

Why implementing strategic trade controls is in ASEAN's interests by Carl Baker, David Santoro, and John K. Warden

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Increased investment and trade have contributed to rapidly growing economies in Southeast Asia. To take advantage, Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam have worked to facilitate economic modernization by integrating under the banner of the [Association of Southeast Asian Nations \(ASEAN\)](#). While they have achieved considerable progress, the ASEAN ten also recognize that the road to becoming a fully integrated economic unit will be long and arduous.

By the end of the year, ASEAN will officially establish the [ASEAN Economic Community \(AEC\)](#). In the works since 2007, the "AEC 2015" will help the region realize the [AEC Blueprint](#): creating a single market and production base in Southeast Asia, enhancing the region's competitiveness, promoting equitable economic development throughout the region, and integrating ASEAN into the global economy. Even with the AEC, however, Southeast Asian states will face a number of obstacles to economic modernization and integration. Some challenges, such as uneven economic development among regional states and lack of common policies governing intellectual property and trade in services, will take considerable time to overcome. Others, such as the implementation of high-standard strategic trade controls, can be addressed more readily.

While [United Nations Security Council Resolution 1540](#) requires all UN member states, *inter alia*, to implement "appropriate and effective" strategic trade controls, most Southeast Asian states have made little if any progress. With the notable exceptions of Singapore and Malaysia, ASEAN members have been dragging their feet. Some, such as the Philippines and Thailand, have been working for years to pass necessary legislation; the Thai cabinet, in fact, just [approved](#) its new law last June. The rest have not even gone that far. At the regional level, there has been strong resistance to integrating strategic trade management principles into the [ASEAN Single Window \(ASW\)](#) – a mechanism for expediting cargo clearance between ASEAN member states.

A [pilot survey](#) conducted at the Pacific Forum CSIS's annual track-1.5 meeting on strategic trade controls suggests that experts in Southeast Asian recognize that strategic trade management regimes would benefit their countries, but note that a combination of political, institutional, and technical barriers prevent substantial progress toward implementation.

Lack of political will stems in part from a fear that instituting trade "controls" would significantly inhibit trade – not an entirely unreasonable trepidation given the name.

These suspicions, however, reflect a misunderstanding of what strategic trade *management* regimes are and the effects they would have once implemented. Trade controls are the inner workings of nonproliferation, the mechanisms that manage the flow of goods and technologies deemed "strategic" or "dual-use" because they can be used to develop weapons of mass destruction (WMD) or their delivery systems. Yet while these controls provide an important element of monitoring and regulation, they do not interfere with the vast majority of trade because they only apply to a select few goods and technologies.

What's more, strategic trade controls can, in fact, *facilitate* trade of the very items that they regulate. [Research](#) shows that high-tech companies are more likely to invest in states that have robust strategic trade controls in place. In their absence, companies tend to avoid investment for fear that goods and technologies might fall into the hands of proliferators, which would harm their reputations and potentially create legal liability. Most high-tech companies have strict internal compliance programs that require risk assessments before approving the transfer of sensitive technologies or building manufacturing facilities. For this reason, they feel more comfortable investing in places like Japan, the Republic of Korea, and Taiwan. In the future, high-tech companies are more likely to invest in ASEAN countries if effective strategic trade controls are in place.

Beyond the economic and nonproliferation benefits, an essential advantage of high-standard strategic trade management regimes is that they can serve multiple purposes and, therefore, have multiple payoffs. Implementing national and regional systems to identify, track, and regulate sensitive goods would establish the infrastructure needed to combat other forms of illicit trade, which remain rampant in many parts of Southeast Asia. Enhancing the regulation of trade would allow ASEAN member states to improve the region's political-security environment, contributing to the [ASEAN Political-Security Community \(APSC\)](#)'s goal of a safe, secure, politically cohesive, and economically integrated ASEAN.

A blueprint for implementing strategic trade controls in ASEAN countries is laid out in "[Guidelines for Managing Trade of Strategic Goods](#)" (2009), a memorandum of the [Council for Security Cooperation in the Asia Pacific \(CSCAP\)](#), the premier network of foreign policy think tanks in the Asia Pacific. The Pacific Forum CSIS's [follow-on work](#) suggests that Southeast Asian states should focus on the following five areas.

First, ASEAN states should adopt comprehensive laws or amend existing laws to establish mechanisms for monitoring

strategic goods and technologies. Legislation should include a “catch-all” provision that allows each state to regulate any transaction regardless of whether the good or technology in question is on a control list. States interested in developing a comprehensive law can make use of this [Model Law template](#).

Second, ASEAN states should establish regulatory frameworks to detect violations by taking advantage of accepted standards and techniques. They should rely on the [European Union Control Lists](#), which incorporate goods and technologies of the four multilateral trade control regimes (the [Nuclear Suppliers Group](#), [Australia Group](#), [Missile Technology Control Regime](#), and [Wassenaar Arrangement](#)) and are widely used in the Asia Pacific. The standards developed by the [World Customs Organization](#) (WCO) can also help ASEAN states with implementation.

Third, ASEAN states should give themselves the means to enforce strategic trade controls. Responding to violations requires enforcement agencies to have the authority to act, be it through negotiations with violators or imposition of penalties. Experience shows that the existence of strong enforcement measures also helps deter transfers that would violate strategic trade control laws.

Fourth, the Singaporean and Malaysian experiences in implementing strategic trade controls suggest that a single point of contact is invaluable. Having a clear lead agency allowed Singapore and Malaysia to effectively coordinate government agencies and foster communication between government and industry. Similarly, in Japan and South Korea the Japanese [Center for Information on Security Trade Controls](#) (CISTEC) and the [Korea Strategic Trade Institute](#) (KOSTI) respectively have helped to brand and market trade controls and facilitate industry compliance.

Finally, Southeast Asian states should integrate the core principles of strategic trade controls into the agendas of relevant regional initiatives such as the ASEAN Single Window in order to facilitate broader acceptance and promote standardization. They should draw on the work of the [Asia Pacific Economic Community](#) (APEC), which has run security-related initiatives such as the [Secure Trade in the APEC region program](#) via its [Counter Terrorism Working Group](#).

AEC 2015 is an important step toward the goal of creating an ASEAN community, but serious challenges remain. Region-wide implementation of strategic trade controls would contribute to a transparent, regulated ASEAN market, allowing the region to reap important economic and security benefits. It should be a priority.

PacNet commentaries and responses represent the views of the respective authors. Alternative viewpoints are always welcomed and encouraged.