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Editorial statement

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Governance transparency among the largest multinational corporations: influence of firm, industry and national factors*

Raj Aggarwal and John W. Goodell**

Using the Transparency in Corporate Reporting index from Transparency International, this paper examines the factors that influence the transparency of the world's largest multinational corporations (MNCs). Our results show that while firm and industry characteristics are important, so is MNC nationality. Somewhat surprisingly, lower MNC transparency is associated with a higher market-to-book ratio, the finance and technology industries, higher national GDP, English legal origin, greater national emphasis on market (rather than bank) financing, and the cultural dimensions of uncertainty avoidance, power distance and masculinity. Higher levels of transparency are associated with individualism. In sum, we find that home country characteristics remain important in determining the transparency of even the world's largest MNCs.

JEL Classifications: G10, G20, K2

Key words: transparency, MNCs, disclosure levels, national culture

1. Introduction

In this paper, we analyse the determinants of corporate transparency for the world's largest multinational corporations (MNCs).¹ It has been contended that large MNCs have now become stateless with the nation state declining in

* The views expressed in this article are solely those of the authors and do not represent the views of the United Nations.

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¹ Multinationals can be characterized as 1) having a product or a production process such that the firm enjoys some market power or cost advantage abroad (ownership advantage); 2), the firm has a reason to want to locate production abroad rather than concentrate it in the home country; and 3) the firm has a reason to want to own a foreign subsidiary rather than simply license to or sub-contract with a foreign firm (Dunning and Lundan, 2008).

relative importance in this age of globalization, especially as large MNCs can escape national regulations and taxation by making appropriate locational choices (e.g. Haass, 2008; Miyoshi, 1993). However, even if the nation state is declining in importance, it is still an open question if the country of origin or country of incorporation has become irrelevant in terms of the characteristics of MNCs. In particular, this paper asks if country-level factors still matter in determining corporate transparency for the world's largest MNCs.

Transparency of firms is important for financial and economic development. There is large literature on the issue of corporate governance to which this study is closely related (e.g. Guillen, 2004; Rubach and Sebora, 1998; Thomas III and Waring, 1999; Gedajlovic and Shapiro, 1998; Pedersen and Thomsen, 1997; Shleifer and Vishny, 1997).

In a survey of research on corporate governance systems around the world, Denis and McConnell (2003) note that there has been a shift over time from research focused on firm characteristics in individual countries to cross-national corporate governance research that considers the possible impact of country-level characteristics such as differing legal systems. For instance, Doidge, Karolyi and Stulz (2007) develop and test a model of how country characteristics, such as legal protections for minority investors and the level of economic and financial development, influence firms' governance and transparency. They find that country characteristics explain much more of the variance in governance ratings than firm characteristics.²

This paper examines the firm, industry, and country determinants of transparency, using a new index of transparency for the world's largest MNCs. We show that while firm and industry characteristics matter, national characteristics are also important in determining the transparency of MNCs. More specifically, somewhat surprisingly we find that less transparency is associated with a higher market-to-book ratio, the financial and technology industry, higher GDP of the home country, English legal origin, and the cultural dimensions of uncertainty avoidance and masculinity. We also find lower levels of transparency

² An emphasis on country-level factors with regard to MNCs also naturally raises questions about the transportability of best practices from host country to subsidiaries (Aguilera and Jackson (2003).

are associated with a market-based financing system in the home country rather than a bank-based system. Higher levels of transparency are also associated with individualism.

2. The determinants of transparency

2.1 Globalization and the culture of MNCs

It has been contended that large MNCs are now increasingly independent of nation states. Large MNCs can select an attractive environment for their operations from a range of countries. Then a question arises as to the role of the home country. Specifically, do the business practices and corporate cultures of MNCs nevertheless continue to reflect their home countries (Fernera, Quintanilla and Varulc, 2001)? Ramirez and Tadesse (2009), for example, find that multinationality mitigates the effect of country factors (such as national culture) on corporate cash holdings. However, many studies continue to highlight home country effects with MNCs from different countries behaving in distinctive ways that are consistent with the characteristics of their home country. For instance, Harzing and Sorge (2003) find that organizational control practices at the international level are determined primarily by the country of origin. Studies, including Aggarwal (1990), Aggarwal and Kyaw (2006), Chui, Lloyd and Kwok (2002), Kwok and Reeb (2000), and Ramirez and Kwok (2010), find that home country aspects influence the capital structures of large MNCs.

2.2 Importance of transparency

Efficient capital markets depend critically on reliable disclosure and firm transparency. The cost of capital and market mispricing should decline with increased transparency. For instance, Bailey, Karolyi and Salva (2006) examine market behaviour in response to earnings announcements to understand the consequences of increased disclosure faced by non-United States firms when listing in the United States. They find that absolute returns and volume reactions to earnings announcements are positively associated with firms cross-listing in the United States. Alford et al. (1993) find that improvement in disclosure and governance leads to improvement in earnings. Aggarwal et al. (2012) find that country environments concerning provision of

information influence dividend policies. Aggarwal and Kyaw (2006) find that transparency affects firms' capital structure. Sengupta (1998) documents that increased disclosure is associated with a lower cost of debt and that this association is stronger when market uncertainty is higher. Similarly, Leuz and Verrechia (2000) interpret their results as being consistent with greater transparency reducing the cost of capital.

2.3 Transparency and country variables

The effect of country-level variables on corporate transparency and disclosure has been a focus of prior literature. Of seminal interest is the work of Gray (1988), who hypothesizes that the "secrecy of firms" is partially determined by respective national cultures. Gray's framework of accounting transparency is based on the cultural dimensions of Hofstede (1980). Hofstede (1980) defines four cultural dimensions: masculinity, uncertainty avoidance, individualism and power distance.

According to Hofstede (1980), "power distance" is the extent to which the less powerful members of organizations and institutions accept and expect that power is distributed unequally. "Individualism," in contrast to its opposite, collectivism, is the degree to which individuals are integrated into groups. With individualistic societies bonds between individuals are loose, with people focused generally on themselves. On the other hand, in collectivist societies, people identify strongly within groups. The focus is on the group rather than the individual. "Masculinity," in contrast to its opposite femininity, refers to the distribution of roles between the genders and to the quality of assertiveness versus the quality of caring. "Uncertainty avoidance", or the closely similar term "ambiguity aversion", regards societies' tolerance for uncertainty and ambiguity. To what extent do members of a society feel either uncomfortable or comfortable in with situations that are surprising, or different from the usual? Uncertainty avoiding cultures try to minimize these situations by strict laws, rules and beliefs (Hofstead (1980).

With regard to accounting values, Gray (1988) considers more masculine societies to be more concerned with the position of one entity vis-à-vis another; so a more masculine social environment would encourage disclosing more information about its financial position and performance to enable comparison of different entities. Gray also proposes that secrecy is also positively related with the cultural

dimension of uncertainty avoidance. He reasons that in societies with more uncertainty avoidance, less information is expected to avoid conflict and competition. Further, Gray suggests a positive association of the cultural dimension of individualism and a negative association of the cultural dimension of power distance with transparency. Gray (1988) contends that less information is conducive to preserving power inequalities.

Building on Gray (1988), studies on the link between accounting transparency and national culture have been undertaken by, for example, Taylor Zarzeski (1996), Jaggi and Low (2000), Hope (2003), Archambault and Archambault (2003), and Santema et al (2005). Taylor Zarzeski (1996) finds that masculine societies are more transparent. Taylor Zarzeski (1996) also documents a positive relationship between secrecy and uncertainty as well as a negative relationship between individualism and secrecy. Jaggi and Low (2000) find a negative relationship between masculinity and financial disclosure. They also find a positive relationship between secrecy and uncertainty and a negative relationship between secrecy and individualism. Archambault and Archambault (2003) find a positive relationship between uncertainty avoidance and financial disclosure. They also find a negative relationship between masculinity and financial disclosure and a positive association of individualism with disclosure. Hope (2003) find a positive relationship between secrecy and uncertainty. He also finds a negative relationship between masculinity and financial disclosure. Salter and Niswander (1995) similarly find a positive relationship between secrecy and uncertainty.

Both Jaggi and Low (2000) and Hope (2003) investigate the effect of legal origin on the impact of culture on accounting transparency. Jaggi and Low (2000) find that in countries with English legal origin, culture does influence disclosure levels, but not in civil-law countries. Hope (2003) finds that culture matters more than legal origin in determining transparency. Bushman, Piotoski and Smith (2004) find that transparency is positively related to a country's legal system and political-economic factors.

Previous literature has also investigated other cross-country determinants of firm-level behaviour related to financial reporting. For instance, studies have been conducted on cross-country variation in earnings management and the value-relevance of earnings (e.g.

Alford et al., 1993; Ali and Huang, 2000; Francis, Khurana and Pereira, 2003; Guenther and Young, 2000; Land and Lang, 2002). Previous research has also examined cross-country determinants of earnings management (e.g. Leuz, Nanda and Wysocki, 2003; Bhattacharya, Daouk and Welker, 2003; Kinnunen and Koskela, 2003). Other research has examined cross-national differences in earnings timeliness (Ball, Kothari and Robin, 2000) and disclosure intensity and audit quality (Francis et al., 2003; Jaggi and Low, 2000). Bushman et al. (2004) find that transparency is positively related to a country's legal system and political-economic factors.

2.4 Contribution

Overall, it is clear from this discussion that the nature of MNCs not only depends on the nature of the institutional environment, but also on the cultural and social environments of their home countries. The focus of prior literature has been the link between country characteristics and the level of transparency in firms in that country. However, previous studies have not adequately examined the effect of country factors on the governance transparency of the world's largest MNCs.

This paper assesses the determinants of MNC transparency, using the new index, *Transparency in Corporate Reporting*, compiled by Transparency International. This index addresses the issue of transparency among the world's largest MNCs in a different and broader way than studies on corporate disclosure and secrecy have done in the past. An additional contribution of this paper is that we also examine the role of home-country financing system on the transparency in corporate reporting of MNCs. As recent literature suggests (e.g. Aggarwal and Goodell, 2009a; Kwok and Tadesse, 2006), the relative predilection for market-based financing over bank financing is closely related to cross-national differences in the sanctity of contracts and the transaction costs of resolving asymmetric information. In this paper, we additionally contribute to our knowledge of the determinants of transparency of MNCs by examining whether levels of transparency are associated with respective home countries being more market-based or bank-based – while controlling for relevant endogenous factors.³

³ For an extended article on transparency and transaction costs see Aggarwal and Goodell (2014).

3. Methodology

3.1 Dependent variable

The dependent variable is the transparency estimate index for each MNC taken from *Transparency in Corporate Reporting: Assessing the World's Largest Companies* (TCR) compiled and published by Transparency International. Transparency International is a well-respected organization, widely known for its measures of national corruption levels. The index, *Transparency in Corporate Reporting*, is measured on three dimensions: 1) anti-corruption programs; 2) organizational structure; and 3) country-by-country reporting of revenues, transfers and value sharing. Each dimension is assessed on a scale of 0–10 where 0 is least transparent and 10 is most transparent. The Index is based on the simple average of results in the three categories (Kowalczyk-Hoyer, 2012).

Our sample consists of the largest MNCs selected for the 2012 edition of *Transparency in Corporate Reporting*. The selection of companies was based on the 2010 ranking of the world's largest public companies by Forbes magazine. A total of 105 largest publicly traded MNCs by market-value were selected from this list. Single country operators were eliminated because part of the transparency criterion is country-by-country reporting of revenues, transfers, and value sharing (single country companies eliminated were China Mobile, Wells Fargo, Sinoec, China Life Insurance, China Shenhua Energy, Rosneft, Sberbank, Ecopetrol, and Ping An, Insurance Group).

With regard to organizational transparency, most of the companies included in the index disclose information on wholly owned subsidiaries. However, only few companies disclose information on their partially owned affiliates, joint-ventures and other holdings. As a result, significant numbers of corporate holdings go unreported. With regard to country-by-country reporting, most of the companies disclose little or no financial data on a country-by-country basis. Where they do, disclosure is usually limited to discrete data on a few selected jurisdictions. Very few companies disclose financial data across all countries of operations (Kowalczyk-Hoyer, 2012).

Data on transparency were collected exclusively from information or documents publicly available on each listed company's

global website, including relevant links embedded in them. This collection was “guided by a questionnaire structured along the three dimensions of transparency of corporate reporting” (Kowalczyk-Hoyer, 2012). The completeness of the website information or the responses to questionnaires was not vetted; although preliminary data were checked for reliability. Each company had the opportunity to review and comment on the methodology, data and scores.

3.2 Statistical Specification

Our empirical models and their estimates are based on the following equation:

$$y_i = \alpha_i + \sum \beta_1 * X_{ai} + \sum \beta_2 * X_{bi} + \sum \beta_3 * X_{ci} + e_i \quad (1)$$

In Equation 1, y is transparency (TRANSPARENCY). X_a represents a vector of relevant firm-level independent variables, X_b represents a vector of relevant industry-level independent variables, and X_c represents a vector of relevant country-level independent variables.

3.3 Independent variables

Previous literature (e.g. Eng and Mak, 2003) investigating accounting disclosure generally control at the firm-level for debt, firm size, and growth potential. Regarding debt, we include the ratio of long-term debt to equity (LEVERAGE); regarding growth potential, we include the ratio of the total market value to the book value of total assets (MKT_BOOK). We also include two measures of firm efficiency, return on assets (ROA) and return on sales (MARGIN). We control with dummy variables for the industry. Industries include basic materials (IND_BASIC_MATERIALS), utilities (IND_UTILITIES), oil and gas (IND_OIL_GAS), telecommunication (IND_TELECOMMUNICATION), health care (IND_HEALTH_CARE), industrials (IND_INDUSTRIALS), consumer goods and services (IND_CONSUMER_GOODS_SERVICE), financial (IND_FINANCIAL) and technology (IND_TECHNOLOGY).

We also investigate the effect of national culture on cross-national differences in the transparency of corporate reporting. Amongst country-level variables, previous literature has identified national culture as having an important role in determining financial disclosure and

corporate reporting practices.⁴ From a sociological perspective, De Jong, Smeets and Smits (2006) find a positive association between openness and individualism, and a negative association between openness and uncertainty avoidance and power distance. Consequently, we include as independent variables four cultural dimensions of Hofstede (2001): uncertainty avoidance (UAI), individualism versus collectivism (IDV), power distance (PDI), and masculinity or gender differentiation (MAS). We consider several hypotheses with regard to the association of national culture and transparency.

H1: There is a positive association of MNC transparency and individuality.

Salter and Niswander (1995) find a significant negative relationship between secrecy and individualism. Similarly, Taylor Zarzeski (1996) finds a positive relationship between individualism and financial disclosure for a sample of French, German, Hong Kong (China), Japanese, Norwegian, United Kingdom and United States companies. A positive association of individualism and disclosure is also consistent with Jaggi and Low (2000) and Archambault and Archambault (2003). Also De Jong et al. (2006) find a positive association of openness with individualism. Gray (1988) also suggests a positive association of individualism and transparency.

H2: There is a negative association of MNC transparency and uncertainty avoidance.

De Jong et al. (2006) also find a negative association of openness with uncertainty avoidance. The results of De Jong et al. (2006) are consistent with the theories of Gray (1988). Gray (1988) proposes that secrecy is positively related with uncertainty avoidance, implying that less disclosure of information through financial reporting occurs when there is more uncertainty avoidance. According to Gray (1988), in societies less comfortable with ambiguity, less information is offered, as in such societies information engenders conflict and competition. In other words, Gray (1988) seems to suggest that when uncertainty avoidance is high, no news is good news. Consistent with this line of

⁴ See, for instance, Taylor Zarzeski (1996); Jaggi and Low (2000); Hope (2003); Archambault and Archambault (2003), Gray (1988) and Lainez and Gasca (2006).

argument, Salter and Niswander (1995); Taylor Zarzeski (1996); Jaggi and Low (2000); and Hope (2003) find a significant positive relationship between secrecy and uncertainty. However, in contrast to other studies, Archambault and Archambault (2003) find a positive relationship between uncertainty avoidance and financial disclosure.

H3: There is a negative association of MNC transparency and power distance.

De Jong et al. (2006) find a negative association of openness with the cultural dimension of power distance. Velayutham and Perera (2004) and Gray (1988) hypothesize that power distance is negatively associated with transparency (positive with secrecy), because less information is needed to preserve power inequalities. However, Taylor Zarzeski (1996), Jaggi and Low (2000) and Hope (2003) all find a positive association of financial disclosure and power distance. However other studies (e.g. Archambault and Archambault, 2003; Salter and Niswander, 1995) are inconclusive regarding the association of power distance and financial disclosure.

H4: There is a negative association of MNC transparency and masculinity.

As discussed earlier, Gray (1988) hypothesizes positive association of disclosure and masculinity. Furthermore, Santema et al. (2005) suggest that in masculine societies, disclosures (in this case regarding strategy) would include more economic and financial information. Taylor Zarzeski (1996) finds a positive relationship between masculinity and financial disclosure. On the other hand, Jaggi and Low (2000), Hope (2003) and Archambault and Archambault (2003) all find a negative relationship between masculinity and financial disclosure. Salter and Niswander (1995) do not find any significant relationship between secrecy and masculinity.

We also include a dummy variable that is assigned “1” if the legal origin of the respective home country is English and “0” otherwise (ENGLISH). These data are compiled from La Porta, Lopez-de-Silvanes and Shleifer (2006), Levine (1999) and Harper and McNulty (2008). This variable is included because many argue that common-law systems offer better investor protection (e.g. Johnson et al., 2002).

H5: Legal origin is an important determinant of MNC transparency.

Jaggi and Low (2000) and Hope (2003) investigate the effect of legal origin in relation to the impact of culture on transparency. Jaggi and Low (2000) find that in countries with English legal origin, culture does influence disclosure levels, but not in civil-law countries. Hope (2003) finds that culture matters more than legal origin in determining transparency. We do not hypothesize here about the sign of this independent variable as previous research has been inconclusive.

We also examine the impact of the overall governance of the respective nation (GOVERNANCE). Bushman et al. (2004) find that transparency is positively related to a country's legal system and political-economic factors. We expect that better regulation and less corruption are associated with better transparency.

H6: Home-country governance quality is positively associated with MNC transparency.

Unlike previous studies on transparency, we also include a variable for financial architecture (ARCHITECTURE). This variable is the ratio of the size of the stock market to the size of the banking industry. It is formed as the ratio of stock market capitalization to domestic assets of deposit money from Beck, Demirguc-Kunt and Levine (2000). We include this variable because nations' predilections for capital markets or banking may affect overall attitudes toward transparency. We note that both Kwok and Tadesse (2006) and Aggarwal and Goodell (2009b) find a link between the financing system and accounting disclosure.⁵ In this paper, we examine if greater transparency results from a market-based financing system or a bank based one. As issue has not been studied previously, we do not hypothesize the sign of the coefficient for this variable.

H7: Financial architecture is an important determinant of MNC transparency.

We note that prior research, namely Ergungor (2004) and Kwok and Tadesse (2006), find legal origin significant in determining whether the corporate financing systems is market-based or bank-based.

⁵ Aggarwal and Goodell (2011a) and Aggarwal and Goodell (2011b) also find that ex ante equity premia are lower in more market-based societies.

Aggarwal and Goodell (2009a) and Kwok and Tadesse (2006) find national culture influences financial architecture. Aggarwal and Goodell (2010) and others find that governance also influences architecture. In order to overcome any problems associated with these correlations and possible endogeneity, we also present results in our tables that use a modified independent variable (RESID_ARCHITECTURE). To form this variable, we first orthogonalize ARCHITECTURE against legal origin, governance, national culture and wealth. Orthogonalization is done by first regressing the main independent variable against wealth, governance, legal origin and national culture variables according to equation 2 below and then using the residuals from Equation 2, RESID_ARCHITECTURE, as substitutes for the independent variable ARCHITECTURE in the transparency regressions.

$$\text{ARCHITECTURE}_i = \alpha_i + \beta_{1i}\text{WEALTH} + \beta_{2i}\text{GOVERNANCE} + \beta_{3i}\text{ENGLISH} + \beta_{4i}\text{UAI} + \beta_{5i}\text{PDI} + \beta_{6i}\text{IDV} + \beta_{7i}\text{MAS} + \beta_{8i}\text{lngdp} + \varepsilon_i \quad (2)$$

In addition, in order to control for cross-national differences in wealth, we include GDP per capita in constant US dollars as an independent variable. Following the standard practice, take the log of this value because of its large variation and size compared to the other independent variables (LNGDP).

4. Results

4.1 Descriptive statistics

Table 1 presents the country averages for TRANSPARENCY along with the number of firms per country. In *Transparency in Corporate Reporting*, some firms are grouped according to a shared national identity. Two firms in our sample are listed as jointly Australia and the United Kingdom and two firms are listed jointly as the Netherlands and the United Kingdom. The value of the transparency index varies widely across countries from a high of 8.13 for Norway to a low of 2.51 for China. It is difficult to form conclusions for particular countries as the number of firms per country is often very few, while the United States is represented by a large sample of 39 firms.⁶

⁶ In subsequent sections we report the results of robustness tests that in turn remove from the sample firms in countries only represented by one firm; and remove firms from the United States.

Table 2 shows that transparency varies by industry from a high of 6.02 for basic materials to a low of 4.19 for financials and 4.09 for technology firms. This suggests that industry factors may be important as determinants of transparency even though we also note that the range from the highest to the lowest across industries is less than the range across countries. Table 3 displays the mean, standard deviation and sources for our dependent and independent variables.

Table 1. Country Averages for MNC Transparency Index

This table lists the number of firms and respective average index of transparency for the countries of the firms in our sample. Index and corresponding firms are from 2012 *Transparency in Corporate Reporting: Assessing the World's Largest Companies* (TCR). Transparency of corporate reporting is measured on three dimensions: 1) anti-corruption programs; 2) organizational structure; and 3) country-by-country reporting of revenues, transfers and value sharing. Each dimension is assessed on a scale of 0–10 where 0 is least transparent and 10 is most transparent. This index is based on the un-weighted average of results in all three categories.

Country	Average Transparency	Observations
Norway	8.3	1
Australia/United Kingdom	7.2	2
Luxembourg	6.9	1
Germany	6.13	6
Italy	6.05	2
Netherlands/United Kingdom	5.95	2
United Kingdom	5.86	9
Switzerland	5.85	4
Spain	5.8	2
France	5.45	8
Australia	5.3	3
Canada	5.05	2
India	5.05	2
Brazil	4.73	3
United States	4.23	39
Saudi Arabia	4	1
Hong Kong (China)	3.9	1
Israel	3.3	1
Belgium	2.9	1
Russia Federation	2.8	1
Japan	2.7	5
China	2.54	5

* Listed by Transparency International as joint country of incorporation

Table 2. Industry Averages for MNC Transparency Index

This table lists the number of firms and respective average index of transparency for the industries of the firms in our sample. Index and corresponding firms are from 2012 *Transparency in Corporate Reporting: Assessing the World's Largest Companies* (TCR). Transparency of corporate reporting is measured on three dimensions: 1) anti-corruption programs; 2) organizational structure; and 3) country-by-country reporting of revenues, transfers and value sharing. Each dimension is assessed on a scale of 0–10 where 0 is least transparent and 10 is most transparent. This index is based on the un-weighted average of results in all three categories.

Industry	Average Transparency	Observations
Basic Materials	6.02	6
Utilities	5.7	4
Oil and Gas	5.23	17
Telecommunication	5.11	7
Health Care	5.05	11
Industrials	4.82	6
Consumer Goods and Services	4.43	16
Financial	4.16	24
Technology	4.09	10

4.2 Results of regressions: firm-level and industry-level determinants of transparency

First, the statistical properties of the results give us confidence that the results are reliable. All estimated models have variance inflation factors (VIF) of less than 10 for all regressors indicating that any multi-collinearity is unlikely to be a significant problem. Further, we report the results of the Huber and White robust standard errors regressions corrected for any heteroscedasticity.

Table 4 reports the results of regressions using two different sets of independent variables on the dependent variable TRANSPARENCY. The first regression uses only firm-level independent variables MKT_BOOK, LEVERAGE, ROA and MARGIN. This regression results in MKT_BOOK being significantly negative. This suggests an association across large MNCs of higher valuation with less transparency. This result also suggests the importance of firm-level characteristics in determining the transparency of MNCs. The other firm-level variables are not significant.

Table 3. Descriptive Statistics and Summary of data sources.

This table lists the mean, standard deviations and sources of variables used in regressions which are reported in Tables 4, 5 and 6.

Variable	Mean	Standard Deviation	Source
TRANSPARENCY	4.75	1.43	2012 Transparency in Corporate Reporting of Transparency International Based on data collected or made available between June and 15 October 2011
MKT_BOOK	1.19	1.77	Total market value to the book value of total assets Global Vantage
LEVERAGE	3.58	1.36	Long-term debt to shareholder equity Global Vantage
ROA	6.54	5.33	Return on Assets Global Vantage
MARGIN	13.98	9.36	Return on Sales Global Vantage
GOVERNANCE	0.00	2.31	First principal component of the six governance indicators of World Governance Indicators World Bank
WEALTH	10.46	0.77	Gross domestic product per capita in current US dollars | 2010 United Nations Population Fund, <i>State of World Population 2010</i>
ENGLISH	0.60	0.49	Dummy variable that is assigned "1" if the nation has English language origin and "0" otherwise.
PDI	46.98	15.83	Power distance Hofstede (2001)
UAI	55.75	18.31	Uncertainty Avoidance Hofstede (2001)
IDV	74.37	21.63	Individualism Hofstede (2001)
MAS	60.65	12.43	Masculinity Hofstede (2001)
ARCHITECTURE	1.47	0.76	Ratio of stock market capitalization to domestic assets of deposit money banks, formed from measures from Financial Structure Database of World Bank

The second regression (Model 2) uses a set of dummy variables representing the industry classification as independent variables: IND_CONSUMER_GOODS_SERVICE, IND_FINANCIAL, IND_HEALTH_CARE, IND_INDUSTRIALS, IND_OIL_GAS, IND_TELECOMMUNICATION, IND_TECHNOLOGY, and IND_UTILITIES. In this estimate, IND_CONSUMER_GOODS_SERVICE, IND_FINANCIAL, and IND_TECHNOLOGY are significantly negative. This suggests that large MNCs in the consumer goods and services, financials, and technology industries are less transparent.

4.3 Results of regressions: country-level determinants of transparency

While the purpose of Table 5 is to highlight the effect of country-level variables on transparency, Model 1 in table 5 first presents a parsimonious model based on the results of table 4, using firm and industry level variables. The set of independent variables for Model 1 is MKT_BOOK, IND_CONSUMER_GOODS_SERVICE and IND_FINANCIAL and IND_TECHNOLOGY. These are the variables that are significant in the models in Table 4. We present this model first before adding country-level variables.

This regression results in (not surprisingly given the results of table 4) MKT_BOOK, IND_FINANCIAL and IND_TECHNOLOGY being significantly negative. However, unlike the models in Table 4, IND_CONSUMER_GOODS_SERVICE is not significant. Model 2 adds country-level variables WEALTH and GOVERNANCE to the independent variables. In Model 2, WEALTH is significantly negative and GOVERNANCE is significantly positive. MKT_BOOK is again significantly negative. IND_FINANCIAL and IND_TECHNOLOGY are significantly negative.

Model 3 adds ARCHITECTURE to Model 2. This results in ARCHITECTURE being significantly negative as are WEALTH and MKT_BOOK. GOVERNANCE is again significantly positive. IND_FINANCIAL and IND_TECHNOLOGY are again significantly negative. All significances discussed so far are at better than the one per cent level.

Model 4 adds four cultural dimensions of Hofstede to the independent variables of Model 3: PDI, UAI, IDV and MAS and a dummy variable for English legal origin (ENGLISH). The results show that PDI and MAS are significantly negative ten per cent while IDV is significantly positive. WEALTH is again significantly negative, although now at the ten per cent level. MKT_BOOK is again significantly negative. GOVERNANCE is again positively significant, although now at the ten per cent level. IND_FINANCIAL and IND_TECHNOLOGY are again significantly negative. Three of the four national culture variables are significant; as are English legal origin, governance, and wealth. Model 5 adds two measures of size: total book value of assets (LN_TOTAL-ASSETS) and the market value of equity (LN_MKT_VAL). Even though our sample is restricted to the world's largest MNCs, we control for size for the sake of completeness. As is customary, we take the log of these values.

Table 4. Determinants of Transparency for World's Largest MNCs: Firm and Industry Factors

Dependent variable is TRANSPARENCY. Dependent and independent variables defined in Table 3. Variance inflation factors (VIF) less than 10 for all variables and all models. Results of Huber and White robust standard errors reported. P-values in parentheses.

	Model	
	1	2
MKT_BOOK	-0.27*** (0.006)	
LEVERAGE	0.03 (0.728)	
ROA	0.03 (0.344)	
MARGIN	-0.03 (0.199)	
IND_CONSUMER_GOODS_SERVICE		-1.59** (0.018)
IND_FINANCIAL		-1.85*** (0.004)
IND_HEALTH_CARE		-0.97 (0.119)
IND_INDUSTRIALS		-1.20* (0.098)
IND_OIL_GAS		-0.79 (0.216)
IND_TECHNOLOGY		-1.93*** (0.002)
IND_TELECOMMUNICATION		-0.90 (0.261)
IND_UTILITIES		-0.32 (0.635)
INTERCEPT	5.26*** (0.000)	6.02*** (0.000)
OBS	85	101
R-square	0.13	0.16
F-test	2.41* (0.055)	3.02*** (0.004)

*significant at 10% level; **significant at 5% level; ***significant at 1% level

Results of Model 5 confirm the results of the other models. All variables that are significant in Model 4 are also significant with the same signs in Model 5. As expected, the size variables, LN_TOTAL-ASSETS and LN_MKT_VAL, are not significant.

Overall, the adjusted R-squared of the regression estimates almost triple from 0.21 in Model 1 to 0.60 in Model 4 when firm and industry variables are augmented by country variables. The results in Table 5 suggest that country-level variables are important in determining the transparency of the world's largest MNCs.

4.4 Results of robustness tests

Models 1–3 in Table 6 present results of robustness tests with TRANSPARENCY as the dependent variable. Model 1 presents the same set of independent variables as Model 4 in Table 5 but excluding United States firms. As shown in Table 1, United States firms account for 39 out of the 101 firms in our sample. Excluding United States firms allows us to investigate whether or not United States firms are driving our results. Model 1 gives results similar to the corresponding results of Model 4 in Table 5. UAI, MAS and ENGLISH are significantly negative. However, IDV, WEALTH, ARCHITECTURE, GOVERNANCE, MKT_BOOK and IND_FINANCIAL and IND_TECHNOLOGY are not significant. We note that significance is more difficult to establish now as our sample is greatly reduced (by about 40 per cent). In any case, Model 1 suggests robustness for our results regarding English legal origin and the cultural measures, UAI and MAS.

Model 2 of Table 6 excludes firms from countries that are only represented by one firm as it is possible that only one large MNC might be driving respective country-level results. This model results in MKT_BOOK being again significantly negative. GOVERNANCE is significantly positive. WEALTH and ARCHITECTURE are significantly negative. UAI is significantly negative while MAS and IDV are not significant. IND_FINANCIAL and IND_TECHNOLOGY are significantly negative. These results are largely similar to Model 4 of Table 5. However, unlike Model 4 of Table 5, IDV, MAS and ENGLISH are not significant.

Model 3 of Table 6 uses the same sample and the same set of independent variables as Model 4 of Table 5 except ARCHITECTURE is replaced by RESID_ARCHITECTURE. This results in very similar results. UAI, PDI and MAS are significantly negative. However unlike Table 5, IDV is not significant. WEALTH and MKT_BOOK are again significantly negative. GOVERNANCE is again significantly positive. IND_FINANCIAL is again significantly negative, while IND_TECHNOLOGY is not. Like Table

**Table 5. Determinants of Transparency for World's Largest MNCs:
Country-Level Factors**

Dependent variable is TRANSPARENCY. Dependent and independent variables defined in Table 3. Variance inflation factors (VIF) less than 10 for all variables and all models. Results of Huber and White robust standard errors reported. P-values in parentheses.

	Model				
	1	2	3	4	5
MKT_BOOK	-0.27*** (0.000)	-0.29*** (0.000)	-0.36*** (0.000)	-0.14** (0.049)	-0.09 (0.665)
TOTAL_ASSETS					0.10 (0.615)
MARKET_VALUE					-0.02 (0.920)
GOVERNANCE		0.66*** (0.000)	0.59*** (0.000)	0.26* (0.058)	0.29* (0.088)
WEALTH		-1.54*** (0.000)	-1.53*** (0.000)	-0.66* (0.093)	-0.79 (0.122)
ARCHITECTURE			-0.70*** (0.000)	-0.81*** (0.001)	-0.79*** (0.002)
ENGLISH				-1.35*** (0.002)	-1.33*** (0.002)
PDI				-0.00 (0.830)	-0.00 (0.682)
UAI				-0.04*** (0.002)	-0.04*** (0.009)
IDV				0.01** (0.049)	0.02** (0.042)
MAS				-0.02*** (0.006)	-0.02*** (0.005)
IND_CONSUMER_GOODS_SERVICE	-0.54 (0.151)	-0.53 (0.135)	-0.23 (0.516)	-0.33 (0.338)	-0.30 (0.393)
IND_FINANCIAL	-1.24*** (0.001)	-1.24*** (0.000)	-1.11*** (0.000)	-0.84*** (0.002)	-1.02** (0.020)
IND_TECHNOLOGY	-0.98*** (0.004)	-1.07*** (0.000)	-0.52** (0.035)	-0.60** (0.018)	-0.57** (0.028)
INTERCEPT	5.52*** (0.000)	21.66*** (0.000)	22.63*** (0.000)	16.81*** (0.000)	17.07*** (0.000)
OBS	101	99	94	94	94
R-square	0.21	0.44	0.53	0.60	0.60
F-test	8.19*** (0.000)	19.25*** (0.000)	19.46*** (0.000)	19.89*** (0.000)	16.86*** (0.000)

*significant at 10% level, **significant at 5% level; ***significant at 1% level

**Table 6. Determinants of Transparency for World's Largest MNCs:
Robustness tests**

Dependent variable is TRANSPARENCY. Dependent and independent variables defined in Table 3. Variance inflation factors (VIF) less than 10 for all variables and all models. Results of Huber and White robust standard errors reported. P-values in parentheses.

	Removal of USA firms	Removal of firms corresponding to one firm per country	Full sample with ARCHITECTURE orthogonalized	
	1	2	3	4
MKT_BOOK	-0.09 (0.386)	-0.29*** (0.003)	-0.14 (0.121)	-0.09 (0.665)
LN_TOTAL_ASSETS				0.10 (0.615)
LN_MKT_VALUE				-0.02 (0.920)
GOVERNANCE	0.21 (0.197)	0.44*** (0.001)	0.50*** (0.001)	0.53*** (0.001)
WEALTH	-0.63 (0.217)	-1.15** (0.016)	-1.56*** (0.000)	-1.67*** (0.000)
ARCHITECTURE	-0.43 (0.414)	-0.78*** (0.001)		
RESID_ARCHITECTURE			-0.81*** (0.002)	-0.79*** (0.002)
ENGLISH	-1.66*** (0.006)	-0.77 (0.109)	-2.01*** (0.000)	-1.98*** (0.000)
PDI	-0.01 (0.648)	0.01 (0.442)	-0.02* (0.084)	-0.02*** (0.007)
UAI	-0.04** (0.019)	-0.03* (0.070)	-0.02* (0.088)	-0.02 (0.116)
IDV	0.02 (0.103)	0.01 (0.567)	0.01 (0.365)	0.01 (0.122)
MAS	-0.02** (0.048)	-0.01 (0.670)	-0.02** (0.018)	-0.02*** (0.001)
IND_CONSUMER_GOODS_SERVICE	-0.64 (0.123)	-0.06 (0.860)	-0.33 (0.248)	-0.30 (0.393)
IND_FINANCIAL	-0.54 (0.100)	-0.96*** (0.001)	-0.84*** (0.002)	-1.02** (0.020)
IND_TECHNOLOGY	-0.57 (0.559)	-0.49* (0.051)	-0.60 (0.104)	-0.57** (0.028)
INTERCEPT	15.75*** (0.003)	19.68*** (0.000)	25.90*** (0.000)	25.94*** (0.000)
OBS	55	90	94	94
R-square	0.66	0.59	0.60	0.60
F-test	6.93*** (0.000)	13.82*** (0.000)	10.14*** (0.000)	16.86*** (0.000)

*significant at 10% level, **significant at 5% level; ***significant at 1% level

5, ENGLISH is significantly negative. Corresponding to ARCHITECTURE in table 5, RESID_ARCHITECTURE is significantly negative.

As in Table 5, Model 4 adds two measures of size: total book value of assets (LN_TOTAL-ASSETS) and market value of equity (LN_MKT_VAL). As is customary, we use the log of these values in our regressions. Results of Model 4 confirm the results of the other models. All variables that are significant in Model 3 are also significant with the same signs in Model 4. As expected, the size variables, LN_TOTAL-ASSETS and LN_MKT_VAL, are not significant. There are, however, a few changes in the results. For example, UAI is no longer significant in Model 4. Our dummy variable for technology industry is now also significantly negative, as in table 5. PDI is now significant at 1 per cent; up from 10 per cent in Model 3.

5. Discussion

5.1 Results regarding firm-level and industry-level effects

Overall, we document moderate support for firm-level and industry-level variables being important determinants of transparency for the world's largest MNCs. Most notably, we find that transparency is negatively related to the financial and technology industries and to firm-level growth potential (MKT_BOOK).

Other studies have found that industry groups affect the level of corporate reporting. Kolk (2003) finds that CSR reporting is lower for financials, consistent with our findings. However, she finds reporting higher for technology firms, while our results imply that this group of firms are less transparent. The differences in findings could be due to differences in our samples or due differences in control variables.

5.2 Results for country-level variables

Overall, the results of Tables 4, 5, and 6 suggest that country-level factors are still important in determining cross-firm differences in transparency. We note that even when controlling for firm and industry factors, a number of home country variables are shown to be consistently significant as determinants of MNC transparency. These results are based on the Huber and White robust standard errors estimators and are robust to various model specifications.

Many of the national culture variables are significant. In particular UAI (*H2*) is consistently negative. This is consistent with Gray (1988) and provides strong support for *H2* that there is a negative association of uncertainty avoidance and transparency. We also find, to a less extent, that IDV is significantly positive and PDI is significantly negative. These results are all consistent with Gray (1988) and provide support for *H1–3*. We also document that MAS is significantly negative, providing support for *H4*. While this result differs from Gray (1988), it is consistent with the findings of Jaggi and Low (2000), Hope (2003) and Archambault and Archambault (2003).

The dummy variable for English legal origin (ENGLISH) is significantly negative in every model. These results strongly support *H5*, that legal origin is an important determinant of transparency. Additionally, GOVERNANCE is significantly positive in our results. This is consistent with earlier research (e.g. Bushman et al., 2004) that finds a positive association of governance quality and accounting disclosure. These results provide support for *H6*.

The variable for financial architecture (ARCHITECTURE) is significantly negative in every model. This includes Model 3 of Table 6 where ARCHITECTURE is replaced with RESID_ARCHITECTURE which is orthogonalized against governance, legal origin, wealth and national culture. These results provide strong support for *H7* that financial architecture is an important determinant of transparency. We conclude from the negative sign of the architecture variable that transparency matters less in countries that are more market based. This negative association of a home-country predilection for market financing and transparency warrants some discussion. Our findings are inconsistent with the argument that a more market-based society creates demand for transparency. However, related to these findings, Aggarwal and Goodell (2011a) find that equity premia are larger in more bank-based societies. They conclude that a more bank-based financing system is itself a risk factor for investors. If more bank-based societies are considered riskier by equity investors, then perhaps more transparency is demanded especially for global firms in bank-based societies.

Overall, the results presented here support all of our hypotheses. These results are robust to alternative estimates and statistical procedures.

6. Conclusions

It has been contended that in a globalized world, MNCs may be immune to the power of nation states, especially given their locational flexibility. In this paper, we analyse the determinants of corporate transparency of the world's largest MNCs, assessing if the country of origin is still relevant. More generally, to what extent is MNC transparency influenced by firm, industry or country factors?

Prior research on transparency has focused on traditional but indirect measures based on corporate financial statements. These measures are not easily comparable internationally due to differences in national accounting standards, especially given that such financial statements are not necessarily adequate in bank-based countries or in developing countries. Further, in spite of growing interest, there has been little research on the degree to which national differences in governance transparency are determined by institutional, legal, cultural, and other national characteristics.

We find that, while firm and industry characteristics are important, national characteristics also matter in determining the transparency of MNC governance. Somewhat surprisingly, lower transparency is associated with higher market-to-book ratios, the industries of financials and technology; as well as greater national GDP, English legal origin, and the cultural dimensions of uncertainty avoidance and masculinity (and to a lesser extent power distance). Higher levels of transparency are associated with better national governance and individualism. We also find that large firms from countries with more market-based financing are less transparent. These findings are robust to different specifications that control for factors reported in previous research.

Overall, the results presented here indicate that country variables have significant influence on the transparency of even the world's largest MNCs. The nation state may be losing power in a globalizing world, but its influence lives on in the nature of large MNCs based in these nations. As the world attempts to move toward more global regulation, country-level factors will provide challenges to such globally integrated regulation. Policymakers will be better able to confront these challenges if they are informed about how country factors, such as national culture, impact the propensity for transparency at the firm

level and the exigencies of establishing transparency standards at the global level.

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Problems of regulatory governance in the mining sector in Asia^{*}

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This paper analyses the governance of foreign mining investment in the Asia-Pacific region. After surveying relevant literature on regulatory regimes, the paper draws on the seminal work by Stern and Holder (1999) to evaluate the regulatory issues in China, India, Indonesia, Papua New Guinea and the Philippines. Our analyses indicate six key regional challenges: regulatory overlap, regulatory capture and a lack of independence from government, lack of impartiality, lack of transparency, inadequate stakeholder engagement and access to regulator, and a lack of institutional capacity. These issues are more pronounced in some countries than in others. Finally, policy implications which may aide regional governments to improve governance infrastructure in their mining sectors are outlined.

Key words: regulation, mining, foreign investment, risk, Asia

1. Introduction

The Asia-Pacific region has substantial reserves of a variety of non-fuel minerals, including copper, gold, nickel, tin and many others. The most important mineral reserves in the region are found in China, India, Indonesia, Papua New Guinea and the Philippines. Since the early 1990s, all the major non-fuel mineral producers in the region have passed new regulations aimed at attracting more foreign investment with a view to increasing mineral production. The trend toward regulatory reform has, to a large extent, been fuelled by the recent minerals “super cycle”, with considerable increases in commodity prices due to increased demand. India and Indonesia completely

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redrafted the existing mining laws, while China, Papua New Guinea and the Philippines undertook more piecemeal changes to their mining legislation.

Yet, despite regulatory reforms favourable to investors, the region has struggled to attract foreign investment in mining with a notable exception of Indonesia. For example, between 2004 and 2007, the Philippines attracted mining investment worth \$1.4 billion, falling far short of the \$2.4 billion target (Vivoda, 2008). Investment worth \$630 million that the Philippines attracted in 2008 was also lower than its target of \$800 million. The foreign mining investments that flowed into the country in 2012 reached \$509 million, 75 per cent lower than the estimated \$2 billion (Calleja, 2013). Despite further changes to the mining policy in July 2012, it is also doubtful that the country will reach its \$1 billion mining investment target for 2013 (Valencia, 2013). In India, there is only a small presence of foreign mining firms and foreign investment into the sector was a modest \$141 million in 2012 (PwC, 2012a). Foreign investment is also minimal in China. Between 2001 and 2004, the number of foreign mining projects increased from 150 to 279, but by 2010, this number had declined to 92 (Caprioni, 2013). Most of the foreign investment in China's mining sector has been relatively small scale, with the global mining companies preferring to sell metals and minerals to China, rather than develop infrastructure inside the country. Those companies that have committed to production within China have tended to be relatively small (Li, 2012). Both India and China are increasingly dependent on commodity imports and therefore looking to increase local output, but the involvement of foreign firms in developing their domestic mining sectors has been limited. In 2009, Indonesia attracted less than \$1 billion of mining investment, falling considerably short of the target of \$2.15 billion. However, since the new Mining Law was passed in 2009, Indonesia has been able to attract more foreign investment. For instance, foreign investment in its mining sector in the first quarter of 2013 alone amounted to \$1.4 billion.¹

Aside from Indonesia, the new and improved regulations in the region have not resulted in attracting more foreign investment. Despite

¹ "Foreign Investment Jumps in Indonesia", *The Wall Street Journal*, 23 April 2012; "Indonesia Draws Record Foreign Direct Investment", *The Wall Street Journal*, 22 April 2013.

more favourable regulation recently introduced across the region, poor performance (in terms of application and enforcement of rules) of the regulatory regimes continues to create a high level of regulatory risk² for foreign investors in the Philippines, Papua New Guinea, China and India. We argue that in order to attract more foreign investment into the sector, the performance of regulatory regimes governing foreign mining investment must be improved.

The comparative political economy of the resources sector in the Asia-Pacific region is an under-studied area. Existing studies are either dated³ or focus on a single country⁴. The existing literature also fails to establish a sophisticated set of evaluative criteria for comparative analysis and evaluation of the performance of regulatory regimes in the Asia-Pacific region.

Building on previous work, we develop a set of evaluative criteria which enables a comparative analysis of the sector and an evaluation of the performance of the regulatory regimes for the mining industry. The value of this study is that it provides investors with a clearer picture of the various regimes governing mining and provides governments with a means of assessing the performance of their regulatory regime, relative to their neighbours. The paper is organized as follows. In section 2, we survey relevant literature on evaluating the performance of regulatory regimes governing foreign investment in the mining sector. In section 3, we comparatively analyse the performance of regulatory regimes in five countries in the region. The findings of our study provide the first region-wide comprehensive assessment of the performance of regulatory regimes governing mining investment. In section 4, we outline major policy implications and section 5 concludes.

² Regulatory risk at industry level can be defined as risk arising from the quality of regulatory rules governing a particular industry, and from their application and enforcement (Moran, 1999).

³ For instance, Naito et al. (1998), Naito et al. (1999) and Otto and Cordes (2002).

⁴ Holden and Jacobson (2007), Vivoda (2008) and O'Callaghan (2009) for the Philippines; Resosudarmo et al. (2009), O'Callaghan (2010) for Indonesia; Imbun (2006) for Papua New Guinea; Andrews-Speed et al. (2003), Tse (2003) and Suxun and Chenjunnan (2008) for China; Jhingran (1997), Singh and Kalirajan (2003), Sames (2006) for India.

2. Regulatory regimes, governance infrastructure and foreign direct investment

In the context of attracting foreign direct investment (FDI), regulation has a dual function. First, it seeks to promote certain activities. This is often accomplished by offering investors a range of incentives, protection and assurances. Examples of incentives include tax holidays, no restriction on profit repatriation, no limit on ownership of assets, and exemptions from land tax. These are *enabling* forms of regulation (Baldwin and Cave, 1999: 2). They aim to provide an encouraging environment for investors. The second function of regulation is to prevent certain kinds of activities. Baldwin and Cave refer to them as *restrictive* rules. These seek to curtail or manage certain kinds of behaviour. They set limits on what individuals and companies may do in the course of their business activities. Regulations that require mining companies to protect the environment or to return a share of the profits from a venture to local communities are examples of such rules. *Enabling* and *restrictive* rules provide a set of guidelines which, in theory, enable companies to operate in the country in a way that satisfies their commercial ambitions and also serves the host country government's economic and social interests.⁵ Generally, a critical function of the regulatory regime is to put into practice the two policy trajectories (enabling and restrictive) and effectively balance the interests of key stakeholders, such as foreign investors, the government and the community (Dixit et al., 2007: 102).

The term “regulatory regime” refers to a historically specific configuration of policies and institutions that structures the relationship between social interests, the state and economic actors in an economy (Eisner, 2000). Regulatory regimes are formed and developed within unique social and political contexts. They are influenced by such factors as language and culture, history, norms, taboos, conventions, forms of government, and institutional structures. Regulatory regimes are made up of both formal rules and procedures, and informal influences and processes, such as conventions and codes of behaviour (North, 1990). This is sometimes referred to as a country's “institutional endowment”

⁵ Restrictive rules also include the upholding of certain standards of behaviour such as, labour, safety, human rights, as well as rules governing ownership and control.

(Levy and Spiller, 1994: 205). The key point is that regulatory regimes evolve according to the particular “institutional endowment” of a country and this ultimately determines the efficiency of its regulatory regime, its capacity for policy reform, and its ability to attract foreign investment. As Levy and Spiller note, “the credibility and effectiveness of a regulatory framework – and hence its ability to facilitate private investment – varies with a country’s political and social institutions” (Levy and Spiller, 1994: 202).

A well-performing regulatory regime is a main pillar of an environment conducive to attracting foreign investment in the mining industry. In a survey of 39 mining transnational corporations (TNCs) conducted for the United Nations (Otto, 1992a, 1992b), a ranking was made of 60 investment criteria used by mining TNCs when deciding where to invest. Of the top 20 criteria, all but two were related in some way to the regulatory system. What is clear from Otto’s studies is the preference of mining executives for good governance. In support of Otto’s findings, a more recent study has found that in determining their investment decisions, mining companies have preferences for countries with a low level of corruption and risk and a business environment characterized by predictability, efficient institutions, transparent laws, and advantageous tax codes (Tole and Koop, 2009). The characteristics of the regulatory regime governing the mining sector are of key concern to companies investing in developing countries. Then the following key questions emerge: how do we assess the performance of the regime and what specific characteristics of a regime are likely to promote mining investment and which are likely to discourage it?

There has been little attempt in the literature to develop a systematic method of answering these questions. Mining companies have had to rely on information and analysis from political risk analysts and consultants, which is often provided on a country-to-country basis. Mining companies often utilize the findings from the Fraser Institute’s annual survey of preferred mining destinations. This survey asks respondents to rate their preferred mining destinations according to 18 criteria, which include, among other indicators, environmental concerns, regulatory uncertainty and mineral potential. There are three major strengths of this survey. First, it is comprehensive and compares all the countries in which mining companies operate. Second, the

annual nature of the survey means that changes in the perceptions of the mining community can be tracked fairly well. Finally, the survey is cumulative, providing annual survey data for a number of years.

In contrast to the subjective judgement of mining companies used in the Fraser Institute's survey, a more objective approach is to employ a range of quantifiable criteria to assess the performance of regulatory regimes (Stern and Holder, 1999; Brown and De Paula, 2002; Gutiérrez, 2003; Cubbin and Stern, 2004; Kaufmann et al., 2004; Kurtzman et al., 2004; Jamison et al., 2005; World Resources Institute, 2005). These studies identify general "appraisal criteria" which are used to assess the quality and performance of regulatory regimes governing the infrastructure sector in the Asia-Pacific region.

The criteria developed by Stern and Holder (1999) are: (1) clarity of roles and objectives; (2) autonomy; (3) participation; (4) accountability; (5) transparency; and (6) predictability. These criteria, designed specifically for investment into the Asia-Pacific region, have been tested in a survey questionnaire. While these were developed for assessing the regulatory regime of investment in infrastructure, they are applicable to the mining sector, which similarly involves large sunk costs. They note that "our assessment framework provides a useful basis for appraising and discussing the effectiveness of regulatory frameworks in supporting private investment in infrastructure industries. We have demonstrated its applicability for developing Asian economies and we look forward to seeing how it may be applied and developed in other contexts" (Stern and Holder, 1999: 49). Following their suggestion, we take their criteria as our own starting point. However, we have modified their criteria to better reflect mining sector activity. Table 1 lists the modified criteria we propose. These nine key performance indicators offer a strong basis upon which to evaluate the quality of the regulatory regimes governing mining in the Asia-Pacific region.

Our first criterion, "regulatory overlap" largely corresponds to Stern and Holder's criteria on "clarity of roles and objectives" and "predictability". The division of authority between multiple, sometimes competing agencies, and differing objectives within different levels of government can be particularly problematic for foreign mining investors. Second, our criterion on "independence from capture and government" is identical to Stern and Holder's criterion on "autonomy".

Our criterion “investor access to the regulator” and “other stakeholders” access to the regulator” correspond to Stern and Holder’s criterion on “participation, predictability and accountability”. Our criteria, “public access to information” and “recruitment independence and transparency” match their criterion on “transparency”.

Table 1. Key Regulatory Regime Evaluative Criteria

Evaluative Criterion	Description
1. Regulatory overlap	If the regulators are clear about their respective roles, there is less likelihood of regulatory overlap and/or conflict; if there is no regulatory overlap and/or conflict over “ownership” of particular rules, there is less risk for foreign investors.
2. Effectiveness of Enforcement and compliance mechanisms	If the regulators are effective in ensuring compliance and enforcement of regulations, there is less risk for foreign investors.
3. Impartiality in decision making	If the regulators are unbiased in the decision making process, there is less risk for foreign investors.
4. Independence from capture and government	If the regulators are independent and free of capture by any of the stakeholders, there is less risk for foreign investors.
5. Investor access to the regulator	If the regulators are transparent and allow participation in / access to their decision-making processes and dealings with the stakeholders, there is less likelihood of legal challenges by the stakeholders and, thus, less risk for foreign investors. Access to the regulator will improve the quality of regulatory decisions and increase the likelihood of the regulator receiving both support and co-operation from investors and other stakeholders.
6. Other stakeholders’ access to the Regulator	Access may include formal consultation exercises, formal or informal hearings, and surveys of customer views and priorities. Transparent public access to information is crucial for ensuring effective accountability, since investors and other stakeholders will have a better understanding of regulators’ reasons for making certain decisions, and will therefore be more confident in their ability to challenge some or all of those reasons. For similar reasons, open and transparent public access to information will help to secure more effective participation / access, since investors and other stakeholders will have a better understanding of the main factors which are likely to influence the regulator’s decisions. Moreover, if accountability measures, such as appeals mechanisms exist, this will reduce the risk of firms being treated unfairly.
7. Public access to information	
8. Recruitment independence and transparency	If the regulatory recruitment process is transparent, meritocratic and independent of vested interests, there is less risk for foreign investors. A requirement on regulators to explain their decisions should reduce the likelihood of unfairness, capture and incompetence.
9. Resources of the regulator	If the regulators have sufficient resources to run their affairs, there is less risk for foreign investors.

Table 2. Regulatory Regime Assessment Instrument

Key Indicator	Questions	Answers
1. Regulatory Overlap	a. Is there regulatory overlap?	Yes (0), No (1)
	b. Is the role of the regulator contested?	Yes (0), No (1)
2. Effectiveness of Enforcement and Compliance Mechanisms	a. Are they used?	Yes (1), No (0)
	b. Are they effective?	Yes (1), No (0)
	c. Are there sufficient numbers of adequately trained compliance and enforcement officers available?	Yes (1), No (0)
3. Impartiality in Decision Making	a. Is the regulator impartial in decision making?	Yes (1), No (0)
4. Independence from Sectional Influence / Capture and Government	a. Are the regulators independent from government?	Yes (1), No (0)
	b. Are the regulators independent from sectional influence?	Yes (1), No (0)
	c. What is the level of influence from sectional interests?	High (0), Low (1)
	d. What is the level of corruption / bribe taking?	High (0), Low (1)
5. Investor Access to the Regulator	a. Does the regulator take submissions on behalf of the investors?	Yes (1), No (0)
	b. Does the regulator publish useful information for investors?	Yes (1), No (0)
	c. Does the regulator initiate discussion with the investors?	Yes (1), No (0)
	d. Does the regulator conduct industry road shows and conferences?	Yes (1), No (0)
	e. Are the presentations investor-friendly?	Yes (1), No (0)
6. Other Stakeholders' Access to the Regulator	a. Does the regulator take submissions on behalf of other stakeholders?	Yes (1), No (0)
	b. Are there administrative fora where regulators and stakeholders are able to interact?	Yes (1), No (0)
	c. Is the regulator required to initiate public debate?	Yes (1), No (0)
	d. Does it initiate discussion with other stakeholders?	Yes (1), No (0)
	e. Is there adequate stakeholder consultation prior to project approval?	Yes (1), No (0)
	f. Do the regulators build capacity of other stakeholders to engage in the process?	Yes (1), No (0)
7. Public Access to Information	a. Does the regulator publish useful information for the public?	Yes (1), No (0)
	b. Are there formal disclosure mechanisms in place?	Yes (1), No (0)
	c. Is there a well organized catalogue of documents?	Yes (1), No (0)
	d. Are documents published in plain English?	Yes (1), No (0)
	f. Is the information distributed in a timely manner?	Yes (1), No (0)
	8. Recruitment Independence and Transparency	a. Is the selection criteria and process well defined?	Yes (1), No (0)
b. Do sectional interests influence the selection criteria?		Yes (0), No (1)
c. Is the recruitment and promotion process transparent?		Yes (1), No (0)
d. Is there evidence of preferential treatment being employed in the selection process?		Yes (0), No (1)
9. Resources of the Regulator	a. Are there adequate human and financial resources?	Yes (1), No (0)
	b. Is there evidence of training and development of staff?	Yes (1), No (0)
	c. Does the regulator have the capacity to effectively communicate with the investors and other stakeholders?	Yes (1), No (0)

Although there are similar aspects between our criteria and those of Stern and Holder, our criteria have some important additions. We add “effectiveness of enforcement and compliance mechanisms”, “impartiality in decision making” and “resources of the regulator”, which we regard as crucially important in the overall performance of a regulatory regime governing foreign mining investment. Finally, if regulators lack resources to act according to formal rules and regulations and to implement policy, this is likely to further increase regulatory risk for foreign investors.

Based on the evaluative criteria established in table 1, table 2 sets up the scoring method for assessing the performance of the regulatory regimes. The scoring is based on 33 questions about nine key indicators of regulatory process in mining industries of the five Asia-Pacific countries. The answer more consistent with an effective regulatory regime is assigned the value of “1”; otherwise the assigned value is “0”.

3. Analysing the performance of regulatory regimes

In order to assess the performance of regulatory regimes governing foreign mining investment in the Asia-Pacific region, we established the Regulatory Performance Index (RPI) based on 33 questions on nine key indicators, as detailed in table 2. The answers for the questions are derived from the research of publicly available materials, interviews with mining company executives, government employees and other stakeholders. A value closer to 0 indicates poor performance on a particular indicator, while a value closer to 1, indicates solid performance. The value for each indicator is calculated as an average of values for each question under that indicator and the value of RPI is calculated as an average of values for each key indicator. The values for each indicator for five countries are listed in table 3.

The findings show many similarities in the performance of the regulatory regimes across the Asia-Pacific region. China and India have a relatively better RPI, while Indonesia, Papua New Guinea and the Philippines have a low RPI. The remainder of this section analyses the findings and explores the cross-country similarities and differences. While the focus of this section is on the negative characteristics of respective regulatory regimes, in the following section, we analyse

some of the positive characteristics as basis for improved regulatory performance throughout the region.

Table 3. The Regulatory Performance Index for China, India, Indonesia, Papua New Guinea and the Philippines.

Key Indicator	China	India	Indonesia	Papua New Guinea	Philippines
1. Regulatory Overlap	0.13	0.13	0.13	0.25	0.13
2. Effectiveness of Enforcement and Compliance Mechanisms	0.17	0.33	0.33	0.08	0.17
3. Impartiality in Decision Making	0.25	0.25	0.25	0.25	0.25
4. Independence from Sectional Influence / Capture and Government	0.13	0.13	0.00	0.00	0.00
5. Investor Access to the Regulator	0.50	0.75	0.40	0.70	0.65
6. Other Stakeholders' Access to the Regulator	0.46	0.79	0.17	0.79	0.50
7. Public Access to Information	0.80	0.75	0.25	0.25	0.45
8. Recruitment Independence and Transparency	0.63	0.13	0.00	0.00	0.13
9. Resources of the Regulator	0.50	0.42	0.25	0.25	0.33
Regulatory Performance Index (RPI)	0.39	0.41	0.20	0.29	0.29

A common feature across the Asia-Pacific region is that there is significant overlap between various regulatory bodies, which results in a lack of clarity of roles and objectives. There are two types of regulatory overlap: among various levels of government (i.e. central and provincial) and among various agencies at the same level of government. The problem is particularly pronounced in China, India, Indonesia and the Philippines, where the decentralization process has diluted central government authority and empowered the local level government units. As part of the process, the provincial/state government agencies have been endowed with a high degree of decision-making power and, at times when they have conflicting policies or objectives with the central government, they have not shied away from exercising that power. Generally, in these four countries, local government units have substantial power over decisions regarding mining investment in their jurisdictions.

Despite the move by the Government of the Philippines towards reengagement with the mining industry, several provinces, including Capiz, Aurora, Mindoro Oriental and Eastern Samar, have passed moratoriums on mining (Vivoda, 2008).⁶ The blocking of the approval for the Sagittarius Mine in Mindanao was an example. In India, where state governments are empowered to design and regulate their own FDI policies, the division of mining project approval mechanism between the central and state governments often undermines FDI promotion efforts by the central government (Singh and Kalirajan, 2003; Bloodgood, 2007). The regulatory burden on foreign investors tends to be higher at the state level where application and approval procedures can vary widely across states. FDI projects already approved at the central government level tend to encounter obstacles as they proceed at the state level, since nearly 70 per cent of the approvals needed for FDI projects are issued by the state government. A report by the Government of India noted that state-level impediments to FDI could be so severe to the point that TNCs abandoned FDI projects mid-way through implementation (Planning Commission, the Government of India, 2006).

In Indonesia, as new rule-making powers have been ceded to provincial and local governments, regulatory contradictions have emerged. For example, new taxes have been implemented that conflict with the terms of some earlier Contracts of Work (CoW), which are the main mining licensing agreements issued by the central government (O'Callaghan, 2010). The Indonesian Regional Autonomy Watch claimed that more than 30 per cent of 693 regional regulations showed a "lack of sensitivity with respect to the creation of a conducive business atmosphere" (Rabasa and Chalk, 2001). In China, local governments have also been given greater autonomy in terms of mining project approvals and the investors are required to obtain approvals from four tiers of government. There is a high degree of duplicity and complexity in the approval process. For example, two levels of government can issue exploration licences and four levels of government can issue mining licences (Ward, Izzard and Cornelius, 2003). In addition, the new mining law which was introduced to replace the CoW system

⁶ This reengagement occurred after a period of apathy as a consequence of the Marcopper mining disaster in 1996.

has not been favourably received by investors, with increased “red tape” being cited as an impediment (Santosa, 2013).

Regulatory overlap and confusion is prevalent not only between the central and local governments but also among various agencies at the same level of government. In Indonesia, the inconsistency between the 2009 Mining Law and the 1999 Forestry Law has given rise to significant regulatory overlap between the Ministry of Energy and Mineral Resources and the Ministry of Forestry (O’Callaghan, 2010). In China, there is significant regulatory confusion and overlap between various departments, including the Ministry of Land and Resources, the Ministry of Commerce, the State Environmental Protection Administration and the State Development and Reform Commission with regards to the mining licence approval process (Vivoda, 2011). In India, there is a jurisdictional overlap between the Ministry of Environment and Forests and the Indian Bureau of Mines regarding the approval of environmental permits for mining operations (Planning Commission, the Government of India, 2006; Vivoda, 2011). A long-standing discord between conservation of forest resources and exploitation of mineral resources creates obstacles to speedy development of the mineral resources (Chatterjee, 2002). In Papua New Guinea, the lines of responsibility between the regulatory agencies are not well defined or coordinated. For example, there is no clarity about the respective roles of the Department of Mining and the Department of Planning and Rural Development in the management of mineral wealth (Simpson, 2002; Department of Mining, 2003).

Various studies have found that regulators and the judiciary across the region often lack autonomy. There is a perception among executives of natural resources companies that despite liberalization of India’s investment restrictions, the Government of India continues to have a strong preference for domestic natural resources companies (Bailey, 2007). Similarly, in China, regulators and the judiciary tend to favour domestic over foreign interests (Vivoda, 2011). In contrast, rulings on dispute cases in the Philippines are often seen as biased in favour of the mining companies to the detriment of those communities whose consent is legally required, which in itself causes significant social risks from the communities that lack a voice during the social licence process (Christian Aid, 2004; Vivoda, 2008).

A related issue is that regulating agencies lack independence from sectional influence and capture. A report by the Government of India noted that the payment of bribes by mining companies to avoid bureaucratic red tape was commonplace (Planning Commission, the Government of India, 2006). For the Philippines, a 2005 European Commission report stated that the Department of Energy and Natural Resources had “shied away” from introducing internal controls to curb corruption (European Commission, 2005). The 2012 Corruption Perception Index compiled by Transparency International highlights this problem. Of the mineral rich countries in the region, only Australia ranks in the top 10 among the total of 173 countries surveyed. China is ranked 80th, India 94th, Indonesia 118th, the Philippines 105th, and Papua New Guinea 150th. The recent Fraser Institute Survey tells a similar story. Its corruption table has China, India, Indonesia, Mongolia, and Papua New Guinea languishing at the bottom (Fraser Institute, 2013: 58).

Another issue is regarding the independence of the regulating agencies. In India, the Government is both the “development or project implementation agency” as well as the regulatory authority (Subramaniam and Ashwin, 2006; Vivoda, 2011). This does not necessarily mean that a conflict of interest will arise in all cases. However, in the case of India, regulatory uncertainty has been a major problem for companies seeking mining permits. A recent survey participant to the Fraser Institute survey noted that this was a critical problem for the mining sector (Fraser Institute, 2013: 59). Similarly, in Papua New Guinea, the Government participates in the development of mineral resources as a joint venture partner (Department of Mining, 2003). In Indonesia, the Government can engage in business deals and sign contracts with third parties, thus giving rise to cause of concern over possible conflicts of interest (O’Callaghan, 2010).

Although the picture over the access to the regulator and information, or participation in the regulatory process, is generally positive, a number of problems have been reported in this regard. In the Philippines, access to adequate mining information is limited. For example, it is extremely difficult for indigenous communities potentially affected by proposed mining operations to obtain access to relevant information prior to project approval (Christian Aid, 2004; Vivoda, 2008). Moreover, the Department of Environment and Natural

Resources, the Mines and Geosciences Bureau and the Environmental Management Bureau in particular have been found to be “averse to disclosing information to the public” (Aguilar, 2008). In Papua New Guinea, the government’s capacity to disseminate information about the costs, impacts and benefits of individual mining projects is often found inadequate. Government agencies are unable to share information with each other, let alone with stakeholders outside the public sector (Filer, 2002).⁷ These problems continue to exist today, as the most recent Fraser Institute mining survey attests (Dinnen, 2009; Fraser Institute, 2013). In Indonesia, one of the main reasons that many mining companies decides not to invest in the country is that they do not understand the revenue system. Since important information on the revenues paid by mining companies to government is not publicly available, sourcing this information adds cost and uncertainty for potential new investors (Bhasin & Venkataramany, 2007; Laodengkowe, 2008; O’Callaghan, 2010; PwC, 2012b). This is especially the case with numerous foreign junior mining companies who are generally poorly capitalized.

Problems associated with independence, transparency and accountability of the recruitment process at the regulatory bodies is most pronounced in Indonesia and the Philippines. It is alleged that positions in regulatory agencies are often bought or secured via family and/or clan networks, and there is sign of promotion or recruitment taking place through a meritocratic and open selection process. Often this practice is tied up with a high levels of corruption. In the Philippines, for example, the Mayor of Palawan recently appointed the wife of his brother to the position of administrative aide (Torres-Tupas, 2013). The problem is not new, however. David Wurfel (1988: 79) noted that “by the early years of independence the pattern had been set; bureau directors and division chiefs received appropriations from the legislature in exchange for appointing friends, relatives, and needy constituents of congressmen”. In Indonesia, some estimates suggest that as much as \$73 billion passed through the President Sukharto family’s hands between 1966 and 1998 (King, 2000: 604). In contrast to the Philippines and Indonesia, China is a good example of transparent and relatively meritocratic recruitment process (Vivoda, 2011).

⁷ It is important to note that Papua New Guinea suffers capacity issues and this also adds to the difficult of disseminating information.

Inadequate financial and human resources are also an endemic problem throughout the region. Most regulating agencies do not have the adequate administrative capacity to undertake their responsibilities. The problem has been exacerbated at the provincial/state level following the move towards decentralization, which have transferred more powers to local-level governments without providing them with additional resources. In the Philippines, for example, studies have found that the Mines and Geosciences Bureau and the National Commission on Indigenous Peoples are failing apply effectively the Indigenous Peoples Rights Act as they have limited resources to enforce the legal provisions, both in terms of budget and the expertise required to deal with complex matters of consent in indigenous communities. The large number of applications from mining companies makes their task particularly difficult. The Commission officials report that they have no budget to inform communities properly of proposed plans and no capacity to independently monitor the consultation processes (Christian Aid, 2004; Vivoda, 2008).

A similar problem has been reported in Indonesia. In particular, local governments generally lack financial and human resources to provide services to mining companies and other stakeholders (Resosudarmo et al., 2009; O'Callaghan, 2010). In China, when the Government promoted the National Environmental Protection Administration to the ministry level, and renamed State Environmental Protection Administration, it cut its staff in half, from 600 to a mere 300. For a country with the size and complexity of China, this staffing level seems inadequate, when compared with, for example, the United States Environmental Protection Agency, which has 6,000 staff (Vivoda, 2011).

In Papua New Guinea, studies have pointed to the limited capacity of relevant government agencies to collect and store information in a user friendly form due to a lack of computer hardware, computer software or technical skills. Some government departments or officials do not even have access to the Internet. They cannot access much of the information which mining companies, non-governmental organizations or other stakeholders are distributing through their various websites, let alone construct and maintain a website of their own (Filer, 2002). In addition, prior to the establishment of the Mineral Resources Authority, the Department of Mining was experiencing critical shortage

of qualified staff, and was reliant on costly consultants to complete basic assessments. In years prior to reorganization, the technical and coordination staff involved in managing the mining industry in the Department was reduced to one third of its designated strength. By 2007, the budget available to the Department to manage the industry was less than one quarter of what it had been in 1995, despite the fact that there were more mines in operation in 2007 than in 1995 (Mineral Resources Authority, 2008). Papua New Guinea was ranked highest as the country with the most permitting delays in the ranking by Behre Dolbear (2013).

As a result of the lack of resources and regulatory overlap discussed above, regulators and other government agencies in the region are inefficient and slow in approving mining project applications, which makes the process unpredictable. In India and Indonesia, for instance, since application process may require up to 100 different approvals from different agencies at various levels of government, the process from the initial application to the actual commencement of mining operations may take anywhere between two and three years (O'Callaghan, 2010; Vivoda, 2011). The lack of human and financial resources is not only the cause of delays in mining approvals, but also behind the problem of ineffectiveness of enforcement and compliance mechanisms during mining operations. This is not surprising given the chronic shortage of adequately trained compliance and enforcement officers, many of whom would find more rewarding employment in the private sector. Indeed, attracting and retaining skilled and professional staff is an issue across the region.

In addition, changes in foreign investment policy can make mining investment unpredictable, as in the case of China. In a change from the early 2000s, recent evidence suggests that Government has become more ambivalent towards foreign investment in China's mining sector. China no longer appears to be courting foreign mining companies, possibly because it has already benefited from the desired influx of foreign capital, technology and management techniques. For example, it has adopted environmentally friendly technologies that improve coal liquefaction and coal bed methane production, as well as management techniques via mergers and acquisitions. Chinese companies seem to be satisfied with the technology and management techniques they

have already acquired and are not actively seeking joint ventures with foreign partners (Caprioni, 2013).

What adds to unpredictability for mining investors is the ineffectiveness and uncertainty regarding enforcement of regulations by mining regulators. In China, the State Environmental Protection Administration often sends compliance officers to the mines and regularly issues them with fines for non-compliance. However, the fines are small and/or not enforced and the violators often face little consequences (Economy, 2007; Vivoda, 2011). In Indonesia and the Philippines, where companies are required to undertake an environmental impact assessment (EIA) prior to the establishment of their operations, EIAs are frequently only an on-paper exercise and even appropriate EIAs do not necessarily lead to effective enforcement (Tan, 1998; Resosudarmo, et al., 2009).⁸

4. Policy implications

This paper has analysed the performance of regulatory regimes governing foreign mining investment in the Asia-Pacific region. Various regulatory issues that plague the mining sector across the region are behind the high level of risk for foreign mining investors, and consequently, the low levels of foreign investment in many of these countries. Our analysis points to six key areas that plague governance of the mining sector in the Asia-Pacific region. These are regulatory overlap, regulatory capture and lack of independence from government, lack of impartiality in decision-making, lack of transparency in decision-making, inadequate stakeholder engagement and access to regulator, and lack of institutional capacity (resources of the regulator and effectiveness of enforcement and compliance mechanisms). Below, we highlight a number of weaknesses and give an indication where improvement is needed.

However, before we turn to the discussion of policy implications of our empirical findings, it is important to note various positive developments. First, a raft of international investment agreements concluded in the region has helped build confidence among investors.

⁸ The EIA provisions in Papua New Guinea are much improved since the Ok Tedi mining disaster.

Second, some local governments, in particular China, India and Indonesia, have made considerable efforts to improve the regulatory environment for foreign investors. In the Indonesian province of Riau, the government is actively promoting itself to investors. A few other regions, such as Balikpapan in East Kalimantan, have pledged to guarantee the security of both domestic and foreign investors. Others, such as Jogjakarta, have cut the red tape (Brodjonegoro, 2004; Fox et al., 2005; O'Callaghan, 2010; Wahyuni, 2010). Not only has the Mayor of the province been awarded for his efforts in this regard, but Jogjakarta was named the country's most investor-friendly city by the International Finance Corporation. The local government of Rajasthan (India) has developed and implemented foreign investor friendly regulations, which has had a positive effect on attracting investment (Singh and Kalirajan, 2003; Vivoda, 2011).

Moreover, since the introduction of the new Mining Law in Indonesia in early 2009, the Indonesian mining sector has seen continued investment growth despite what some have perceived as a lack of regulatory certainty and the need for further clarification of the law. While this is in large part due to strong commodity prices and sustained demand for key products, the fact that the mining regulations continue to develop within a clear framework appears to be providing sufficient certainty for investors. Developments such as the benchmark pricing and domestic market obligation rules have now been in place for some time, and do not appear to have damaged the investment outlook (PwC, 2012b: 1). These positive examples may serve as a guide for other regional governments to further improve both their mining regulation and its implementation if foreign investment is indeed desired.

Empirical analyses in the previous section indicate that there is a high degree of overlap in the regulatory regimes governing mining investment across the Asia-Pacific region. Given the significance of this problem, it may be necessary for the Governments to review the regulatory architecture in order to clearly delineate jurisdictions among regulating agencies and ministries involved. One of the most difficult issues for mining investors is navigating both mining and forestry regulatory requirements in order to complete the necessary approvals. Often mining companies receive conflicting messages from various regulatory agencies, which slows down the process unnecessarily. One

possible solution to this problem is the creation of an inter-departmental coordinating agency with the capacity to resolve jurisdictional issues and demarcate clear boundaries over respective areas of control. This is most likely to result in the reduction of regulatory overlap and also the red tape in the exploration and mining permit application process.

Most regulators in the region are not independent from government influence or capture from other stakeholders. Of all the policy problems that plague developing countries, regulatory capture is potentially the most difficult to solve because of entrenched interests. However, as a first step, governments should appoint an impartial body to police regulatory agencies. While there is no way of completely ensuring that such a body would itself not fall victim to capture, a well-resourced and independent body charged with oversight would go some distance to improving the performance of bureaucracies in the region. At the very least, formal and informal accountability mechanisms are essential (Stern, 1997: 70–71). In addition, it is crucial that regulatory decisions and the reasons for their decisions are made public and open to challenge by stakeholders. This would ensure a higher level of communication and transparency in the mining sector.

We acknowledge the importance of incorporating the interests of landowners and local communities in mining projects. However, one of the emerging problems for foreign investors is difficulty with stakeholder engagement. There are two problems for foreign investors. The first is that the legislation seeking to protect the interests of local communities is often complex and unhelpful to miners. Approvals take a long time and the process can often be unfavourable to mining companies. In Papua New Guinea, for example, dealing with landowners over land access has become a formidable process in all stages of resource development. Miners seeking to invest in the Philippines have experienced similar problems (Chase and Lugue, 2006; Vivoda, 2008). In fact, it has become common practice that no project can be finalized without acknowledging and incorporating the interests of landowners and local communities in the project area. Obtaining a social licence to operate is a crucial step in ensuring that mineral exploration and production can begin and proceeds without social risks for both the local community and the mining investor. At the same time, the procedures for obtaining the social licence to operate need to be streamlined and

also made more transparent, particularly in the cases of Papua New Guinea and the Philippines.

Although not a widespread problem, the tactics of anti-mining activist groups also present a challenge to mining investors. Many of these groups interfere in the legislative process and artificially fuel tensions between communities and mining companies. Newmont Mining employees were arrested by Indonesian police and were charged with damaging the environment. Anti-mining activists were behind the claims and the basis upon which the Indonesian police acted. However, upon closer examination the claims were found to be completely false and the local environment had sustained no damage as a consequence of Newmont's activities (O'Callaghan, 2010).⁹

In response to stakeholder engagement problems, all stakeholders, including governments, should tackle the following issues. First, central governments should create consistent standards and regulations, and insist on consistent implementation and monitoring. Second, governments and mining operators should be more transparent and accountable in providing all socioeconomic and environmental information about their mining operations. Third, all stakeholders, particularly mining operators, should take shared responsibility for the socioeconomic and environmental repercussions of mining activities. Fourth, distribution of revenues from mining operations among various stakeholders should take into account equity and justice considerations from the perspectives of these stakeholders. Appropriate socio-cultural considerations have increasingly become central to successful mining operations in Asia. While this is not an easy task, governments and the private sector should move in this direction.

Lack of institutional capacity is a key challenge for regional governments. Regulators suffer from the lack of human and financial resources and, as a result, undermine the effectiveness of compliance and enforcement mechanisms. This is especially a problem at lower levels of government. This is a dilemma for the government. Institutional

⁹ This has also been a problem in Australia, where anti-uranium activist groups have attempted to "wedge" local communities to stop projects moving forward. Both Toro Energy's Wiluna mine and the Marathon Resources project in South Australia have experienced this problem.

capacity building requires high levels of expenditure for training and development. Mining revenues are a key source of funding in order to address this problem. However, the low level of investment means that institutional capacity building will be difficult to achieve. Consequently, governments need to redouble their efforts to build institutional capacity, for instance, by seeking funding from international agencies. There have been some attempts by regional multilateral organizations, such as the Asian Development Bank (ADB), to promote regulatory capacity building to overcome this problem. Governments should seek further assistance from the ADB and other regional and global bodies and make institutional capacity building a key priority area. The World Bank's capacity building work in Papua New Guinea has had some success and led to the formation of the Mineral Resources Authority.

5. Conclusion

This paper has analysed the performance of regulatory regimes governing foreign mining investment in the Asia-Pacific region. Various regulatory issues that plague the mining sector across the region are behind the high level of risk for foreign mining investors, and consequently, the low levels of foreign investment in many of these countries. To demonstrate this point, we developed a set of evaluative criteria to assess the performance of regulatory regimes governing foreign mining investment in the Asia-Pacific region. We expanded on the methodology developed by Stern and Holder (1999) for infrastructure investment and used this to analyse the performance of mining regulatory regimes of China, India, Indonesia, Papua New Guinea and the Philippines. This paper is the first to subject five resource rich jurisdictions in the region to a comparative regulatory analysis. Our findings highlight a number of weaknesses in the various regimes and our policy implications give an indication where improvement is needed. We do, however, acknowledge that a more systematic study of the countries in the region may lead to different policy outcomes. Further research into the regulatory regimes and mining investment in the region is an important task to promote both investment and development.

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RESEARCH NOTE

The Changing FDI Landscape in ASEAN*

Kee Hwee Wee and Hafiz Mirza **

In 2011, FDI flows to ASEAN rose to a record level of \$114 billion and inward FDI stock exceeded \$1 trillion for the first time. Growth in FDI flows to the region is likely to have slowed in 2012 against the backdrop of a significant global FDI decline, but the medium-term prospect remains positive. Strong growth in FDI flows has been due to favourable economic conditions, regional integration and an improving policy environment. ASEAN is a key player in global supply chains in an increasing range of product categories. ASEAN's FDI landscape is fast changing with a number of significant developments, most notably regional integration. Zero tariffs on intra-ASEAN trade reduce costs of doing business and facilitate regional production networks. FDI landscape in ASEAN is changing as the sectors and source economies have diversified. The development of the M&A environment is leading to a rapid growth in the number and value of M&A transactions. Enterprise regionalization rose to a new record level, with \$26 billion of intra-regional investments. The list of regional players is expanding and covering a wide range of industries. ASEAN TNCs are internationalizing through M&As, which highlight their growing financial capacity. The key drivers and motivations of ASEAN enterprise regionalization and internationalization are the need to maintain and increase their competitiveness.

Key words: ASEAN, foreign direct investment (FDI), transnational corporations (TNCs), mergers and acquisitions (M&As), regional integration

1. FDI Trends and Developments

FDI flows to the region rose to \$114 billion in 2011, up 24 per cent compared with 2010. This high level of FDI inflows – all time record for the

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region – is even more impressive given concerns about conditions of the global economy. Moreover, FDI inflows in 2010 had already risen by 97 per cent, compared with a year earlier. These two consecutive years of increase suggest the growing confidence in – and attention given to – ASEAN as an investment destination. New investment and expansion of existing operations by transnational corporations (TNCs) continued to surge to unprecedented levels.

A number of factors contributed to the strong FDI performance in 2011, including a surge in M&A sales, a record increase in intra-ASEAN investments and a rise in FDI from emerging sources, most notably China. FDI to all economic sectors –primary, manufacturing and tertiary – rose. The improving investment environment due to policy measures taken at regional and national level also helped.

The high level of inflows in the past few years, in particular over 2010–2011, contributed to a rapid growth in the FDI stock, which reached more than \$1.1 trillion in 2011 compared with only \$266 billion in 2000. FDI stock in the region has quadrupled within a little more than a decade, contributing to a rapidly changing regional investment landscape.

As a result, ASEAN’s share of global FDI inflows rose sharply. In the period 2010–2011, ASEAN received 7.4 per cent of global FDI inflows and 16.1 per cent of inflows to developing economies compared with only 2.7 per cent and 11 per cent respectively in the early part of the decade (2000–2003). With the exception of the time of the global financial crisis (2007–2009), ASEAN’s share of both global and developing economies FDI inflows rose.

Global FDI flows are estimated to have declined by 18 per cent to \$1.3 trillion in 2012. Against this background, FDI flows to ASEAN in 2012 are likely to have remained flat at about the same level as 2011. The region remains an increasingly attractive location for investment. Many TNCs, both foreign and ASEAN, have expressed strong interest in investing and expanding in the region over the next few years. This observation is corroborated by findings of surveys conducted by international organizations and major consultancies.

The medium-term outlook for FDI in ASEAN is promising given the region’s market size and potential, and the increasing interest of

TNCs in the region. The improving regional business environment will continue to increase the attractiveness of the region for investors. Regional integration and strong economic growth of ASEAN countries will not only attract investment, but also encourage further growth in regional production networks including expansion of operations by TNCs. In addition, a recovery of the global economy will further improve this positive outlook.

2. Investment Environment

Strong macroeconomic fundamentals, a favourable investment climate, rising investment opportunities and an improving policy environment in ASEAN, have contributed to high inflows of FDI in recent years.

Regional measures undertaken in recent years have strengthened further the region's investment environment. For instance, the ASEAN Comprehensive Investment Agreement (ACIA) was signed on 26 February 2009. ACIA superseded the former ASEAN Agreement for the Promotion and Protection of Investment and the Framework Agreement on the ASEAN Investment Area (AIA).¹ ACIA is today the main regional agreement governing investment matters in the area of liberalization, facilitation, promotion, protection and institutional cooperation.

Under ACIA, a number of measures to further promote the region as a single investment area have been implemented or initiated. The ACIA entered into force on 29 March 2012, with ratification by all member countries. A modality for the elimination and improvement of investment restrictions and impediments was developed in 2011. Work on investment liberalization under ACIA continues to proceed. In 2012, further efforts were initiated to streamline and simplify procedures for investment applications and approvals through enhancing procedures on business licensing in the CLMV countries.

The Declaration on the ASEAN Economic Community Blueprint was signed on 20 November 2007. The AEC is to be established by the end of 2015. It presents the realization of the end goal of ASEAN's economic integration, encompassing ASEAN as a single market and

¹ ASEAN Agreement for the Promotion and Protection of Investment was signed on 15 December 1987 and AIA on 7 October 1998.

production base; a competitive economic region; equitable economic development; and integration into the global economy.

ASEAN's cooperation in the area of trade in goods under the ASEAN Trade in Goods Agreement (ATIGA) and trade in services under the ASEAN Framework Agreement on Services (AFAS) have also contributed to increasing the region's attractiveness for investment, production and trade. ATIGA, signed on 26 February 2009, supersedes the Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area (AFTA) signed in January 1992. ATIGA also covers customs facilitation and the mutual recognition of standards. AFAS, signed on 15 December 1995, cover liberalization of the services sector and facilitates trade in services in the region.² On 28 October 2010, a Protocol to Implement the Eight Package of Commitments under AFAS was also signed.

The ASEAN Agreement on the Movement of Natural Persons (MNP) was signed in November 2012 to facilitate movement of business persons in the region. A set of activities to promote a greater awareness of ACIA to the investor community started from March 2013. Institutional capacity was further strengthened with the establishment of the ASEAN Investment Forum (AIF) in 2011, which was participated by the heads of investment agencies of each ASEAN country.

Each ASEAN member country has also introduced measures to further improve their respective investment environment. ASEAN countries have opened up more industries for investment; simplified investment procedures; provided incentives to promote FDI in new industries; signed double taxation agreements with more countries; reduced corporate tax rates; established new economic zones; strengthened institutional capacity with wider promotional scope and mandate; and introduced measures to reduce the cost of doing business, including facilitating investment flows.

² The broad areas of services covered under AFAS include business services, communication, construction and related engineering, distribution, education, environmental, financial, health-related and social services, transport, tourism and travel-related services, and recreational, cultural and sporting services.

3. TNCs: strategies and operations

TNCs operating in ASEAN are increasingly adopting production strategies that involve horizontal and vertical multi-plant operations in two or more ASEAN countries for various strategic and economic reasons. These TNCs use production networks to benefit from regional economic complementarity and to use ASEAN as a single production base. Some use production network as part of their regional value chains within an integrated business arrangement, linking various business functions and operations together (e.g. downstream and upstream activities, marketing and distribution, production, research and development).

ASEAN's integration, emerging opportunities, locational complementarity and a zero common internal tariff regime have encouraged TNCs to adopt regional production networks and expand across the region. The potential and attractiveness of ASEAN as one large regional market attracts market-seeking, efficiency-seeking as well as strategic asset-seeking FDI.

FDI and TNC activities in ASEAN have grown to cover an increasing range of products, components manufacturing, production processes and services. They range from simple, light and labour-intensive manufacturing (textiles and garments, oil palm, electronics) to high-tech (e.g. bio-technology, life sciences), knowledge-based (e.g. ICT and education), R&D functions, regional headquarters operations and other more complex high value added activities.

Many global players in various industries have a presence in ASEAN. They include TNCs such as Abbott Laboratories, Acer, Agilent Technologies, BASF, Bayer, BenQ, BMW, Canon, Cargill, Carrier, Coca-Cola, Delta Electronics, DaimlerChrysler, Dow Chemical, Du Pont, Electrolux, Ericsson, Ford, Foxconn, Fujitsu, General Motors, Hankook Tires, Hewlett-Packard, Hitachi, Honam Petrochemical Corporation, Honeywell, IBM, Infineon, JVC, LG, Merck, Microsoft, Mitsubishi, Monsanto, Motorola, Nikon, NXF, Oracle, Panasonic, Pepsi, Philips, POSCO, Qualcomm, Sanyo, Schneider, Seagate Technology, Sharp, Siemens, Syngenta, Tatung, Time Warner, Toshiba and Unilever.

Many of them, such as Aeon, Ajinomoto, AMD, British Telecom, Daihatsu, GE, Google, Intel, Lenzing, Nestle, Nissan, Novartis, Procter

and Gamble, Samsung, Sony, Suzuki, Toyota and Wilmar have recently expanded or are planning to expand their operations in the region.

More than 80 per cent of the global *Fortune* 500 companies have operations in the region including via non-equity modalities (NEMs) of operations through contractual arrangements (e.g. contract manufacturing, contract farming, licensing and franchising). The top 10 global automotive companies have operations in ASEAN as do the top 10 global auto parts manufacturers.

All of the top 10 global consumer electronics TNCs are in ASEAN. TNCs such as Samsung, HP, Sony, LG, Toshiba, Nokia, Panasonic, Apple, Microsoft and Dell have multiple plants in a number of ASEAN countries. Other electronics TNCs such as Lexmark, Texas Instruments, Jabil Circuits, Compal Electronics, Famosa, Qimonda and Western Digital also have significant operations in the region.

ASEAN is host to an increasing number of global pharmaceutical and chemical companies. All of the top 10 global pharmaceutical companies have production or R&D facilities in the region. They include Pfizer, Novartis, Sanofi, Merck, GlaxoSmithKline, AstraZeneca, Johnson and Johnson and Eli Lilly.

The region has become an important global production centre for the manufacture of an increasing number of products and has emerged as a key player in global supply chains. TNCs have played an important role in helping ASEAN build world-class industries, participate in global value chain and put the region on the world map as a world-class exporter and manufacturer of these products.

For instance, the region is the world biggest exporter of electronic integrated circuits, transistors, computer data storage, magnetic equipment for sound recording, telephone sets, parts and components for auto brake system, cameras and cathode-ray tubes monitors.³ The region is also a leading producer of many consumer electronics, hard disk drives, automotive and automotive components, textiles and garments and footwear. In agriculture, ASEAN remains a major global producer of palm oil, rubber and other agricultural crops.

³ Outside electronics, the region is the largest exporter of rubber sheets, milled rice, frozen shrimps and prawns and rubber gloves.

Electronics

ASEAN is today a major producer and exporter of a wide and increasing range of electrical and electronic products, such as air conditioners, refrigerators, cameras, rice cookers, computers, TV and computer key boards, including parts and components for the manufacturing of these items. Again, TNCs and contract manufacturers play a key role in this regard.

More than 80 per cent of global disk drive production comes from ASEAN, and this is associated with TNCs operating in the region. The world's largest hard disk drive manufacturers such as Western Digital, Toshiba, Samsung and Intel are present in the region. Other major players such as Hitachi and Seagate Technology also have significant operations in ASEAN.

The regional presence of hard disk drive manufacturers has also helped attract the manufacturers of related parts and components in the region. Many of them operate as contract manufacturers and have multiple plants located across the region. These hard disk drive parts and components suppliers with a presence in ASEAN include Nidec (manufacturing motors), Minebea (a supplier of HDD spindle motors), Hutchinson Technology and Magnecomp Precision Technology (makers of suspension), Dufu Technology Corporation (spacers and clamps), TDK (processes and manufactures rare-earth metals and sensors), Furukawa (supplier of coating materials) and many other electronics contract manufacturers from Asia.

Some hard disk drive producing TNCs are linking their operations in ASEAN as part of their production networks with marketing functions located in Singapore, R&D activities in the home country and manufacturing operations in a number of ASEAN countries such as in Malaysia, Thailand and the Philippines.

Automotive

ASEAN is the world's largest producer and exporter of one tonne pick-up trucks, and a major producer of certain automotive models. Many global auto firms are involved with regional production networks in the region (e.g. Toyota, Nissan and Volvo), involving also local suppliers in the value chains.

The region is increasingly an important part of automotive global supply chains. Many global automotive manufacturers have multiple production facilities across the region, with plants located in different ASEAN countries. Aside from the top 10 global auto makers, other major auto companies such as Hyundai, Suzuki, Mazda, Mitsubishi, Dongfeng Motor and Tata Motor also operate in the region.

Many major global auto parts and components manufacturers are in ASEAN. Many of them are contract manufacturers for the automotive industry. They have multiple subsidiaries, manufacturing and non-manufacturing, located in a number of ASEAN countries to service the region's rapidly expanding auto markets. These companies include Denso, Delphi, Valeo, Lear, GKN, NSK, Calsonic Kansei and JTEKT. Their presence and operations contribute to strengthening the region's automotive supporting industry.

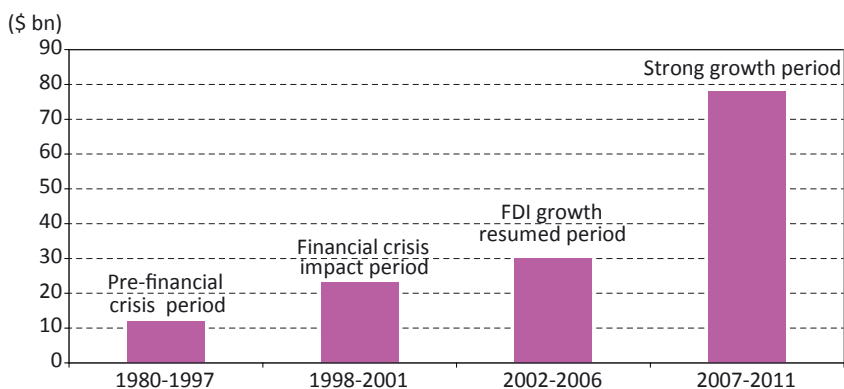
Textiles and garments

In textiles and garments, major retailers and brand owners such as Adidas, Benetton, Disney, Levi, Gap, Target, H&M, Marks and Spencer, Sears and Wal-Mart outsource or manufacture their garments or footwear in the region. They have significant links with the region through countries such as Cambodia, Indonesia and Viet Nam. While some of these global companies do not own factories in the region, they are involved with contract manufacturing directly or through a third-party. Some major brands such as Columbia, Gap, LL Bean and Nike source through their agents operating in the region.

4. The Changing FDI Landscape

The FDI landscape in ASEAN has been going through significant changes over the past decade. Such changes include its rapid expansion (figure 1), the emergence of new sources of FDI, an increasing maturity of the M&A environment, the rise of enterprise regionalization and outward FDI from ASEAN, a greater influence of regional integration in FDI decisions and TNCs' operational strategies, an increase in regional production networks, and the increasing prominence of the region as a key player in global value or supply chains in a growing number of industries. These changes are shaping a new FDI landscape with important policy implications for the region.

Figure 1. ASEAN: Growth of FDI flows, 1980-1997, 1998-2001, 2002-2006, 2007-2011
(Annual average flows)



Source: UNCTAD, FDI database.

The investment environment in ASEAN continues to improve with continuing policy reforms at regional and national level. Regional integration and the AEC are attracting the attention of TNCs. Many of them are planning to establish a stronger foothold in the region.

The implementation of the major regional economic agreements increases the coverage of industries open for investment, liberalizes the investment regime, provides a considerably larger market, and facilitates investment and access to production facilities across the region. Under the AIA Agreement, later superseded by ACIA, member countries have continuously taken collective and individual measures to improve the investment environment and meet commitments on liberalization, facilitation, promotion, transparency and information provision.

Specific regional policy measures such as AICO have played a role, and ATIGA is contributing to the growth of regional production networks and regional value chains. TNCs such as Toyota, GE and P&G see ASEAN's integration as offering a significant opportunity for them to further engage with the region.

In 2012, some 98.6 per cent of the total tariff lines under ATIGA schedule have tariff rates between zero and five per cent for intra-ASEAN import (table 1). Apart from tariff reduction, the region has

been implementing trade and investment facilitation measures, which include harmonization of standards and quality in a range of product categories and services, and in the area of customs. The realization of the AEC is expected to encourage firms to think regionally. It offers an attractive regional market of over 600 million people with a combined GDP exceeding \$2.2 trillion in 2011, which consists of rapidly growing economies with rising purchasing power.

Table 1. Number of tariff lines at 0-5% in the ATIGA Tariff Schedule of 2012

Country	Number of Tariff Lines				Percentage			
	0-5 %	> 5 % ²	Other ¹	Total	0 - 5 %	> 5 %	Other	Total
Brunei Darussalam ^{3*}	9 844	..	72	9 916	99.27	..	0.73	100
Indonesia ³	9 899	17	96	10 012	98.87	0.17	0.96	100
Malaysia ³	12 242	13	82	12 337	99.23	0.11	0.66	100
Philippines ^{3*}	9 759	35	27	9 821	99.37	0.36	0.27	100
Singapore ³	9 558	..	..	9 558	100.00	..	..	100
Thailand ³	9 558	..	..	9 558	100.00	..	..	100
ASEAN-6	60 860	65	277	61 202	99.44	0.11	0.45	100
Cambodia (AHTN 2007)	8 160	140	..	8 300	98.31	1.69	..	100
Lao PDR ^{3*}	9 110	361	87	9 558	95.31	3.78	0.91	100
Myanmar ^{3*}	9 496	..	62	9 558	99.35	..	0.65	100
Viet Nam ³	9 234	134	190	9 558	96.61	1.40	1.99	100
CLMV	36 000	635	339	36 974	97.37	1.72	0.92	100
Total ASEAN	96 860	700	616	98 176	98.66	0.71	0.63	100

Source: ASEAN Secretariat.

¹ Items with no tariffs.

² Items that have moved from GEL/SL/HSL into IL.

³ AHTN 2012.

* Tentative

Strong FDI growth is having consequences on the investment landscape. The region has rebounded strongly from the 1997–1998 financial crisis with annual average inflows in 2007–2011 three times greater than the average of 1998–2001 (the “financial crisis impact period”). These statistics suggest an increasing attractiveness, resilience and competitiveness of ASEAN over time as an important global investment destination.

The sources of FDI for ASEAN are now more diversified than in the past. New players and emerging sources of FDI from developing economies are contributing to the region’s changing FDI landscape. The strong growth of intra-regional investment is an important development. In 2011, intra-ASEAN investment was the largest investment source in the region, considerably more than the EU, the second largest source of FDI. Companies from China and India are becoming significant investors

in a wider range of industries in the region, from manufacturing to services to agricultural production.

Reinvestment of earnings has become a strong feature of the FDI pattern in ASEAN. High reinvestment in ASEAN is not a new phenomenon, but it has grown rapidly in recent times. ASEAN provides one of the highest rates of return on FDI in the world. This relatively high return generates favourable experiences and encourages TNCs to reinvest and expand in the region. This development suggests that while attracting new investments is important, measures targeted at attracting and retaining existing investors are just as important for ASEAN.

The development of the M&A environment in some ASEAN countries has also led some TNCs to utilize acquisition as an entry strategy. The development in this regard refers to the economic and financial environment, infrastructure factors and availability of assets. Between 2007 and 2011, annual average M&A sales in ASEAN were \$17 billion as compared with only \$5.9 billion in the period 1997–2001.

The number of M&A deals has also increased over time. The rapid rise in the number of transactions exceeding \$500 million in recent year further highlights the changes in the M&A environment, compared with earlier periods. For instance, there were 61 such transactions in 2008–2012 compared with only 18 over the period 1997–2001.

5. The rise of enterprise regionalization and internationalization from ASEAN

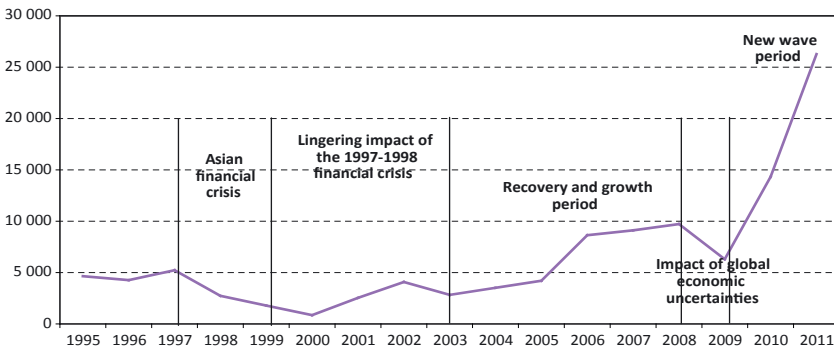
A key feature of the changing FDI landscape in ASEAN is the recent rapid growth in enterprise regionalization and internationalization. ASEAN companies are investing abroad and in the region considerably more than in the past. This new wave is expected to continue, driven by regional integration factors, corporate strategies and increasing strong support from national governments.

Intra-regional investment in 2011 rose strongly to \$26.3 billion – the highest ever in the history of intra-ASEAN investment – contributing to some 23 per cent of total FDI flows in ASEAN (figure 2). The growing

desire of ASEAN companies to invest and expand in the region, including cross-border M&A purchases, contributed to the record level.

The annual average of intra-regional investment in the period 1995–1997 (pre-financial crisis period) was only \$4.7 billion; \$2.4 billion in 1998–2002 (financial crisis and impact period); \$6.3 billion in 2003–2008 (recovery and growth period); rising to \$20.3 billion in 2010–2011 (new wave period).

Figure 2. Rapid growth in intra-ASEAN investment flows, 1995-2011
(Millions of dollars)



Sources: ASEAN Secretariat, ASEAN FDI database and UNCTAD, FDI database.

Outward FDI by ASEAN TNCs involves a wide range of firms in terms of size, type, industry and strategy. They include large public listed companies, State-owned enterprises (SOEs), Government linked companies (GLCs) and SMEs. Some have little choice but to venture abroad because the home market is small, or land and the labour force are limited. Some started from a small-scale contract manufacturer and grew to become sizeable enterprises at home with capabilities that subsequently led them to internationalize. Some evolved from national champions or leading public listed corporations that have the natural capacity to internationalize. In some cases, increasing factor costs at home have pushed many ASEAN TNCs to venture abroad.

Regional integration and the corresponding increase in business and investment opportunities in ASEAN have encouraged and inspired many to become regional players, or increase their presence across the region. Some already have a significant presence in the region, but are

now aspiring to become global players in their respective industries. Whatever their reasons or backgrounds, these ASEAN companies, by investing in the region, play an important role in strengthening regional integration and connectivity through their presence in other ASEAN countries; this in turn helps to bolster trade, investment and production ties. When these companies regionalize or internationalize, they help the region better integrate into the global economy through participation in global value or supply chains.

Almost all of the top 50 largest ASEAN companies, by revenue, have a presence overseas and across the region (table 2). They include companies operating in oil and gas, mining, agribusiness, telecommunications, food and beverages, manufacturing, banking, power generation, infrastructure, real estates and healthcare services (table 3). The top 50 largest companies are dominated by Thailand, Singapore, Malaysia and Indonesia. Companies from Viet Nam are beginning to spread their reach in the region, too.

Banks from ASEAN countries have been actively investing and expanding in the region. Examples include CIMB and Maybank from Malaysia, DBS, UOB and OCBC from Singapore, and Bangkok Bank from Thailand. Indonesian banks such as Bank Central Asia have operations in neighbouring countries. Many other ASEAN banks are planning to expand their operations in the region in anticipation of the AEC. These include Thai Krungthai Bank and Kasikorn Bank, and Malaysian Hong Leong Bank. Some other banks such as Public Bank (Malaysia) and Siam Commercial Bank (Thailand) have also recently expressed interest in strengthening their foothold regionally because of market potential and economic integration.

In real estate, property developers from various ASEAN countries contributed to the steady growth in intra-regional real estate investment and development. They include, IOI, SP Setia, Glomac, UEM Group, Sime Darby, IJM Group, IGB Group, Lion Group from Malaysia; City Development, CapitaLand, Keppel, United Overseas Land, GuocoLand Limited, Hotel Properties Limited and Far East Organisation Group from Singapore; Lippo Group and Ciputra from Indonesia; Preuksa Real Estate and Sansiri from Thailand; and Ayala Group from the Philippines. In medical services, hospital groups such as Bumrungrad (Thailand), Bangkok Hospital (Thailand), IHH (Malaysia), KPJ Healthcare (Malaysia)

Table 2. Top 50 listed companies in ASEAN with overseas operations, by revenues, 2012¹
(Millions of Dollars)

Company Name ²	Country	Business/Industry	Sales		Assets		Total employees
			Foreign	Total	Foreign	Total	
1 Petronas	Malaysia	Fully integrated oil and gas corporation					
2 PTT	Thailand	Petroleum Refining	N/A	76 962	N/A	43 838	22 010
3 Wilmar International	Singapore	Agribusiness group	33 372	43 206	8 654	39 424	97 000
4 Flextronics International	Singapore	Electronic Components and Accessories	14 573	30 126	1 009	11 590	176 000
5 Singapore Telecommunication	Singapore	Telephone Communications	9 258	14 336	27 126	30 558	N/A
6 Thai Oil	Thailand	Petroleum Refining	N/A	14 144	N/A	4 898	816
7 Sime Darby	Malaysia	Conglomerates	9 409	13 863	2 532	13 987	100 000
8 Olam International	Singapore	Food and Agriculture Commodities	8 627	12 873	1 242	10 213	17 000
9 San Miguel Corporation	Philippines	Food and Beverages	N/A	12 217	N/A	20 119	12 566
10 Siam Cement	Thailand	Industrial Organic Chemicals	N/A	11 682	N/A	11 756	34 725
11 Tenaga Nasional	Malaysia	Electric Services	0	10 797	0	25 002	31 000
12 Neptune Orient Lines	Singapore	Sea Transportation	6 691	8 901	351	6 959	11 388
13 Telekomunikasi Indonesia	Indonesia	Telephone Communications	0	7 858	0	11 358	26 023
14 IRPC Public Company Limited	Thailand	Petroleum Refining	N/A	7 825	N/A	4 189	5 327
15 Keppel Corporation	Singapore	Ship Building, Repairing and Engineering	1 949	7 776	1 955	18 881	31 914
16 DBS Group	Singapore	Commercial Banks	2 246	7 453	99 236	262 752	18 000
17 Malayan Banking	Malaysia	Commercial Banks	1 263	7 218	N/A	141 914	N/A
18 Sembcorp Industries	Singapore	Ship and Boat Building and Repairing	3 433	6 977	3 086	9 017	N/A
19 Charoen Pokphand	Thailand	Conglomerate, Agri-business	2 553	6 532	N/A	5 024	24 743
20 Petron Corporation	Philippines	Petroleum Refining	642	6 247	N/A	4 008	2 111
21 Genting	Malaysia	Hotels, resorts, plantations, electricity	3 720	6 170	8 063	17 097	58 000
22 YTL Corporation	Malaysia	Electricity Services and Infrastructure	4 847	6 079	5 997	15 985	N/A
23 Bank Mandiri	Indonesia	Commercial Banks	13	6 002	1 309	60 446	27 907
24 Bank Rakyat Indonesia	Indonesia	Commercial Banks	9	5 947	738	53 532	40 044
25 Indorama Ventures	Thailand	Plastics Materials and Synthetic Resins &	N/A	5 898	N/A	4 622	8 741
26 United Overseas Bank	Singapore	Commercial Banks	1 820	5 890	67 885	182 489	23 136
27 Manila Electric	Philippines	Electric Services	5	5 856	0	4 809	6 071
28 OCBC	Singapore	Commercial Banks	1 710	5 805	80 389	214 178	22 892
29 CIMB Group	Malaysia	Commercial Banks	1 091	5 540	30 278	94 685	40 244
30 IOI Corporation	Malaysia	Real Estate Agents and Managers	3 600	5 350	1 725	6 493	N/A
31 Axiata Group	Malaysia	Telephone Communications	2 925	5 189	N/A	12 693	N/A
32 Bangchak Petroleum	Thailand	Petroleum Refining	N/A	5 027	N/A	1 947	N/A
33 Indofood Sukses Makmur	Indonesia	Food Preparations and Kindred Products	547	4 999	N/A	5 836	67 581
34 Fraser and Neave	Singapore	Food & Beverages, Property	3 127	4 815	1 955	10 558	N/A
35 Singapore Technologies Engineering	Singapore	Aircraft and Parts	1 870	4 620	N/A	5 625	22 193
36 Gudang Garam	Indonesia	Cigarettes	0	4 619	0	4 307	44 669
37 UMW Holdings	Malaysia	Motor Vehicles and Equipment	310	4 270	673	3 307	N/A
38 Sri Trang Agro-Industry	Thailand	Gaskets, Packing, and Sealing Devices	1 644	4 238	191	1 264	6 214
39 Thai Beverage	Thailand	Beverages	155	4 190	N/A	3 155	N/A
40 Advanced Info Service	Thailand	Communications Services, NEC	N/A	4 008	N/A	2 544	9 540
41 Bumi Resources	Indonesia	Bituminous Coal and Lignite Mining	0	3 871	3 667	7 387	6 969
42 Adaro Energy	Indonesia	Bituminous Coal and Lignite Mining	N/A	3 857	N/A	5 668	7 476
43 SM Investments Corp	Philippines	Department Stores	N/A	3 786	N/A	10 224	N/A
44 Public Bank	Malaysia	Commercial Banks	314	3 732	5 967	78 664	17 511
45 Siam Commercial Bank	Thailand	Commercial Banks	N/A	3 678	N/A	59 519	N/A
46 Bangkok Bank	Thailand	Commercial Banks	N/A	3 654	N/A	66 780	21 503
47 Philippine Long Distance Telephone	Philippines	Telephone Communications	N/A	3 571	N/A	8 885	34 116
48 Hong Leong Asia	Singapore	Engines and Turbines	3 372	3 567	1 096	4 136	N/A
49 Banpu	Thailand	Mining and power	3 546	3 563	3 130	7 132	6 477
50 Bank Central Asia	Indonesia	Commercial Banks	2	3 497	38	42 030	19 962

Sources: UNCTAD and Bloomberg.

¹ Based on 2011 revenues.

² Some of the companies are subsidiaries of a group of companies. Airlines are excluded from this list.

and Thomson Medical (Singapore) have presence in other ASEAN countries.

Many major ASEAN companies operating in the extractive industry invested heavily in the region, as well as in other resource rich countries as far afield as Australia, Canada and countries in Africa. The need to secure natural resources does not limit their geographical reach. These companies include Petronas (Malaysia), Lion Group (Malaysia), PTT (Thailand), Banpu (Thailand), Lanna Resources (Thailand), Bumi Resources (Indonesia), Petron Corporation (Philippines) and Medco Energi (Indonesia).

Table 3. Selected non-bank regional players in ASEAN in selected industry, 2012

Industry	Companies	Home country	Industry	Companies	Home country	
Agriculture & Agri business	Wilmar International	Singapore	Healthcare and Hospitals	Bumrungrad	Thailand	
	Olam International	Singapore		Bangkok Hospital	Thailand	
	Vietnam Rubber Company	Viet Nam		IHH	Malaysia	
	Sime Darby	Malaysia		KPJ Healthcare	Malaysia	
	IJM	Malaysia		BP Healthcare Group	Malaysia	
	IOI Corporation	Malaysia		Thomson Medical ²	Singapore	
	Feida	Malaysia		Singapore Medical Group ³	Singapore	
	Lion Group	Malaysia				
	PBB Group	Malaysia				
	CP	Thailand				
Food and Beverages	S&P	Thailand	Power, Electricity, Utilities	YTL	Malaysia	
	Thai Beverage	Thailand		Mudajaya Group	Malaysia	
	Thai Union	Thailand		IJM	Malaysia	
	Thai President Foods	Thailand		Genting	Malaysia	
	Jollibee	Philippines		Electricity Generating Company	Thailand	
	San Miguel	Philippines		Saha Union	Thailand	
	Indomie Sukses	Indonesia		Hyflux	Singapore	
	Mayora Group	Indonesia				
	F&N	Singapore		Extractive	Petrovietnam	Viet Nam
	Yeo Yiap Seng	Singapore			PTT	Thailand
	BreadTalk	Singapore			Lanna Resources	Thailand
	Bee Cheng Hiang	Singapore			Banpu	Thailand
	RotiBoy	Malaysia			Petron Corporation	Philippines
Munchy Food	Malaysia	Pertamina	Indonesia			
Old Town White Coffee	Malaysia	Vietminho Energitama	Indonesia			
		Petronas	Malaysia			
		Lion Group	Malaysia			
Telecommunication	Viettel	Viet Nam	Construction, Property Development and Infrastructure	Song Da	Viet Nam	
	Axiata	Malaysia		Far East Organisation	Singapore	
	Singapore Telecommunication	Singapore		Keppel Construction ⁴	Singapore	
	Telekomunikasi Indonesia	Indonesia		CDL	Singapore	
	Alta Group	Indonesia		United Overseas Land	Singapore	
Manufacturing				GuocoLand Limited ⁵	Singapore	
	Siam Cement	Thailand		SP Setia	Malaysia	
	Banpu	Thailand		Parkson Holdings ⁶	Malaysia	
	Indorama Venture	Thailand		IOI Group	Malaysia	
	VC Fabric	Thailand		IJM Group	Malaysia	
	Saha Union	Thailand		Sime Darby	Malaysia	
	Micro Electronics ¹	Philippines		IGB	Malaysia	
	Flextronics	Singapore		Amata	Thailand	
	Armstrong Industrial	Singapore		Preuksa Real Estate	Thailand	
	Creative Technology	Singapore		Sansiri	Thailand	
	Chartered Semiconductor	Singapore		Ayala	Philippines	
	Venture Corporation	Singapore		Ciputra Group	Indonesia	
	Ingress	Malaysia		Lippo Group	Indonesia	
	Hong Leong Group	Malaysia		Semen Gresik	Indonesia	
	Top Glove	Malaysia		Sinarmas	Indonesia	
	Engtek	Malaysia				
	YCL International	Malaysia				
	Globetronics	Malaysia				

Source: UNCTAD.

¹ A subsidiary of the Ayala Group.

² A company of the Sasteria Group.

³ Through strategic partners, has presence in a number of ASEAN countries.

⁴ A subsidiary of the Keppel Group.

⁵ A member of the Hong Leong Group.

⁶ A subsidiary of the Lion Group.

ASEAN TNCs have been buying assets in more than 65 economies between 2007 and 2011, which amounted to some \$80 billion. ASEAN TNCs have also been making mega deals exceeding \$1 billion transactions, highlighting the growing financial capacity of ASEAN companies to internationalize through M&As.

For instance, in finance, Temasek Holdings (Singapore) bought an interest in Merrill Lynch (United States) for \$4.4 billion; Malayan Banking

(Malaysia) acquired Sorak Financial Holdings (Singapore) for \$1.2 billion. In power and electric services, YTL Power (Malaysia) acquired PowerSeraya (Singapore) for \$2.3 billion, CitySpring Infrastructure Trust (Singapore) acquired National Grid-Basslink Project (Australia) for \$1 billion. In the natural resources and extractive industries, an investor group in Singapore acquired Alinta (Australia) for \$7.5 billion; Petronas (Malaysia) bought a 40 per cent stake in GLNC Project in Brisbane, Australia for \$2.5 billion, a 50 per cent interest in Progress Energy-Altarex (Canada) for \$1.1 billion, a controlling interest in FL Selenia (Italy) for \$1.4 billion; and PTTEP (Thailand) bought a 40 per cent stake in Statoil (Canada) for \$2.3 billion.

A key driver of outward FDI is competitive pressure. In a rapidly globalizing world, companies cannot afford to count on their home markets as a secure revenue source. Competition is everywhere – through imports, inward FDI and non-equity forms of participation. Going abroad can become an important aspect of survival and to increase corporate competitiveness. The drivers and motivations can be grouped into “push” and “pull” factors (figure 3). The former relates to factors such as better exploitation of proprietary advantages or assets and home country operating condition. The latter includes different motives, regional integration influence and host country factors.

Other common reasons include market- and efficiency-seeking motives, access to resources and strategic assets, developing and exploiting brand reputations, exploiting network relationships, the pursuit of an integrated business model and to benefit from emerging business opportunities arising from regional integration.

There are risks in internationalization or going regional. Companies need to assess the costs and benefits in going abroad. Success is not automatic. They need to do their homework and identify the risks, including knowing how to manage or mitigate them. Governments and regional institutions can also play a role to reduce such risks through a greater transparency and dissemination of information including measures to facilitate intra-regional investment flows. However, there are increasing numbers of success stories in the internationalization of ASEAN companies. These stories are inspiring others to go regional, and AEC is hastening their process.

Figure 3. Intra-regional investment in ASEAN: Drivers and motivations; “Push” and “Pull” Factors

Drivers (“Push” factors)		Motivations (“Pull” factors)		
Proprietary advantages and assets (Factors of the firm)	Environment setting at home	Motives	Regional development and integration	Host country specific factors
Financial prowess and strong balance sheet	Increasing cost Limited labour force	Need to diversify revenue and market growth	Regional market size and growth potential	Availability of competitive resources (land, labour, oil & gas, coal, etc.)
Brand names, business reputation & recognition	Limited land Market saturation	Inducive opportunities Strategic alliances and networks benefits	Economic and locational complementation	Opportunities for investment
Rapid growth and success at home	Slow economic growth	Need to survive and increase competitiveness	Liberalisation & integration - single market & production base environment	Availability of strategic local partners
Slow growth and competition at home	Increasing competition	Secure production inputs and natural resources	Integrated regional production networks opportunities	Availability of strategic assets (e.g. established distribution networks, hospital chains)
Aspiration to be regional players or internationalise	Increasing cost	Home country measures, support & encouragement	Opportunities to develop and tap into regional value chains, and linking to China, India & globally	Availability of strategic assets for M&As, which brings synergy
Maturity and readiness to internationalise or regionalise		Success of others	Gateway to other larger markets and resources (e.g. China & India) through FTAs	Language skills & work cultures
Networks and personal connection, alliances		Follow customers & operate close to them	Geo-cultural proximity and affinity	Talent pools & skilled labour
Member of a large corporate group		To gain contracts in host market		Environment suitable to transfer or replicate success at home in host country
		Easier to build brand names in less developed member countries		Economic and political stability
		To move up or downstream to be an integrated business group		Offers low internationalisation risks
				Overall conducive investment environment
				Increasing affluent consumer base
				Rapid economic growth

Source: UNCTAD.

6. Conclusion

The factors that have contributed to the changing investment landscape in ASEAN will continue to mould the FDI pattern in the region in the next few years. FDI flows to the region and intra-ASEAN investment are likely to continue its rapid growth supported by regional integration. FDI from China will become more prominent, more so in some countries than others. M&A activities are also set to grow, particularly by TNCs that seek quick access to the region's sizeable market. Likely targets of foreign acquisitions include existing business networks and other strategic assets and resources.

More foreign and ASEAN companies are strengthening their regional operations, expanding their production capacities and creating regional value chains. Many others have recently expressed interest in expanding their regional presence, attracted by a large regional market with rapidly growing affluent consumers. The establishment of regional value chains is helped by complementary locational advantages different member countries offer and the free movement of goods across the region under the ASEAN's zero tariff regime.

The regional investment environment is expected to improve further with the on-going efforts to realize the ASEAN Economic Community by the end of 2015, in addition to the implementation of commitments by member countries on specific programmes under ACIA, AFAS and ATIGA. In short, the outlook for a greater level of FDI flows to and within ASEAN is promising partly because of the improving regional investment environment linked with AEC.

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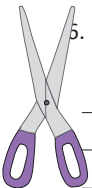
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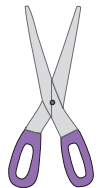
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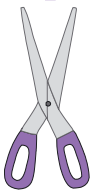
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