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Domestic Socio-Legal Structure and International Cooperation

The Case of Professional Service Integration

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Abstract: This paper demonstrates that domestic socio-legal structure significantly affects the countries' preferred form of international cooperation, using case studies of international cooperation on professional service regulations. Countries with a civil law tradition places value on written rules and certainty, and paper examinations serve as a core of competency assessment for professionals. Hence, these countries' preferred approach to international cooperation in the sphere of professional regulation is the international harmonization of paper examinations. In contrast, countries with a common law tradition regard the track-record of performance as key for assessing competence, and thus place an emphasis on the completion of the coursework and survival in market competition. These countries' preferred approach to international cooperation is mutual recognition of foreign qualifications. Then, what will happen when civil and common law countries cooperate?

Keywords: international cooperation, domestic socio-legal structure, common law, civil law, mutual recognition, harmonization, Brexit

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Abstract

While earlier studies on international cooperation have primarily focused on one aspect of domestic structure, namely, democracy, this paper demonstrates that domestic socio-legal structure significantly affects the countries' preferred form of international cooperation. We will use case studies of international cooperation mechanisms on professional service regulations, because the way in which the sector is regulated is deeply rooted in countries' socio-legal structure. Countries with a civil law tradition places value on written rules and certainty, and paper examinations serve as a core of competency assessment for professionals. Hence, these countries' preferred approach to international cooperation in the sphere of professional regulation is the international harmonization of paper examinations. In contrast, countries with a common law tradition regard the track-record of performance as key for assessing competence, and thus place an emphasis on the completion of the coursework and survival in market competition. These countries' preferred approach to international cooperation is mutual recognition of foreign qualifications. What will happen when civil and common law countries cooperate?

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1. Introduction

In this paper, we will develop and examine a theory of international cooperation, which explains both integration and disintegration among member states. In developing a novel theory of international cooperation, we will pay a special attention to domestic social-legal structure of member states. By socio-legal structure, we mean a deeply rooted, historically conditioned background that defines approaches to the nature of legal system, to the role of law in the society and the polity, and to the proper organization and operation of the legal system (Merryman and Perez-Perdomo 2007). We argue that countries with different domestic socio-legal backgrounds prefer different types of international cooperation. The compatibility between domestic socio-legal structure and the design of international cooperation is the key determinant to integration and disintegration because international cooperation mechanisms which are not in line with the domestic socio-legal structures are unlikely to function well. As a result, international cooperation between different types of countries may be difficult.

More specifically, we will compare countries with common law traditions and those with civil law traditions in terms of their attitudes towards various types of international cooperation. The philosophical differences between the two types of countries are translated into the institutional design of many parts of domestic regulation and governance. The differences between common and civil law in terms of socio-legal structure is persistent in many areas and thus it seems natural to assume that countries' socio-legal background is likely to affect their preferred form of international cooperation. In general, countries with common law traditions value case laws and unwritten rules, are reluctant to be bound by treaties, and try to maintain flexibility in implementing international obligations. Countries with civil law traditions value certainty rather than flexibility and once a treaty is signed, domestic written laws are adjusted accordingly (Efrat 2016). International cooperation among states with similar domestic socio-legal structures (for example, cooperation among only common law states) seems like the more promising option for success. This observation raises the question: what happens when common law and civil law countries attempt to cooperate?

We believe this study has not only academic value but also practical policy implications, especially for policies on integration and disintegration of international cooperation. The United Kingdom (UK) voted to leave the European Union (EU) at a citizen referendum, though to date the exact process by which Brexit will be implemented is unknown at this stage. What is clear is that the UK was not entirely satisfied with the integration project led by Brussels. United States (US) President Donald Trump insisted upon the withdrawal of the US from the North American Free Trade Agreement

(NAFTA) during the presidential campaign. While a new agreement, the United States-Mexico-Canada Agreement (USMCA), was signed, it was clear that the US was not happy with the NAFTA arrangement. Turning to Asia, while the ten-member Association of Southeast Asian Nations (ASEAN) has deepened economic integration in the region, including implementation of the ASEAN Free Trade Agreement (AFTA), three members, namely, Singapore, Malaysia, and Brunei Darussalam, have decided to join the Trans-Pacific Partnership (TPP). Interestingly enough, all the countries mentioned above have a common law tradition. While immigration is a key issue in the first two cases, we argue that the an asymmetric relationship between common law countries and civil law countries exists in regional integration projects and similar efforts, and that this may be a source of unease for the common law countries in particular, including migration issues.

This paper will analyze neither Brexit nor the US attitude towards North American integration, because these are ongoing events and many articles have already been devoted to these discussions; however, implications for the UK and the US will be discussed later on. In this research, we will give a fresh insight into international cooperation and domestic socio-legal structure by providing three detailed empirical analyses on regional cooperation projects in Asia. Asia is an ideal region to examine the significance of domestic socio-legal structure because Asian countries are significantly heterogeneous in this respect. Some countries have a common law tradition due to British colonization, while others maintain civil law structures adopted from Germany or France. There are also states that have a hybrid structure, mixing both common and civil law ideas.

The issue we will discuss in this paper is the regulation and governance of professional services such as engineers. While there are differences in approaches to standards between common and civil law countries, even in the case of goods or products (product standards), those regulations should be scientific-based as required by WTO Agreements; hence, the differences are generally marginal. In contrast, regulations on service sectors are distinct because quality standards are often imposed on service providers, rather than the services themselves. Thus, the fundamental question is: how can we evaluate the competence of service suppliers (e.g., engineers)? We believe that systems for evaluating people are fundamental and deeply rooted in the socio-legal structure of the community. For example, the evaluation of students can provide a rough idea about the issue. For countries, what is their ideal university admission mechanism: across-the-board examinations, or records of course scores and evaluations from secondary school? The answer totally depends on the values embedded in the socio-legal structure of the community.

This paper is structured as follows. The next section discusses the differences between common and civil law countries in terms of socio-legal structure and the mode of domestic regulations and governance in professional services sectors. This section will also develop hypotheses on the form of international cooperation preferred by common and civil law countries with regard to cross-border governance of the service sector. Then, we will briefly explain the methodology to examine our hypotheses. After that, three case studies of regional cooperation projects on professional services are presented. The first case focuses on mutual recognition agreements lead by common law countries, the second case on harmonization projects lead by civil law countries, and the third case

looks at cooperation among both types of countries on an equal footing basis. All together, we can clearly show differences in attitude toward various type of international cooperation between civil and common law countries. In the conclusion section, we will summarize our findings and discuss some implications for Brexit and other disintegration phenomenon in outside of Asia.

2. International Cooperation and Domestic Structure

There are two streams of literature that explain international cooperation (Gourevitch 1996). The first group of literature highlights the importance of domestic structures, which form the policy preferences. When policy preferences converge, there is a high probability of international cooperation. Studies that belong to this group have significantly developed, but a particularly large emphasis has been placed on democracy as a key domestic factor when examining international cooperation, leaving other domestic factors behind. Simply put, their argument is that democratic countries tend to cooperate more (Leeds 1999; Mansfield et al. 2002).[1] Mansfield and Pevehouse (2006) statistically show that states that are democratizing are more likely to join international organizations. While there may be some democratic bias, as suggested by Mattes and Rodriguez (2014), democracy (and autocracy) has been the central topic of domestic sources of international cooperation.

The second group of literature on international cooperation emphasizes the role played by international institutions, which are necessary to sustain commitments. Studies in this groups implicitly assume that the preferences of developed states are more or less similar, but argue that the convergence of preferences is not sufficient to explain international cooperation (Gourevitch 1996). This type of research puts its analytical focus on interests generated by international cooperation that can be enjoyed irrespective of domestic structure. For example, the expected benefit of high oil prices led to the establishment of the Organization of Petroleum Exporting Countries (OPEC), and there is little room for factoring in domestic factors in this type of argument (Keohane 1984). Hence, the literature often employs a game-theory approach, because a positive sum situation is necessary for cooperation to flourish (Smith 2009; Grundig 2006).

Recent studies have attempted to explain domestic sources of international cooperation other than democracy. Singer (2004) finds that financial regulators are more likely to seek international regulatory harmonization when confidence in the stability of financial institutions is declining and when competitive pressures are increasing from foreign firms facing less stringent regulations. Bach (2010) develops a convincing argument that domestic regulatory institutions in leading markets can explain the variation in international cooperation in global economic governance by comparing four case studies: securities, internet domain names, intellectual property, and hedge funds. Bach and Newman (2014) argue that the institutional form of domestic market regulation (e.g., independence of regulatory agencies[2]) is closely correlated with membership in

[1] Other studies have argued that international cooperation or membership in international organizations fosters democracy. For example, see Pevehouse (2002).

[2] Nonetheless, the independence of regulatory agencies is a concept closely related to democracy because institutional independence is likely to happen under democracy (such as central bank independence).

international organizations by using a case study of financial sectors, including both securities and insurance. However, it is important to note that their domestic variables are often issue specific. The domestic structure of certain industries may affect the preferred form of international cooperation in that specific sector (say security), but not others.

Domestic socio-legal structure, which is the focus of our current study, is not issue specific. It affects the nature of domestic regulation and governance in various parts of society and may define the preferred form of international cooperation in general. Economists have been interested in the impact of domestic legal system on economic performance since the 1990s (La Porta et al. 2008). However, international relations literature on the domestic socio-legal structure and international cooperation is still significantly underdeveloped. Elkins, Guzman, and Simmons (2006) find that common law countries are less likely to sign bilateral investment treaties because they already provide strong property rights protections at the domestic level. Mitchell and Powell (2011) argue that civil law states are more likely to accept the compulsory jurisdiction of the International Court of Justice since its rules and procedures are more in line with those of civil law countries. These studies are in line with economic methodology because they statistically show that legal system (explanatory variable) affects the probability of membership in international agreements (dependent variable).

Only very recently have international relations theorists with a law or sociology background provided a systemic accounting of international cooperation from the angle of domestic socio-legal structure. Efrat (2016) developed a theory that civil law countries that prefer treaties and their written domestic laws are adjusted accordingly to maintain their consistency with treaties. In contrast, common law countries prefer non-binding commitments such as declarations. However, the implementation of international declarations is higher in common law countries than in civil law countries, as judges in the former often take into account even international declarations in making decisions, unlike judges in civil law countries. On the form of regional cooperation, Duina (2016) presents the idea that civil law states prefer standing international/regional court and harmonization of regulations, while common law states prefer ad hoc dispute resolution mechanism and mutual recognition of each other’s regulations. He argues that when civil law and common law countries cooperate, the institutional design of such cooperation mechanisms become hybrid, having features of both systems. His argument seems to be supported by the ten case studies of regional integration projects worldwide. The factor that was equally emphasized in both studies above is the continuity between domestic and international mechanisms. We will develop our hypotheses in line with these studies.

3. Domestic Professional Services Governance Compared

In discussing professional services regulation, we should clearly distinguish substantive and procedural issues. Substantive requirements are standards regarding the competency that must be satisfied by professionals, such as competence, key knowledge and skills. For example, engineers need to have some special knowledge and skills in engineering and related science. Concerned parties may agree upon the set of necessary knowledge

and skills. Procedural issues are totally different from substantive requirements and may pose an even more serious problem. Procedural issues are all about how to examine whether the substantive requirements are met. Because substantive requirements are related to competency, procedural requirements are related to the question on how to assess competency. Under what condition can we say a person is competent and has a substantial knowledge or skills? This is a cultural as well as philosophical problem, which cannot be easily reconciled. Even if two countries totally agree upon the substantive requirements for a certain profession, disagreement on procedural issues remain. We think these differences highlight the key factors for determining attitudes towards international cooperation on professional services.

3.1. Domestic Professional Services Governance in Civil Law Systems

In general, civil law countries value written documents in judicial and administrative matters. They rely on written Codes of laws, which are continuously updated and approved by the legislature. The Codes differentiate substantive laws from procedural laws. Substantive laws deal with matters subject to potential prosecution, whereas procedural laws deal with how the substantive laws are implemented or prosecuted. In civil law countries, judges apply the provisions of the Codes to the matters at hand and decide on the matter based on the provisions of the Codes, based on the set codified of laws.

In civil law counties, the competence of people is usually assessed by the score of paper examinations. Just like their court and administrative system prefer written rules, what is written by candidates on papers becomes the basis of their competence assessment. Just as civil law countries value systematic court procedures detailed in procedural laws, they prefer establishing rigid examination system for competence assessment applicable across-the-board.

In a civil law countries, candidates need to pass the examination before becoming a professional, which often means passing a national examination or exams conducted by professional boards. In their system, university degrees and professional qualifications are basically two different things. There is an implicit understanding that obtaining a degree is relatively easy, whereas passing a paper examination to obtain professional qualification is difficult. Just because a person obtains a law or engineering degree does not mean that he or she is a lawyer or engineer. The passing of paper examination is a mandatory requirement. The completion of university coursework may be a prerequisite for taking an examination. However, coursework is sometimes not even required for one to take a paper examination when obtaining a professional qualification. In this case, one may become a professional without taking any coursework if he or she passes several competitive paper examinations.

In most cases, all candidates must sit to take the same paper exam at the same time. The score and ranking of successful examinees may also be released. However, because passing the competitive paper examination is so difficult, all successful candidates are more or less equally regarded as very qualified. The number of successful applicants is often very limited. Hence, for example, a building will not collapse easily regardless of the architect who designs the building.

As a result, the role of market competition is marginal in the civil law system. Moreover, it is widely considered that competition in the market tends to be excessive competition. To avoid excessive competition, the supply of professionals should be reduced; that is, the number of successful applicants should be reduced. Survival in the market is not a critical issue for demonstrating the competence of professionals.

Specialized professionals that operate in certain subsectors are required to take a specialized examination. In other words, only when different examinations are conducted for different subfields are two fields regarded as different professions. For example, mechanical engineers and chemical engineers are different because different exams are conducted for each. It is often the case in civil law countries that one becomes a mechanical engineer or chemical engineer rather than simply an engineer in general.

3.2 Domestic Professional Services Governance in Common Law Systems[3]

In general, in common law countries, laws are not comprehensively codified. There could be Acts of Parliament or Statutes, but these legislations deal with specific issues or matters. There are issues which are not only uncodified but also not covered by Statutes. For example, an offence for murder is not covered by any statute in England and Wales. Many laws are made or interpreted by judges based on the doctrine of binding precedent. This means judges of the lower courts are bound by the decisions of the higher courts. At the same time, judges may decide cases on decisions made by courts in other countries, based on the doctrine of persuasive precedent. Judges are also able to interpret the meaning of certain provisions in statutes, either through the common law rules of interpretation or through statute of interpretation. As decisions of previous cases matters to the future cases, any person who would like to challenge the decision of past cases will have to bring matters to the highest court that issues that binding rulings.

In common law countries, the competence of candidates are usually assessed by their track-record on the case-by-case basis. Such a situation is similar to their court system wherein case laws accumulate and each case law should be interpreted in a specific context. The whole track-record of candidates are examined to make a decision whether he/she is qualified as a professional. In this context, it is understandable that the score of examination taken at a particular point of time is not particularly a meaningful indicator of competence.

In common law system, one needs to first obtain relevant degree before becoming a professional, which is in sharp contrast with some civil law countries where coursework is not required. For a person to be admitted to university in common law countries, the number of required paper examinations are light. Instead, reference letters, which serve as proof of an applicant's track record, play a large role. However, completing all coursework to get a degree is often much more difficult in common law countries. Attendance, presentations, laboratory work, and exercises are key components of

[3] There is one small but important note relating to the definition of civil law countries, which we basically define as non-common law countries. Our argument is that civil law countries prefer exam systems; however, there is a possibility that the Confucius tradition in Asia also affects the professional services system.

coursework. Students need to “survive” during their years of coursework. It is important to note that getting a degree from top universities is more difficult that other universities. This means that not all law or engineering degrees are equal.

In common law systems, degrees and professional qualifications are almost the same. Put differently, once one successfully obtains a law or engineering degree, professional qualification is almost achieved. They may need to pass an exam after coursework, but the passing rate of examination for professional qualifications is often very high. Sometimes, there is no examination at all, where candidates may only be required to sit for interviews and making presentations. However, it is important to note that the final decision is made by a professional board that evaluates the entire track-record of a candidate on the case-by-case basis, which is similar to the role of the judge in a common law court.

Overall, in general, starting a career as an engineer is easier in a common law system than in a civil law system. However, market mechanisms or discipline plays a much more critical role in common law countries. Engineers need to survive in market competition. Engineers sometimes start their careers with a probationary period, during which they must demonstrate their capability so that they can become a qualified professional. Unlike civil law systems, not all service suppliers are regarded as being equally capable. This is partly because not all degrees are equal, as discussed before, but also because market mechanisms produce winners and losers, which means that not all work experiences are the same. There is an understanding that a building designed by a poor professional architect may have problems.

Professional specialization in certain subsectors is also achieved through work experience rather than taking specialized examinations. Coursework is also not specialized, even though there are of course several units specialized in specific subfields. To give a specific example, one does not take coursework for a chemical engineering degree, but rather coursework for a general engineering degree which may have certain coursework or units on chemicals. Individuals who want to specialize in chemical engineering must also have relevant work experience after becoming an engineer.

In short, in a civil law system, it is believed that the competency of candidates is measured by their score when sitting for an examination. In a common law system, competency is examined by performance during university coursework and survival in market competition. The process through which a person becomes a professional matters for professional service regulation in the common law system.

4. Two Types of International Cooperation on Professional Services

Now, we can logically infer the preferred form of international cooperation in the sphere of professional services by the two types of countries: civil law and common law countries. The inference can be made 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.

4.1. Civil Law States: Internationally Harmonized Examination

When two or more civil law countries cooperate on regulations, they tend to harmonize laws. Harmonization of laws is possible between/among civil law countries because written laws occupies the central role in their legal system. Harmonization is about reducing fragmentation or increasing similarities of two or more different laws of the same subject matters, normally involving two or more different jurisdictions. Harmonization may involve harmonization of standards, policy objectives, principles or procedures in certain identified subject matter.

In the case of competency assessment, civil law countries that emphasize the importance of paper examinations tend to regard harmonization of professionals internationally as achievable because what needs to be harmonized between their system and other countries is the paper examination. Civil law countries first harmonize substantive standards for a particular professional. Countries need to agree upon special knowledge and skills necessary for that profession. Harmonization of standards normally focused on creating a common standard generally accepted and followed in certain fields such as engineering. Normally parties to harmonization will find the best standards that suit all the jurisdictions involved in the harmonization exercise. Then, procedures are also harmonized, which means that common examination are introduced. In achieving harmonization, the relevant authorities will have to set common subjects common syllabus and common experience requirement for a candidate to sit and pass. Harmonization will ensure that candidates sitting for similar examinations in the harmonized jurisdictions go through similar types of professional qualification systems.

It is important to note that harmonization eventually entails harmonization of both paper examination and coursework. Hence if we look at the qualification system of many civil law countries, it is not easy to tell which came first: harmonization of paper examination or that of coursework. But we argue that the harmonization of examinations tends to be the trigger of the harmonization of coursework. What happened in Louisiana, which has civil law tradition is interesting. Louisiana introduced a state-wide examination for notaries in 2005, which brought some harmonization of exam-preparation course (Stephenson 2015, 100).

4.2. Common Law States: Mutual Recognition of Track-record

In the common law system, demarcation of jurisdiction is not a too critical problem. In other words, the countries with common law traditions are more or less integrated in terms with actual policy implementation. When two or more civil law countries cooperate on regulations, they tend to mutually recognize each other's regulations. Suppose that this is only case law, not written law in a certain field. When two or more common law countries cooperate in regulations in such a field, they will look at each other find similarities that could be used to recognize the decision of the case. In other words, common law countries look for areas that they can cooperate and collaborate whilst retaining the laws of the country untouched or to move with some form of modification. In other words, common law countries will not seek for full harmonization or standardization of laws or qualifications.

Common law countries value experience, which is unique to each candidate.

Successfully completing coursework and a probationary period (e.g., articleship) is critical for candidates to demonstrate their competency. Moreover, professionals need to survive in market competition in order to demonstrate their competitiveness. 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.

Because coursework is very important in common law system mutual recognition of undertaking of coursework becomes important. When two countries are the signatories of Washington Accord, the accreditation bodies in these countries agree to provide equal recognition to all programs accredited separately by each entity of the accord. Each signatory of the Washington accord agree to provide substantial equivalency of accredited engineering degrees of the respective country.

In the case of 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.[4]

5. Methodology

5.1. Methodology and Case Study Selection

Our overarching hypothesis is that common law countries prefer mutual recognition (of track record of professionals in partner country), while civil law countries prefer harmonization (of paper examination). We will also examine how common law countries react to international cooperation that emphasizes harmonization and civil law countries react to projects based on mutual recognition. Here, there is one methodological problem; many international projects are developed by like-minded countries (say, countries with a common law background), without including countries with a different socio-legal background. The International Professional Engineer Association (IPEA) is a typical example of a group of like-minded countries with regard to international cooperation on qualifications.

To overcome this problem, we will use case studies of regional cooperation projects on professional services because regional groups, which are based geographically, naturally involve both common and civil law countries. Regional groups that include various types of countries are more appropriate for examining our hypothesis regarding civil/common law countries' attitudes towards regional projects dominated by common/civil law countries than non-regional group formed by like-minded countries. The three cases studies that we use are:

(i) Asia-Pacific Economic Cooperation (APEC) Engineer project, and
(ii) Asian Common Skill Standard Initiatives for IT Engineers, a project under the

[4] Interviews with World Education Service in New York City.

ASEAN+3 group (members of ASEAN plus China, Japan, and Korea).
(iii) ASEAN Engineer

Using the first case study, we explain that the first project is based on mutual recognition, and common law countries dominate the process. We will also examine the attitude of civil law countries toward mutual recognition led by common law countries. Second, we show that the second project employs harmonization approach and it is led by civil law countries. The attitude of common law courtiers toward harmonization (the latter case) are also examined.

Further, using these two cases, we will show that countries that are active in mutual recognition projects based on professional track record are reluctant to fully participate in harmonization projects for examinations, and vice versa. To be more specific, we will show a rough negative correlation between the activeness of each country in mutual recognition and harmonization projects.

The third case study contributes to our argument by providing the example of regional qualification projects where both civil and common law countries participate on an equal-footing basis. This happens when regional cooperation on qualification is built upon existing agreements, for example, a free trade agreement (FTA). The point here is that there is no option to opt out and all signatories of an FTA must negotiate the appropriate modality of qualification cooperation. When qualification cooperation is designed from scratch, like-minded countries that have similar qualification backgrounds often lead the discussion, leaving countries that have different backgrounds behind. This hold true for the first two case studies, because neither APEC nor ASEAN+3 have FTAs at this point in time. We will use the case study of the ASEAN Engineer Register, which was designed to complement services trade liberalization in the ASEAN region, where all ASEAN members (both common law and civil law traditions) are “forced” to participate.

Hence, by using these three case studies, we will show that: (i) common law countries dominate cooperation based on mutual recognition, while civil law countries are marginalized; (ii) civil law countries dominates cooperation based on harmonization, while common law countries are marginalized; and (iii) when both common and civil law countries participate on an equal-footing basis, the cooperation modality becomes a mixture of harmonization and mutual recognition.

5.2. Four Types of Competency Assessment in East Asia

However, before going to the details, it is important to explain the classifications involved with regard to the domestic professional qualification system. In addition to the typical competency assessment system in common and civil law countries, there are variations in competency assessment systems that are located somewhere in between. Our classification is primarily based on the case of professional engineers, which is the profession examined in the next section in great detail. Example of countries classified in each group is also based on the case of professional engineers.

In some countries, competency assessment is based on performance in coursework and paper examinations are not conducted. We will call such qualification systems as

(extreme) common law competency assessment systems. The typical example that falls in this category is the UK, but from Asia Pacific, Australia is a good example for this group. In contrast, in (extreme) civil law competency assessment system, undertaking coursework is not required, while paper examination is mandatory. Japan is a good example, because engineer degree is not required for one to become a professional engineer.

Many countries are located somewhere in between, which means both coursework and paper examination are required. In the case of comprehensive competency assessment systems, in addition to coursework and paper examination, interviews are also required. In mixed competency assessment systems, both coursework and paper examination are required, but interviews are not. Comprehensive competency assessment systems, which value interviews, are closer to common law competency assessment systems than mixed competency assessment systems. The competency assessment system of some countries is under-developed and it is not easy to classify them.

Table 1: Four Types of Competency Assessment in East Asia

Classifications	Common Law Competency Assessment System	Comprehensive Competency Assessment System	Mixed Competency Assessment System	Civil Law Competency Assessment System
Examples	Australia Malaysia	Singapore Korea	Taiwan Vietnam Philippines	Japan
Coursework	X	X	X	
Interviews	X	X		X
Paper examination		X	X	X

6. Three Case Studies

6.1. APEC Engineer MRA and Other Engineer MRA Regimes

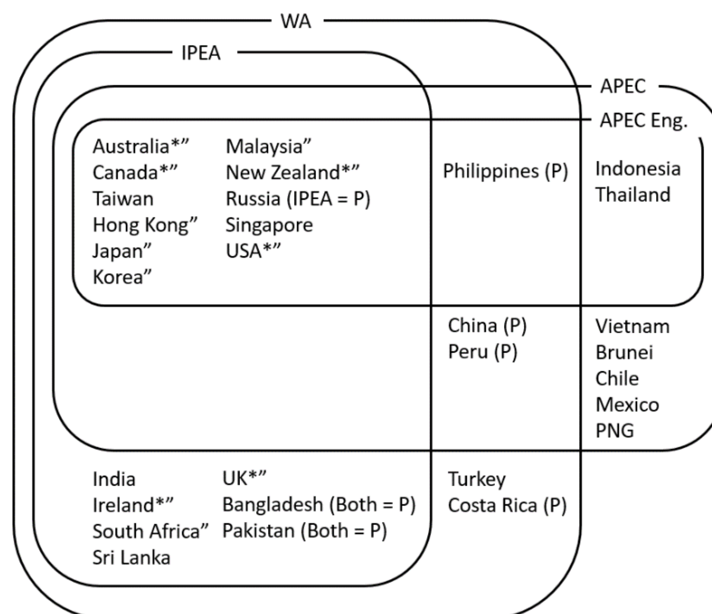
International cooperation in engineering[5] has a relatively long history. International cooperation agreements in this field can be classified into two types. The first type is education accords. Education accords aim to mutually recognize accredited engineering educational programs among signatory bodies. The second type is agreements on professional competence. They attempt to develop and recognize best practices in assessing competence for independent practice in engineering.

The Washington Accord (WA) is a multilateral agreement among bodies responsible for the accreditation of academic programming dealing with engineering at the professional level (professional engineer). It was originally signed in 1989 with six original signatories, primarily British Commonwealth members (see Figure 1). The membership

[5] There are three types of engineers: (i) professional engineers, (ii) engineering technologists, and (iii) engineering technicians. This section deals with professional engineers.

of the WA expanded and now includes many other Commonwealth countries. Non-commonwealth countries such as Japan, Korea, and Taiwan also have joined the WA, but others are still either provisional members (such as China and the Philippines) or non-members (Thailand and Indonesia). Among them, the situation of Japan is noteworthy. While the Japan Accreditation Board for Engineering Education (JABEE) is a member of the WA, almost all top Japanese universities do not offer engineering programs accredited by JABEE, unlike the case of Korea (Accreditation Board for Engineering Education of Korea: ABEEK) and Taiwan (Institute of Engineering Education Taiwan: IEET), where engineering programs are typically accredited. This means that, in terms of implementation, Japanese engineering programs have some problems regarding their compatibility with WA requirements.

Figure 1: Professional Engineer MRA Regime



* = Original member of the Washington Accord (WA)
" = Original member of the International Professional Engineer Association (IPEA)

Regarding an agreement on competence for professional engineers, the APEC Leaders' Meeting in November 1995 called for urgent actions to facilitate the mobility of qualified persons among member economies. In January 1996, the APEC Human Resource Development Ministers decided that the initiatives on mutual recognition of skill qualifications must be accelerated. A steering committee was established and first met in May 1996 and agreed to conduct a survey on professional institutions and societies, procedures and criteria for the registration of professional engineers, and frameworks for engineering education and development. The APEC survey conducted made it clear that higher education systems and the quality assurance frameworks of member economies diverged significantly. Hence, the Steering Committee decided to pursue a more modest goal, and agreed that the APEC project should offer a regional vehicle through which mutual recognition could be pursued bilaterally.

The APEC Engineer Coordinating Committee was established in November 1999. The original members of the APEC Coordinating Committee were Australia, Canada, Hong Kong, Japan, Korea, Malaysia, and New Zealand. Other than Japan and Korea, all are Commonwealth nations. Several other APEC members later joined the APEC Engineer project. However, it should be noted that not all APEC members participate in the APEC Engineer Coordinating Committee, such as China, Vietnam, Brunei, Mexico, Chile, Peru, and PNG.

In 2003, a joint workshop for the APEC Engineer Agreement and the Engineers Mobility Forum (EMF), which is a sister institution of APEC Engineer, was organized to discuss a possible merger of the two institutions. The EMF was established in October 1997 by eight countries,[6] predominantly commonwealth members,[7] all of which are signatories of the WA. The fundamental objectives of the two are quite similar and there was significant overlap in terms of membership between the two. The only critical difference in terms of substance was in the education base; otherwise the requirements were identical. The EMF required a degree substantially equivalent to that of the WA, while this was one of several options available to APEC Engineer applicants because APEC Engineer included countries that were not signatories to the WA such as Thailand, the Philippines, and Indonesia. Three non-APEC members of the EMF (Ireland, South Africa, and the UK) expressed their disagreement to the merger of the two organizations. This means that APEC Engineers are not homogenous in terms of their educational background. The APEC Engineer program fails to provide the basis for mutual recognition of educational background among APEC members, unlike the EMF, which was later replaced by the IPEA in 2013.

As discussed, the APEC Engineer regime is not MRA per se; it is a regional vehicle through which mutual recognition could be pursued bilaterally. Without a bilateral MRA, APEC Engineers cannot provide engineering services in other countries. Figure 2 provides the current status of MRAs between APEC members. Australia is the most active in this regard. As of now, it has signed MRAs with almost all APEC members. The only countries that are part of APEC Engineer but have yet to sign an MRA with Australia are the Philippines and Thailand; we can regard them as countries that are cautious about the MRA approach. Other than Australia, Taiwan and Korea (and to a lesser degree Malaysia) are active in pursuing MRAs with APEC partners.

[6] In June 2001, the Agreement to Establish and Maintain an International Register of Professional Engineers was signed by 11 parties: Australia, Canada, Hong Kong, Ireland, Japan, Korea, Malaysia, New Zealand, South Africa, the UK, and the US. Japan (Japan Consulting Engineers Association) later joined the EMF (Japan became a provisional member of the WA in 2001 and became a full member only in 2005).

[7] Australia, Canada, Hong Kong China, Ireland, New Zealand, South Africa, the UK, and the US.

Figure 2: Status of Bilateral MRAs in APEC

	Australia	Canada	Taiwan	HK	Indonesia	Japan	Korea	Malaysia	NZ	Philippines	Singapore	Thailand	US
Australia		◎		◎	○	◎	◎	◎	◎		◎		
Canada	◎			◎									
Taiwan							○	○					
HK	◎	◎											
Indonesia	○												
Japan	◎												
Korea	◎		○										◎
Malaysia	◎		○										
NZ	◎												
Philippines													
Singapore	◎												
Thailand													
US							◎						

Note: ◎: MRA signed. ○: MOU for MRA signed.
Source: Author's compilation

Hence, the APEC Engineer regime is an ongoing project on MRA, rather than harmonization. From the beginning, the title of APEC Engineers does not guarantees the practice in other APEC member countries; it is not a regional qualification. Unless there is bilateral MRA in place, APEC Engineers cannot practice in partner APEC economies. However, as we saw, the actual status of signing of bilateral MRAs is very limited. With regard to the education side, an engineering degree that is substantially equivalent to that of the WA (an MRA on engineering degree) is not a requirement for APEC Engineers, unlike IPEA Engineers.

Figure 3 summarizes the position of major East Asian countries toward the APEC Engineer project. Australia and New Zealand are the most active because they are original members of the WA, IPEA, and APEC Engineer and are active in signing MRAs. Malaysia and Korea, which are original members of IPEA and are interested in signing MRAs, follow. Then, the third group, including Singapore and Taiwan, which recently joined the WA and IPEA, are interested in signing MRAs. Japan, the Philippines, Indonesia, and Thailand are the fourth group because Japanese universities' actual compatibility with the WA is low. The Philippines is still a provisional member of the WA and Indonesia and Thailand are not members of IPEA. Finally, Vietnam, which is still outside the APEC Engineer region, is the least active in terms of APEC activities concerning engineering.

Figure 3: Relative Positions on APEC Engineer Project

6.2. Asian Common Skill Standard Initiatives for IT Engineer

At the ASEAN +3 Economic Ministers Meeting in October 2000 in Chiang Mai, Thailand, the Japanese economic minister proposed the Asian Common Skill Standard Initiative for IT Engineers. The goal of the Common Skill Standard Initiative is to raise the skill level of IT engineers in Asian countries, to increase cross-border job opportunities, and to promote the alliance of IT companies in the region. The Japanese proposal was adopted.

The question was how to introduce the Common Skill Standards. By then, Japan had a 30-year history of conducting the IT Engineers Examination, and naturally, Japan attempted to make its own standards as the template for the regional standards. Such an approach was acceptable for some countries in Asia. The Information Technology Professionals Examination Council (ITPEC) was established in November 2005 by Japan, the Philippines, Thailand, Vietnam, Myanmar, Malaysia, and Mongolia. The council agreed to conduct examinations on the same date and time with the same set of questions so that the examination is consistent among all of the member countries. The first ITPEC Common Examination was conducted in 2006 and since then it has become a bi-annual examination (twice a year). Note that all members are countries in the civil law tradition with the notable exceptions of Malaysia, Mongolia, and Bangladesh.

The basis of the exam is Japan's IT Engineers Examination. However, several consultation meetings on the selection of questions and the reform of the examination are periodically held between Japan and other countries. Hence, while the template is provided by Japan, it has an element of mutual harmonization, rather than other countries' unilateral harmonization to the Japanese exam. Moreover, while the consultation was bilateral in the early days, it recently became a multilateral consultation among all ITPEC members. The paper examination is conducted in English, with translation to the local language. The common paper examination is conducted on the same day using the same set of questions in order to keep the level of the examination equivalent in each country. The Common Examinations are conducted for three types of IT engineers: IT passport engineers (IPs), fundamental IT engineers (FEs), and applied IT engineers (APs).

It is interesting to note that two common law countries are involved in the ITPEC Common Examination: Malaysia and Bangladesh. Malaysia was an original member of

ITPEC and had participated in the Common Examination since 2006. However, the ITPEC Examination was introduced to Malaysia by Malaysia Multimedia Technology Enhancement Operations (METEOR), which is a consortium of eleven public universities that owns the Open University of Malaysia. METEOR introduced the Common Examination together with workshops and coursework that it provided in-house. However, because of the declining number of Malaysian applicants to the Common Examination, some courses provided by universities participating in the Open University have asked their students to take the common exam as a part of their coursework; this was still not effective enough to increase the number of Malaysia applicants. Quite interestingly, METEOR decided to discontinue its ITPEC activities in September 2017. The immediate reason for this was that it faced a funding shortage to conduct examinations, but it is also undeniable that the examination is not fully compatible with the Malaysian system, which values coursework and professional experience. The examination in Malaysia was introduced in tandem with coursework and workshops, unlike in other countries, and many Malaysian applicants assumed that they could pass the paper examination once they successfully completed the coursework or workshop, which turned out not to be true (interviews with Malaysian professors/engineers who took the past Common Examination).

Bangladesh recently joined ITPEC in September 2014. Bangladesh is a common law country, but it is not fully involved in the existing MRA among common law states. In fact, Bangladesh is a latecomer to IPEA and it only had provisionary membership when it decided to participate in ITPEC. One could argue that Bangladesh does not seem to have a strong preference for mutual recognition over harmonization because its domestic professional service governance is still in the early development stage. In other words, because Bangladesh's domestic regulation is still underdeveloped, it can go either way and pursue either a common law or civil law approach to qualification governance. This also explains why Bangladesh participated in ITPEC despite the fact that it is not an ASEAN+3 member. The such an explanation from the developmental angle also seems to explain why Myanmar and Mongolia participate in the Common Examination.

Detailed analysis of the exam performance of each country is interesting. Table 2 summarizes the performance of each country.[8] Countries that have achieved high pass rates are Vietnam and the Philippines. They employ mixed systems for qualification with strong civil law traditions (see Table 1 above). It is very interesting to find that the pass rates of applicants from Malaysia, which uses a common law competency assessment system and Bangladesh, a Commonwealth member, are extremely low. It is incorrect to consider applicants from Malaysia and Bangladesh as unqualified; rather, competency assessment that relies solely on one-time paper examinations is not fully in line with their traditions where coursework and work experience play critical roles. Furthermore, there were no applicants from Malaysia between March 2011 (the 11th exam) and May 2015 (the 19th exam), and it stopped sending applicants after October 2017 (the 24th exam). This also seems to suggest that Malaysian IT engineers were not keen to take the Common Examination.

[8] The raw data of the number of the applicants, attending applicants, and successful applicants from each member country of ITPEC are available on the ITPEC website.

Table 2: ITCEP Common Exam Performance

	Applicants	Attended	Successful	Pass Rate
Philippines	11,011	10,151	1,809	17.8%
Thailand	7,564	6,719	563	8.4%
Vietnam	9,243	7,826	1,667	21.3%
Myanmar	2,743	2,413	346	14.3%
Malaysia	988	732	44	6.0%
Mongolia	1,799	1,528	113	7.4%
Bangladesh	4,156	1,843	109	5.9%
Total	37504	31212	4651	14.9

Source: Authors' compilation.

Other ASEAN+3 countries that do not participate in the ITPEC Common Examination have signed MRAs on IT engineers with Japan, including Singapore, Korea and China. Non-ASEAN+3 countries such as India and Taiwan also signed MRAs. However, we should note that those MRAs are basically in line with the Common Skill Standards embodied in the ITPEC Common Examination, and those MRAs are still under the overarching framework of Asian Common Skill Standard Initiatives for IT Engineers. Therefore, it is wrong to argue that those countries opt to enter MRAs because they are against the harmonization idea; rather they sign MRAs once significant harmonization is achieved or compatibility is confirmed.

Then, what about the case of Singapore, which has a comprehensive competency assessment system and a strong common law tradition? While Singapore's decision to sign an MRA rather than participating in the ITPEC Common examination is in line with our predictions, it is still interesting to look into its MRAs on IT Engineers that are supposed to be in line with ITPEC Common Standards. It is interesting to note that the MRA between Japan and Singapore include none of IPs, FEs, and APs; it only covers other type of engineer.[9] Because these three types of engineers are covered by the ITPEC Common Examination, it seems clear that Singapore has kept its distance from the harmonization approach to IT engineer qualifications championed by ITPEC.

Hence, the position of Asian countries toward the Common Skill Standard Initiative for IT Engineers can be summarized as shown in Figure 4. First, we can say Malaysia, which withdrew from the ITPEC Common Examination, and Singapore, whose MRA does not cover IP, FE and AP, are indifferent to ITPEC. On the other hand, the harmonization approach is acceptable to countries that have participated in ITPEC Common Examination from its early stages, namely, Japan, the Philippines, Thailand, and Vietnam. China, Korea, Taiwan, and India are located somewhere in between because they have signed MRAs on IPs, Fes, and APs in line with the ITPEC. Bangladesh and Myanmar are part of ITPEC, but these are less-developed countries that need technical assistance.

[9] The Japan-India, Japan-Korea, and Japan-China MRAs cover FEs and APs, while the Japan-Taiwan MRA covers only APs.

Figure 4: Relative Positions Toward the ITPEC Project

Now, we can compare East Asian countries' positions toward the APEC Engineer project (a mutual recognition approach) and ITPEC (harmonization approach), using Figures 3 and 4. Malaysia and Singapore are active in APEC Engineer but inactive in ITPEC. Malaysia uses a common law assessment system, while Singapore has adopted a comprehensive system. Japan, the Philippines, and Vietnam seem to be countries that are inactive in APEC Engineer but active in ITPEC. Japan uses a civil law assessment system, while the Philippines and Vietnam have adopted a mixed assessment system, which is similar to a civil law system. Taiwan and Korea have adopted ambiguous positions toward both APEC Engineer and ITPEC (Figure 5).

Figure 5: Competency Assessment System and Policy Preference

	Common Law Assessment System	Comprehensive Assessment System	Mixed Assessment System	Civil Law Assessment System
Mutual recognition preferred	Malaysia	Singapore		
Ambiguous preference		Korea	Taiwan	
Harmonization preferred			Philippines Vietnam	Japan

6.3. ASEAN Engineer

The ASEAN Framework Agreement on Services (AFAS) was established in December 1995 and the Coordinating Committee on Services (CCS) for AFAS was established in January 1996. In July 2003, CCS established the 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 MRAs for the identified professional services in the ASEAN region. Because ASEAN MRAs are the result of ASEAN service trade liberalization under AFAS, all ASEAN members participate in MRA negotiations on an equal-footing basis. In other words, ASEAN MRAs basically do not have an opt-out option, unlike the APEC Engineer scheme, although some flexibility is allowed using an ASEAN-minus formula.

Signed in 2005, the ASEAN MRA on Engineers is the first MRA on professional

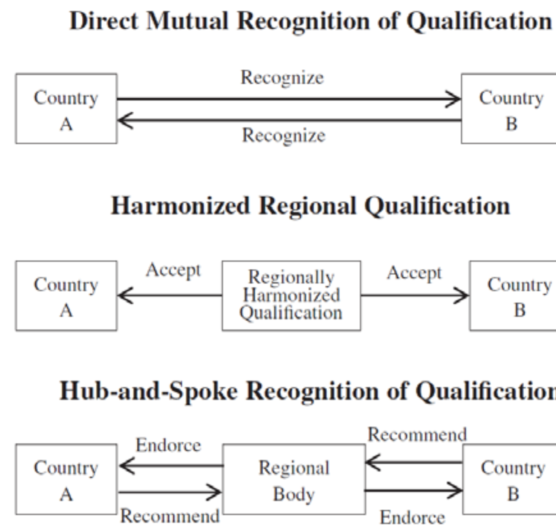
services signed in the ASEAN region. Professional engineers in ASEAN member countries can obtain the status of ASEAN Chartered Professional Engineer (ACPE) under this scheme. In order to apply for ACPE status, an engineer must be recommended to the ASEAN Professional Engineer Coordinating Committee (ACPECC) by a Professional Regulatory Authority (PRA) of the originating country. ACPECC has the authority to confer and withdraw the title of ACPE. ACPECC has its own secretariat and acts as an oversight body at the regional level. It consists of one representative from the monitoring committee of each ASEAN member state and authority rests with the Committee members that represent all ASEAN member states.

The status of ACPE does not automatically mean that an engineer may provide engineering services in other ASEAN countries. 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. However, unlike the APEC Engineer scheme, which requires bilateral MRAs among members, ASEAN MRA on Engineer does not require bilateral MRAs to be signed. In this sense, ACPE is more like a regional qualification compared with APEC Engineer. ACPE can work as RFPE if the home PRA approves. ACPECC is attempting to streamline the procedures that each PRA uses to decide whether to accept an ACPE as an RFPE. Hence, it is likely that an ACPE is allowed to practice in other ASEAN Member countries,[10] although the ability to practice in a host country may request additional assessment.

Hence, we can say that ACPE has a very unique approach to regional qualification governance, as discussed by Hamanaka and Jusoh (2018). 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. Such a system entails both characteristics of harmonization and mutual recognition (Figure 6). Under the (direct) bilateral mutual recognition system, the authority in a member country can decide whether it directly recognizes qualifications of another country and national authorities have full discretion. Under the regional qualification system wherein harmonized qualification is effective throughout the region, the discretion of national authorities is limited. However, the hub-and-spoke model of ACPE leaves some discretion to national authorities. However, national authorities are expected to give some positive consideration to the result of the regional assessment (i.e., status of ACPE) when deciding whether to confer a local qualification or license.

[10] In some countries, an RFPE is permitted to work in collaboration with one or more professional engineers of the host country.

Figure 6: Mutual Recognition and Harmonization



While the ASEAN MRA on Engineers has elements of both regional harmonized qualifications, a regional paper examination is not conducted. The introduction of a regional paper examination seems to be difficult, because some countries (such as Malaysia) do not consider paper examinations as the best way to conduct competency assessment. This is especially true for international examinations where country performance can be compared (note that Malaysia withdrew from ITPEC, as discussed above). Harmonization is achieved mainly through close coordination among the PRAs of each ASEAN member state. The criteria for ACPE emphasize the assessment of track record, such as degree and professional experiences.

Nonetheless, we should also note that there is some convergence among ASEAN members with regard to competency assessment; many countries seem to understand that both paper examinations and assessment of track record are useful ways to examine competence. ASEAN countries that do not have a common law tradition also follow the common standards for ACPE when nominating engineers to ACPECC, which reflects common law values such as university coursework/degree and professional experiences. For example, the Philippines (Philippines Technological Council: PTC) became a provisional signatory to the WA in 2013. As discussed, Singapore is a country that has adopted a comprehensive competency assessment system that requires not only coursework and interviews as preferred under common law traditions, but also paper examinations as preferred under civil law traditions. While Singapore is a Commonwealth country, it introduced a paper examination called the "Fundamentals of Engineering Examination" in 2006. This happened immediately after the ASEAN MRA on Engineers was signed in 2005, which implies some influence of the MRA on Singapore's qualification system. Malaysia also recently introduced paper examination for practicing license, which is necessary to supply services. This means all engineers, Malaysian and foreign, who intend to practice in Malaysia, must have the Professional engineering qualification approved by the Board of Engineers, and the must have passed the examination for the practicing license.

7. Conclusion

While earlier studies primarily focused on one aspect of domestic structure, namely, democracy, when explaining international cooperation, in this paper we demonstrated that domestic socio-legal structure significantly affects the preferred form of international cooperation. Civil law countries, which value written rules and certainty, use paper examinations as a core component of competency assessment of professionals. Hence, their preferred approach to international cooperation is international harmonization of paper examinations. In contrast, common law states regard track record as being important in assessing competence, and hence naturally, an emphasis is placed on the completion of coursework and survival in market competition. Their preferred approach to international cooperation is mutual recognition of foreign qualifications.

We examined these hypotheses using three case studies of regional cooperation projects on engineers in Asia. The APEC Engineer is a project that emphasizes the role of mutual recognition is led by countries with a common law background, and civil law states seem to keep some distance from it. The Asia Common Skill Standards for IT Engineers under ASEAN+3 established a common paper examination in Asia and the majority of participating countries have a civil law background. Interestingly enough, active parties in the former are inactive in the latter project (e.g., Malaysia and Singapore), while inactive parties in the former are active in the latter project (e.g., Japan and Vietnam). Countries that have moderate attitude towards the former also maintain moderate attitude towards the latter (e.g., Korea and Taiwan). The third case study on ASEAN Engineer is interesting because all ASEAN members are forced to participate on an equal footing basis due to the absence of an opt-out option, unlike in the first two cases. The ASEAN Engineer project has features of both harmonization, as preferred by civil law countries, and mutual recognition, as preferred by common law countries. There also seems to be a convergence of domestic qualification systems, as well as socio-legal structure in ASEAN member states, taking advantage of the strengths of both civil and common law systems. Common law countries in ASEAN start to recognize the value of paper examination and civil law countries start to rely on the evaluation based on track-record of enginners, especially foreign engineers.

What policy implications can be drawn from this study for Brexit and the US withdrawal from NAFTA? Because we did not conduct empirical analysis on the two cases, what we can say is very preliminary. However, in fact, several authors feel and have actually mentioned the socio-legal issues in explaining Brexit, although empirical studies are lacking. Even before the referendum, on Euroscepticism and the "Anglosphere," Wellings (2016) argue that the loose community of English-speaking people is distinguished by a set of institutions and characteristics such as common law that the other advanced nations of Europe lack, and that such a community is an alternative to the EU for Britain. Dennison and Carl (2016) are of the view that the common law system in Britain that contrasts with the civil law system in the continental Europe is one of the "ultimate causes" of Brexit. On the regulatory front, Siles-Brügge (2018) states that the EU prefers a mode of regulatory cooperation premised on harmonization, while the UK considers that the EU and the UK should simply aim for the mutual recognition of substantive standards and conformity assessment. All of these assessments are in line with our discussion in this paper. The domestic socio-legal

structure of the UK is not in line with European integration based on civil law values.

However, the difference in socio-legal structure has existed for a long time and is not a recent phenomenon. The enhanced mobility of people, which may take the form of both formal and informal migration, seems to explain this gap. In general, organizations in civil law societies have gatekeepers, while those in common law societies do not; instead survival after getting inside the gate is tough. Certain professionals in civil law countries can move to common law countries due to their experiences in home countries. While it is uncertain whether a person can survive in the market, at least they are inside the gate. However, professionals in common law countries in the same sector may meet the gatekeepers when they try to practice in civil law countries. Even if a person is exempted from the majority of the paper examination, there is a possibility that a trivial paper examination is imposed by the gatekeepers. This may be justifiable, even if the very purpose of international cooperation is to reduce barriers, not to eliminate the regulatory capacity, but can be a significant burden for people from common law backgrounds where sitting for paper examinations is rare. Gatekeepers, who may request the passing of an examination to enter, are common in civil law countries but not in common law countries. This is perhaps exactly the source of asymmetric relations between common and civil law countries in international cooperation, which causes the frustration of the former.

Domestic structures matter. Domestic socio-legal structure is a critical variable in understanding the variations in international cooperation and their fate. Unless designed properly to be accepted by both civil and common states, international cooperation may fail, such is likely to happen due to the dissatisfaction of the latter.

References

Bach, David (2010). "Varieties of cooperation: the domestic institutional roots of global governance." Review of International Studies 36(3): 561-589.

Bach, David, and Abraham Newman (2014). "Domestic drivers of transgovernmental regulatory cooperation." Regulation & Governance 8(4): 395-417.

Duina, Francesco (2016) "Making sense of the legal and judicial architectures of regional trade agreements worldwide." Regulation & Governance 10(4): 368-383.

Efrat, Asif (2016). "Legal Traditions and Nonbinding Commitments: Evidence From the United Nations' Model Commercial Legislation." International Studies Quarterly 60(4): 624-635.

Elkins, Zachary, Andrew T. Guzman, and Beth A. Simmons (2006). "Competing for capital: The diffusion of bilateral investment treaties, 1960–2000." International organization 60(4): 811-846.

Gourevitch, Peter Alexis (1996). "Squaring the circle: the domestic sources of international cooperation." International Organization 50(2): 349-373.

Grundig, Frank (2006). "Patterns of international cooperation and the explanatory power of relative gains: an analysis of cooperation on global climate change, ozone depletion, and international trade." International Studies Quarterly 50(4): 781-801.

Hamanaka, Shintaro, and Sufian Jusoh (2018). "Understanding the ASEAN way of regional qualification governance: The case of mutual recognition agreements in the professional service sector." Regulation & Governance 12(4): 486-504.

Keohane, Robert O (1984). After hegemony: Cooperation and discord in the world political economy. Princeton University Press.

La Porta, Rafael, Florencio Lopez-de-Silanes, and Andrei Shleifer. (2008) "The economic consequences of legal origins." Journal of economic literature 46.2: 285-332.

Leeds, Brett Ashley. (1999). "Domestic political institutions, credible commitments, and international cooperation." American Journal of Political Science 43(4): 979-1002.

Mansfield, Edward D., Helen V. Milner, and B. Peter Rosendorff (2002). "Why democracies cooperate more: Electoral control and international trade agreements." International Organization 56(3): 477-513.

Mansfield, Edward D., and Jon C. Pevehouse (2006). "Democratization and international organizations." International Organization 60(1): 137-167.

Merryman, John Henrry and Rogelio Perez-Perdomo (2007). The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America. 3rd edn. Stanford,

CA: Stanford University Press.

Mitchell, Sara McLaughlin, and Emilia Justyna Powell. (2011) Domestic law goes global: Legal traditions and international courts. Cambridge University Press.

Mattes, Michaela, and Mariana Rodriguez (2014). "Autocracies and international cooperation." International Studies Quarterly 58(3): 527-538.

Siles-Brügge, Gabriel (2018) "Bound by gravity or living in a 'post geography trading world'? Expert knowledge and affective spatial imaginaries in the construction of the UK's post-Brexit trade policy." New political economy, forthcoming

Singer, David Andrew (2004). "Capital rules: The domestic politics of international regulatory harmonization." International Organization 58(3): 531-565.

Smith, Alastair (2009). "Political groups, leader change, and the pattern of international cooperation." Journal of Conflict Resolution 53(6): 853-877.

Stephenson, Gail S. (2015) Contemporary Issues in Louisiana Law: Louisiana Civil-law Notaries. Southern University Law Review
43(1), 93–118.

Wellings, Ben (2016). "Our island story: England, Europe and the Anglosphere alternative." Political Studies Review 14(3): 368-377.