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Citation

Singapore Management University. Free trade: Roadmap for US-ASEAN ties. (2012).

Available at: <https://ink.library.smu.edu.sg/pers/264>

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FREE TRADE: ROADMAP FOR US-ASEAN TIES

Published:
24 May 2012



In the past decade, the Association of Southeast Asian Nations (ASEAN) has evolved as a regional hub in Asian regionalism due to the bloc's Free Trade Agreements (FTAs) with major economies in the Asia Pacific. Yet, the US remains the only Pacific power that has not initiated any form of formal FTA with ASEAN.

Even as President Barack Obama of the United States pledged a commitment to Asia – which has become the largest US export destination, there is a lack of comprehensive roadmap for its trade policy in Asia, said [Pasha Hsieh](#), an assistant professor of law at SMU.

More importantly, the new trade priority of the US ignores ASEAN as a group. With the proliferation of Asian FTAs and challenges by regional powers, Hsieh thinks that it is vital for the US to implement a constructive FTA strategy to maintain its leadership in the Asia Pacific.

To do so, the US must recognize ASEAN's status as indispensable regional architecture in practice rather than simply in political discourse.

In his paper '[The Roadmap for a Prospective US-ASEAN FTA: Legal and Geopolitical Considerations](#)', published in the *Journal of World Trade*, Hsieh proposed a framework to reinvigorate US-ASEAN trade ties.

The US-ASEAN Trade Relations

Established in August 1967, ASEAN has evolved as a regional economic power. Its Gross Domestic Product has been growing at more than 170 percent over the past decade and the association is now the third largest Asian economy, behind China and Japan.

ASEAN has concluded free trade agreements (FTAs) with China, Japan, South Korea, India, Australia and New Zealand since 2002. America remains the only major country in the region that has not signed any form of FTA with ASEAN.

While it is also a major trade partner of the US, ASEAN sees Washington's focus on Southeast Asia as "episodic rather than consistent" and subject to US-centric security considerations, said Hsieh.

"The fact that US trade policy on ASEAN fails to yield substantial results will eventually erode America's geostrategic goals." There are salient economic and geopolitical reasons for signing a prospective US-ASEAN FTA, Hsieh asserted.

First, the US has significant economic interests in Southeast Asia. The US and ASEAN are each other's major trading partner: the bilateral trade between the two totals US\$149.6 billion.

Also, US foreign direct investments in ASEAN amounts to more than US\$153 billion, more than America's combined total investment in China, Japan and Korea. Such substantial trade relations make ASEAN an ideal FTA partner in emerging Asia.

Secondly, a US-ASEAN FTA will increase each side's exports by furthering liberalisation of trade barriers. This is particularly important, given the Doha Round impasse for a global free trade pact, Hsieh said.

The third reason would be that a US-ASEAN FTA will facilitate ASEAN integration, which is mutually beneficial to both sides. Hsieh said: "FTA negotiations and implementation invariably prompt ASEAN countries to find a common stance and expedite harmonisation of customs procedures and national standards."

He elaborated that these integration efforts will increase ASEAN's competitiveness by attracting American and other sources of foreign direct investments.

More importantly, ASEAN's goal to form the ASEAN Economic Community – which will allow US corporations to place their production chains in ASEAN based on each country's comparative advantage and reduce operation costs as a single market by 2015 – will be accelerated.

ASEAN's unity will also facilitate the US's FTA strategy in Asia, providing foundation for negotiating the enlarged Trans-Pacific Partnership Agreement (TPP) and, in the long run, a Free Trade Area of the Asia-Pacific (FTAAP) that includes 21 Asia-Pacific Economic Cooperation economies.

Fourth, the increasingly regional significance of Southeast Asia means that a US-ASEAN FTA will strengthen the US security alliance that is essential to the US role in Asia, said Hsieh.

And despite the significant benefits for a region-based FTA, such a development has progressed "marginally".

Hsieh attributes the absence of "meaningful legal frameworks" to US perception of ASEAN. After the September 11 attacks in 2001, the US government focused its foreign policy on the Middle East and viewed Southeast Asia through the lens of the war on terror, which did not help to strength bilateral ties.

Although President Obama adopted a different policy to re-engage Asia with a focus on ASEAN, the political gestures and rhetoric on deepening economic ties have failed to enhance legal frameworks governing bilateral trade.

The need for a more comprehensive trade strategy on ASEAN negotiations has caused concerns for the US congress. For instance, Republican Senator Richard Lugar introduced Senate resolutions in October 2009 to direct the United States Representative Office to [engage ASEAN in serious FTA negotiations](#).

The Obstacles to a FTA

The US has traditionally favoured the approach of developing FTAs with individual ASEAN states under a Trade and Investment Agreement. But it has proven futile.

The US-proposed Enterprise of ASEAN Initiative (EAI) in 2002, which aimed to form a network of bilateral FTAs with 10 ASEAN countries and to strengthen ASEAN economic integration, was the first meaningful start to strengthen legal frameworks on US-ASEAN trade ties.

But it only received “limited” success by achieving a US-Singapore FTA in 2003 and Trade and Investment Framework Agreements (TIFA) with seven other ASEAN countries without evolving to FTAs.

According to Hsieh, US FTA negotiations with ASEAN countries were unsuccessful on various grounds. For example, US’s insistence on an agreement modelled on the US-Singapore FTA made Thailand-US FTA negotiations complex. The intention of the US to include WTO-plus pharmaceutical patent protection caused particular concerns to the Thai public health sector.

Hsieh attributed the limited US FTA progress to the US model FTA with WTO-plus obligations, which developing ASEAN countries found difficult to accept as the approach, would have undermined ASEAN’s core benefits.

Individual US FTAs with some ASEAN countries would also isolate unfavourable trade partners that are undemocratic and of limited trade interest to the US.

Since it is in the US’s best interest to pursue bilateral FTAs only with ASEAN countries that are important to US export markets, such as Singapore, Malaysia and Thailand, the potential bandwagon effect would galvanise subsequent FTA partners to make additional concessions pursuant to the benchmark set under the first “high standard” FTA like the US-Singapore FTA.

ASEAN would face fragmentation if more developed countries vie to conclude separate FTAs with the US, said Hsieh. “This disintegrated development would deprive ASEAN of its combined leverage in negotiations with Washington and in the long term, weaken the bloc’s common stance in APEC, the Cairns Groups and the WTO.”

He went on to add that selective FTAs would widen the gap between more developed ASEAN countries and the less developed ones, affecting ASEAN integration. A weakening coalition would decrease the status of ASEAN as a hub of regionalism, which China will take over as. China’s version of Asian regionalism- the East Asian Economic Community- attempts to exclude the US to reduce its regional stake.

The US may also want to note that China has surpassed the US in economic significance to ASEAN. In April, the China Council for the Promotion of International Trade said that ASEAN will become China's top trading partner by 2015, with the value of trade expecting to surpass the goal of US\$500 billion.

For such reasons, the old roadmap under the US TIFA approach is at the cost of ASEAN’s development and should not be the blueprint for prospective US-ASEAN trade ties, Hsieh suggested.

“The ASEAN way” of FTAs

Hsieh called for the US to consider the “ASEAN way” of FTAs based on a framework agreement approach, which will serve as a building block to deepen trade liberalisation and overcome political opposition that the TPP negotiations currently encounter.

He suggested the interim objective should be a US-ASEAN framework agreement that provides a legal basis for FTA negotiations. This FTA, in the long run, will solidify ASEAN’s position with the US in the TPP process.

The lessons learnt from experiences dealing with problems that result from development gaps such as Intellectual Property Rights (IPR) enforcement and government procurement can be applied to developing countries in TPP negotiations.

Moreover the TPP that builds on a US-ASEAN FTA can facilitate the aspiration of achieving the FTAAP. Both the US and ASEAN will consequently benefit from becoming key pillars in the hub-and-spoke architecture.

Hsieh noted that the Doha round impasse has prompted WTO members to pursue bilateral and multilateral FTAs. These FTAs in turn become the primary geostrategic goal of the nations on the 21st century. Against this background, a new FTA map for the US is essential for acknowledging ASEAN's emerging centrality in regional architecture.

“Although the impact of a prospective US-ASEAN FTA remains to be seen, this FTA will assuredly fortify the hub-and-spoke alliance across the Pacific and provide an important gateway to Asian regionalism under the multilateral trading system,” he concluded.