

PROBLEMS OF FREE COMPETITION IN THE LIBERALIZATION OF ASEAN ECONOMIC AND TRADE

Triyana Yohanes

ABSTRACT

This study analyzed the problems of free competition in ASEAN economic and trade liberalization based on the AFTA Agreement 1992 and the AEC Declaration 2015. Basically, the liberalization of ASEAN economic and trade was performed by the application of the principles of economic liberalism, is an ideological belief in organizing the economy on individualist and voluntarist lines (laissez faire). The application of the principles of economic liberalism could cause free competition and its negative impacts which were not in accordance with the spirit of cooperation and solidarity among the ASEAN member countries. The problems of this research was studied by normative legal research and the data were collected by library research. From the data analyzed it could be concluded that there should be a harmonization and compromise between the principle of free competition in one hand, and the spirit of cooperation and solidarity in the other hand in implementing the liberalization of ASEAN economic and trade, so it will give economic benefits to all ASEAN members. In implementing the AFTA and the EAC, the principle of justice should be realized, among others through the provisions of development assistance and positive special treatments to the weak economy ASEAN member countries, especially the least developed countries.

Keywords: economic and trade liberalization, cooperation, competition, harmonization

INTRODUCTION

The Association of South East Asian Nations (ASEAN) was founded in 1967 based on the Bangkok Declaration, August 8, 1967. One of the purposes of the establishment of ASEAN is to establish economic cooperation to increase the economic growth of its member countries.

Untill now, the ASEAN has developed some economic cooperations among it's member countries. In developing economic cooperations, the ASEAN also was influenced by the trend of the liberalization of the world economic and trade based on GATT 1947 and its successor the World Trade Organization Agreement.

The ASEAN economic and trade liberalization began to be realized through the establishment of the AFTA agreement in 1992. After success with AFTA, now ASEAN is on its way to form the ASEAN Economic Community (AEC) which began in 2015. Through the AEC integration of ASEAN economic will be carried out and increasing ASEAN economic and trade liberalization will be implemented. Thus through AFTA and AEC, ASEAN implements the principles of free trade which are rooted in liberal economic principles.

The principle of free trade and a liberal economy is the elimination of all kinds of trade barriers, so that all kinds of protection for domestic products are removed and there is freedom in carrying out economic and trade activities. The application of liberal economic principles that underlies economic cooperation relations between ASEAN member countries can lead to free competition in the economic and trade fields between ASEAN member countries. As a result, there will be winners and losers in the competition. Of course this would be inconsistent with the spirit of mutually beneficial cooperation and the principle of ASEAN solidarity. Through this paper, the writer will examine the negative impacts of free competition as a result of ASEAN's economic and trade liberalization, then suggestions will be presented to overcome the problems.

METHOD

This study is a normative legal research. The data in this study were collected through library research. The data sources consist of primary legal sources and secondary legal sources. The primary sources used are some ASEAN economic cooperation agreements. While the secondary legal sources used are the opinions of legal experts written in books, research results, scientific articles/journals and websites. The conclusion of this study was done by deductive method using a pattern of thinking called a syllogism which is composed of two statements (major premise and minor premise) and a conclusion.

RESULT AND DISCUSSION

A. Cooperation and solidarity principles of ASEAN

The ASEAN is a regional organization in South East Asia region. At the early of the establishment, the ASEAN had five members, that were Indonesia, Malaysia, The Philippines, Singapore, and Thailand. Now, the ASEAN has ten members by the joining of Brunei, Cambodia, Laos, Myanmar, and Vietnam in the membership of the ASEAN. Two countries, Papua New Guinea and Timor Leste, become observers at the ASEAN.

At the beginning of its establishment, ASEAN did not yet appear as an international organization, because it did not yet have a Headquarter and had no charter or statute as a basic organizational regulation. In its development, ASEAN then equipped itself with a secretariat, organs and charter. The ASEAN Secretariat in Jakarta, Indonesia was established in the year of 1976 and the ASEAN Charter was adopted in 2007 and come entry into force in October, 2008. Thus ASEAN is now well established and fulfills the formal requirements as an international organization.

As already mentioned, one of the goals of establishing the ASEAN is to strengthen economic cooperation among its members based on the principles of mutual benefit, mutual assistance and justice. This can be seen from the provisions of the Bangkok Declaration, 1967 which, among other things, stated the following : 1). To accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian Nations. Further, to promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields.

The purpose of ASEAN economic cooperation which provides welfare and justice is also stated in Article 1 paragraph 2 of the ASEAN Charter which stated : To enhance regional resilience by promoting greater political, security, economic and socio-cultural cooperation. Furthermore, Article 1 paragraph 11 of the Charter stated : To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice”.

To realize economic cooperation, the ASEAN has developed some economic and trade agreements. The economic cooperation among the ASEAN members has been started by the establishment of the ASEAN Economic Ministerial Meeting in 1976. In the ASEAN Summit Meeting in Bali, 1976, ASEAN also adopted a guideline for the policy and program of cooperation action in the field of economic. It was stated that the priority economic cooperation was in the field of food commodity, energy, industry and trade. Furthermore, some agreements in the field of economic and trade has been made by the ASEAN, included, the “Agreement on ASEAN Preferential Trading Arrangement” (ASEAN-PTA) 1977 as the first economic cooperation agreement of ASEAN.¹

In 1992 “The Framework Agreement on Enhancing ASEAN Economic Cooperation” and “The Agreement on the Common Effective Preferential Tariff (CEPT) Scheme Toward the ASEAN Free Trade Area” (AFTA Agreement) were agreed.² Based on the AFTA Agreement, trade liberalization was implemented among ASEAN member countries and had been fully achieved for all ASEAN members in the year of 2010. ASEAN trade liberalization was then implemented with China based on the 2010 China-ASEAN Free Trade Agreement.

ASEAN then increased their economic cooperation through the establishment of the AEC based on the 2015 Kuala Lumpur Declaration on the Establishment of the AEC. The establishment of the AEC was based on the four pillars, namely: 1). A single market and production base; 2). Highly competitive economic area; 3). Regions with equitable and just economic development; and 4). Regions that are integrated with the global economy. Then the AEC Blueprint 2025 has been developed. The AEC Blueprint 2025 will build on the AEC Blueprint 2015 consisting of five interrelated and mutually reinforcing characteristics, namely: 1). A Highly Integrated and Cohesive Economy; 2). A Competitive, Innovative, and Dynamic ASEAN; 3). Enhanced Connectivity and Sectoral Cooperation; 4). A Resilient, Inclusive, People-Oriented, and People-Centred ASEAN; and 5). A Global ASEAN.³

Based on the 1967 Bangkok Declaration, the 2007 ASEAN Charter and some of the ASEAN economic cooperation agreements, it can be known that ASEAN trade economic cooperation is done based on the principle of mutually beneficial cooperation, mutual assistance and the spirit of solidarity and justice for all ASEAN members. Thus ASEAN economic cooperation should provide justice and profit for all member countries, as well as be able to improve the economic well-being of the entire population of ASEAN countries. In other words, there cannot be any ASEAN country that will be economically disadvantaged because it loses the competition due to the liberalization of the ASEAN economy and trade.

B. ASEAN Economic and trade liberalization

In developing economic cooperation, the ASEAN is currently applying the principles of economic and trade liberalization as is the trend in the current global economy. Embryo of ASEAN economic and trade liberalization had been begun since the establishment of the ASEAN-PTA in the years of 1977, an ASEAN trade agreement on the tariff reduction in trade in goods for goods were traded among the ASEAN member countries. Unfortunately, the implementation the ASEAN-PTA wasn’t succeeded due the voluntary character of the agreement. Due to the failure of the ASEAN-PTA, the ASEAN member countries looked for other ways for realizing the economic and trade liberalization by the Establishment of the AFTA. Thus it can be said that ASEAN’s economic and trade liberalization began to be realized since the entry into force of the AFTA agreement 1992.

The idea of the AFTA itself was put forward in the year of 1990. The idea got positive responses, and in the ASEAN Ministerial Meeting 1991 in Kuala Lumpur were agreed : 1). Establishment of the AFTA in 15 years; 2). AFTA would be performed based on the Indonesian proposal on the “Common Effective Preferential Tariff” (CEPT); 3). CEPT would regulate all of the manufacture industry products, but not for capital goods and military product. Then in the fourth ASEAN Summit Meeting in Singapore, 27 to 28 January 1992, were agreed : 1). The Framework Agreement on Enhancing ASEAN Economic Cooperation; 2). The Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the AFTA. Based on this agreement ASEAN trade liberalization was performed within fiveteen years beginning on January 1, 1993.

The AFTA-CEPT Agreement is an initiative to create a free trade area within the ASEAN region through the elimination of tariff and non-tariff barriers.⁴ The primary goals of AFTA seek to: 1). Increase ASEAN’s competitive edge as a production base in the world market through the elimination, within ASEAN, of tariffs and non-tariff barriers; and 2). Attract more foreign direct investment to ASEAN. The primary mechanism for achieving such goals is the Common Effective Preferential Tariff scheme, which established a phased schedule in 1992 with the goal to increase the region’s competitive advantage as a production base geared for the world market.

¹ ASEAN members signed the first economic agreement enabling preferential trading arrangements in 1977, but the objective was the promotion of economic cooperation rather than economic integration. See Pasha L. Hsieh and Bryan Mercurio. (2019). ASEAN Law in the New Regional Economic Order: an Introductory Roadmap to the ASEAN Economic Community. *Research Collection School of Law*. Singapore Management University. p. 4

² ASEAN National Secretariat – Indonesia. <https://setnasasean.id>. Accessed Desember 15, 2022.

³ ASEAN Secretariat. (2015). *ASEAN Economic community blueprint 2025*. Jakarta, published by ASEAN Secretariat, p.1.

⁴ Seiya Sukegawa. (2021). ASEAN’s initiatives for free trade in East Asia under AEC. *Journal Of Contemporary East Asia Studies*. VOL. 10, No. 1, 42–64. p. 45

Based on AFTA agreement, trade liberalization was performed through the abolishment of tariff and non tariff barriers to trade for products were traded among the ASEAN member countries. A product could be implemented tariff and non tariff concessions based on the CEPT if the product was included in "Inclusion List" by the state of origin and the imported state based on the reciprocal principle, and the products fulfill the requirement of minimum 40% ASEAN content. "Inclusion List" consist of item subject to tariff reduction immediately to bring them down to range of 0 – 5% by the year of 2003.

For enhancing the implementation of the AFTA Agreement, AFTA Council was established.⁵ AFTA Council supervise the implementation of the AFTA Agreement and help the ASEAN member countries in settling trade disputes among them.

In some ASEAN Summit Meetings and ASEAN Economic Minister Meetings, the ASEAN members had agreed to accelerate the trade liberalization under the AFTA Agreement. Finally, ASEAN trade liberalization under the AFTA Agreement had been fully implemented by the year of 2010 for all ASEAN members.⁶ And, since January 1, 2010 trade liberalization also was implemented between ASEAN and People Republic of China.

After the successful of the implementation of trade liberalization under the AFTA Agreement, now the ASEAN is in the way of implementing the economic integration through the AEC. The blue print of the AEC was signed by the ASEAN member countries leaders in 2007, together with the signatoring of the blue prints on establishing the "ASEAN Security Community" and "ASEAN Social Cultural Community". Through the establishment of the AEC will be realized the integration of the ASEAN economic and broader liberalization in trade in goods, services, investment and free movement people (skill labor) among the ASEAN member countries. This is also in line with the provisions of Article 1 paragraph 5 of the ASEAN Charter which states : To create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital.

In the twentieth ASEAN Summit Meeting, in Phnom Penh, Cambodia, April 2012 were agreed Phnom Penh Declaration on ASEAN : One Community, One Destiny, Phnom Penh Agenda on ASEAN Community Building and Drug-Free ASEAN 2015. In the document of *Phnom Penh Agenda* the ASEAN member countries leaders were agreed to accelerate to establishment of the AEC and to realize an ASEAN single market and one basic of production, to enhance the ASEAN economic power in the global competition and to do an fair and integrated economic development.

The establishment of the AEC was realized based on the Kuala Lumpur Declaration on the Establishment of the EAC, beginning on December 31, 2015. The implementation of the AEC will follow the European Community (European Union). This type of economic cooperation can be named as an "Economic Union". Through an Economic Union, usually the member countries beside implement a common market, and also agree to similarize their fiscal, monetary and social economic policy. Eventhough the AEC hasn't fulfill the criteria of an Economic Union, but there are some optimism for the full establishment of the AEC in the future, so it will make the ASEAN economic become more liberal.⁷

Through the liberalization of trade in ASEAN goods, it is hoped that it will further ensure the smooth flow of goods for the supply of raw materials and finished materials in the ASEAN region because tariff and non-tariff barriers no longer exist.⁸ Economic liberalization will make the ASEAN market more open, can increase economic activity, increase producer income and reduce the price of imported consumer goods. Commonly, the application of the economic liberalism system in some countries could bring high efficiency in industry and could accelerate the economic growth, so the ASEAN member countries prefer to apply the economic liberalism system in their economic and trade relation than the other economic system, such as socialist and structuralist economic system.

C. Problems of free competition

Based on the AFTA Agreement and the AEC Declaration, principles of economic liberalism is applied in the economic and trade relations among the ASEAN member countries. The liberalism economic system has its root on the economic theory of Adam Smith (1723 – 1790) in his book "*An Inquiry into the Nature and Causes of the Wealth of Nations*". The theory of economic liberalism had been developed by David Ricardo (1772 – 1823) and Herbert Spencer (1820 – 1903) and economic neo-liberalism thinkers after the Second World War.⁹

Basically, according the economic liberalism theory, there should be a freedom in doing economic activities for all persons, and the intervention of the state government in individual economic activities is forbidden. The international trade should be performed without any kind of barriers. The economic activities are directed to achieve the high economic growth. Based on the liberalism economic theory, there shall be a free competition in economic activities, without any government intervention. The

⁵ Article 7 of the CEPT for AFTA stated :1). *The ASEAN Economic Ministers (AEM) shall, for the purposes of this Agreement, establish a ministerial-level Council comprising one nominee from each Member State and the Secretary-General of the ASEAN Secretariat. The ASEAN Secretariat shall provide the support to the ministerial-level Council for supervising, coordinating and reviewing the implementation of this Agreement, and assisting the AEM in all matters relating thereto. In the performance of its functions, the ministerial-level Council shall also be supported by the Senior Economic Officials' Meeting (SEOM);* 2). *Member States which enter into bilateral arrangements on tariff reductions pursuant to Article 4 of this Agreement shall notify all other Member States and the ASEAN Secretariat of such arrangements;* 3). *The ASEAN Secretariat shall monitor and report to the SEOM on the implementation of the Agreement...*"

⁶ Mari Elka Pangestu stated : The liberalization process was carried out at different speeds according to the product group: distinction was made between a "fast track" scheme and a "normal track" scheme. Products in the Inclusion List (IL) had to be immediately liberalized through a reduction of the CEPT tariff rates to a maximum of 5 percent by 2002. The ASEAN CLMV countries were allowed to apply less stringent deadlines: Vietnam has to meet this objective by 2006, Laos and Myanmar by 2008 and Cambodia by 2010. Mari Elka Pangestu. (2009). *Competitiveness Towards Asean Economic Community. Journal of Indonesian Economy and Business*. Volume 24, Number 1, 2009. p. 24

⁷ Dianzah and Yoshi Evelyn Nathania. (2022). The Effect of Regional Trade Agreements on Asean Trade Flows. *Journal of Indonesian Applied Economics*. VOL. 10 No. 2 (2022). p. 43.

⁸ Hendra Maujana Saragih. (2017). Indonesia dan Persaingan di Era Asean Economic Community (Indonesia and the Competition in the AEC Era). *Jurnal Masharif al-Syariah: Jurnal Ekonomi dan Perbankan Syariah*. Vol. 2, No. 2. p. 16.

⁹ Munir Fuady. (2004). *Hukum Dagang Internasional, Aspek Hukum dari WTO*. Jakarta. PT. Citra Aditya Bhakti. p. 3

motto of the Adam Smith economic liberalism is “*laissez-fair, laissez-passer*”.¹⁰ Consequently, the application of the economic liberalism system in economic and trade relations among the ASEAN member countries will result a free economic competition among them.

In this free economic competition there will be the winner in one hand and the looser in the other hand. The stronger will get more economic benefits, and on the contrary the weaker will suffer of economic losses. So, respectively the ASEAN member countries will become more selfish in the ASEAN economic relations. In one side, some economically strong ASEAN member countries will get more benefits in the ASEAN economic and trade liberalization, but in the other side the economically weak ASEAN member countries will suffer of economic losses. Thus there will be economic dominance by economically strong countries in the ASEAN economic agreements, as is the case in multilateral economic agreements.¹¹ This will also cause economic injustice for countries with weak economic capabilities in ASEAN economic cooperation.

Based on the data, currently the economic capabilities of ASEAN member countries are not equal, there are countries with strong economies and there are countries with weak economies. The strength of a country's economy can be seen from its GDP per capita. GDP per capita of ASEAN countries in 2022 shows quite a wide variation, as seen in the following data: 1) Singapore : \$97,057; 2) Brunei : \$62,371; 3) Malay : \$27,402; 4) Thailand : \$ 18,236 ; 5) Indonesia : \$12,222; 6) Vietnam : \$10,869; 7) the Philippines : \$8,422; 8) Lao Republic : \$8,111; 9) Myanmar : \$5,242 and 10) Cambodia : \$4,695.¹² Three ASEAN countries, namely Lao Republic, Myanmar and Cambodia, are categorized as least developed countries based on the UNCTAD's data of 2022.¹³

Considering the negative impact of the application of the economic liberalism principles, in the past time Indonesia had rejected the idea of the establishment of AFTA, because AFTA would result liberalism and capitalism. Liberalism and capitalism are not accordance with the Indonesian economic system, the Pancasila Economic system. The Pancasila economic system is built on the basic of principles of cooperation, Indonesian socialism, togetherness, justice and equality. In fact, all of the ASEAN member countries have no root of economic liberalism in managing their economic life.¹⁴ The spirit of togetherness, solidarity, cooperation are the basic principles in establishing the ASEAN and building the relations among the ASEAN member countries.

D. Overcoming the problems arising from free competition

The ASEAN economic and trade liberalization should be performed in the light of the spirit of ASEAN solidarity and principle of cooperation and principles of justice to all of ASEAN member countries. Pawel Pasierbiak stated : “ASEAN realizes that deeper integration is needed, but because conditions are different, it uses other methods of intensifying cooperation. Firstly, the much higher than in Europe diversity between countries (e.g., economic, political, religious, cultural, linguistic) causes that ASEAN Way is perhaps a reasonable strategy used in negotiations.¹⁵ Therefore arrangements regarding competition that accommodate the common interests of ASEAN member countries are very important and must be made. J. Drexel stated : Competition law scholars support the view that regionalizing competition policy can advance economic development objectives, facilitating regional market integration between developing countries.¹⁶

The ASEAN economic and trade liberalization agreement should be performed with some limitation, so the economic and trade liberalization will be able to give fair (justice) and equal benefits to all of the ASEAN member countries. Justice (fairness) is one basic principle of law and in doing international relations, included economic relations.¹⁷ There are some theory of justice, and for the relations among the ASEAN states members John Rawls theory of justice and the concept of Pancasila justice can be proposed as the theories of justice that can be applied in the ASEAN economic cooperation.

John Rawls theory of justice give stressing on principle of freedom for all persons, but also give probability to give inequality based on the law and this inequality is directed to the benefits of all persons. According to the John Rawls theory of justice, the strong of justice as “fairness”¹⁸ is laid on the principle that inequality is permitted as far the inequality treatment will give

¹⁰ Mutia Fauzia stated – Laissez faire is a French term that means 'leave it as it is'. Basically, the meaning of laissez faire is an economic doctrine that developed in the 18th century which challenged all government intervention in every business matter... The economic doctrine of laissez faire is a key part of the theory of free market capitalism. Mutia Fauzia. (2021). Apa Arti Laissez Faire dan Bagaimana Sejarahnya?. *Jakarta KOMPAS.com*. 22 November 2021.

¹¹ Imelda Deinla stated : “Most developing countries which are at the periphery of the international trading system a dilemma of joining multilateral trading system dominated by this unfair competition, developed countries, the centre”. Imelda Deinla. (2017). *The Development of the Rule of Law in ASEAN*. Cambridge, United Kingdom. Cambridge University Press. p. 29

¹² GDP per Capita by Country 2022, <https://worldpopulationreview.com/country-rankings/gdp-per-capita-by-country>

¹³ <https://unctad.org>, Accessed December 15, 2022

¹⁴ See Triyana Yohanes. (2014). Membatasi Liberalisasi Ekonomi ASEAN. *Kedaulatan Rakyat newspaper*. 13 October, 2014, p. 11

¹⁵ Pawel Pasierbiak (2018). Causes, Origins and Possible Effects of the ASEAN Economic Community (AEC). *Journal of ASEAN Studies*. Vol. 6, No. 1). p. 20

¹⁶ J. Drexel in Burton Ong (Editor). (2018). *The Regionalisation of Competition Law and Policy within the ASEAN Economic Community*. Cambridge, United Kingdom. Cambridge University Press, p. 1

¹⁷ As Frank J. Garcia dan Lindita Ciko stated : “The relationship between poverty, inequality, development and trade is a paradigmatic example of the link between trade and justice. The distribution of social goods has always been a central concern in justice theory. The connection between the global economic system (of which trade and trade law are foundational elements) and the uneven allocation of wealth among states and among individuals is widely recognized, even if its precise nature is hotly contested. Given this relationship, what obligations do we owe to developing states in structuring our trade relationships? To poor individuals in developing states? To the poor, as a group, in every state?”. Frank J. Garcia and Lindita Ciko. (2011). *Theory of Justice and International Economic Law*. Boston College Law School Paper. p. 6

¹⁸ Frank J. Garcia and Lindita Ciko stated : “The question of justice and international economic law is at heart nothing more (or less) than the question of fairness: are the rules, institutions and outcomes in transnational economic relations “fair” or “unfair?” However, it is deceptively simple to ask such a question, because the answers lead us into some of the most complicated and contentious issues of economic and political theory today. *Ibid*. p. 7

advantages to all of peoples and also give priority to the principle of freedom.¹⁹ According to John Rawls, justice (fairness) doesn't always has a meaning that all of individu has the same treatment without seeing the important differencies, which is objectively owned by every person. Shortly, inequality in the distribution of social values can be justified, as far the policy is directed to give benefits to all peoples. So, John Rawls give oppurtunities and appreciate the rights to all persons for having a reasonably comfortable life as a human being, especially for them who suffer of disadvantages.

In some ways, the John Rawls theory of justice has some similarities with the concept of justice based on Pancasila values. The second "sila" (value) of Pancasila states : "Kemanusiaan Yang Adil dan Beradab" (Justice and civilized humanity). The fifth "sila" (value) of Pancasila states : "*Keadilan Sosial Bagi Seluruh Rakyat Indonesia*" (Social justice for all Indonesian people).

According to President Soeharto, the Pancasila concept of justice contents a teaching to give respect and treat every human beings as well as the nature of human being as the creature of God. From the attitude of respect to every single person as the creature of God, will be resulted justice, peace, harmony and the society. The Indonesia peoples rejected any kind of exploitation by one person over the other person, included any kind of colonialism, included colonialism in the field of economy.²⁰ Based on the "sila" "*Keadilan sosial bagi seluruh rakyat Indonesia*" (Justice for all of Indonesian peoples), increasing equality in prosperity should be achieved by all of the Indonesian people. Social justice means giving protections to the weaks, but it doesn't means that the weak person just only enjoy protection without doing any works, on the contrary the weak person also has obligation to work based on his/her capability. Protection to the weak was given for the purpose of preventing exploitation by the strong over the weak person and for granting justice.²¹

The theory of justice and the concept of justice according the Pancasila, are proper concept of justice that can be applied in the economic relations of ASEAN members states, especially for preventing injustice in ASEAN economic relation due to the implementation of the ASEAN economic and trade liberalization agreements. Based on John Rawl theory of justice and Pancasila theory of justice, protection and special favorable treatment can be given to those who are weak and less able to compete in every relationship between subjects in society, including economic relationships.

Based on the two theories of justice, then in order to realize the principle of justice and mutual benefit, the implementation of the ASEAN economic and trade liberalization agreement can be done by : 1). Giving some "flexibilities" in the implementation of the AFTA Agreement and AEC Declaration, 2). Giving some positive special treatments to low income states of the ASEAN member countries as a protection from suffering looses in the ASEAN economic and trade relations. Besides that, ASEAN should implement the ASEAN Development Program, which is supported by an ASEAN Development Agency to help its member countries which are still economically weak to increase their economic capabilities. Development can be used as a way to reduce gap in social economic prosperity among the ASEAN member countries. The principles of the New International Economic Order also need to be adopted in the regulations on ASEAN economic and trade relations, such as the principle that developed countries (strong economic) has obligation to help developing countries and positive special treatments for developing countries (weak economy) in all of international economic relations.²²

CONCLUSION

The application of the principles of economic liberalism in ASEAN economic and trade relations based on the AFTA Agreement and the AEC Declaration tends to result a free competition in economic among the ASEAN member countries. Some ASEAN economically strong countries will get more economic benefits in this free economic competition, but on the contrary some ASEAN economically weak countries will suffer of economic looses. The free economic competition also will cause hegemony in ASEAN economist relations by some ASEAN economically strong member countries. For overcoming these negative impacts, the implementation of agreements on ASEAN economic and trade liberalization (AFTA and AEC) should be based on the spirit of ASEAN solidarity and mutually beneficial economic cooperation among ASEAN member countries. In the implementation of the ASEAN economic and trade liberalization, some economic protections should be given to the economically weak ASEAN member countries. The principle of a stronger country's obligation to help the weak, the principle of positive special rights for the weak's economy and the creation of development assistance for the least developed ASEAN member countries should be applied in the ASEAN economic cooperation relations.

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¹⁹ John Rawls stated that the first statement of the two principles of justice reads as follows. First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others. Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all. John Rawl. (2005). *A Theory of Justice*. Massachusetts. The Belknap press of Harvard University Press Cambridge. p. 60

²⁰ Krissantono (editor). (1976). *Pandangan Presiden Soeharto Tentang Pancasila..* Jakarta, CSIS, pp. 39 - 40.

²¹ *Ibid.* p. 70.

²² The New International Economic Order (NIEO) is a concept of the World Economic Order proposed by developing countries group in the year of 1970. See Triyana Yohanes. (2015). *Hukum Ekonomi Internasional, Perspektif Kepentingan Negara Sedang Berkembang*. Yogyakarta. Indonesia. Cahaya Atma Pustaka. pp. 54 – 55. See also the United Nations General Assembly Resolution Number 3201, 1974 on the Establishment of the NIEO.

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Triyana Yohanes, SH.,MHum
Faculty of Law
Universitas Atma Jaya Yogyakarta, Indonesia
E-mail : y.triyana@uajy.ac.id