developmental ambitions of ASEAN's largest democracies. The dispute has been allowed to escalate to a point where it can no longer be compartmentalised. European Commission itself seems divided over how to deal with the issue, compounded by

¹¹ Deringer, Lee-Makiyama, Murty, Europe and South-East Asia: Shifting from Diplomacy to Unilateralism, 1/2019; Deringer, Lee-Makiyama, Europe and South-East Asia: An Exercise in Diplomatic Patience, 05/2018, ECIPE/

¹² European Commission, Humanitarian aid: EU releases over €43 million for Myanmar and Bangladesh, 1 February 2023. Accessed at: https://civil-protection-humanitarian-aid.ec.europa.eu/news-stories/news/humanitarian-aid-eu-releases-over-eu43-million-myanmar-and-bangladesh-2023-02-01_en

pressure from the European Parliament's own political interests. In addition, several new EU sustainability initiatives will also deliberately or inadvertently impact ASEAN companies. Some of these initiatives are directly aimed at the ASEAN countries, while in some cases, ASEAN is collateral damage for restrictions that primarily target China or the US. The cost of these frictions is not just a "no deal" scenario on trade agreements but also includes further cross-retaliation and the loss of market shares.

DEAD-END ON THE PALM OIL CONFLICT

When the EU initially decided to exclude palm oil from being counted under its renewable energy targets under the second Renewable Energy Directive (RED II and its delegated act), it clearly did not expect such a strong political reaction from Malaysia and Indonesia. It should not have been a surprise, given the importance of palm oil cultivation to their rural (yet populous and voting) communities across the two countries and despite early warnings. Soon it became an inter-regional political conflict, with the European Commission, Malaysia, and Indonesia governments held hostage by their respective constituencies.

The topic has dominated almost every bilateral conversation with Indonesia and Malaysia, which could end up holding up the ongoing and future FTA discussions with both countries. The topic has soured bilateral relations to the point that in January 2023, President Jokowi and Prime Minister Anwar Ibrahim even organised a summit where they pledged to set the traditional rivalry between Malaysia and Indonesia aside (including their border disputes) to prioritise the "fight discrimination against palm oil" in Europe.¹³ The two leaders focused less on technical details and more on broader questions such as reputational damage and the ethics of environmental principles being used to promote domestic crops. Future EU engagement with ASEAN capitals around differing regulatory approaches will likely be conducted in such values-based terms, rather than detailed technical analysis of compliance with trade rules.

Attempts to find a compromise through a mutually beneficial solution for common labelling of sustainable palm have hitherto been futile. With disputes eventually being lodged at the WTO by both countries against the EU. Given the lengthy arbitration process expected and to prevent the issue from dominating EU-ASEAN discussions, a Joint Working Group on Palm Oil has been convened twice between the EU and concerned ASEAN member states, including Thailand, Cambodia, Laos, and Vietnam.

In the meanwhile, the EU's rhetoric on palm oil has already had its intended effect, with the Commission projecting that palm oil's share of total biodiesel output will drop from 23 per cent in 2021 to nine per cent by 2032. The use of palm oil in food is expected to fall by 36 per cent during the same period. Taken together, EU palm oil imports should be halved, from 6 million to 3.3

¹³ Reuters, Indonesia and Malaysia agree to fight "discrimination" against palm oil, 9 January 2023. Accessed at: <https://www.reuters.com/world/asia-pacific/indonesia-agrees-work-with-malaysia-fight-discrimination-against-palm-oil-2023-01-09/>

million tonnes by 2032.¹⁴ However, in real value terms imports into the EU are actually growing. Yet it is economically inconceivable and highly improbable for the EU to ban palm oil imports completely. Alternatives – including rapeseed and sunflower oil – are unsuitable to serve as a substitute or are simply too expensive. The Ukraine conflict has also led to a scramble for substitutes. Realistically, any shortfall of demand from the EU can also be recouped, not least from extremely lucrative energy-deficit markets like China, Japan, or India.

Users in the EU private sector are acutely aware of this and have taken on their own initiative, setting up the Sustainable Palm Oil Choice to serve as an intermediary for its interests. This proves, on the one hand, how the laws of supply and demand supersede even the laws of Brussels. On the other hand, the absence of actual economic injury among Malaysian and Indonesian farmers also proves that the palm oil conflict is not an economic issue that can be settled financially, but instead a matter of high politics and principles.

In the meanwhile, the absence of a nuanced and targeted approach in the EU has aggravated the trading partners rather than induced reforms. In the case of ASEAN, these policies have become dealbreakers, due to the inability to comply without sacrificing their domestic constituencies, causing ASEAN countries to turn away from the EU. If more diplomatic efforts could be invested in the issue, the EU would also understand that there is no monolithic view across ASEAN on sustainability, with each ASEAN member state having varied support for what the EU is doing. Some, like Singapore, had to deal with transboundary haze resulting from deforestation and peatland burning and thus may not be unsympathetic to the EU efforts to curb such practices. Others who are not palm oil exporters may see this as an opportunity to increase their own share of exports of commodities to the EU. Nevertheless, ASEAN solidarity and its do-no-harm principle require that ASEAN put up a united front, which could appear as though the ASEAN countries band around a narrative of the EU as the provocateur.

FURTHER TRADE MEASURES BASED ON SOCIAL AND SUSTAINABILITY STANDARDS

Perhaps to divert the focus away from palm oil and towards the actual concern, namely deforestation, the EU introduced the legislative proposal on deforestation-free products in December 2022 for a specific list of commodities – palm oil, cattle, soy, coffee, cocoa, timber and rubber and products derived thereof. Any importation of these commodities will be contingent on evidence that these were not produced on land subjected to deforestation or degradation.¹⁵ However, rather than helping to defuse claims about discrimination against palm oil, the proposed legislation has attracted further ire from Malaysia and Indonesia, who assume that the EU is doubling down in its rhetoric and that such a regulation would at least serve as an additional safeguard in the event of defeat in the WTO panel rulings. Rather than pacifying the Malaysians and Indonesians, the legislation has instead opened up new fronts for potential dispute, given

¹⁴ Reuters, 2022-2032 EU Agricultural Outlook, as reported in EU palm oil use and imports seen plummeting by 2032, 8 December 2022. Accessed at: <https://www.reuters.com/markets/commodities/eu-palm-oil-use-imports-seen-plummeting-by-2032-2022-12-08>

¹⁵ European Commission, Proposal for a Regulation on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010, COM/2021/706 final.

that several other products under the convenient scope of this regulation had been previously subjected to trade disputes that the EU have lost (e.g., cattle or timber) or where the EU has conceded market access in contentious negotiations (e.g., soy). The European Parliament's final vote on the Deforestation Regulation in April 2023 was met with sharp comments from not just ASEAN, but also from other trading partners in Latin America due to the focus on its commodities. In late June 2023, European Commission, Indonesia, and Malaysia agreed to set up a Joint Task Force on how to implement the EU Deforestation Regulation following a heavy criticism from Malaysia and Indonesia.

Besides environmental concerns, labour and social rights are likely to come under more scrutiny in view of legislation targeting forced labour in the EU's supply chains, coupled with the rising competitiveness of products from ASEAN and other regions.

Firstly – the EU Corporate Sustainability Due Diligence Directive (CSDDD) requires EU importers to carry out environmental and human rights due diligence throughout their supply chains – including direct and indirect business relationships – that will preclude additional administrative requirements and business risks.¹⁶ The proposal builds on existing national laws in France, Germany, and the Netherlands – but unlike the Deforestation Regulation, the new EU general requirements on due diligence or forced labour may not be targeting palm oil or ASEAN countries specifically. Instead, the treatment of the Uyghur population in the cotton fields of Xinjiang is the driving factor, together with broader discussions on social responsibility and fundamental rights within the EU legal system. Nonetheless, textiles, clothing and footwear from Vietnam, Malaysia, or Cambodia, or wooden or rubber products from Indonesia would become “collateral damage” to Europe's tightening of its China policy and subject to closer EU scrutiny.

Secondly – a new market regulation on forced labour proposed in September 2022 will prohibit imports, exports and sales of products made with forced labour for all products.¹⁷ Specific industries or geographic origins might be designated as “high risk” and subject to closer scrutiny. While ASEAN countries have not been singled out for their labour practices, such legislation is likely to reveal a few labour shortcomings in ASEAN countries. For example, the working conditions in Malaysian protective glove factories that were highlighted by international media during the pandemic (ironically due to an increase in demand from the West), as well as the confinement of foreign workers in dormitories in Singapore during the lockdown.

Thirdly – in the light of other EU regulations such as the Carbon Border Adjustment Mechanism (CBAM),¹⁸ the EU's motivation behind the recent proposals is understood by many third countries – rightly or wrongly – as a means to circumvent non-discriminatory principles enshrined in both bilateral and multilateral trade agreements.¹⁹ At the end of the day, ASEAN will thus find

¹⁶ European Commission, Proposal for a Directive on corporate sustainability due diligence and annex, COM/2022/71 final.

¹⁷ European Commission, Proposal for a Regulation on prohibiting products made with forced labour on the Union market, COM/2022/453 final.

¹⁸ OJEU, Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism.

¹⁹ See inter alia Singapore Institute of International Affairs, Addressing the Risk of Carbon Leakage: Assessing the EU's Carbon Border Adjustment Mechanism, 2022. Accessed at: <http://www.siaaonline.org/addressing-the-risk-of-carbon-leakage-assessing-the-eus-carbon-border-adjustment-mechanism/>; Martinus, Laopirun, The Carbon Border Adjustment Mechanism (CBAM), ISEAS. Accessed at: https://www.iseas.edu.sg/wp-content/uploads/2022/11/TRS1_23.pdf

themselves facing yet more regulatory hurdles to access the EU market. If the legislation is passed, EU importers would need to provide detailed information about overseas supply chains, processing operations, and existing due diligence and monitoring practices.

In sum, all legislative initiatives above are likely to result in retaliation and escalation. In a possible tit-for-tat, Jakarta had prohibited exports of nickel to the EU – a metal essential for steel production – while imposing processing and exporting restrictions for other critical raw materials as well.²⁰ These measures were taken to WTO dispute as they were seen mainly as retaliation to the EU measures on palm oil. In November 2022, a WTO panel ruled in the EU's favour, which Indonesia appealed, thereby effectively nullifying the ruling given the current non-operational situation of the Appellate Body. Even a visit from EU Trade Commissioner Valdis Dombrovskis to Jakarta in September 2022 – one of his rare visits to the region – could not help to smooth over the troubled trade relationship between both sides.

DIVERGENT VIEWS ON ECONOMIC SECURITY AND STRATEGIC AUTONOMY

The value-based conflict apply to topics beyond sustainability and social standards and reach into areas such as economic security, competition, and data protection. These topics follows the broader policy agenda for strategic autonomy and "de-risking" the relationship with China. The EU has tried to work its way around this constraint in creative ways in order to ensure that the de-risking hit its intended targets.

But by virtue of the EU's commitment to Most-Favoured Nation principles, adversaries and partners must be treated alike for 'like' products, which is why such ring-fencing is sometimes impossible to achieve without causing at least some collateral damage. Moreover, export controls against China do not just affect China, but inevitably also the ASEAN economies that are linked the massive supply chain for semiconductors and wafer-fabrication equipment.

For example, the EU has also embarked on a crackdown on foreign direct investment with the potential of causing security threats or distorting the single market through unfair subsidisation from their host governments. While these rules are ostensibly targeted at China or Russia, some higher-income ASEAN countries like Singapore and Brunei that invest in the EU via sovereign wealth funds (SWFs) may also be particularly concerned about how their investments may be singled out and face additional due diligence requirements. Since European SWFs from Norway or Switzerland are not subjected to similar treatment, the EU laws are seen as particularly insulting to those who share European strategic objectives.

Other laws, like the Digital Services Act or the Data Act, may be primarily aimed at US big tech. But EU new data regulations will also hamper ASEAN's growing e-commerce and fintech companies. Besides the concerns over the content and intent of the legislation, ASEAN (and the rest of the world) are also closely monitoring how the EU implements this legislation, particularly

²⁰ WTO, DS592, Indonesia – Measures Relating to Raw Materials

on whether there is consistency in applying it to all third countries – especially since the US has the mechanisms, political leverage and supporters within the EU to negotiate some exemptions.

For instance, past regulations – like the General Data Protection Regulation – have already created such horizontal requirements for any foreign company that handles EU citizen data, and none of the ASEAN countries has yet been deemed as functionally equivalent to EU privacy rules and a safe destination for EU personal data. The special certification programme that is only available to US companies is seen as backtracking that erodes EU credibility, where new rules to protect European citizens or fundamental rights are – rightly or wrongly – immediately dismissed as protectionist.

Regardless of whether these frictions are resolved, they will erode the political capital and trust between the EU and ASEAN. ASEAN countries are unlikely to conform to EU demands as the Single Market does not generate similar returns as than China, India, the US, or ASEAN's own internal market. Even the pro-EU governments and stakeholders within ASEAN are less inclined to dissuade ASEAN from taking the retaliatory route by introducing similarly legitimate "protectionist" measures.

In this context, neither trade negotiations nor litigation is an attractive route. In the ASEAN capitals, the superior legal prowess of Brussels and its ability to win WTO disputes does not confer the moral authority that Europeans imagine. As proven by Indonesia's repeal of the nickel case into the void, ASEAN is more likely to align with those who see WTO dispute settlement as futile, politicised or flawed.

Moreover, the constant disputes erode the perception of the EU as a global actor. In a survey by the Institute of South-East Asia Studies (ISEAS) in 2023, only a majority of respondents in Malaysia and Indonesia – both of whom have ongoing and previous trade disputes with the EU – designated the EU as 'unreliable'.²¹ Moreover, the episode forebodes how other ASEAN countries will react to future disagreements over EU sustainability measures on, say, investments, social standards or state subsidies – not least by FTA partners like Vietnam – that will immediately resort to retaliation by revoking preferences rather than seek renegotiations or litigation.

Where trade disputes had merely limited the policy space or appetite for bilateral FTAs, they have themselves now become barriers to developing trust and Europe's credibility as a strategic actor. Recent events – like the EU's failure to mobilise its promised multilateral response to the pandemic, its treatment of the UK post-Brexit, and other incidents – have further degraded faith in Europe's ability to deliver. This was reflected in the same ISEAS survey, where a majority of respondents felt that the EU was too preoccupied with its domestic affairs to be an effective global player.²² At the same time, ASEAN countries are presented with far less costly options for engagement from other global actors, where the EU simply cannot compete as a donor, security actor, or as lucrative trading partner.

²¹ Seah, S. et al., *The State of Southeast Asia: 2023 Survey Report*, 2023. Accessed at: <https://www.iseas.edu.sg/wp-content/uploads/2025/07/The-State-of-SEA-2023-Final-Digital-V4-09-Feb-2023.pdf>

²² *ibid.*

RE-EXAMINING THE PRIORITIES IN EU-ASEAN RELATIONS

As the pandemic and its recovery become a distant memory, the EU finds itself with new preoccupations. First and foremost, much of the political capital is understandably consumed by the Ukraine conflict that spills over to the rising cost of living and energy prices with unforeseeable political consequences on political stability. On climate change, the debate on whether the Commission has done too much or too little lingers on. In the area of trade, the EU must manage the bilateral relationship with the US and China simultaneously and diversify supply chains and boost its competitiveness – while addressing the increasing irrelevance of the multilateral trading system.

On all these objectives, ASEAN can be either an ally or a strategic instrument for what the EU seeks to accomplish. However, in a condition where relatively simple trade issues have been allowed to escalate to non-negotiable political conflicts, it is not surprising that the EU and ASEAN are non-responsive to the attempts to pressure each other. For instance, EU officials are indeed conscious of the fact that ASEAN's response to Russia's aggression varies: Some countries with deep historical or military ties with Russia are unwilling to condemn Russia's actions explicitly. But the singular EU messaging at almost every opportunity in the ASEAN countries that had to abstain from voting for the UN General Assembly Resolution ES-11/1 is seen as counterproductive in a manner that similar efforts by the US and Ukraine are not.

But despite such a relationship that is not "based on shared trust", there are areas where direct transactional interests could have mutually gainful outcomes. Some major EU businesses have already begun to hedge their economic resilience by diversifying their manufacturing supply chains from China to ASEAN. Currently, nineteen out of thirty raw materials that the EU deem as critical are predominantly imported from China. Here, countries like Malaysia, Thailand, Myanmar, Laos, and Indonesia are alternative sources of rare earth and critical raw materials like bauxite, nickel and tin. The challenge here is to persuade the ASEAN countries to abstain from export restrictions, as we have seen with Indonesia.

Similarly, Singapore, Malaysia, Philippines, and Thailand are emerging as major players in other critical inputs like semiconductors, where established Taiwanese, Singaporean and Japanese firms are partnering with ASEAN entities in their ascent on the value chain. ASEAN is also a source of natural gas from East Malaysia and Indonesia, which will be processed into exportable LNG via Singapore. The region is a lucrative target market for engineering in renewable energy – including offshore wind, hydropower, carbon capture, storage and utilisation. Similarly, ASEAN's fast-growing digital economy, already valued at €300bn, will depend on European 5G equipment and investments.

In this context, the EU's bilateral relationship with Indonesia also sets the tone for the rest of the region. While already making up more than forty per cent of ASEAN population and 35 per cent of its GDP,²³ Indonesia has also started to emerge as ASEAN's main political driver, albeit still conscious of the need to maintain a semblance of the principle of ASEAN consensus. Outside

²³ See Table 1.1 and Table 4.4, ASEAN Statistical Yearbook, 2022.

of ASEAN, the country has held its own on the global stage, successfully hosting the G20 in a tumultuous year. It has also applied to be part of the BRICS group of nations.²⁴ Unfortunately, if the state of the EU-Indonesia CEPA negotiations is an indicator of the relationship, then the rest of ASEAN is right to feel less hopeful about their own bilateral relationships.

Finally, ASEAN and EU Member States share the same collective self-interest in avoiding becoming collateral damage in the power politics that is largely shaped by Chinese and US unilateralism. Neither have any interest in publicly picking sides – which will only limit their policy space and influence and, going by French President Emmanuel Macron's words, prevent the EU from being the "third pole" in global supremacy. The EU may lack the operational capability to impose peace or defend any of the ASEAN countries but can still support ASEAN as a balancing power between the US and China in the Indo-Pacific.

Perhaps the lack of any European military ambitions may even make it better suited as a partner for de-escalating the growing rivalry between China and the US in the Indo-Pacific. However, the last thing ASEAN needs is another "new" military power interested in its region. While the EU may be outside of strategic discussions like the East Asia Summit or the Shangri-La Dialogue, it can continue to fund or support areas in auxiliary security like maritime security, conflict prevention, mediation and reconciliation, crisis management, transnational crime, counterterrorism, and non-proliferation.

WHAT EFFECTIVE ENGAGEMENT OF ASEAN ENTAILS

It is important to acknowledge that trade policy is not and should not be the panacea to all political issues. FTAs or trade rules cannot manage all the value-driven divergences between the EU and ASEAN. Trade policy may hitherto be the most effective tool – as both carrots and sticks – but not for long. The political capital and opportunities left for the remaining negotiations are rapidly diminishing, and non-trade commitments in FTAs may appease powerful domestic stakeholders in Europe, but they also water down credible trade offers from counterparts. Given the absence of any closer political alignment based on shared interests or personal rapport, the EU had little choice but to use FTA negotiations as its main pathway.

But to build that rapport, EU leaders do not have to sacrifice or concede on their values or interests. But they do have to be more pragmatic and self-aware in how they project them, particularly to ASEAN democracies who command a much stronger moral authority than the EU in the Indo-Pacific. Nor can we overlook the fact that ASEAN still consists of low to middle-income economies that are even more diverse than Europe in terms of language, economic models, religion, and culture.

More importantly, ASEAN countries have their own domestic politics that take priority over any incentive to compromise with Europe. In fact, many citizens across East Asia appreciate the EU's

²⁴ Vecchiatto, BRICS Draws Membership Bids From 19 Nations Before Summit, 24 April 2023, Bloomberg.com. Accessed at: <https://www.bloomberg.com/news/articles/2023-04-24/brics-draws-membership-requests-from-19-nations-before-summit>

leadership in human rights and sustainability. But the ASEAN organisation itself is not a construct that lends itself effortlessly to normative dialogues – and even less so with outsiders.

This leads to a broader point – that the leaders on both sides must take into account that the EU and ASEAN operate differently: The EU and ASEAN may have been founded on a similar premise – to set up guardrails against irrevocable policy failures in their region – but where ASEAN reveres national sovereignty and self-determination, the EU deifies its *acquis* and institutions. Where the “ASEAN way” is based on the shared interests among its leaders, the EU is more legalistic in its nature and based on shared regulations. In short, Asian leaders resolve their issues through executive power, not via derogated acts. This is perhaps why the ASEAN leaders sometimes wrongly write off the EU engagement as a middle-management preoccupation.

Effective engagement with ASEAN requires the EU to recalibrate how it considers ASEAN – but any demands for ASEAN to accept EU trade positions must be carefully balanced against ASEAN’s ability to deliver stability and economic security in the Indo-Pacific, or the competition the EU faces from the likes of China, the US, India, Japan, and Australia. Therefore, it is important to recognise that what the EU brings to the table – and ASEAN’s primary rationale for restoring the EU relationship – remains largely economic factors. ASEAN leaders seek to attract more FDI, secure market access, trade deals, or their GSP status.

Hence, from the perspective of the ASEAN countries, its dialogue with the EU is premised on good faith, to extract a win-win outcome with concessions made by both sides for an overall beneficial agreement. But the EU extracts commitments on non-trade issues (such as gender equality, labour reforms or sustainability commitments), while parliamentarians and non-state actors also piggy-back on trade negotiations to push their personal own agenda forward – resulting in a growing list of non-trade issues outside of ASEAN’s policy space – especially when the EU finds little traction for discussing these issues at more relevant multilateral fora.

Such predictable negotiation tactics sow distrust in East Asia trading partners, with a typical complaint that the EU was continually “moving the goalposts” at each stage of the negotiations – from the pre-negotiation scoping exercise to the final ratification process. Vietnam and Singapore were hand-twisted to provide additional commitments on the Trade and Sustainable Development chapter to obtain the European Parliament’s approval. Although the major ASEAN countries can accommodate EU political demands to some degree for economic gains, they can afford to walk away from attempts that unravels an agreed package or outcomes that will upend their domestic political standing. Hence, new EU regulations targeting sustainability, social standards and economic security could become dealbreakers for ASEAN democracies rather than incentives for further domestic reforms.

Any future leaders’ dialogue must chart out a path away from today’s trade-centric or donor-like relationship that is essentially a product of selective engagement. Each ASEAN or EU country individually may not be a regional strategic actor, but a political partnership with ASEAN as a collective can serve as a strategic and transformative instrument for the region. Understanding how ASEAN functions, key priorities or decision-makers, followed by high-level physical

presence, are the steppingstones towards effective political engagement that enables a trade-off between economic and political interests.

CONCLUSIONS

The ASEAN-EU relationship, as with any region-to-region construct, is complex and multifaceted and will continue to remain so in the face of evolving global and regional developments. However, with all the signs pointing towards the increasing importance of the Indo-Pacific and the Global South during the next decade. Concluding that the race for influence over the Indo-Pacific ultimately boils down to influence over ASEAN, it is no surprise that Washington, Beijing, Tokyo, and even London, are all shifting their focus to the region.

As no one will be a strategic actor in the Indo-Pacific without having the means of influencing ASEAN, Brussels is following suit. However, the biggest ASEAN democracies do not perceive that the EU provides sufficient economic or security benefits and therefore not earned the right to be heard, or to lecture them on sustainability. In essence, if Europe wants ASEAN to do more, it must be prepared to engage ASEAN even more than its competitors. And consulting them on legal proposals that deliberately target their voting base is simply something any good partner would do to make strategic headway.

The best chance for the EU to influence ASEAN is not necessarily by trying to reshape these countries, but by pooling political capital on issues where both sides seek the same outcomes. This entails both coordinating and paying attention to ASEAN leaders who pursue their statecraft on a knife's edge in the Indo-Pacific and the rivalry between the US and China. Once ASEAN leaders see that having access to European leaders brings a utility more useful than being quarrelsome over menial environmental regulations for the sake of a few million votes, they will warm to the EU having a seat in how the Indo-Pacific should be governed, and eventually, also to the European way.