



ASEAN INTEGRITY COMMUNITY

A VISION FOR TRANSPARENT
AND ACCOUNTABLE INTEGRATION

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. Through more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.

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EXECUTIVE SUMMARY

“Despite the many benefits promised by the ASEAN Economic Community, greater economic integration also poses new and larger corruption challenges for the region. If left unchecked, corruption not only risks jeopardising ASEAN’s collective goals, but becoming potentially an even greater problem for each member state and their people than it is today.” Natalia Soebagjo, Chair, Transparency International Indonesia’s Executive Board and International Transparency International Board Member

Southeast Asia is one of the most economically and politically diverse regions in the world and includes some of the richest, fastest-growing economies, as well as some of the planet’s poorest people. Over a decade ago, ASEAN articulated a set of goals – the ASEAN Vision 2020 – for even deeper and more comprehensive regional integration. As part of this vision, the ASEAN Economic Community (AEC) is due to come into force in 2015. The ASEAN region is thus poised to enter a new era of regional cooperation.

Against such a backdrop, where cross-border trade, cultural exchange and regional peace and stability will be so vital, it is worrying that so little effort has been made to tackle corruption at the regional level. While each ASEAN member state has taken some steps to addressing corruption at the national level, such as ratifying the United Nations Convention Against Corruption (UNCAC), much more is urgently needed to stop corruption. If economic integration is not built on a strong foundation of transparency, accountability and integrity then the ASEAN community’s vision will be jeopardised. A robust strategic regional anti-corruption framework through the formation of an ASEAN Integrity Community is therefore a critical step.

Public sector corruption remains a major problem for many ASEAN countries. Only Malaysia and Singapore score above 50 out of 100 (where 100 is very clean and 0 highly corrupt) in Transparency International’s Corruption Perceptions Index.¹ The public in many of these countries reinforces the point, ranking political parties, public officials, the judiciary and parliament as being most affected by corruption in Transparency International’s Global Corruption Barometer.² Almost 50 per cent of respondents felt there to have been an increase in the overall levels of corruption in the region, while less than a third on average felt that their government’s efforts to fight corruption had been effective.

Greater economic integration also poses a number of risks to the region, risks that, if left unaddressed, threaten to make the corruption problem even worse. More cross-border trade and investment can create new opportunities for corruption. The increase in the quantity of economic transactions could lead to more corruption in absolute terms. The increase in the lawful flows of goods, money or people across borders may be accompanied by an increase in related illicit trade. Greater labour mobility may make it easier to conceal human trafficking; greater legitimate trade in timber and other forest products may increase opportunities for illegal harvesting; the free flow of capital and the emergence of integrated regional financial markets may make it easier to launder

1 Corruption Perceptions Index 2014, Transparency International. See: www.transparency.org/cpi [accessed 10 December 2014]. ASEAN countries covered: Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

2 Global Corruption Barometer 2013, Transparency International. See: www.transparency.org/gcb [accessed: 10 December 2014]. ASEAN countries covered: Cambodia, Indonesia, Malaysia, Philippines, Thailand and Vietnam.

money and conceal stolen assets. The large number of massive infrastructure projects underway or planned in the region also present opportunities for funds to be siphoned off by the corrupt. If persistent corruption and cronyism cause the benefits of regional economic integration to flow to well-connected elites, leading to greater income inequality, political support for regional economic integration may wither.

While a number of anti-corruption initiatives, partnerships and exchanges do exist within the region, many of them remain disconnected, limited or insufficient to tackle the emerging corruption risks stemming from increased regional integration. In order for ASEAN member states to realise the significant goals of the AEC blueprint, they will have to recognise the need for both increased national attention and regional cooperation on anti-corruption.³ Anti-corruption and good governance as a main principle of integration are crucial to achieving a level playing field for business and ensuring lasting peace and security, sustainable economic growth, and shared prosperity and social progress.

Bold leadership is urgently needed. An ASEAN Integrity Community that harnesses the collective capabilities and resources of the region's governments, business and civil society is crucial in order to fulfil the potential of the AEC.

This report first provides a snapshot of where the ASEAN region now stands in terms of anti-corruption, analysing the specific corruption risks ASEAN is facing and providing concrete proposals for increased future cooperation through the ASEAN Integrity Community. It has been developed through extensive consultations with key stakeholders and experts throughout the region and is informed by the ASEAN Integrity Community Regional Meeting that brought together government, civil society and business representatives.⁴

The report aims to build momentum toward the establishment of an ASEAN Integrity Community, calling on citizens, governments, businesses and civil society alike to fully participate in the reduction of corruption across the region. The report also puts forward four proposed anti-corruption priority areas together with a set of targeted recommendations as a starting point for more concrete discussions:

- Achieving effective anti-corruption policies, legislation and strategies
- Achieving strong and independent anti-corruption institutions
- Achieving intergovernmental anti-corruption cooperation
- Achieving meaningful engagement with civil society and the business sector

Strong governmental leadership fully engaged with civil society and business is now needed. To this end, Transparency International calls on ASEAN governments to recognise the need for an ASEAN Integrity Community, publically endorse the concept and the importance of anti-corruption and establish a regional-level body to strategically tackle corruption in the region. The opportunity of the International Anti-Corruption Convention in early September 2015 in Kuala Lumpur and Malaysia's Chairmanship of ASEAN in 2015 should be utilised to focus attention on anti-corruption efforts in the region, and to see that concrete plans to establish the ASEAN Integrity Community are well underway before 2015 comes to a close.

³ See Annex 1 for a detailed overview of the road map and relevant corruption issues.

⁴ Hosted by Transparency International with the Anti-Corruption Commission of Myanmar in partnership with UNODC's Regional Office for Southeast Asia and the Pacific, the meeting, which took place on 14 December 2014 in Naypyitaw, brought together 40 participants from governments in Senator Datuk Paul Low and the VP of Myanmar, representatives from ACAs, representatives from business, civil society and development partners to discuss the key corruption risks in Southeast Asia. The meeting concluded with significant support for the creation of the AIC.

INTRODUCTION

“[T]he prevention and eradication of corruption is a responsibility of all States and they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective.” Preamble: UN Convention Against Corruption

Southeast Asia, home to more than 600 million people, is one of the most economically and politically diverse regions in the world. It includes some of the richest, fastest-growing economies, as well as some of the planet’s poorest people. Almost every form of government is represented – monarchy, one-party autocracy, military government, and multi-party democracy – and many countries in the region are currently undergoing significant political and economic transitions.

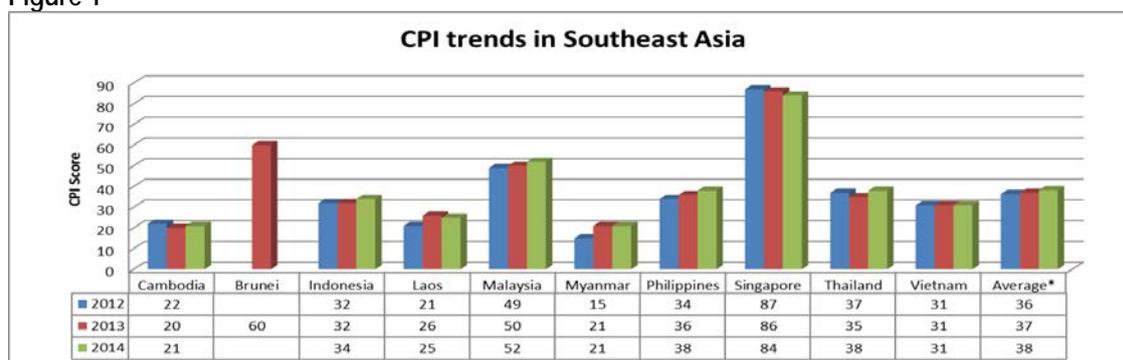
Despite its stark differences, the region has already achieved an impressive degree of international economic significance. KPMG reports that combined ASEAN GDP currently stands at “US\$2.3 trillion, leaving three out of the four BRIC countries, namely Brazil, Russia and India, behind in size.”⁵

Over a decade ago, ASEAN articulated a set of goals – the ASEAN Vision 2020 – for even deeper, more comprehensive regional integration. As part of this vision, the AEC is due to come into force in 2015. The ASEAN region is thus poised to enter a new era of regional cooperation.

ASEAN AND CORRUPTION

Awareness and responsiveness to the threat posed by corruption is slowly increasing across ASEAN countries. They have all ratified the UNCAC and are committed to implementing the wide-ranging measures it includes. While such recognition of the problem is to be commended, corruption levels remain high across most of the region, as can be seen by the average Corruption Perceptions Index⁶ score for the region (where 100 is very clean and 0 highly corrupt), which lies at the lower end of the index (see Figure 1).

Figure 1



*Averages do not include Brunei

Looking at the specific corruption issues Southeast Asia is currently facing, there is a high level of perceived public sector corruption. According to business people and country experts, the average

⁵ The ASEAN Economic Community 2015: On the Road to Real Business Impact. KPMG, 2014. p. 6. See: www.kpmg.com/SG/en/IssuesAndInsights/ArticlesPublications/Documents/Tax-Itax-The-ASEAN-Economic-Community-2015.pdf [accessed: 10 October 2014].

⁶ The Corruption Perceptions Index ranks countries and territories based on how corrupt their public sector is perceived to be. It is a composite index – a combination of polls – drawing on corruption-related data collected by a variety of reputable institutions. The index reflects the views of observers from around the world, including experts living and working in the countries and territories evaluated. For more information see: www.transparency.org/cpi2014/in_detail

score for ASEAN countries covered in Transparency International's 2014 Corruption Perceptions Index is 38 out of 100.⁷ Only Singapore and Malaysia score above 50 (with 84 and 52 respectively).

Turning to external perceptions, a 2014 poll of 588 senior executives representing US companies in all ASEAN countries noted that corruption was the top issue across ASEAN in all countries except Brunei and Singapore; this was unchanged from previous years.⁸ According to the US Chamber of Commerce who conducted the survey, "American companies also pointed to burdensome laws and regulations, lack of transparency, poor quality of infrastructure, and the difficulty in moving products through customs in some countries as obstacles to greater investment."⁹

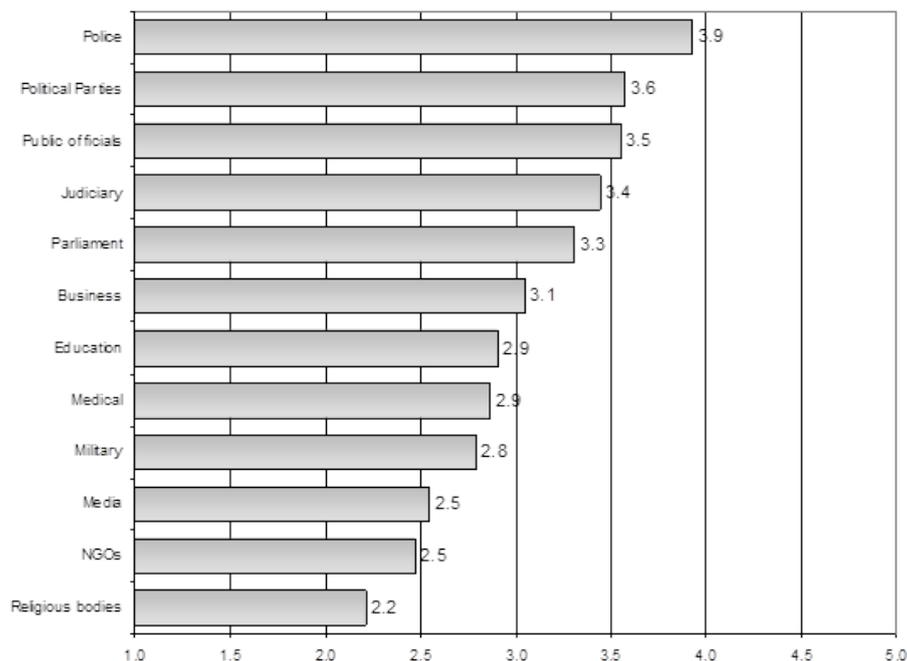
The public in many of these countries reinforces the point. Asked how big a problem corruption is in the public sector on a scale of 1 to 5 (where 1 means not a problem at all and 5 means a very serious problem), people in these countries responded on average 4.1 (see Figure 2).¹⁰ Worryingly, almost 50 per cent of respondents felt there to have been an increase in the overall levels of corruption in the region, while less than a third on average felt that their government's efforts in fighting corruption had been effective. Furthermore, 78 per cent of people said they felt their government is run either somewhat or largely/entirely by a few big entities acting in their own interest.

Out of the institutions covered, the police, political parties, public officials, judiciary and parliament were the institutions seen as most affected by corruption in ASEAN countries.

Figure 2

Public perception of corruption in Southeast Asia, by institution¹¹

On a scale of 1 to 5, where 1 means not at all corrupt and 5 means extremely corrupt, to what extent do you see the following categories to be affected by corruption in this country? Average scores given for ASEAN countries covered (Cambodia, Indonesia, Malaysia, Philippines, Thailand and Vietnam).



7 Corruption Perceptions Index 2014, Transparency International. See: www.transparency.org/cpi [accessed 10 December 2014]. ASEAN countries covered: Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

8 2015 ASEAN Business Outlook Survey of American Companies, US Chamber of Commerce, 2014. See: www.amcham.or.id/amcham-updates/4708-asean-business-outlook-survey-2015 [accessed 10 October 2014].

9 2015 ASEAN Business Outlook Survey of American Companies.

10 Global Corruption Barometer 2013, Transparency International. See: www.transparency.org/gcb [accessed 10 December 2014]. ASEAN countries covered: Cambodia, Indonesia, Malaysia, Philippines, Thailand and Vietnam.

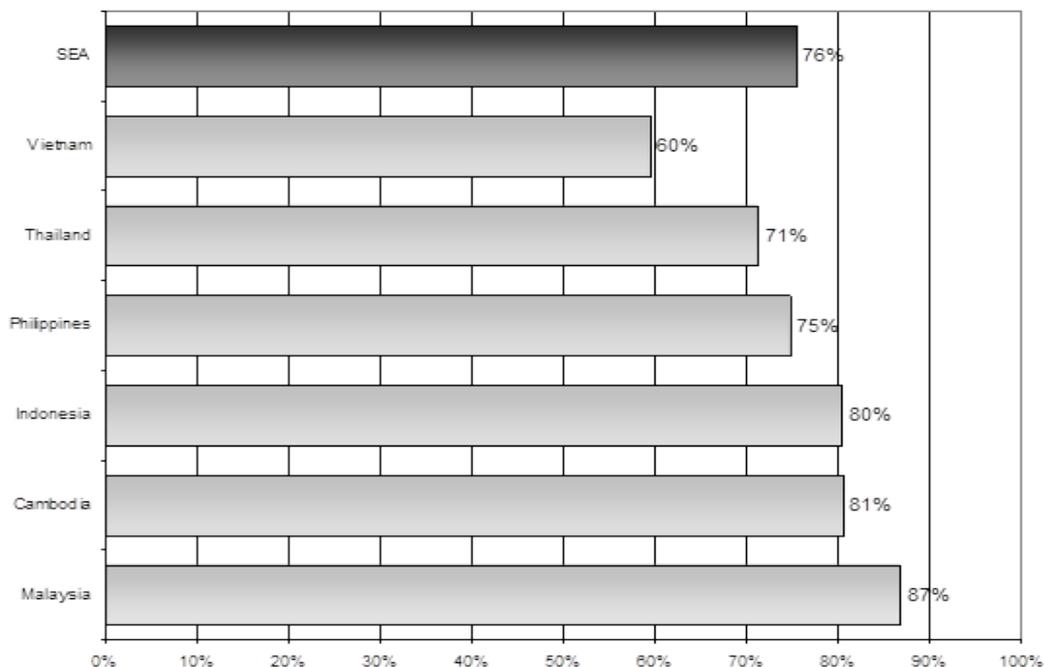
11 Global Corruption Barometer 2013, Transparency International.

Although corruption is seen as a severe problem across most ASEAN countries, it is encouraging that, across the countries surveyed, more than three-quarters of the general public on average feel they can do something about it (see Figure 3 below).

Figure 3

Can ordinary people make a difference?

Percentage of people in Southeast Asia that agree with the following statement: "Ordinary people can make a difference in the fight against corruption"



SUSTAINABLE PROSPERITY BUILT ON TRANSPARENCY AND ACCOUNTABILITY

"As long as corruption and economic inequality exist, the people of ASEAN will think that integration will only benefit certain groups of people."¹² Aswar Prasad, Professor of Trade Policy, Cornell University

Despite the many benefits promised by the Roadmap for an ASEAN Community 2009–2015,¹³ and especially the AEC, greater economic integration also poses new and larger corruption challenges for the region. If left unchecked, corruption not only risks jeopardising ASEAN's collective goals but potentially becoming an even greater problem for each member state and their people than it is today.

Not only does ASEAN potentially face a significant loss to corruption, but many see a clear negative link between levels of corruption and sustainable development.¹⁴ A TI study has shown the huge, positive impacts transparency can have on development – if you reverse the corruption–poverty equation.¹⁵ For example, the findings suggest that a higher level of access to information (e.g. on a

¹² "ASEAN Connectivity, Myanmar Issue Highlighted in World Economic Forum", Amie Fenia Arimbi, Antara News. 02 June 2012. See: www.antaraneews.com/en/news/82629/asean-connectivity-myanmar-issue-highlighted-in-world-economic-forum [accessed 10 December 2014].

¹³ Roadmap for an ASEAN Community 2009–2015: www.asean.org/images/archive/publications/RoadmapASEANCommunity.pdf

¹⁴ www.econ.cam.ac.uk/dae/repec/cam/pdf/cwpe1061.pdf (p. 31).

¹⁵ "The Anti-Corruption Catalyst: Realising The MDGs By 2015", Transparency International, 14 September 2010: www.transparency.org/whatwedo/publication/the_anti_corruption_catalyst_realising_the_mdgs_by_2015

school's budget, resource inflows provided to schools and appointment procedures for teachers and school administrators) is positively and significantly correlated with higher literacy rates. Governments that are more open and accountable to their citizens have better development outcomes across the board, regardless of whether a country is richer or poorer.

However, the reverse also holds true: when bribery is rife, development stagnates. For example, in countries where more than 60 per cent of people report paying a bribe, almost five times more people live on less than US\$1 a day than in countries where less than 30 per cent of the population reports paying bribes.¹⁶ Overall, more than one out of three people in countries with high bribery rates live in poverty.

For these reasons, it is essential that ASEAN governments support new global development commitments – the sustainable development goals – which are to be agreed this year, and push that they include a goal on governance (currently Goal 16). These agreements are currently being negotiated in New York and ASEAN countries should join together under the ASEAN Integrity Community (AIC) in a common statement to support Goal 16, championing the importance of transparency, accountability and participation and ensuring the frameworks fund and track progress on the goals.

By putting governance at the centre of these new commitments, ASEAN member states and the world will ensure that the development promises made in September 2015 are realised by 2030 for all people. The stand-alone governance goal must have targets that are ambitious, as well as good indicators that can be universally measured. Linking the strategic goals of an AIC to key international initiatives such as the sustainable development goals will ensure that ASEAN plays a defining role in driving clean development in the region and beyond.

“In countries where more than 60 per cent of people report paying a bribe, almost five times more people live on less than US\$1 a day than in countries where less than 30 per cent of the population reports paying bribes.”

In order to gain the trust of citizens and investors, transparency and accountability must be key parts of the foundation on which the ASEAN post-2015 vision is built. A realised commitment by those responsible to be held accountable for their actions instils a government with legitimacy both in the eyes of its people and in the international arena. Such an intensified commitment to anti-corruption will not only help individual ASEAN countries, but will be critical for the region to achieve the promise of the AEC and ASEAN Vision 2020 across all pillars and be able to deliver on its promises to the people. It is now time to harness current national anti-corruption efforts into one AIC to develop and drive a clear regional agenda.

¹⁶ www.transparency.org/news/feature/good_governance_end_poverty_now

ASEAN AND REGIONAL INTEGRATION

“(T)he current AEC mission will not achieve its stated goal of creating a single competitive market unless we improve governance structure and practices, to make our competitiveness sustainable and resilient, in the context of a rapidly changing global economic environment.” Vice President of the Republic of the Union of Myanmar, Dr Sai Mauk Kham

Regional Integration under the Roadmap for an ASEAN Community 2009–2015 is well underway. In fact, according to ASEAN’s own reports, significant progress has been seen on the implementation of blueprints – an estimated 85% of the AEC targets are due to be completed by 2015.¹⁷ However, there are some serious concerns about the region’s ability to fully implement and enforce the new regulations under the three community blueprints. The remaining areas for implementation represent large challenges for the region. The ASEAN Implementation report notes that domestic regulatory reforms, enhanced capacities, strong internal coordination and sufficient budgets are imperatives in order to address the implementation challenges¹⁸. Another key issue noted by many experts is the significant number of citizens and even businesses that are unaware of the integration process the region is undergoing. According to a study by National Economics University and a business association, 60 per cent of businesses surveyed do not know what the AEC is.¹⁹ Ensuring consistent standards and labelling would be difficult in any country, but given the high levels of corruption and lack of government oversight, infrastructure, resources and training that exist in some parts of the region, fulfilling these requirements will be challenging and will act as an unintended barrier to free trade across the region.

“60 per cent of businesses surveyed don’t know what the ASEAN Economic Community is.”

REGIONAL INTEGRATION RAISES CORRUPTION RISKS

ASEAN’s steady progress toward regional economic integration will only help to reduce corruption in Southeast Asia if this growth model includes strong regional leadership on collaborative anti-corruption reforms. While economic openness could promote healthy competition that helps squeeze corruption out of the system,²⁰ greater economic integration also poses a number of risks that, if left unaddressed, could actually make the corruption problem worse.

The increase in the quantity of economic transactions – more goods going through customs, more new factories needing permits, etc. – could lead to more corruption (in absolute terms), even if the proportion of transactions tainted by corruption remains constant or declines. Moreover, the increase in the lawful flows of goods, money or people across borders may be accompanied by an increase in related illicit trade. For example, greater labour mobility may make it easier to conceal human trafficking, greater legitimate trade in timber and other forest products may increase opportunities for illegal harvesting, and the free flow of capital and the emergence of integrated regional financial markets may make it easier to launder money and conceal stolen assets.

Additionally, although more economic opportunities and a common market may increase overall prosperity, it will not be equally distributed: economic integration creates losers as well as winners. Certain political or business elites may be better positioned to take advantage of the new wealth

¹⁷ ASEAN Integration monitoring report 2013 (www.asean.org): 79.7 % of the AEC Scorecard as at August 2013.

¹⁸ ASEAN Integration Monitoring Report 2013.

¹⁹ <http://tuoitrenews.vn/business/25601/80-of-vietnamese-businesses-unmindful-of-asean-economic-community-conference> [accessed 09 March 2015].

²⁰ www.oecd.org/daf/competition/2014-competition-factsheet-iv-en.pdf p. 3 [accessed 20 March 2015].

generated. Those who control key resources in which free entry and full competition is not possible (even after the AEC creates a single market) – for example, in the extractive industries, government contracting and real estate – may be able to exploit their privileged positions to extract even more rents. The greater prosperity created by regional economic integration could very well end up concentrated in relatively few hands, and the result could be increased economic inequality and more powerful patronage and crony networks.

This is particularly likely if wealthy and unethical businesspeople in some ASEAN countries deliberately seek out lucrative opportunities in countries with weaker governance institutions, in the process enriching and strengthening corrupt elites in those countries and possibly collaborating in the subversion of domestic accountability mechanisms. Indeed, although the hope is that regional integration and greater competition will promote the diffusion of good norms and practices – a “race to the top” – there is always the risk of a “race to the bottom” in which greater international competition and capital mobility prompts unethical private parties to seek out more opportunities to profit from weak oversight, while public officials auction off their national resources to the highest bidder.

CORRUPTION THREATENS REGIONAL INTEGRATION

Not only does regional economic integration pose new corruption risks and challenges, but widespread corruption, if left unaddressed, could undermine ASEAN’s progress toward regional economic integration and shared prosperity.

Most straightforwardly, various forms of corruption can be a direct barrier to the achievement of the AEC’s objectives. For example, corruption in cross-border trade and investment functions as a kind of non-tariff barrier (in fact, if not in law), especially if demands for corrupt payments fall disproportionately on foreign businesses. Corruption in government procurement – with the associated higher costs, lower quality and frequent delays – may also impede the development of the regional trading infrastructure (such as ports, rail and road transport, telecommunications links, etc.) that ASEAN countries have envisioned as a way to reduce transaction costs and knit the region together even more tightly. Infrastructure development will be central to harnessing the region’s economic potential. The World Economic Forum reports that, with the establishment of the AEC, countries in East Asia require an estimated US\$8 trillion to fund infrastructure needs by 2020.²¹ In a region with high levels of corruption, there is a serious risk of huge amounts of public funds being siphoned off and many of the projects facing setbacks.

Intra-regional corruption may also interfere with the AEC’s stated goal of linking ASEAN more closely with the larger global economy. For example, other parts of the world, such as the United States and the European Union (EU), are becoming increasingly concerned with the provenance of the goods they import – for instance, by demanding “clean supply chains” for imported products. As a result, each ASEAN nation that exports to those markets, with products derived in part from intra-ASEAN imports, will need to pay attention to corruption and illicit trade within the region.

However, perhaps the most significant threat that corruption poses to the project of regional economic integration is political. As noted above, the hope and aspiration of the leaders and citizens who supported the AEC agreement is that the benefits of regional economic integration, and the new opportunities this integration creates, will diffuse widely to ordinary citizens throughout ASEAN. Yet if persistent corruption and cronyism cause the benefits of regional economic integration to flow to well-connected elites, leading to greater income inequality, then political support for regional economic integration is likely to drop away. Indeed, we have seen time and again that progress toward free trade, common markets and other forms of economic liberalisation can trigger a sharp, sometimes violent, political backlash if citizens perceive that these new economic opportunities are enriching a small minority of well-connected elites, leaving most ordinary people no better or even worse off.

Looming in the background is the spectre of the 1997 financial crisis. Whether or not corruption and “crony capitalism” were indeed significant contributors to that particular historical event, a great deal

²¹ “US\$8 Trillion Needed to Bridge ASEAN’s Infrastructure Gap”, World Economic Forum, 23 May 2014. See: www.weforum.org/news/us-8-trillion-needed-bridge-asean-s-infrastructure-gap [accessed 10 December 2014].

of research indicates that corruption is not only bad for economic prosperity (by leading to a misallocation of resources and imposing deadweight costs on useful transactions) but also endangers both macroeconomic stability and political legitimacy.

Another serious threat to the success of ASEAN's integration is governments' ability to ensure the effective implementation of the new laws and standards set out in the AEC. The current reality is that a multitude of different standards, non-tariff barriers, protectionism and bureaucracy hampers the free flow of goods and services across the region, which in turn provides greater incentives for corruption. For example, importing and exporting within ASEAN currently involves different procedures that often result in goods waiting at ports for weeks until paperwork is cleared, which maximises opportunities for corruption.²² Increasing regional standards and ensuring proper implementation of relevant laws will help to address corruption in countries where it is most prevalent, as well as hindering the spread of corruption across borders.

ASEAN is in the beneficial position of being able to look to other region in terms of integration and development and learn from those lessons for the benefit of all citizens. For example, in the EU, while greater harmonisation and collaboration has brought some progress against corruption, it still remains a burden on society. The key issues faced there echo the same issues that are likely to (or can already) be seen in Southeast Asia if corruption is not at the forefront of the agenda. According to the EU itself, "EU Member States have in place most of the necessary legal instruments and institutions to prevent and fight corruption. However, the results they deliver are not satisfactory across the EU. Anti-corruption rules are not always vigorously enforced, systemic problems are not tackled effectively enough, and the relevant institutions do not always have sufficient capacity to enforce the rules. Declared intentions are still too distant from concrete results, and genuine political will to eradicate corruption often appears to be missing."²³ In fact, the cost of corruption to the EU economy is estimated to be EUR 120 billion per year – only slightly less than the entire annual budget of the EU.²⁴

For all these reasons, the promotion of good governance and anti-corruption in the ASEAN region is inextricably linked to the promotion of regional integration, economic and otherwise.

EMERGING REGION-WIDE ANTI-CORRUPTION CHALLENGES

Cross-border bribery

Traditionally, concerns about cross-border bribery in the ASEAN region have involved firms from outside the region – from the United States, Europe, Japan, South Korea or Australia – allegedly paying bribes to officials in Southeast Asian countries. However, as intra-ASEAN trade and investment expands we are likely to see an increasing number of intra-ASEAN transnational bribery cases. As intra-regional cross-border trade accelerates, incidents of intra-ASEAN foreign bribery are likely to accelerate as well.

Although all ASEAN countries are members of UNCAC – which requires the criminalisation of foreign as well as domestic bribery – not all of these countries have adopted laws that fully comply with this obligation. That said, the principal challenge is not so much the absence of laws but rather the fact that few ASEAN countries have significant experience with, or offices dedicated to, foreign bribery offences – which often involve complex issues not present when investigating purely domestic bribery. As a result, although there have been a number of joint operations against international smuggling rings there has been little if any enforcement action taken by ASEAN countries against their own firms for bribery of foreign officials in other ASEAN countries.

ASEAN's legal diversity poses additional challenges, including as it does the common law systems of Malaysia, Myanmar and Singapore alongside the continental-style civil law systems of Indonesia,

²² www.ft.com/intl/cms/s/0/a46df7ca-acde-11e4-beeb-00144feab7de.html#axzz3TuMcmcyZ [accessed 09 March 2015].

²³ http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf (p.).

²⁴ http://ec.europa.eu/dgs/home-affairs/e-library/documents/policies/organized-crime-and-human-trafficking/corruption/docs/acr_2014_en.pdf (p. 3).

Thailand and Vietnam. Some experts worry that this legal diversity may mean the interpretation of anti-corruption laws and regulations will vary across countries, potentially creating obstacles to effective international cooperation. Although all Southeast Asian countries prohibit bribery, there may be some divergence in what countries count as a bribe. For example, some countries appear to exempt “facilitation payments” from the criminal prohibition on bribery, while others do not. The lack of harmonisation is not necessarily a problem, as anyone paying a bribe is subject to liability in whichever countries have jurisdiction over the transaction. But a lack of harmonisation might pose political problems or be an obstacle to full legal cooperation. Effective action to combat cross-border bribery requires both countries to cooperate effectively. Some anti-corruption authorities (ACAs) in ASEAN countries have a long history of practical cooperation with their counterpart agencies in neighbouring countries on these sorts of cases, but this is nonetheless an area where many experts believe improvements are necessary.

Illicit international trade networks

One of the most important causes – and consequences – of corruption in Southeast Asia is the presence of extensive illicit international networks that engage in all manner of illegal trade, including the smuggling of drugs, counterfeit products and natural resources (especially timber and wildlife products), as well as human trafficking. These networks could not exist without widespread corruption, from the bribes to low-level customs officials and police officers who accept payoffs to look the other way to the high-level government officials who protect, and sometimes directly participate in, these illegal networks. The huge profits these illegal activities generate, in turn, finance the bribery, extortion and other corrupt activities that allow the networks to persist – a vicious circle that is difficult to break. And while these transnational networks have long been a problem, greater regional economic integration could intensify this, as criminals find ways to take advantage of new economic opportunities and new vulnerabilities. Indeed, confronting illicit trade networks and the associated corruption requires a collective and coordinated law enforcement response, given the tendency of sophisticated criminal groups to take advantage of the weak points in the system.

Money laundering and asset recovery

Greater regional integration and cross-border economic activity not only increase the need for international cooperation to combat the illicit flow of goods and people but also to deal with illicit capital flows. Corrupt actors often employ complex cross-border financial transactions, as well as investments in real estate and financial assets in other countries, to disguise their corrupt deals, to launder the proceeds of their illegal activity, and to shield those assets from seizure and recovery actions by the states directly affected by the wrongdoing. It is difficult to address high-level corruption or disrupt sophisticated corruption networks unless law enforcement agencies are able to go after these assets – both to detect and punish the illegal transactions and to freeze, seize and return the proceeds of corrupt or other unlawful activity to their rightful owners. This problem is neither unique nor new to Southeast Asia; however, it is likely to intensify as regional economic integration strengthens economic links across borders, loosens controls on capital movement and cross-border investments, and potentially creates new sources of illicit wealth and higher levels of sophistication on the part of wrongdoers.

MEETING THE CHALLENGES

Given the concerns and potential risks outlined above, and ASEAN's ambitious plans, the current anti-corruption stance has been slow and insufficient. Integrity, transparency and anti-corruption must be prioritised, with fast-tracked plans of action that allow sustainable growth and regional prosperity to be achieved. It has become critical that ASEAN member states and ASEAN itself urgently recognise and address these issues.

Addressing these anti-corruption challenges will require action at both the national and regional levels. At the national level, states must strengthen their anti-corruption efforts in order to realise the promise of the AEC and ASEAN Vision 2020. But national-level action alone is not enough. ASEAN member states must promote and deepen region-wide anti-corruption efforts in order to respond to existing and emerging region-wide challenges.

ACHIEVING AN ASEAN INTEGRITY COMMUNITY

"States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of corruption on society in general, in particular on sustainable development." Article 62.1: UN Convention Against Corruption

Given the imminent creation of the AEC, the conclusion of the Roadmap for an ASEAN Community 2009–2015 and the development of the post-2015 ASEAN Vision, the time is right to develop a focused regional anti-corruption framework that respects local circumstances while driving cooperation across borders and sectors.

To build momentum for this initiative, clear commitment and leadership from governments, the business sector and civil society is critical. Every community must have members and for the ASEAN Integrity Community (AIC), this will mean these key three groups, as well as responsible regional bodies and institutions. Building on existing calls for the creation of an ASEAN Ministerial Meeting on Anti-Corruption, as well as the Southeast Asia Parties Against Corruption's (SEA-PAC) exploration of formalising its role in promoting anti-corruption efforts across the region, the AIC will provide a framework to integrate these and other existing initiatives to create a coherent regional anti-corruption strategy. Furthermore, the AIC will provide space for civil society and the business sector to be able to have input into and shape this regional anti-corruption agenda. By bringing regional efforts together in an inclusive framework, clear and realistic priorities can be identified and pursued. Defining such priorities will provide a clear plan for which resources and support can be acquired from both within the region and beyond. It will also allow for a shared space to build on existing initiatives and lead to increased knowledge-sharing, exchanges between countries in terms of best practice, lessons learned and personnel, and contribute to a more developed community of practice. Exactly how these initiatives work together is a conversation that Transparency International will be pursuing in the coming months with all interested parties demonstrating leadership on anti-corruption.



Figure 4

Embracing mutual accountability in ASEAN

The formation of an AIC composed of several interactive layers with representatives from governments, business and civil society from each ASEAN member state is required to move the anti-corruption agenda forward collectively. The community will be tasked with leading the strengthening of regional cooperation in the fight against corruption, collaboratively defining specific annual indicators and assessing their implementation.

Key recommendations

Governments should:

- demonstrate support for the inclusion of anti-corruption in the post-2015 ASEAN Vision and the creation of an AIC
- follow the commitments from several ASEAN member states to establish an ASEAN Joint Ministerial Meeting on Integrity, Transparency and Anti-Corruption that would lead the development and implementation of a regional cooperation framework and action plan in consultation with the private sector and civil society

Governments, ACAs and stakeholders across the region should

- create a Working Group on Governance and Integrity to act as the driving force for the AIC, including proposing priorities and an integrity action plan

ASEAN civil society and business should:

- engage in regional fora to collectively urge their governments to prioritise the inclusion of anti-corruption in the agenda of the 2015 ASEAN Vision and call for a consultative role in the creation of an AIC

Development partners and the international community should

- proactively take part in the creation of the AIC and align regional support on anti-corruption to its priorities

RECOMMENDED ASEAN INTEGRITY COMMUNITY FOCUS AREAS

Several broad areas have emerged from ongoing discussion across the region with key stakeholders that can serve as a starting point for discussions around the strategic focus of that AIC. This section presents four key areas and several suggested recommendations within each:

- Achieving effective anti-corruption policies, legislation and strategies
- Achieving strong and independent anti-corruption institutions
- Achieving intergovernmental anti-corruption cooperation
- Achieving meaningful engagement with civil society and the business sector

While by no means an exhaustive list, addressing anti-corruption challenges in these focus areas will prove vital to establishing a prosperous ASEAN built on integrity and transparency for generations to come.

1. Achieving effective anti-corruption policies, legislation and strategies

“Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.” Article 65.1: UN Convention Against Corruption

The only truly global anti-corruption convention, the UNCAC, obliges state parties to implement a wide and detailed range of anti-corruption measures affecting their laws, institutions and practices as well as an anti-corruption strategy that is developed in a participatory manner, clearly communicated and fully implemented.²⁵ These measures aim to promote the prevention and detection of and sanctions against corruption, as well as the cooperation between states on these matters. Measures particularly relevant to the ASEAN context include codes of conduct and asset declaration for public officials, transparency and regular audits in public procurement and public finances, steps to prevent private sector corruption, the protection of whistleblowers and freedom of information. It also includes commitments to tackle regional corruption through addressing cross-border bribery, illicit trade networks, money laundering and asset recovery.

Although some progress has been made in implementing UNCAC commitments,²⁶ a collaborative regional approach to fulfilling these commitments would pool knowledge and resources. The first step in demonstrating greater regional commitment is for governments to engage in the AIC and determine a plan of action for short-, medium- and long-term priorities to increase transparency and accountability. Implementing such a plan of action will help governments to detect and protect against corruption, as well as enable citizens to understand their rights and participate fully in public processes. It will also help to raise the standards of legal anti-corruption frameworks across the region both in individual states and collectively as a region.

“Access to information, strong rule of law and anti-corruption legislation have a positive effect on MDG achievements in maternal health, literacy and clean water. High levels of corruption, however, correlate with many of the targets being missed. This relationship holds across all the development goals related to poverty and hunger, education, maternal and child health, communicable diseases, water and sanitation.”²⁷

As each ASEAN member state has already ratified and begun implementation of the UNCAC commitments, the convention provides a common starting place, where existing UNCAC country

²⁵ www.unodc.org/documents/southeastasiaandpacific/2013/10/corruption/Kuala_Lumpur_Statement_on_Anti-Corruption_Strategies_Final_21-22_October_2013.pdf [accessed 10 December 2014].

²⁶ For individual country reports conducted so far see: www.unodc.org/unodc/en/treaties/CAC/country-profile/

²⁷ www.transparency.org/news/feature/good_governance_end_poverty_now

reviews can be used to identify common issues and determine regional priorities. Under the UNCAC, each country is required to carry out periodic reviews of implementation. These reports provide key insights on the progress made against the commitments in the UNCAC. One potential way of providing a better overview of priority areas requiring legal reform would be a regional assessment building on these existing reports and providing benchmarking and comparison across the region. The AIC could play a role in conducting such an independent report to help guide the creation of a regional anti-corruption strategy. It could also draw on member states' previous experiences to ensure greater success and the sustainability of such reforms.

It is important to note that anti-corruption laws are often inter-dependant and as countries and the region move forward in raising the standards of such laws, this should be done in a holistic approach, looking at addressing weak areas across the whole legal system. National anti-corruption strategies can play an important role in defining a clear path to reducing corruption. However, it is critical that these strategies are developed in an open and consultative process reflecting national concerns. Moreover, once they have been defined, they must be clearly communicated and fully implemented. They should set clear, achievable and measurable goals with defined roles and responsibilities, as well as reflecting both national realities and existing international commitments. The Kuala Lumpur Statement on Anti-Corruption Strategies, developed by the United Nations Office on Drugs and Crime (UNODC) and the United Nations Development Programme in a consultative process, lays out a clear set of recommendations for governments on how just such a strategy can be developed.²⁸

Three key areas have presented themselves in ongoing consultations as both vital and underdeveloped in terms of transparency and citizen engagement in Southeast Asia: 1) whistleblower protection laws; 2) asset declaration; and 3) access to information laws. Moving forward on these areas would demonstrate a significant commitment from ASEAN member states both to increasing transparency and fostering a people-centred ASEAN.

Whistleblower protection is of paramount importance, as those who come forward to report corruption often face threats or are ignored, thus dis-incentivising reporting.²⁹ It is therefore vital to introduce comprehensive whistleblower legislation to protect those that speak out and ensure that their claims are properly investigated. Public education is also essential to de-stigmatise whistleblowing, so that citizens understand how disclosing wrongdoing benefits the public good. When witnesses of corruption are confident about their ability to report it, corrupt individuals cannot hide behind the wall of silence.

Asset declaration is another key area as it serves to prevent, detect, investigate and prosecute corruption. Such declarations make it easier to identify potential cases of illicit enrichment, contribute to anti-money laundering and asset recovery efforts, help manage conflicts of interest and can provide evidence of illicit flows.³⁰ Public sector officials who have achieved positions of power and managerial control over government budgets and spending can be particularly vulnerable to corruption.

Another key area that ASEAN, and Asia in general,³¹ is lagging behind other regions in and that poses a barrier to greater transparency in the region is the adoption of Freedom of Information (FOI) legislation. When citizens are denied their right to information they cannot participate in decisions that affect their own lives and corrupt officials can act with impunity. Secrecy in the interest of national security should only be applied in exceptional instances, and should be based on defined criteria and subject to legislative oversight. The benefits from greater transparency, such as publishing local budgets, are enormous, and include informed and engaged citizens, broad economic benefits and the easier detection of officials engaged in corruption. Among

“Only two out of 10 countries in Southeast Asia – Indonesia and Thailand – have enacted Freedom of Information Laws.”

²⁸ www.unodc.org/documents/southeastasiaandpacific/2013/10/corruption/Kuala_Lumpur_Statement_on_Anti-Corruption_Strategies_Final_21-22_October_2013.pdf [accessed 10 December 2014].

²⁹ For more information on Transparency International's analysis and recommendations on whistleblower protection see: www.transparency.org/whatwedo/activity/our_work_on_whistleblowing

³⁰ For more information on Transparency International's analysis and recommendations on asset recovery see: www.transparency.org/whatwedo/publication/working_paper_1_2014_asset_declarations_an_effective_tool

³¹ Only 15 out of 49 countries in Asia have enacted FOI laws: www.rappler.com/newsbreak/iq/63867-fast-facts-access-to-information-laws-world [accessed 12 April 2015].

ASEAN countries, however, only Indonesia and Thailand have a FOI law, and even in these countries public awareness remains low and implementation could be improved. Three additional FOI laws are at different stages of development in Cambodia, the Philippines and Vietnam, but have not yet been enacted.

RECOMMENDED ACTIONS

- Governments should pursue the development of regional standards and priorities for legal frameworks, guided by international norms and prioritising asset declaration, FOI laws, whistleblower protection and standardised public procurement regulations.
- Governments should develop a mechanism through the AIC to fast track support for governments with limited capacity, so that they can raise the standards of legal anti-corruption frameworks.
- Governments should mobilise existing expertise, tools and best practices and facilitate shared learning and analysis of priorities among member states so that they can collectively strengthen their integrity-related legal framework and monitor the implementation of its laws.

2. Achieving strong and independent anti-corruption institutions

["Each State Party shall grant the body or bodies ...the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided." Article 6.2: UN Convention Against Corruption](#)

As ASEAN becomes one community with greater economic integration, we can foresee several key areas that may pose new challenges for ACAs and law enforcement agencies, the key players in the formula for successful anti-corruption reform. This is particularly true if the volume of potentially corrupt transactions increases faster than the resources available to law enforcement. These challenges are exacerbated by the fact that addressing cross-border corruption – especially cases involving illicit international networks and complex transactions – requires both effective international cooperation and technical capacity. When international cooperation is ineffective, or when the responsible enforcement agencies lack the resources and expertise to tackle complex international crime, then corrupt actors find it easier to avoid detection, deterrence weakens and corruption worsens.

To address these issues, the varying rules and regulations across the region need to be compared and understood, and discrepancies in legal frameworks addressed so they can be enforced by ACAs effectively and preventive work aligned with that of neighbouring countries. More importantly, ACAs must lift their level of performance collectively as a group. Their mandates, independence, competencies and working principles must be on par with the international standards outlined in UNCAC and the Jakarta Principles.³²

Singapore and Malaysia were among the first countries in the world to establish ACAs in 1952 and 1959 respectively. Since then a number of ASEAN ACAs have enjoyed relatively higher impact than some of their counterparts in other parts of the world. However, many of these institutions still fall short of their true potential. Southeast Asian ACAs vary widely across the region in terms of their independence, mandates, function, jurisdictions and resources. Some have powers of prosecution with extensive staffs and budgets, while others may have a more limited capacity and are focused on investigation and education. Given the rising stakes that ASEAN member states face in the coming years, countries should seriously review the level of investment in these authorities and, where needed, increase this investment to ensure these agencies can meet the demands placed on them.

³² "Principles for Anti-Corruption Agencies: a Game Changer", Samuel de Jaegere. Published in *Jindal Journal of Public Policy*, Volume 1, Issue 1, August 2012: www.pogar.org/publications/ac/2012/publications/Principles%20for%20ACA%20samuel%20De%20Jaegere.pdf [accessed 10 December 2014] (p. 91).

Anti-corruption enforcement will not be effective unless anti-corruption agencies (including both the enforcement agencies – investigators and prosecutors – and the judiciary) are fully independent and impartial. In a survey among anti-corruption experts and practitioners in the Asia-Pacific region, “a significantly higher percentage of respondents rated their country’s efforts in combating corruption as excellent, very good or good, when their country had an institutionally independent ACA in place.”³³ Without such independence these bodies entrusted with anti-corruption enforcement will struggle to meaningfully tackle the “culture of impunity” that enables the powerful and well connected to benefit at the expense of ordinary citizens. ACAs need to be able to fully implement and enforce existing laws free of political interference if they are to effectively tackle large and destructive cross-border corruption networks.

To this end, public knowledge and support of such institutions can also go a long way toward ensuring the ACAs’ ability to act independently. The recent public outcry in Indonesia when the Indonesian Anti-Corruption Commission (the KPK) came under threat by police and political parties after opposing the appointment of the Chief of Police is a clear example of this.³⁴ Greater awareness and engagement of the public, as well as proactive communication of ACAs’ goals and impact, serve as another check on this system to ensure political interference and impartiality have no role in their efforts to enforce and prevent corruption. Such awareness can contribute to a change in societal values and to the prevention of corruption.

RECOMMENDED ACTIONS

- Governments must revise their anti-corruption laws concerning ACAs and put in place mechanisms to ensure the full operational independence of such authorities in law and practice – including judiciaries, investigative and prosecution authorities – so they can carry out their functions effectively, free of any undue influence.
- ASEAN governments should consider expanding the mandates of ACAs so that they can investigate and prosecute corruption cases independently and prioritise investment in developing investigative competencies.
- Governments should ensure sufficient human, financial and technical resources for ACAs, judiciaries, investigative and prosecution services to tackle both national and transnational cases.
- ASEAN member states should jointly develop a framework to learn from and benchmark the performance of their ACAs against best practices from within and outside the region.
- ASEAN member states should support their ACAs to carry out regional and national corruption-prevention campaigns to raise awareness and engage the public, as well as ensure public reporting on their activities and achievements.

3. Achieving intergovernmental anti-corruption cooperation

“States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.” Article 46.1: UN Convention Against Corruption

In order to see strengthened regional and intergovernmental anti-corruption cooperation in Southeast Asia, strong leadership from the top levels of government is needed. Furthermore, in this diverse region, a clear example must be set by the leadership to build trust and engagement across borders. Their leadership in overcoming the differences in legal systems and laws, as well as political, cultural, linguistic and historical contextual factors, and developing tailored approaches to cooperation and training is therefore essential for success.

With ASEAN’s vision of closer economic integration, the mutual dependency between countries increases, as does the necessity for greater anti-corruption cooperation. There are multiple agencies and authorities both locally and nationally that need to work together not only in their own countries but between them to address key corruption risk areas in the region. Greater cooperation between

³³ “Principles for Anti-Corruption Agencies: a Game Changer”, Samuel de Jaegere.

³⁴ <http://theconversation.com/indonesias-political-elites-drive-anti-graft-agency-into-jeopardy-37364> [accessed 01 April 2015].

national institutions can serve to increase their collective impact in tackling corruption on both the national and the regional fronts. The potential for the volume of corrupt transactions increasing faster than the resources available to law enforcement needs to be guarded against. Cooperation therefore needs to be supported by the relevant resources in terms of training, fostering a community of practice and funding.

While national priorities may at times seem to outweigh regional ones, it is important that all of the parties involved reflect on the key areas noted in the first half of this report and recognise that the regional challenges and risks brought on by increased interconnectedness will have an impact on their neighbours' corruption levels – and therefore their own as well. As regional integration increases, countries should bear in mind the increasing perception of the region as one economic bloc; the levels of corruption in other countries will have a greater effect on the way the levels of corruption in their own country are perceived and therefore on the investment risks involved.

ASEAN countries exporting products derived in part from intra-ASEAN imports will need to pay attention to corruption and illicit trade across the region. According to PwC, regulations like the US Foreign Corrupt Practices Act and the UK Bribery Act “will affect the way large corporations approach the emerging markets and the risks they are willing to take to do business in these environments”.³⁵ Resultantly, “Greater investment in and attention to infrastructure development and anti-corruption will also be needed to continue to attract investment and encourage the growth of new businesses.”³⁶

“Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.” Article 46.2: UN Convention Against Corruption

The positive news is that there are already a number of collaborations in existence, including through mutual legal assistance (MLA), regional anti-corruption authority networks, and bi- and multi-lateral memoranda of understanding between ACAs and various regional initiatives. Key examples are the Asian Development Bank/OECD Anti-Corruption Initiative for Asia and the Pacific and SEA-PAC, which has recently called for the formation of a working group to study the feasibility of the coalition becoming an entity under ASEAN. While the visible impact of these collaborations has so far been limited, building on this foundation ASEAN leaders can begin a shift from a sporadic opportunistic approach to collaboration to a more strategic one based on ongoing analysis of regional priorities that can serve to drive and enrich the discussion.

These initiatives and increased cooperation between these authorities will be critical for the smooth integration of an AEC that seeks to reduce corruption. While there has been some success so far, it will be important for these networks and initiatives to take a reflective and critical view on their own impact to successfully address the issue of corruption, as many existing initiatives focus mostly on non-specific agreements around information sharing and community building. In addition to leadership, resources and increased trust across the region, clear and consistent priorities need to be identified in line with the ASEAN post-2015 vision. The Siem Reap Statement on Curbing Foreign Bribery provides details and specific recommendations to address key areas, with particular attention to asset recovery, regional harmonisation of laws, whistleblowing and witness protection, clear MLA and extradition frameworks and a clear and timely process.³⁷ Building on this, a mechanism is needed to further develop and implement such a cooperative anti-corruption regional agenda on cross-border issues. Here the creation of an AIC would again provide a framework to integrate a SEA-PAC working group to collaboratively tackle and define just such priorities both in terms of prevention and enforcement.

35 “Developing Infrastructure in Asia Pacific: Outlook, Challenges and Solutions”. PwC: Mark Rathbone and Oliver Redrup, 2014: www.pwc.com/sg/en/capital-projects-infrastructure/assets/cpi-develop-infrastructure-in-ap-201405.pdf [accessed 10 December 2014] (p. 9).

36 “Economic Outlook for Southeast Asia, China and India 2015: Strengthening Institutional Capacity”, OECD and ASEAN Secretariat (p. 14).

37 www.unodc.org/documents/southeastasiaandpacific/2014/11/corruption/2014_10_03_Siem_Reap_Statement_on_Curbing_Foreign_Bribery_Final.pdf [accessed 10 December 2014].

RECOMMENDED ACTIONS

- ASEAN governments should invest in regional collaboration and the promotion of integrity, transparency and anti-corruption through engagement in the AIC and other existing initiatives.
- ASEAN member states should identify priority areas for collaboration through the AIC and develop a strategic framework so that these different priority areas can be aligned and effectively address regional and national needs.
- ASEAN governments should establish intergovernmental anti-corruption bodies at various levels, including the ministerial, law enforcement and expert level, so that they can advance the integrity and transparency agenda in the AEC under the AIC.

4. Achieving meaningful engagement with civil society and the business sector

“Each State Party shall take appropriate measures...to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.” Article 13.1: UN Convention Against Corruption

CIVIL SOCIETY

Actively engaging with all groups across society adds to the national resources and capacity of governments and helps them to ensure transparent and accountable laws and practices. It is also a clear signal that governments are serious about honouring their UNCAC commitments. A significant reduction in corruption levels will require all parts of society to come together, each playing a unique role in changing laws, practices and mind-sets. Such collective effort is particularly essential where entrenched corruption has been the norm for generations. Civil society can play a large role in tackling corruption by providing additional expertise and resources to shape new laws and policies as well as monitoring existing strategies, setting new standards, raising awareness and reducing public tolerance for corruption.

“Civil society and the general public can and often have been important in sustaining PSR [public sector reform] initiatives. However, they are most likely to be actively engaged in supporting PSR when government policies are reasonably transparent and the legal/regulatory framework promotes strong accountability of the government to its citizens.”³⁸

Creating a society that is more resistant to corruption necessitates a more inclusive approach that has greater citizen participation at its core. This means not only ensuring a safe and empowering space for civil society to conduct its work but also actively engaging the many national and regional groups in a consultative process on decision making. This works particularly well when governments define a space for open consultation and meaningful debate around key issues.

While some countries in the region have a long history of engagement with civil society, this is a fairly new development for others. Lack of trust and limited or antagonistic engagement must be addressed by both sides to ensure a constructive consultative process. While governments need to ensure that laws governing civil society do not serve to control or create a barrier to engagement, civil society should seek to play its role constructively and be held to the same standards it demands from its government. Accountability and trust on both sides is crucial and those countries that have achieved a higher level of engagement should seek to support others for which such engagement is a rather more recent phenomenon.

³⁸ “Economic Outlook for Southeast Asia, China and India 2015”, p. 14.

While laws that follow best practices and strong anti-corruption institutions are vital for a corruption-free society, these alone are not enough. Corruption is committed by individuals and so change can only be sustainable if it is underpinned by widespread public support and an increased demand for greater integrity, transparency and accountability. Seeking to come together to support anti-corruption reform across the regions, a civil society working group, as an integrated part of the AIC, would serve to create a space for ongoing debate, recommendations and engagement across the region.

BUSINESS SECTOR

A similar shift in mind-set must also come from the business sector, which means redefining the boundaries of appropriate behaviour by business leaders around these same values of integrity, transparency and accountability to create a level playing field. Given the importance of development and economic growth, the leadership role of business will be pivotal in tackling corruption and creating a greater demand for clean business and sustainable growth.

Corruption in the private sector and state-owned enterprises can undermine sustainable economic growth as well as the rule of law, the environment, human rights and free and fair competition. However, clean businesses can play a progressive role – that of a change agent – leveraging their influence and innovation to promote a transparent and accountable ASEAN where good practice is both demanded and incentivised. The prevailing business practices within ASEAN countries will have a profound impact on both national markets and the kinds of investment the region attracts. ASEAN countries should be sending a clear message about the standards they will hold companies to and the expectations they will have regarding the practices of foreign companies wishing to do business in the region.

Companies can seek to increase their own standards of transparency and accountability by implementing internal zero-tolerance bribery and corruption policies backed by a strong tone from the top.³⁹ Companies can also play a role in ensuring such measures protect them both across borders and down the supply chain.⁴⁰

Internal prevention steps are also needed in order to tackle business sector corruption, but key to reducing corruption across the region is a collaborative approach wherein businesses and private sector institutions participate in collective action initiatives across their industry, country and region. A key leader in bridging national collective actions groups is the ASEAN Corporate Social Responsibility (CSR) Regional Working Group on Business Integrity, which has brought seven organisations from six ASEAN member states together to combat corruption through regional knowledge-sharing, peer learning and partnership. Individual business sector and collective action initiatives across the region exist and some, such as the Extractive Industries Transparency Initiative⁴¹ and the ASEAN CSR Network,⁴² have been able to demonstrate success. Finally, there is also a clear role for other institutions involved in markets such as regulators and investors to ensure that companies are reporting their finances and actions openly. This means greater cooperation with governments, across borders and within the business sector itself. Driving this implementation is a key role businesses can play. A framework such as the AIC would provide a space to include a working group on business integrity to ensure it is at the forefront of the AEC agenda.

³⁹ For details on creating an anti-bribery programme see: www.transparency.org/whatwedo/tools/business_principles_for_countersing_bribery/1/

⁴⁰ www.transparency.org/topic/detail/private_sector

⁴¹ <https://eiti.org/>

⁴² www.asean-csr-network.org/c/

RECOMMENDED ACTIONS

- Guarantee an open and safe environment for the participatory engagement of civil society in fighting corruption and the development of a clean, responsible and active ASEAN business sector through the AIC.

Civil society organisations should:

- support governments in the development of new laws and policies, monitor existing strategies, help set new standards, raise public awareness and reduce tolerance for corruption, and hold themselves to the same standards they demand of their governments
- increasingly play a role in promoting social accountability in monitoring progress and holding governments and businesses accountable to integrity, transparency and anti-corruption standards and principles by applying social accountability tools
- Initiate, advocate and work together as a coalition at the national and regional level to advance the integrity, transparency and anti-corruption agenda within the AIC framework

The business sector should:

- ask their governments and ASEAN regional bodies to develop clear policies and measures, ensuring a level playing field in the AEC by working to harmonise national anti-bribery compliance regulations for companies
- support national and regional business integrity initiatives and facilitate shared learning and practices from good practices from various industries and countries
- initiate and work together as a coalition at the national and regional level to advance the integrity, transparency and anti-corruption agenda within the AIC framework

Governments should:

- ensure national laws and practices that enable an environment for inclusive collaboration and ensure space for civil society organisations to contribute to the development of anti-corruption laws, policies, and measures
- actively seek the participation and input of civil society and the business community in the public decision-making process and in raising public awareness at the national and regional levels
- encourage businesses, chambers of commerce and business associations to develop best practices and share their policies, measures and tools in the promotion of integrity, transparency and anti-corruption within their industries and beyond – and encourage members of their association to implement good practices and use existing tools
- ensure a level playing field by enacting and implementing strong anti-bribery laws and establishing a system of sanctions and incentives across the ASEAN region

CONCLUSION

ASEAN leaders and citizens aspire to a regional economic integration that truly benefits all people, giving rise to a new era of shared prosperity, upward mobility and entrepreneurship. However, without a strong foundation built on transparency, accountability and integrity this vision will be jeopardised. Strategic anti-corruption priorities must be set that are aligned to national priorities and the post-2015 ASEAN Vision to ensure they are relevant, realistic and actionable. An AIC is a critical step in turning this vision into reality.

Successful regional integration will also depend on the effective implementation of domestic regulatory reforms, particularly in those countries currently lagging behind the existing standards in the region. In order to tackle these issues, capacities will need to be strengthened, strong internal coordination promoted and appropriate resources made available.

Clear political will is also needed from governments to elevate these issues on the ASEAN agenda and to create a space for citizen and business participation in the development of key regional priorities and potential solutions. As Southeast Asia comes to the end of the Roadmap for an ASEAN Community 2009–2015 and looks toward a post-2015 ASEAN Vision, it is vital that the focus on reducing corruption has a more significant role in planning and ongoing discussions.

Through engagement with existing initiatives, and building on calls for an ASEAN anti-corruption ministerial council and working group of ACAs through SEA-PAC, the AIC can provide a framework to define and address regional priorities. The inclusion of businesses and civil society working groups is essential in this conversation and in securing an open, stable and people-centred ASEAN as well as monitoring progress against these priorities.

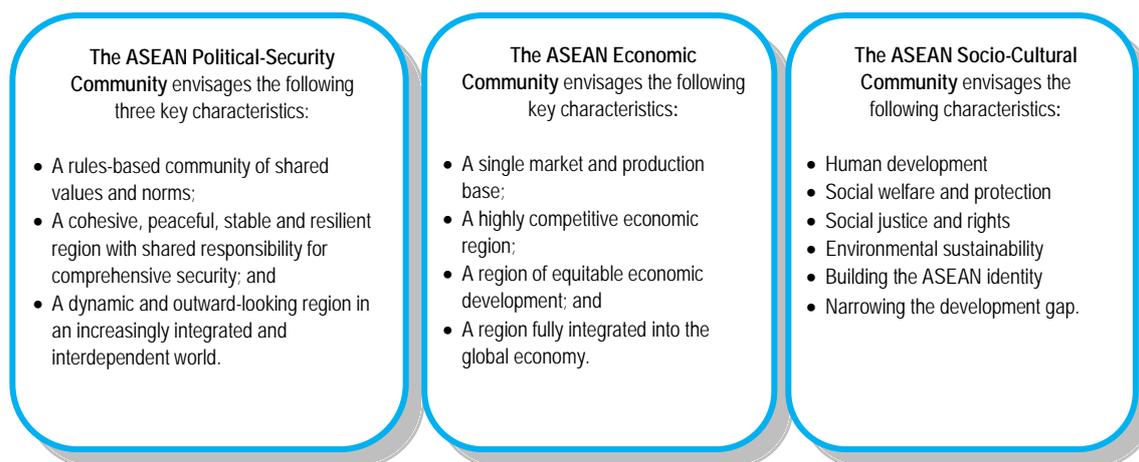
To effectively achieve this and to foster an anti-corruption agenda driven and defined by the region, the creation of a formal AIC as part of ASEAN itself is needed. Without an effective framework to inclusively develop, drive and monitor anti-corruption reforms, the AEC and the achievements of the post-2015 ASEAN Vision will not be sustainable.

Anti-corruption and good governance as main principles of regional integration are crucial to achieving a level playing field for business and ensuring lasting peace and security, sustainable economic growth and shared prosperity and social progress.

The recommendations provided in this report serve as an initial step in developing more concrete plans around the AIC. In the coming months, Transparency International will be looking to engage with governments, experts, civil society and businesses across the region to further define these ideas. The opportunity of the International Anti-Corruption Convention in September 2015 will provide a chance to check progress on the AIC, and for champions from all sectors of society across the region to publically demonstrate support for the inclusion of anti-corruption in the post-2015 ASEAN Vision and the creation of an AIC.

ANNEX I: ROADMAP FOR AN ASEAN COMMUNITY

Over a decade ago, ASEAN articulated a set of goals – the ASEAN Vision 2020 – for even deeper, more comprehensive regional integration.⁴³ The ASEAN region is thus poised to enter a new era of regional cooperation. The Roadmap for an ASEAN Community, which was put into effect in 2009, has laid specific actions points under each community:



The Political-Security Community sets out key areas to ensure that political and security cooperation are “taken to a higher plane” and “ensure that the peoples and Member States of ASEAN live in peace with one another and with the world at large in a just, democratic and harmonious environment.”⁴⁴ Under this, both the issues of good governance and anti-corruption are included; the ASEAN Political-Security Community promotes political development in adherence to the principles of democracy, the rule of law and good governance, respect for and promotion and protection of human rights and fundamental freedoms as inscribed in the ASEAN Charter (see the box on the following page).

The ASEAN Economic Blueprint sets out to “establish ASEAN as a single market and production base making ASEAN more dynamic and competitive with new mechanisms and measures to strengthen the implementation of its existing economic initiatives; accelerating regional integration in the priority sectors; facilitating movement of business persons, skilled labour and talents; and strengthening the institutional mechanisms of ASEAN.”⁴⁵

Under the Social-Cultural Community, the six key areas noted above have been identified to contribute to “to realising an ASEAN Community that is people-centred and socially responsible with a view to achieving enduring solidarity and unity among the nations and peoples of ASEAN by forging a common identity and building a caring and sharing society which is inclusive and harmonious where the well-being, livelihood, and welfare of the peoples are enhanced.”⁴⁶ It seeks to do this by addressing “the region’s aspiration to lift the quality of life of its peoples through cooperative activities that are people-oriented and environmentally friendly geared toward the promotion of sustainable development” while still recognising the different languages, culture and religions in the spirit of ‘unity in diversity’”.

43 ASEAN Vision 2020: www.asean.org/news/item/asean-vision-2020 [accessed 10 December 2014].

44 2009–2015 Roadmap for an ASEAN Community Association of Southeast Asian Nations: www.asean.org/images/archive/publications/RoadmapASEANCommunity.pdf (p. 6).

45 2009–2015 Roadmap (p. 21).

46 2009–2015 Roadmap (p. 67).

SECTION A.1.7. OF THE POLITICAL-SECURITY BLUEPRINT

- i. Identify relevant mechanisms to carry out cooperation activities in preventing and combating corruption and strengthen links and cooperation between the relevant agencies;
- ii. Encourage all ASEAN member states to sign the Memorandum of Understanding (MoU) on Cooperation for Preventing and Combating Corruption signed on 15 December 2004;
- iii. Promote ASEAN cooperation to prevent and combat corruption, bearing in mind the above MoU, and other relevant ASEAN instruments such as the Treaty on Mutual Legal Assistance in Criminal Matters (MLAT);
- iv. Encourage ASEAN member states who are signatories to the United Nations Convention against Corruption to ratify the said Convention;
- v. Promote the sharing of best practices, exchange views and analyse issues related to values, ethics and integrity through appropriate avenues and fora and taking into account inputs from various seminars such as the ASEAN Integrity Dialogue.

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