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## OF RECOGNITION IN ASEAN FREE TRADE

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### KEYWORDS

Principles of  
Recognition, Free  
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### ABSTRACT

The purpose of this paper is to analyze the implementation of the ASEAN Free Trade Agreement and to analyze the principle of recognition in ASEAN free trade. The research method in this paper is using normative legal research methods. This research is a study that uses secondary materials as the main reference material in research. Secondary materials are library materials in the form of documents and scientific papers as sources. The documents used are in the form of legal materials such as laws and regulations, agreements, legal theories, and potential scientific papers as reference material for writing. This research is a normative research on the principle of recognition in ASEAN free trade which will be described analytically the entire object systematically according to the data obtained.

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### INTRODUCTION

The Association of Southeast Asian Nations (ASEAN) was established in 1967 and consists of ten member countries namely Brunei Darussalam, Indonesia, Laos, Cambodia, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. ASEAN was established not only to maintain regional stability, but also to carry out economic integrity and improve regional competitiveness. In this regard, ASEAN has established a free trade area called the ASEAN Free Trade Area (AFTA). The AFTA Agreement entered into force on January 1, 2003 (Maulana et al., 2021).

AFTA is a form of trade cooperation in the ASEAN countries region which aims to increase trade volume among member countries through reducing tariffs on certain commodities. Indonesia's participation in AFTA is inseparable from Indonesia's membership in ASEAN itself. The establishment of ASEAN has the main objectives of economic growth, social progress and cultural development in addition to increasing regional stability and peace (Anugrah, 2003).

International trade that is increasingly open has a major role in the increasing variety of products in the domestic market today. When regulations that hinder deals are reduced, the market becomes more widely open and the traffic of goods increases. In market openness, a party can consume a product that it does not produce. In market openness, resources will also be allocated to sectors that have comparative and competitive advantages.

The definition of free trade is simply the reduction or elimination of barriers, both tariff and non-tariff. Export tariffs imposed as taxes on imported goods will raise prices in the

domestic market, so producers will enjoy higher incomes while consumers will face higher prices. Things turn the other way around when tariffs are lowered or even eliminated. Apart from that, with trade liberalization, each country has the opportunity to specialize in producing goods and services, so that the cost of producing goods will be relatively cheaper (Dariah, 2005).

Free trade focuses on efficiency so that it will encourage high world output. However, this does not guarantee the prosperity of the world community because the impact of free trade in addition to benefiting actors in sectors that have a comparative advantage, simultaneously harms groups that do not have a comparative advantage. To overcome this, there is a need for transparency between countries in making agreements. Each country must also be creative, innovative and have quality assurance recognition on their respective superior products to increase competitiveness in the international market.

Since the entry into force of the free trade agreement, the level of trade volume among ASEAN countries has increased. This illustrates that the higher the intensity of trade transactions, can be caused by the large use of various FTA facilities in ASEAN that facilitate cross-border trade transactions (Ismir et al., 2020). ASEAN member states agreed to remove trade barriers gradually, in an effort to establish a freer market among fellow member states. These obstacles include reducing import duties on traded goods, removing quotas and other non-tariff barriers that can reduce the flow of imported goods between ASEAN member countries (Sukmana, 2019).

Now the world economic market is starting to develop and open freely, so efforts are needed to strengthen product competitiveness and quality and take advantage of the advantages possessed. In this case, standardization, conformity assessment and metrology are three pillars that have been recognized as efforts to increase competitiveness and sustainable development. This is a very influential foundation in the process of increasing national competitiveness and is an innovation in increasing natural resources and industrial development to increase economic competitiveness (Achmad, 2014). The Free Trade Agreement (FTA) consists of three main things, namely first trade in goods aimed at removing tariffs and addressing non-tariff barriers, second is trade in services which aims to maintain market access to remain conducive and third is investment aimed at encouraging and protecting investment in Indonesia.

The establishment of the ASEAN free trade area began with the holding of the fourth ASEAN summit on 27-28 January 1992 in Singapore. The summit discussed various issues on ongoing regional and international developments and the development of ASEAN's internal cooperation. This high-level conference also discussed various proposals from ASEAN member countries covering the political, economic, and other fields to make breakthroughs related to cooperation between ASEAN member states. In this regard, the summit issued three main documents, namely the Singapore Declaration of 1992, the Framework Agreement on Enhancing ASEAN Economic Cooperation, and the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) (Sukmana, 2019).

The Singapore Declaration is a high-level regional political agreement that has been agreed upon by ASEAN member states in determining the future direction of ASEAN cooperation. While the Frame Work Agreement on Enhancing ASEAN Economic Cooperation is an umbrella that unites all agreements in the economic sector, both those that have been agreed and those that will be designed in the future as an effort to increase future economic cooperation in a policy. The cooperation that includes this agreement is trade, industry, minerals, communication, research and development, technology experts, tourism promotion and others. Then the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) is an agreement formed to create a free trade area in ASEAN within a period of 15 years using uniform tariffs of effective preferences as its main mechanism. In this case, the three documents are a unity that cannot be separated and must be implemented by ASEAN member states (Sukmana, 2019).

The formulation of the problem in this paper is first, how to implement the ASEAN Free Trade Agreement in the Indonesian national legal system, and second, how the principle of recognition in ASEAN free trade. The purpose of this paper is to analyze the implementation of the ASEAN Free Trade Agreement and to analyze the principle of recognition in ASEAN free trade.

## METHOD RESEARCH

The research method in this paper is using normative legal research methods. This research is a study that uses secondary materials as the main reference material in research. Secondary materials are library materials in the form of documents and scientific papers as sources. The documents used are in the form of legal materials such as laws and regulations, agreements, legal theories, and potential scientific papers as reference materials for writing (Muhaimin, 2020). This research is a normative research on the principle of recognition in ASEAN free trade which will be described analytically the entire object systematically according to the data obtained.

## RESULT AND DISCUSSION

### Implementation of the ASEAN Free Trade Agreement in Indonesia's National Legal System

In ASEAN free trade, there are two forms of trade carried out, namely trade in goods and trade in services. The agreement on trade in goods is the ASEAN Trade in Goods Agreement (ATIGA). ATIGA is an agreement on the establishment of a free trade area in the form of goods between ASEAN member states signed on February 26, 2009 and has been implemented on May 17, 2010 (ATIGA, 2010). In this regard, Indonesia has ratified the ASEAN Trade in Goods Agreement (ATIGA) with Presidential Regulation of the Republic of Indonesia Number 2 of 2010 concerning the Ratification of the ASEAN Trade in Goods Agreement.

In addition to the implementation of the ASEAN Trade in Goods Agreement which has been ratified, the government has also issued several regulations which include (Sukmana, 2019):

1. Regulation of the Minister of Trade of the Republic of Indonesia Number 33/M-DAG/PER/8/2010 concerning Certificate of Origin for Indonesian Export Goods.

2. Regulation of the Minister of Trade of the Republic of Indonesia Number 59/M-DAG/PER/12/2010 concerning Provisions for Issuance of Certificate of Origin for Indonesian Export Goods.
3. Regulation of the Minister of Finance of the Republic of Indonesia Number 128/PMK.011/2010 concerning Determination of Import Duty Tariffs on Imported Goods in the Framework of ASEAN Trade in Goods Agreement (ATIGA).
4. Circular Letter of the Director General of Customs and Excise Number SE-05 / BC / 2010 concerning Guidelines for the Implementation of Research on Goods Import Notification Documents in the Framework of the Free Trade Agreement Scheme.
5. Regulation of the Minister of Finance of the Republic of Indonesia Number 213 / PMK.011 / 2011 concerning the Establishment of a Goods Classification System and the Imposition of Import Duty Tariffs on Imported Goods.
6. Regulation of the Minister of Finance of the Republic of Indonesia Number 208/PMK.011/2012 concerning the Determination of Import Duty Tariffs in the Framework of the ASEAN Trade in Goods Agreement (ATIGA).
7. Regulation of the Minister of Finance of the Republic of Indonesia Number 178 / PMK.04 / 2013 concerning the Imposition of Import Duty Tariffs in the ASEAN Trade in Goods Agreement (ATIGA) Scheme Using the Self Certification System.
8. Presidential Regulation of the Republic of Indonesia Number 10 of 2014 concerning the Ratification of the Protocol to Amend Certain ASEAN Economic Agreements Related to Trade in Goods.
9. Regulation of the Ministry of Finance of the Republic of Indonesia Number 131/PMK.04/2020 concerning Procedures for Imposing Import Duty Tariffs on Imported Goods Based on the ASEAN Trade in Goods Agreement. However, this Regulation has been amended to become Regulation of the Ministry of Finance of the Republic of Indonesia Number 81/PMK.04/2022.
10. Regulation of the Minister of Trade of the Republic of Indonesia Number 32 of 2022 concerning Provisions of Origin of Indonesian Goods and Provisions for Issuance of Certificate of Origin Documents for Goods of Indonesian Origin Based on the ASEAN Trade in Goods Agreement.

The second form of free trade is in the form of trade in services. In this case, the free trade agreement for services is the ASEAN Trade in Services Agreement (ATISA). ASEAN Trade in Services Agreement (ATISA) is an agreement on the establishment of a free trade area in the form of services between ASEAN member countries which was signed on October 7, 2021 in Manila. The ASEAN Trade in Services Agreement (ATISA) has been ratified through a Presidential Regulation at the working meeting of the Minister of Trade with Commission VI of the House of Representatives of the Republic of Indonesia on January 26, 2022 (Primadhany & S HI, 2020). The ASEAN framework agreement in the form of services is one of the government's efforts to improve the national economy. The regulations on the ASEAN Trade in Services Agreement (ATISA) are Presidential Regulation of the Republic of Indonesia Number 3 of 2023 concerning the Ratification of the ASEAN Trade in Services Agreement (ASEAN Trade in Services Agreement).

### Principles of Recognition in ASEAN Free Trade

ASEAN was formed by member states of the Association of Southeast Asian Nations with a vision to create an integrated, peaceful and stable society with common prosperity. In increasing economic growth in the ASEAN region and outside ASEAN, ASEAN formed the ASEAN economic community also called the AEC. The four pillars of the ASEAN Economic Community are (*Pilar Masyarakat Ekonomi ASEAN (MEA) Adalah Bentuk Kerja Sama Untuk Memperdalam Dan Memperluas Integrasi Ekonomi Di Kawasan ASEAN Dan Dengan Kawasan Di Luar ASEAN*, 2017).

1. Single Market and Production Base
2. High Competitive Economic Zone
3. Areas with Equitable and Equitable Economic Development
4. A Region Integrated with the Global Economy

In 2015, ASEAN member states agreed on the ASEAN Economic Community 2025 blueprint. The ASEAN Economic Community 2025 must be integrated and cohesive, so as to support economic growth by increasing trade, investment, creating jobs, increasing the region's capacity to face global challenges and major changes. A competitive, innovative and dynamic society, thus encouraging high productivity growth (*Indonesia, n.d.*).

Liberalisasi perdagangan ASEAN dimulai sejak terbentuknya ASEAN Free Trade Area (AFTA) pada tahun 1992. Dalam memfasilitasi perdagangan agar menjadi lebih lancar, disahkan pula ASEAN Trade in Goods Agreement (ATIGA) pada Februari 2009. Coordinating Committee on ATIGA (CCA) merupakan sarana negosiasi perdagangan barang ASEAN. Dalam hal ini CCA membahas tentang isu-isu yang berkaitan dengan perdagangan barang setiap Negara anggota ASEAN dan kesesuaiannya dengan ATIGA. Dalam upaya meningkatkan kerjasaman ekonomi di bidang jasa, Negara-negara anggota ASEAN telah menyetujui dan mengesahkan ASEAN Framework Agreement on Services (AFAS) pada tanggal 15 Desember 1995 di Bangkok, Thailand. Sejak disepakatinya AFAS, liberalisasi dilakukan melalui Coordinating Committee on Services (CCS) (*Prinsip-Prinsip Panduan ASEAN Untuk Penjaminan Mutu Dan Pengakuan Sistem Sertifikasi Kompetensi*, 2016).

In implementing the AEC 2025 blueprint on trade in goods related to the elimination of tariffs in the ASEAN Trade in Goods Agreement (ATIGA) and trade facilities that contribute to the greater free flow of goods, strategic measures are needed to achieve competitive, efficient and smooth movement of goods within the scope of the region. The strategic steps are (*Indrawati & Ampiranti, 2023*):

1. Strengthen ATIGA further.
2. Simplifying and strengthening the implementation of Rules of Origin.
3. Accelerate and deepen the implementation of trade facilitation measures.

The implementation of the AEC 2025 blueprint on trade in services aims to further expand and deepen the integration of services in ASEAN. Through the ASEAN Framework Agreement on Services (AFAS) round of negotiations, ASEAN continues to expand its scope and reduce restrictions on market access. Then also to facilitate negotiations and

implementation of the ASEAN Trade in Services Agreement (ATISA) as a legal instrument for service sector integration in the ASEAN region (Indonesia, n.d.).

The principle of recognition in ASEAN free trade is an official recognition or process of granting status at the time of official learning as a form of skills and competencies, either through the provision of qualifications such as certificates, diplomas or glasses as a result of grades, as well as the provision of equality, endorsement of skills and competencies obtained. Social recognition is the recognition of the value of skills and competencies by economic and social stakeholders (*Prinsip-Prinsip Panduan ASEAN Untuk Penjaminan Mutu Dan Pengakuan Sistem Sertifikasi Kompetensi*, 2016).

In the Presidential Regulation of the Republic of Indonesia Number 3 of 2023 concerning the ratification of the ASEAN Trade in Services Agreement, article 17 explains the principle of recognition in ASEAN trade in services, namely that a member State can recognize the education and experience gained, requirements, licenses or certificates provided by other member States. In this case, it is used as a licensing or certification of service providers. Such recognition can be done in harmonization or vice versa, can be done based on agreement or arrangement with the member State concerned or given autonomously (Indrawati & Ampiranti, 2023).

As for the guiding principles in recognition, in this case the principles that support the recognition of competency certification systems are (*Prinsip-Prinsip Panduan ASEAN Untuk Penjaminan Mutu Dan Pengakuan Sistem Sertifikasi Kompetensi*, 2016):

1. Each participating member State's competency body agrees on a benchmark for evaluating each member State's competency certification system.
2. The structure of the competency certification system in each member country is presented based on agreed benchmarks.
3. The legal basis and responsibilities of each competent body are spelled out. If a State has more than one competency body, it shall explain the linkages between the competency bodies.
4. The scheme of the relevant competency bodies is described in a descriptor manner in accordance with the competency certification system of the participating Member States in order to obtain relevant results.
5. Each competent institution determines benchmarks according to agreed criteria to determine the quality assurance approach. The criteria that have been determined in accordance with the agreed benchmarks will be the basis of activities.
6. These activities are carried out collectively and include independent participants who are experienced in quality assurance from competency certification schemes.
7. The activity process will produce one agreed report. This includes setting up the processes undertaken, finding recognition activities, identifying comparability levels and agreed levels of recognition. Then actions to seek improved comparability between participating member State competency certification systems are documented and mutually agreed upon. And if recognition activities result in high levels of comparability, then each competency body commits to publicly acknowledging such recognition.
8. Recognition reports are published to each participating Member State.



The principle of recognition in ASEAN free trade has an important value in its application to trade in products and services. With the recognition of goods and services marketed by a member country, it can increase the selling value and competitiveness of products. This reflects the quality and quantity of a product that is marketed not inferior to other countries' products.

## CONCLUSION

Based on the results of the discussion above, it can be concluded that the ASEAN Free Trade Agreement has been formed as well as several agreements that focus more on certain fields. Such as the ASEAN Trade in Goods Agreement (ATIGA). ATIGA is an agreement on the establishment of a free trade area in the form of goods between ASEAN member states signed on February 26, 2009 and has been implemented on May 17, 2010. In this regard, Indonesia has ratified the ASEAN Trade in Goods Agreement (ATIGA) with Presidential Regulation of the Republic of Indonesia Number 2 of 2010 concerning the Ratification of the ASEAN Trade in Goods Agreement. The second form of free trade is in the form of trade in services. In this case, the free trade agreement for services is the ASEAN Trade in Services Agreement (ATISA). ASEAN Trade in Services Agreement (ATISA) is an agreement on the establishment of a free trade area in the form of services between ASEAN member countries which was signed on October 7, 2021 in Manila. The ASEAN Trade in Services Agreement (ATISA) has been ratified through a Presidential Regulation at the working meeting of the Minister of Trade with Commission VI of the House of Representatives of the Republic of Indonesia on January 26, 2022. The ASEAN framework agreement in the form of services is one of the government's efforts to improve the national economy. The regulations on the ASEAN Trade in Services Agreement (ATISA) are Presidential Regulation of the Republic of Indonesia Number 3 of 2023 concerning the Ratification of the ASEAN Trade in Services Agreement (ASEAN Trade in Services Agreement). In the Presidential Regulation of the Republic of Indonesia Number 3 of 2023 concerning the ratification of the ASEAN Trade in Services Agreement, article 17 explains the principle of recognition in ASEAN trade in services, namely that a member State can recognize the education and experience gained, requirements, licenses or certificates provided by other member States. In this case, it is used as a licensing or certification of service providers. Such recognition may be harmonized or otherwise, may be made by agreement or arrangement with the Member State concerned or granted autonomously

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