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Understanding the ASEAN Way of Regional Qualification Governance:

The Case of Service Mutual Recognition Agreements

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April 2018

Abstract
There is no doubt that existing studies on Mutual Recognition Agreements (MRAs) are mostly based on the European experience. In this paper, we will introduce the ongoing attempt in ASEAN to establish very unique MRAs, using professional service qualifications, engineering qualifications in particular, as a case study. Several ASEAN professional service qualification MRAs employ "hub-and spoke" model, wherein neither the hub (regional mechanism) nor spokes (national authorities) become powerful over the other. The hub-and-spoke model has features of both harmonization of professional qualifications led by regional mechanisms along with the recognition of partner countries' qualifications granted by national authorities. Why does ASEAN need a unique MRA governance that has feature of both harmonization and mutual recognition? We will answer this question from multi-disciplinary angles.

Keywords: Mutual recognition agreement (MRA), professional qualifications, the ASEAN way, institutional design of regionalism

JEL classification: F15, F53, F55

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There is no doubt that existing studies on Mutual Recognition Agreements (MRAs) are mostly based on the European experience. In this paper, we will introduce the ongoing attempt in ASEAN to establish very unique MRAs, using professional service qualifications, engineering qualifications in particular, as a case study. Several ASEAN professional service qualification MRAs employ "hub-and spoke" model, wherein neither the hub (regional mechanism) nor spokes (national authorities) become powerful over the other. The hub-and-spoke model has features of both harmonization of professional qualifications led by regional mechanisms along with the recognition of partner countries' qualifications granted by national authorities. Why does ASEAN need a unique MRA governance that has feature of both harmonization and mutual recognition? First, based on interviews with officials and regulators, we find that several practical explanations such as limitation of supranational power, confidence building among members, and capacity development, are valid. Second, more fundamentally, neither simple harmonization nor simple mutual recognition functions well in ASEAN where the three types of gaps exist among Member States. The diversity in legal backgrounds seems to suggest that the combination of harmonization preferred by civil law countries and mutual recognition preferred by common law countries is suitable to ASEAN. The variety in social norms ranging from market mechanism to social safety also implies that the combination of harmonization and mutual recognition is suitable to ASEAN. The gap in price and quality of professional services across ASEAN Member States requires the unique approach in order to facilitate and control the movement of professionals motivated by various factors, and to promote the joint practice between foreign and local professionals in both high and low income countries to create a win-win situation.

Keywords: Mutual recognition agreement (MRA), professional qualifications, the ASEAN way, institutional design of regionalism

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1. Introduction

It is not an exaggeration if one argues that it is regulations that make service transactions as "formal services". Without such regulations, transactions are often not categorized as services, but rather fall under the umbrella of the informal sector. This is especially true for professional services, which are often tightly regulated by both public authorities and (private) professional associations. For example, in many countries, but not all, one is not allowed to provide advice on legal matters and charge fees, unless he/she is a registered lawyer and advisory service takes a particular form.[1]

We should not underestimate the role played by qualification in the governance of professional service sectors. The idea is to impose standards not on the transaction of services *per se* but on individual or institutional suppliers of services, to ensure the quality of services. However, qualification requirements can be a serious obstacle towards the flow of international services. This is because, even if professional service sectors are liberalized, the free flow of services, mainly in the movement of individual service providers can easily be nullified by qualification requirements – where obtaining a new qualification that is recognized by the host country may be extremely burdensome.

In order to overcome the problems associated with the differences in qualifications across countries, mutual recognition agreements (MRAs) are becoming increasingly important. Given the differences in qualification requirements across countries, the question is how to verify the common elements of qualifications so that service suppliers will only have to fill any "gaps" they have in their qualification requirements. In fact, many countries and regions undertake to have MRAs in professional services. Such countries include Australia and New Zealand, Member States of the European Union, Member States of the Association of Southeast Asian Nations (ASEAN), and Parties to the North American Free Trade Agreement (NAFTA).

Our scholarly knowledge on professional service MRAs is limited, however, despite their increasing significance in service trade policy formulations. While important conceptual works on MRAs were done in the late 1990s and the early 2000s, the analytical focus of those works was on European MRAs, especially those on product standards (Nicolaïdis 1997, Nicolaïdis and Shaffer 2005, Nicolaïdis and Schmidt 2007, Trachtman 2007[2]; Schioppa 2007). Some recent studies have conducted solid analyses of ASEAN experiences with MRAs (Pruksacholavit 2014, Jurie and Lavenex 2015), but we still feel that the majority of these studies implicitly impose a European-focused model on ASEAN. While we do not deny that lessons can be drawn from other regions, deeper analysis of the ASEAN context for service MRAs is required to deepen the knowledge on MRAs. This is because, ASEAN as a group is unique, being composed of members with various economic and legal backgrounds. The future direction of MRAs in ASEAN may differ from European experiences.

More broadly, our investigation into professional services MRAs in ASEAN attempts to shed some light on the studies on the design of regional cooperation, which varies from one region to another. While there is a rich accumulation of studies on comparison of free trade agreements (FTAs) and regional integration in Asia, Europe and elsewhere, the majority of

[1] Whether transactions are legal or illegal depends on domestic regulations. For example, in some North European countries, providing legal consultations and charging fees is allowed even without bar licenses.

[2] It is interesting to note that articles in the Journal of European Public Policy from 2007 are still some of the most commonly cited papers on MRAs in the recent literature.

these studies do not provide details on the mode of qualification governance. MRAs, services MRAs in particular, have attracted little attention among scholars, at least from the comparative regionalism study perspective. However, because (service) MRAs often require some delegation of regulatory power to a partner or a third party, we believe that the uniqueness of regional integration projects in each region can be best showcased by the design of MRAs.

This paper is structured as follows. We will first classify several types of harmonization and recognition of qualification to provide the analytical framework of this study. Then, we will review the progress of MRAs in the European Union, Trans-Tasman, and North America, using existing literature on respective MRAs. After that, the paper will examine the mechanism of ASEAN MRAs. We will show that some MRAs in ASEAN (such as MRA on Engineering) adopt a very unique approach, which can be called as "hub-and spoke" model, wherein neither the hub (regional mechanism) nor spokes (national authorities) become dominant. We will then try to offer some explanations why such a unique approach is necessary to ASEAN. First, based on the field research[3] conducted in the ten ASEAN countries and the ASEAN Secretariat, including extensive interviews with regulators and officials, we provide three practical explanations. Second, the paper will discuss more fundamental underlying factors that would explain ASEAN's unique approach to MRAs, borrowing ideas from existing literature, in addition to the observations made by interviewees. At least three types of gaps that exist among ASEAN Member States – domestic legal system, social norms, and price and quality of professional services – seem to contribute towards ASEAN's unique MRAs.

2. Variety in Harmonization and Recognition

Above all, it is necessary to differentiate between qualifications and licenses. While there is no consensus about the exact meaning of these terms,[4] in this paper, the qualification requirements refer to competency assessments. However, qualifications alone are often insufficient to supply services. The other requirement is often a license, which is a kind of stamp or registration issued by certain professional authorities with which a person is actually allowed to supply a given service. In order to obtain a license, qualification is usually required. While we use the term "harmonization or recognition of qualifications" in the discussion below, it conceptually means "harmonization or recognition of qualifications and/or licenses."

It is also very important to distinguish between the substantive and procedural requirements for qualifications. Harmonization or recognition of qualifications conceptually entails harmonization and recognition of both the substantive requirements and the procedural requirements. Substantive requirements include professional standards that must be met. Procedural requirements for qualifications are the procedures that must be completed to demonstrate that the substantive requirements are met. This can take various forms such as examination, coursework and on-the-job training. Therefore, just because professional standards are harmonized or recognized does not necessarily mean that the procedures for obtaining qualifications are harmonized or recognized between countries. Unless harmonization and recognition cover procedures, its value is reduced.

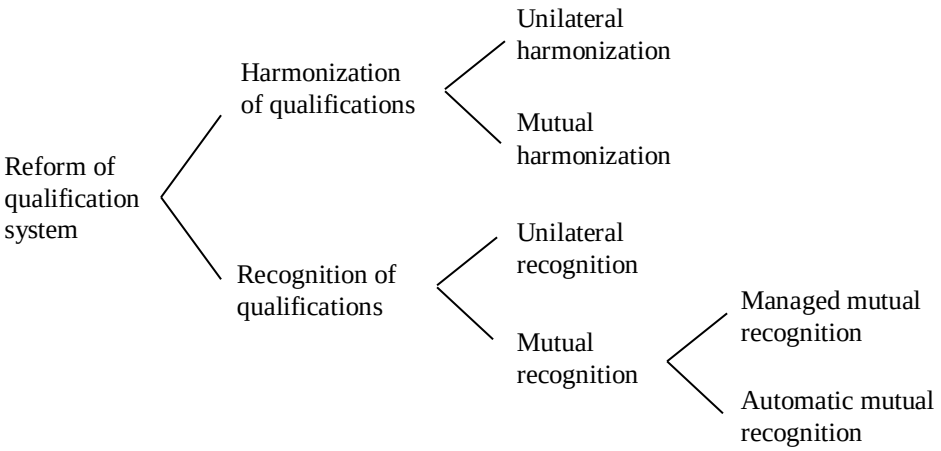
2.1. Harmonization and Recognition

Harmonization of qualifications is an ideal solution to regulatory problems that hinder international trade in services. There are two types of harmonization of qualifications (Figure

[3] We conducted interviews with the professional regulators and professional associations in the whole 10 ASEAN member states between March and April 2013. Additional complimentary interviews were conducted in ASEAN in early and mid 2017. A field research in the United States was also conducted in late 2017.
[4] There have been discussions on the definition of "qualification" and "license" at the Domestic Regulation Working Group as part of the WTO service trade negotiations.

1). First, harmonization can be conducted unilaterally. Countries may harmonize their qualifications according to an international regime. Because this type of harmonization usually focuses on harmonization of standards (or substantive requirements), it can be referred to as the "standardization of qualifications," which implies that unilateral harmonization usually focuses on standards only.

Figure 1: Variation in Harmonization and Recognition



Source: Authors' illustration

The other type of harmonization is harmonization among concerned parties (mutual harmonization). In this case, harmonization of qualifications means that two or more countries establish a single set of criteria that a qualification holder must meet to supply services in any contracting parties' territory without any additional local requirements. This usually, but not always, leads to the abolishment of national qualification systems. Mutual harmonization usually involves both harmonization of standards and procedural requirements because the purpose of harmonization is to allow the service suppliers in partner countries to easily supply service in the host country. Once substantive requirements are harmonized among concerned parties in a mutual manner (e.g., regional qualification), procedures requirements are also likely to be mutually harmonized (e.g., creation of a regional accreditation agency).

Recognition of qualifications is an alternative solution to this problem. In general, the term "recognition" is defined as "a selection by host (or importing) states of the rule of the home (or exporting) state, to the exclusion of the rule of the host state" (Trachtman 2007). Recognition is a governance decision that maintains regulatory autonomy, as no country is forced to accept a regulation unless they choose to recognize it (ibid). This "recognition" results from a country assenting to the equivalence, compatibility, or at least acceptability of the counterpart's regulatory system. When a country recognizes another country's qualifications, it can still keep its own qualification system, unlike in the case of harmonization.

Recognition can be either full or partial. Full recognition means that a partner country's set of qualification requirements is equivalent to its own qualification requirements. In this case, individuals and businesses that hold a partner country's qualification should be allowed to supply services domestically without additional requirements. Less than full recognition (partial recognition) means that a partner's qualification system has common or equivalent requirements in some areas, but that unique requirements also exist in the host country's qualification system that must be met. In this case, applicants may be exempted from the common or equivalent requirements if they have already met them in their home country.

While harmonization and recognition of qualifications should be conceptually distinguished, it is important to understand that, in reality, they are closely related in terms of policy implementation. This is especially true for mutual recognition, which is one type of recognition of qualification that is the main topic of this paper. Mutual recognition can be seen as the residual of harmonization. National regulations are thus mutually recognized to the extent that they have not been harmonized (Nicolaïdis 1997).

2.2. Unilateral and Mutual Recognition

There are two main ways of recognizing qualifications: unilateral recognition and mutual recognition. Unilateral recognition occurs when Country X autonomously decides that the holders of qualifications from Country Y can freely supply such (professional) services in Country X. This may happen when Country X considers the qualifications of the two countries as equivalent. But a more likely scenario is that Country X regards other countries' qualification as being superior to its own. This happens when the qualification requirements of Country X are a subset of Country Y's qualification requirements. Unilateral recognition may be an effective tool for developing countries that lack qualified (professional) services suppliers. Naturally, unilateral recognition of qualifications involves both unilateral recognition of foreign standards and foreign procedures to issue qualification, because the idea is to allow foreign professionals to supply services domestically.

In contrast, "mutual recognition" denotes a specific reciprocity, described by Keohane (1986) as a specific exchange of equivalent promises in the form of "You recognize my regulation, and I will recognize yours" (Nicolaïdis 1997). Mutual recognition can be defined as "a contractual norm between governments whereby they agree to the transfer of regulatory authority from the host country (or jurisdiction[5]) where a transaction takes place, to the home country (or jurisdiction) from which a product, a person, a service or a firm originate" (ibid). This means that the acceptance of the regulatory conditions for goods and services required in the exporting/home country as equivalent to the conditions necessary in the importing/host country) (ibid).

Under MRAs, two or more countries accept the fulfilment of certain requirements in the other country as equivalent to its own requirements on a mutual and reciprocal basis. First, mutual recognition allows each country to retain its own kind of professional education and training. Requirements that are essential to control the quality can be kept. Mutual recognition does not require that all practitioners' qualifications be the same. Equivalence can be achieved through the imposition of conditions on registration. Second, mutual recognition encourages dialogue between professional organizations in each country in order to investigate the nature of the professional activities, the professional qualifications, and the details of pre- and post-qualification education and training.[6] Mutual recognition should be thought of as the basis for dynamic processes of learning-by-doing and progressive liberalization. It ensures that regulatory competition does not lead to consumer confusion and general downgrading of standards (Nicolaïdis and Schmidt 2007). The two or more jurisdictions agreeing to the MRA must come to terms on the methodologies for mutual recognition, such as the recognized qualifications, registration procedures, and professional practice, and employment law issues such as insurance, trust funds, and registration fees.

There are two types of mutual recognition: automatic and managed. Under an automatic recognition system, a qualification from a partner country provides automatic access to the rest of the system, without the need to meet local requirements. Professionals are required to notify the host authorities that they are duly licensed and thus authorized to operate in its territory. In some cases, verification may be limited to producing simple forms of proof issued by the home country. Automatic mutual recognition is usually based on the

[5] Jurisdictions are generally sovereign states but they can also be sub-national units in federal entities.
[6] This is because mutual recognition assumes an appropriate process of pre-qualification education and training.

philosophy of equivalence, and akin to harmonization of qualification, because national authorities abandon discretionary power in both cases. It usually covers both automatic mutual recognition of standards and procedures, and becomes possible after a significant level of harmonization of both standards *and* procedures is achieved. A significant level of trust among qualification agencies is necessary for automatic recognition, because without high level of trust, it is difficult to unconditionally accept the partner's decision that a certain person satisfies the professional standards (procedural requirements). Automatic mutual recognition is usually full recognition, but it can also be partial recognition.

Managed mutual recognition system refers to a mutual recognition system that allows some discretion to be exercised by the authorities. Recognition under a managed recognition system is not automatic and each professional has to apply to the authorities in the partner state where that professional plans to practice for the qualification to be assessed as being equivalent to the local ones. Managed mutual recognition requires only a minimal level of prior harmonization of standards. While some harmonization of procedural requirements can also expected to a certain degree, this is sometimes very challenging because countries and associations value maintaining the quality of the results from their domestic processes, as discussed previously.

3. European Union, Trans-Tasman, and North American Approaches to MRAs

In this section, we will briefly review the progress of MRAs in Europe, Australia and New Zealand (Trans-Tasman) and North America. We selected the three because they are the regions that have relatively sophisticated MRAs and at the same time their approaches are distinct from each other.[7]

3.1. European Union

Above all, it is important to understand that a fundamental philosophy of European integration is the free flow of workers. European Union (EU) people have a right to move to fellow member countries to find a job. Whether or not a person can work as a professional in other countries is a different question because it relates to the recognition of qualifications (see below). However, the EU has mandated the abolition of nationality-based discrimination against workers in regard to employment, compensation, and other conditions of work and employment (Rubrico 2015). EU nationals do not need work permits for employment in any member states other than Croatia (ibid). The regulators are generally disallowed from testing for language competence.

Mutual recognition within the EU was first mentioned in the Treaty of Rome in relation to professional services and the mutual recognition of diplomas in the common market. The European Court of Justice (ECJ) applied the principles of mutual recognition by recognizing the equivalence of goods through the Cassis de Dijon case and others (Nicolaïdis and Schmidt 2007). However, the ECJ has not applied the principle recognized in the Cassis de Dijon case to the services sector.

In the EU, the idea of mutual recognition in services sectors has developed in stages. In the first stage, which lasted until the mid-1970s, the basic idea was that equivalence is necessary for mutual recognition, that is, far-reaching harmonization of diplomas is a prerequisite to mutual recognition. After the mid-1970s, it was considered that the equivalence of diplomas should be assessed in terms of comparability rather than similarity. While broad guidelines for the content of curricula were thought to facilitate mutual recognition, it later turned out

[7] Mutual recognition systems in other regions such as Latin America and Africa are less developed. For example, MERCOSUR follows WTO General Agreement on Trade in Services (GATS) model (Article VII), which is unilateral recognition rather than mutual recognition (Hartmann 2008). In Africa, Southern African Development Community (SADC) is attempting to develop SADC qualification framework, although the progress of establishing MRA in SARD has been slow (Keevy 2006). Also see footnote 22 for SADC MRAs.

that this approach is insufficient for the majority of service sectors. In the early 1980s, the EU departed from a diploma-centered approach by allowing for training and professional experience to play a concurrent role with formal educational attainment. A qualification holder in another country can opt directly for a specific profession rather than selecting the "equivalent" diploma or qualification in a host country. An emphasis was placed on finding ways to compensate for the gaps on case-by-case basis. It is in this way that managed recognition in the EU and the General System Directives (GSDs) of 1984 were adopted.

The current primary EU legislation on qualification recognition is the Qualifications Directive (The Directive 2005/36/EC[8]), which came into force in 2007, consolidating 15 Directives, 12 Main (Sectoral) Directives and three General System Directives into a single text. The main objectives of this directive is to encourage the free movement of skilled labor around Europe, and to rationalize, simplify, and improve the rules for the recognition of professional qualifications. The Qualifications Directive streamlined 15 separate legal instruments that had been in operation since the 1970s and covers more than 800 professions across Europe (though some professions such as the legal profession remain outside its scope). This means that an EU citizen with a professional qualification from one member state should be able to move and practice in another member state with relatively little restriction.

Only selected professions are given automatic recognition in the EU. The Qualifications Directive allows automatic recognition of qualifications for professions in specified sectors: doctors, nurses, midwives, pharmacists, dentists, veterinarians, and architects. The minimum training requirements for these professions have been harmonized across the EU.

Most regulated occupations are covered by the general recognition system of Qualifications Directive, which operates as a managed recognition system. Under this system, if a professional is qualified to practice an occupation in an EU member state where he or she was trained, then the professional has the right to practice in the same occupation in another EU member state without having to requalify (European Commission 2004). Recognition is not automatic and each professional has to apply to the authorities in the EU member state where he plans to practice for the qualification to be assessed. Upon receipt of applications, authorities need to recognize, conditionally recognize, or refuse to recognize the qualifications within a reasonable time period. The applicant must possess evidence of academic or vocational qualifications and documentation of relevant training or experience, which must have been gained wholly or primarily within the EU or the European Economic Area (EEA). Professional experience may be used as a substitute for training if a professional's level of training was of shorter duration than required in the host country. The *Certificate of Experience*, issued by the country where a person has trained and worked, can be provided as evidence. Compensatory measures may also include a period of adaptation or an aptitude test.[9]

Special or specific recognition systems apply to other professions that are not included in the provisions of the Qualifications Directive. These professions including sailors, statutory auditors, lawyers, commercial agents, aircraft controllers, and insurance intermediaries, which are normally governed by specific legal provisions and do not fall within the scope of the Directive. Hence, a special recognition system is established on a case-by-case basis, depending on the nature of each specific qualification.

Work on the EU's mutual recognition system is still in progress, and there are several problems to overcome. The EU recognizes that there is still a lack of awareness among enterprises and national authorities on the existence and workings of mutual recognition principles within the EU (European Commission 2007). The EU also recognizes that there is a lack of dialogue between competent authorities in different member states. These

[8] Directive 2005/36/EC was recently amended by Directive 2013/55/EC.
[9] For a discussion on this point and comparison with the Trans-Tasman system, see Shah and Long (2007).

problems with the mutual recognition system are also costing the EU and the national authorities in terms of information gathering costs, compliance costs, and conformity assessment costs.

3.2. Trans-Tasman MRA (TTMRA)

The Trans-Tasman Mutual Recognition Agreement (TTMRA) was signed between Australia and New Zealand in 1992 and came into effect in 1997. It is based on the Australia–New Zealand Closer Economic Relations Trade Agreement (ANZCERTA). The TTMRA covers *all* registrable occupations, except for medicine (for doctors trained in Australia and New Zealand, mutual recognition-type arrangements already existed prior to the TTMRA). Under the Australian Mutual Recognition Act and the TTMRA equivalent, registration is defined as "… the licensing, approval, admission, certification (including by way of practicing certificates), or any other form of authorization, of a person required by or under legislation for carrying on an occupation."[10]

The TTMRA provides an example of a fully automatic recognition.[11] The TTMRA provides a system of "international licensing" whereby any national stamp from a country that is part of the system provides automatic access to the rest of the system, without any additional local requirements. The TTMRA provides that a person registered to practice an occupation in Australia is entitled to practice an equivalent occupation in New Zealand, and vice versa, without the need for further testing or examination, but the local registration authority must be notified of the intent to practice in the other country. However, the TTMRA does not affect the operation of laws that regulate the manner of carrying on an occupation, such as trust accounts, fees, and continuing education.

In implementing the TTMRA, governments recognize that there may be potential differences between the jurisdictional requirements for the registration of occupations, for example, educational qualifications. To apply for registration under the TTMRA, individuals must forward written details of their registration in their home jurisdiction to the registration board in the second jurisdiction and sign a consent form enabling the registration board to undertake reasonable investigations relating to their application. The notice must be accompanied by a person's registration papers or include a copy and a statement certifying that the papers are authentic. The statements and other information contained in the notice must also be verified by statutory declaration.

Registration authorities have one month from the date of lodgment of the notice to formally grant, postpone, or refuse registration, failing which the person is entitled to immediate registration. When granted, registration takes effect from the date of lodgment of the notice. A registration authority may impose similar conditions that already apply to a person's original registration or which are necessary to achieve equivalence between occupations. The relevant registration authority determines what conditions should be imposed, based on its assessment of whether the activities authorized to be carried out under registration in the respective jurisdictions are substantially the same. These conditions may include the limiting of activities authorized by registration subject to the completion of further relevant training. Individuals should be advised in writing if conditions on registration are to be imposed. The registration authority is required to advise the person of his or her right to appeal the decision to the relevant tribunal. The person may also seek a statement setting out the registration authority's reasons in full.

If a person's initial registration is canceled, suspended, or subject to a condition on disciplinary grounds, or as a result of or in anticipation of criminal, civil, or disciplinary proceedings, then the person's registration under the TTMRA is affected in the same way.

[10] *Mutual Recognition Act 1992, s. 4.1.*

[11] In addition to TTMRA, there are other regional or bilateral arrangements such as the France-Quebec and Czech mechanisms for Qualified Workers.

However, a registration body may reinstate any cancelled or suspended registration or waive any conditions if it thinks it appropriate in the circumstances.

TTMRA is not free from problems. As a natural consequence of automatic recognition, they are facing two prominent problems (Shah and Long 2007). First, the erosion of the quality of qualifications, which is sometimes called as "lowest common denominator effect", is serious. The jurisdiction that set the most lenient requirements set the benchmark for other jurisdictions, which results from applicants shopping between jurisdictions. This jurisdiction shopping problem is particularly serious among foreigners who want to supply services either in Australia or New Zealand after satisfying the "lowest common denominators". Second, there is a problem associated with the lack of jurisdiction-specific knowledge. One often mentioned example in the Trans-Tasman context is that registered pest controllers from cooler state (Victoria or New Zealand) may lack knowledge on termites. The User Guide to the TTMRA recommends that such pest controllers should be granted only a restricted license in other states (partial recognition), although they are usually fully recognized.

3.3. NAFTA

The North American Free Trade Agreement (NAFTA) came into effect in 1995 among the three countries in North America: Canada, the United States, and Mexico. Under the NAFTA model, recognition is not included in the main agreement or framework but delegated to the various organizations or professional bodies. In addition to NAFTA itself, several free trade agreements signed between NAFTA countries and others follow the NAFTA model for MRAs

NAFTA Article 1210 concerns Licensing and Certification and Annex 1210.5 provides a blueprint of the mechanisms for mutual recognition in the NAFTA region. However, actual progress in the development of a MRA has been uneven across professions and the three countries are struggling to achieve the free flow of professional services. In medicine, psychology, veterinary medicine, and dentistry, bilateral recognition agreements pre-dating NAFTA continue to exist between Canada and the United States and remain outside the scope of NAFTA (Sá and Gaviria 2012).

There has been some progress on MRAs for three professions: engineering, accounting, and architecture. The first NAFTA MRA covered engineering and was signed in 1995 and ratified in 1997. While all national-level engineering authorities endorsed the MRA, getting support from licensing authorities at a state/provincial level proved difficult, and Canada and Texas were the only jurisdictions that have implemented the original MRA, albeit with some amendments to the professional experience requirement. Reaching a wide consensus in the United States is the main obstacle to making progress on the trilateral MRA, and Mexico and Canada have negotiated a bilateral MRA on engineering independently of the United States (ibid).

In 2002, the corresponding bodies for the accounting profession in the three countries signed an MRA on accounting, which was renewed in 2008. The MRA grants recognition for certified accountants who pass an examination specific to the jurisdiction where they want to practice their profession and who have gained the minimum period of experience in the country (ibid). The MRA on accounting does not offer immediate licensing, but reduces the exam-taking load. For example, in the case of the United States, the exam is limited to subjects relating to United States-specific business law and taxation. However, individual US states may assess any work experience requirements on case-by-case basis (Sumption, Papademetriou, and Flamm 2013).

The NAFTA MRA on architects was signed in 2014. While the MRA appears to have established common requirements, the reality is that the MRA constituted the creation of regional qualifications in parallel with national qualifications. For instance, Mexico introduced new qualification and licensing processes in order to reach the same standards as

the United States and Canada, which Sá and Gaviria (2012) referred to as "asymmetrical regionalism." The introduction of new programs and processes brought about a two-path professional system whereby graduates can either go the national route and get their professional status and license to practice from the Ministry of Education, or pursue the NAFTA route by attending a NAFTA-accredited school that follows the newly standardized certification process. This second route is the only one that guarantees equivalent education, examination, and experience requirements to those of United States and Canadian professionals (ibid).

Regarding temporary entry, NAFTA provides for the free movement of professionals and free movement of business persons under Mode 4. Under Chapter 16 of NAFTA, four categories of professional service providers (general services such as accountant; medical, scientists and teacher) that meet the minimum standard set by the NAFTA countries can enter each member country temporarily to conduct business. Usually, the minimum requirements include a Baccalaureate or Licenciatura Degree and other requirements such as professional experience.

4. The ASEAN Approach to MRAs

4.1. Three Types of ASEAN MRAs

In July 2003, the ASEAN Coordinating Committee on Services (CCS) established an Ad-Hoc Expert Group on Mutual Recognition Arrangements under its Business Services Sectoral Working Group with the objective of realizing framework agreements on mutual recognition. It was decided to adopt a sectoral approach in developing mutual recognition arrangements for the identified professional services in ASEAN.

Based on the above agreement, the following MRAs and Framework Agreements have been signed. In the case of accountancy services, after Framework Arrangement was signed in 2009, negotiations continued, which led to the MRA signed in 2014. In the surveying qualifications, while Framework Arrangement was concluded in 2007, so far no MRA was signed. [12]

- MRA on Engineering Services (2005);
- MRA on Nursing Services (2006);
- MRA on Architectural Services (2007);
- Framework Arrangement for the Mutual Recognition of Surveying Qualifications (2007);
- Framework Arrangement for the Mutual Recognition of Accountancy Services (2009); MRA on Accountancy Services (2014);
- MRA on Medical Practitioners (2009);
- MRA on Dental Practitioners (2009); and
- MRA on Tourism Professionals (2010).

All ASEAN MRAs are designed to strengthen the services sector to allow the movement of professionals and skilled workers within member states. However, because all services sectors are unique, the modalities of the MRAs vary significantly. ASEAN MRAs can be categorized into three groups.

The first group include the MRAs on Nursing Services, Medical Practitioners, and Dental Practitioners. The MRAs that belong to this group have had limited output to date, mainly because of the highly regulated nature of these service sectors. Therefore, it is not surprising

[12] Framework Agreement for Surveyors would lead to the establishment of MRA, just like the case of Accountancy. However, the MRA in surveying may not take place very soon due to few issues, such as the fact that Malaysia has three different of Boards of Surveyors; that surveying in Thailand is part of civil engineering; and the limited scope of cross-border work for ASEAN surveyors mainly due to the national security reasons.

if ASEAN Member States cannot agree upon the necessary requirements for an "ASEAN Dentist." The MRAs in this category emphasizes the "right to regulate"[13]. It is very interesting to note that EU achieved automatic mutual recognition for those professions after significant harmonization, as has been discussed above.

In contrast, the MRA on Tourism Professionals, which is the latest MRA in ASEAN, fits into a second category. ASEAN Member States jointly established ASEAN Common Competency Standards for Tourism Professionals (ACCSTP). This MRA has a potential to have a significant impact on the tourism industry in ASEAN. However, it is very important to note that ACCSTP covers tourism professions that are unregulated in each ASEAN Member State. Hence, tourism professions include, for example, bell boys and housekeeping, but not tour guides. A harmonized approach was possible for tourism professions just because they only cover unregulated subsectors and this is rather an exceptional case – whether another MRA classified as the second category will be signed by ASEAN is unknown at this stage. However, the ASEAN MRA on Tourism Professionals well illustrates that ASEAN Member States are not indifferent to harmonized approach, if such is feasible.

The MRAs on Engineering, Architectural, and Accountancy form a third group. It is located somewhere between the first and second categories. While these professions are regulated sectors, having some coordinated actions to facilitate mutual recognition within a supranational approach does not seem to be impossible, unlike doctors. However, because the three professional services are regulated, a pure harmonized approach (or standardization) seems to be difficult unlike tourism. In this context, it is understandable why ASEAN initiated the work on MRAs in those sectors. Likewise, after the signing of Framework Agreement, five year tough negotiations resulted in the establishment of MRA on Accountancy, which also belongs to this category.

4.2. MRA on Engineering Profession

While ASEAN follows a variety of approaches to MRAs, this paper focuses on the third category of MRA, because it a distinctive type, having the features of both mutual recognition and harmonization. ASEAN's unique approach is very evident in the third category MRAs, unlike the other two categories that cover sectors under exceptional circumstances. The MRA on Tourism adopts harmonization, but such was possible because it only covers unregulated services such as housekeeping. The MRAs on doctors and dentists are also exceptional because they are extremely tightly regulated sectors in many ASEAN Member States, which makes harmonization and mutual recognition extremely difficult. While the analysis below mainly discusses the MRA on Engineering, the difference among the three will be also discussed.

Professional Engineer (PE) Qualifications in ASEAN Member States

In ASEAN, a professional engineer refers to a natural person who holds the nationality of an ASEAN Member State; is assessed by a Professional Regulatory Authority (PRA) of any participating ASEAN Member State as being technical, morally, and legally qualified to undertake independent professional engineering practice; and is registered and licensed for such practice by the PRA. It is important to notice that professional engineers in the MRA context is an individual citizen of the ASEAN Member State, which implies that foreigners who have an engineering qualification in one of ASEAN Member States are outside the scope of the MRA, though the term "citizen" is undefined in the MRA. Therefore, it is impossible for foreigners to get a license from one ASEAN Member State (that issues license relatively easily) just to supply services in another ASEAN Member State; this is in sharp contrast to the experience of TTMRA where the "lowest common denominators" problem has been persistent (see above).

[13] For example, see Article V of MRA on Dental Practitioners.

A PRA is defined as the designated government body or its authorized agency in charge of regulating the practice of engineering services as listed in Appendix 1 of the MRA. Different types of organizations have become PRAs in each country (Table 1). Any amendment to this list can be made administratively by the ASEAN Member States concerned and notified by the Secretary-General of ASEAN to all ASEAN Member States. ASEAN Member States may have different nomenclatures for this term.

Table 1: PRAs in ASEAN Countries

Country	Professional Regulatory Authority
Brunei Darussalam	Ministry of Development
Cambodia	Ministry of Land Management, Urban Planning, and Construction
Indonesia	National Construction Services Development Board
Lao PDR	Lao Union of Science and Engineering Association
Malaysia	Board of Engineers Malaysia
Myanmar	Public Works Head Quarter, Ministry of Construction
The Philippines	Professional Regulation Commission and relevant Professional Regulatory Boards in Engineering
Singapore	Professional Engineers Board Singapore
Thailand	Council of Engineers
Viet Nam	Ministry of Construction

Source: Authors' compilation.

ASEAN Chartered Professional Engineer (ACPE)

The qualifications required for an engineer to be eligible to apply to the ASEAN Professional Engineer Coordinating Committee (ACPECC) for registration as an ASEAN Chartered Professional Engineer (ACPE) are stipulated in Article 3 of the MRA. In order to become an ACPE, an engineer must: (i) have completed an accredited engineering degree recognized by a professional engineering accreditation body in the country of origin or host country, or assessed as having the equivalent of such a degree; (ii) possess a current and valid professional registration or licensing certificate issued either by the PRA; (iii) have acquired practical and diversified experience of not less than seven years after graduation, at least two years of which shall be in responsible charge of significant engineering work; (iv) be in compliance with Continuing Professional Development (CPD) policy of the country of origin at a satisfactory level; and (v) have obtained certification from the PRA of the country of origin with no record of serious violation of local or international standards.

It is interesting to note that the harmonized requirements for ACPE are not fully operational standards exclusively set at the regional level. For example, one of the key requirements for applying for ACPE status is having at least seven years of "practical experience" (the third condition above). Interestingly, however, Section 1.3 of Appendix II of the Engineering MRA states that "the exact definition of practical experience shall be at discretion of the monitoring Committee concerned (in each ASEAN Member State)." At this stage, there is no agreement among the concerned parties regarding the appropriate procedures by which a candidate is assessed for "practical experience." This is because the meaning of practical experience differs from one ASEAN Member State to another. Nevertheless, all ASEAN Member States refer to the number of years of experience plus the types of projects conducted by the applicants. The projects undertaken will be subject to scrutiny by panel of interviewers, which normally use subjective approach.

In order to apply for the ACPE status, an engineer should be recommended to ACPECC by PRA of the originating country. Recommendations are necessary as it allows the PRA to retain the credibility and high professionalism of both the national engineering and ASEAN engineering professions. "Each ASEAN Member State retains the discretion to recommend

membership to the ACPECC in order to ensure qualified persons with integrity and experience are granted the title ACPE", according to the interviews with a drafter of Engineering MRA.

ACPECC has its own secretariat and acts as an oversight body at the regional level. The ACPECC has the authority to confer and withdraw the title of ACPE. However, it consists of one representative from the monitoring committee of each ASEAN Member State and the authority is with the Committee members which represent the whole of ASEAN Member States. The ACPECC decision making is not based on majority voting, but is normally exercised in the "ASEAN way", meaning decisions are made by consensus among all ACPECC Members. Moreover, Member State may opt-out of a particular issue (ASEAN-Minus) and may ask the decision of particular issue be deferred for further national consultation or discussion at a later date. This means that despite the ACPECC is a regional oversight body, it is not a supranational body in the real sense.

The ACPECC has seven main functions: (i) facilitating the development and maintenance of authoritative and reliable registers of ACPEs; (ii) promoting the acceptance of ACPEs in each participating ASEAN Member State; (iii) developing, monitoring, maintaining and promoting mutually acceptable standards and criteria for facilitating practice by ACPEs; (iv) seeking to gain a greater understanding of existing barriers to such practice; (v) encouraging the relevant governments and licensing authorities to adopt and implement streamlined procedures for granting rights to practice to ACPEs; (vi) identifying and encouraging the implementation of best practice for the preparation and assessment of engineers intending to practice at the professional level; and (vii) continuing mutual monitoring and information exchange by whatever means that are considered most appropriate.

However, the status of ACPE does not automatically mean that the supply of engineering services in other ASEAN countries is permitted. With ACPE status, professional engineers may be able to obtain the status of Registered Foreign Professional Engineer (RFPE), which is necessary to supply services in other ASEAN countries.[14]

Registered Foreign Professional Engineer (RFPE)

An RFPE is defined in the MRA (Art 2.13) as an ACPE who has successfully applied to and is authorized by the PRA of a host country. Once a professional engineer is registered as an ACPE, he or she shall be eligible to submit an application to any of the PRA in any of the ASEAN Member States for the purpose of registering as a RFPE.

The PRA is the one that accepts an application from the ACPE and allow him/her to work in his country as a RFPE, and supervises the practice of RFPE to ensure their compliance with regulations. Moreover, independent practice of RFPE in the host country is not allowed. RFPE is permitted to work in collaboration with one or more professional engineers of the host country. This is a mandatory obligation stipulated in Article 3.3.1(c) of the MRA.[15] Therefore, PRA can exercise some power over the supply of services by a RFPE through its local partners. This is an important hallmark of the ASEAN MRA on Engineering profession, where liberalization in movement of professional engineers is linked to collaborative works between ASEAN engineers, rather than full liberalization of movement of engineering professionals. This also means that home based engineers do not have to worry about any potential competitions from foreign engineers. It is, however, inaccurate if one regards the PRA as having exclusive power over the acceptance of an ACPE as an RFPE. The ACPECC is attempting to streamline the procedures that each PRA uses to decide whether or not to

[14] The number of ACPEs significantly increased in recent years. While Nikomborirak and Jitdumrong (2013) argues that the MRA is not really functioning on the ground that where were only 440 ACPE holders as of May 2012, there are more than two thousand ACPEs from all ASEAN members as of February 2017.

[15] The article states that the ACPE may "work in collaboration with local Professional Engineers in the Host Country subject to domestic laws and regulations of the Host Country governing the practice of engineering thereto".

accept an ACPE as a RFPE. As mentioned for the fifth function, the adoption of streamlined procedures for granting ACPEs the right to practice by ASEAN member states is another important task of the ACPECC.

RFPEs are still required to comply with the host county laws and regulations such as obtaining a work permit from an immigration office and other permits from relevant licensing authorities.[16] In addition, host countries may set quotas for RFPEs and limit the number of licenses or service suppliers. While the number of RFPEs has been limited, the PRA in each ASEAN Member State is in the process of accepting RFPEs. The number of RFPEs is expected to increase in the near future (Pathanasethpong 2016).[17]

As discussed, MRAs on Engineering, Architectural and Accountancy Services have similar structures. However, there is one small but important difference. In the case of engineers and accountants, foreign engineers and accountants should work in collaboration with local professionals. However, in the case of architecture, independent practice is possible because the MRA states that "either in independent practice or in collaboration with the local licensed Architect, where appropriate to practise architecture". It is said that Member States are more cautious to recognition of engineer qualifications that directly relate with the safety of the buildings, unlike designs (interviews with experts involved in ASEAN MRA implementation). In the case of accountancy services, knowledge of each country's law is necessary.

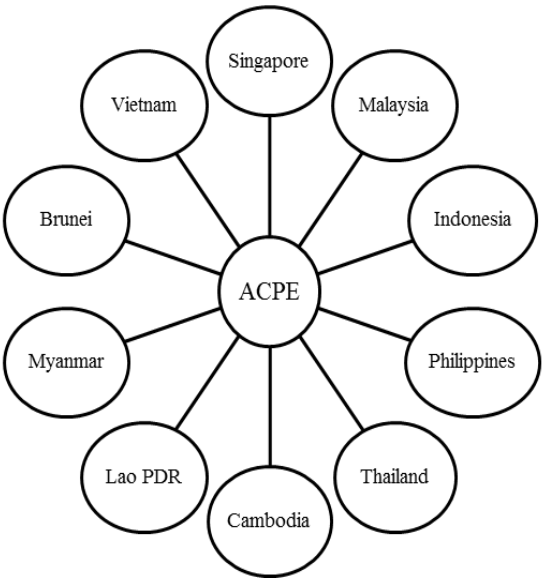
4.3. Hub-and-Spoke model

As we saw, there is no single model for MRAs and ASEAN is attempting to establish its own approach to MRAs, at least for engineers, rather than following other regions' approach as discussed by Rubrico (2015). The structure of granting recognition is rather complicated under the ASEAN MRA on Engineering. Under this structure, simply having a qualification of one ASEAN Member State is not enough to be qualified as ACPE. ASEAN agreed to establish ACPECC as a quasi-supranational institution that confers ACPE, the ASEAN level qualification. Without ACPE status, professionals cannot submit application to other ASEAN Member States. ACPECC not only sets the standards to be met to be recognized as ACPE, but also has an authority to confer ACPE status. At the same time, ACPE is not a real regional qualification and obtaining it is insufficient for professionals to supply service in other ASEAN Member States. ASEAN qualification holders (ACPE holders) should submit an application to a national authority for assessment and shall be registered as an RFPE. An RFPE can supply services jointly with local engineers.

Hence, the ASEAN model can be understood as a "hub-and-spoke" modality of recognition (Figure 2), wherein recognition has three steps. First, individuals should obtain a license either in the country of origin or in the host country. Second, an engineer in each country should be recommended by PRA and may get ACPE status on the basis of a license issued in one country. Third, ACPE should be registered as an RFPE and supply services in collaboration with local professionals. We cannot rule out the possibility that the hub-and-spoke model simply results in adding an additional layer of bureaucracy, which will not actually ease the mutual recognition, if operated poorly.

Figure 2: Hub-and-Spoke Model of Recognition

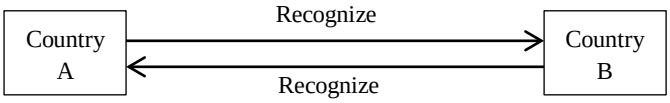
[16] If an ASEAN Member State adopts the NAFTA model and the EU Freedom of Movement, RFPEs would be allowed to work in another ASEAN Member State as they would not be required to seek immigration and work permits. ASEAN needs to address this shortcoming across all Member States to overcome this barrier to free movement of natural person.
[17] At this stage, the number of RFPE is very limited in ASEAN Member States with the notable exception of Brunei (Fukunaga 2015, 14).



Source: Authors' illustration.

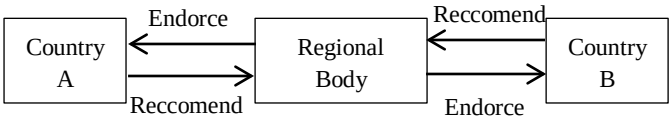
Figure 3: Models of Recognition

Direct Mutual Recognition of Qualification



Harmonized Regional Qualification

Hub-and-Spoke Recognition of Qualification



Source: Authors' illustration.

The hub-and-spoke type of MRAs is a model that is located somewhere between harmonization and mutual recognition, because it entails the features of both harmonized (regional) qualification and recognition of the partners' qualifications (Figure 3). It is interesting to note that such a claim is consistent with observations made by some earlier

studies[18]. Under the (direct) mutual recognition system, qualification in one country can be directly recognized by the authority in another member country and national authorities have full discretion. Under the regional qualification system wherein a harmonized qualification is effective throughout the region, the discretion of national authorities is limited. However, the hub-and-spoke model leaves some discretion to national authorities. National authorities are expected to give some positive consideration to the result of regional assessment (e.g., ACPE) in deciding whether or not to confer local qualification/license.

5. Explaining the Hub-and-Spoke Model

Thus, a key question is: why do ASEAN MRAs adopt such a complicated structure? Such a unique approach "more than mutual recognition, less than harmonization" exist in ASEAN, but not in Europe, North America and Trans-Tasman, which calls some explanations. It is possible to explain this from both practical and theoretical angles.

5.1. Practical Explanations

Based on our interviews with officials and regulators and existing studies on ASEAN MRAs, we can offer at least three possible practical explanations why such a unique hub-and-spoke MRA approach is suitable for ASEAN. First, in order to strike a balance between supranational regulatory power and sovereignty, such a hub-and-spoke approach is convenient. It is widely said that ASEAN rejects supranational institutions (Murray 2010). National policy makers do not want ASEAN institutions to become too powerful and rather focused on working together as sovereign nations. ASEAN Member States do not want the ASEAN institution to have exclusive power to issue qualifications. ASEAN is not ready to fully delegate power to the regional level at this stage, and the same attitude exists in the preparation of the MRA on Engineering profession. The episode regarding the name for the title of ACPE is interesting in this regard. While the name "ASEAN Chartered Engineer" was initially suggested, some countries had strong concerns to such a suggestion on the grounds that "Chartered" implies supranational power held at the ASEAN level and instead proposed "ASEAN Professional Engineer". According to one of drafters of Engineering MRA, "only after the clarification was given that there is no intention to create supranational power to confer the qualifications, an agreement was made to call it as ACPE, which reduced the tone of supranational flavor" (interviews with a drafter of Engineering MRA). At the same time, ASEAN Member States share some understanding on the necessity of limiting each national authority's power to approve the provision of professional services to facilitate the integration of professional service markets in ASEAN (Fukunaga 2015). At this stage, as PRAs continue to hold the role of recommending the appointment of ACPE, it is difficult to foresee how much regulatory power will be eventually delegated to the regional level (interviews with experts involved in ASEAN MRA implementation).

Second, the hub-and-spoke model can be understood as a centralized mechanism to deepen mutual understanding and build trust regarding qualification and license system of other Member States (Aldaba 2013). Mutual understanding is critically important for confidence building among members (interviews with experts involved in ASEAN MRA implementation). There are requirements for professional engineers from each ASEAN country to be qualified as an ACPE, which can be regarded as common harmonized requirements. ASEAN members are jointly involved in the process of assessing conformity with the harmonized requirements at the ACPECC, which is useful for understanding commonality across countries. According to a drafter of Engineering MRA, one of the primary effects of the MRA is that "the wrong impression that professionals from low income countries are substandard is dispelled by some degree of harmonization" (interviews with a drafter of Engineering MRA). It is also very important for ASEAN Member States to

[18] While Duina (2016) does not analyze services MRAs, by conducting a general analysis of regional trade agreements (RTAs), he finds that ASEAN follows the mixed approach of mutual recognition and harmonization, which is in sharp contrast to the European model (harmonization) and the North American model (mutual recognition).

understand the differences or gaps in qualifications across Members. In Thailand, for example, engineers include professional engineers and senior professional engineers and any engineer needing to show "practical experience" is required to obtain reference from either professional engineers or senior professional engineers. These categories of engineers do not exist in other ASEAN Member States.

Third, the hub-and-spoke model is useful for developing regulatory capacities of both national authorities and ASEAN institutions (interviews with experts involved in ASEAN MRA implementation). This is in fact the point most emphasized by the regulators who were involved in the negotiations for ASEAN Engineering MRA (interviews with Malaysian, Thai and Lao experts). In the discussion with the Lao PDR PRA for example, the expert stated that "Lao PDR requires more time to develop national law and policies on engineering profession as the country for a long time lacks the law and policies on professional qualifications"; for Lao PDR, collaboration between foreign and local engineers is a part of capacity building. As Keevy (2011) notes, ASEAN Member States that have relatively developed qualification system contribute to the development of regional qualification system as well as capacity building of partner countries' national qualification system. This is critically important from the implementation standpoint, because the most critical problem of mutual recognition in ASEAN is not the lack of capacity but the gap in regulatory capacity across countries (interviews with experts involved in ASEAN MRA implementation). In addition, ACPECC's capacity will also be strengthened in areas such as monitoring and information sharing of the performance of ACPE holders. Because ACPECC is comprised of PRAs of ASEAN members, the capacity development of national authorities and regional mechanism are inter-related. One the one hand, the quasi-supranational mechanism strengthens national sovereignty and national capacity in terms of qualification and license policy. On the other hand, the function of quasi-supranational mechanisms such as ACPECC assumes the enhancement of national capacity. Thus, ASEAN integration of professional services is a typical example of sovereignty enhancing cooperation (Narine 2002).

5.2. Underlying Factors

It is also possible to offer some theoretical account for ASEAN's unique approach to MRAs. Neither simple harmonization nor simple mutual recognition functions well in ASEAN where three types of serious gap exist among ASEAN Member States. The diversity in legal backgrounds, social norms and the gap in price and quality of professional services will be discussed in turn.

First, the variation in the national approach towards regulations in professional services seems to suggest why the mixture of harmonization and mutual recognition is suitable to ASEAN. In general, we support the argument presented by Duina (2016) that civil law countries prefer harmonization while common law countries tend to adopt mutual recognition. While providing a ground theory that explains the difference in approaches to harmonization and mutual recognition preferred by different legal traditions is beyond the scope of this paper, we can logically infer their preferences, by looking into the way in which professionals are entitled to supply services; hence the issue is not limited to substantive requirements and also includes procedural requirements. Civil law countries, which value written documents in judicial and administrative matters, emphasize the importance of sitting exam (exam "papers") in evaluating the competence of applicants. They tend to regard harmonization of professionals doable, because what to be harmonized in their system is examination[19]. In contrast, common law countries value experience, which is unique to each candidate. Successfully completing coursework and probation period (e.g. articleship) is critical for candidates to demonstrate their competency. Moreover, professionals need to

[19] Harmonization eventually entails harmonization of both exam and coursework. We argue that harmonization of examination tends to be the trigger of harmonization of coursework. For example, Louisiana introduced state-wide examination for notaries in 2005, which brought some harmonization of exam-preparation course (Stephenson 2015, 100).

survive in the market competition in order to demonstrate their competitiveness.[20] Because what is important in the common law system is track-record, which cannot be summarized in a written document, harmonization is difficult; the only solution is mutual recognition.[21] Then, what about a regional group that includes both civil and common law countries? When a regional group includes countries with various legal background, the combination of harmonization preferred by civil law countries and mutual recognition preferred by common law countries seems to be suitable (ibid). [22]

In ASEAN, some Member States inherit or base~~d~~ their professional services regulations on their colonial masters, which designed laws and regulations before their independence. This is true in the case of Brunei, Malaysia, Singapore, and to certain extent Myanmar which inherits the British system. Indonesia inherits the civil law model of Dutch and German where the Netherlands used to be their colonial rulers whereas many ~~of~~ Indonesian engineers received training~~s~~ in Germany. The Philippines inherit their legal approach from the United States and Spain and Thailand, being an independent country all along, adopted regulations from western countries as the base for their laws and regulations. Cambodia, Lao PDR and Vietnam on the other hand, went through different phases of legal governance. These three countries' legal system are based on the French tradition followed by a period of socialism where they shifted their focus from France to the then Soviet Union and/or Chinese system. Cambodia, Lao PDR and Vietnam did not have a long tradition of regulating professional service providers in the same way as the system in other ASEAN Member States. Only recently, under the influence of ASEAN and their membership in the WTO that these member states started to introduce a more modern specific laws and regulations in professional services. In short, ASEAN group includes Member States with civil law and common law backgrounds (and others). In fact, in general, among ASEAN Member States, Indonesia, Thailand and the Philippines that have some civil law backgrounds have positive attitude towards regional qualification mechanism.[23] However, the position of Indonesia and Thailand regarding MRA negotiations in the ASEAN context were also influenced by the consideration of health/safety issues as well as the fears of domination of domestic engineer markets by foreign engineers (see below).

Second, we should also note that social norms embedded in national qualification frameworks also vary. Some ASEAN Member States have a high potential of exporting competitive engineers. For example Malaysia and Singapore have good engineering programs in English and have many qualified engineers who have overseas work experience (interviews with Malaysian experts). Those countries generally support freer flow of engineering services based on market mechanism and accept some degree of harmonization that contributes to their service export. Other countries such as Indonesia, Brunei, Malaysia and Thailand think that the basis for the existing national system on engineering profession in the respective member states are focused promoting "health and safety" and "protection

[20] In the case of civil law countries, there is an implicit understanding that all professionals who pass competitive exam are more or less all qualified, making the role of competition in the market less important.

[21] In common law countries, particularly in the United States, universities often unilaterally recognize credits/units of coursework undertook at a foreign university (by foreigners) on a case-by-case basis. Foreign university credits/units may be recognized by some university, but not others (especially not by top universities), which implies that not all qualifications (degrees) are equal in the US. Hence, professional service "mutual recognition" in the US typically simply reduces coursework taking workload (interviews with World Education Service in New York City).

[22] Based on comparative analysis of regionalism, Duina (2016) argues that SADC that includes both common and civil law tradition countries follows mixed approach of mutual recognition and harmonization, just like ASEAN. According Keevy (2006), the SADC is likely to develop MRAs similar to ASEAN's hub-and-spoke model.

[23] APEC's project on APEC Engineer started in 1996. While seven ASEAN Members States (Brunei, Indonesia, Malaysia, the Philippines, Singapore, Thailand and Vietnam) were the then APEC Member, only Indonesia, the Philippines and Thailand decided to participate in the project from the outset. See Gue (2012). In the case of ASEAN MRAs on Tourism Professions, which adopts harmonization approach (see Section 4.1), Indonesia, the Philippines and Thailand have been more active than Singapore and Malaysia. Indonesia, for example, uses the ASEAN-level competency standards on tourism professions in designing the curriculum at the University of Indonesia (Mendoza and Sugiyarto 2017, 22). In the harmonization of technical requirements for pharmaceutical products, Thailand played a critical role. See Lezotre (2014, 141).

of consumers" (interviews with Indonesia, Brunei, Malaysia and Thailand experts). Any liberalization in the engineering profession will have to take into account these two main underlying basis for the laws. Those ASEAN Member States (most notably, Thailand and Indonesia) rule out the possibility of pure harmonization that would deprive them of regulatory power and see liberalization more in the light of collaboration as stipulated in Article 3.3.1.(c) (interviews with Thai and Indonesian experts). In an interview with the Indonesian PRA, it is clear that "collaboration is part of liberalization as ASEAN Professionals are able to share and tap on the expertise of engineers from other ASEAN Member States". In this context, it is understandable that Malaysia that has a potential of exporting engineers and at the same time emphasizing the important of health and safety perspectives assumed the leadership in the project on engineering MRA (interviews with a drafter of Engineering MRA)[24].

Third, the approach that has features of both harmonization and mutual recognition seems to be useful to facilitate and effectively control the movement of professionals motivated by various factors. Although conducting rigorous welfare analysis of MRAs is beyond the scope of this study, it is important to have some rough idea about winners and losers brought about by the movement of professionals (Schioppa 2007). How the movement of professionals would be affected by harmonization and/or mutual recognition in ASEAN where the gap in income level and quality of professional services, which are intrinsically linked, is huge? If ASEAN followed a simple mutual recognition, each country could maintain its own regulatory framework to a considerable degree, and the income gap would continue to exist, which would lead to the situation wherein capable professionals from low income countries move to high income countries for higher salary. Alternatively, if ASEAN regionally harmonized qualifications, labor markets are to be unified, and there would be a convergence of both quality and price of professional services. Therefore, the incentive for professionals from low income countries to move to high income countries is small compared to the case of mutual recognition. However, one should note that harmonization makes it easier for professionals in high income countries to supply services in low income countries than the mutual recognition scenario, because they can easily satisfy regionally harmonized requirements. While whether they actually supply services in low income countries depends on various factors (such as pay)[25], the point here is that harmonization facilitates the movement of professionals from high to low income countries more than mutual recognition.

Because the hub-and spoke model is between mutual recognition and harmonization, it can facilitate various types of movement of professionals. First, because it has features of mutual recognition, professionals in low income countries are attracted by high income countries. The perspective of losers is important in this context, because potential losers in high income countries to be crowded out often successfully oppose the benefits for the whole economy as economists point out (for example, Schioppa 2007). Second, however, because the hub-and-spoke model has features of harmonization, professionals in high income countries can move to low income countries relatively easily. Interestingly, the major concern during the negotiations for the MRA was the second effect (the movement of professions from relatively high to low income countries), not the other way round, which is not a typical concern of MRAs in other regions (interviews with a drafter of Engineering MRA).[26] This concern can be mitigated by "joint practice" requirement where professionals from high

[24] In fact, ASEAN MRA on Engineers was signed at ASEAN Summit in Kuala Lumpur in 2005 and ASEAN Engineers Register is Located in Malaysia.

[25] When the regionally harmonized qualification is of higher quality than original qualification of low income countries, low income countries would face the shortage of professional service supply because professional service suppliers that satisfy the stringent regional requirement is limited. Because professional service price increases in low income countries, professionals in high income country may move.

[26] For example, in Europe, professionals in low income countries (say Poland) are expected to move to high income countries (say France) for a better salary (Schioppa 2007). This seems to be true because the gap in service quality is smaller than that in service price (income) in Europe thanks to the considerable degree of harmonization. Note that the income of Polish professionals in France may be slightly lower than that of French professionals in France (ibid); however, it is still higher than that of Polish professionals in Poland.

income countries with higher skills need to jointly work with local partners which results in the enhancement of the capacity of locals. In short, the hub-and-spoke model that combines harmonization and mutual recognition facilitate and manage the movement of professionals both from low to high income countries and vice versa. In fact, one of designers of the MRA on Engineering admit that the very idea of signing the MRA is to create a win-win situation by promoting the joint practice between foreign and local engineers in both high and low income countries.

6. Conclusion

There is no single model for MRAs. This is especially true for MRAs on professional services, because qualifications are highly regulated in many countries and MRAs reflect differences in approaches to qualification governance. The TTMRA follows the principle of automatic recognition, which means that participating countries (Australia and New Zealand) have established a system of international or regional licensing. The EU initially pursued recognition via a similarity assessment that can only be achieved by the harmonization of standards (until mid-1970s) and then recognition via a comparability assessment that can be achieved by the harmonization of curricula (from the mid-1970s to the early 1980s), it now follows a managed recognition policy for the majority of qualifications. Despite the fundamental philosophy of the free movement of workers, the EU's managed recognition system places emphasis on finding ways to compensate for any gaps or differences in qualification requirements on a case-by-case basis. The NAFTA countries seem to be struggling to make progress in MRA cooperation. A supranational approach is difficult, partly because the national-provincial problem appears to exist. In some cases, regional qualification and national qualification co-exist in North America, which does not follow the original idea of mutual "recognition."

ASEAN is attempting to establish its own approach to MRAs, rather than following other regions' approaches. In ASEAN, free movement of workers is not the assumed goal; rather, it is trying to achieve "freer" movement for limited professions. While ASEAN MRAs in eight different service sectors adopt different modalities, three important professions (engineers, accountants, and architects) employ the so-called hub-and-spoke model. Under this model, professionals in one ASEAN country cannot be directly recognized in other ASEAN Member States. Instead, professionals in one ASEAN country should first obtain the "ASEAN qualification," which then allows ASEAN qualification holders to be registered in other ASEAN Member States as foreign professionals to supply services. As reflected in the ASEAN MRA on Engineering, foreign professionals are often required to supply services in collaboration with local professionals. The approach is more about collaboration rather than full liberalization.

Why does ASEAN need a unique MRA that features of both harmonization and mutual recognition? First, based on interviews with officials and regulators, we find that several practical explanations in line with literature on "ASEAN way" such as limitation of supranational power, confidence building among members, and capacity development, are valid. Second, more fundamentally, neither simple harmonization nor simple mutual recognition functions well in ASEAN where three types of serious gaps exist among ASEAN Member States. The diversity in legal backgrounds seems to suggest that the combination of harmonization preferred by civil law countries and mutual recognition preferred by common law countries is suitable to ASEAN. Competing norms of market-oriented regulation and health/safety issues also implies that the system that is between pure harmonization and mutual recognition functions well in ASEAN. The gap in price and quality of professional services across Members requires the unique approach in order to facilitate and control the movement of professionals motivated by various factors and to promote joint practice between foreign and local professionals in both high and low income countries to create win-win situation.

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