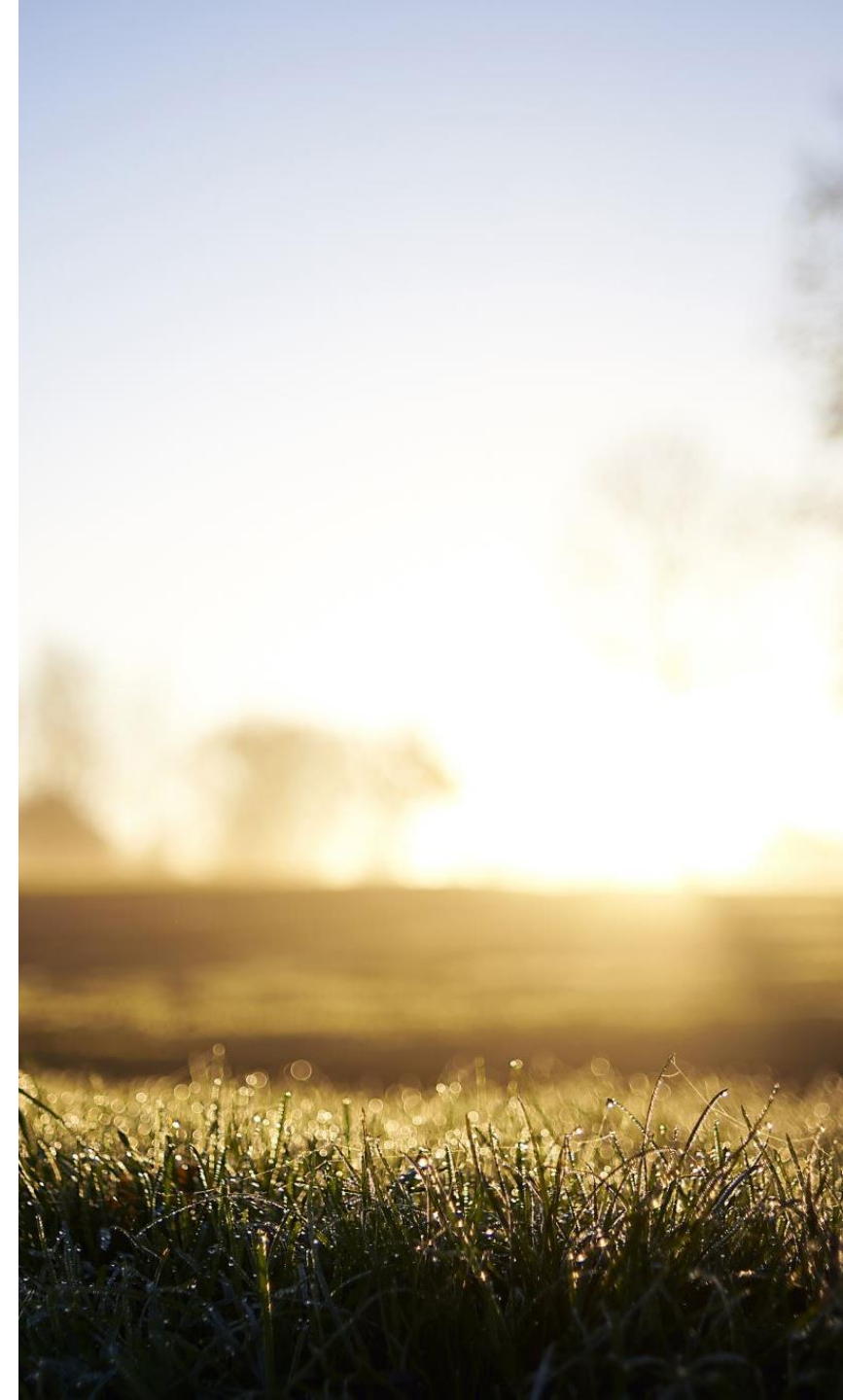


# Trade and Environmental Protection in ASEAN's 'Future' FTAs

Michelle Limenta

Presented in the UNESCAP's Online Course on Sustainable  
Development Provisions in FTAs

9 May 2022



# ‘Sustainable Development’ in International Trade Agreements

- More countries include ‘sustainable development’ disciplines including environmental-related provisions in their trade agreements.
- The inclusion varies from merely mentioning in the preamble to providing a dedicated chapter.
- The vision of anchoring sustainability values in trade agreement does not share by all countries.
- Canada, the EU, and the United States were the forerunners that link trade deals with environmental and sustainability goals.
- Others (e.g., Australia) take the position of separating trade and environmental issues.
- Almost all trade agreements concluded by Indonesia do not contain specific sustainability related provisions.
- ASEAN’s trade agreements including recently concluded RCEP do not include dedicated chapter on environment nor TSD chapter.

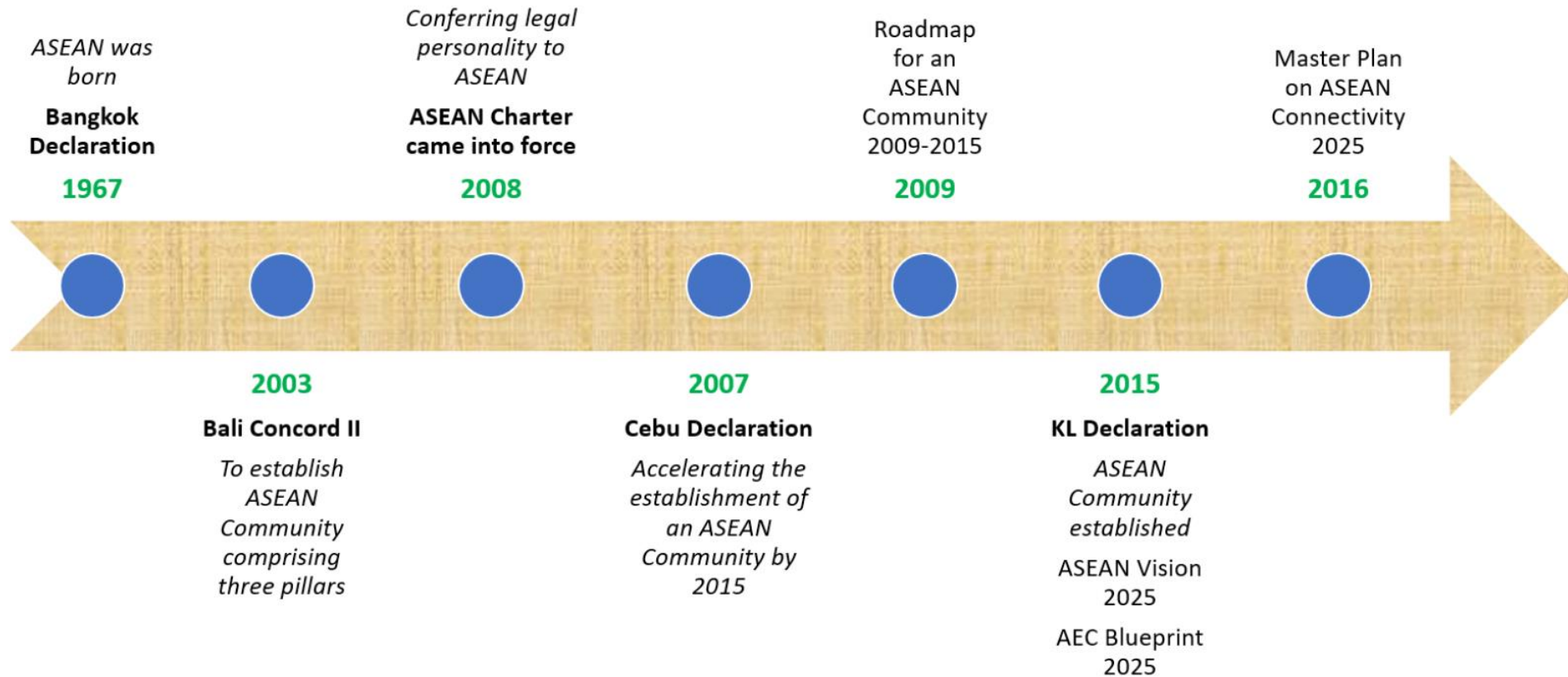
Morrison confirmed on Thursday that the government had opposed including the Paris agreement’s specific temperature goals, because the deal was meant to be “about trade”.

“It wasn’t a climate agreement, it was a trade agreement,” the prime minister told reporters in Canberra. “In trade agreements I deal with trade issues. In climate agreements I deal with climate issues.”

Morrison said the government was committed to the Paris agreement, while also declaring the mining sector was “critical to Australia’s future” and “of course we’ll keep on mining”.

**Source:** <https://www.theguardian.com/australia-news/2021/sep/09/morrison-accused-of-hurting-australias-reputation-to-please-nationals-after-climate-goals-cut-from-uk-trade-deal>

# ASEAN's Notable Milestones to Community Building



# ASEAN Charter

## CHARTER OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS

### PREAMBLE

**WE, THE PEOPLES** of the Member States of the Association of Southeast Asian Nations (ASEAN), as represented by the Heads of State or Government of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam:

**NOTING** with satisfaction the significant achievements and expansion of ASEAN since its establishment in Bangkok through the promulgation of The ASEAN Declaration;

**RECALLING** the decisions to establish an ASEAN Charter in the Vientiane Action Programme, the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter and the Cebu Declaration on the Blueprint of the ASEAN Charter;

**MINDFUL** of the existence of mutual interests and interdependence among the peoples and Member States of ASEAN which are bound by geography, common objectives and shared destiny;

THE ASEAN CHARTER • PREAMBLE

1

**INSPIRED** by and united under One Vision, One Identity and One Caring and Sharing Community;

**UNITED** by a common desire and collective will to live in a region of lasting peace, security and stability, sustained economic growth, shared prosperity and social progress, and to promote our vital interests, ideals and aspirations;

**RESPECTING** the fundamental importance of amity and cooperation, and the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity;

**ADHERING** to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms;

**RESOLVED** to ensure sustainable development for the benefit of present and future generations and to place the well-being, livelihood and welfare of the peoples at the centre of the ASEAN community building process;

**CONVINCED** of the need to strengthen existing bonds of regional solidarity to realise an ASEAN Community that is politically cohesive, economically integrated and socially responsible in order to effectively respond to current and future challenges and opportunities;

**COMMITTED** to intensifying community building through enhanced regional cooperation and integration, in particular by establishing an ASEAN Community comprising the ASEAN Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural

THE ASEAN CHARTER • PREAMBLE

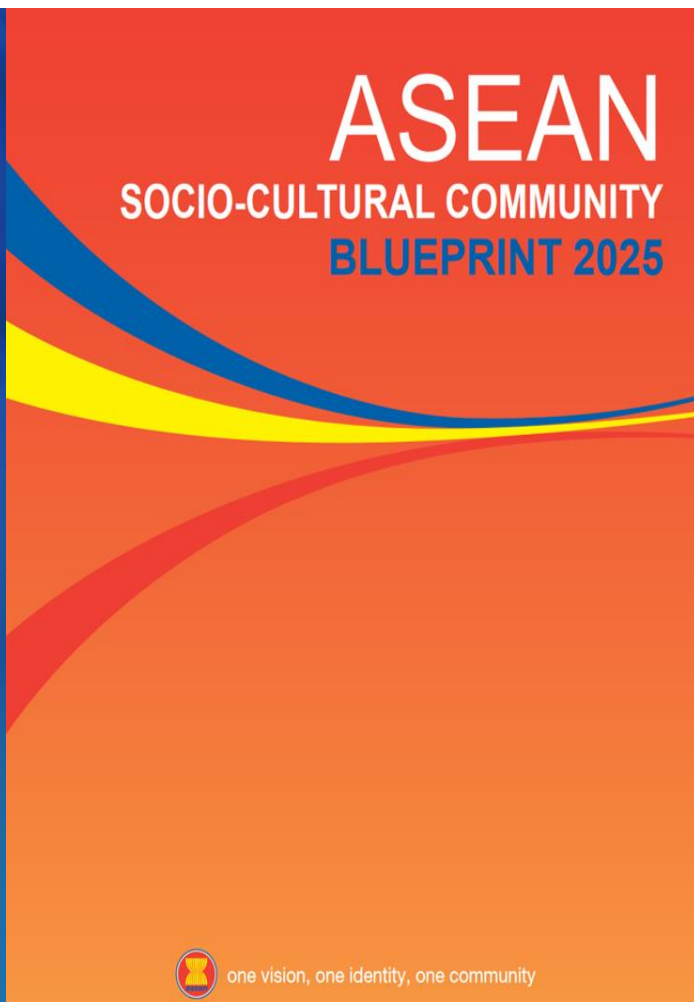
2

# Coordination Mechanism of ASEAN Integration

ASEAN Community		
ASEAN Political-Security Community	ASEAN Economic Community	ASEAN Socio-Cultural Community
<ul style="list-style-type: none"> <li>• ASEAN Ministerial Meeting (AMM)</li> <li>• ASEAN Regional Forum (ARF)</li> <li>• Defence</li> <li>• Law</li> <li>• Transnational Crime</li> </ul>	<ul style="list-style-type: none"> <li>• ASEAN Economic Ministers (AEM)</li> <li>• ASEAN Free Trade Area (AFTA)</li> <li>• Energy</li> <li>• Food Agriculture &amp; Forestry</li> <li>• Finance</li> <li>• Investment</li> <li>• Minerals</li> <li>• Mekong Basin Development Cooperation</li> <li>• Transport</li> <li>• Telecommunication &amp; IT</li> <li>• Tourism</li> <li>• Sectoral Bodies under the Purview of ASEAN Economic Ministers</li> </ul>	<ul style="list-style-type: none"> <li>• Culture &amp; Arts</li> <li>• Disaster Management</li> <li>• Education</li> <li>• Environment</li> <li>• Haze</li> <li>• Health</li> <li>• Information</li> <li>• Labour</li> <li>• Rural Development &amp; Poverty Eradication</li> <li>• Sciens &amp; Technology</li> <li>• Social Welfare &amp; Development</li> <li>• Women</li> <li>• Youth</li> </ul>
ASEAN Political-Security Blueprint 2025	ASEAN Economic Community Blueprint 2025	ASEAN Socio-Cultural Community Blueprint 2025



# Sustainability in ASEAN Socio-Cultural Community



## Table of Contents

I.	INTRODUCTION	1
II.	CHARACTERISTICS AND ELEMENTS OF ASEAN SOCIO-CULTURAL COMMUNITY BLUEPRINT 2025	4
A.	ENGAGES AND BENEFITS THE PEOPLE	4
	A.1. Engaged Stakeholders in ASEAN processes	4
	A.2. Empowered People and Strengthened Institutions	5
B.	INCLUSIVE	6
	B.1. Reducing Barriers	6
	B.2. Equitable Access for All	7
	B.3. Promotion and Protection of Human Rights	9
C.	SUSTAINABLE	10
	C.1. Conservation and Sustainable Management of Biodiversity and Natural Resources	10
	C.2. Environmentally Sustainable Cities	12
	C.3. Sustainable Climate	12
	C.4. Sustainable Consumption and Production	13
D.	RESILIENT	13
	D.1. A Disaster Resilient ASEAN that is able to Anticipate, Respond, Cope, Adapt, and Build Back Better, Smarter, and Faster	14
	D.2. A Safer ASEAN that is able to Respond to all Health-related Hazards including Biological, Chemical, and Radiological-nuclear, and Emerging Threats	15
	D.3. A Climate Adaptive ASEAN with Enhanced Institutional and Human Capacities to Adapt to the Impacts of Climate Change	16
	D.4. Strengthened Social Protection for Women, Children, Youths, the Elderly/Older Persons, Persons with Disabilities, Ethnic Minority Groups, Migrant Workers, Vulnerable and Marginalised Groups, and People Living in At-risk Areas, including People Living in Remote and Border Areas and Climate Sensitive Areas, to Reduce Vulnerabilities in Times of Climate Change-related Crises, Disasters and other Environmental Changes	16

# Sustainability in ASEAN Economic Community

## B.8. Sustainable Economic Development

40. ASEAN recognises the importance of sustainable economic development as an integral part of the region's growth strategy. Protection of the environment and natural resources supports economic growth and vice versa. ASEAN would actively promote green development by developing a sustainable growth agenda that promotes the use of clean energy and related technologies, including renewable energy through green technology, as well as enhances sustainable consumption and production, and including it in national development plans.



ASEAN ECONOMIC COMMUNITY BLUEPRINT 2025 | 19

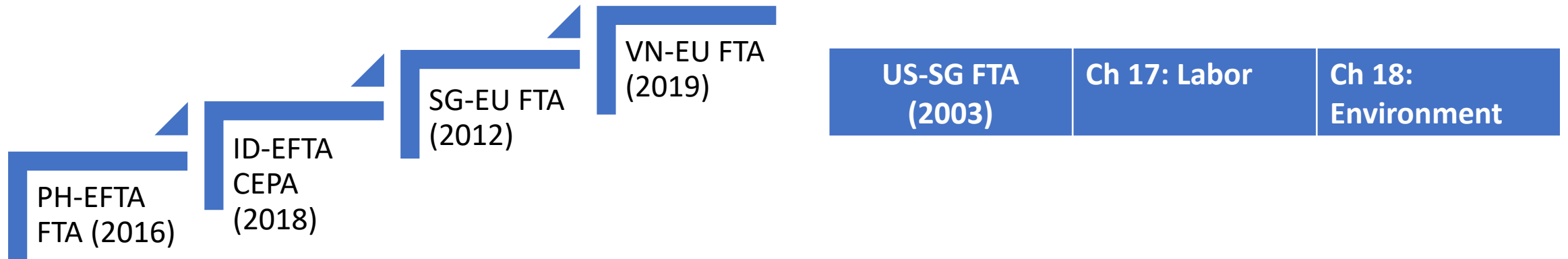
41. Strategic measures include the following:
- i. Foster policies supportive of renewable energy and set collective targets accordingly;
  - ii. Develop a framework to support the deployment and utilisation of efficient and low carbon technologies, and call for international support to ensure ASEAN access to mechanisms that foster low carbon technologies more affordably;
  - iii. Promote the use of biofuels for transportation. This includes ensuring free trade in biofuels within the region and investment in R&D on third-generation biofuels;
  - iv. Enhance connectivity within ASEAN, including through multilateral electricity trade under the framework of the ASEAN Power Grid (APG) and greater liquefied natural gas (LNG) cooperation under the Trans-ASEAN Gas Pipeline (TAGP);
  - v. Identify infrastructure investment requirements to increase production and reduce post-production losses to meet projected future demand and ensure food security, review existing investment programmes and address investment needs in the food and agricultural sectors;
  - vi. Develop new and appropriate technologies, best practices and management systems to ensure food safety and address health/disease and environmental issues, particularly in the fast growing aquaculture, livestock and horticulture sub-sectors;
  - vii. Promote good agriculture practices to minimise the negative effects on natural resources such as soil, forest and water, and reduce the greenhouse gas emission; and
  - viii. Promote forest management involving the community living within and surrounding the forest for the sustainability of the forest and prosperity of the people.

# AEC 2025 Consolidated Action Plan and Sectoral Work Plans

AEC 2025 Consolidated Action Plan & Sectoral Work Plans	
<ul style="list-style-type: none"><li>• Strategic Action Plan for Trade in Goods 2016-2025</li><li>• Broad directions for Customs 2016-2025</li><li>• ASEAN Standards and Conformance Strategic Plan 2016-2025</li><li>• Strategic Action Plan for Services 2016-2025</li><li>• 2016-2015 Investment Work Programme</li><li>• AEC 2025 Strategic Action Plans (SAPs) for Financial Integration, 2016-2025</li><li>• ASEAN Competition Action Plan 2016-2025</li><li>• ASEAN Strategic Action Plan for Consumer Protection 2016-2025</li><li>• ASEAN Intellectual Property Rights (IPR) Action Plan 2016-2025</li><li>• ASEAN ICT Masterplan 2020</li><li>• ASEAN Tourism Strategic Plan (ATSP) 2016-2025</li><li>• ASEAN Community Statistical System (ACSS) Strategic Plan 2016-2025</li></ul>	<ul style="list-style-type: none"><li>• ASEAN Work Plan for Enhancing the GVC Agenda</li><li>• ASEAN Work Programme on e-Commerce</li><li>• Kuala Lumpur Transport Strategic Plan 2016-2025</li><li>• ASEAN Plan of Action on Energy Cooperation (APAEC) 2016-2025, Phase 1</li><li>• The Vision and Strategic Plan for ASEAN Cooperation in Food, Agriculture and Forestry (2016-2025)</li><li>• ASEAN Minerals Cooperation Action Plan (AMCAP) 2016-2025, Phase 1</li><li>• ASEAN Plan of Action on Science Technology and Innovation (APASTI 2016-2025)</li><li>• Strategic Action Plan 2016-2025 for ASEAN Taxation Cooperation</li><li>• SAP 2016-2025 on Declaration Innovation</li><li>• Strategic Action Plan on Micro Small Medium Enterprises Development</li><li>• Strategic Action Plan 2016-2025 Trade Facilitation Strategic Action Plan (ATF-SAP)</li></ul>



# TSD Chapter in ASEAN Members' bilateral FTA



# Example Spectrum of Commitments

Elements	PH-EFTA FTA	ID-EFTA CEPA	EU-Vietnam FTA	EU-Singapore FTA
Sustainable related provisions	<ul style="list-style-type: none"> <li>Article 11.8: Trade in forest-based products.</li> </ul>	<ul style="list-style-type: none"> <li>Article 8.8: sustainable forest management;</li> <li>Article 8.9: sustainable management of fisheries;</li> <li>Article 8.10: sustainable management of the vegetable oils sector.</li> </ul>	<p>Article 13.6: Climate Change.  Article 13.7: Biological Diversity.  Article 13.8: Sustainable Forest Management and Trade in Forest Products.  Article 13.9: Trade and Sustainable Management of Living Marine Resources and Aquaculture Products.  Article 13.10: Trade and Investment Favouring Sustainable Development.</p>	<p>Article 12.7: Trade in Timber and Timber Products.  Article 12.8: Trade in Fish Products.  Article 12.11: Trade and Investment Promoting Sustainable Development.</p>

# Building Up Common Modalities

Potential Coverage	Potential Elements
Preambular reference	<ul style="list-style-type: none"> <li>Acknowledgement or recognition of three pillars of sustainability, and the role of trade/economic partnership in promoting sustainable development;</li> <li>E.g., AANZFTA, ACFTA, AHKFTA, and RCEP.</li> </ul>
General provisions	<ul style="list-style-type: none"> <li>Balance between sustainability and trade goals;</li> <li>E.g., US-SG FTA, EU-SG FTA, and EU-VN FTA.</li> </ul>
Reference to international agreements relevant to environmental protection	<ul style="list-style-type: none"> <li>Multilateral Environment Agreements (MEA) (e.g., CITES, Convention on Biological Diversity, and UNFCCC) where all ASEAN Member States are the parties to these MEAs;</li> <li>E.g., PH-EFTA FTA, ID-EDTA CEPA, EU-SG FTA, and EU-VN FTA.</li> </ul>
Specific protection sectors	<ul style="list-style-type: none"> <li>Sustainable forest management is agreed in ID-EFTA CEPA and EU-Viet Nam FTA, meanwhile trade in forest products or timber and timber products are agreed in PH-EFTA FTA, EU-VN FTA, and EU-SG FTA.</li> </ul>
Institutional framework responsible for monitoring and implementing the provisions	<ul style="list-style-type: none"> <li>Establishment of administrative entities.</li> </ul>
Enforcement mechanism	<ul style="list-style-type: none"> <li>Institutional set up to address potential disagreement/dispute;</li> <li>E.g., Expert consultations or consultation within the Joint Committee.</li> <li>No recourse to a chapter on dispute settlement</li> </ul>



**UPH**  
UNIVERSITAS PELITA HARAPAN

FAKULTAS HUKUM



**UPH**  
UNIVERSITAS PELITA HARAPAN

**CITI** CENTER FOR INTERNATIONAL  
TRADE & INVESTMENT

# Thank You

