

CHAPTER II

ASEAN- AUSTRALIA AND NEW ZEALAND FREE TRADE AREA

In this chapter, I would like to describe and examine more about the ASEAN-Australia and New Zealand Free Trade Area (AANZFTA). The governments of the member's states of the Association of Southeast Asian Nations, Australia, and New Zealand agreed to the established agreement in the area that will strengthen economic partnership and support sustainable economic development. With this regional strategy, the governments hope that the agreement has great balance contribution to the member's state. For the brief explanation of the free trade agreement between ASEAN-Australia and New Zealand, I will divide this chapter into three parts which are establishment of ASEAN-Australia and New Zealand free trade area (AANZFTA), agreement of AANZFTA, and implementation of AANZFTA.

A. Importance of International Economic Cooperation

The increased interest in international economic cooperation also reflects the more fundamental changes in the world economy that have been evolving over a longer period of time. The world economy has become more interdependent: international trade has increased relative to production for domestic markets and international capital markets have become larger and more active. (Feldstein, 1988)

Economic cooperation among countries seems very important in achieving the objectives and interests of each countries. Various economic activities can be boosted through cooperation which specified into three main point, the first one is to support national development through the resources, knowledge and opportunities for training abroad that are made

available by international cooperation. Second, To contribute to the foreign policy goals defined by the each country government by promoting horizontal cooperation actions to promote abroad the technical and institutional skills that are available. Last but not least is to position international cooperation in international society as an efficient instrument that allows countries to address their common problems and challenges by means of collective efforts.

While according to Ministry of Foreign Affairs of Japan, the international cooperation in economic can help and provide country in promoting dialogue as a media in finding an economic solution within the domestic issue and or global economic problem. Economic cooperation also important in promoting aid for the aims of peace and stability in the region especially in the world south countries. (Ministry of Foreign Affairs of Japan, 2006)

By this understanding we can conclude that economic cooperation is very important to establish in accordance to the benefit and objectives of the cooperation.

B. Establishment of ASEAN-Australia and New Zealand Free Trade Area (AANZFTA)

The establishment of AANZFTA has been agreed by the twelve parties include Australia, Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, New Zealand, Philippines, Singapore, Thailand, and Vietnam. The Agreement of AANZFTA itself was signed on 27 February 2009 and expected to enter into force on 1 January 2010. The Free Trade Agreement (FTA) itself covers an area with more than 600 million peoples and has a regional GDP around USD 3 trillion. The new Agreement aims to further enhance opportunities for trade in a region that has witnessed a very rapid expansion of commercial exchange where intra-regional trade among parties happen in recent years before the establishment of AANZFTA (ASEAN Secretariat, 2017).

In 2005 where the negotiation of AANZFTA started, intra-regional trade among the parties to the Agreement has been growing at an annual average of about 16 percent. Australia and New Zealand have agreed to affiliate in order to persuade ASEAN as the sixth largest trading partner to come into force in order to create a better way to expand the economic activities effectively. Since ASEAN as a group is the second and third largest trading partner of Australia and New Zealand, respectively. AANZFTA is the first region to region FTA that both ASEAN and Australia and New Zealand concluded (ASEAN Secretariat, 2017). Therefore, the agreement itself was established because of the high demand for economic activities between parties. The parties have built the relation by bilateral, multilateral and intra-regional economic activities, and by form this agreement, the government of parties expects to have more advantages especially in the economic sector. Here, the objectives of the whole Agreement:

The first objectives of the agreement are progressively liberalizing and facilitate trade in goods among the parties through the alliance, eliminate the tariff and non-tariff barriers in substantially all trade in goods among the parties (Agreement Establishing the AANZFTA, 2016). Therefore, the agreement will be helping the developing countries especially in ASEAN on their economic development. Since the tariff on trade and barriers will be reduced or eliminate to equalize the tariff between parties.

The second objectives of the agreement are gradually liberalizing trade in services among the Parties, with substantial sectorial coverage (Agreement Establishing the AANZFTA, 2016). Because all of the states were burdened with inefficient and expensive services, states tend to have the high competitiveness and caused harm to small businesses through good production, labor cost, and goods price. However, with this agreement trade services among parties will be more coordinated by the rule of the agreement itself.

The third objectives of the agreement are facilitate, promote and enhance investment opportunities among the Parties through further development of favorable investment environments (Agreement Establishing the AANZFTA, 2016). In the area of agreement, the parties will be expanding their capacity building on some sectors that still left behind than other state sectors.

The fourth objectives of the agreement are to establish a cooperative framework for strengthening, diversifying and enhancing trade, investment and economic links among the Parties (Agreement Establishing the AANZFTA, 2016). Other than that, the agreement will open another opportunity on the built market outside the area by doing extra-regional economic activities. Since AANZFTA will become large Free Trade Agreement, I believe it will help each party to open the market with other parties outside the signatories of AANZFTA.

And the last objectives of the agreement are provided special and differential treatment to the ASEAN Member States, especially to the newer ASEAN Member States such Indonesia, to facilitate their more effective economic integration (Agreement Establishing the AANZFTA, 2016). Thereby, the integration that built inside the ASEAN members will be stronger since they have to affiliate to create better economic sustainable.

In line with ASEAN Community Vision 2025 goals to become economically integrated, AANZFTA also aims for the sustainable economic growth in the region by providing more facilities to the parties. AANZFTA will connect and integrate the economic activities of the parties by providing a more liberal, facilitative, and transparent market and investment regimes among the twelve signatories to the Agreement (ASEAN-Australia-New Zealand Free Trade Agreement (AANZFTA), 2017). Through the FTA, we can expect that regional economic integration and cooperation will like to expand and deepen in the future.

C. The Facts and Overview of AANZFTA

The AANZFTA is a comprehensive and single-undertaking free trade agreement that opens up and creates new opportunities for approximately 663 million peoples of ASEAN, Australia and New Zealand - a region with a combined Gross Domestic Product of approximately USD 4 trillion as of 2016. In line with the ASEAN Community Vision 2025, the AANZFTA aims for sustainable economic growth in the region by providing a more liberal, facilitative, and transparent market and investment regimes among the twelve signatories to the Agreement, namely Australia, Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, New Zealand, Philippines, Singapore Thailand, and Viet Nam. (ASEAN Secretariat, 2017)

The AANZFTA is a first in many respects, such as the first plurilateral agreement for both ASEAN and Australia, the first comprehensive single-undertaking free trade agreement negotiated and signed by ASEAN with a Dialogue Partner, the first region-to-region engagement for ASEAN, and the first Agreement that Australia and New Zealand jointly negotiated for.

D. Agreement of AANZFTA

The agreement of ASEAN-Australia and New Zealand Free Trade Area (AANZFTA) is the basis of the relations that contained legal text that set out the obligations and commitments of the signatories in this agreement. The text of the agreement itself divided into 17 chapters, they are;

- 1) Establishment of Free Trade Area, Objectives, and General Definitions;

The first chapter was consist of the consistency of the parties on establishing the agreement with Article XXIV of GATT (General Agreement on Trade in Services) 1994 and Article V of GATS, an ASEAN, Australia and New Zealand Free Trade Area (Agreement

Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009). In this chapter, there will be purposes of the agreement that has been explained above in the first sub-chapter. And last, the general definition that uses in legal text of the agreement.

2) Trade in goods;

The first point of this chapter is to reduce or eliminate customs duties on originating goods of other parties. The second point is the parties can consider negotiating to accelerate and improving tariff commitment based on the schedules of tariff commitments because it shall be incorporated to this agreement (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009).

In this chapter also explain that AANZFTA also covers quantitative restriction and non-tariff measures as a way of reducing or eliminating non-tariff measures over time, a procedure is established in the agreement which allows for any government to request that particular non-tariff measures be reviewed by the AANZFTA committee on trade in goods (Goods Committee) with a view to reducing or eliminating the measure's negative impact on trade activities between parties (ASEAN Secretariat, 2017). The goods committee will gather into force if there is request receives by any parties or FTA joint committee to consider any matter that emerges under trade in goods, rules of origin, customs procedures, sanitary and phytosanitary measures, Standards, Technical Regulations and Conformity Assessment Procedures, and safeguards measures.

3) Rules of Origin;

This chapter was consist of rules on how the parties should treat the goods. On the second article of this chapter, it said that a good shall be treated as an originating good if wholly or not wholly produced or obtained in a party and produced in a Party exclusively

from originating materials from one or more of the Parties (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009). Therefore, it can be seen that AANZFTA will provide advantages for both exporter and importer on receive the goods from other parties in AANZFTA. By the rules, both side (importer-exporters) will get their right on obtain the best quality of goods whether it is origin materials or has been produced.

4) Customs of Origin;

This chapter applies the customs procedures according to the respective laws, regulations, and policies of the parties that will be applied to the trade of goods among parties. And for objectives of this chapter are to ensure predictability, consistency and transparency in the application of customs laws and regulations of the Parties, second is to promote efficient, economical administration of customs procedures, and the expeditious clearance of goods, simplify customs procedures, and last is promote cooperation among the customs administrations of the Parties (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009).

5) Sanitary and Phytosanitary Measures;

In this chapter, the agreement aims to decrease the possibility of harms in many ways that brought practical consequence for the parties. These measures were created to protect human, animal and plant life and health, need to take account of the individual circumstances of countries and, as a result, can differ importantly from one country to another. As with product standards, differing to Sanitary and Phytosanitary measures can precipitate trade problems (ASEAN Secretariat, 2017).

Standards, Technical regulations, and conformity assessment procedures;

This part of the agreement created by the governments and private sector bodies with a view to achieving

important public policy aims, such as ensuring that products do not disturb health or safety that can risks the consumers (ASEAN Secretariat, 2017). The regulation that made in this chapter is based on the obligations of the government toward WTO agreement on Technical Barriers to trade since all of the trade activities will be under the World Trade Organization (WTO).

6) Safeguard Measures;

The scope of this chapter is to apply to safeguard measures adopted or maintained by a Party affecting trade in goods among the Parties during the transitional safeguard period (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009).

7) Trade in Services;

In this chapter, the parties on agreement has specific commitments in which it lists the market access and national treatment commitments it is prepared to undertake in respect of individual services sectors and subsectors according to the different “modes” of supply for services as used in the AANZFTA and the General Agreement on Trade in Services (GATS) (ASEAN Secretariat, 2017). Furthermore, the parties are under obligations to respect the domestic regional to maximize the effectiveness of the trade in services.

8) Movement of Natural Persons;

In this globalization era, it is important to negotiate the terms of the contract by send representatives. These representatives will be used to short-term postings in foreign markets in order to check the effectiveness of business transaction in the markets. This chapter is e procedures relative to the grant of temporary entry, processing of applications and transparency. And also makes clear that nothing in the agreement should be read as interfering with a government's ability to operate an effective domestic immigration policy (ASEAN Secretariat, 2017).

9) Electronic Commerce;

The purposes of this chapter are promoting electronic commerce among the signatories, enhance corporation among the parties regarding the development of electronic commerce and promote the wider use of electronic commerce globally (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009). Moreover, AANZFTA partner countries will maintain and measures for electronic authentication, online consumer protection and online data protection (ASEAN Secretariat, 2017). Especially in ASEAN, the e-commerce market growth at least twice as fast as in other regions market.

10) Investment;

This chapter addressed to investment is far-reaching and is of great commercial interest to business operating in the region. The agreement of AANZFTA provides a range of protections for investors, including the possibility of dealing with a dispute through investor-state dispute settlement action (ASEAN Secretariat, 2017). The investment will focus on work programs, transparency, fair treatment in administrative proceedings, and also the investor and state dispute settlement of the parties.

11) Economic Cooperation;

There are three purposes of this chapter; first, the signatories reaffirm the importance of ongoing economic cooperation initiatives between ASEAN, Australia and New Zealand, and agree to complement their existing economic partnership in areas where the parties have mutual interests, taking into account the different levels of development of the Parties. Second, the parties acknowledge the condition of each party to encourage and facilitate economic cooperation included in various chapters of this agreement. And last, economic cooperation that stands under this chapter shall support

the implementation of this Agreement through economic cooperation activities which are the trade or investment related as specified in the Work Program (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009).

12) Intellectual Property;

In this chapter, it has been confirmed that each party put their commitment to reduce the obstacles to investment and trade by promote economic integration through effective and suffice creation, utilization, protection and enforcement of intellectual property rights, taking into account the different levels of economic development and capacity and differences in national legal systems and the need to maintain an appropriate balance between the rights of intellectual property owners and the legitimate interests of users in subject matter protected by intellectual property rights (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009).

13) Competition;

In the area of agreement, there are wide differences in countries approaches to competition policy and significant gaps in governments' technical capacity to adopt or maintain competition policy regimes. In the light of this, the agreement does not attempt to create new obligations in respect of competition policy among its parties. Instead, the establishment of the free trade agreement is a framework for cooperation where among Australia and New Zealand may agree to provide cooperation as appropriate to assist ASEAN member governments with any competition related initiatives they may decide to undertake (ASEAN Secretariat, 2017).

14) General Provisions and exceptions;

This chapter was consist of the general provisions of exceptions where each chapter above has rule and exception on the agreement. And each party should hold

consultations with a view to reaching agreement on any necessary adjustment in order to balance any commitment of the parties in this agreement.

15) Institutional Provisions;

In this chapter of the legal text, it mentions that the parties hereby establish a free trade agreement joint committee (the FTA Joint Committee) consisting of representatives of the Parties. (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009). The committee itself was designed to facilitate the communications among parties relating to the agreement. And for the general rule on the meeting and official communications should be in English as the global language.

16) Consultations and Dispute settlement;

The objective of this chapter is to provide an effective, efficient and transparent process for consultations and settlement of disputes arising under the agreement of AANZFTA (Agreement Establishing The ASEAN-Australia-New Zealand Free Trade Area, 2009).