



Diffusing Trade and Investment Policy Preferences through Transnational Commercial Networks in Southeast Asia:

A tale of “Europeanization beyond Europe” in the Philippines?

By

Antonio Salvador Mesalucha Alcazar III

Submitted to

Central European University
Department of International Relations

In partial fulfilment of the requirements for the degree of
Master of Arts in International Relations

Supervisor: Dr. Youngmi Kim

Word count: 17 110

Budapest, Hungary
2016

Abstract

Extant research on the notion of Europeanization has been conventionally limited to exploring the transformative power of the European Union to induce policy change within its own membership area and neighborhood. While systematic efforts have extended the research agenda beyond the EU's immediate geopolitico-economic sphere of influence, the "Europeanization beyond Europe" literature, particularly concerning the Southeast Asian region, tends to put emphasis on whether the Association of Southeast Asian Nations has learned or drawn lessons from the EU's experience in regional integration. This specific posturing has, therefore, arguably marginalized alternative ways of looking at the EU as a direct or indirect policy influencer in Southeast Asia—a region whose strategic importance to EU interests has increasingly been in the radar screen of European policymakers and private sector elites. This thesis attempts to partly address this empirical gap by analyzing whether and to what extent pro-EU agents affect domestic policy change in line with EU trade and investment policy preferences in Southeast Asia. This contribution finds that a number of implemented or proposed reforms in the Philippines across horizontal and vertical policy areas could be traced back to the advocacy actions of European transnational commercial networks operating under one of the EU's programmatic approaches aimed at helping EU businesses internationalize towards ASEAN markets.

Acknowledgments

This work is an outcome of my academic fascination with and professional experience in EU-related affairs over the past few years. It would have been difficult to complete this research without the support and criticism of many colleagues from the Central European University and the European business community in the Philippines.

I am infinitely grateful to two academic mentors, Youngmi Kim and Kristin Maria Makszin, for supervising my thesis writing progress and for offering sound advice on how to avoid methodological pitfalls, respectively. My thanks go to Małgorzata Kruszevska, too, for (benignly) pointing out the horrors of my working drafts. I am also indebted to the CEU Budapest Foundation for their generous research grant; conducting my primary research work in Brussels would not have been possible without their support.

Over the course of my previous stint as a young research professional at the European Chamber of Commerce of the Philippines and the EU–Philippines Business Network in Manila, I had the pleasure of working side-by-side with two brilliant minds: Henry Schumacher and Lauren Skarkou. I thank them both for sharing valuable insights on their policy advocacies that seek to make it less punishing for EU businesses to enter the Philippine market. I also extend my thanks to another former colleague, Sophia Ordoña, for rummaging through old archives and sharing important (non-classified) materials with me without delay.

I would also like to acknowledge my interviewees from the European Commission (DG Trade, DG Grow, DG External Policies), the European Parliament, the European External Action Service, BusinessEurope, and Eurochambres, who shall stay anonymous, but never un-thanked. Their expert contribution has been formative.

Finally, despite benefiting from the different perspectives of my academic mentors and resource persons, I remain solely responsible for the content of this thesis.

Contents

- Abstract* i
- Acknowledgments* ii
- List of Figures* iv
- List of Abbreviations* v
- Introduction** 1
- Chapter 1**..... 3
- State of the Art: Policy Diffusion and Europeanization as Strange Bedfellows?**..... 3
 - 1.1 A brief glance at policy diffusion..... 4
 - 1.2 Not an odd couple: Policy diffusion and Europeanization..... 6
 - 1.3 Europeanisation beyond Europe: A research agenda whose time has come?..... 10
- Chapter 2**..... 15
- The Research Strategy: Addressing Conceptual and Methodological Considerations** ... 15
 - 2.1 Conceptual framework 15
 - 2.2 Case study 17
 - 2.3 Empirical requirements 21
- Chapter 3**..... 23
- Alignment of Public and Private Interests: EU Policy Preferences in Trade and Investment with ASEAN**..... 23
 - 3.1 European public sector interest in ASEAN markets 25
 - 3.2 European private sector interest in ASEAN markets 29
- Chapter 4**..... 34
- Inducing Domestic Policy Change through EU-oriented Agents: The Case of the EU–Philippines Business Network** 34
 - 4.1 Pending legislation on investor facilitation and protection 34
 - 4.2 Enactment of a national competition policy..... 41
 - 4.3 Simplification of regulatory standards related to imported alcoholic beverages 45
 - 4.4 Adoption of internationally accepted ethical standards in the pharmaceutical sector ... 48
- Conclusion**..... 52
- Bibliography** 56

List of Figures

Figure 1: Linking EU policy preferences and domestic policy change through TCNs	19
Figure 2: Development of EU-28 exports and imports of goods to/from ASEAN, 2004–14 (EUR million).....	24
Figure 3: Sources of FDI inflows to ASEAN (USD billion)	24

List of Abbreviations

ASEAN	Association of Southeast Asian Nations
BOC	Bureau of Customs
CEE	Central and Eastern Europe
CPR	Certificate of product registration
DG	Directorate-General
DOH	Department of Health
DTI	Department of Trade and Industry
EABC	EU–ASEAN Business Council
EC	European Commission
ECCP	European Chamber of Commerce of the Philippines
ECJ	European Court of Justice
EEAS	European External Action Service
EED	European Economic Diplomacy
EFPIA	European Federation of Pharmaceutical Industries and Associations
EP	European Parliament
EPBN	EU–Philippines Business Network
EU	European Union
EUR	Euro
Eurochambres	Association of European Chambers of Commerce and Industry
F&B	Food and beverages
FAC	Foreign Affairs Council
FDA	Food and Drug Administration
FDI(s)	Foreign direct investment(s)
FTA(s)	Free trade agreement(s)
GSP	Generalized Scheme of Preferences
HCP Code	Code on the Promotion of Prescription-Only Medicines to, and Interactions with, Healthcare Professionals
ICT	Information communications technology
IOT	Investment Ombudsman Team
IPAs	Investment Promotion Agencies
IPP	Investment Priorities Plan

JFC	Joint Foreign Chambers
MCPs	Mexico City Principles
Mercosur	Mercado Común del Sur
NAFTA	North American Free Trade Agreement
OECD	Organisation for Economic Co-operation and Development
OIFP	Office for Investor Facilitation and Protection
PBG	Philippine Business Groups
PCA	Philippine Competition Authority
PHP	Philippine peso
PO Code	Code of Practice on Relationships between the Pharmaceutical Industry and Patient Organisations
PSPC	Pilipinas Shell Petroleum Corporation
R.A.	Republic Act
SADC	Southern African Development Community
SEBSEAM	Support to EU Business in Southeast Asian Markets
SME(s)	Small and medium enterprise(s)
SPS	Sanitary and phytosanitary
SRPC	San Roque Power Corporation
TCN(s)	Transnational commercial network(s)
TFEU	Treaty on the Functioning of the European Union
US	United States
USD	US dollar
VAT	Value-added tax
WTO	World Trade Organization

Introduction

The European Union (EU) is often depicted as a political dwarf and economic giant in international relations.¹ This metaphorical schema similarly applies to the Europeanization literature where the prevailing hegemonic discourse is captured by the concentric-circles theory proposed by Lavenex.² This academic perspective contends that the transformative impact of the EU in terms of stimulating external policy outcomes, despite its economic prowess, is seen to be unlikely felt in distant regions and even limited at best in its own immediate geo-political sphere. One could argue that this posturing has, to a certain extent, limited or marginalized other ways of looking at the EU as a policy influencer either through direct or indirect means.

The present contribution attempts to partly address this empirical gap by contributing new insights on the scope of “Europeanisation” beyond the EU’s near abroad through the analysis of the role of epistemic communities in diffusing EU policy preferences in Southeast Asia. To investigate the EU’s indirect policy impact, this thesis is guided by the following research puzzle: **Whether and to what extent European transnational commercial networks (TCNs) in Southeast Asia affect domestic policy reform, specifically in the Philippines, in line with EU trade and investment policy preferences?**

As epistemic communities, European TCNs could be described as “a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area.”³ In this study, European TCNs refer to chambers of commerce or business organizations that seek to

¹ See, for example, Bossuyt (2007), Farrell (2006), and Medrano (1999).

² Sandra Lavenex, “Concentric Circles of ‘EUropean’ Integration: A Typology of EU External Governance Relations,” *Comparative European Politics* 9, no. 4 (2011).

³ Peter Haas, “Epistemic Communities and International Policy Coordination,” *International Organization* 46, no. 1 (1992): 3.

promote European business interests through policy entrepreneurship. Domestic policy reform is understood to mean either the adoption or revision of national legislative measures, regulatory standards, and administrative rules. Embedded within the EU's broader neoliberal economic agenda, EU trade and investment policy preferences reflect the official stances of EU-oriented actors on the reduction or elimination of barriers to trade with the view of having more market access and investment opportunities open to European businesses. They are generally linked, but not limited to, the advocacy of the so-called Singapore issues covering investment liberalization, fair competition policy, government procurement transparency, and trade facilitation. They could also mean sector-specific policies that seek to improve the regulatory landscape in high-growth potential sectors such as pharmaceuticals, food and beverages, energy, ICT, and financial services, among many others.

This paper is divided into four key chapters. The first chapter surveys the literature on policy diffusion and Europeanization and explores how bridging the two fields of inquiry could be instructive in conceptualizing "Europeanization beyond Europe." The second chapter discusses conceptual and methodological considerations with focus on potential mechanisms of policy diffusion and within-case process tracing. The third chapter maps the policy preferences of EU public and private sector institutions in order to shed light on the nature of policies that may be involved in diffusion events with respect to EU-ASEAN trade and investment relations. The fourth chapter presents a case study analysis on the policy actions of a European TCN in the Philippines and demonstrates that certain cross-cutting and sector-specific policy reforms could be attributed to EU-aligned policy stimuli. A concluding section will summarize the key findings of this thesis and reflect on the study's limitations, potential direction for future research, and policy implications.

Chapter 1

State of the Art: Policy Diffusion and Europeanization as Strange Bedfellows?

Any observer with a discerning academic outlook would perhaps question the integrity of investigating the process of Europeanization in non-European settings. After all, the prevailing hegemonic view in the literature vigorously maintains that the EU's ability to induce policy transformations becomes weaker when the level of analysis moves beyond its membership area and neighborhood. However, studies on the topic of Europeanization beyond Europe have increasingly gained much needed attention in recent years. For instance, analysis related to the ASEAN region has emerged as an area-specific niche within this emerging subfield partly because a parallel treaty-based intergovernmental consortium exists in Southeast Asia. The degree to which the EU influences policy or institutional developments in ASEAN has been largely limited to lesson-drawing on regional integration, as will be further substantiated below.

The present chapter sets the ground for locating this thesis within the nascent but evolving scholarship on Europeanization beyond Europe. Building on existing theoretical innovations, this chapter illustrates that examining the concept of Europeanization in ASEAN is not without scholarly foundation. It also sharpens the distinction between this paper's key research desideratum and that of existing research on how the EU has been arguably perceived as a model for ASEAN in the context of comparative regional integration. More specifically, it highlights that this thesis moves away from the regionalism-dominated inquiry on Europeanization in Southeast Asia and focuses instead on the analysis of pro-EU trade and investment policy preferences through policy diffusion mechanisms and formal agents.

To this end, this chapter reviews the literature on two conceptually distinct but related subjects: policy diffusion and Europeanization. First, it provides a short discussion about the fundamental mechanisms of policy diffusion. Second, it clarifies how policy diffusion research can be used to explain the phenomenon of Europeanization beyond Europe. Lastly, it zooms in on the international diffusion of EU policies and institution-related models in the Southeast Asian context.

1.1 A brief glance at policy diffusion

For decades now, fundamental questions about how ideas and practices transfer from one institutional setting to another and why external policy actors espouse them have piqued the interest of scholars from the different disciplines of political science,⁴ international political economy,⁵ international development,⁶ and sociology,⁷ among others. As the scholarship on policy diffusion is thoroughly rich and extensive, the purpose here is not to provide a comprehensive review of policy diffusion research nor discuss methodological issues, but rather to highlight the mechanisms whereby transnational transference of policies may take place.⁸

Dolowitz and Marsh define policy diffusion as “a process in which knowledge about policies, administrative arrangements and institutions in one time and/or place is used in the development of policies, administrative arrangements and institutions in another time and/or place.”⁹ Simmons et al. identify a number of mechanisms through which policy choices in one jurisdiction may influence policy choices in another. These include coercion, competition,

⁴ See, for example, Shipan and Volden (2006) on the diffusion of antismoking policies from US cities to states.

⁵ See, for example, Simmons et al. (2006) on the international diffusion of liberalism.

⁶ See, for example, Brooks (2015) on the adoption of antipoverty cash transfer programs in developing countries.

⁷ See, for example, Bauernschuster and Falck (2015) on the spatial diffusion of the radical invention of kindergartens in 19th-century Germany.

⁸ See Shipan and Volden (2015), Benson and Jordan (2011), Elkins and Simmons (2006), and Meseguer (2005) for further discussion on policy diffusion.

⁹ David Dolowitz and David Marsh, “Who learns what from whom: A review of the policy transfer literature,” *Political Studies* 44, no. 2 (1996): 344.

emulation, and learning.¹⁰ Coercion occurs as a result of power asymmetries wherein the direction of policy diffusion is vertical. Relatively weaker actors adopt certain policies in response to the direct influence of relatively more powerful actors. Competition takes place when actors vying for the same gains or resources adopt policy decisions previously implemented by their rivals. Policy adopters make rational choice calculations to avoid incurring real or perceived losses due to policy divergence. Emulation allows policies to diffuse because they are perceived to have social value. Policy emulators are motivated to adopt or adapt policy choices made by another actor when they consider such policies to be legitimate or hold an exemplary status. Learning enables problem-solving actors to draw lessons from the policy experience of other actors.¹¹ This implies the likelihood of (non)diffusion on the basis of how policy seekers assess the outcomes of a particular policy experience elsewhere. It is important to note the problem of “information cascade” in diffusion events as pointed out by Elkins and Simmons.¹² In the event of uncertainty about whether or not to adopt a certain policy stance or which policy choices to prefer, actors may come to a conclusion about taking advantage of their accumulated knowledge on previous policy decisions taken up by other others. These mechanisms, therefore, presume that policy diffusion denotes independent decision-making across temporal and spatial elements, while at the same time considering that there could be potential interdependences between policy actors.¹³

¹⁰ Beth Simmons et al., “Introduction: The International Diffusion of Liberalism,” in *The Global Diffusion of Markets and Democracy*, eds. B. Simmons, F. Dobbins and G. Garrett (New York: Cambridge University Press, 2008), as cited in Covadonga Meseguer and Fabrizio Gilardi, “What is new in the study of policy diffusion?,” *Review of International Political Economy* 16, no. 3 (2009).

¹¹ *Ibid.*, 530.

¹² Zachary Elkins and Beth Simmons, “On Waves, Clusters, and Diffusion: A Conceptual Framework,” *Annals of the American Academy of Political and Social Science* 598 (2005): 43.

¹³ Natasha Borges, *The Diffusion of Good Government: Social Sector Reforms in Brazil* (Notre Dame: University of Notre Dame Press, 2012), 26.

1.2 Not an odd couple: Policy diffusion and Europeanization

One of the earliest conceptions of Europeanization is arguably offered by Ladrech who defined Europeanization as “an incremental process reorienting the direction and shape of politics to the degree that [European Community] political and economic dynamics become part of the organizational logic of national politics and policy-making.”¹⁴ In this sense, Europeanization is understood as the extent to which both governmental and non-governmental actors below the supranational level are able to adapt to an evolved or evolving environment at the European level in terms of politics and policy-making.¹⁵ Put differently, the notion of Europeanization has come to be understood as a process through which the EU is able to exert direct or indirect influence on the domestic policies, institutions and political processes within its member states, accession countries, and neighborhood area. For instance, Ferry and McMaster analyze the influence of EU cohesion policy on the sub-state regional policy and development initiatives in Central and Eastern European (CEE) member states.¹⁶ Papadimitriou and Phinnemore extend the scope of the Europeanization thesis beyond existing member states and consider the determination of the EU to ensure compliance of CEE enlargement candidate countries with the *acquis communautaire* prior to their accession.¹⁷ Petrov and Kalinichenko examine how EU external policy has led to the application of the *acquis communautaire* as a persuasive source of law by Russian and Ukrainian judiciaries.¹⁸

¹⁴ Robert Ladrech, “Europeanization of Domestic Politics and Institutions: The Case of France,” *Journal of Common Market Studies* 32, no. 1 (1992): 69.

¹⁵ See Olsen (2002) for additional insights on the theory of Europeanization.

¹⁶ Martin Ferry and Irene McMaster, “Cohesion Policy and the Evolution of Regional Policy in Central and Eastern Europe,” *Europe-Asia Studies* 65, no. 8 (2013).

¹⁷ Dimitris Papadimitriou and David Phinnemore, “Exporting Europeanization to the Wider Europe: The Twinning Exercise and Administrative Reform in the Candidate Countries and Beyond,” *Southeast European and Black Sea Studies* 3, no. 2 (2003).

¹⁸ Roman Petrov and Paul Kalinichenko, “The Europeanization of Third Country Judiciaries through the Application of the EU Acquis: The Cases of Russia and Ukraine,” *International and Comparative Law Quarterly* 60 (2011).

However, a number of scholars have expressed a cynical view about the applicability of Europeanization as an analytical tool beyond the EU's immediate geopolitical sphere. Caradaică argues that the concept of Europeanization should be "limited only to the European geographical space and, as a consequence, it cannot capture the wider context in which the [EU] exists – globalization and the nature of world order."¹⁹ In a similar vein, Lavenex offers a concentric-circles theory suggesting that the transformative power of the EU in terms of externally promoting its policy paradigms is seen to be unlikely successful in faraway regions and even limited at best in its own backyard.²⁰ This line of argumentation accepts that the capacity of the EU to externalize its policies, norms or standards generally wanes beyond its member states or neighborhood, and therefore assumes that the notion of Europeanization could simply hold most explanatory power within the EU context. Lavenex argues that, in relation to external governance beyond its neighborhood, "the EU does not pursue a systematic policy of norm-transfer. As with the other countries, adaptation to EU rules in this [outer] circle can occur 'spontaneously' on the basis of the countries' own decision as a result of functional interdependence and externalities of EU regulations."²¹ Lavenex further explains that "the organizational form of norm-transfer [beyond the EU] usually involves specialized transgovernmental networks, including, where available, cooperation with EU agencies."²² This line of reasoning, however, fails to acknowledge whether, how, or to which extent the EU manages to promote its external policy interests in non-EU regions or countries, either directly or indirectly, especially if one considers the EU to be a normative power²³ or market power²⁴ in global governance. Indeed, Schimmelfennig contends that the geography argument fails to "explain the patchy Europeanization we find in the quasi-member states or the OECD

¹⁹ Mihail Caradaică, "Neo-Gramscian approach on Europeanization," *Romanian Review of Social Sciences* 6 (2014): 17.

²⁰ Lavenex, "Concentric Circles of 'EUropean' Integration," 373.

²¹ *Ibid.*, 386.

²² *Ibid.*

²³ Henrik Larsen, "The EU as a Normative Power and the Research on External Perceptions: The Missing Link," *Journal of Common Market Studies* 52, no. 4 (2014): 896–910.

²⁴ Chad Damro, "Market power Europe," *Journal of European Public Policy* 19, no. 5 (2012).

world nor the fact that rather distant countries like the US may be subject to stronger Europeanization effects than closer ones like Algeria or Belarus.”²⁵

One systematic attempt at extending the research agenda on Europeanization can be revisited on the pages of the *West European Politics* special journal issue in 2012. While the key underlying assumption of the entire scholarly contribution is somehow aligned with the view that “(over)stretching” the generally accepted conception of Europeanization to describe the spread of EU policies, norms and institutions becomes less and less applicable when the subject of analysis moves outside the EU framework, Börzel and Risse argues that one could rely on the policy diffusion literature to “capture the more indirect ways in which the EU influences domestic institutional change in third countries and regions.”²⁶ Central to this proposition is the assumed compatibility of the mechanisms and scope conditions of Europeanization and those of transnational policy diffusion. Börzel and Risse and their academic cohorts, therefore, treat Europeanization as a specific form of international policy or institutional diffusion.²⁷ In this way, the authors hope to address the inherent difficulties of “top-down” approaches found in the mainstream Europeanization literature that tends to put an overemphasis on the role of the EU and legalistic conditionalities to induce policy or institutional changes either at home or elsewhere.

While the special issue features articles on the Europeanization of new member states and accession candidates²⁸ and the promotion of institutional change in the European

²⁵ Frank Schimmelfennig, “Europeanization beyond Europe,” *Living Reviews in European Governance* 4, no. 3 (2009): 18.

²⁶ Tanja Börzel and Thomas Risse, “When Europeanisation Meets Diffusion: Exploring New Territory,” *West European Politics* 35, no. 1 (2012b): 193.

²⁷ Tanja Börzel and Thomas Risse, “From Europeanisation to Diffusion: Introduction,” *West European Politics* 35, no. 1 (2012a).

²⁸ See Sedelmeier 2012; Spendzharova and Vachudova 2012; Noutcheva and Aydin-Düzgit 2012.

neighborhood,²⁹ this chapter only briefly considers the three contributions related to the diffusion of EU institutions beyond Europe.

First, Alter provides a discussion on the global diffusion of the European Court of Justice (ECJ) framework and the European model of embedded international courts. It is argued that there are now 11 cases where the ECJ model has been replicated or adapted into other legal jurisdictions, while several non-European international courts, which do not exactly imitate the ECJ model, have taken measures to make use of the European-style embedded international court systems.³⁰

Second, Lenz studies the diffusion of certain EU institutional features to other regional arrangements such as the Mercado Común del Sur (Mercosur) and the Southern African Development Community (SADC). More specifically, Lenz argues that regional policy-makers from Mercosur and SADC have taken steps to emulate the EU's common market model and the ECJ's dispute settlement mechanisms even though other alternative "ideals" could have been drawn from the institutional make-up of the North Atlantic Free Trade Agreement (NAFTA) or the World Trade Organization (WTO).³¹

Third, Jetschke and Murray explore how ASEAN has started to adopt EU-style institutions, namely the EU's Committee of Permanent Representatives and economic integration processes.³² Although no signs of wholesale imitation of EU institutions by ASEAN have been noted, the authors contend that ASEAN had the tendency to carefully handpick certain EU institutional models in full consideration of its own organizational logic

²⁹ See Börzel and Pamuk 2012; Magen 2012; van Hüllen 2012.

³⁰ Karen Alter, "The Global Spread of European Style International Courts," *West European Politics* 35, no. 1 (2012).

³¹ Tobias Lenz, "Spurred Emulation: The EU and Regional Integration in Mercosur and SADC," *West European Politics* 35, no. 1 (2012).

³² Anja Jetschke and Philomena Murray, "Diffusing Regional Integration: The EU and Southeast Asia," *West European Politics* 35, no. 1 (2012).

or the so-called ASEAN Way, which puts crucial emphasis on the principles of state sovereignty and soft institutionalism, among others.³³

What these three articles indicate, first and foremost, is that there is growing scholarly interest in the current Europeanization literature about the external influence of the EU in other regional or international settings. They also lend credence to the applicability of policy diffusion theory to the study of the EU's transformative impact beyond the confines of its member states and neighborhood typically through more indirect means of policy or institutional diffusion, such as emulation.

1.3 Europeanisation beyond Europe: A research agenda whose time has come?

While meaningful inroads have clearly been made in the debate on what may be called the “new wave” of Europeanization, one could still raise the question about the origin of research agendas probing the impact of EU governance on the rest of the world, and why this shift has occurred. Schimmelfennig, arguably one of the leading Europeanization scholars, attributes this broadening of scholarly attention to the outcomes of three key developments in European regional integration history since the 1990s.³⁴ First, the EU reinforced and widened the foundations of its internal market structure as a result of its Single Market objective outlined in the Single European Act of 1986 as well as the Mediterranean and post-Cold War enlargement rounds. Due to its sheer market size and attractiveness as an export/import market, the EU gained significant influence in shaping global trade regime rules and its bilateral ties with trading partners.³⁵ Second, the EU opened its doors to CEE transition economies whose route to membership did not only increase the number of club members but also required more demanding structural transformations on the part of the accession

³³ See Cockerham (2010), Henry (2007), and Katsumata (2003) for a discussion on the ASEAN Way and regional integration in Southeast Asia.

³⁴ Frank Schimmelfennig, “Europeanisation Beyond the Member States,” *Journal for Comparative Government and European Policy* 8, no. 3 (2010): 3.

³⁵ See De Bièvre and Poletti (2014) for a discussion on the emergence and decline of the EU's trade regime-shaping capacity.

countries. Third, the EU has put in place institutional frameworks for cooperation with quasi-member states from the European Economic Area³⁶ and countries considered to be ineligible for membership from the Euro-Mediterranean region³⁷ and the Eastern European, Middle Eastern and Northern African neighboring regions.³⁸ These partnership or cooperation frameworks have provided a space for the EU to align neighboring states with EU policy paradigms even without clear prospects for official membership on the table.

Furthermore, Schimmelfennig explains that, although the phenomenon of Europeanization beyond Europe may be sparse and variable, the contents and mechanisms of this type of Europeanization differ across regions, states, organizations, and policy areas.³⁹ Similar to the views of Lavenex,⁴⁰ he specifies five concentric circles where EU external governance, and therefore the process of Europeanization beyond EU member states, may occur. These include quasi-member states, accession countries, neighborhood countries, OECD members, and other regional organizations. Emphasis is given here to the outermost circle representing other world regions. Schimmelfennig argues that the EU is best seen to arouse impact or change in other regional institutions in terms of regional institution-building and economic integration through emulation or imitation as an indirect mechanism of Europeanization.⁴¹ Whereas the EU has not directly driven the creation of other regional groupings such as ASEAN, Mercosur, or the African Union, nor have these latter groups enacted dramatic reforms in response to their close relationships with the EU, it is argued that other world regions have looked to EU institutions and policies in an emulative way. The perceived legitimacy of the EU project and the policy or institutional uncertainties in other

³⁶ This grouping includes Iceland, Liechtenstein, Norway, and Switzerland.

³⁷ As a result of the Barcelona Process launched in 1995.

³⁸ As a result of the European Neighbourhood Policy launched in 2003.

³⁹ Schimmelfennig, "Europeanisation Beyond the Member States," 10.

⁴⁰ Lavenex, "Concentric Circles of 'EUropean' Integration."

⁴¹ Schimmelfennig, "Europeanisation Beyond the Member States," 16–7.

regions are seen to be the major conditions for emulating EU institutions.⁴² In an earlier study, Schimmelfennig claims that the effects of Europeanization in the areas of regionalism, democracy promotion and human rights protection beyond the EU's near abroad are expected to be of low consistency and impact, but hastens to add that there could be cases where the policy impact of the EU's external relations with third parties may be transformative and effective.⁴³

If one looks at the existing literature on the EU's institutional impact in ASEAN, recent scholarship has been relatively confined to comparative regionalism or regional integration. For example, Poole examines the promotion of the EU norm of regional integration in relation to ASEAN's own regional institutional development.⁴⁴ Similarly, some scholars argue that ASEAN viewed the institutional underpinnings of its ASEAN Way approach in a rather critical light and evaluated its aversion to supranational economic integration as a reaction to the difficulties it had encountered after the 1997 Asian financial crisis as well as other issues on the region's agenda. As they saw the need for deeper regional institutionalization and economic integration in the aftermath of the financial crisis, ASEAN political elites initiated a process that led to the establishment of the ASEAN Charter in 2005. The EU is perceived as a source of motivation for the adoption of a constituent instrument and commitment to create an ASEAN Economic Community to foster regional institutionalization.⁴⁵

A more careful survey of the Europeanization beyond Europe literature would further reveal that academic research focusing on the diffusion of EU policies and rules to ASEAN in

⁴² Ibid.

⁴³ Schimmelfennig, "Europeanization beyond Europe," 10.

⁴⁴ Avery Poole, "Ambitions Versus Capacity: The Role of Institutions in ASEAN," in *Importing EU Norms: Conceptual Framework and Empirical Findings*, eds. Anika Björkdahl et al. (Cham: Springer International Publishing, 2015).

⁴⁵ Yeo Lay Hwee, "EU-ASEAN Relations and Policy-Learning," in *Europe-Asia Relations: Building Multilateralisms*, eds. R. Balme and B. Bridges (Basingstoke: Palgrave Macmillan, 2008), as cited in Schimmelfennig, "Europeanisation Beyond the Member States," 17.

other areas such as trade and investment remain relatively scarce and somewhat inconclusive about the capacity of the EU as a policy actor in Southeast Asia. Nevertheless, Falkner and Müller argue that, although there is an observable level of emulation of EU policies and standards by third countries, this phenomenon has received little attention so far in the literature.⁴⁶ A few exemptions can be charted. First, Andreosso-O’Callaghan and Uprasen scrutinize the impact of the fifth EU enlargement on the changes in ASEAN’s patterns of trade with the EU.⁴⁷ Second, findings by Sicurelli tend to go against the existing pessimistic view of the transformative power of the EU abroad and suggest that, from the perspective of Vietnamese political elites, the EU has emerged as an actor able to export its regulatory standards in the context of bilateral trade negotiations.⁴⁸ Third, Cuyvers argues that the EU’s approach in promoting the principle of sustainable development with its trading partners through bilateral trade arrangements has figured in its free trade agreement (FTA) strategy vis-à-vis ASEAN countries.⁴⁹ Last but not the least, Young contends that the EU has not exported its regulations through new generation preferential trade agreements (including the FTA with Singapore) for fear that local opposition to regulatory changes would torpedo arrangements that would otherwise benefit European companies in partner countries.⁵⁰ However, new developments would show that, in the context of the recently concluded EU–Vietnam FTA, the EU is looking at a new trade policy model with developing countries. As an example, Vietnam has committed to uphold workers’ rights and agreed to accept the EU’s

⁴⁶ Gerda Falkner and Patrick Müller, eds., *EU Policies in a Global Perspective: Shaping or taking international regimes?* (Abingdon and New York: Routledge, 2014).

⁴⁷ Bernadette Andreosso-O’Callaghan and Utai Uprasen, “A Qualitative Analysis of the Impact of the Fifth EU Enlargement on ASEAN,” *ASEAN Economic Bulletin* 29, no. 1 (2012).

⁴⁸ Daniela Sicurelli, “The EU as a norm promoter through trade. The perceptions of Vietnamese elites,” *Asia Europe Journal* 13 (2015).

⁴⁹ Ludo Cuyvers, “The Sustainable Development Clauses in Free Trade Agreements of the EU with Asian Countries: Perspectives for ASEAN?,” *Journal of Contemporary European Studies* 22, no. 4 (2014).

⁵⁰ Alasdair Young, “Liberalizing trade, not exporting rules: the limits to regulatory co-ordination in the EU’s ‘new generation’ preferential trade agreements,” *Journal of European Public Policy* 22, no. 9 (2015).

new approach on investment protection by creating a permanent investment dispute resolution system with an appeal mechanism.⁵¹

Research on the diffusion of EU policy paradigms and institutional model in non-EU countries and regions has indeed taken off and spurred academic interest. However, the Europeanization beyond Europe literature as a relatively new academic field of inquiry would require region-specific, case-specific, and policy-specific research endeavors for years to come in order to generate new empirical insights on the EU's transformative influence outside the confines of its member states and neighborhood, ideally building on theoretical and empirical insights from the diffusion literature. Although the shift from the literature's traditional Eurocentrism is without doubt a welcome development, it is also important to recognize the concerns of neo-regionalism experts who generally maintain a critical stance against accepting any "definition of regionalism modelled on the legalism, institutions, and acceptance of supranationality à la European integration."⁵² This shift would hopefully spawn new ways of looking at the EU, not only as a model of regional integration for other world regions, but more critically as an active or passive advocate of policies, norms and standards overseas. This research undertaking, therefore, positions itself within this broader context by looking at the diffusion of EU trade and investment policy preferences through an agent-centered analysis of European transnational commercial networks.

⁵¹ Walter van Hattum, Joint Commercial Counsellors' and Market Access Team Meeting (draft report), EU Delegation to the Philippines, 11 December 2015.

⁵² Alberta Sbragia, "Review Article: Comparative Regionalism: What Might It Be?," *Journal of Common Market Studies* 46 (2008): 32.

Chapter 2

The Research Strategy: Addressing Conceptual and Methodological Considerations

Building on the intersection between Europeanization and policy diffusion, the global objective of this research is to investigate whether and to what extent European transnational commercial networks (TCNs) can affect domestic policy change in Southeast Asia, specifically in the Philippines, on account of EU trade and investment policy preferences. However, determining causality between non-legalistic EU policy stimuli and domestic policy change is considered to be one of the key methodological challenges in the Europeanization scholarship.⁵³ This issue is addressed in the following sections outlining the research strategy and methodology.

The first section briefly introduces a conceptual framework of four potential mechanisms of policy diffusion. The second section provides a discussion on the case selection and explains which research designs and approaches are deemed appropriate to address the research puzzle. The final section specifies the type of empirics required in this study and addresses some ethical or professional considerations.

2.1 Conceptual framework

The framework of analysis used in this study to analyze the potential occurrence of “Europeanization beyond Europe” as a specific form of policy diffusion will be based on the definitional and typological yardsticks developed by Falkner and Müller.⁵⁴ The authors identify four ideal-type mechanisms and conditions in which EU policies can be horizontally transferred via diffusion through its bilateral relations with third countries and regional

⁵³ For a more in-depth treatment of this issue, see Claudio Radaelli, “Europeanization: The Challenge of Establishing Causality,” in *Research Design in European Studies: Establishing Causality in Europeanization*, eds. Claudio Radaelli and Theofanis Exadaktylos (Basingstoke: Palgrave Macmillan, 2012).

⁵⁴ Falkner and Müller, *EU Policies in a Global Perspective*, 11–3.

institutions. First, **bargaining** as an active and rationalist approach enables the EU to urge other actors to adapt to its norms and standards by offering rewards and sanctions. A prime example of this mechanism can be illustrated by the EU's FTA negotiations wherein it attaches conditionalities, such as sustainable development and human rights protection, to which partner third countries or regions must adhere. Second, **persuasion** as an active and constructivist approach allows the EU to persuade others about the acceptability of its policy paradigms. This can be achieved through interregional and transgovernmental networks, technical assistance programs, and political dialogue with third countries through socialization and learning processes. Third, **policy externalities** as a passive and rationalist approach serve as an inducement factor on the part of third countries or regions to make policy adjustments in line with EU policy preferences in anticipation of positive gains. For example, policy actors may be forced to implement industry-specific reforms in order to comply with EU rules of origin as a technical requirement to utilize preferential tariff rates under the EU's Generalized Scheme of Preferences (GSP). Lastly, **emulation** as a passive and constructivist approach occurs when third countries or regions adopt, replicate or mimic EU policies or standards based on legitimacy or normative considerations. For instance, policymakers may emulate or replicate EU human rights standards because they believe the EU's human rights regime resonates with their internal worldviews.

Following one of Gilardi's proposed strategies to improve policy diffusion research,⁵⁵ this contribution does not attempt to make a theoretical input to the broader diffusion literature, but builds on the insights of diffusion research to learn about the phenomenon of Europeanization in third regions or countries.

⁵⁵ Fabrizio Gilardi, "Four Ways We Can Improve Policy Diffusion Research," *State Politics & Policy Quarterly* 16, no. 1 (2016): 13.

As further substantiated in a succeeding case study analysis, this thesis suggests that policy diffusion is likely to occur at the levels of policy externalities and emulation due to the nature of TCNs as agents furthering EU policy standards, as opposed to studying the EU as an active promoter of its own policies, which would better fit the scope conditions of bargaining and persuasion as more direct mechanisms. This assumption is based on findings in the international relations and international political economy literature about the role of epistemic communities or policy experts in influencing the policy choices of domestic decision-makers.⁵⁶ Cross suggests that “when a group of professionals with recognised expertise is able to speak with one voice, that voice is often seen as more legitimate because it is based on a well-reasoned consensus among those in the best position to know.”⁵⁷ The capacity of epistemic communities to influence public policy decisions, therefore, largely relies on the level of their internal cohesion and policy expertise.

2.2 Case study

As a method-appropriate strategy for this research, the use of a case study has revolved around one key member of a consortium of TCNs involved in the EU’s Support to EU Business in Southeast Asian Markets (SEBSEAM) program: the EU–Philippines Business Network (EPBN). Other TCNs under this framework include: the EU–Indonesia Business Network, the EU–Malaysia Chamber of Commerce and Industry, the European Association for Business and Commerce in Thailand, the EU–Vietnam Business Network, and the European Chamber of Commerce in Cambodia.

⁵⁶ World Trade Organization, “World Trade Report 2007: Six decades of multilateral trade cooperation: What have we learnt?,” 2007, accessed 25 March 2016, at <https://goo.gl/cpv19o>; William Drake and Kalypso Nicolaidis, “Ideas, Interests and Institutionalization: ‘Trade in Services’ and the Uruguay Round,” in *Knowledge, Power, and International Policy Coordination*, ed. Peter Haas (Columbia: University of South Carolina Press, 1992), 95.

⁵⁷ Mai’a Davis Cross, “Rethinking epistemic communities twenty years later,” *Review of International Studies* 39, no. 1 (2013): 147.

Over and above obvious limitations in space and time, emphasizing one TCN sharpens the analytical focus and enables a more in-depth analysis of the case study. More importantly, focusing on the EU's policy impact in the Philippines matters because, as a number of observers would suggest some years ago, Philippine political elites tend to share the view that the EU—unlike other heavyweights such as the US, China, and Japan—is “not perceived as a very significant actor in the Philippines.”⁵⁸ While perceptions may have improved in recent years, the Filipino political class needs to fully understand and appreciate the relevance of the EU as a major trade and investment partner.⁵⁹ Indeed, the EU is the country's largest foreign investor bringing in over EUR7,5bn and generating more than 400 000 domestic jobs.⁶⁰ Now neck and neck with the US, the EU has also become the country's third largest trade partner, next to Japan and China, as bilateral trade in goods grew to an all-time high of 16 per cent to EUR12bn while trade in services expanded even slightly more by 17 per cent to EUR3,1bn.⁶¹ As the Philippine economy continues to enjoy persistently stellar growth rates in the ASEAN region, EU leaders become even more committed to ensure that this strong economic partnership continues.^{62,63,64} Thus, it is interesting to understand how the EU pursues to improve market access opportunities for EU businesses, given its reinforced economic interest in the Philippines.

In general, policy diffusion by means of SEBSEAM TCNs merits analysis due to at least two factors. First, in terms of methodological considerations, the consortium of

⁵⁸ Alma Maria Salvador, Leslie Advincula-Lopez and Manuel Enverg, “Orientalism Reversed: Images and Perceptions of the EU in the Philippines,” in *The EU through the Eyes of Asia Volume II: New Cases and Findings*, ed. Natalia Chaban, et al. (Singapore: World Scientific, 2009), 49.

⁵⁹ The EU is also heavily involved in bilateral cooperation with the Philippines on development, people-to-people exchange, sustaining the peace process in Mindanao, climate change, and sustainability, among others.

⁶⁰ EEAS, “Remarks by HRVP following her meeting with Albert Del Rosario, Philippines Secretary for Foreign Affairs,” Manila, 29 July 2014, 140729/01, accessed 30 May 2016, <http://goo.gl/ZN5K6N>.

⁶¹ EU Delegation to the Philippines, “EU–Philippines Trade and Investment Factfile 2015,” accessed 30 May 2016, <http://goo.gl/fJctTd>.

⁶² EEAS, “Remarks by HRVP.”

⁶³ The Philippine Star, “What EU wants known about ties with Philippines,” *The Philippine Star*, 24 February 2015, accessed 30 May 2016, <http://goo.gl/XHkGar>.

⁶⁴ Perhaps one of the most concrete indications of this is the recent decision of the EU to commence FTA negotiations with the Philippines after successfully conducting scoping exercises.

SEBSEAM TCNs is contractually obligated to promote policy preferences towards fostering European trade and investment in the region. As independent organizations, these European TCNs would unsurprisingly find it problematic if they were ascribed as EU-oriented actors working towards policy objectives on the basis of certain EU policy preferences. Their principal-agent relationship with the EU addresses this concern. Second, the SEBSEAM program differs from other similar initiatives such as the EU–Asia Business Link or the EU Business Avenues in Southeast Asia⁶⁵ as the former does not only provide business support and internationalization services, but also actively aims to participate in the policy reform process across ASEAN.

The methodological contributions of Moumoutzis and Zartaloudis⁶⁶ have informed and shaped the qualitative analytical methods used to examine the processes of policy diffusion and Europeanization in this research. Specifically, a within-case process tracing approach has been applied to explain the causal mechanisms of policy diffusion linking EU policy preferences as the independent variable with an outcome of domestic policy change as the dependent variable, while at the same time highlighting the role of European TCNs in the process (see Figure 1).

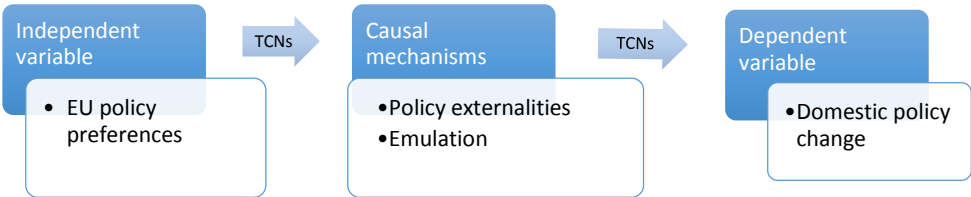


Figure 1: Linking EU policy preferences and domestic policy change through TCNs

⁶⁵ For further information on these two business support programs for EU companies, visit <http://www.ealink.eu/> and <https://www.eubusinessavenues.com/>.
⁶⁶ Kyriakos Moumoutzis and Sotirios Zartaloudis, “Europeanization Mechanisms and Process Tracing: A Template for Empirical Research,” *Journal of Common Market Studies* 54, no. 2 (2016).

The main empirical challenge is thus two-fold: (1) to ascertain whether domestic policy change is indeed the outcome of diffusion processes (in this case, stimulated by EU-oriented agents) and (2) determine which mechanisms underpin these processes. Starke argues that the use of process tracing is well suited to address this twin challenge of policy diffusion research.⁶⁷ Using process tracing has enabled the researcher to trace the spread of policy preferences through a historical reconstruction of policy decision-making processes at the legislative, regulatory or administrative level. The researcher attempted to detect, whenever possible, “smoking gun” evidence of transnational policy diffusion. Arguably, a foolproof method to prove that policy diffusion has occurred is through the discovery of instances wherein local policy actors clearly adopt policy language exactly as formulated by European TCNs. This scenario would show that policy change did not occur independently and that the policy change under consideration was influenced by exogenous policy actors.

More specifically, in order to meet the challenge of establishing the causal significance of the Europeanisation beyond Europe thesis particularly in policy areas where EU stimuli are not legally binding (as in the case of ASEAN), the researcher has followed the process-tracing rubric by Moumoutzis and Zartaloudis who emphasize that researchers should focus on the specific intervening steps of the policy-making process including: (1) the definition of the policy problem, (2) the alternative courses of action considered, and (3) the manner in which the latter were assessed.⁶⁸ First, one could postulate that if European TCNs effectively induced domestic policy change in ASEAN, national policy elites would begin to consider, identify or frame policy issues raised by European TCNs as problems that should receive appropriate policy attention. Second, one could assume that if European TCNs effectively induced domestic policy change in ASEAN, national policy elites would begin to

⁶⁷ Peter Starke, “Qualitative Methods for the Study of Policy Diffusion: Challenges and Available Solutions,” *The Policy Studies Journal* 41, no. 4 (2013): 573.

⁶⁸ Moumoutzis and Zartaloudis, “Europeanization Mechanisms and Process Tracing,” 346.

consider these EU policy preferences as alternative courses of action to national policy choices. Third, establishing whether national policy elites made cost-benefit calculations in relation to the alternatives that they considered would give the researcher a better idea about identifying the particular causal mechanism at work. For example, explanations based on emulation would predict that national policy elites calculated their costs and benefits based on normative and legitimacy considerations as they see the EU as a role model whose policy or institutional features are perceived to be suitable solutions to their policy problems. On the other hand, explanations based on policy externalities would assume that national policy elites calculated their costs and benefits based on rationalist considerations as they view the EU as a market power that creates pressures for adopting or adapting to EU policy preferences.

2.3 Empirical requirements

To identify what specific policy preferences may be considered in the analysis of policy diffusion, elite interviews with ten EU officials and business group leaders in Brussels were conducted. Interviews with anonymous policy professionals from the European Parliament, the European Commission (DG External Policies, DG Trade, and DG Grow), and the European External Action Service shed light on the EU's economic diplomacy strategy in strengthening EU–ASEAN trade and economic relations, with particular emphasis on their level of engagement with, if applicable, and their personal assessment of EU-oriented business organizations in the ASEAN region. Discussions with policy executives from Eurochambres and BusinessEurope provided insights on how they, in cooperation with the EU or other European business organizations working in various ASEAN capitals, are able to support the internationalization of European businesses in the ASEAN region through policy advocacy.

As part of their SEBSEAM program obligations, European TCNs publish comprehensive white books on a regular basis. These publications are a wealthy source of

information on pro-EU business policy prescriptions in line with EU preferences. After a close policy analysis of the EPBN white book and other relevant advocacy materials such as policy briefs and official correspondence, data triangulation proved useful in validating the transmission of European TCN policy preferences to various national and regulatory policy-making apparatuses in the Philippines. To this end, document analysis of relevant legislations, regulations, and administrative orders (in proposed or approved form) helped to examine whether the instrument of domestic policy change contained smoking gun evidence or whether the process that led to its adoption could be traced to EU-related stimuli. In addition to relevant news articles from various Philippine mainstream media outlets, interviews with EPBN policy officials were also effective in providing a historical reconstruction of policy decision-making processes as an important element in the process-tracing approach described above. Due to logistics reasons, it was not possible to conduct in-person interviews with resource persons in the Philippines. The researcher, therefore, relied on electronic communication with relevant interviewees based in Manila in order to solicit their views.

Finally, the researcher, as a former policy associate and current consultant for one of the European TCNs under consideration, considers no potential conflict of interest in connection with the objectives of this academic project. This direct professional association is viewed instead as a practical advantage in terms of having a global and nuanced perspective about how the European TCNs function as policy entrepreneurs and of gaining easy access to “insiders” and materials such as committee meeting reports, which otherwise would have been difficult to acquire. Focusing on the policy influence of European TCNs in the Philippines or ASEAN is also not problematic since the SEBSEAM consortium views their policy impact as a concrete measure of organizational success in policy advocacy.

Chapter 3

Alignment of Public and Private Interests: EU Policy Preferences in Trade and Investment with ASEAN

Today, the EU is a significant international trade and investment partner for ASEAN. Next only to China, the EU is ASEAN's second major trading partner with a total interregional trade exchange valued at EUR238bn in 2013 and a yearly average increase of 7 per cent in trade growth for the period 1993–2013. Following the global financial crisis of 2007–08, the EU's trade pattern with ASEAN has grown both for import and export goods (see Figure 2). In addition, the EU remains the largest foreign investor in ASEAN (see Figure 3). In 2013 alone, EU foreign direct investments represented 22 per cent of total FDI inflows to the region in 2013.⁶⁹ On top of these developments, recent initiatives have dominated the agenda in Brussels and Jakarta in terms of further consolidating EU–ASEAN interregional connections.

One of the latest expressions of the principal objective to improve EU–ASEAN cooperation is the adoption of the Bandar Seri Begawan Plan of Action to Strengthen the EU–ASEAN Enhanced Partnership. The statement provides a general framework that aims to guide actions intensifying more EU–ASEAN collaborative ties not only on economic and trade matters, but also on political and security, and socio-cultural issues, for the period 2013–17.⁷⁰ To build on this initiative, a joint communication was adopted at the EU level in May 2015 to identify concrete steps to transform the EU–ASEAN cooperation into a more strategic

⁶⁹ European External Action Service, “The EU–ASEAN relationship in facts and figures,” 2015, accessed 17 March 2016, <http://goo.gl/4oxSAh>.

⁷⁰ 19th ASEAN-EU Ministerial Meeting, “Bandar Seri Begawan Plan of Action to Strengthen the ASEAN-EU Enhanced Partnership (2013–2017),” 26–27 April 2012, accessed on 18 March 2016, <http://goo.gl/jKLWoH>.

partnership, with an emphasis on trade and investment, among other equally important areas of cooperation.⁷¹

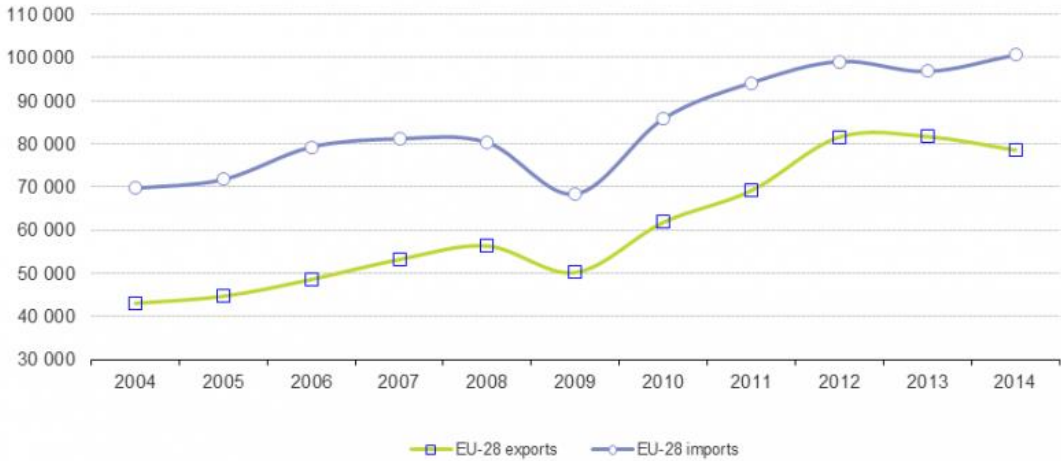


Figure 2: Development of EU-28 exports and imports of goods to/from ASEAN, 2004–14 (EUR million)⁷²

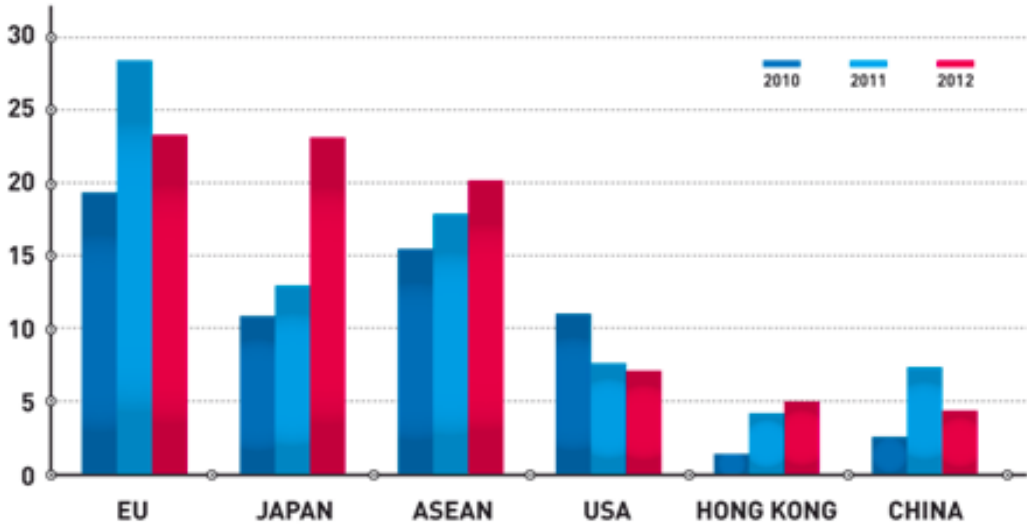


Figure 3: Sources of FDI inflows to ASEAN (USD billion)⁷³

⁷¹ European Commission and High Representative of the Union for Foreign Affairs and Security Policy, “Joint Communication to the European Parliament and the Council: The EU and ASEAN: a partnership with a strategic purpose,” JOIN(2015) 22 final, 18 May 2015, accessed 18 March 2016, <http://goo.gl/W2ldvg>.

⁷² Eurostat, “EU trade and investment statistics with the Association of South East Asian Nations (ASEAN),” April 2015, accessed 28 May 2016, <http://goo.gl/zAkskE>.

⁷³ EU–Indonesia Business Network, “ASEAN trade and investment,” n.d., accessed 28 May 2016, <http://goo.gl/ghBafA>.

Against the backdrop of these macro-level frameworks, different European stakeholders from both the public and private sectors advocate certain positions and actions related to the EU's trade and investment relations with ASEAN. To better clarify what specific policies may be involved in policy diffusion events considered in this study, the present chapter discusses the economic interests of key European institutions and leading European business organizations concerning ASEAN.

3.1 European public sector interest in ASEAN markets

The importance of strengthening EU–ASEAN economic cooperation, as noted by an ASEAN desk officer at the European External Action Service (EEAS), is a priority widely shared across the whole spectrum of EU institutions.⁷⁴ This priority is perhaps embodied most prominently in the strategy document jointly adopted by the EEAS and the European Commission (EC) in May 2015. In addition to completing bilateral FTAs with ASEAN countries with the end view of stitching them together into a future region-to-region economic pact, the Joint Communication to the Council of the European Union and the European Parliament (EP) places a strong emphasis on “encouraging a business-friendly environment in [ASEAN] countries, eliminating non-tariff barriers, harmonising standards, strengthening the rule of law, and the implementation [sic] of international labour standards” while at the same time “creating business opportunities for European SMEs in ASEAN countries.”⁷⁵ The EU envisions to achieve its advocacy on European SME internationalization by “improving the regulatory environment, access to finance, intellectual property rights and market access (including public procurement), and developing corporate governance” in ASEAN.⁷⁶

In response to the action of the EC and EEAS, the Council acknowledged the strategic significance of EU–ASEAN relations through its FAC conclusions in June 2015 and “called

⁷⁴ EEAS, ASEAN desk officer, interview by author, Brussels, 18 April 2016.

⁷⁵ JOIN(2015) 22 final, *The EU and ASEAN: a partnership with a strategic purpose*, 5.

⁷⁶ Ibid.

on the High Representative and the Commission to work on the implementation of ... the Joint Communication, in close cooperation with the EU Member States, building on their activities.”⁷⁷ While an official from EEAS⁷⁸ suggested that it was not procedurally necessary for the EP to release a resolution or motion to endorse the proposed strategy document, an official from the EP⁷⁹ confirmed that the Parliament’s Foreign Affairs Council is nonetheless expected to issue an official statement on the joint communication in the near future. The same parliamentary source also pointed out that the EP’s latest official position on EU–ASEAN relations could be found in the January 2014 Bütikofer resolution which

[recalls] that it is also important to support the booming [European] private sector by strengthening the dialogue between European and Asian companies and public-private cooperation on financial, investment, economic and trade issues, including the internationalisation of European SMEs and their market access, and the ongoing global financial crisis; [as well as] encourages the exchange of best practices between the EU and ASEAN in this respect.⁸⁰

In the context of High Representative Federica Mogherini’s drive to engineer an EU Global Strategy, experts recognize that one of the main challenges for the EU in terms of having a well-rounded approach to Asia, including ASEAN, is to “maximise economic opportunities and access to growth in the region.”⁸¹ This challenge is amplified in the EU’s new trade strategy described by EU policy professionals⁸² as “messianic” for its comprehensive approach that goes beyond traditional tariff reductions and covers issues linked to sustainable development, human rights, good governance, and labor standards, among others. According to an EC trade policy professional,⁸³ the new Trade for All

⁷⁷ Council of the European Union, “Council conclusions on EU–ASEAN relations,” Press Release 487/15, 22 June 2015.

⁷⁸ EEAS, ASEAN desk officer, interview by author, Brussels, 18 April 2016.

⁷⁹ EP source, interview by author, Brussels, 19 April 2016.

⁸⁰ EP resolution of 15 January 2014 on the future of EU-ASEAN relations (2013/2148(INI)), led by rapporteur Reinhard Bütikofer, para. 39.

⁸¹ Antonio Missiroli, *Towards an EU Global Strategy: Background, process, references* (Paris: European Union Institute for Security Studies, 2015): 142.

⁸² EC Directorate-General for Internal Market, Industry, Entrepreneurship, and SMEs (DG Grow), international affairs and policy officers, interview by author, Brussels, 20 April 2016.

⁸³ EC Directorate-General for Trade (DG Trade), trade policy officer, interview by author, Brussels, 20 April 2016.

communication⁸⁴ emphasizes that ASEAN continues to be a region of great interest for the EU and, therefore, a great priority in terms of trade policy for the EC. While European markets have been mired in economic recession and sluggish growth in recent years, the EU increasingly looks to opportunities from other poles of global and regional economic growth. ASEAN is considered to be one of these poles due to its rapid and sustained growth levels and sheer market size of more than 600 million consumers. The fact that the EU has already concluded two preferential trade agreements with Singapore and Vietnam and expects to start FTA negotiations with Malaysia, Indonesia, and the Philippines is a clear indication of the EU's significant interest in the region.⁸⁵

The most relevant provisions in the Trade for All strategy, for the purposes of this research, include reinforcing international regulatory cooperation as well as supporting small and medium businesses to be competitive in markets beyond the EU. In the first instance, the cross-border harmonization of regulatory standards is envisioned to significantly reduce transaction costs as market access barriers not only for EU producers but also for the 28-member bloc's trading partners. Streamlined international regulatory requirements would mean relieving producers, especially SMEs, of the unnecessary obligation to comply with requirements on product specificities and redundant conformity evaluations without adding extra layers of safety or other public benefit. In this regard, the EC pledges to "address regulatory issues as a priority in negotiations and steer greater cooperation in international regulatory fora, while maintaining high European standards; [and] continue its efforts to eliminate non-tariff barriers through the enforcement of agreements and regulatory cooperation."⁸⁶ In the second instance, the cost of doing business abroad or penetrating new markets weighs to a greater extent on small firms. SMEs often have difficulties to

⁸⁴ European Commission, *Trade for All: Towards a more responsible trade and investment policy* (Luxembourg: Publications Office of the European Union, 2015).

⁸⁵ EC DG Trade, trade policy officer, interview by author, Brussels, 20 April 2016.

⁸⁶ EC, *Trade for All*, 13.

internationalize their operations, overcome trade and investment barriers, and comply with stringent, sometimes unnecessary, regulations. To address these issues, the EC is prepared to

include dedicated SME provisions in all negotiations, including dedicated web portals to facilitate access to information on product requirements in foreign markets, opportunities provided by FTAs, and available support; take into account SME specificities in all chapters of trade and investment negotiations; and coordinate with national trade promotion policies and SME internationalisation efforts.⁸⁷

The primary instrument at the EU's disposal to address important interconnected issues such as public procurement, fair competition, sanitary and phytosanitary barriers (SPS), international regulatory cooperation, and SME internationalization, seems to revolve mainly around FTA arrangements with third countries. While FTAs may be the most direct mechanism through which the EU could exert bargaining influence over its trade partners, EU-oriented agents often receive little attention in the analysis of multi-level EU governance especially in the context of EU external relations. EC officials from DG Grow⁸⁸ point out that there are other channels through which the EU could exert influence over mutually beneficial policy outcomes in partner countries or regions. Within the EU–ASEAN framework, there are at least three channels. First, the EU's representative offices across ASEAN through its delegations, member state embassies, and just recently the EU-dedicated permanent diplomatic mission to Jakarta, all play an important role in strengthening the EU's position in and relationship with ASEAN. While not preaching any policy models, various official EU representations work to share best practices with their ASEAN colleagues “to learn or draw some lessons from what we have done in Europe” in order to further consolidate EU–ASEAN cooperation on important policy areas. Second, another major player is the coalition of big businesses through the EU–ASEAN Business Council (EABC). The EABC implements different sector-specific advocacies in order to prompt national authorities in ASEAN to improve the business environment in key sectors such as automotives, pharmaceuticals, ICT,

⁸⁷ Ibid., 16.

⁸⁸ EC DG Grow, international affairs and policy officers, interview by author, Brussels, 20 April 2016.

agribusiness, and financial services, among others. Although this grouping is a private-led initiative that does not receive any form of funding from the EU, the EC takes their positions into consideration in official activities including EU trade negotiations. Third and finally, the EU builds on the work of European chambers of commerce and business organizations operating in ASEAN in order to help European businesses, especially SMEs, flourish in Southeast Asian markets. By extending funding opportunities dedicated to the delivery of business support services to European companies, the EU is able to rely on the local expertise of these actors who work to ensure that relevant policy reforms are put in place in view of further improving market access opportunities for the benefit European businesses and Southeast Asian consumers alike.

3.2 European private sector interest in ASEAN markets

Based on the joint declaration of six leading European business organizations and industry associations⁸⁹ on establishing a horizontal EU SME policy, the EU is home to over 21 million SMEs representing 99,8 per cent of all EU companies, 67 per cent of total employment, and 58 per cent of gross added value.⁹⁰ Stimulating SME competitiveness is, therefore, a key priority for the EU business community as small and medium businesses are an important source of growth and job generation. One of the key positions in the declaration calls for “specific measures facilitating the internationalisation of SMEs to improve their access to international markets and to facilitate their integration in global value chains.”⁹¹ This influential consortium believes that all EU trade agreements with third countries should include a dedicated chapter on SMEs which stand to gain a great deal from improved

⁸⁹ This coalition includes BusinessEurope; the European Association of Craft, Small and Medium-sized Enterprises; the Association of European Chambers of Commerce and Industry (Eurochambres); EuroCommerce; the European Centre of Employers and Enterprises providing Public Services; and the Committee of Professional Agricultural Organisations–General Committee for Agricultural Cooperation in the European Union.

⁹⁰ European Economic and Social Committee, “Joint Declaration on a horizontal EU SME policy – SME Round Table,” 5 April 2016, accessed 1 May 2016, <http://goo.gl/ueewo6>.

⁹¹ Ibid.

regulatory cooperation. Calling for a more coherent EU economic diplomacy, the pan-European business coalition has also pointed out in their statement that business intermediary organizations such as chambers of commerce, sector associations, and export promotion bodies should be involved in the EU's framework of economic diplomacy, particularly in the area of SME internationalization.

Like most EU public institutions, the European business community's outlook towards ASEAN is positive. As an association of more than 1 700 regional and local chambers of commerce and 20 million businesses across 43 countries in Europe, Eurochambres considers Southeast Asia as a priority region for EU businesses who look increasingly towards ASEAN as an appealing market due to its positive growth levels in recent years and vast consumer base. More and more European businesses consider ASEAN as a viable destination where they could export their products, invest, produce, or operate domestically. The challenge is to establish a framework for European industries to be competitive in the region. Efforts are needed to open up more market access opportunities in areas important to EU businesses and to ensure that EU businesses remain competitive vis-à-vis their international competitors. Putting this growing European interest in ASEAN into a broader perspective, senior policy executives at Eurochambres explain that only 13 per cent of over 21 million European SMEs have commercial activities beyond EU borders while up to 25 per cent of European SMEs operate beyond their national borders but still remain within the EU. Citing official EC projections, the sources argue that the fact that 90 per cent of future world growth opportunities is expected to be created outside of the EU explains why there is a collective interest in making sure that more European enterprises should internationalize, export, and establish their businesses in non-EU markets in order to tap into their growth. However, they doubt that the number of European SMEs internationalizing towards non-EU countries will

drastically change unless steps are taken to shape a more coherent approach by all stakeholders.⁹²

In this context, Eurochambres has been at the forefront of business-led efforts on the establishment of a European Economic Diplomacy (EED) framework. EED refers to the application of political weight and policy instruments to reinforce European economic interests overseas, eliminate barriers to foreign trade and investment, negotiate trade agreements bilaterally and multilaterally, and provide efficient support to European businesses to reach foreign markets. Eurochambres envisions that the implementation of the proposed EED strategy will not only require the involvement of EU institutional actors but a broad-based participation of the EU, the member states, and the private sector including actors such as chambers of commerce and trade promotion agencies.⁹³

As a champion of European commercial interests at the European and international levels ensuring that European business is competitive globally, BusinessEurope is also strongly in favor of strengthening EU–ASEAN economic relations as ASEAN is considered to be a priority region as far as their member federations are concerned. Apart from tariff liberalization, BusinessEurope considers the following policy issues paramount: future conclusion of a region-to-region FTA between the EU and ASEAN; full implementation of the EU FTAs with Singapore and Vietnam; further liberalization in trade and services; fair competition; intellectual property rights protection; as well as fairer and more open government procurement rules that do not discriminate against foreign suppliers or bidders.⁹⁴ In the context of its advocacy on EU foreign economic diplomacy, BusinessEurope asserts that the EU should make use of its leverage, not only through EU bodies and individual member states but also through the business community and other related stakeholders, in

⁹² Eurochambres, senior policy officers, interview by author, Brussels, 21 April 2016.

⁹³ Eurochambres, “Position Paper: European Economic Diplomacy,” February 2015, 3, accessed 2 May 2016, <http://goo.gl/56RtbR>.

⁹⁴ BusinessEurope, senior trade advisers, interview by author, Brussels, 18 April 2016.

order to develop the business and investment environment for European firms in third markets.⁹⁵ BusinessEurope also argues that the EU's market access strategy should be enhanced "by identifying key barriers and ultimately working for their removal" to open more doors for European companies in international markets. Since the EU is not negotiating preferential trade pacts with all of its trading partners (which is currently the case in its trade relations with ASEAN), more effective ways of removing market access hurdles through other channels such as existing business organizations in Europe and in third countries become increasingly more important.⁹⁶

This chapter has argued that the respective positions of European public and private stakeholders in strengthening the EU's economic ties with ASEAN are, to a great extent, aligned. The generally dismal economic situation in Europe has incentivized key EU institutions and European business representative groups to consider new centers of global and regional economic expansion as a means to drive the growth of EU industries and small businesses. There is a need, however, for efforts at all levels including the EU, the member states and the private sector to ensure that the business landscape in third markets should become more open and accommodating to foreign participation. This requires the introduction of policy reforms especially in countries—most ASEAN member states are not exempted—with restrictive economic rules and relatively poor performance on studies measuring business regulations such as the World Bank's *Doing Business* report series. It is clear that policy advocacies related to regulatory harmonization, fair competition, public procurement, intellectual property rights, and market access issues, among others, are critical to the interests of European enterprises in overseas economies. But how does the EU ensure that these trade and investment policy preferences are fostered in countries beyond its borders? From the

⁹⁵ BusinessEurope, "Position Paper: EU Foreign Economic Diplomacy," April 2016, 6, accessed 4 May 2016, <https://goo.gl/b9pJhH>.

⁹⁶ *Ibid.*, 7.

perspective of policy diffusion, EU policy preferences may be transferred or diffused through the mechanisms of bargaining, persuasion, policy externalities, and emulation. While the first two mechanisms allow the EU to directly exert its weight, for instance, through FTA negotiations and different modalities of transgovernmental cooperation, the EU also takes the less conspicuous route of relying on the capacity of third actors to *indirectly* shape policy reforms in third countries. The status of European TCNs as epistemic communities that are able to frame policy issues and elevate policy prescriptions at the political level, most prominently through the mechanisms of emulation and policy externalities, qualifies them as natural and strategic partners for the EU. The next chapter delves into this matter more fully by analyzing the advocacy actions of an EU-funded business support initiative whose overall aim is to promote the internationalization of EU businesses towards one of the fastest growing markets in ASEAN.

Chapter 4

Inducing Domestic Policy Change through EU-oriented Agents: The Case of the EU–Philippines Business Network

Under the SEBSEAM framework, the EU mandates its agents to help increase and diversify EU exports and investments in emerging Southeast Asian markets. Like other parallel SEBSEAM projects, the EU–Philippines Business Network (EPBN)⁹⁷ is expected to carry out policy actions that will result in an “enhanced analysis and advocacy for better market access for European companies and improved level playing field.”⁹⁸

This chapter presents a country-specific case study on the Philippines. The key inquiry guiding the analysis relates to the following: whether and to what extent the European TCN based in the Philippines affects domestic policy change in accordance with EU trade and investment policy preferences. Four cross-cutting and sector specific policy areas are considered, given their salience to the interest of existing and future EU business presence in the Philippines.

4.1 Pending legislation on investor facilitation and protection

The Philippines allegedly continues to trail behind many countries in terms of protecting foreign businesses that bring much-needed investments to sustain the growth of the Filipino economy. In its latest Global Competitiveness Report, the World Economic Forum ranked the country as one of the top 20 worst jurisdictions with relatively weak institutional

⁹⁷ The following terms are used interchangeably further on in this thesis: the EU–Philippines Business Network (EPBN), the European Chamber of Commerce of the Philippines (ECCP), and the European TCN. ECCP acts as the main implementing body of the EPBN project.

⁹⁸ European Commission, Directorate-General for International Cooperation and Development, “Annual Work Programme for Grants of the Delegation of the European Union to the Philippines: Support to European Business in the South East Asian markets – Philippines Component (SEBSEAM-P),” January 2013, accessed 23 May 2016, <https://goo.gl/flIqY9>.

safeguards on foreign investments.⁹⁹ Indeed, this became one of the key protestations of the European TCN on several occasions of high-level political dialogues with Philippine legislators.

In recent years, calls for measures that would strengthen the level of investment protection granted to foreign investors had entered the Philippine legislative agenda when the European TCN together with like-minded member associations of the Joint Foreign Chambers (JFC)¹⁰⁰ and the Philippines Business Groups (PBG)¹⁰¹ met with the leadership of the upper and lower houses of the Philippine legislature in February 2014. This opportunity enabled the allied local and foreign business sector to present their proposed economic policy measures and reforms for the 16th Congress, including the establishment of an executive agency tasked to facilitate and protect investments in the country. After Senator Sergio Osmeña III's open invitation for a legislative proposal from the local and foreign business delegation, the European TCN seized this policy window and took the lead in drafting a bill for submission to both congressional chambers.¹⁰²

In May 2014, the European TCN finalized and transmitted its proposed legislation to the Senate and the House of Representatives for potential parliamentary endorsement.¹⁰³ In a supplementary policy brief,¹⁰⁴ the European TCN understood investor protection as the

⁹⁹ Out of 140 countries studied, the Philippines comes in at the 121st spot with a score of 4.2 (with 10 being the best possible mark). See Klaus Schwab (ed), *The Global Competitiveness Report 2015–2016*, Geneva: World Economic Forum (2015): 297.

¹⁰⁰ In addition to ECCP, the JFC is comprised of the American Chamber of Commerce of the Philippines, the Australian-New Zealand Chamber of Commerce of the Philippines, the Canadian Chamber of Commerce of the Philippines, the Japanese Chamber of Commerce and Industry of the Philippines, the Korean Chamber of Commerce of the Philippines, and the Philippine Association of Multinational Companies Regional Headquarters.

¹⁰¹ The PBG includes the Makati Business Club, the Management Association of the Philippines, the Foundation for Economic Freedom, the Philippine Chamber of Commerce and Industry, the Financial Executives of the Philippines, the Information Technology and Business Process Association of the Philippines, the Tax Management Association of the Philippines, the Wallace Business Forum, Alyansa Agrikultura (Agriculture Alliance), Export Development Council, and the Philippine Independent Power Producers Association.

¹⁰² ECCP, Investment and Business Environment Committee Meeting Minutes, 28 May 2014, Makati City.

¹⁰³ Louella Desiderio, "ECCP finalizing draft bill on investor facilitation," *The Philippine Star*, 18 May 2014, accessed 20 May 2016, <http://goo.gl/N9pfcy>.

¹⁰⁴ EPBN, "A Proposal for the Creation of the Office for Investor Facilitation and Protection," May 2014.

responsibility of the state to safeguard the foreign investment of a foreign investor. Furthermore, the European TCN framed the policy issue in two ways. First, the European TCN pointed out that the available domestic judicial mechanisms on investor protection needs to be improved as bringing investment-related conflicts before courts is considered to be notoriously time-consuming, tedious and costly. It also opined that Philippine courts tend to issue judicial decisions with mutable readings of rules and regulations, thereby often effectively circumventing the rules and regulations at the time when investments were previously made. It therefore highlighted the fact that the state's propensity to change the rules in the middle of the game increases foreign investors' vulnerability in that they may run the risk of losing their investments or facing any unnecessary modification of their investment structures. Second, the European TCN invoked infamous judicial cases where (1) the Supreme Court invalidated the ruling of the Court of Tax Appeals to grant the claims of more than EUR9,2mn¹⁰⁵ in value-added tax (VAT) refunds of Japanese-led power generation joint venture San Roque Power Corporation (SRPC)¹⁰⁶ and (2) the Court of Appeals nullified the license to operate granted by the Civil Aeronautics Board to international forwarding firm FedEx¹⁰⁷ for the period 2011–16.

A high official from the European TCN lamented that the high court's decision on the SRPC case, by extension, would have affected "a string of other [VAT] refund seekers' since the aggrieved Japanese energy consortium was 'just the tip of the iceberg.'"¹⁰⁸ Indeed, other high-profile companies also have had pending VAT refund claims. One of them would be the Pilipinas Shell Petroleum Corporation (PSPC)—a subsidiary of the Anglo-Dutch multinational oil and gas firm Royal Dutch Shell plc in the Philippines. In 2012, the Supreme

¹⁰⁵ In the local currency, this amount is equivalent to PHP483,8mn at prevailing exchange rates as of May 2016.

¹⁰⁶ For more background on this story, see <http://goo.gl/ou8LHh>.

¹⁰⁷ For more background on this story, see <http://goo.gl/ILzjry>.

¹⁰⁸ Daxim Lucas, "Groups seek clearer VAT refund rules," *Philippine Daily Inquirer*, 3 December 2013, accessed 21 May 2016, <http://goo.gl/LRS9e1>.

Court scrapped PSPC's claim for tax refunds of over EUR1,8mn¹⁰⁹ which it had previously disbursed to the Bureau of Internal Revenue.¹¹⁰ Although it is somewhat intriguing why the proposal did not make any explicit reference to the PSPC case in an effort to bring a stronger European dimension to the argument as certain EU best practices on foreign investment protection, particularly in Cyprus and Belgium, were also cited in the policy brief, it is clear that the European TCN presented a policy language that does not only single out European investors but essentially include an overarching treatment of local *and* foreign investors. One could venture to argue that the European TCN envisioned this strategy to gain more widespread acceptance and support from the local and foreign business community in the Philippines. Presenting the issue of investor protection as an exclusively European concern eliminates the possibility for joint policy advocacy efforts and, therefore, weakens the position of the European TCN to take advantage of the stronger negotiating clout it would enjoy when in concert with actors from the informal but seemingly influential JFC–PBF alliance.

The draft bill called for the creation of a cabinet-level Office for Investor Facilitation and Protection (OIFP). Attached to the Office of the President, the proposed OIFP is mandated to exercise dual functions as an investor facilitator and investor protector. As a state agency tasked to facilitate investments, the OIFP shall serve as the lead coordinator for local and foreign investors with various investment promotion agencies (IPAs) across the archipelago. Its coordinating role concerns accelerating business registration processes, setting up of strategic businesses, and securing all permits, certificates and endorsements required to register and entitle qualified investors to available investment incentive schemes offered by the state. In addition, the OIFP's authority as an investor facilitator shall be limited

¹⁰⁹ In the local currency, this amount is equivalent to PHP95mn at prevailing exchange rates as of May 2016.

¹¹⁰ Jerome Aning, "SC junks Shell's bid for P95-M tax refund," *Philippine Daily Inquirer*, 12 May 2012, accessed 21 May 2016, <http://goo.gl/dwG0yL>.

to state-identified strategic investments and those economic activities identified in the government's biannual Investment Priorities Plan. As a special agency tasked to protect investments, the OIFP is empowered to promptly resolve investment-related controversies and disputes initially through consultations and discussions between the affected investors and concerned IPAs and other government bodies before resorting to its alternative dispute resolution mechanisms such as mediation, conciliation, and arbitration. This proposed agency, therefore, serves as a viable institution to which disgruntled investors could turn instead of battling their grievances through often protracted judicial means.

Three months after the proposal was sent to prospective champions in Congress, the draft OIFP bill was introduced in the House of Representatives in August 2014.¹¹¹ It is important to highlight that House Bill No. 4833 or the Office for Investor Facilitation and Protection Act of 2014 mirrored the policy provisions exactly as articulated by the European TCN.¹¹² In addition to the favorable reception that the OIFP measure garnered in the lower chamber, the Senate Committee on Trade, Commerce, and Entrepreneurship supported the proposal to create an overarching government unit that will streamline procedures related to the registration of foreign investments in the country.^{113,114} In a subsequent dialogue with the leaders of the House of Representatives in November 2014, the European TCN considered the filing of its proposed measure “an enormous, enormous step forward” and openly stated that

¹¹¹ The bill sponsors were Cagayan De Oro (Second District) Representative Rufus Rodriguez and Abante Mindanao Partylist Representative Maximo Rodriguez, Jr.

¹¹² Philippine Congress, House of Representatives, *Office for Investor Facilitation and Protection Act of 2014*, Sixteenth Congress, Second Regular Session, Bills and Index Division (7 August 2014): House Bill No. 4833.

¹¹³ Ailyn Galura, ‘ECCP bats for simpler investment registration process’, *BusinessWorld*, 26 August 2014, accessed 21 May 2016, <http://goo.gl/5JDAtt>.

¹¹⁴ While the invitation for a draft bill on the investment protection issue originated from Senator Sergio Osmeña III, it remains unclear whether the legislator will support the European TCN's proposal and file a counterpart bill in the upper house.

“the government in our calculation owes the private sector PHP16bn¹¹⁵ in VAT refunds and finds every trick in the book not to repay us.”¹¹⁶

Another possibility to accommodate the demand of the European business community for investor protection measures was through the Investment Ombudsman Team (IOT). In an effort to improve investor confidence in the country, the IOT has been mandated to respond and take action on trade and investment-related issues affecting current and potential investors with respect to alleged violations of service commitments or corrupt practices by IPAs.¹¹⁷ The establishment of the IOT in mid-2014, while it may have been a timely coincidence, chimed in with the flurry of private sector concerns over the state’s failure to deliver on major VAT refund settlements and, therefore, coincided with talks about the creation of an executive investment protection agency. A few months after its formation, the IOT considered “expanding its mandate to include policy mediation and dialogue between the government and private sector, in a bid to improve investor protection in the country.”¹¹⁸ While the private sector generally lauded the government’s move to root out IPA corruption through the IOT,¹¹⁹ the proposal to create an OIFP did not lose steam and apparently became even more valid as the two agencies, though related, fulfill different functions. The European TCN explained that the IOT should not be confused with the OIFP. While the former “looks at incidents of corruption and grievances in the delivery of permits and approvals by

¹¹⁵ This amount is equivalent to about EUR304mn at prevailing exchange rates as of May 2016.

¹¹⁶ Transcript of the Stenographic Notes of the Meeting of the House of Representatives with the Joint Foreign Chambers and Philippine Business Groups, held on 26 November 2014, 2 P.M., at Rolando Andaya Hall, Congressional Hill, Quezon City.

¹¹⁷ Organisation for Economic Co-operation and Development, *OECD Investment Policy Reviews: Philippines 2016* (Paris: OECD Publishing, 2016): 165.

¹¹⁸ Melissa Lopez, “Investment Ombudsman: A policeman for business,” *BusinessWorld*, 11 September 2014, accessed 21 May 2016, <http://goo.gl/7VWDgh>.

¹¹⁹ *Ibid.*

government,” the latter “facilitates investment processes and sees to it that government incentives are delivered.”¹²⁰

Although the proposed bill still has a long way to go before it becomes a law, the European TCN successfully shaped the policy narrative on investor facilitation and protection in the Philippines as part of a broader effort to level the playing field for existing and potential EU businesses. Not only did the European TCN participate in direct policy consultative dialogues with Filipino legislators, it also presented a concrete policy solution through a draft bill that seeks to enhance the legal certainty for existing and future capital owners, including European ones, and minimize any real or perceived risks to invest due to the somewhat blemished reputation of the Philippine state to make good on its promises in granting incentives to qualified investors.

As an observable “smoking gun” evidence of policy diffusion, the fact that national policymakers adopted the policy proposal by the European TCN *verbatim* strongly suggests that the stimulus for policy change in the Philippine investment protection landscape did not come about independently. One could argue that legislators in support of the proposal emulated and considered the policy prescription offered by the European TCN to be a legitimate solution to help improve the business climate in the Philippines. As stated in the explanatory note of the OIFP measure, the bill sponsors argue that in order to “attract foreign investments into the country, stimulate the growth of local investments, and meet investors’ expectations of fiscal and non-fiscal incentives, the government must protect and safeguard investors and their investments by providing a mechanism to avoid protracted and tedious litigation in courts.”¹²¹

¹²⁰ Daryll Saclag, “Corruption woes to be addressed,” *BusinessWorld*, 14 May 2014, accessed 21 May 2016, <http://goo.gl/4hEbj7>.

¹²¹ Philippine Congress, *Office for Investor Facilitation and Protection Act of 2014*.

4.2 *Enactment of a national competition policy*

Until recently, the Philippines was one of the few jurisdictions in the world left without a comprehensive national legal framework on unfair business practices. Although efforts to enact an antitrust law began since the 1980s,¹²² political inertia had prevented any successful bill to pass through the legislature mainly because of the strong influence of business oligarchs controlling key Philippine sectors such as telecommunications, banking, and property development, among others.¹²³ In July 2015, President Benigno Aquino III signed the Philippine Competition Act (PCA) or Republic Act No. 10667. This law creates the Philippine Competition Commission and prohibits anti-competitive agreements, abuse of dominant market positions, and anti-competitive mergers and acquisitions.¹²⁴

As the author and champion of the landmark Philippine competition law, Senator Paolo Benigno Aquino IV explained that, in crafting the policy, his team had made careful policy comparisons with other advanced jurisdictions such as the EU and the US, studied how they could be applied to the Philippine context, and made sure that the right provisions were in place. The social entrepreneur-cum-lawmaker noted that “we really tried our best to pick the best parts of competition policies from abroad.”¹²⁵

In their expert analysis of the recently passed R.A. 10667, UK competition policy specialists Mark Jephcott and Adelaide Luke suggest that the PCA, to a great extent, seems to have been modelled after EU policy paradigms on fair competition:

Whilst previous bills of the Act sought to cherry-pick concepts from each of the US and EU models, the enacted version of the Act has aligned itself much more closely to the EU model. For example, in earlier [versions of the bill], there were provisions on

¹²² Editha Hechanova, “Philippines: Proposed fair competition law,” *Managing Intellectual Property* (11 May 2015): 23.

¹²³ Jillian Keenan, “The Grim Reality Behind the Philippines’ Economic Growth,” *The Atlantic*, 7 May 2013, accessed 22 May 2016, <http://goo.gl/Xf1Wse>.

¹²⁴ Philippine Congress, Senate and House of Representatives, *Philippine Competition Act*, Sixteenth Congress, Second Regular Session (21 July 2015): Republic Act No. 10667.

¹²⁵ Paolo Benigno Aquino IV, interview with Maria Ressa, *Rappler Talk*, 30 June 2015, accessed 22 May 2016, <https://goo.gl/YuHvnp>.

“combinations, or conspiracies in restraint of trade” and “monopoly or attempt to monopolize,” which are concepts drawn heavily from the US model. However, the finalized version of the Act prohibits “anti-competitive agreements” and “abuse of dominant position”: an EU-leaning approach that is common to many other regimes in Asia such as Singapore, Malaysia, China, Hong Kong, and Myanmar.¹²⁶

Three key similarities between the EU and the Philippine competition policies could be charted. First, Section 14 of the PCA defines anti-competitive agreements in the same way as comparable legal principles are enshrined under Article 101 of the Treaty on the Functioning of the European Union (TFEU).^{127,128} Both frameworks prohibit, among others, agreements that prevent, limit or diminish competition related to fixing price or other terms of trade; procurement or bidding frauds; deliberate market segmentation among players; as well as setting, limiting or controlling production, markets, technical development, or investment.

Second, Section 15 of the PCA prohibits both unilateral or joint actions where entities abuse their dominant market position, thereby leading to the prevention, restriction or diminution of fair competition. This provision is similar to the principle under Article 102 of the TFEU.¹²⁹ Both systems outlaw the imposition of unfair purchase or selling prices to drive out competitors; restriction of production, markets or technical development to the disadvantage of consumers; dissimilar treatment of comparable transactions with other trading entities to the competitive disadvantage of the latter; as well as enforcing other entities to accept obligations that have no connection whatsoever with the contracts being negotiated.

Third, the PCA follows the EU’s non-prosecutorial model for legal enforcement.¹³⁰ While the US implements its antitrust policy based on criminal law where violators are slapped with custodial and monetary punishment, the EU observes an administrative model

¹²⁶ Mark Jephcott and Adelaide Luke, “President of the Philippines signs long-awaited Competition Act into law,” *Herbert Smith Freehills LLP*, 21 July 2015, accessed 22 May 2016, <http://goo.gl/MmNz5f>.

¹²⁷ Consolidated Version of the Treaty on the Functioning of the European Union, Article 101, 2008 O.J. C 115/47.

¹²⁸ Jephcott and Luke, “President of the Philippines signs long-awaited Competition Act into law.”

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

that penalizes violators with fines.¹³¹ Thus, an entity found to have been guilty of violating the PCA could be penalized with up to PHP100mn¹³² in administrative fines for the first offense.¹³³

Although the preceding analysis strongly suggests that Philippine policymakers have unilaterally emulated the EU model of competition policy even without the intervention of EU-oriented actors, the European TCN also played an important role in the passage of the PCA. EU businesses have found it especially difficult to enter the Philippines due to market saturation caused by few domestic players that dominate the market and use their dominant market position in anti-competitive commercial practices, especially in sectors such as telecommunications, utilities, and retail.¹³⁴ The position of the European TCN, therefore, was to “ensure a level playing field for businesses, protect consumer welfare, and make the Philippine economy more competitive, especially in the context of satisfying high-level commitments to components such as fair competition under potential FTAs with the EU [and other trade partners].”¹³⁵ It would be misleading to state that the success could solely be attributed to the European TCN as the passage of the Philippine competition law was also high on the agenda of the JFC and PBG. Indeed, in addition to calls for the creation of an independent investor facilitation and protection agency, the European TCN in tandem with a broad-based coalition of foreign and local business organizations overwhelmingly supported the passage of the fair competition measure. EPBN executive director and ECCP vice president for external affairs Henry Schumacher shares his view on the apparently unanimous alignment of major economic reform interests pushed for by both foreign and Philippine businesses within the JFC–PBG framework:

¹³¹ European Parliamentary Research Service, “EU and US competition policies: Similar objectives, different approaches,” Briefing, 27 March 2014, accessed 22 May 2016, <http://goo.gl/zjur9S>.

¹³² This amount is equivalent to about EUR1,9mn at prevailing exchange rates as of May 2016.

¹³³ R.A. 10667, Section 29, paragraph (a).

¹³⁴ Lauren Skarkou, EPBN advocacy officer, e-mail message to author, 15 May 2016.

¹³⁵ EPBN, “EU business in the Philippines: Supporting sustainable and inclusive economic growth,” Advocacy Papers, May 2015, 26.

The amazing story is that the Joint Foreign Chambers and the Philippine Business Groups all work together and are asking for the same things, like more competition...; and EPBN is part of this success as we have raised this [competition policy issue] again and again in discussions with Philippine Business Groups and jointly in dialogues with both Houses of Congress.¹³⁶

Further engagements of the European TCN with relevant key stakeholders are elaborated below:

EPBN worked closely with some of the decision-makers who were not supportive of a Competition Law in the last months in order to gain enough support to pass the measure. Arguments focused on the benefits for increased FDI into the country, the benefits on the Filipino consumer and the necessity of a legislative framework for competition for a possible EU–Philippine FTA were used during individual meetings with legislators, roundtable discussions and participation in Congressional hearings to gain support for the measure. As we have promoted these strong arguments through various mediums of communication, legislators seem to have eventually come round to the necessity of a national competition law to further ambitions being pursued in terms of the Philippines’ foreign trade policy (e.g. through the conclusion of an EU–Philippines FTA) and the competitiveness and investment policy (e.g. by means of increased FDI inflows).¹³⁷

Despite this common orientation on policy, other interest groups also substantially opposed the enactment of the PCA while others lobbied for the passage of a more watered down version of the bill with lower and less strict penalties for violators.¹³⁸ However, as the Philippines pursues a path of increased economic growth, largely based on better integration into regional and global supply chains, and taking into account the significance of the EU market for the country’s economy,¹³⁹ increasing the competitiveness of the Philippines in attracting business from the EU and facilitating the conclusion of the scoping and negotiation process for a future EU–Philippines FTA has irrefutably been an important consideration for economic policymaking through the mechanism of policy externalities. Filipino policy elites saw the need to legislate a robust competition policy in anticipation of potential economic gains from a future preferential trade arrangement with the EU. This specific consideration

¹³⁶ Henry Schumacher, EPBN executive director and ECCP vice president for external affairs, e-mail message to author, 15 May 2016.

¹³⁷ Lauren Skarkou, EPBN advocacy officer, e-mail message to author, 15 May 2016.

¹³⁸ Ibid.

¹³⁹ According to the EU Delegation to the Philippines, the EU was the fourth largest trade partner and the largest source of FDI for the Philippines in 2015.

was highlighted by the law's author himself at a public business event¹⁴⁰ and also received solid support from the Aquino Administration given the willpower of the Department of Trade and Industry (DTI) to conclude a free trade deal with the EU in the next few years.¹⁴¹ Trade officials understood that the absence of a comprehensive competition policy would negatively affect Manila's negotiating position vis-à-vis Brussels. Additionally, an EPBN advocacy official explains that due to their extensive engagement and relationship-building with policymakers, the European TCN was able to build relationships of trust and cooperation, which meant that their positions were taken into higher consideration during the policymaking process.¹⁴²

4.3 Simplification of regulatory standards related to imported alcoholic beverages

Within the Philippine food and beverage industry, the presence of suboptimal regulations with respect to, *inter alia*, technical specifications, product classification, labelling, and safety standards is considered to be a bottleneck to stronger trade links with the country's major export-import partners including the EU. This is especially attributed to the fact that, when products cross customs borders, duly complying to disharmonized regulatory requirements imposes extra transaction costs and complicates commercial procedures for locally-based European businesses engaged in import activities. Another important advocacy for the European TCN is to induce the Philippine Food and Drug Administration (FDA), as a key enabler of the import-dependent segment of the F&B sector, to observe and accept internationally recognized standards in order "to facilitate market access for reputable brands

¹⁴⁰ Senator Paolo Benigno Aquino IV, ECCP Luncheon Meeting, Makati Shangri-La Hotel, Manila, 21 October 2014.

¹⁴¹ Louella Desiderio, "Phl eyes free trade deal with EU in 4–5 years," *The Philippine Star*, 15 January 2015, accessed 22 May 2016, <http://goo.gl/j1AVeN>.

¹⁴² Lauren Skarkou, EPBN advocacy officer, e-mail message to author, 15 May 2016.

which meet high international standards ... [and to relieve them of unnecessary] additional financial and administrative burden.”¹⁴³

In early 2014, there was an opportunity for the private sector to provide their input to an important F&B-related policy as the FDA publicly solicited comments on its draft rules and regulations on food licensing and registration. The European TCN did not miss this opportunity and closely discussed relevant issues with European wine and spirits companies in a number of committee meetings. There was an agreement among industry players that the lengthy and demanding FDA product registration process effectively acted as a technical barrier delaying or hindering the entry of goods from the EU. Specific issues included the risk-based categorization of alcoholic products and the extensive list of documentary requirements for FDA product registrations.^{144,145} Taking these regulatory concerns and other specific technical issues into consideration, the European TCN officially submitted to the FDA a letter articulating its positions, inter alia, on lowering the risk assessment for alcoholic products in line with internationally accepted standards and on streamlining its administrative procedures on product registrations. The group argued that their recommendations would reduce unwarranted face-to-face interaction with FDA inspectors, increase output through speedier issuances of product registration certificates, and increase productivity by having a less stringent philosophy on the risk-based assessment of alcoholic products.¹⁴⁶

In a response e-mail to a senior commercial officer at the Dutch embassy in Manila in August 2014, the then-FDA director general confirmed that key comments of the European TCN had been duly taken into account in the draft rules and regulations.¹⁴⁷ The draft FDA policy categorized alcoholic products as low-risk in accordance with Food and Agriculture

¹⁴³ EPBN, “EU business in the Philippines,” 52–3.

¹⁴⁴ ECCP, Wine and Spirits Committee Meeting Minutes, 6 December 2013, Makati City.

¹⁴⁵ ECCP, Wine and Spirits Committee Meeting Minutes, 7 March 2014, Makati City.

¹⁴⁶ ECCP, Letter to Dr. Kenneth Hartigan-Go, FDA Director General, 27 February 2014.

¹⁴⁷ Dr. Kenneth Hartigan-Go, FDA Director General, e-mail message to Patricia Sarmiento-Alvendia (with carbon copy to author), Senior Commercial Officer, Embassy of the Kingdom of the Netherlands to the Philippines, 11 August 2014.

Organization guidelines and significantly reduced low-risk product registration requirements from fifteen to only four documentations.¹⁴⁸ A review of the approved FDA Administrative Order No. 2014-0029 confirms that these changes have indeed taken into effect.¹⁴⁹ This important policy reform brings the Philippines closer to fulfilling its commitments under WTO rules that “any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence.”¹⁵⁰ In principle, the fact that the FDA now recognizes alcoholic beverages as low-risk products should minimize the regulatory burden on European alcoholic beverage importers to comply with unnecessary food safety controls previously enforced by the FDA. However, as it is often the case with government bureaucracy, resolving one policy issue usually means battling another afterwards.

The bureaucratic nightmare for European F&B companies had dragged on as European importers continued to deal with issues with the Bureau of Customs (BOC) concerning discrepancies in the declared alcohol content and vintage of their wines as indicated on their FDA-issued certificates of product registration (CPR). Customs officials issued penalties and declared alcohol shipments with inconsistent vintage and alcohol content information as “NO CPR.”¹⁵¹ This practice contradicted existing FDA policy¹⁵² that allows waiving requirements for wine importers to re-register their products containing changes in vintage and/or alcohol content, on the proviso that the wines were not reformulated. Through official correspondence and dialogue involving European industry stakeholders, the European

¹⁴⁸ The shortened list of requirements includes the electronic application form, product label, product photo, and processing fee.

¹⁴⁹ Department of Health, Food and Drug Administration, “Rules and Regulations on the Licensing of Food Establishments and Registration of Processed Food, and Other Food Products, and for Other Purposes,” Administrative Order No. 2014-0029.

¹⁵⁰ World Trade Organization, “Agreement on the Application of Sanitary and Phytosanitary Measures,” article 2, paragraph 2, 1 January 1995, accessed 22 May 2016, <https://goo.gl/udIKh6>.

¹⁵¹ ECCP, Letter to Atty. Nicolas B. Lutero III, FDA Officer-in-Charge, 25 March 2015.

¹⁵² FDA, “Notification of Registered Imported Wines with New Vintage,” Circular No. 2014-022, 22 September 2014.

TCN, again, enjoined the FDA leadership to take action.¹⁵³ An EPBN policy official acknowledged that the wine vintage issue had been resolved. Following a discussion with former FDA chief and now Department of Health Undersecretary Dr. Kenneth Hartigan-Go, it was confirmed the BOC took a policy U-turn on wine vintage shipments after the FDA, on the European TCN's prodding, coordinated with relevant customs officials to swiftly address the issue in April 2015. Since then, no new reports of issues with the importation of wines by European beverage companies have been reported.^{154,155}

In the context of the FDA's ongoing reorganizational plan aimed at improving its delivery of regulatory and technical functions in line with consumer and industry needs, the FDA leadership openly welcomed policy input from industry stakeholders.¹⁵⁶ The level of policy responsiveness that the food regulators had exhibited after the European TCN, with the strong backing of European industry players, stressed areas of concerns and proposed pertinent policy solutions tends to suggest that the FDA emulated the expert views of the European TCN and, therefore, considered their policy preferences to be legitimate solutions to help improve FDA regulatory processes, as can be seen in the agency's subsequent policy issuances.

4.4 Adoption of internationally accepted ethical standards in the pharmaceutical sector

EU pharmaceutical companies are governed by stringent ethics policies on the marketing of their pharmaceutical products most notably as prescribed by the Code on the Promotion of Prescription-Only Medicines to, and Interactions with, Healthcare Professionals (the HCP Code) and the Code of Practice on Relationships between the Pharmaceutical Industry and Patient Organisations (the PO Code) under the umbrella of the European

¹⁵³ ECCP–FDA Dialogue, 6 February 2015, FDA Office, Muntinlupa City.

¹⁵⁴ Lauren Skarkou, EPBN advocacy officer, e-mail message to author, 13 May 2016.

¹⁵⁵ EPBN, Joint Meeting with BOC and FDA, Minutes of the Meeting, 15 September 2015, Manila.

¹⁵⁶ ECCP, Wine and Spirits Committee Meeting, Minutes of the Meeting, 7 March 2014, ECCP Boardroom, Makati City.

Federation of Pharmaceutical Industries and Associations (EFPIA).¹⁵⁷ However, until recently, this was not the case for competing companies operating in the Philippines. Effectively, EU pharmaceutical companies were facing a competitive disadvantage from non-EU companies enjoying aggressive marketing campaigns.¹⁵⁸

A convenient fit-for-purpose alternative to the EU's HCP Code and PO Code is the Mexico City Principles for Voluntary Codes of Business Ethics in the Biopharmaceutical Sector (MCPs). The MCPs "define how companies in the biopharmaceutical sector shall market, distribute, promote and advertise their products" in the Asia-Pacific region.¹⁵⁹ While President Aquino signed in 2011 "an APEC Leader's declaration of the Mexico City Principles, signifying the support of the Philippines to the standardization of business ethics,"¹⁶⁰ the government had not taken steps to implement the MCPs. The European TCN, therefore, urged the government to adopt "embedded standards of integrity and ethical pharmaceutical marketing conduct through the widespread adoption of the Mexico City Principles."¹⁶¹

With strong and visible support from major European pharmaceutical companies,¹⁶² the European TCN engaged in numerous formal and informal meetings with key decision makers within the Department of Health—more specifically the Office for Health Regulation and the FDA—in order to highlight the benefits for the healthcare sector and Filipino patients by passing the implementing rules and regulations of the MCPs. As further explained by an EPBN policy official, the decision-makers at hand were already supportive of the measure and, thus, considered the European TCN's policy recommendation as a legitimate course of

¹⁵⁷ Monet Loquias et al., "Alternative Regulatory Models for Pharmaceutical Promotions Involving Civil Society and Other Non-Government Stakeholders," *Medicine Transparency Alliance*, 2015, 13, accessed 23 May 2016, <http://goo.gl/AhtvNw>.

¹⁵⁸ An example is sending doctors and their families on holidays.

¹⁵⁹ Loquias, "Alternative Regulatory Models for Pharmaceutical Promotions," 17.

¹⁶⁰ *Ibid.*, 41.

¹⁶¹ EPBN, "EU business in the Philippines," 77.

¹⁶² Sanofi, GlaxoSmithKline, Roche, and Vamed, among others, actively participated in this policy initiative.

action. By cooperating closely with EPBN and getting direct private sector inputs and support, the country's health regulators were able to gather the political leverage necessary to finally get the important measure passed through the publication of DOH Administrative Order No. 2015-0053¹⁶³ outlining the much-awaited implementing rules and regulations in line with the MCPs.¹⁶⁴

This case study has demonstrated that certain cross-cutting and sector-specific policy outcomes in the Philippines could be traced back to non-binding EU-oriented policy stimuli through the European TCN's policy actions. First, one could find a 'smoking gun' evidence demonstrating that Filipino legislators have clearly copied the formula offered by the European TCN through the introduction of a bill on the creation of an Office for Investor Facilitation and Protection. Second, while Philippine legislators acknowledged that they had, in fact, aligned key provisions of the PCA with EU paradigms on fair competition, the passage of the landmark measure could also be attributed to the advocacy of the European TCN along with other local and foreign business associations. Policy elites regarded the timely enactment of a Philippine competition policy as a *sine qua non* to advance FTA bilateral negotiations with the EU. Third, the adoption of an administrative order that lowers the risk-based assessment of alcoholic products and the number of documents needed for production registration purposes signifies that the FDA emulated the European TCN whose policy preferences were seen as legitimate solutions to the agency's modernization efforts. Last but not the least, the European TCN succeeded in inducing the DOH to adopt the missing implementing rules and regulations with respect to the Mexico City Principles. In this case,

¹⁶³ Department of Health, "Implementing Guidelines on the Promotion and Marketing of Prescription Pharmaceutical Products and Medical Devices," Administrative Order No. 2015-0053, 21 December 2015.

¹⁶⁴ Lauren Skarkou, EPBN advocacy officer, e-mail message to author, 15 May 2016.

the health regulators viewed the European TCN's policy position as a legitimate means to help even the playing field within the booming Philippine pharmaceuticals industry.

Conclusion

This thesis has examined the role of European transnational commercial networks in advancing trade and investment policy preferences in the Philippines against the backdrop of one of the EU's programmatic approaches to strengthening its economic relations with ASEAN as an emerging center of international growth opportunities. If one understands the notion of "Europeanization beyond Europe" as a specific form of policy diffusion in such a manner that EU policy preferences exert influence on domestic policy changes in non-EU settings through indirect mechanisms, then the empirical analysis presented here implies that "Europeanization" may well be happening in the Philippines as a result of advocacy and policy promotion activities ably executed by EU policy entrepreneurs. It could be claimed that this evidence conforms to what Schimmelfennig identifies as one of the substantive contents¹⁶⁵ of Europeanization beyond Europe with respect to the motivations of the EU "to propagate a 'neoliberal' economic model, which reflects the EU's internal commitment to market-building and economic liberalization."¹⁶⁶ Indeed, while FTA arrangements may be the most direct instrument at the EU's disposal to externalize its neoliberal interests, the EU expands its capacity to *indirectly* influence policy outcomes in third markets by building on the actions of European TCNs and their status as epistemic communities. European TCNs in the "outer circles" of EU external governance further the EU's international trade policy agenda on the ground by helping increase the size of the pie that European businesses could get from the world's fastest growing regions, including ASEAN.

The empirical analysis suggests that the causal effect of EU policy preferences being championed by EU-aligned agents is manifested in both horizontal and vertical policy outcomes through the indirect mechanisms of emulation and policy externalities. On the one

¹⁶⁵ The other two main substantive contents relate to the model of EU regionalism and constitutive norms such as human rights, rule of law, and democracy.

¹⁶⁶ Schimmelfennig, "Europeanization beyond Europe," 10.

hand, emulation is most evident in the introduction of a bill in the Philippine House of Representatives concerning the creation of an Office for Investor Facilitation and Protection as proposed by the European TCN with firm support from other allied local and foreign business communities. Food and health regulators in the Philippines have also upheld the policy ideals favored by the European TCN on streamlining regulatory standards on imported alcoholic beverages and on leveling the playing field for European and other industry stakeholders in the Philippine pharmaceutical sectors as legitimate policy solutions. Specific policy outcomes could be observed respectively from FDA Administrative Order No. 2014-0029 and DOH Administrative Order No. 2015-005. On the other hand, while Philippine lawmakers have evidently modelled key components of its national competition policy from the EU model, the policy externalities of satisfying a fair competition policy chapter within a possible EU–Philippines preferential trade pact became one of the most compelling contributing factors to convincing national policy elites that continued parliamentary foot-dragging on the long overdue passage of a competition law could erode the Philippines’ international competitiveness.

Nevertheless, one must be cautious in attributing influence over policy outcome or policy formulation to a single entity. Anyone familiar with the business of policy lobbying or advocacy should know that “[looking] solely at the properties of individual interest groups disregards the fact that decision-makers are confronted with a plurality of interest groups which simultaneously attempt to influence political decisions. Lobbying is therefore a collective enterprise.”¹⁶⁷ This lends support to the application of process tracing as an appropriate method to understand the extent to which a policy outcome could be traced back to EU-oriented stimuli. Another interesting observation is that, when it comes to cross-cutting

¹⁶⁷ Heike Klüver, “Lobbying in coalitions: Interest group influence on European Union policy-making,” Nuffield’s Working Papers Series in Politics, 28 February 2011, accessed 23 May 2016, <https://goo.gl/wchVAd>.

issues such as investor protection and fair competition, the European TCN tends to hold back from advancing visibly European concerns and interests because casting the net wide for a more inclusive and broad-based support from other organized groups is strongly sought to achieve policy success. In contrast, with regards to sector-specific issues such as food regulation and pharmaceutical ethics standards, the European TCN tends to enjoy greater freedom in highlighting European industry concerns and solutions more prominently in order to prompt decision-makers to take necessary action.

There are at least two limitations that must be brought to the reader's attention at this juncture. First, this study may be prone to confirmation bias as policy analysis mainly focused on areas where positive Europeanization or policy diffusion outcomes were believed to have been possible to the exclusion of all other horizontal¹⁶⁸ and vertical¹⁶⁹ policy priorities high on the agenda of the European TCN. Thus, this study has effectively neglected to consider the reverse outcome of policy diffusion: policy rejection or resistance. More policy-specific analyses are, therefore, required to understand not only the impetus of non-EU decision-makers to adopt policy choices offered by EU agents, but also the motivation why they do not. Second, generalization may be limited as the main empirical findings are specific to the peculiarities of the Philippine policy environment. However, the general assumptions specific to this study could be extended to a more ASEAN level in order to fully appreciate the extent and scope conditions of domestic policy influence exerted by similar EU-oriented actors under the SEBSEAM framework. Finally, this thesis lends strong support to the advocacy of Brussels-based business organizations, most notably Eurochambres and BusinessEurope, on the implementation of a multilateral European Economic Diplomacy framework that stresses

¹⁶⁸ EPBN implements advocacy activities in other cross-cutting policy areas including the amendment of the restrictive economic provisions of the 1987 Constitution, public procurement law reform, rationalization of fiscal incentives, customs modernization and anti-smuggling, promoting integrity in the public and private sectors, justice reforms, and protection and enforcement of intellectual property rights, among others.

¹⁶⁹ EPBN carries out advocacy activities in other sector-specific policy areas including agriculture, automotive, consumer goods and retail, energy, financial services, human capital, ICT, infrastructure and transportation, manufacturing, maritime, tourism, and water and environment, among others.

the pivotal role of European chambers of commerce and business organizations overseas as viable partners for the EU in shaping win-win policy outcomes in third markets.

Bibliography

- 19th ASEAN–EU Ministerial Meeting. “Bandar Seri Begawan Plan of Action to Strengthen the ASEAN–EU Enhanced Partnership (2013–2017).” 26–27 April 2012. Accessed on 18 March 2016, <http://goo.gl/jKLWoH>.
- Alter, Karen. “The Global Spread of European Style International Courts.” *West European Politics* 35, no. 1 (2012): 135–54.
- Andreosso-O’Callaghan, Bernadette, and Utai Uprasen. “A Qualitative Analysis of the Impact of the Fifth EU Enlargement on ASEAN.” *ASEAN Economic Bulletin* 29, no. 1 (2012): 46–64.
- Aning, Jerome. “SC junks Shell’s bid for P95-M tax refund.” *Philippine Daily Inquirer*, 12 May 2012. Accessed 21 May 2016, <http://goo.gl/dwG0yL>.
- Aquino IV, Paolo Benigno (Senator). Interview with Maria Ressa. *Rappler Talk*, 30 June 2015. Accessed 22 May 2016, <https://goo.gl/YuHvnp>.
- Bauernschuster, Stefan, and Oliver Falck. “Culture, Spatial Diffusion of Ideas and Their Long-Lasting Imprints--Evidence from Froebel's Kindergarten Movement.” *Journal of Economic Geography* 15, no. 3 (2015): 601–30.
- Benson, David, and Andrew Jordan. “What Have We Learned from Policy Transfer Research? Dolowitz and Marsh Revisited.” *Political Studies Review* 9, no. 3 (2011): 366–78.
- Borges, Natasha. *The Diffusion of Good Government: Social Sector Reforms in Brazil*. Notre Dame: University of Notre Dame Press, 2012.
- Börzel, Tanja, and Thomas Risse. “From Europeanisation to Diffusion: Introduction.” *West European Politics* 35, no. 1 (2012): 1–19.
- Börzel, Tanja, and Thomas Risse. “When Europeanisation Meets Diffusion: Exploring New Territory.” *West European Politics* 35, no. 1 (2012): 192–207.
- Börzel, Tanja, and Yasemin Pamuk. “Pathologies of Europeanisation: Fighting Corruption in the Southern Caucasus.” *West European Politics* 35, no. 1 (2012): 79–97.
- Bossuyt, Fabienne. “An economic giant, political dwarf and military worm? Introducing the concept of ‘transnational power over’ in studies of (the EU’s) power in IR.” Draft paper prepared for the 4th ECPR General Conference, Pisa, Italy, 6–8 September 2007, Panel: EU foreign policy, NPN06, section 42. Accessed 23 May 2016, <https://goo.gl/nGgbZj>.
- Brooks, Sarah. “Social Protection for the Poorest: The Adoption of Antipoverty Cash Transfer Programs in the Global South.” *Politics & Society* 43, no. 4 (2015): 551–82.
- BusinessEurope. “Position Paper: EU Foreign Economic Diplomacy.” April 2016. Accessed 4 May 2016, <https://goo.gl/b9pJhH>.
- Caradaică, Mihail. “Neo-Gramscian approach on Europeanization.” *Romanian Review of Social Sciences* 6 (2014): 17–30.
- Cockerham, Geoffrey. “Regional Integration in ASEAN: Institutional Design and the ASEAN Way.” *East Asia* 27 (2010): 165–85.
- Consolidated Version of the Treaty on the Functioning of the European Union, 2008 O.J. C 115/47.
- Council of the European Union. “Council conclusions on EU–ASEAN relations.” Press

Release 487/15, 2015.

Cross, Mai'a Davis. "Rethinking epistemic communities twenty years later." *Review of International Studies* 39, no. 1 (2013): 137–60.

Cuyvers, Ludo. "The Sustainable Development Clauses in Free Trade Agreements of the EU with Asian Countries: Perspectives for ASEAN?" *Journal of Contemporary European Studies* 22, no. 4 (2014): 427–49.

Damro, Chad. "Market power Europe." *Journal of European Public Policy* 19, no. 5 (2012): 682–99.

Desiderio, Louella. "ECCP finalizing draft bill on investor facilitation." *The Philippine Star*, 18 May 2014. Accessed 20 May 2016, <http://goo.gl/N9pfcy>.

Desiderio, Louella. "Phl eyes free trade deal with EU in 4–5 years." *The Philippine Star*, 15 January 2015. Accessed 22 May 2016, <http://goo.gl/j1AVeN>.

Dolowitz, David, and David Marsh. "Who learns what from whom: A review of the policy transfer literature." *Political Studies* 44, no. 2 (1996): 343–57.

Drake, William, and Kalypso Nicolaïdis. "Ideas, Interests and Institutionalization: 'Trade in Services' and the Uruguay Round." In *Knowledge, Power, and International Policy Coordination*, ed. Peter Haas, 37–100. Columbia: University of South Carolina Press, 1992.

Elkins, Zachary, and Beth Simmons. "On Waves, Clusters, and Diffusion: A Conceptual Framework." *Annals of the American Academy of Political and Social Science* 598 (2005): 33–51.

EU Delegation to the Philippines. "EU–Philippines Trade and Investment Factfile 2015." Accessed 30 May 2016, <http://goo.gl/fJctTd>.

EU–Indonesia Business Network. "ASEAN trade and investment." n.d. Accessed 28 May 2016, <http://goo.gl/ghBafA>.

EU–Philippines Business Network. "EU business in the Philippines: Supporting sustainable and inclusive economic growth." Advocacy Papers, May 2015.

Eurochambres. "Position Paper: European Economic Diplomacy." February 2015. Accessed 2 May 2016, <http://goo.gl/56RtbR>.

European Commission and High Representative of the Union for Foreign Affairs and Security Policy. "Joint Communication to the European Parliament and the Council: The EU and ASEAN: a partnership with a strategic purpose," JOIN(2015) 22 final, 18 May 2015. Accessed 18 March 2016, <http://goo.gl/W2ldvg>.

European Commission, Directorate-General for International Cooperation and Development. "Annual Work Programme for Grants of the Delegation of the European Union to the Philippines: Support to European Business in the South East Asian markets – Philippines Component (SEBSEAM-P)." January 2013. Accessed 23 May 2016, <https://goo.gl/flIqY9>.

European Commission. 2015. *Trade for All Communication: Towards a more responsible trade and investment policy*. Luxembourg: Publications Office of the European Union.

European Economic and Social Committee. "Joint Declaration on a horizontal EU SME policy – SME Round Table." 5 April 2016. Accessed 1 May 2016, <http://goo.gl/ueewo6>.

- European External Action Service. “Remarks by HRVP following her meeting with Albert Del Rosario, Philippines Secretary for Foreign Affairs,” Manila, 29 July 2014, 140729/01. Accessed 30 May 2016, <http://goo.gl/ZN5K6N>.
- European External Action Service. “The EU–ASEAN relationship in facts and figures.” 2015. Accessed 17 March 2016, <http://goo.gl/4oxSAh>.
- European Parliament. “Resolution on the future of EU–ASEAN relations.” 2013/2148(INI), led by rapporteur Reinhard Bütikofer, 2014.
- European Parliamentary Research Service. “EU and US competition policies: Similar objectives, different approaches.” Briefing, 27 March 2014. Accessed 22 May 2016, <http://goo.gl/zjur9S>.
- Eurostat. “EU trade and investment statistics with the Association of South East Asian Nations (ASEAN).” April 2015. Accessed 28 May 2016, <http://goo.gl/zAkskE>.
- Falkner, Gerda, and Patrick Müller (eds.). *EU Policies in a Global Perspective: Shaping or taking international regimes?* Abingdon and New York: Routledge, 2014.
- Farrell, Mary. “EU Representation and Coordination within the United Nations.” In *The European Union at the United Nations: Intersecting Multilateralisms*, edited by Katie Laatikainen and Karen Smith, 27–46. Basingstoke: Palgrave Macmillan, 2006.
- Ferry, Martin and Irene McMaster. “Cohesion Policy and the Evolution of Regional Policy in Central and Eastern Europe.” *Europe-Asia Studies* 65, no. 8 (2013): 1502–28.
- Galura, Ailyn. “ECCP bats for simpler investment registration process.” *BusinessWorld*, 26 August 2014. Accessed 21 May 2016, <http://goo.gl/5JDAtt>.
- Gilardi, Fabrizio. “Four Ways We Can Improve Policy Diffusion Research.” *State Politics & Policy Quarterly* 16, no. 1 (2016): 8–21.
- Haas, Peter. “Epistemic Communities and International Policy Coordination.” *International Organization* 46, no. 1 (1992): 1–35.
- Hechanova, Editha. “Philippines: Proposed fair competition law.” *Managing Intellectual Property* (11 May 2015): 23.
- Henry, Laurence. “The ASEAN Way and Community Integration: Two Different Models of Regionalism.” *European Law Journal* 13, no. 6 (2007): 857–79.
- Jephcott, Mark, and Adelaide Luke. “President of the Philippines signs long-awaited Competition Act into law.” *Herbert Smith Freehills LLP*, 21 July 2015. Accessed <http://goo.gl/MmNz5f>.
- Jetschke, Anja, and Philomena Murray. “Diffusing Regional Integration: The EU and Southeast Asia.” *West European Politics* 35, no. 1 (2012): 174–91.
- Katsumata, Hiro. “Reconstruction of Diplomatic Norms in Southeast Asia: The Case for Strict Adherence to the ‘ASEAN Way.’” *Contemporary East Asia* 25, no. 1 (2003): 104–21.
- Keenan, Jillian. “The Grim Reality Behind the Philippines' Economic Growth.” *The Atlantic*, 7 May 2013. Accessed 22 May 2016, <http://goo.gl/Xf1Wse>.
- Klüver, Heike. “Lobbying in coalitions: Interest group influence on European Union policy-making.” Nuffield’s Working Papers Series in Politics, 28 February 2011. Accessed 23 May 2016, <https://goo.gl/wchVAd>.
- Ladrech, Robert. “Europeanization of Domestic Politics and Institutions: The Case of France.” *Journal of Common Market Studies* 32, no. 1 (1992): 69–88.

- Larsen, Henrik. "The EU as a Normative Power and the Research on External Perceptions: The Missing Link." *Journal of Common Market Studies* 52, no. 4 (2014): 896–910.
- Lavenex, Sandra. "Concentric Circles of 'EUropean' Integration: A Typology of EU External Governance Relations." *Comparative European Politics* 9, no. 4 (2011): 372–93.
- Lenz, Tobias. "Spurred Emulation: The EU and Regional Integration in Mercosur and SADC." *West European Politics* 35, no. 1 (2012): 155–73.
- Lopez, Melissa. "Investment Ombudsman: A policeman for business." *BusinessWorld*, 11 September 2014. Accessed 21 May 2016, <http://goo.gl/7VWDgh>.
- Loquias, Monet, Christine Ching, and Katrice Lara. 2015. "Alternative Regulatory Models for Pharmaceutical Promotions Involving Civil Society and Other Non-Government Stakeholders." Medicine Transparency Alliance. Accessed 23 May 2016, <http://goo.gl/AhtvNw>.
- Lucas, Daxim. "Groups seek clearer VAT refund rules." *Philippine Daily Inquirer*, 3 December 2013. Accessed 21 May 2016, <http://goo.gl/LRS9e1>.
- Magen, Amichai. "Israel and the Many Pathways of Diffusion." *West European Politics* 35, no. 1 (2012): 98–116.
- Medrano, Juan Diez. "The European Union: political dwarf, economic giant." In *International Order and the Future of World Politics*, edited by T.V. Paul and John Hall, 155–77. Cambridge: Cambridge University Press, 1999.
- Meseguer, Covadonga, and Fabrizio Gilardi. "What is new in the study of policy diffusion?" *Review of International Political Economy* 16, no. 3 (2009): 527–43.
- Meseguer, Covadonga. "Policy Learning, Policy Diffusion, and the Making of a New Order." *Annals of the American Academy of Political and Social Science* 598 (2005): 67–82.
- Missiroli, Antonio. *Towards an EU Global Strategy: Background, process, references*. Paris: European Union Institute for Security Studies, 2015.
- Moumoutzis, Kyriakos, and Sotirios Zartaloudis. "Europeanization Mechanisms and Process Tracing: A Template for Empirical Research." *Journal of Common Market Studies* 54, no. 2 (2016): 337–52.
- Noutcheva, Gergana, and Senem Aydin-Düzgit. "Lost in Europeanisation: The Western Balkans and Turkey." *West European Politics* 35, no. 1 (2012): 59–78.
- Olsen, Johan. "The Many Faces of Europeanization." *Journal of Common Market Studies* 40, no. 5 (2002): 921–52.
- Organisation for Economic Co-operation and Development. *OECD Investment Policy Reviews: Philippines 2016*. Paris: OECD Publishing, 2016.
- Papadimitriou, Dimitris, and David Phinnemore. "Exporting Europeanization to the Wider Europe: The Twinning Exercise and Administrative Reform in the Candidate Countries and Beyond." *Southeast European and Black Sea Studies* 3, no. 2 (2003): 1–22.
- Petrov, Roman, and Paul Kalinichenko. "The Europeanization of Third Country Judiciaries through the Application of the EU Acquis: The Cases of Russia and Ukraine." *International and Comparative Law Quarterly* 60 (2011): 325–53.
- Philippine Congress. House of Representatives. *Office for Investor Facilitation and Protection Act of 2014*. Sixteenth Congress, Second Regular Session. Bills and Index Division (7 August 2014): House Bill No. 4833.

- Philippine Department of Health, Food and Drug Administration. "Rules and Regulations on the Licensing of Food Establishments and Registration of Processed Food, and Other Food Products, and for Other Purposes." Administrative Order No. 2014-0029, 8 September 2014.
- Philippine Department of Health. "Implementing Guidelines on the Promotion and Marketing of Prescription Pharmaceutical Products and Medical Devices." Administrative Order No. 2015-0053, 21 December 2015.
- Philippine Senate and House of Representatives. *Philippine Competition Act*, Sixteenth Congress, Second Regular Session (21 July 2015): Republic Act No. 10667.
- Poole, Avery. "Ambitions Versus Capacity: The Role of Institutions in ASEAN." In *Importing EU Norms: Conceptual Framework and Empirical Findings*, edited by Anika Björkdahl, Natalia Chaban, John Leslie, and Annick Masselot, 153–68. Cham: Springer International Publishing, 2015.
- Radaelli, Claudio. "Europeanization: The Challenge of Establishing Causality." In *Research Design in European Studies: Establishing Causality in Europeanization*, eds. Claudio Radaelli and Theofanis Exadaktylos, 1–16. Basingstoke: Palgrave Macmillan, 2012.
- Saclag, Daryll. "Corruption woes to be addressed." *BusinessWorld*, 14 May 2014. Accessed 21 May 2016, <http://goo.gl/4hEbj7>.
- Salvador, Alma Maria, Leslie Advincula-Lopez, and Manuel Enverg. "Orientalism Reversed: Images and Perceptions of the EU in the Philippines." In *The EU through the Eyes of Asia Volume II: New Cases and Findings*, edited by Natalia Chaban, Martin Holland, and Peter Ryan, 19–52. Singapore: World Scientific, 2009.
- Sbragia, Alberta. "Review Article: Comparative Regionalism: What Might It Be?" *Journal of Common Market Studies* 46 (2008): 29–49.
- Schimmelfennig, Frank. "Europeanisation Beyond the Member States." *Journal for Comparative Government and European Policy* 8, no. 3 (2010): 319–39.
- Schimmelfennig, Frank. "Europeanization beyond Europe." *Living Reviews in European Governance* 4, no. 3 (2009): 1–28.
- Schwab, Klaus (ed). *The Global Competitiveness Report 2015–2016*. Geneva: World Economic Forum, 2015.
- Sedelmeier, Ulrich. "Is Europeanisation through Conditionality Sustainable? Lock-in of Institutional Change after EU Accession." *West European Politics* 35, no. 1 (2012): 20–38.
- Shipan, Charles, and Craig Volden. "Bottom-up Federalism: The Diffusion of Antismoking Policies from U.S. Cities to States." *American Journal of Political Science* 50, no. 4 (2006): 825–43.
- Sicurelli, Daniela. "The EU as a norm promoter through trade. The perceptions of Vietnamese elites." *Asia Europe Journal* 13 (2015): 23–39.
- Simmons, Beth, Frank Dobbin, and Geoffrey Garrett. "Introduction: The International Diffusion of Liberalism." *International Organization* 60, no. 4 (2006): 781–810.
- Spendzharova, Aneta, and Milada Anna Vachudova. "Catching Up? Consolidating Liberal Democracy in Bulgaria and Romania after EU Accession." *West European Politics* 35, no. 1 (2012): 39–58.

- Starke, Peter. "Qualitative Methods for the Study of Policy Diffusion: Challenges and Available Solutions." *The Policy Studies Journal* 41, no. 4 (2013): 561–82.
- The Philippine Star, "What EU wants known about ties with Philippines," *The Philippine Star*, 24 February 2015, accessed 30 May 2016, <http://goo.gl/XHkGar>.
- Transcript of the Stenographic Notes of the Meeting of the House of Representatives with the Joint Foreign Chambers and Philippine Business Groups, held on 26 November 2014, 2 P.M., at Rolando Andaya Hall, Congressional Hill, Quezon City.
- Van Hattum, Walter. Joint Commercial Counsellors' and Market Access Team Meeting (draft report), EU Delegation to the Philippines, 11 December 2015.
- Van Hüllen, Vera. "Europeanisation through Cooperation? EU Democracy Promotion in Morocco and Tunisia." *West European Politics* 35, no. 1 (2012): 117–34.
- World Trade Organization. "World Trade Report 2007: Six decades of multilateral trade cooperation: What have we learnt?" 2007. Accessed 22 May 2016, <https://goo.gl/cpv19o>.
- Young, Alasdair. "Liberalizing trade, not exporting rules: the limits to regulatory co-ordination in the EU's 'new generation' preferential trade agreements." *Journal of European Public Policy* 22, no. 9 (2015): 1253–75.