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## Assessing Inclusivity vs. Exclusivity: Impacts on ASEAN Trade Facilitation and Human Security

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## ASSESSING INCLUSIVITY VS. EXCLUSIVITY: IMPACTS ON ASEAN TRADE FACILITATION AND HUMAN SECURITY

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### Abstract

*The ATIGA (Association of Southeast Asian Nations Trade in Goods Agreement) is an evolution of economic cooperation among ASEAN member countries which began in 1977 with the PTA (Preferential Trade Agreement) embryonic concept and was developed in the 1990s with the CEPT (Common Effective Preferential Tariff). It has driven a significant increase in intra-trade and external trade in the Southeast Asian region. The agreement was to establish a free trade zone that provides the concept of “preferences” by reducing tariff and non-tariff barriers for member countries in order to encourage regional economic growth through trade creation and trade diversion is considered capable of strengthening the integration of regional regionalism. Indonesia is one of the key players in ASEAN and is interested in being able to increase its role in trade and economic development in the Southeast Asian region. It continues to strive to ensure commitment to implement the ATIGA can be realized by opening the widest possible access for all elements. Indonesians can take advantage of the facilities provided in international agreements. This research uses a qualitative explanatory method. The research finding shows in line with the increase in the flow of goods and services in the region, the challenges of implementing a regional free trade zone are also increasingly complex and causing several impacts that need to be studied immediately, such as environmental issues, food security, terrorism, intellectual property rights, and human rights. The paradox of service versus security in service-oriented trade facilities should not simply abandon the element of oversight to safeguard national interests, one of which is in the aspect of fulfilling human security.*

**Keywords:** *ree trade, international trade facilitation, human security.*

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## I. INTRODUCTION

Indonesia has actively participated in trade liberalization forums, both on a worldwide and regional basis. This allows Indonesia to participate in the

spread of local products into the global market. Trade liberalization offers numerous significant benefits for Indonesia, such as distributing local products to the global market, which has the potential to boost economic growth, increase foreign direct investments (FDI), and diversify exports.<sup>1</sup> Additionally, by opening its market, Indonesia could access larger international markets for goods and services, potentially leading to increased production and job creation domestically. The process of trade liberalization presents obstacles for Indonesia in responding to uncertain global market competitiveness, in terms of giving benefits or drawbacks to the national economy. Indonesia's export-oriented economic characteristics in international trade stimulate local industrial development. It demonstrates Indonesia's commitment to improving its domestic industry and encouraging as many items as possible to be exported abroad.

However, along with these developments, Indonesia's imports are increasing due to the expansion of domestic consumption and the lack of capacity to supply domestic products.<sup>2</sup> It requires a strong diplomacy strategy to compete in international trade competitions. Economic diplomacy is an effort to achieve its national economic interests by using available instruments and resources.<sup>3</sup> Economic diplomacy was essential to foreign policies during President Joko Widodo's administration.<sup>4</sup> Indonesia prioritizes economic diplomacy as the second most important aspect of its foreign policy vision.<sup>5</sup> Indonesia's economic diplomacy is directed to several strategic steps, such as accelerating cooperation and investment in infrastructure development, efforts to increase exports, and strengthening economic cooperation in the Comprehensive Economic Partnership Agreement (CEPA), Free Trade Agreement (FTA), and Preferential Trade Agreement (PTA) forums to help expand sales of Indonesia's strategic products.

<sup>1</sup> World Bank, *Trading for Development in the Age of Global Value Chains*, (Washington, D.C.: World Bank, 2020), doi:10.1596/978146481457.

<sup>2</sup> Masahiko Tsutsumi, "FTA Strategies to Strengthen Indonesian Exports: Using the Computable General Equilibrium Model," *Economic Research Institute for ASEAN and East Asia Discussion Paper Series*, no. 302 (2019).

<sup>3</sup> Sulthon Sjahril Sabaruddin, "Grand Design Diplomasi Ekonomi Indonesia: Sebuah Pendekatan Indeks Diplomasi Ekonomi [Indonesia's Economic Diplomacy Grand Design: An Index Approach to Economic Diplomacy]," *Jurnal Ilmiah Hubungan Internasional* 12, no. 1 (2017): 69, <https://doi.org/10.26593/jihi.v12i1.2545.69-90>.

<sup>4</sup> *Ibid.*; Defbry Margiansyah, "Revisiting Indonesia's Economic Diplomacy in the Age of Disruption: Towards Digital Economy and Innovation Diplomacy," *JAS (Journal of ASEAN Studies)* 8, no. 1 (2020): 15, <https://doi.org/10.21512/jas.v8i1.6433>.

<sup>5</sup> Jhon Maxwell Yosua Pattinussa, "Pengaruh Presiden Joko Widodo Pada Penguatan Peran Diplomasi Ekonomi di Indonesia [The Influence of President Joko Widodo on Strengthening the Role of Economic Diplomacy in Indonesia]," *Papua Journal of Diplomacy and International Relations* 1, no. 2 (2021): 85–104, <https://doi.org/10.31957/pjdir.v1i2.1734>.

Indonesia's compliance in various economic cooperation frameworks is a form of strategy in seeking opportunities for market openness. The implementation of FTAs needs to be followed by improving trade performance with countries in the region. Even though Indonesia's export reached the second largest in the region, its export quantity to other ASEAN member states is still low.<sup>6</sup> As such, Indonesia is unable to fulfill its target of strengthening exports within the ASEAN region, even though ASEAN itself has attempted to integrate its economic within the AFTA and other FTAs.<sup>7</sup> However, according to the World Bank, the increasing engagement in international trade by emerging countries is connected to a reduction in extreme poverty worldwide.<sup>8</sup> Trade facilitation, as a type of FTA implementation and market integration in the region, is effective in lowering tariff and non-tariff barriers, such as regulations and infrastructure. The smooth movement of products contributes significantly to economic progress and poverty eradication. Trade openness and lowering trade costs are particularly crucial to provide benefits for developing a business environment that may create jobs while fostering inclusion in economic development.<sup>9</sup>

In the context of ASEAN, it is a regional organization with enormous economic disparities among its members and tries to encourage more inclusive regional economic growth by agreeing on the ATIGA, integrating all ASEAN initiatives related to trade in goods into a comprehensive framework. The ATIGA is intended to increase transparency, certainty, and enhance the AFTA-rules-based system. It is a modification and refinement of the ASEAN agreement in the field of trade in goods, namely the 1992 Agreement on Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT-AFTA), the 1998 Mutual Recognition Arrangement (MRA), the 2000 e-ASEAN, the 2004 Priority Sector Integration, and the 2005 ASEAN Single Window agreement (ASW). The ASW is the key to developing trade facilitation within the ATIGA to encourage the growth of an inclusive intra-ASEAN trade climate.

The application of lowering and eliminating trade barriers allows for greater specialization according to comparative advantage, lowering prices to develop an economic growth. Imports from within ASEAN experienced

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<sup>6</sup> Dyouva Christa Novith and Aditya Subur Purwana, "Impact of Rcep on Trade Balance and Indonesia's Potential Export," *Jurnal Perspektif Bea dan Cukai* 7, no. 2 (2023): 260-280.

<sup>7</sup> Tsutsumi, "FTA Strategies to Strengthen Indonesian Exports."

<sup>8</sup> *Ibid.*

<sup>9</sup> World Bank, "The Role of Trade in Ending Poverty," World Bank Group, accessed 12 July 2024, <https://www.worldbank.org/en/topic/trade/publication/the-role-of-trade-in-ending-poverty>.

double-digit annual average growth in Cambodia, Laos, Myanmar, and the Philippines between 2012 and 2018 in nominal terms, while Vietnam's imports grew by an average of 5% annually. Likewise, export volumes to ASEAN are increasing by 8% annually from Cambodia, 10% from Laos, and more than 4% from Vietnam.<sup>10</sup>

The implementation of trade facilitation in the ATIGA is expected to be able to break down the walls of exclusivity in accessing the benefits of market integration with ASEAN. The concept of inclusivity that provides the tagline "no one left behind" in economic development should also be able to balance services and security in international trade. Jonathan T. Chow conducted a study of the relationship between trade (ASEAN intra-trade) and human security in regional integration.<sup>11</sup> Meanwhile, David Vogel explores the relationship between international trade rules, national security, and various dimensions of human security, which included the environment, labor, and human rights.<sup>12</sup> Meanwhile, several scholars concentrated on the conflict between security and service in international trade<sup>13</sup> and how agreements that encourage commerce could remove the obstacle to exclusive access to global markets. Trade facilitation is considered elitist and complex, with numerous tariff and non-tariff restrictions. The ATIGA aims to provide as much access

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<sup>10</sup> Salvador Buban and Rashesh Shrestha, *Impact of the ASEAN Trade in Goods Agreement (ATIGA) on Intra-ASEAN Trade* (Jakarta: Economic Research Institute for ASEAN and East Asia (ERIA), 2021).

<sup>11</sup> Jonathan T. Chow, "Trade and Human Security in ASEAN: Toward Deeper Linkage?" in *Linking Trade and Security: Evolving Institutions and Strategies in Asia, Europe, and the United States*, Vinod K. Aggarwal and Kristi Govella, eds. (New York City: Springer, 2013), 67–88, [https://doi.org/10.1007/978-1-4614-4765-8\\_4](https://doi.org/10.1007/978-1-4614-4765-8_4).

<sup>12</sup> David Vogel, "Global Trade Linkages: National Security and Human Security" in *Linking Trade and Security: Evolving Institutions and Strategies in Asia, Europe, and the United States*, Vinod K. Aggarwal and Kristi Govella, eds. (New York City: Springer, 2013), 23–48, [https://doi.org/10.1007/978-1-4614-4765-8\\_2](https://doi.org/10.1007/978-1-4614-4765-8_2).

<sup>13</sup> Vinod K. Aggarwal and Kristi Govella, *Linking Trade and Security: Evolving Institutions and Strategies in Asia, Europe, and the United States*, 2013, <https://doi.org/10.1007/978-1-4614-4765-8>; Ching-Cheng Chang, *Food Security and Regional Free Trade Agreement in Taiwan*, (Taipei: FFTC Agricultural Policy Platform (FFTC-AP), 2013); Alazar Melkamu and Adonias Audgna, "African Continental Free Trade Area (AfCFTA) Trade vs. Security Dilemma: From Borders' Perspective," *International Journal of Peace and Development Studies* (2021), <https://doi.org/https://doi.org/10.5897/IJPDS2021.0392>; Ika Riswanti Putranti, "A Hidden Cost of Indonesia Single Risk Management: Scrutiny Vis a Vis Services," *Jurnal Dinamika Hukum* 18, no. 3 (2018); Megan Ward, Hansjorg Herr, and Jennifer Pedussel Wu, "South Asian Free Trade Area and Food Trade: Implications for Regional Food Security," *IPE Working Papers 148/2020* (2020); Atsushi Yamada, "Bilateral Trade Agreements and Human Security in Asia" in *Linking Trade and Security: Evolving Institutions and Strategies in Asia, Europe, and the United States*, Vinod K. Aggarwal and Kristi Govella, eds. (New York City: Springer, 2013), 157–174, [https://doi.org/10.1007/978-1-4614-4765-8\\_8](https://doi.org/10.1007/978-1-4614-4765-8_8).

to international trade as possible to a wide range of economic actors, allowing them to benefit from lower raw material costs and market access to improve the competitiveness of their products.

Research on economic liberalization through the FTA framework has observed the effects of trade creation and trade diversion in its member countries<sup>14</sup> and the impact on trading and economic activities in countries that implement it.<sup>15</sup> Several studies have been conducted to analyze the impacts of market liberalization on trade creation and trade diversion, measured statistically using a gravity model.<sup>16</sup> Several research has found a positive impact from trade facilitation in the Indonesian manufacturing sector, where trade facilitation in the customs environment from Indonesia and its main trading partners have a significant and positive effect on the performance of Indonesian manufacturing exports.<sup>17</sup> Indonesia also could optimize trading procedures for SMEs' access to international trade participation.<sup>18</sup>

A more detailed analysis of the ASEAN Trade in Goods Agreement (ATIGA) is warranted, given its status as one of the earliest trade agreements concluded by ASEAN member states, which has not received the level of attention it deserves. Some ASEAN countries remain unprepared with underdeveloped internal trade infrastructure and domestic institutional capacities, which act as barriers to effective implementation and operationalization of the agreement's provisions. These limitations hinder member states from making optimal use of the ATIGA framework to enhance regional trade integration. Furthermore,

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<sup>14</sup> Won W. Koo, P. Lynn Kennedy, and Anatoliy Skripnitchenko, "Regional Preferential Trade Agreements: Trade Creation and Diversion Effects," *Review of Agricultural Economics* 28, no. 3 (2006): 408–415, <https://doi.org/10.1111/j.1467-9353.2006.00306.x>; Shujiro Urata and Misa Okabe, "Trade Creation and Diversion Effects of Regional Trade Agreements: A Product-level Analysis," *The World Economy* 37, no. 2 (2014): 267–289, <https://doi.org/10.1111/twec.12099>; Colin Wong Koh-King, Venus Khim-Sen Liew, and M. Affendy Arip, "The Impact of Asean Free Trade Area on Intra-ASEAN Manufacturing Trade," *International Journal of Business and Society* 18, no. 3 (2017).

<sup>15</sup> Amulya Gurtu, Jestin Johny, and Rupal Chowdhary, "Effects of Free Trade Agreements on Trade Activities of Signatory Countries," *The Indian Economic Journal* 70, no. 3 (2022): 490–513, <https://doi.org/10.1177/00194662221104750>.

<sup>16</sup> Richa Khurana and D. K. Nauriyal, "ASEAN-India Free Trade Agreement: Evaluating Trade Creation and Trade Diversion Effects," *Journal of East-West Business* 23, no. 3 (2017): 283–307, <https://doi.org/10.1080/10669868.2017.1322548>.

<sup>17</sup> Aulia Luthfianto, D. S. Priyarsono, and Raul Barreto, "Trade Facilitation and The Performance of Indonesian Manufacturing Export," *Buletin Ilmiah Litbang Perdagangan* 10, no. 1 (2016): 1–20, <https://doi.org/10.30908/bilp.v10i1.29>.

<sup>18</sup> Luqman Hakim, "Implementasi Trade Facilitation Agreement Sebagai Reformasi Perekonomian Di Indonesia [Implementation of Trade Facilitation Agreement as an Economic Reform in Indonesia]," *Jurnal Lex Renaissance* 7, no. 2 (2022): 402–415, <https://doi.org/10.20885/JLR.vol7.iss2.art13>.

disparities in the legal and regulatory environment across ASEAN countries, manifested in differing standards, compliance requirements, and trade policies, generally pose obstacles to realizing the agreement's full implementation potential. A study conducted by Huala Adolf briefly describes Indonesian legislation that implements the ATIGA. This approach is significant enough to add evidence regarding the implications of the ATIGA in ASEAN member countries, especially Indonesia. ASEAN's founding began with the ASEAN (Bangkok) Declaration in 1967, which promoted regional cooperation in various fields but lacked a comprehensive legal framework and clear guidelines for the organization's governance. Furthermore, the lack of more detailed rules posed a challenge in achieving stronger economic integration, especially given the diversity of ASEAN's laws, with member states adhering to common law, civil law, and mixed legal systems. The adoption of the ASEAN Charter in 2007 laid the groundwork by establishing a strong legal framework that emphasized the principles of democracy, rule of law, and good governance, setting the stage for more structured economic cooperation.

Major economic initiatives, such as the ASEAN Free Trade Area (AFTA) established in 1992 and the Common Effective Preferential Tariff Scheme (CEPT) implemented in 1993, aimed to create a competitive production base by reducing tariffs and non-tariff barriers. These developments eventually led to the signing of ATIGA in 2009 with the aim of standardizing trade policies across the region. However, the diverse legal and economic landscapes across ASEAN member states continue to pose challenges to the implementation of ATIGA. Therefore, a deeper examination of Indonesian law related to ATIGA is crucial to show how Indonesia, as a key player in ASEAN, navigates these complexities in line with the broader goal of regional economic integration.<sup>19</sup>

This type of study is defined as qualitative explanatory research by applying an approach to international relations and international law. This research in international law utilizes a statute approach and a review of international treaties ratified by the government of the Republic of Indonesia as an Act. The statute approach examines all laws and regulations related to the legal issues under consideration. It provides researchers with opportunities to learn about the consistency and suitability of one law with another or the legal regime above it, such as regional legal regimes and international legal regimes. In terms of international relations, it employs a low-politics approach from the perspective of non-traditional security studies.<sup>20</sup>

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<sup>19</sup> Huala Adolf, "ASEAN Trade in Goods Agreement (ATIGA) and Its Implementation," *Indian Journal of International Economic Law* 9, no. 1 (2018), <https://repository.nls.ac.in/ijiel/vol9/iss1/1>.

<sup>20</sup> David Armstrong, Theo Farrell, and Hélène Lambert, *International Law and Interna-*



In this study, the focus is on regulating the ATIGA as part of international trade agreements. The ATIGA provides trade facilitation for evaluating exclusivity in international trade access. The research employs qualitative data, using non-numerical sources such as online research, literature reviews of books, journals, and articles, interviews with relevant stakeholders, and field observations. Data sources are categorized as primary data and secondary data. Kusumastuti and Khoiron have identified primary data collection methods like observation, interviews, and questionnaires.<sup>21</sup> Secondary data collection methods include using journals, recordings, and scientific papers. This study's primary data is obtained through structured interviews with relevant stakeholders from the Indonesian government, business actors, and NGOs. For example, the study interviews the *Lembaga Nasional Single Window* (LNSW), an agency under the Ministry of Finance, as a representative of the Indonesian government. The study also interviews *Gabungan Pengusaha Ekspor Indonesia* (Indonesian Exporters Association or IEA), who represent business actors in the textiles and food processing sectors. Secondary data is collected from documents such as books, articles, reports, and online databases. For instance, the study examines the impact of the ATIGA in the textile industry, a significant sector in Indonesia's export portfolio. The analysis also covers the food processing sector, which is crucial for domestic and export consumption. These sectors are particularly relevant as they illustrate the challenges and opportunities presented by trade agreements like the ATIGA in facilitating market access and enhancing international trade for Indonesian businesses.

This study uses qualitative data analysis, where researchers obtained data from various resources. Data analysis and interpretation are conducted by processing and analyzing data from primary and secondary data sources to obtain structured descriptive conclusions to answer research questions and analyze them in-depth and linked to the theory used.

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*tional Relations* (Cambridge: Cambridge University Press, 2012), <https://doi.org/10.1017/CBO9780511894565>; Michael Byers, *Custom, Power and the Power of Rules*, *Choice Reviews Online*, vol. 38 (Cambridge: Cambridge University Press, 1999), <https://doi.org/10.1017/CBO9780511491269>; Zou Keyuan, *China-ASEAN Relations and International Law* (Witney: Chandos Publishing, 2009); Christoph A Stumpf, *The Grotian Theology of International Law: Hugo Grotius and the Moral Foundations of International Relations* (Berlin: Walter de Gruyter, 2006); Jeffrey L. Dunoff and Mark A. Pollack, *Interdisciplinary Perspectives on International Law and International Relations*, Jeffrey L. Dunoff and Mark A. Pollack, eds. (Cambridge: Cambridge University Press, 2012), <https://doi.org/10.1017/CBO9781139107310>.

<sup>21</sup> Adhi Kusumastuti and Ahmad Mustamil Khoiron, *Metode Penelitian Kualitatif [A Qualitative Research Method]* (Semarang: Lembaga Pendidikan Sukarno Pressindo, 2019).

## II. ASEAN TRADE IN GOODS

Trade liberalization in the Southeast Asian region occurs gradually through the agenda of the Cooperation Agreement that continues to grow and reform. Liberalization initially began in the early 1990s, where a trend of building regional economic blocs around the world were established, such as the 1993 North American Free Trade (NAFTA) and the 1992 European Economic Community (EEC). With trade restrictions tightening on markets outside the region, ASEAN realized how important it was to strengthen market integration in the region to reduce the adverse effects of Southeast Asia's accessibility, which was currently limited to Europe and North America.<sup>22</sup>

Initially, ASEAN members formed the AFTA and inaugurated it during the fourth ASEAN Summit in Singapore on 27-28 January 1992, with the initial target of achievement in 2008, which was then advanced to 2005. The achievement point in the AFTA framework was the existence of the Common Effective Preferential Tariff (CEPT) scheme, which aims to reduce tariffs to 0-5 percent. Given the fact that the tariff reduction target in AFTA was only preferential, the AFTA aims to encourage intra-regional trade.<sup>23</sup> This preferential tariff scheme was then continued with the agenda of the ASEAN Economic Community. On 31 December 2003, ASEAN officially announced the establishment of the ASEAN Economic Community (AEC). The AEC concept was created together with two other concepts, the ASEAN Political-Security Community and the ASEAN Socio-Cultural Community, in the ASEAN Concord II Declaration (Bali Concord II) at the October 2003 Summit. The AEC is predicted to play a role in strengthening ASEAN integration. In practice, the AEC is an advanced framework of the AFTA. If AFTA's goal is a reduction in import duties by 0–5 percent within 15 years from 1993, through the AEC, trade policy achieves 0% tariffs. As a result of the implementation of the AEC, ASEAN's GDP doubled from US\$1.3 trillion to US\$2.6 trillion in just seven years from 2007 to 2014.<sup>24</sup>

Béla Balassa's 'Theory of Economic Integration' provides a framework that can be used to understand the goals and challenges of the AEC and how countries can achieve higher levels of economic cooperation and integration, particularly within the framework of trade liberalization and economic union.<sup>25</sup> There are several stages of Economic Integration, starting from the

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<sup>22</sup> Sree Kumar, "Policy Issues & the Formation of the ASEAN Free Trade Area" in *AFTA: The Way Ahead* (Singapore: Institute of Southeast Asian Studies, 1992).

<sup>23</sup> Jayant Menon, *Adjusting Towards AFTA: The Dynamics of Trade in ASEAN*, (Singapore: Institute of Southeast Asian Studies, 1996).

<sup>24</sup> Koji Sakane, *ASEAN Integration: Opportunities and Challenges* (London: Routledge, 2017).

<sup>25</sup> Béla Balassa, *The Theory of Economic Integration*, 3<sup>rd</sup> ed. (London: Routledge, 1969), 17.

FTA, Customs Union, Common Market, Economic Union, and Political Union; the final stage of integration where member countries fully unify their economic, political, and legal systems.<sup>26</sup> Based on the economic integration theory, ASEAN has successfully integrated common market integration, with the AEC framework serving as the region's common market.

The AEC aims to transform ASEAN into a single market and production base characterized by the free flow of goods, services, investment, capital, and skilled labor, which is closely aligned with Balassa's stages of economic integration. The AEC vision was formalized by adopting the AEC Blueprint in November 2007, which outlined the action plan, targets, and timetable for realizing economic integration. The Blueprint seeks to build a single market and production base, create a highly competitive economic zone, promote equitable economic development across the region, and ensure ASEAN's full integration into the global economy.<sup>27</sup>

A key focus of the AEC, as predicted by Balassa's theory, is the elimination of non-tariff barriers. Countries eliminate tariffs and trade barriers on goods traded among themselves, but each country maintains its external tariffs against non-member countries. These barriers impede the free flow of trade and investment, which is essential for deeper economic integration. The AEC Blueprint addresses the elimination of these barriers, recognizing that while non-tariff barriers are often still justified for environmental protection,<sup>28</sup> they also pose obstacles in achieving the goals of the AEC. By addressing these issues, ASEAN aims to progress through the Balassa stages of integration, moving closer to becoming a fully integrated economic union.

AEC sustainability is significant with the ATIGA. Among the various FTA agreements in ASEAN that have existed, there are some whose legal basis are ambiguous as they are only outlined in agreements that were made in Council Meetings, AFTA Summits, and in joint statements and press, for which intra-regional trade tariffs and non-tariffs are made into one comprehensive document, which is the ATIGA. This document consists of 11 chapters and 98 articles and has been institutionally upgraded to an international standard FTA.<sup>29</sup>

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<sup>26</sup> *Ibid.*

<sup>27</sup> David Martin Jones, "ASEAN's Imitation Economic Community: The Primacy of Domestic Political Economy" in *ASEAN Economic Community: A Model for Asia-Wide Regional Integration?*, Bruno Jetin and Mia Mikic, eds. (London: Palgrave Macmillan, 2016).

<sup>28</sup> Buban and Shrestha, "Impact of the ASEAN Trade,"

<sup>29</sup> Seiya Sukegawa, "ASEAN's Initiatives for Free Trade in East Asia under AEC," *Journal of Contemporary East Asia Studies* 10, no. 1 (2021): 42–64, <https://doi.org/10.1080/24761028.2021.1902068>.

The implementation of the ATIGA, which is supported by the Indonesian National Single Window (INSW) system and facilitated by business actors in Indonesia, is still not operating at its full potential. The volume of imports have indeed increased as a result of trade facilitation, but it is still relatively low, especially from the SMEs sector. According to the Indonesian Non-Governmental Organization (NGO) for Global Justice, trade facilitation through various FTAs that Indonesia participates in makes Indonesia dependent on imports, where the volume of imports reaches 65-70%, while exports only amount to 30-35%.<sup>30</sup> According to the Single Window National Institute (LNSW),<sup>31</sup> the low volume of exports, especially from the SME sector, is due to their ignorance of the existence of ATIGA and INSW trade facilitation. This indicates that the problem of not maximizing the use of international trade facilitation by business actors in Indonesia may be at the level of communication between the government as a responsible stakeholder regarding trade facilitation, both ATIGA and INSW and business actors, especially SMEs.

### **III. HUMAN SECURITY ASSESSMENT ON TRADE FACILITATION OF THE ATIGA IN INDONESIA**

Trade liberalization is an activity that has a broad impact on the economy of the community. Trade liberalization and trade facilitation have to be integrated with the community with inclusive trade. The negotiation of trade facilitation agreements is integral according to the community's needs. Syarip explained that decision-makers in Indonesia have to abandon exclusivity in FTA participation as decision-making needs to be encouraged through participation and consultative dialog with institutions and groups on a national level.<sup>32</sup> FTA policies have to be based on the interests of business entities and institutions related to trade policy. The people approach in human security theory is needed to assess the fulfillment of needs based on groups or communities that can be affected by trade liberalization.

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<sup>30</sup> "Masih Tergantung Produk Impor, Indonesia Dinilai Belum Maksimal Manfaatkan Perjanjian Perdagangan Internasional [Dependent on Imported Products, Indonesia Has Not Maximally Utilized International Trade Agreements]," Harry, accessed 12 March 2024, <https://pasardana.id/news/2018/3/15/masih-tergantung-produk-impor-indonesia-dinilai-belum-maksimal-manfaatkan-perjanjian-perdagangan-internasional/>.

<sup>31</sup> "LNSW: Banyak UMKM Yang Tidak Tahu Cara Ekspor [LNSW: MSMEs Don't Know How to Export]," Achmad Aris, accessed 15 March 2024, <https://mediaasuransinews.co.id/news-in-brief/insw-banyak-umkm-yang-tidak-tahu-cara-ekspor/>.

<sup>32</sup> Rakhmat Syarip, "Defending Foreign Policy at Home: Indonesia and the ASEAN-Based Free Trade Agreements," *Journal of Current Southeast Asian Affairs* 39, no 3 (2020): 405–427.

Human Security is an operational framework for the state to put people at the center of observation, which enables all societal components to be represented in the framework for development and policy. Howard-Hassmann emphasizes the concept of human security is aimed at expanding the definition of security beyond the limited interest of military security, where citizen insecurity is the root cause of state insecurity.<sup>33</sup> Amitav Acharya believes ‘human needs’ remain an essential element of human security, since the Asia Pacific economic crisis was followed by increasing poverty, worsening development, unstable politics, and economic competition.<sup>34</sup> In the concept of human security, trade facilitation has to prioritize the individual as the referent object in the trade processes and activity from well-being to safety of the people. The majority of scholars view human security as a moral and normative basis bolstered by a commitment to solidarity.<sup>35</sup> The human security approach is based on people-centered development and is able to identify the basic needs and priorities of the people in trade activities. It is considered a broad concept including economic, food, health, environmental, personal, community, and political aspects.<sup>36</sup> Assessing human security within the framework of trade includes consideration of the impact of the international trade agreements, policies, and practices on the security, and well-being of people and communities involved or affected by free market activities.

The massive economic liberalization, which has increased the volume of international trade, led to the establishment of various FTAs around the world potentially posing a threat to human security. The increasing volume of international trade over the last three decades has undeniably contributed to threats to environmental security. Data from the World Trade Organization (WTO) shows that the production and transportation of goods traded in international trade contribute 20-30% to the world’s Green Gas House (GHG) emissions, even the transportation sector itself is claimed to contribute 12% of global emissions.<sup>37</sup>

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<sup>33</sup> Aris, “LNSW: Banyak UMKM.”; Rhoda E. Howard-Hassmann, “Human Security: Undermining Human Rights?” *Human Rights Quarterly* 34, no. 1 (2012): 88–112.

<sup>34</sup> Amitav Acharya, “Human Security: East versus West,” *International Journal* 56, no. 3 (2001): 442–460.

<sup>35</sup> Edward Newman, “Critical Human Security Studies,” *Review of International Studies* 36, no. 1 (2010), <https://doi.org/10.1017/S0260210509990519>.

<sup>36</sup> United Nations Development Programme, *Human Development Report 1994: New Dimensions of Human Security* (New York: United Nations Development Programme, 1994).

<sup>37</sup> “AfCFTA: The Environmental Case for the Continental Free Trade Area,” Andrew Mold, accessed 17 March 2024, <https://www.un.org/africarenewal/magazine/october-2022/afcfta-environmental-case-continental-free-trade-area>.

The ATIGA was established to address some areas, including tariff liberalization, non-tariff measures (NTMs), trade facilitation, customs, standards, regulation and conformity, assessment procedures, rules of origin (ROO), and trade remedies. It entails free market spirit by removing obstacles to regional trade, tariffs and quotas, and the possibility for nations to distribute resources more effectively. To reduce the negative impact of trade integration, the ATIGA creates safeguards mechanisms and protection efforts for fair trade practices. However, several studies mention the challenges of implementing the ATIGA including readiness to liberalize goods in the domestic market, business competition, and the effect of cutting tariffs on goods.<sup>38</sup> This article uses the example of fair-trade practices that are vulnerable to higher imports to demonstrate how trade liberalization can undermine equivalent domestic manufacturing in a country. The big concern in the ATIGA is whether society is ready to face competition during trade liberalization. This section places an emphasis on a human security perspective. Indonesia needs to prepare the most crucial aspects of business before entering the intra-ASEAN free market. SMEs are important players in the Indonesian economy in the age of the Free Trade Agreement. According to the Coordinating Ministry for Economic Affairs, SMEs contribute 61% of Indonesia's GDP and absorb 97% of the workforce of around 119 million people. The statistics underline how important SMEs are for Indonesia's economy, including reducing poverty, contributing to individual access to employment, and enhancing local communities by providing economic opportunities for people to be independent.

The ASEAN Blueprint is an instrument for protecting and strengthening the role of SMEs in the FTA. ASEAN developed the SME action plan, which strives to be diversified and well-balanced, and includes potential for public-private collaborations in project creation. However, the free market framework in the ATIGA may open up new markets for ASEAN members. On the other side, the ATIGA may endanger the country's economy by introducing competing items into ASEAN. Compared to other ASEAN countries, Indonesian SMEs continue to underperform in terms of productivity, export contribution, and participation in ASEAN production networks.<sup>39</sup> A recent

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<sup>38</sup> Adolf, "ASEAN Trade in Goods Agreement."; Anggresti Firlianita, "Mekanisme Safeguard dan ATIGA (ASEAN Trade in Goods Agreement): Studi Kasus Perdagangan Gula di Indonesia dan Perdagangan Buah di Vietnam [Safeguard Mechanism and ATIGA (Asean Trade in Goods Agreement): A Case Study of Sugar Trade in Indonesia and Fruit Trade in Vietnam]," *Jurnal Analisis Hubungan Internasional* 5, no. 3 (2016): 161–175.

<sup>39</sup> Fitriaty, S. Amin, and I. Khalik, "Supply Chain Management Model to Improve the Competitiveness of SMEs in the ASEAN Economic Community Era 2015–2025 in Tanjung Jabung Barat Regency, Indonesia," *KnE Social Sciences* 3, no. 11 (2019): 374, <https://doi.org/10.18502/kss.v3i11.4021>.

study shows that Indonesia's SMEs contribution to export is less compared to Thailand and Myanmar, which only contributed to national exports by 14,5%, despite their significant contribution to the economy significantly.<sup>40</sup> The majority of SMEs in Indonesia struggle with significant losses as a result of the traded goods' lack of competitiveness, in comparison to the standards and quality of international products. Business owners need to be able to raise the quality and comparative advantage of the product due to competition with imported goods. Several studies show the weaknesses of SMEs, including access to markets, lack of access to credit, and quality of product.<sup>41</sup>

The ATIGA legal framework seeks to open up opportunities through trade facilities, especially in encouraging Single Window instruments. The ASEAN Single Window is a trade facilitation that aims to accommodate the exchange of documents through an integrated system to increase efficiency and competitiveness in trade. The ASW integrates the National Single Window in each country by allowing the exchange of electronic trade documents between member countries. According to an interview with LNSW, the "single window plays a major role in encouraging information disclosure for various business actors to simplify the rules of origin (ROO) document process".<sup>42</sup> The Indonesian National Single Window also provided marketing facilities for SME business actors.

Based on an interview with the IEA,<sup>43</sup> the obstacle to trade facilities for SMEs is access to the ship for distribution. SMEs often "produce goods in smaller quantities while the transportation of goods on ships is calculated based on containers." The owner of the goods must pay the broker or goods collector which is mentioned as 'facilitation payment'. It refers to practices of

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<sup>40</sup> Adolf, "ASEAN Trade in Goods Agreement."; Nurlinda and Junus Sinuraya, "Potensi UMKM Dalam Menyangga Perekonomian Kerakyatan di Masa Pandemi Covid-19: Sebuah Kajian Literatur [The Potential of MSMEs in Supporting the People's Economy during the Covid-19 Pandemic: A Literature Review]," in *Prosiding Seminar Akademik Tahunan Ilmu Ekonomi Dan Studi Pembangunan 2020* (Pontianak: Fakultas Ekonomi dan Bisnis, Universitas Tanjungpura, 2020).

<sup>41</sup> Titik Anas, Carlos Mangunsong, and Nur Afni Panjaitan, "Indonesian SME Participation in ASEAN Economic Integration," *Journal of Southeast Asian Economies* 34, no. 1 (2017); Rasbin, "Strategi Meningkatkan Ekspor Produk-Produk Usaha Mikro Kecil Dan Menengah Indonesia: Studi Kasus di Kabupaten Sleman Dan Kota Surabaya [Strategies to Increase Exports of Indonesian Micro, Small and Medium Enterprises Products: A Case Study of Sleman Regency and Surabaya City]," *Kajian* 24, no. 3 (2019): 149–158, <https://doi.org/10.22212/kajian.v24i3.1865>; Nurlinda and Sinuraya, "The Potential of MSMEs."

<sup>42</sup> Focus Group Discussion with Officers from Lembaga National Single Window [National Single Window Institution], Indonesian Ministry of Finance, Jakarta, Indonesia, 20 September 2023.

<sup>43</sup> Interview with an Officer from the Indonesian Exporters Association, 11 August 2023.

corruption, collusion, and nepotism in distribution services at ports. The IEA continued by giving examples of Chinese products entering Indonesia through company facilities such as TikTok Shop or Shopee, where there are large distribution companies that deliver products in relatively smaller quantities.<sup>44</sup> Two indicators show that SMEs as vulnerable in trade facilitation. The first is preparedness for open market and competition and corruption activities in ports. Trade facilitation not only consists of infrastructure and digital information systems through the National Single Window (NSW), but it also facilitates the SMEs' economic opportunities to get rid of any obstacles that prevent access to global production networks and productivity.

Trade facilitation is an integral part of the Free Trade Area (FTA) cooperation framework. In this case, trade facilitation helps ease the export and import processes, particularly in the license document processing stage. Without facilitation, exports and imports are subject to a lengthy process in which exporters and importers must complete licensing documents for many organizations. This is owed to the strict supervision of commodities leaving and entering a country, with each ministry and related organization having its control criteria for goods. As a result, before exporting or importing, actors need to obtain approval from the appropriate ministry or agency.

Trade facilitation simplifies this process by providing a single window that allows business actors to process permits through an online portal. This system significantly reduces non-tariff barriers, where exporters and importers no longer spend a lot of time and money processing permits offline at various agencies. Trade facilitation is crucial in international trade. The elimination of non-tariff barriers has an impact on increasing the competitiveness of a country's products in the international market. This is related to the reduction in prices of goods due to the effectiveness of the export and import process. Apart from that, the dwelling time factor also has an influence, where trade facilitation that simplifies the export and import process also reduces dwelling time for goods to circulate more quickly.

In the ASEAN region, the initiation of trade facilitation through the ASEAN Single Window began in 2003 during the 9<sup>th</sup> ASEAN Summit held in Bali, Indonesia. This system was formed to integrate the Single Window system for all ASEAN member countries to enable the existence of similar regulations regarding the elimination of non-tariff barriers in the region. However, it was impossible to implement the ASW system directly as there were various obstacles. Referring to the WTO, the implementation of trade facilitation at the regional level requires harmonization to overcome differences between

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<sup>44</sup> *Ibid.*



countries in a region.<sup>45</sup>

On the national level, regulatory issues are a concern in implementing the single window system operated by the National Single Window Institution (LNSW) under the Ministry of Finance. The National Single Window (NSW) aims to simplify the export and import licensing process, but presents security concerns. This concern arises from the perception that entities with the power to control the entrance and departure of commodities are no longer actively monitoring the arrival and departure of goods, as oversight appears to be indirect. After all, the management of permits has been transferred to a single Indonesian NSW portal. The changes in the monitoring system are expected to cause security issues, such as the admission of goods with the potential to harm the environment or be associated with terrorism. LNSW argues which stated that the NSW system did not change the previously existing monitoring system at all.<sup>46</sup> The system only connects stakeholders who have the authority to supervise goods into one joint portal, making it easier for both export-import players and agencies. The Indonesian Export Association (IEA) said that the problems with putting the trade facilitation system and the ATIGA cooperation framework into action at the regional level are caused by the fact that exporters don't have easy access to information about the INSW system and the ATIGA framework.<sup>47</sup>

Regarding the INSW, a centralized trade facilitation system does have a positive impact on international trade. Therefore, a centralized monitoring system also creates its challenges for the government and stakeholders related to the INSW. A control system for the entry and exit of goods that no longer has to go through strict inspections at ministries or agencies related to the type of goods increases the potential for the passage of goods that are neither supposed to go out nor should enter.<sup>48</sup> This means that there are still gaps in the single window system that allows the circulation of dangerous goods, posing a threat to human security in various components. According to the IEA, even though the INSW system has been implemented:

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<sup>45</sup> "Technical Information on Technical Barriers to Trade," World Trade Organization, accessed 15 March 2024, [https://www.wto.org/english/tratop\\_e/tbt\\_e/tbt\\_info\\_e.htm](https://www.wto.org/english/tratop_e/tbt_e/tbt_info_e.htm).

<sup>46</sup> Focus Group Discussion with Officers from Lembaga National Single Window [National Single Window Institution], Indonesian Ministry of Finance, Jakarta, Indonesia, 20 September 2023.

<sup>47</sup> Interview with an Officer from the Indonesian Exporters Association, 11 August 2023.

<sup>48</sup> "Single Window Systems: What We Have Learned," Gerard Mclinden, accessed 18 March 2024, <https://blogs.worldbank.org/en/trade/single-window-systems-what-we-have-learned>.

*“..in practice business actors still have to go through a long-winded bureaucratic process when they want to export. Not only at the level of obtaining permits and issuing certificates of origin, but even at the port you often encounter fees.”*<sup>49</sup>

Furthermore, the stakeholders involved appear to be working separately rather than collaboratively to make the NSW a success. The LNSW acknowledged this, stating the process of evenly socializing NSW, as well as efforts to integrate associated parties, remained a significant challenge for LNSW.

#### **IV. INDONESIA’S DIPLOMACY IN ASEAN TO INCREASED INTRA-TRADE: PROBLEM OF DIPLOMACY**

Trade diplomacy also plays a role as an instrument in fulfilling a country’s foreign policy objectives by negotiating with other countries, which in this case is related to trade.<sup>50</sup> Trade diplomacy has become the main agenda in Indonesia’s foreign policy during President Joko Widodo’s administration. Therefore, the trade diplomacy that is carried out is not only limited to the bilateral sphere, but also multilateral. According to the Asia Regional Integration Center (ARIC), up until 2020, Indonesia has joined at least 11 FTAs that are already in effect. Killian states that it is natural for Indonesia to actively participate in various free trade regimes considering Indonesia’s position as one of the countries with the largest population in the world, where this condition presents great opportunities both as a market and provider of workers on a large scale.<sup>51</sup> This potential would be maximally utilized by Indonesia if it could break down trade barriers such as high export-import tariffs, as well as the complexity of the bureaucracy related to this.<sup>52</sup>

Therefore, multilateral trade diplomacy through the FTA framework is a reasonable choice for Indonesia to eliminate trade barriers because in general FTAs regulate their member countries to eliminate trade tariffs among member countries in an FTA. Moreover, FTAs not only eliminate trade barriers but also have the potential to create two effects, namely trade creation and trade

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<sup>49</sup> *Ibid.*

<sup>50</sup> John Baylis and James J. Wirtz, *Strategy in the Contemporary World* (Oxford: Oxford University Press, 2007).

<sup>51</sup> Pantri Muthriana Erza Killian, “Indonesia’s Trade Diplomacy Through FTA: Analysis on Actors, Processes, and Goals of Diplomacy,” *Global: Jurnal Politik Internasional* 22, no. 2 (2021): 163, <https://doi.org/10.7454/global.v22i2.492>.

<sup>52</sup> Sukawarsini Djelantik, “Indonesia’s Economic Diplomacy Towards ASEAN,” *International Journal of Economic Research* 15, no. 2 (2018).

diversion. Countries that join Free Trade Agreements (FTAs) typically aim to achieve trade creation as one of their primary objectives. The FTAs allow for the formation of new trade opportunities with fellow FTA member countries so that they have an impact on the effectiveness of the supply chain, which affects the increase in the national welfare of a country. On the other hand, trade diversion is understood as a situation in which an FTA scheme makes its member countries switch from supply chains outside of already effective FTAs to supply chains within FTAs, which may be ineffective. As such, trade diversion has the potential to have an impact on the national welfare of a country.<sup>53</sup>

The Indonesian trade diplomacy approach in the context of the FTA can be applied in answering the research question: “How is Indonesian diplomacy in ASEAN encouraging increased intra-trade through the ATIGA?” The application of this approach is studied by looking at how Indonesia’s diplomacy in ASEAN, especially in the ATIGA, could break down trade barriers and create the best possible trade opportunities among member countries and minimize the impact of losses from trade diversion. In various FTA frameworks in the region, Indonesia cannot be separated from its national economic interests.

Under President Joko Widodo’s administration, Indonesia focused its national economic interests on almost every multilateralism. The use of the term “economic diplomacy” is increasingly found in the Jokowi government’s policy narrative. President Joko Widodo has conveyed directions on strengthening economic diplomacy on several occasions. An example of this was the Plenary Cabinet Meeting on 8 July 2019, where President Jokowi has directed the Ministry of Foreign Affairs to prioritize economic diplomacy in its agenda for the next five years. His vision is to leverage economic diplomacy to enhance Indonesia’s economic cooperation across bilateral, regional, and international platforms, such as the completion of the Free Trade Agreement (FTA) and Preferential Trade Agreement (PTA), as well as Indonesian representative offices abroad so that they have the position to carry out economic diplomacy. Additionally, at the Working Meeting of the Head of Representative of the Republic of Indonesia on 9 January 2020, President Joko Widodo also gave directions to all Indonesian Representatives to focus on economic diplomacy and that 70-80 percent of activities are to be devoted to economic diplomacy.<sup>54</sup> Apart from being an ambassador of peace, the Head

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<sup>53</sup> Naufal Nur Mahdi, Suharno, and Rita Nurmalina, “Trade Creation dan Trade Diversion Atas Pemberlakuan ACFTA Terhadap Perdagangan Hortikultura Indonesia [Trade Creation and Trade Diversion on the Implementation of ACFTA on Indonesian Horticultural Trade],” *Buletin Ilmiah Litbang Perdagangan* 15, no. 1 (2021): 51–76, <https://doi.org/10.30908/bilp.v15i1.489>.

<sup>54</sup> “Making Sense of Indonesia’s Economic Diplomacy: Looking back at the country’s at-time

of Representative of the Republic of Indonesia was also assigned to be an export ambassador and investment ambassador.

During Joko Widodo's presidency, Indonesia was strongly interested in economic and trade issues. He represented a new paradigm of politics in Indonesia, having risen to the presidency through his business career, rather than the military or political parties. Indonesia's foreign policy vision under Joko Widodo placed a strong emphasis on national economic interests, both in terms of development cooperation and trade. Indonesia's economic diplomacy in the trade aspect focused on supporting the removal of non-tariff barriers in trade with major markets and the opening of prospective markets. During his administration, Indonesia showed its seriousness in using ASEAN as a strategic forum to achieve its economic interests. Indonesia's commitment to achieving its economic interests through the ATIGA was also demonstrated by Indonesia when it hosted the ATIGA working group meeting agenda. In September 2023, Indonesia hosted the 5<sup>th</sup> meeting of the ASEAN Trade in Goods Agreement Working Group on Customs Procedures and Trade Facilitation (the 5<sup>th</sup> ATIGA WG-CPTF). This moment coincided with Indonesia's chairmanship of ASEAN. The ATIGA WG-CPTF is one of the working groups formed during the 28<sup>th</sup> ASEAN Economic Ministers' Retreat meeting in 2022, in the context of renewing the ATIGA agreement. This working group was tasked with exploring potential new elements related to customs procedures and trade facilitation in the ATIGA scheme, as well as preparing updates to chapters related to Customs Procedures and Trade Facilitation (CPTF).

The CPTF chapter aims to ensure harmonization of customs procedures between ASEAN member countries to speed up the process of releasing goods and facilitating trade. In the process of discussing the renewal of the CPTF chapter, a progress of 75% was achieved, even though the projected timeline was two years. This shows the gravity of the work. According to the Director of International Customs and Excise Cooperation, holding the 5<sup>th</sup> ATIGA WG-CPTF meeting is an opportunity for Indonesia to improve the image of Indonesian customs administration on the ASEAN level and strengthen its leadership role by maximizing the momentum of Indonesia's chairmanship in

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contradictory approach to multilateral trade governance," *The Diplomat*, accessed 08 October 2024, <https://thediplomat.com/2020/06/making-sense-of-indonesias-economic-diplomacy/>; "Jokowi Ingin Semua Dubes Tingkatkan Diplomasi Ekonomi," *Tempo*, accessed 08 October 2024, <https://bisnis.tempo.co/read/1292931/jokowi-ingin-semua-dubes-tingkatkan-diplomasi-ekonomi>.

ASEAN in 2023.<sup>55</sup>

According to the EAI, the ASEAN market is not as attractive as current non-traditional markets such as the Asia Pacific and Africa regions.<sup>56</sup> The ASEAN market needs to be considered as a strategic region that can increase the export balance as the benefits of expanding the market in ASEAN can be obtained from cheaper logistics costs, even though the demand is not as large as the European and non-traditional markets.<sup>57</sup> The existence of the ATIGA as the most significant FTA framework from the AEC can open up economic opportunities for Indonesia. With the implementation of the ATIGA, Indonesia can maximize its superior commodities, not only in the markets of Europe, America, and Africa, but also in Asia with the benefit of lower logistics costs. Additionally, the implementation of the ATIGA in the long run will have an impact on the progress of the Indonesian industry, so that it can become a large enough economic diplomacy capital for Indonesia in the global realm.

The actors involved in FTA diplomacy are centralized on the state level. The involvement of non-state actors is almost non-existent. This is reinforced by the recognition of Indonesian business actors who say their groups do not feel represented by their interests and due to the lack of substantive discussions in accommodating the interests of business actors. Even if there is a meeting with state actors represented by the work program of the Ministry of Trade and Industry with business actors, it is still limited to formalities without any realization.<sup>58</sup> The overlapping authority at the level of Indonesian economic diplomacy in ASEAN, specifically between the Ministries of Foreign Affairs and Trade, also prevents the interests of industries from being fully absorbed into an issue promoted by the state as the primary actor in diplomacy.

The ideal diplomacy involves various non-state actors in economic terms, such as business actors, rather than just state components. Business actors' participation is critical in the development of trade liberalization policies since they are the end users of the policies that will be implemented. The Chairman of the IEA said that "the huge burden in export activities is the logistical burden."<sup>59</sup> However, there is no facilitation within the framework of the ASEAN FTA aimed at overcoming these difficulties, including the ATIGA

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<sup>55</sup> "Kemenkeu Pimpin Upaya ASEAN Menjadi 'Epicentrum of Growth' Melalui Kerja Sama Bidang Perpajakan dan Cukai [Ministry of Finance Leads ASEAN's Efforts to Become an 'Epicenter of Growth' through Cooperation in Taxation and Excise Sector]," Kementerian Keuangan, accessed 20 March 2024, <https://fiskal.kemenkeu.go.id/publikasi/siaran-pers-detil/520>.

<sup>56</sup> Adolf, "ASEAN Trade in Goods Agreement."

<sup>57</sup> Interview with an Officer from the Indonesian Exporters Association, 11 August 2023.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

which is considered the most up to date. On the domestic level, no state policy provides convenience in terms of access to logistics. Therefore, the ATIGA, which is the most significant FTA scheme, has not accommodated the interests of business actors.

Finally, trade diplomacy excluded businesses and reduced the influence of the ATIGA's implementation among user stakeholders. Diplomatic outcomes do not imply that business actors' interests, especially the Micro, Small, and Medium Enterprises (MSMEs) are adequately represented. This is not in accordance with the Law of the Republic of Indonesia No. 7/2014 Article 3, which implies that any form of trade, whether it be domestic or international, should be inclusive to all stakeholders, from MSMEs to giant enterprises in order to achieve Indonesia's national interests including economic growth and trade creation which enable job opportunities for Indonesian citizens.<sup>60</sup> Inclusivity itself also became the main agenda of the ATIGA as ASEAN's Regional Trade Agreement (RTA). The ATIGA prioritizes "local contents" and "originating" goods, which could be benefited from the zero tariffs and wider opportunity for market expansion.<sup>61</sup>

## **V. AN EU PERSPECTIVE: TRADE AGREEMENTS TO PROMOTE INCLUSIVITY AMONG MEMBER AND NON-MEMBER STATES**

When evaluating ASEAN's international trade facilitation, it is important to assess additional elements that influence international ties, such as the form and terms of trade agreements with its partners. An exemplary instance may be the trade association with the EU, which represents one of Indonesia's primary commercial allies. According to the EU factsheets, the EU ranked sixth among Indonesia's trading partners in 2023 for imports and fifth for exports.<sup>62</sup> Article 3 para. 5 of the Treaty on European Union requires the EU to "uphold and promote" its values and interests also in external relations.<sup>63</sup> One example of this principle in action is the EU's approach to international trade, which is still guided by the 2012 strategy document titled "e-Trade, Growth and Development: Tailoring Trade and Investment Policy for Those Countries

<sup>60</sup> Indonesia. *Undang-Undang tentang Perdagangan*, UU No. 7 Tahun 2014 (*Law on Trade*, Law No. 7 Year 2014).

<sup>61</sup> "ASEAN Trade in Goods Agreement: Local Content Requirements," Anais Robin, <https://www.aseanbriefing.com/news/asean-trade-in-goods-agreement-atiga-local-content-requirements/>.

<sup>62</sup> "Fact Sheets on the European Union," European Commission, [www.europarl.europa.eu/factsheets/en](http://www.europarl.europa.eu/factsheets/en).

<sup>63</sup> Treaty on European Union, Article 3, para. 5.

Most in Need”. Through this framework, the EU has focused on supporting developing countries in their efforts to gain access to international trade.<sup>64</sup> The EU would have focused on supporting developing countries in their access to international trade.

The main focus declared by the Commission’s communication was a tailored approach that took into consideration the limits and needs of the poorest and weakest countries in the Generalized Scheme of Preferences (GSP), relying on flexible bilateral or regional agreements.<sup>65</sup> Another element that the Commission put forward was a set of practices to facilitate access to international trade for developing countries.<sup>66</sup> Since the Communication was adopted at a time when several economies had started to emerge by attracting foreign direct investments (FDI) such as ‘global key investors’,<sup>67</sup> one of the directions suggested in the Commission’s document to support developing countries included measures boosting domestic and foreign investment in the following years.<sup>68</sup>

Sustainable development, which has been inspiring EU policies several years before the adoption of UN Agenda 2030 which is recognized in the Treaty on European Union, is a further key point of EU external policies.<sup>69</sup> The final point of the Commission’s plan focused on the support of developing countries in implementing resilience and crises response mechanisms. All the mentioned aspects can be identified in the agreements that the EU have been signing in the last decade, showing the EU’s strong commitment towards inclusivity.

## **VI. THE NEXUS OF HUMAN SECURITY AND INTERNATIONAL TRADE LAW**

The intersection between human security and international trade law is actually quite a lot.<sup>70</sup> International agreement instruments such as the GATT, which focuses on reducing tariffs and non-tariff barriers, have made a strong

<sup>64</sup> “Communication from The Commission to The European Parliament, The Council and The European Economic and Social Committee: Trade, growth and development Tailoring trade and investment policy for those countries most in need,” European Union, *COM/2012/022 Final*. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52012DC0022>.

<sup>65</sup> European Union, “Communication from The Commission,” par. 4.1 and 4.1.4.

<sup>66</sup> European Union, “Communication from The Commission,” par. 4.1.1.

<sup>67</sup> European Union, “Communication from The Commission,” par. 2.1.

<sup>68</sup> European Union, “Communication from The Commission,” par. 4.1.3.

<sup>69</sup> European Union, “Communication from The Commission,” par. 4.1.5.

<sup>70</sup> Rachel Harris and Gillian Moon, “GATT Article XX And Human Rights: What Do We Know From The First 20 Years ?,” *Melbourne Journal of International Law* 16, no. 2 (2015).

contribution in encouraging how human security is guaranteed by member countries.<sup>71</sup> There are at least three human security issues: economic security, environmental protection, and food security. Although they are not explicitly mentioned in the GATT, their interpretation and implementation have placed them as one of the main concerns in international trade. Article XX of the GATT is still considered as one of the flexible articles to cover the above issues because of its fairly broad interpretation.<sup>72</sup> The ATIGA agreement does not explicitly regulate these matters. Indirectly, Article XI paragraph 2 (a) GATT states that “export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party” is related to the issue of food security, where countries have the authority to limit or prohibit exports temporarily in order to prevent or reduce severe food shortages.

With an emphasis on export subsidies, local support, and market access, the Agreement on Agriculture (AoA) is a WTO accord that aims to solve global food security. It was negotiated during the Uruguay Round with the goal of lowering trade-distorting subsidies and enhancing market access in order to create a fair and market-oriented agriculture trading system. The AoA places a strong emphasis on enforcing the GATT’s agricultural assistance regulations in order to avoid and repair distortions in international agricultural markets. While export limits and export subsidies must be avoided by WTO members, certain rules permit temporary export limitations in order to protect food security. The goal of this reform initiative is to establish an agricultural trade system that is more efficient and balanced.<sup>73</sup>

As mentioned, Article XX of the GATT provides broad exceptions that allow countries to enact laws that may violate their GATT obligations, as long as the laws are necessary to achieve a specific policy objective. There are

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<sup>71</sup> Yetty Komalasari Dewi and Talissa Koentjoro, “Non-Tariff Measure under WTO Laws: Case Study on the Application of Local Content Requirement for 4G LTE Devices in Indonesia,” *Indonesian Journal of International Law* 15, no. 3 (2018), <https://doi.org/10.17304/ijil.vol15.3.769>; Ferdi Ferdi, “Implementation of ISO 14001 Standard by World Trade Organization (WTO) Based on Technical Barriers to Trade (TBT) Agreement and Its Practices in Indonesia,” *Indonesian Journal of International Law* 21, no. 4 (2024), <https://doi.org/10.17304/ijil.vol21.4.1684>. countries are allowed to protect their national industry by imposing tariffs as well as non-tariff measures (NTM)

<sup>72</sup> The General Agreement on Tariffs and Trade, opened for signature 30 October 1947 (entered into force 1 January 1948).; UNCTAD, *Non-Tariff Measures : Economic Assessment And Policy Options For Development*, (New York: United Nations Conference on Trade and Development, 2018); Floris Van Hees, *Protection V. Protectionism: The Use Of Human Rights Arguments in the Debate For and Against the Liberalisation of Trade*, (Åbo: Åbo Akademi University, 2004).

<sup>73</sup> Asiantono Siambella, “Doha Development Agenda Negotiations on Agricultural Sector,” *Indonesian Journal of International Law* 4, no. 3 (2021), <https://doi.org/10.17304/ijil.vol4.3.150>.



several clauses related to food security in Article XX. Necessary measures to safeguard human, animal, or plant health or well-being are covered under Article XX(b). This clause can be used by countries to maintain trade policies that promote public health by ensuring food security or conserving domestic food resources. In terms of direct relevance to food security during times of scarcity, Article XX(i) allows for necessary measures regarding the distribution or purchase of goods that are generally unavailable or scarce locally.<sup>74</sup>

However, the implementation of Article XX(b) has sparked controversy, as demonstrated by China's imposition of export restrictions on rare earth elements, tungsten, and molybdenum in 2012, which were justified by environmental and health concerns. China said that these actions were required to stop environmental deterioration and safeguard the health of people and animals from mining and industrial activities. China's export limitations, however, have been contested by a number of WTO members, notably the EU, Japan, and the US, who argue that they go against China's obligations under the WTO Accession Protocol and GATT Article XI:1. Its detractors contend that rather than addressing actual environmental problems, China's actions were more about limiting exports. Upon examination by the WTO Panel, China's policies were found to be lacking a clear framework that would have demonstrated how export limits were particularly linked to broad environmental objectives, even while they acknowledged the influence that various industries had on the environment.<sup>75</sup>

According to GATT Article XX(b), environmental protection measures that are demonstrated to be required and aimed at safeguarding the health or well-being of humans, animals, or plants qualify as justified. However, a logical relationship between limitations and environmental goals is necessary for non-discriminatory interventions. Under GATT standards, measures may be arbitrary or unjustified if they contradict the declared purpose or do not support it.<sup>76</sup>

Related to food security, the Trade Facilitation Agreement (TFA), which came into effect in 2017, aims to increase the flow of products across national

<sup>74</sup> Kamo Sende, "International Trade Law and Sustainability: Balancing Trade Liberalisation and Environmental Protection," (Master's Thesis, Robert Gordon University Aberdeen, 2023), <https://doi.org/10.13140/RG.2.2.14534.24643>.

<sup>75</sup> I. Gusti Ngurah Parikesit Widiatedja, "Export Restrictions on Covid-19 Vaccines: What Developing Countries Can Do Under the WTO Law?" *Indonesian Journal of International Law* 19, no. 2 (2022): 263–288, <https://doi.org/10.17304/ijil.vol19.2.4>.

<sup>76</sup> Nattapong Suwan-in, "The Controversy of Trade in Tobacco and Protection Of Public Health, A Study of Tobacco Control Measures And Impacts on Trademark Practice: The Stricter, The Better?" *Indonesian Journal of International Law* 11, no. 4 (2014), <https://doi.org/10.17304/ijil.vol11.4.522>.

borders. This agreement encourages timely and rapid delivery of food supplies, in anticipation of losses of perishable food supplies. This is important for food security, so that it helps create a smoother and more accessible food supply chain throughout the world.

Furthermore, the principle of Differential Treatment (S&DT) for developing countries can provide a path for international policy in protecting their access to food. In this case, developing countries and less developed countries have a longer schedule to reduce tariffs and subsidies and are given greater flexibility in implementing trade regulations, especially in the agricultural sector. This S&DT is very much in line with the situation in ASEAN with high disparities in economic development.

In terms of environmental security, it is clearly stated in Article XX(b) of GATT that it is “necessary to protect human, animal or plant life or health.”<sup>77</sup> Under this article, a country can take domestic measures and policies in trade to protect its domestic security from goods that are environmentally damaging. Article XX(g) of the GATT states that “concerning the conservation of inexhaustible natural resources if such measures are carried out in conjunction with domestic expenditure or consumption.”<sup>78</sup>

Regarding labor issues, the 1947 GATT does not specifically include labor rights in its provisions. However, certain articles such as Article XX(e) of the GATT, despite not being a comprehensive labor rights clause, addresses the specific issue of compensatory labor by allowing countries to employ imports of products made using labor in correctional facilities. This can be seen as an acknowledgement of the existence of unfair labor practices in global trade. It should be emphasized that trade liberalization should encourage economic development, which has the effect of improving labor standards.

Despite the fact that the ATIGA represents substantial progress in Southeast Asian economic integration, human security issues remain, particularly those related to labor rights, environmental sustainability, and food security. The inadequacy of the ATIGA’s stated measures to address these

<sup>77</sup> General Agreement on Tariffs and Trade, Article XX(b), in *The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts* (Geneva: World Trade Organization, 1994).

<sup>78</sup> Gabrielle Marceau, “The WTO in the Emerging Energy Governance Debate” in *Global Challenges at the Intersection of Trade, Energy and the Environment*, Joost Pauwelyn, ed. (Geneva: The Graduate Institute: Center for Trade and Economic Integration, 2010): 33-34; Andrew Prag, “Trade and Climate Change” in *Win-Win: How International Trade Can Help Meet the Sustainable Development Goals*, Matthias Helble and Ben Shepherd, eds. (Tokyo: Asian Development Bank Institute, 2017), 258.

issues underscores the importance for ASEAN to better incorporate human security concerns into its trade agreements. As one of the major forces behind the region's economic growth, ASEAN has helped significantly expand intra-ASEAN trade by lowering tariffs and non-tariff barriers within the region. The ATIGA's provisions on tariff reduction and agricultural trade facilitation have largely had an indirect impact on food security.

Increased competition among member countries resulting from the ATIGA's liberalization policies could lead to a "race to the bottom",<sup>79</sup> as countries lower labor standards in an effort to attract international investment. This could compromise human security due to continued exploitation, low wages, and unfavorable working conditions.

Although the ATIGA does not directly regulate the issue of food security, it advocates the liberalization of agricultural markets in ASEAN. Despite its goal to increase shared prosperity as the goal of ASEAN, it does not implement economic policies that favor sustainability, which poses a threat to environmental damage. It is necessary to conduct a review of the implementation of ATIGA and its relationship with other sustainability instruments under the umbrella of ASEAN.

## **VII. THE ROLE OF EU TRADE AGREEMENTS IN ENSURING HUMAN SECURITY, IN TERMS OF ECONOMIC STABILITY AND SOCIAL PROTECTION**

Besides merely having direct effects on trade, international trade agreements signed by the EU can play a social role by contributing to ensuring human security. At least on a theoretical basis, the ways in which the agreements play such a part is multifaceted, as the analysis of the nearly eighty EU trade agreements that are currently in place would show. Of such agreements that can be read in full text in the EU Commission webpage dedicated to trade policy, only two of which concern ASEAN members: the EU-Singapore Free Trade Agreement, in force since 2019, and the EU-Vietnam Free Trade Agreement, in force since 2020. Agreements with other ASEAN members are still under negotiation (like the EU-Indonesia, the EU-Philippines, and the EU-Thailand Agreements) or on-hold status (like the EU-Malaysia Free Trade Agreement and the EU-Myanmar Investment Protection Agreements). Both the EU-Singapore Free Trade Agreement (ESFTA) and the

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<sup>79</sup> Anita Chan and Robert J. S. Ross, "Racing to the Bottom: International Trade without a Social Clause," *Third World Quarterly* 24, no. 6 (December 2003): 1011-1028, <https://www.jstor.org/stable/3993441>.

EU-Vietnam Free Trade Agreement (EVFTA) address economic stability and human security, despite having slight differences. Following the structure of the two agreements, the first element for economic stability is the progressive liberalization of trade, with custom tariff reduction<sup>80</sup> and a specific emphasis on “promoting, developing and increasing the generation of energy from renewable and sustainable non-fossil source.”<sup>81</sup> A further element that can foster economic stability by promoting innovation and investments is the set of provisions on intellectual property rights.<sup>82</sup>

To avoid that trade development turning into social disparities (above all in developing economies),<sup>83</sup> both the agreements establish a system of provisions on social protection, which range from labor rights<sup>84</sup> to environmental protection.<sup>85</sup> Chapter 16 of the EU-Vietnam Free Trade Agreement includes some provisions on cooperation and capacity building to encourage development in all dimensions of sustainability.<sup>86</sup> The agreements, however, do not include provisions on quantitative measurement of the levels of economic stability and social security reached, despite setting some monitoring mechanisms.<sup>87</sup> The true capacity of the mentioned international law tools to address human security lacks, therefore, trustable measurement mechanisms.

## VIII. CONCLUSION

This study has examined the impact of the ATIGA on trade facilitation and human security within the region, highlighting the critical role of international law in shaping these outcomes. The findings of this article show that while the ATIGA has been successful in enhancing trade within ASEAN, it has also brought to the forefront significant challenges, including environmental degradation, food security concerns, and the complexities of enforcing intellectual property rights and human rights within the framework of international law. These issues underscore a fundamental tension between the goals of trade liberalization and the necessity of upholding international

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<sup>80</sup> EU-Singapore Free Trade Agreement (EUSFTA), opened for signature 19 October 2018 (entered into force 21 November 2019), Chapter 2; EU-Vietnam Free Trade Agreement (EVFTA), opened for signature 30 June 2019 (entered into force 1 August 2020), Chapter 2.

<sup>81</sup> EUFSTA, Chapter 7; EVFTA, Chapter 7.

<sup>82</sup> EUFSTA, Chapter 10; EVFTA, Chapter 12.

<sup>83</sup> EUFSTA, Chapter 12.1. par. 3; EVFTA, Chapter 13.3, par. 1.

<sup>84</sup> EUFSTA, Chapter 12, Section B; EVFTA, Chapter 13.

<sup>85</sup> EUFSTA, Chapter 12, Section C.

<sup>86</sup> EUVFTA, Chapter 16.

<sup>87</sup> EUFSTA, Chapters 2.15, par. 2; 12.15; EVFTA, Chapters 12 and 13.

legal standards that protect human security.

International trade agreements such as ATIGA need to strike a balance between promoting economic growth and complying with international legal obligations that protect inclusion and human rights, especially for small and medium-sized enterprises (SMEs), which often struggle to meet complex legal requirements. This analysis emphasizes the importance of harmonizing trade policies with legal standards to ensure that economic progress does not compromise the basic principles of human security. With a balanced approach, this study underlines the need for ASEAN to align its economic objectives with international law and human rights to create a sustainable regional environment. The General Agreement on Tariffs and Trade (GATT), while focusing on reducing tariffs and non-tariff barriers, indirectly supports economic and food security, thereby establishing a close relationship between international trade law and human security. Article XX of GATT provides broad exceptions that allow countries to implement policies that protect health, safety, and environmental standards, even though these measures may be inconsistent with their trade obligations. For example, such provisions allow countries to implement measures essential to safeguard human, animal, or plant health, an important aspect of ensuring food security. Given these challenges, it is necessary to review the implementation of ATIGA and other sustainability instruments within the ASEAN framework to ensure that economic growth continues in line with the protection of human security and the promotion of sustainable development.

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