Does the asean economic community has an impact on cross border trade development in developing countries? (an example from Indonesia)

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Abstract. Few researchers addressed this issue due to the border area, oftentimes is considered as the zone with a lack of accessibility for clean water, education, health, and so on related to basic rights fulfillment. Nevertheless, people have been forgotten if this area has a high potential to develop state economically, as well as has a risk in particular for developing countries. According to the statement, it is important to examine whether the ASEAN Economic Community (AEC) has an impact on cross border trade development in Indonesia as a developing country as well as ASEAN Member State?. A special region is needed that can describe the conditions of trade relations between the two countries to analyze this research comprehensively so that one of Indonesia’s Border Regions namely North Kalimantan Province is represented by all the border regions in Indonesia and the problem in relation to customs border trade is in the trade in goods to be present. In order to find out the result, it used a normative research method, which is a type of legal research. The last but not least is the result showed that AEC has not been effective for Indonesian border area as a developing country due to the community have trade pattern traditionally, even for Indonesia and Malaysia have agreement on border trade agreement (BTA) before ASEAN established AEC, that pattern does exist. In Sum, AEC does not have a significant impact on improving trade activity in the Border Area of Indonesia.

1. Introduction
AEC is a form of ASEAN economic integration in the sense of a free trade system between ASEAN member countries. Indonesia and nine other ASEAN member countries have signed the AEC provisions. At Summit in Kuala Lumpur in December 1997, the ASEAN Leaders decided to turn ASEAN into a stable, prosperous, and highly competitive region with equitable economic development, reducing poverty and reducing socio-economic inequality.

At the Bali Summit on October 2003, ASEAN leaders stated that the ASEAN Economic Community (AEC) would be the goal of regional economic integration by 2020, the ASEAN Security Community, the ASEAN Socio-Cultural Community. The achievement of the AEC entails regional economies integration of the member countries [1]. The 3 (three) pillars are inseparable from the ASEAN Community. All parties are expected to work strongly in building the ASEAN community in 2020.
The provision creates new challenges for member countries, especially Indonesia because the legal consequence of an agreement is an obligation to obey and implement it; on the other hand, some experts questioned readiness condition of resources in Indonesia are demanded to be competitive with foreign nationals from other ASEAN member countries [2]. However, countries have committed to help one another in developing economies of them. It means they have consent to support both developed countries and developing countries to get equal access for being producers of good, not only for developed countries while developing countries are consumers, the commitment to reciprocal relations are mutually beneficial for all countries, the benefits are not only enjoyed by businesses with large capital but also are also enjoyed by businessmen with the small asset in ASEAN member countries as well.

Economists examine that the implementation of the AEC is considered to make the border area no longer a region of mercy. AEC has been changing the strategic position of border areas, especially those bordering other ASEAN countries, from the 'outskirts' regions to central regions. This strategic position is crucial for Indonesia's business competition in the AEC and determines whether Indonesia gains benefits or just becomes a victim of the global market.

Furthermore, developing countries, Indonesia is no exception, also can not guarantee the welfare of people on the border, infrastructure is inadequate, and crime occurs frequently. It is a fact that economic conditions in the border area are far behind, and basic needs fulfillment is also very backward [3]. The complexity of problems in border regions certainly requires a high willingness from the government in solving those of are. This condition is different from the availability of infrastructure in developed countries like Malaysia, i.e., in Tawau, a region in the northern part of Borneo, which is directly adjacent to the Sebatik-Indonesia region, in terms of infrastructure presently can be said that infrastructures for cross border trade are ready.

Regarding cross-border trading activities involving local entrepreneurs, normatively since 1970, it has been accommodated by the central government through a Border Trade Agreement (BTA) between Indonesia and Malaysia. The philosophy of BTA is to facilitate trade in border areas as long as the logistics and distribution of people's daily needs have not been optimal. In addition to minimizing price disparities between border regions and other regions in Indonesia. Meanwhile, export-import activities continue to use the provisions of international trade.

The multilateral agreements are valid in Indonesia and Malaysia to present. It can be seen that the agreement also provides the role of local entrepreneurs. Although BTA considered a specific benchmark related to cross-border trade of goods, AEC does not contain any exemption provisions if there are special bilateral agreements between Indonesia-Malaysia or, for instance, AEC has no provide consideration about the bilateral agreement, particularly agreement on the border region. Thus, that statement related to the philosophy of BTA and international import-export activities following international trade is falling automatically. Local entrepreneurs are more likely to trade in traditionally, so they tend to do prohibited ways or even against the law like customs provisions.

The social conditions of people in several ASEAN member countries bordering, like a community in Northern Borneo, Indonesia, and Tawau-Malaysia region known as cognate, this condition is one of the challenges in implementing the market globalization. Trade interactions between regions are heavily influenced by community relations in the countries, so the availability of a support system is the main factor to determine the parties whose put in a lot of goods while the others become a market to sell goods from neighboring countries, for
example, the relation between Indonesia and Malaysia. At present, in Northern Borneo Province, at the 5 Districts have special markets to sell products or goods, specifically food products, without first going through the regulatory process to be marketed properly. Furthermore, these products are considered to be the main products or souvenirs for tourists when they come to Northern Borneo to be brought back to their hometown.

It can be concluded that cross-border trade between developed and developing countries which is directly bound, does not give mutually beneficial relationship for the two countries, what remains from this relationship is that developing countries become a market for developed countries to enter their country's goods or products in a greater way. Its influence lies in the state economy because the discourse on trade in goods is a discourse on finance [4]. So, any country that controls the market will have an effect on increasing the country's finances, and vice versa. Therefore, cooperation between countries is needed to encourage mutual benefit trade relations.

AEC brings new hope to developing countries like Indonesia by having the same opportunities as developed countries related to the marketing of domestic products that can be through other countries. It must be strengthened by the competitive concept promoted by the AEC. However, the concept must also be supported by the readiness of a country, especially in terms of infrastructure and human resources. In fact of limitations at the border, it is not impossible that part of the Indonesian border, especially in the northern Borneo region, will only increasingly become a market for the neighboring countries. Through normative research methods, the fact of whether the AEC provisions encourage developing countries to improvise the economy or actually getting left behind can be analyzed. The results of this study can be used to analyze whether, in the future, it is necessary to establish a special economic zone in each border region of a country based on the unique trade patterns in each border region. Therefore, this research is important to be published, bearing in mind that several ASEAN member countries are developing countries which is adjacent directly with developed countries.

2. Research Method
This study used a type of normative research that is characteristic of legal research. Normative research is conducted to produce new arguments, theories, and concepts as a prescription in solving the problems at hand. Thus, this study examines the provisions of positive written law as well as the habits of living in society systematically related to cross-border trade activities in the AEC era. The approaches are taken in this study consist of a statutory approach, a conceptual approach.

3. Discussion
Aspects of cross border trade in Indonesia, especially in the border regions of Northern Borneo and Sabah, also West Borneo and Sarawak region, have several issues after the AEC agreed by ASEAN member countries. However, it has been going on for a long time and is increasingly to be more complex with the concept of competition in the trading system offered by AEC, but it is not supported by adequate readiness both in terms of regulations and human resources.

The employers' association incorporated in the Indonesian Chamber of Commerce and Industry (Kadin) was pushing the central government to make regulations to legalize cross-border trade. One of the locations is in Nunukan Regency, Northern Borneo, which borders the State of Sabah, Malaysia. The reason is a number of Malaysian products are still needed
by border communities due to insufficient supply of domestic products. The presence of BTA with a limit of 600 Malaysian Ringgit (RM) or around IDR 1.8 million per month is unable to accommodate the daily needs of the Indonesian people in Sebatik because basically Indonesian citizens in Sebatik consume a lot of staples from Tawau-Malaysia. Additionally, access to Tawau is easier than access to Regencies/Cities in Northern Borneo Province. Based on the considerations, KADIN of Northern Borneo region was pushing for specific regulations on the economic zone for Northern Borneo and Tawau.

Many parties consider that special regulations starting from the scope of national and regional regulations are required in supporting cross border trade activities. That is important, considered many cases of local Indonesian entrepreneurs exporting raw goods to Tawau even by way of violating the law. In addition, cases of catching ships carrying basic goods from Malaysia to Nunukan happened oftentimes. As a result, there is a scarcity of food that causes price increases.

In order to encourage cross-border trade legalization, the Nunukan Regency Capital and Integrated Licensing Service Office (DPMPT) has been making a communication effort between the agency and entrepreneurs to encourage the legalization of supply of Malaysian products to Nunukan. It just constrained by the official licensing from the Indonesian Ministry of Trade. The high demand for goods such as daily necessities is not supported by access to obtain domestic products, meaning that access is difficult to reach, especially with regard to transportation infrastructure to Tarakan City as an entry point for goods from outside of Northern Borneo Province, it is why Indonesian, in particular, they are in Sebatik depend on the products from neighboring countries, for example, sugar, meat, and shallots, these products are still needed supplies from Malaysia because the government has not been able to supply those of are to Sebatik region. Another issue related to cross-border trade is the import-export permit, which has so far only been given to large businessmen residing in Jakarta. Nevertheless, local entrepreneurs in the regions can do the same thing, as long as they have equal opportunities.

The above problems have been tried to discover a solution by the two countries, through an inter-trade agreement between Indonesia and Malaysia, where the main objective is to fulfill daily stocks or basic needs of the two countries through the Border Trade Agreement. The agreement is always being revised according to the needs of the people of the two countries, which are increasing and interdependent. Besides BTA, as explained above, there are other agreements that have been regulated since 1984 and renewed in 2006, namely Border Crossing Agreement (BCA). Based on Article 2 of 1984 on the cross-border agreement (BCA), cross-border activities that can be carried out by the Indonesian-Malaysian border community are family visits, social/entertainment activities, religious needs, business/trade, government duties and other needs that have been approved by both sides.

The two agreements consider the sociological aspects in which the people in the Sebatik-Tawau region have a kinship, thus causing a high level of mutual visiting between the two countries’ communities. It is exactly to encourage the Governments of these countries to make an agreement to accommodate people interested in this region. In the aspect of economic and financial capital, in general, Sebatik persons living as farmers/planters, fishermen, and traders. In the economy of Nunukan, agriculture began to be defeated by mining as the sector that most contributed to GRDP, which was 55.07% in 2014, while the agriculture sector was only 20.10%. So, although in general, the GRDP per capita in Nunukan, including Sebatik was quite large at IDR 93,045,780 per capita/year or IDR 7,753,815 per capita/month, for the majority of people working in the agricultural sector (including fisheries) only IDR
18,705,300 per capita/year or Rp. 1,558,775 per capita/month. This number was smaller than the average decent living needs in Nunukan in 2014, which amounted to Rp 2,189,365.

Based on sociological considerations and the fact of increasing economic and financial conditions that encourage the emersion of business actors in the Sebatik region, BTA is insufficient as a legal basis for the implementation of cross-border trade. In addition, in the last revision of BTA, the substantive changes in the supervision of trade implementation, especially the supervision of goods, are prohibited from passing through areas that are not covered by the BTA region. In terms of legal function aspect, the last revision of BTA only prioritizes the aspect of legal certainty. Instead, benefits and justice aspects have not been clearly seen through the provisions of article by article in BTA.

Presently, cross-border trade conditions in Sebatik require special attention, considering the import-export aspect has an important role in the advancement of economic state. It also expected that Indonesia is not merely a market for developed country products but also as a host for domestic products, and as a partner has an equal position with neighboring countries. Hence, the discourse of the enactment of special economic zones is increasingly being pushed to take effect in the Indonesian border region, especially in Sebatik, the part of Northern Borne Province. However, well known, it is not easy to prepare the area. The important role of export-import is not only become a concern of businessmen and the organizations that shelter it but also by leaders in ASEAN. So that enacted the concept of AEC by emphasizing 4 (four) main components as stipulated in AEC blueprint. The concepts are: First, the countries in ASEAN become a unitary market and production base. With a unified market and production base, it makes the flow of goods, services, investment, large amounts of capital, and skilled labor so that there are no obstacles from one country to another in the ASEAN region.

Second, AEC is formed as an economic zone with a high level of competition, which requires a policy that includes competition policy, consumer protection, Intellectual Property Rights (IPR), taxation, and E-Commerce. Thus, a fair competition climate can be created; there is protection in the form of a network system of consumer protection agents; prevent copyright infringement; creating an efficient, safe and integrated transportation network; eliminating the Double Taxation system, and; increase trade with online-based electronic media.

Third, AEC also is used as an area that has equitable economic development, prioritizing Small and Medium Enterprises (SMEs). The competitiveness and dynamism capabilities of SMEs be enhanced by facilitating their access to the latest information, market conditions, human resource development in terms of capacity building, finance, and technology.

Fourth, the AEC be fully integrated into the global economy by building a system to improve coordination with member countries. In addition, the participation of countries in ASEAN in the global supply network is increased through the package development of technical assistance to less-developed ASEAN Member Countries. This was done to improve industry capability and productivity so that not only did they increase participation on a regional scale, but it also led to initiatives to be globally integrated. The four concepts above use to measure the contribution of the AEC to cross-border trade activities between Indonesia and Malaysia, the results are:

3.1. Market units and production bases
The Single Market and Production base have five main elements which are.; (1) Free flow of goods, (2) Free flow of services, (3) Free flow of investment, (4) Broader capital flow, and (5)
and free flow of skilled workers. Various non-tariff barriers, in the concept of AEC, are removed, and more comprehensive standardization is applied in ASEAN member countries. These points listed in the AEC declaration be a great challenge for all ASEAN citizens who were 500 million people. Competition in the quality of goods and even skills will be tight. Although the big goal of the AEC is to strengthen the state's position in dealing with the global market, it can not be denied that ASEAN countries face severe challenges as well. All countries certainly do not want to be mere markets; all countries compete to become producers.

From any point of view, Indonesia will be a powerful country, due to abundant natural resources, adequate natural resources, large area, large population, and many other factors that describe Indonesia as a great country if the government and its people have a commitment to building the nation. Achieving this goal must be supported by national policies of each member country to form a unitary market area and production base. The design of policy is aimed at strengthening control, supervision, and law enforcement based on statutory regulations in member countries by pay attention to the agreement that was established [5].

So, it is important for the border region to be strengthened with laws and regulations starting from the national level to the regions so that regulations bear a real impact on border region when the state considers customary aspects of people in the region. [6] Furthermore, Aker et al. emphasized that one of the factors affecting increasing trade transactions in border areas is the similarity of language used by the people. In trade transactions in Sebatik and Tawau, Language is not a problem because Bahasa and Malay are allied languages.

Related to the rules or regulations as a legal basis for trade implementation in border areas of Sebatik and Tawau, at this time, can be said is ready. In fact, border issues have been regulating with various national legal instruments, for example, the development direction of border areas is formulated in the National Long-Term Development Plan (RPJP) 2005-2025, which addressed that Border areas will be developed by changing the direction of development policies that have tended to be inward-looking to outward-looking so that they can be used as a gateway for economic and trade activities with neighboring countries.

In addition, it is strengthened with agreements at the regional level such as ASEAN cooperation forums, Indonesia-Malaysia-Singapore Growth Triangle (IMS-GT / Indonesia-Malaysia-Singapore Growth Triangle), Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT / Growth Triangle Indonesia-Malaysia-Thailand), Australia-Indonesia Development Area (AIDA / Australia-Indonesia Development Area), and Brunei-Indonesia Malaysia-Philippines East Asian Growth Area (BIMP-EAGA / East Asia Growth Area Brunei-Indonesia-Malaysia-Philippines). It aims to enhance trade and investment cooperation, which can be linked to development in the border provinces and the development of Indonesia's border regions [7].

In the concept of government authority in Indonesia, the management of border areas is the authority central government authority in cooperating with the Provincial Government as implementing party or organizer. The management of Northern Borneo border is included in the work program of the National Strategic Area as in the attachment of Northern Borneo Provincial Regulation pertaining Zoning Plan for Coastal Areas and Small Islands in 2018-2038, those are:
1. Compilation of Detailed Spatial Planning and Master Plan of the Border Area;
2. Compilation of annual action plans for border areas;
3. Improving the Quality of Diplomacy, Cooperation across State Border;
4. Regulasi perdagangan ekspor dan impor melalui perbatasan negara;
5. Providing incentives for establishing special economic zones (such as free trade zones, industrial zones);
6. Market development and marketing point/means of export promotion in several regions.

3.2. Economic zones with a high level of competition

Aspects of trade can have an impact on improving the country's economy, so countries are competing to fix the system that can support the marketing flow of their country's products to other countries. For sure, to realize the concept must be supported by one of them is the availability of adequate transportation. It can be seen that the regions which are the economic centers of a country are those with easy access to global markets [8].

In order to fulfill access, it needs efficient transportation policies. Thus, to obtain these efficiencies should be taken a policy based on mutual agreement between countries with more consideration of regional aspects than the national interests of a country [9]. Furthermore, the agreement was extended to cooperation through the reciprocal exchange of conventional market access; thus, the resulting competition remains in the spirit of mutual support for domestic value-added [10]. For example, in the border regions of Thailand and Myanmar, in the province of Kanchanaburi, which further enhances industry in Thailand, so that related to the development of economic areas, consideration is needed regarding the conditions and aspirations of people in the border region [11].

In the 2016-2021 Northern Borneo Province Regional Medium-Term Development Plan (RPJMD), the program in the first year focused on building basic infrastructure. Furthermore, it began to lead to an increase in regional economic development supported by infrastructure development that was already underway. However, as known, the regulation of cross-border trade issues is the authority of the central government; the provincial regions are only executors of each regulation issued by the central government. At present, trade-related provisions are only accommodated by BTA, which has not been able to accommodate all interests, especially the main needs of people in the border region of Sebatik.

Furthermore, inequality or differences among countries or regions can be seen from the economic, community, legal, and cultural aspects [12]. APEC data for member economies in 2014 showed income per capita in Malaysia was 11,307, while Indonesia was only around 30 percent from Malaysia at 3,449 [13]. The per capita income figure is the simplest measure that can represent the level of welfare of a country. Per capita income is valued based on purchasing power parity. Purchasing power parity is used to determine economic productivity and living standards among countries around the world in a certain period of time. In sum, it can be concluded that from the aspect of welfare and purchasing power parity, Indonesia is quite far compared to Malaysia.

3.3. Equitable economic area

Sebatik is a rural area, which drives the economy in the border area and is also supported by those categorized as small businesses. For sure, when compared with business actors with large capital both from domestic and businessmen from Tawau-Malaysia, there are many problems faced by them, one of them is limited access and ability, which causes business actors to go out of business and often choose become immigrants to Malaysia to improve their lives [14].

Frequently, to find discourse about the border region is always regarded as the boundary of a country, the area of security guards, sovereignty, state instruments [15] without further looking at border issues specifically related to community interaction in the border region. In
fact, there are so many potentials that can be utilized by every country in the border region, even each of these potentials creates problems between regions that adjacent directly [16].

3.4. Fully integrated towards the global economy
The integration of external and regional aspects is important in achieving the AEC’s vision as set out in the AEC blueprint. One of the supporting factors to reduce friction between countries in the border region is the development of transportation infrastructure [1]. Infrastructure improvement is also one of the 8 (eight) goals in sustainable development and also important is sustainable cities or regions and communities [17].

One of the Support provided among ASEAN member countries is subregional agreements made by Indonesia, Malaysia, and Thailand are known as the IMT-GT, namely an agreement between these countries regarding strengthening and encouraging the improvement of land, air, and port transportation infrastructure. Improvement of transportation infrastructure is very important for the development of the economy, especially in regions that have direct borders. It is expected to accelerate the process of regional or subregional market integration into the global market [18]. ASEAN countries are (economically) small and very open relative, even as an integrated market, ASEAN countries together still could not influence international terms of trade (the AEC would still be relatively “small”) [19].

Based on the analysis of the four ASEAN pillars associated with the conditions and needs of people in the border region, in order to implement the objectives of the AEC, more specifically in improving aspects of the economy of developing countries such as Indonesia, especially communities in the border region, the most needed is the improvement of infrastructure, in particular, transportation infrastructure.

4. Conclusion
AEC brings a new spirit for border communities, especially in the aspects of cross-border trade that can meet and develop the economy of communities in the border region. However, currently, the system has not been able fully to realize a global market that can compete with the neighboring country of Malaysia. Although, from the law aspect and regional policy, it has been seen that efforts to push in this direction are not enough. A central commitment is needed to improve transportation infrastructure in border areas so that access to cross-trade operations can be easily obtained. In addition, BTA stipulations that still set a maximum limit of buying and selling for daily products, even though the necessities of life in border communities are still increasing, meanwhile access to neighboring countries is easier than access to City area in Northern Borneo. Therefore, based on those facts, it can be seen that Indonesia's readiness, especially from the border region appearance, it has not been able to be equal in competitiveness with global markets as the type of AEC era.

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