

# **ASEAN Study Group Report**

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## Foreword

This report is the product of an ASEAN research project organized by the Japan Institute of International Affairs that extended from 2008 to 2010.

The Association of Southeast Asian Nations (ASEAN) has been undergoing massive changes recently. The seeds of major changes were planted in 2003 when ASEAN issued the Declaration of ASEAN Concord II. The declaration announced ASEAN's intention to create an ASEAN Community consisting of three pillars: the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC). Reflecting this ambitious goal, ASEAN leaders in 2007 signed the ASEAN Charter, which was developed with the aim of turning the Association into a rules-based organization to ensure the effective cooperation indispensable for the success of community building; the Charter came into effect in December 2008. ASEAN is thus undertaking a daunting task in reforming its institutional structures and strengthening its internal cohesion.

In addition to these internal developments, recent years have also witnessed new developments regarding ASEAN's external relations. ASEAN has been successful in not only expanding its leadership role in institution building in East Asia, represented by the formation of the East Asia Summit (EAS) in 2005, but also leading major countries such as Japan, the United States and China to sign the Treaty of Amity and Cooperation in Southeast Asia (TAC), a core body of ASEAN principles. Moreover, along with its effort to achieve the ASEAN Free Trade Area (AFTA), ASEAN has actively strengthened its network of free trade agreements (FTA) in East Asia, thus attaining the position of a potential core for regional economic integration.

However, in spite of these new developments, ASEAN still faces many problems that might derail its community building. For instance, the solidarity of ASEAN has been challenged by the enormous political, economic, and cultural diversity among the member countries. It is not easy for such a diverse ASEAN to carry out the reform of its traditional principle of non-interference in internal affairs, which is essential for accomplishing major tasks in its community building, including the promotion of deeper economic integration, human rights and democracy. In this regard, the ASEAN Charter proved to be disappointing to many observers since it reiterated non-interference in internal affairs as ASEAN's basic principle. Moreover, these problems have also undermined the credibility of ASEAN's leadership role in regional institutions such as the ASEAN Regional Forum (ARF), the ASEAN Plus Three (APT), and the EAS.

Hence, ASEAN has undergone both changes and non-changes. While there have been remarkable developments in ASEAN's institutional structures in recent years, it seems that the core elements of ASEAN's traditional approach to cooperation are still in place. This has made ASEAN a more difficult institution than ever before to understand. In order to enhance



our understanding of the complex nature of its institutional development, this research group carried out a comprehensive analysis of the workings of ASEAN. Indeed, this study is perhaps the first major study to conduct a detailed examination of the institutional aspects of ASEAN in particular since 2003. The members of the research group mainly examined the following subjects: the prospects of the three pillars of the ASEAN Community, ASEAN's changing institutional structure under the Charter, the problems of the ASEAN divide, the changes and continuity of ASEAN's norms, ASEAN's relations with major countries and its leadership role in regional institutions.

The views presented in this report are the authors' own and do not represent the views of the Japan Institute of International Affairs and those of the institutions with which the respective members of this research group are affiliated. We hope that this report will enhance our understanding of the prospects of ASEAN. In closing, we would like once again to express our deepest gratitude to the authors for their active involvement in this research project and their dedicated efforts in preparing this report.

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# Introduction

## ASEAN, Old and New: an Overview

Susumu Yamakage

### 1. Introduction

After being established by five non-communist nations in 1967, ASEAN has changed its nature during and since the Cold War. Neighboring Indochina, where rival forces were engaged in armed conflicts, kept threatening the peace and stability of ASEAN. Moreover, its member countries were suffering from mutual distrust and disputes, and ASEAN served as the forum of consultation. In this regard, the Treaty of Amity and Cooperation (TAC) in Southeast Asia (concluded in 1976) was one of the major accomplishments in ASEAN's history to date. The end of the Cold War brought peace into Indochina at last, and it made possible the enlargement of ASEAN. At the same time, the globalization of capital flow began to affect the growth strategy of ASEAN economies. In order to keep inflow of capital, they needed the region to remain attractive. The answer was to create a free trade area. In other words, after the Cold War, ASEAN pursued a policy of widening and deepening its scope of influence. Although the financial and economic crisis of 1997 shook some member economies and even their politics, ASEAN continued its process of widening and deepening.

As of 2010, ASEAN is pursuing the ASEAN Community, and substantiating the organization in keeping with the ASEAN Charter. In a sense, ASEAN today is based on those changes in the 1990s. The accomplishment of the goal in the 1990s encouraged ASEAN to move forward. At the same time, ASEAN today is not drastically different from ASEAN yesterday. There are continuous characteristics. This mixed nature of ASEAN has intensified controversies among practitioners and scholars. Aiming at settling some of those controversies, this volume of research papers provides multi-faceted analyses of the rapidly changing ASEAN.

As the introductory chapter of the present volume, this chapter provides an overview of ASEAN today, and attempts to shed light on various forces that affect the future of the organization. In the first section, changes in ASEAN after the Cold War are reviewed so as to reveal the background of the current changes in the organization, which are dealt with in the second section. Namely, factors that made possible the creation of the ASEAN Community and the adoption of the ASEAN Charter are discussed. In the third section, limits of ASEAN will be discussed. The fourth section will introduce the objective of the present volume and the structure of chapters.

## **2. ASEAN in the Wake of the Last Century**

We are witnessing profound changes in ASEAN. They may be understood as part of ASEAN's self-transformation since the 1990s. In other words, ASEAN has been making efforts to adapt itself to an international community that has been rapidly changing after the Cold War. At the same time, as will be discussed below, ASEAN's response to the end of the Cold War was a widening and deepening of its scope, and this original goal was accomplished around the turn of the century. In this regard, the current change is informed by a goal based on the latest accomplishment. In order to understand ASEAN today, a set of interconnected questions should be answered. That is, how ASEAN was transformed in the 1990s, and why ASEAN has set itself this new goal.

Some forty years' history of ASEAN can be divided into four periods. The first period covers the early years of ASEAN, between its establishment and the first summit meeting in Bali. ASEAN's institution-building took place in this period, which was highlighted by the Declaration of ASEAN Concord and the TAC. The organizational structure, modus operandi and other important aspects of ASEAN were formulated through the joint endeavor of the founding fathers. ASEAN's institutional character that was established during this period did not change for more than three decades until the current sea change began.

The period between the first summit meeting in 1976 and the fourth in 1992 is the second period of ASEAN's development. In fact, this period may be characterized by stagnation rather than development. Truly, ASEAN became visible and influential in the international arena. In order to deal with advanced powers not only on economic but also political issues, the organization succeeded in organizing and chairing the annual ASEAN Post-Ministerial Conferences. Some of the member countries recorded a high pace of economic growth especially since the late 1980s. Nevertheless, ASEAN was far from consolidated due to conflict of interests between member countries on such issues as the ASEAN Industrial Project and a policy toward Vietnam that invaded Cambodia.

It was the end of the Cold War that shook ASEAN out of internal stagnation, and that made member countries realize the necessity of ASEAN solidarity. The summit meeting in Singapore symbolized ASEAN's re-activation, and "deepening and widening" became key words of ASEAN. This third period of ASEAN lasted until the beginning of this century. If a clear-cut demarcation is needed, the 9th summit meeting in Bali in 2003 would be most appropriate. In this decade-long period, ASEAN faced various challenges. ASEAN had to accommodate the post-Cold War era of international community. ASEAN's solution was, as mentioned above, the deepening and widening of its scope.

Since its inception, the founding fathers wanted ASEAN to grow so as to cover the entire Southeast Asia. The Cold War, which had prevented such a dream from coming true, ended in 1989, but the enlargement was understood to be a long-term project. However, Vietnam's accession of the TAC in 1992, and its formal entry into ASEAN in 1995

accelerated the process, and the project completed during the 20th century. In other words, all the countries in Southeast Asia had joined ASEAN by 1999. Because of the independence of East Timor (Timor Leste) in 2002, the entire region of Southeast Asia will again be covered by ASEAN when it joins the organization in the near future. Despite this, the accepted view is that ASEAN's widening process was accomplished around the turn of the century.

In terms of deepening, ASEAN launched the creation of a free trade area. After the end of the Cold War, the perceived threat shared among member countries was the shift of capital flow, in either relative or absolute terms, from the ASEAN region to the former socialist countries and China. In order to avoid such a shift, the region had to be attractive as a large market, and ASEAN leaders decided to create the ASEAN Free Trade Area (AFTA) in 1992. The original fifteen-year plan of tariff reduction to a level of less than five percent was later shortened to ten years, and was accomplished in 2003. New members also were to achieve the same goal in ten years.

In short, ASEAN's ambitious plan with regard to deepening and widening had been realized, or was about to be realized, in the wake of the 21st century. This fact becomes more impressive if one thinks of the serious financial, economic and political crisis in 1997-98 that affected ASEAN countries. By and large, they recovered in a short period, and Indonesia was democratized. It was natural for ASEAN leaders to set up a new goal, presumably a more ambitious one. In fact, ASEAN began pursuing a new goal, which marks the beginning of the fourth period of ASEAN discussed in the following section.

ASEAN's self-transformation did not end with the deepening and widening process. ASEAN took an assertive stance towards participating in cross-/trans-regional institutions. Because ASEAN leaders were aware of the vulnerability of the organization, they used to be reluctant to join institutions that would contain the organization, fearing that such institution might affect the relevance of ASEAN. Such reluctance was seen during the inception of Asia-Pacific Economic Cooperation (APEC) especially among the leaders of Indonesia and Malaysia. ASEAN was comfortable only with the ASEAN Post-Ministerial Conferences (PMC) that were institutionalized at the end of the 1970s. In 1994, the ASEAN Regional Forum (ARF) was established by ASEAN, the PMC partners and such major players as China and Russia with the purpose of ministerial dialogue on security in the Asia-Pacific region. By the end of the 1990s, leaders had become confident enough to take the initiative in larger institutions. ASEAN, Singapore in particular, paved the way towards the creation of the Asia-Europe Meeting (ASEM) with the summit meeting in 1996 in Thailand. ASEAN Plus Three (APT) was another typical case. ASEAN leaders invited their counterparts from Japan, China and South Korea to their summit meeting in 1997 in Malaysia. In due course, ASEAN gradually became lodged in the center of larger institutions.

### **3. Sea Change in ASEAN**

ASEAN's movement toward the Declaration of ASEAN Concord II (2003) and the ASEAN Charter (2007) was very rapid, which is why ASEAN is currently witnessing a sea change. The current fourth period is expected to last until 2015.

It was in 1995 when ASEAN summit meetings began to be held every year; official ones every three years and informal ones in the other years. In 2001 however, when Brunei, ASEAN's first member in the alphabetical order, hosted the seventh official summit meeting, ASEAN stopped differentiating between informal meetings and official ones. Since then the annual summit meeting has automatically become official. Accordingly, the ninth (official) summit was scheduled to be held in Indonesia in 2003.

Indonesia hosted the first summit meeting on the island of Bali in 1976, where the Declaration of ASEAN Concord was adopted. When the turmoil that lasted for several years after the step-down of President Suharto subsided and democratization efforts had taken hold, Indonesia became more stable domestically and more assertive diplomatically. The government of Indonesia took the initiative in hosting the 2003 summit meeting in the same location, and in issuing the Declaration of ASEAN Concord II. The declaration of 1976 had been epoch-making not only because it was the first document issued by the ASEAN leaders, but because it was the most fundamental document of ASEAN clarifying that the ultimate goal was the creation of an ASEAN community, and that political cooperation was part of ASEAN's activities. The declaration of 2003 deserves the name "ASEAN Concord II" in its historic importance. It clearly proclaimed a new goal, i.e., the creation of the ASEAN Community.

Indeed, the creation of a regional community had been ASEAN's ultimate goal as mentioned in the Bangkok Declaration in 1967, but it had been a future project until the turn of the century. In 1997, ASEAN leaders adopted the ASEAN Vision 2020 so as to spell out the long-term goals of the organization, but they did not call for the creation of a regional community. The accomplishment of the original AFTA paved the way toward the creation of the ASEAN Economic Community (AEC) as a realistic objective to pursue. AFTA's impact on regional economy turned out to be substantial, and government officials, economists and business leaders in the region began to consider a further deepening of economic integration more seriously than ever. ASEAN was ready to launch the creation of AEC as its new goal in 2003.

The Declaration of ASEAN Concord II was much more ambitious than expected. It officially set up the goal comprising not only AEC but also the ASEAN Security Community (ASC) and the ASEAN Socio-Cultural Community (ASCC). The ASEAN Community with three pillars of cooperation was not a replacement of what the ASEAN Vision 2020 had itemized in detail. It was more symbolic than substantial to name prospective ASEAN in 2020 the ASEAN Community. Nevertheless, it was certainly a departure from the association of nations towards the community of peoples.



While the Declaration of ASEAN Concord II drew up a substantive image of regional cooperation under the name of the ASEAN Community, the ASEAN Charter envisions the constitutional image of a governing body of ASEAN. Because ASEAN was established by the declaration of foreign ministers, an ASEAN Charter had occasionally been called for in order to provide a legal foundation since as early as the 1970s. However, such a proposal was never taken seriously until recently. The ASEAN Charter was signed at the summit meeting in Singapore in 2007, forty years since its inception. It was only a few years between the decision to draft the charter and the conclusion of the charter. Few people had expected that all the governments would agree on the draft charter within such a short period. According to the charter, all the signatories were to ratify it within a year. They did it, although many observers both in and outside the region were highly doubtful. These facts illustrate the fundamental change in the atmosphere prevailing among ASEAN leaders and governments.

As the most fundamental document, the ASEAN Charter deserves an analysis. There are three aspects in the charter: the principle, the rule, and the organ of ASEAN. In terms of principle, the charter moved the organization towards being more people-centered/oriented. Although there are various components of the organizational principle that retain traditional ASEAN concepts such as respect for independence, sovereignty, equality, territorial integrity and national identity; non-interference in internal affairs; etc. On the other hand, the principle includes such new elements as adherence to the rule of law, good governance, the principle of democracy and constitutional government; respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice. In short, the principle is a mixture of old and new aspects.

ASEAN's operational rule used to be unwritten, but it was obvious: decision based on consensus, rotational role; equal treatment; etc. In the charter, the rule is spelled out as "consultation and consensus" and the annual rotation of the newly introduced chairmanship in alphabetical order. In addition, there are new aspects to be found. First, the summit meeting officially occupies the supreme political role in making ASEAN's decision. Second, the TAC spirit, i.e., peaceful settlement of mutual disputes, is clearly embedded in every aspect of cooperation of the ASEAN Community. Third, a dispute settlement mechanism is to be introduced especially in the economic field, and the role of the Secretary General is strengthened. Thus, under the ASEAN Charter, it is clearer how ASEAN is governed compared with its past.

The organ changed profoundly. The ASEAN Summit with assistance of the ASEAN Coordinating Council meets bi-annually. Corresponding to three cooperative pillars of prospective ASEAN Community, three ministerial councils deal with the formation of the regional community. The Committee of Permanent Representatives, replacing the ASEAN Standing Committee, supports various types of ministerial councils and other bodies, and conducts consultative activities within member governments as well as with external partners. The role and structure of the secretariat has been strengthened substantially, too. It



is hoped that this organizational change will make ASEAN more effective and efficient.

Thailand took the inaugural chairmanship in 2009. Because of political instability, the Thai government was unable to take advantage of it. As ruled in the charter, Vietnam is currently taking the chairmanship in 2010. In January, the foreign ministers' meeting was held in Danang, the central city of a long and narrow territory, and some ministers visited by land through part of the East-West Economic Corridor. In any case, it remains to be seen how ASEAN will operate based on its new principle, rule and organ.

With regard to external relations, ASEAN is increasingly active in establishing not only economic but also political collaboration. In 2000, the Chinese Prime Minister Zhu Rongji proposed a study to look into the possibility of an FTA between China and ASEAN, and ASEAN agreed promptly. Since then, surrounding countries became eager to conclude FTAs with ASEAN. In 2005, the inaugural meeting of the East Asia Summit (EAS) was held in Malaysia. Such an idea had been floated since the late 1990s, but it did not come into being. However, Malaysia, the chair of the ASEAN Summit of 2005, became host not only to the ASEAN Summit and APT but also to the EAS because it was agreed that ASEAN would keep occupying "the driver's seat" of both institutions.

Consequently, ASEAN has evolved into a complex structure around Southeast Asia. Firstly, there is a hub-and-spokes pattern with ASEAN as the hub, and bilateral free trade area agreements with China, Korea, Japan, India, and the Australia-New Zealand Closer Economic Relations. The same pattern can be found in the accession of TAC by such external countries as China, India, Japan, Pakistan, Russia, South Korea, Mongolia, New Zealand, Australia, France, East Timor, Sri Lanka, Bangladesh, North Korea and the United States. Secondly, there is a concentric pattern involving APT, EAS, PMC and ARF, all of which are chaired by ASEAN. Finally, ASEAN and other regional institutions or countries are at the center of elliptic patterns as seen in APEC, ASEM and the Forum for East Asia-Latin America Cooperation (FEALAC). Consequently, ASEAN is involved in various regional, cross-regional and trans-regional institutions, and this complex structure will keep ASEAN in an important position at least in East Asia and Asia-Pacific.

#### **4. Limits of ASEAN**

ASEAN seems steadily on the way towards the creation of a community in 2015 because the road map has already been adopted for each of the three communities. However, ASEAN is far from monolithic. While no member opts to weaken the functions of ASEAN, there are significant differences among members in terms of the future state of ASEAN.

First of all, there is a structural dividing line in the region between old and new members. Economically, the new members or CLMV have much poorer infrastructure, and are less industrialized. Needless to say, ASEAN leaders were aware of this, and have already decided to take measures in order to narrow the economic gap between them, such

as the Initiative for ASEAN Integration (IAI) adopted in 2000 and the Hanoi Declaration on Narrowing Development Gap for Closer ASEAN Integration adopted in 2001. At the same time, they recognized the shortage of funds to conduct effective measures, and development projects in the Greater Mekong Sub-region (GMS) under the initiative of the Asian Development Bank are regarded to be useful. Measures to improve the economic level of CLMV and hopefully enable them to catch up depend on financial resources outside the region.

Politically, Laos and Vietnam remain socialist regimes even after the end of the Cold War; Cambodia is under the control of the socialist People's Party (KPK), and Myanmar has been controlled by the military for more than two decades after the coup. Although the old members may not all be fully democratic, the difference between new and old members is obvious. As long as ASEAN's activities limit cooperation among governments, differences in political regimes may not be a serious obstacle for implementation. However, such differences impede ASEAN's move toward a regional community implementing political and security cooperation in some way or another. Especially in terms of the acceptance of democratic values and human rights, there exist significant differences in attitude. More generally, the establishment and the dissemination of the new norm proclaimed in the ASEAN Charter faces strong resistance in some corners of the region. In short, old members tend to advocate the new norm while new members tend to support the old norm of ASEAN.

Besides the above-mentioned structural divide within ASEAN, there are other types of differences among the member governments. With regard to economic integration, i.e., the creation of AEC, favorable treatment of CLMV provoked a reaction. Namely, old members pointed out low development levels in peripheral areas of the region, and ASEAN emphasized its commitment to BIMP-EAGA (Brunei, Indonesia, Malaysia, Philippine East ASEAN Growth Area), a sub-regional economic zone that was officially earmarked by the organization in the early 1990s. In another respect, some members, especially Singapore and Thailand, were in such a hurry in the move towards AEC that they began to seek bilateral FTAs with economies outside the region. Such a move may weaken the motivation of creating an economic community with reduced development gaps within the region.

There are centrifugal forces which have an impact upon ASEAN's integration. Some member countries have shown interest in regional organizations other than ASEAN. Thailand under the premiership of Taksin Sinawatra was active in the creation of a regional institution independent from ASEAN. The Asian Cooperation Dialogue (ACD), consisting of some twenty countries in East and West Asia, promotes various areas of cooperation by the initiative of a "prime mover." The Ayeyawady - Chao Phraya - Mekong Economic Cooperation Strategy (ACMECS) was another pet project, aiming at economic development through trade and investment cooperation among riparian countries of the three rivers, i.e., Myanmar (Ayeyawady), Thailand (Chao Phraya), Cambodia, Laos and Vietnam (Mekong). Although the countries comprising ACMECS are all ASEAN members,

ACMECS has not yet been recognized as ASEAN's sub-regional economic zone. Indonesia, the largest member of ASEAN, is no exception. While Indonesia used to emphasize the solidarity of the organization, it is now a G20 member, and regards itself as a global player in a multi-polar world.

ASEAN has been more assertive and active in larger institutions that contain itself. In reality, however, ASEAN's influence on external partners turned out to be limited. Even a family of concentric institutions around ASEAN, with ASEAN in the driver's seat, will be dependent on ASEAN's "driving manner and technique." Some external partners have complained of the manner (informal consultation and consensus). Others have complained about the technique (goals and speed of progress). As a case in point, due to the political turmoil in Thailand in the late 2000s, both the APT Summit and EAS scheduled in 2008 were postponed twice and finally cancelled. Leaders of Japan, China and South Korea used to meet on the occasion of APT. Now, the three leaders meet within their territory instead of visiting Southeast Asia.

Furthermore, East Asia has been a political and strategic arena where China and the United States are major players, and ASEAN's power is obviously very limited. It is true that both countries acceded to TAC, but their commitment to ASEAN differs to a large degree. China is a counterpart of bilateral FTA, and a member of APT, EAS, PMC, ARF, etc. The United States, on the other hand, is a member of ministerial institutions such as PMC and ARF. Under the Obama administration, the United States defines itself as a Pacific power and seems to pay more attention to East Asia than the previous administration. Under such circumstances, cross/trans-regional institutions surrounding ASEAN may become less significant in multi-lateral relations in East Asia and/or Asia-Pacific.

## **5. Outcome of the Research Project**

There is no doubt that ASEAN is now changing. The change is not a drastic one from an old to a new ASEAN, but rather a gradual shift. The current ASEAN is a mixture of old and new elements. Problems lie ahead, and ASEAN's future depends on the organization's capability of coping with them.

To what degree does ASEAN retain its old character? How fast or slow is the new ASEAN norm being disseminated throughout the region? How skillfully will ASEAN retain its influence on external partners? Numerous questions can be raised concerning ASEAN. Existing literature does not provide satisfactory answers to those questions, although there are various types of academic research on ASEAN. They tend to deal with (1) political analysis of individual member countries, (2) the analysis of industrial and economic affairs of member countries either individually or collectively, or (3) the analysis of geo-political or strategic games of major powers on the ASEAN region. In order to answer the above questions, ASEAN as an organization has to be analyzed.

This volume is the outcome of a research project on contemporary ASEAN. The Japan Institute of International Affairs organized a team of ten researchers in 2007, and the team conducted joint research for two years. ASEAN was viewed and analyzed from various angles so as to better understand this multi-faceted organization. Altogether, this volume contains ten chapters in three parts: the would-be ASEAN Community; organizational issues; and external relations.

Following this introductory chapter providing an overview of ASEAN, Part I includes three chapters, each of which corresponds to the three pillars of the ASEAN Community that will come into being in 2015. Chapter 1 (Tsutomu Kikuchi) deals with the ASEAN Political-Security Community, i.e., the renamed ASEAN Security Community. He points out that ASEAN is transcending the TAC regime into a regional community based on common political values. Chapter 2 (Seiya Sukegawa) argues the impact of the ASEAN Economic Community. He anatomizes the current affairs of AFTA and the ASEAN Investment Area (AIA), and foresees difficulties in the creation of an economic community other than with regard to tariff reduction. Chapter 3 (Motoko Shuto) concentrates on the ASEAN Socio-Cultural Community. She focuses on four important areas of cooperation, i.e., education, culture, environment and labor, which so far have not been extensively analyzed.

Part II consists of three chapters dealing with organizational aspects of a changing ASEAN. Chapter 4 (Sanae Suzuki) analyzes the structural and functional change of ASEAN under the ASEAN Charter. Recognizing criticism directed at the traditional nature of the charter, she points out new aspects on decision-making and dispute settlement that may change the organization. Chapter 5 (Taku Yukawa) deals with a controversy over ASEAN norms. He analyzes how ASEAN's balance has changed from non-interference to democracy and human rights over various issues. Chapter 6 (Maki Aoki-Okabe) focuses on the development gap of ASEAN or the ASEAN Divide. She compares various measures to tackle the problem, with emphasis on sub-regional approaches.

Part III deals with ASEAN's external relationships. Drawing a bird's-eye view of ASEAN's external relations, Chapter 7 (Mie Oba) analyzes ASEAN's capability and limitations. She argues that new ideas and proposals on regional architecture may affect ASEAN's position in East Asia and Asia Pacific. Chapter 8 (Tomoharu Washio) focuses on comprehensive economic partnership/cooperation between ASEAN and external powers. Based on the review of long trend, he emphasizes the importance of economic integration. Chapter 9 (Takeshi Yuzawa) deals with recent collaboration between ASEAN and the United States. Contrary to conventional wisdom, he points out a US commitment to help ASEAN change continuously throughout the 2000s, and a strengthening in the relationship.

ASEAN is changing. ASEAN is changing itself; it is changing the domestic conditions of each member country economically as well as politically; and it is changing international relations in East Asia and Asia-Pacific. Hopefully, this volume will provide not only a fresh view of ASEAN but also a critical anatomy of the organization. It is

premature to predict whether the ASEAN Community will come into being as scheduled and as designed, but it is quite sure that—whether successful or not—ASEAN’s future will deeply affect not only Southeast Asia but also East Asia and Asia-Pacific.

# 1 Struggling to Renovate Regional Institutions with New Norms: ASEAN Moves Towards a Regional Security Community

Tsutomu Kikuchi

## 1. Introduction

At the ASEAN Summit held in Bali in October 2003, the member country leaders announced in their Declaration of ASEAN Concord II (“Bali Concord II”) their intention to create by 2020 an ASEAN community based upon three pillars: an ASEAN Economic Community (AEC), an ASEAN Security Community (ASC) and an ASEAN Socio-Cultural Community (ASCC).<sup>1</sup> In November 2004, ASEAN’s leaders agreed on the Vientiane Action Program (VAP) to realize the goal. This article addresses the second pillar of the ASEAN Community idea, namely ASC.<sup>2</sup>

According to a general understanding of international relations theories, a security community is formed in a region in which large-scale use of force has become very unlikely or even unthinkable. Karl Deutsch defined a security community as “a group of people” believing “that they have come to agreement on at least this one point: that common social problems must and can be resolved by processes of ‘peaceful change.’” Peaceful change was defined as “the resolution of social problems, normally by institutionalized procedures, without resort to large-scale physical force.”<sup>3</sup>

Judging from this definition, the idea to make ASEAN a security community means that ASEAN has not yet reached the stage of a security community. There must be a common understanding among the ASEAN countries that there remains some possibility of using force to resolve inter-state tensions and conflicts among them. However, it seems strange in view of the fact that the official understanding of ASEAN (that is reflected in a variety of official documents published by the ASEAN Secretariat) clearly mentions that ASEAN is already a kind of security community.<sup>4</sup> Amitav Acharya, a leading expert on ASEAN security studies, pointed out that ASEAN has developed into a nascent security community.<sup>5</sup> Even the scholars who have been advocating the ASC since 2003 mentioned that ASEAN is very close to a security community.<sup>6</sup> If ASEAN has already reached some stage of a security community, why then has it been trying to realize an ASC as one of the key pillars of the ASEAN Community? What is the ASC concept that ASEAN is aiming to realize? What contributed to ASEAN making a new effort towards an ASC? This is the puzzle to be addressed in this article.

I will approach the puzzle taking several aspects into consideration. First, I will analyze the ASC as an ASEAN enterprise to making ASEAN a truly regional security



community. That is, I will analyze ASC as a concept relating to intra-regional relationships among the ASEAN member countries. This is the most basic perspective to analyze a security community. The security community concept has been applied to the relationships among the countries in a certain group or region.

Second, I will attempt to analyze the concept of ASC in the context of the relationships between the ASEAN and the major powers in the Asia-Pacific. ASEAN's strategies to keep its central position in the causes of regional institutions in Asia will also be addressed in this regard. Different from the original idea of a security community, the ASC is a regional instrument for ASEAN to prevent the institution from being marginalized in the field of international relations in Asia, and more than that, to put ASEAN on the center stage of regional affairs such as regional institution-building that include the major powers.

Third, I intend to broaden the perspective of analysis. I will put the ASC in the context of how the collective capacity of the ASEAN countries to respond to the challenges facing ASEAN can be enhanced. The critical point in this regard is how ASEAN countries can touch upon domestic issues of other member countries, and what framework and modality are required for ASEAN to do so. The ASC is expected to "legitimate" the intervention in internal affairs, especially internal political systems in the name of promoting universally endorsed norms such as democracy, human rights and rule of law.

I will first argue in this article that the purpose of the ASC is to respond to the two challenges facing the ASEAN today. As far as the intra-ASEAN relationships go, the ASC is aiming at harmonizing internal (domestic) norms and institutions that should be organized according to more common and liberal principles, thereby enhancing the foundation of ASEAN's cooperation in general and political and security cooperation in particular. Sharing liberal norms and institutions among the ASEAN countries is a foundation for security.

Put differently, there is a strong desire among the proponents of a security community that ASEAN unity and cooperation should not be enhanced without sharing the basic liberal norms and institutions regulating their respective internal politics. Therefore, in this regard, the ASC is closely connected with the adoption of the new ASEAN Charter which endorsed the sharing of democratic and liberal norms and institutions among the members, although there had been a lot of dispute among the members over these values and institutions.

Second, I will argue that an ASC is aimed at retaining a leading role in emerging new international relations in the Asia-Pacific in general and in the institution-building that includes major powers such as the United States, China and Japan. ASEAN countries are located in a strategically important subregion where the interests and attention of the major powers closely intersect. ASEAN's security is closely connected with what relationships are established between the ASEAN countries and the major powers as well as the relationships between ASEAN members. Therefore, thinking about the security of ASEAN

countries requires a broader perspective (not just of the relationships among the ASEAN member countries). To sustain a stable regional security environment ASEAN has to design a security architecture that includes the ASEAN's relation with non-ASEAN countries, especially the major powers heavily engaged in the development of security in Southeast Asia.

The consolidated foundation of the ASEAN cooperation that is underlined by liberal norms would help ASEAN manage its relations with the major powers. A collective and enhanced ASEAN stance underlined by shared liberal norms and domestic institutions is expected to contribute to more effectively responding to the changing power relations among the major powers and their interactions in Asia.

The above two arguments are related to how ASEAN could be transformed into a truly regional security community. The purpose of the ASC, however, is more than just constructing a security community. In this regard, thirdly, I would argue that the ASC should be seen as a regional legitimate framework or regionally endorsed modality that enables the ASEAN member countries to touch upon and even intervene in the internal matters of other members, thereby promoting the causes of democracy.

One of the problems ASEAN has been facing for the last few decades is the lack of implementation of programs among member countries. The implementation is closely connected with domestic institutional arrangements. ASEAN is now required to touch upon much deeper collaborative programs that require more transparent, accountable and resilient domestic institutions. In return, this is closely connected with the political systems of the member countries. Until recently, ASEAN did not have a regional framework or regionally-endorsed modalities for member countries to touch upon domestic issues, in particular political systems, of other member countries. The ASC could be seen as a regional framework within which the ASEAN member countries will be able to speak out about and intervene in internal matters of other member countries, hopefully promoting internal changes according to liberal norms and principles.

ASEAN changed the appellation ASC to ASEAN Political and Security Community. "Political development" is one of the key agendas for constructing the Political and Security Community. ASCPA makes democracy an objective of ASEAN when it calls upon member states to promote political development. The ASEAN members now have a legitimate regional framework and modality to speak of and "intervene" in internal matters of the member countries, although the principle of non-intervention is still maintained as a guiding principle of ASEAN cooperation. The future is still uncertain, but this is an important development.

Fourth, I will argue in the concluding part that ASC would be a quite important regional exercise for ASEAN to renovate its institutional foundation for regional cooperation. A renovated ASEAN that is sustained by liberal norms and institutions would greatly contribute to peace and prosperity not just in Southeast Asia but also in the entire Asian region. At the same time, however, the most important task of ASEAN to realize the



ASC is to enhance the capacities of the governmental organizations of the respective member countries. The problem of the lack of implementation of jointly agreed programs lies not just in the differences of the various states' interests and preferences, but also in the fact that most ASEAN members do not have sufficient capacity in their governmental organizations to produce more substantive forms of collaboration.<sup>7</sup>

The article is organized as follows. The second part provides an overview of the ASC. The ASEAN adopted its action plan to implement the ASC. VAP was agreed upon as a guiding document for this purpose. This part briefly touches upon what ASEAN wishes to do by adopting the ASC. The third part will address the ASC in the context of intra-ASEAN relationships and agendas. The concept of a security community was originally developed among a certain number of countries that would form a region where the use of force to resolve their disputes and conflicts are unthinkable. How can these relationships be developed among the countries in a conflict-ridden Southeast Asia? The fourth part will touch upon the ASC in the context of the ASEAN's relationship with the major powers such as the US, China and Japan, and regional institution-building in Asia. Put differently, I will treat the ASC within the broader framework of Asia-Pacific international relations. The concluding section will summarize my arguments.

## **2. Overview of the Concept of ASC**

The purpose of the ASC is to promote an ASEAN-wide political and security cooperation concordant with the ASEAN Vision 2020, not forming a defense pact, military alliance or a joint foreign policy. The ASC is aiming at upholding the existing ASEAN political instruments such as the Declaration on ZOPFAN (Zone of Peace, Freedom and Neutrality), the TAC (Treaty of Amity of Cooperation) and the SEANWFZ (Southeast Asian Nuclear Weapon Free Zone) Treaty.

ASCPA identifies the following five major areas of activities to ensure a coordinated process of cooperation towards an ASC, although those are not limited to the five areas.

### **(1) Political Cooperation**

The ASCPA stipulates that "ASEAN shall nurture such common socio-political values and principles." Common values referred to here are democracy, human rights and the rule of law. ASCPA makes democracy an objective of ASEAN when it calls upon member nations to promote political development in order to achieve peace, stability and prosperity in the region. It states that "ASEAN Member Countries shall not condone unconstitutional and undemocratic changes of government." The call for the promotion of human rights within ASEAN was emphasized.<sup>8</sup> The VAP emphasized that the ASC should be achieved by creating "a democratic, tolerant, participatory and transparent community in Southeast Asia."

## **(2) Shaping and Sharing of Norms**

Shaping and sharing of norms aim at achieving a standard of common adherence to norms of good conduct among ASEAN members, thereby contributing to the building of a democratic, tolerant, participatory and transparent community in Southeast Asia.

## **(3) Conflict Prevention**

The objective of conflict prevention is to strengthen confidence and trust within the ASEAN; to mitigate tensions and prevent disputes from arising between or among member countries as well as between member countries and non-ASEAN countries; to prevent the escalation of existing disputes.

## **(4) Conflict Resolution**

It is pointed out that the ASEAN member countries shall endeavor to use the existing regional dispute settlement mechanism and processes in the political and security areas. We may assume that the clause of the High Council embedded in the Treaty of Amity and Cooperation will be activated under the ASC concept.<sup>9</sup>

## **(5) Post-Conflict Peace Building**

The post-conflict peace building measures such as humanitarian relief assistance, reconstruction and rehabilitation could be applied to conflict-torn areas within the ASEAN member countries, not to areas and territories outside ASEAN.<sup>10</sup>

It was agreed that the ASEAN Foreign Ministers Meeting (AMM) shall take necessary follow-up measures to implement the ASCPA. The AMM undertakes overall review of progress of the ASCPA, introduce new measures and activities, and report annually the progress of implementation to the ASEAN Summit.<sup>11</sup>

## **3. ASC as an Intra-ASEAN Agenda**

A security community refers to a region in which the use of force to resolve interstate disputes and conflicts has become very unlikely or even unthinkable. Karl Deutsch defined a security community as a group of people believing that they have come to agreement that common social problems must and can be solved by processes of peaceful change.

How can a security community be created? There will be two ways to achieve such an aim. One is to share the norm of not using force to resolve interstate disputes and conflicts among the people (especially elites in charge of foreign policy decision-making) of the countries in the region. Amitav Acharya emphasized this aspect in his pioneering study of ASEAN, pointing out that ASEAN has reached the stage of a nascent security community by sharing common norms of not using military means to resolve disputes among the member countries. According to this perspective, forming a security community

does not require a similarity and commonality of the internal (domestic) political institutions among the concerned countries in the region.

According to this perspective, a security community could be formed even among nations with non-democratic and authoritarian political institutions. Once a regionally endorsed common norm of not using military means to resolve interstate disputes is shared among authoritarian political leaders, a security community could be created. Indeed, Amitav Acharya raised the question whether the sharing of democratic and liberal values is a precondition to forming a security community.<sup>12</sup> The critical point in the perspective is whether the norm of not resorting to military means to resolve interstate conflicts is shared among political elites among the involved countries. Internal values and institutions such as democracy and human rights have nothing to do with the formation of a security community in this regard.

The second way is to create a security community through harmonizing domestic values and institutions among the countries in the region. According to this perspective, sharing liberal norms and institutions such as democracy and human rights is critically important in creating a security community, because democratic institutions encourage exchanges by people across national boundaries and mutual understanding that could contribute to sharing a sense of community among the people. The argument of a “democratic peace” (Democracies do not resort to wars. Democracies resolve conflicts through peaceful means) is applied to this perspective.<sup>13</sup>

Arguments that ASEAN has already reached the nascent stage of a security community (such as the argument by Amitav Acharya) focused on the first way of forming a security community. On the other hand, the concept of ASC emphasizes the second way of forming a security community. Indeed, Rizal Sukma, a key Indonesian proponent of an ASC, emphasizes the importance to share the basic internal values such as democracy and human rights as the conditions for ASEAN to move towards a more stable security community. The sharing of domestic values and institutions among the ASEAN member countries is expected to enhance the consolidation of an ASEAN security community.

The extent to which regional cooperation can develop is likely to depend very heavily on the coherence and viability of the nation states and the national structures within a given region. The absence of viable nations makes the process of region-building difficult, if not impossible. Nation states remain the essential building-blocks on which regional cooperative exercises are built. The instability of regimes, their intolerance of all opposition, and the lack of political transparency and accountability undermine sustained interstate cooperation.

Some Southeast Asian countries are facing the challenge of a great transformation of the political regimes from authoritarian to democratic ones. Democratic transformations are not necessarily smooth in some countries, causing a lot of domestic instability and confusion. Economic hardship, internal political disputes and terrorism further aggravate instabilities.

For most ASEAN countries, nation-building still remains at the top of their policy agendas. Most of the countries in Southeast Asia are clearly in the modernist stage of development, which is still defined by strong government control over society and a restrictive attitude toward openness and pluralist concepts of a society. Contemporary regional cooperation that focuses on more “intrusive” aspects may not be acceptable to them, because it leads to the “erosion” of traditional national sovereignty.

Added to this, the extension of ASEAN membership is making it harder for the regional institutions to sustain harmony and a cooperative spirit. The recently accelerated efforts at establishing an ASEAN Community and the adoption of a new ASEAN Charter calling for the promotion of democracy, human rights and the rule of law with rhetorical flourishes speak for ASEAN’s desperate struggle to maintain its integrity in the face of changing regional and global environments.

The ASC provides a number of “entry points,” through which the democracy building and human rights promotion agenda could be facilitated. In the ASC, ASEAN member countries acknowledge the imperative of promoting democracy and respect for human rights as a new objective of ASEAN. As was pointed out above, the 2004 ASEAN Security Community Plan of Action (ASCPA) outlines areas of cooperation in order to achieve the following goals: (1) political development, (2) norm-setting, (3) conflict prevention, (4) conflict resolution, and (5) post conflict peace building, in order to achieve peace, stability democracy and prosperity in the region.<sup>14</sup> In this regard, the idea of ASC is closely connected with the adoption of the new ASEAN Charter in which ASEAN members have been struggling with the issue of whether promoting democracy and respecting human rights should be included as the institutional goals of ASEAN.

The ASC has a dimension that derives from the traditional understanding of a security community in the study of international relations. ASCPA refers to a variety of joint collaborative projects to be implemented among the ASEAN member countries. This implies that ASC tries to enhance the ASEAN’s institutional capacity to jointly respond to security-related issues now facing the ASEAN countries. In his pioneering essay that stimulated the discussion of an ASC concept, Rizal Sukma presented the idea of “comprehensive security” that an ASC should pursue to realize security and political cooperation through ASEAN. He proposed a variety of concrete measures to be jointly undertaken by the ASEAN countries such as the establishment of a regional PKO center, enhancing the capability to respond to conflict prevention.<sup>15</sup>

There are many political and security related issues that require collective response by the ASEAN countries. In particular, cross-border transnational issues require enhanced regional collective responses. Tackling regional issues collectively is expected to contribute to another task: enhancing confidence-building among the ASEAN member countries. Because of political sensitivities of touching upon security-related issues, ASEAN has been avoiding to tackle regional security issues on a collective basis, having left them to be handled mostly on a bilateral basis. Therefore, in order to enhance regional capacity to

respond to pressing regional security issues, ASEAN needs more enhanced confidence-building among the members. Taking concrete measure to respond to regional security-related issues, the ASC is expected to enhance confidence building among the members as well as contributing to resolving regional security issues.

## **4. ASC in Asia-Pacific International Relations**

### **4.1. ASEAN and Regional Institution-Building in East Asia**

The original idea of a regional security community refers to the relationships among states in a certain region. Following this perspective, the ASC is applied to the relationships among the ASEAN member countries. However, the ASC has a policy dimension beyond the geographically defined ASEAN region or Southeast Asia. The ASC must be understood in the context of how ASEAN should respond to the changing international relations in Asia and the Asia-Pacific, especially changing power relationships among the major powers such as the US, China and Japan.

The ASC is a concept of promoting peace and prosperity among ASEAN member countries and Southeast Asia. To realize this, ASEAN has to put itself in a broader regional context and devise policy instruments to strengthen ASEAN's role as a driving force in emerging international relations in the Asia-Pacific in general and institution building and management in such regional forums as the ASEAN Regional Forum (ARF) in particular.

Geopolitical and geo-economic considerations prevailing among the countries in East Asia complicate the processes of regional community building. East Asia is now in great transition. The distribution of power among the countries is unstable. Rapid military modernization is underway in the name of protecting national sovereignty. Most of the states in the region have territorial and/or historical disputes with their neighbors. The relationships among the major powers are not stable. Serious security dilemmas exist among them.

Several Southeast Asian countries are facing the challenge of transforming their political regimes from authoritarian to democratic ones. Democratic transformation is often accompanied by domestic instabilities. Terrorism further aggravates internal instabilities. The absence of viable states makes the process of region-building difficult. States remain the essential building-blocks on which regional cooperative exercises are built.

Furthermore, peoples in the area are not yet fully ready to adjust themselves to the internal and external changes that were caused by such factors as the rapid progress of economic globalization and changing power relations among the countries. Rapidly changing conditions are causing concerns about their future among the people, and such concerns are feeding nationalism. We have seen the danger caused by the convergence of nationalism and populism.<sup>16</sup>

The future of the Asian economy is also uncertain. The regional economic structure has been becoming more competitive. China and ASEAN countries (as well as India) are



competing with each other in obtaining foreign direct investment and searching for new markets. Japan is for the first time in modern history facing serious economic challenges from other Asian nations. How the US rectifies the huge economic imbalance across the Pacific that will have an enormous impact on Asian economies is uncertain.

All these issues further feed a sense of insecurity and uncertainty among the political leadership and the people in Southeast Asia. Reflecting these, East Asian countries have been taking a variety of strategies to protect their own interests. East Asian countries have been simultaneously adopting strategies ranging from “engaging” to “risk-hedging” and “soft-balancing,” especially towards the major powers.<sup>17</sup>

ASEAN countries are no exception. They have been devising complex strategies of engaging, risk-hedging and soft-balancing with regard to the major powers.<sup>18</sup> Many countries are engaging China and the US economically to obtain economic gains. At the same time, they are diversifying their respective economic relations to avoid undue economic dependence and to hedge the risks of economic uncertainty. This is clearly demonstrated in the recent conclusion of the bilateral FTA with both intra and extra East Asian partners. ASEAN accepted the offer of concluding an FTA with China, but at the same time, ASEAN started negotiations and concluded FTAs with other countries such as Japan, Australia and India.

ASEAN countries are engaging China in the security area. But at the same time, they are enhancing their respective security relations with the US to hedge the security risks to be caused by the “rise of China.” They are engaging the US in Asia politically and militarily. Malaysia and Singapore provide military facilities and access to US naval and air forces and are also engaged in bilateral and multilateral joint military exercises with the US.

At the same time, they are deeply concerned by US unilateralism and US “intervention” in their internal affairs in the name of promoting freedom, democracy, human right and good governance. Therefore, they are enhancing their relations with neighbors to protect themselves against unilateral behavior by the US. For some ASEAN members, East Asian cooperation is regarded as an instrument to protect themselves from U.S. “hegemonic” behavior.<sup>19</sup>

Wary of Southeast Asia becoming a strategic buffer zone, pulled in one direction or the other by the struggle among the big powers, ASEAN has tried to establish itself as an organization playing a steering role in East Asian community building.<sup>20</sup> Competition among the major powers has allowed ASEAN to seize the opportunity to draw Tokyo, Beijing, New Delhi and Canberra into a bidding competition over the hearts and minds of ASEAN. Again, ASEAN has come back to the central stage of regional institution building in East Asia.

Thus, ASEAN has to project its future in a broader regional (East Asian) context. In spite of internal difficulties, ASEAN has emerged as the main driver for regional cooperation in East Asia as demonstrated in the formation of such ASEAN-centered

regional frameworks as ASEAN+3 (ASEAN plus Japan, China, South Korea) and ASEAN+6 (ASEAN+3 plus Australia, India and New Zealand: also called the East Asia Summit).

Indeed, active approaches by the major powers to establish more comprehensive partnerships with ASEAN have been leading to the construction of ASEAN-centered institutional arrangements, with various ASEAN+X groupings being established. We have now ASEAN+3 (Japan, China and South Korea), ASEAN+2 (Australia, New Zealand), and ASEAN+1 (India and Russia respectively). The East Asia Summit is regarded as a part of the ASEAN-centered institutional arrangement.<sup>21</sup>

Based upon the “ASEAN+X” institutional framework, ASEAN has been “transplanting” their basic principles and norms (“ASEAN ways”) to East Asia as a whole. This is shown in the recent ASEAN endeavors of inviting non-ASEAN countries to sign the TAC (the Treaty of Amity and Cooperation). Signing TAC is regarded as a pre-condition to join the East Asia Summit. The prime purpose of the ASEAN approach is to share the basic norm of resolving the disputes without using military means.

However, ASEAN’s ambition to play the critical role to construct and manage regional institutions could not be realized without being accompanied by the modification of the existing premises underlining ASEAN cooperation. Even if painful and difficult, a renovated ASEAN is eligible to lead East Asian cooperation. In this regard, the ASC is critically important in renovating the ASEAN processes. The ASEAN countries need to modify to some extent their long-held normative premises of cooperation under the recognition that ASEAN’s normative premises are not conducive to addressing transnational security threats and the problems generated by the economic globalization process which all regional countries are currently confronted with. The “Myanmar problem” is an additional stimulus to this process.

An understanding is emerging that ASEAN has to touch upon internal (domestic) institutional matters such as democracy and human rights in order to change the basic premises of cooperation among ASEAN member nations. The ASEAN countries have been struggling to modify long-held premises of state sovereignty and non-intervention for the purpose of more effectively responding to regional issues. The final conclusion of these processes to reactivate ASEAN cooperation is that ASEAN countries need to modify their respective domestic values and institutions. Internal institutional renovation underlined by liberal norms is critically important to renovate the ASEAN processes for cooperation, at least for the proponents of a new ASEAN.

From this perspective, democratic governance, civil society, human security and human rights should be common and binding guiding principles among the members. The adoption of the ASEAN Charter demonstrates that ASEAN could succeed in modifying the normative premises that have been contributing to stabilizing state-to-state relations among the members.

Indeed, not only economic but also political liberalization is important in forging a

regional cooperative framework. A new regionalism is no longer defined as simple mutual liberalization of trade but as harmonization and possibly coordination of domestic policies, domestic law (regulatory systems) and institutions. The complexity of modern political economy requires a detailed set of common laws and regulations for regional relations to function.<sup>22</sup>

Achieving common rules of conduct and entering into reciprocal commitments and obligations needs some degree of “like-mindedness” on the part of the states concerned. Commonality of social organizations and values, and convergence of political and security interests all make it easier to accept necessary levels of intrusive management, in terms of both standard-setting and regulation, as well as effective implementation. Southeast Asia is far behind in this regard.

There are many discourses about concrete joint actions among East Asian countries to promote East Asian cooperation. In the coming years, the countries will further expand their areas of cooperation, including currency, bond market, investment, energy, food, non-traditional security (terrorism, piracy, drug-trafficking, human-trafficking, disease) and so forth.

But as I pointed out before, the question to be addressed is the “quality of cooperation,” that is, whether ASEAN cooperation will develop more effective regional mechanisms to tackle the pressing issues facing the region. Institutionalizing and organizing regional cooperation do matter. Increasing interactions among ASEAN member countries and the proliferation of cooperative activities will not necessarily contribute to building an ASEAN Community. In this regard, it is doubtful whether the old-fashioned ASEAN’s norms of non-interference, informality and consensus that have been generally accepted in the region as normative premises for managing regional institutions can produce tangible results, overcoming the major barriers to community-building in Southeast Asia.

The ASC, even if not perfect, could provide a new framework for ASEAN cooperation, especially in terms of touching upon the harmonization of domestic values and institutions that are critically important to forge deeper and substantial collaboration among the ASEAN countries in both economic and politico-security affairs.

#### **4.2. Competing Norms and Principles Organizing International Relations in Asia**

The ASC could also be seen within the context of how to organize the international relations of the Asia-Pacific. There are various challenges to be addressed for the countries to establish a stable and prosperous regional structure. There are fundamental differences among East Asia countries over how to organize international relations. Put simply, there are four distinct concepts how to organize the international relations of the region. (See the diagram below.)

The first one is the “ASEAN way.” The most distinguished characteristic of the traditional “ASEAN way” is its emphasis on state sovereignty and the principle of

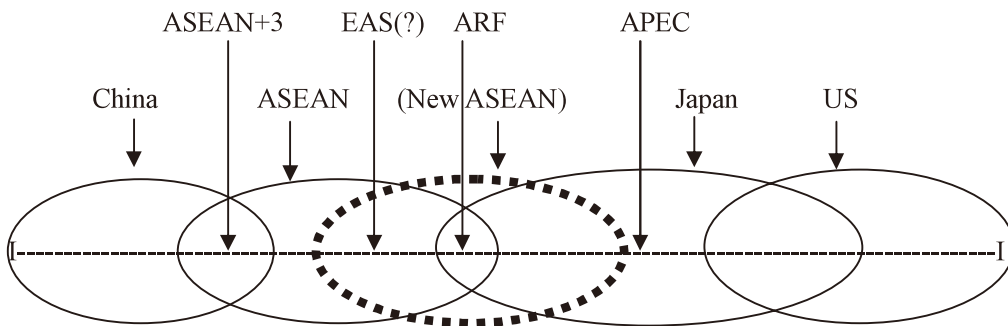


non-intervention in internal affairs of other countries. Certainly the strict interpretation of these norms and principles regulating the relationship among the members has worked quite well in stabilizing the state-to-state relationships among ASEAN members, although some modifications are needed to respond to the challenges facing ASEAN today.

The second one is the Chinese way. The “New Security Concept” and the concept of “Peaceful Rise/Development” were recently added to the decades-long-held Five Principles of Peaceful Co-Existence.<sup>23</sup> Although these concepts emphasize various new concepts such as mutual trust, win-win, mutual benefit, dialogue, confidence-building and cooperation, they are basically Westphalian ones.

China’s norms and principles are mostly related to “external” dimensions that define inter-state relations. As for “internal” matters, China firmly sticks to the traditional concepts of national sovereignty and non-intervention principles. In fact, if we examine closely the Chinese concepts such as “Peaceful Development” and “New Security Concept,” we find that there are no references to collective engagement in “internal” matters. China’s new concepts are only applied in inter-state (not intra-state) affairs.

**Organizing Norms/Principles of International Relations**



**“External” Norms/Principles:**

- Sovereignty,
- Non-Intervention in Internal Affairs
- Different Nation-building Processes
- State Security
- Border Measures (Tariffs etc)

**“Internal” Norms/Principles**

- Democracy,
- Human Rights,
- Harmonization of Domestic Institutions
- Human Security, Good Governance
- Commonality of Internal Values and Institutions

Indeed, China's recent approach to the neighboring countries was to share these basic norms and principles. Through joint declarations and statements with the neighboring countries, China tried to confirm these Westphalian principles with the neighboring countries. In cooperation with ASEAN, China has tried to avoid facing such sensitive issues such as Taiwan, human rights, political liberalization, military transparency, and deeper integration issues touching upon domestic institutional/regulatory adjustment.<sup>24</sup>

The third one is the American way which emphasizes "internal" norms and principles and harmonization of domestic regulatory institutions under liberal norms. As is clearly shown in the speeches by former US president George W. Bush at his second inauguration in January 2005 and in Kyoto (Japan) in November 2005, democracy, freedom, human rights and good governance were the key principles that should underline international relations in the region.<sup>25</sup> The Obama administration has changed its provocative rhetoric to moderate the "anti-American mood" that we have seen during the Bush administration. However, the US policy to pursue the harmonization of domestic institutions under liberal norms and rules has not changed in a fundamental way.

According to the US viewpoints, not only economic but also political liberalization is important in forging a regional cooperative framework. Regional cooperation is no longer defined as a mere mutual adjustment of border measures but as a harmonization and possibly a coordination of domestic policies and domestic regulatory institutions. Enhanced confidence-building to promote collaboration among the countries requires regionally-accepted common democratic and transparent domestic institutions.

Japan's position represents the fourth way. We may call this a "hybrid" type of concept. On the one hand, Japan has been supporting the ASEAN way. On the other hand, Japan is pursuing more intrusive and binding regional arrangements that could touch upon internal matters such as democracy, human rights, transparency and harmonization of internal regulatory systems.

What we are mostly concerned about is that East Asian international relations are organized under the converged principles and norms of China's way and the old-fashioned ASEAN way, mostly dealing with the "external" dimension of state-to-state relations and leaving internal matters out of the agenda of regional cooperation.

East Asia today needs stronger and more intrusive regional institutions that touch upon domestic affairs so as to address the pressing political, security, economic and social issues facing the region. Political openness and liberalization are critical to increase the transparency of internal affairs. The lack of transparency causes misunderstanding and mutual suspicion, further aggravating the security dilemma. The complexity of modern economies requires a well detailed set of common regulations for global market relations to function. The focus has shifted from border measures towards the harmonization of domestic institutions and rules. In return, this requires the countries in Asia to adopt more liberal values and domestic institutions.

Given the above-mentioned picture of political struggles among the nations in Asia

over how to organize the international relations of Asia, ASEAN's new ventures to construct an ASEAN Community based upon liberal norms and democratic domestic institutions have grave politico-security and economic implications for Asia as a whole. It will certainly contribute to the construction of a more transparent, accountable, substantive and resilient regional architecture in Asia within which pressing regional issues can be addressed more effectively. ASEAN could play a very constructive role in the cause of regional community building.

## 5. Conclusion

ASEAN's premises for cooperation that have stressed unity and harmony among ASEAN countries as well as the countries in Asia must be modified appropriately to address the pressing issues facing the region. ASEAN's traditional norms and rules (the "ASEAN way") have been quite useful and effective in promoting dialog and confidence among the member countries, but too weak to address the pressing political, economic and security issues now facing ASEAN.

Trust and mutual confidence that have been so far created by ASEAN's norms and rules have to be bolstered by specific and concrete commitments and strict compliance measures. This requires some commonality of internal norms and institutions regulating domestic socio-economic, political and security issues.

ASEAN has been criticized not for a lack of ideas and programs, but for a lack of the implementation. The Eminent Persons Group, who provided input to the drafting the ASEAN Charter, points out that "ASEAN's problem is not one of lack of visions, ideas, and action plans. The real problem is one of the ensuring compliance and effective implementation of decisions."<sup>26</sup> If past experiences are any guide for the future, there remain serious doubts over the implementation of the ASC (as well as the ASEAN Charter). It is likely that the implementation of the ASC for ASEAN may be hampered by a number of obstacles and limitations.<sup>27</sup>

Enhancing the domestic capacity of government organizations is probably of critical importance to promote the implementation of agreed ideas and visions. ASEAN has been playing quite effective roles in terms of coordinating their collective foreign policy agenda such as with regard to the Cambodia issue in the 1980s. ASEAN has shown an effective capability for diplomatic maneuvering that was demonstrated in the cases of regional institution-building. ASEAN has been a quite effective regional institution in managing the relations with the major powers. Indeed, all the major powers have been paying close attention to the possible response from ASEAN when they are engaged in matters relating to Southeast Asia. ASEAN has been an excellent institution when touching upon issues that required diplomatic coordination, without being accompanied by internal adjustments.

ASEAN is facing a variety of political, security, economic and social issues that require a deeper collaboration among the members. Tackling these issues requires

improved governmental capacities to implement the agreements. This further requires domestic institutional reforms and adjustments that should be underpinned by liberal norms. A deeper collaboration among the members requires ASEAN member countries to modernize their respective governmental organizations.

The extent to which regional cooperation can develop is likely to depend very heavily on the coherence and viability of the state structures and organization within a given region. The absence of viable nation states makes the process of regional community building difficult. States and effective government organizations remain the essential building-blocks with which regional cooperative exercises are built. The state structure and government organizations must be informed by liberal values and norms. The instability of regimes, their intolerance of all opposition, and the lack of transparency and accountability powerfully undermine sustained interstate cooperation.

In this regard, the ASC aims at more than just constructing a security community. The ASC should be seen as a regional framework or regionally endorsed modality that provides the ASEAN member countries with a means to speak up about (or even intervene in) the internal matters of other members. ASEAN now must embark on much deeper collaborative programs that require more transparent, accountable and resilient domestic institutions. In turn, this is closely connected with the political systems of the member countries. Until recently, ASEAN did not have regional frameworks or regionally endorsed modalities and mechanisms for the member countries to legitimately touch upon domestic issues, especially political systems of the member countries. However, ASEAN cannot promote substantive cooperation without touching upon domestic issues. The ASC could be seen as a regional framework within which the ASEAN member countries could speak of and intervene in internal matters of other member countries, thereby hopefully promoting internal changes according to liberal norms and principles.

ASEAN has in principle agreed to work on a democratic agenda. A renovated ASEAN (informed by appropriately modified norms and rules and enhanced government organizations) could contribute not just to peace and stability in Southeast Asia. A renovated ASEAN could also lead the cause of East Asian community building. The ASC, together with ASEAN Charter, is the testing ground that will show whether ASEAN countries can move ahead in this direction.

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<sup>1</sup> The ASEAN Security Community later became the ASEAN Political and Security Community. However, I will use "ASC" in this article.

<sup>2</sup> At the 11<sup>th</sup> Summit in December 2005, ASEAN leaders agreed to accelerate the process. They agreed that the goal should be achieved by 2015.

<sup>3</sup> Karl W. Deutsch et al., *Political Community and North Atlantic Area: International Organization in the Light of Historical Experience*, Princeton: Princeton University Press 1957.

<sup>4</sup> See for example the official document published by the ASEAN Secretariat titled "ASEAN Security

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Community”, Jakarta: ASEAN Secretariat.

<sup>5</sup> Amitav Acharya, “Collective identity and conflict management in Southeast Asia,” Emanuel Adler and Michael Barnett eds., *Security Communities*, Cambridge: Cambridge University Press, 1998, pp. 198-227. Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order*, London, Routledge, 2001. On the critique of Acharya’s arguments, see Nicholas Khoo, “Deconstructing the ASEAN Security Community: a review essay,” *International Relations of the Asia-Pacific*, Vol. 4, 2004, pp. 35-46.

<sup>6</sup> Rizal Sukma, “Concept Paper: Towards ASEAN Security Community,” Jakarta: Center for Strategic and International Studies, 2003.

<sup>7</sup> On the relationships between regional cooperation and the capacity of government organizations, see Natasha Hamilton-Hart, “Asia’s new regionalism: government capacity and cooperation in the Western Pacific,” *Review of International Political Economy*, Vol. 10, No. 2, 2003, pp. 222-245.

<sup>8</sup> The ASEAN Security Community Plan of Action, 2004.

<sup>9</sup> The Treaty spells out the rules of good conduct between member-states, and creates a High Council to mediate any disputes. In acknowledgement to the commitment of ASEAN states to follow the treaty, the High Council has never been constituted. The Treaty has also become compulsory for states wishing to accede to ASEAN. Non-regional members may sign the treaty, but without High Council privileges.

<sup>10</sup> Initially the Indonesian Government proposed to form an ASEAN based regional PKO that could be mobilized to respond to such emergencies as East Timor in 1999. The proposal was flatly rejected by the other ASEAN members. Instead, Indonesia proposed the set up a PKO training center in the respective member countries.

<sup>11</sup> The implementation measures for the ASC are not different from the previous ones relating to other ASEAN cooperation agendas.

<sup>12</sup> Amitav Acharya, “Collective identity and conflict management in Southeast Asia,” *op. cit.*

<sup>13</sup> See, Yoshinobu Yamamoto, “Regional Integration: Tasks for Theory-Building (Chiiki Togo: Rironka to Mondaiten),” *Aoyama Journal of International Political Economy (Aoyama Kokusai Seikei Ronshu)*, No. 78, May 2009, pp. 85-126.

<sup>14</sup> According to Rizal Sukma, the declaration of ASEAN Concord II in October 2003 originally proposed that the ASC should contain five principles. “Political Development” proposed by the Indonesian government was dropped from the Declaration. However, it was put back into 2004 ASCPA at the insistence of Indonesia. Rizal Sukma, “Democracy Building in South East Asia: The ASEAN Security Community and Options for the European Union,” 2009.

<sup>15</sup> Rizal Sukma, “The Future of ASEAN: Towards a Security Community,” Paper presented at a seminar on “ASEAN Cooperation: Challenges and Prospects in the Current International Situation,” New York, June 3, 2003.

<sup>16</sup> Peter Hays Gries, *China’s New Nationalism*, Berkeley: University of California Press, 2005.

<sup>17</sup> On the theory of “soft-balancing” in realist theory, see the following. T.V. Paul, James J. Wirtz and Michael Fortmann eds, *Balance of Powers: Theory and Practice in the 21st Century*, Stanford: Stanford University Press, 2005.

<sup>18</sup> Yuen Foong Khong, “Coping with Strategic Uncertainty: The Role of Institutions and Soft Balancing in Southeast Asia’s Post Cold War Strategy,” Allen Carlson, Peter Katzenstein, and J.J. Suh eds., *Rethinking Security in East Asia: Identity, Power, and Efficiency*, Stanford: Stanford University Press, 2004; Evelyn Goh, Great Powers and Southeast Asian Regional Security Strategies: Omni-Enmeshment, Balancing and Hierarchical Order, *Working Paper No. 84*, July 2005, Singapore: Institute of Defence and Strategic Studies.

<sup>19</sup> Singapore is the most typical case of taking complex diplomatic strategies. On the one hand, it is seeking to enhance economic relations with China. However, Singapore also concluded bilateral FTAs with the US, Japan, Australia, India, EFTA and others to diversify their economic relations. In security, Singapore has military contacts with China, but at the same time, enhanced its security relations with other countries including the US, Japan and Australia.

<sup>20</sup> Michael Vatikiotis, “Three cheers for East Asian Summit: A bullish view of Asian regionalism,” *The Jakarta Post*, December 20, 2005.

<sup>21</sup> The East Asia Summit was originally designed as a forum where East Asian countries participate on an equal footing, not an ASEAN-centered one.

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<sup>22</sup> In economic affairs, this is clearly illustrated by the extensive legal frameworks drawn up for regional markets such as in the negotiation of the Single European Market and NAFTA. At the WTO and OECD, the focus of activities has shifted towards the harmonization of domestic competition and business rules in so far as these are perceived as major barriers to the smooth functioning of the global market.

<sup>23</sup> Speech by Zheng Bijian, *China's New Road of Peaceful Rise and China-US Relations*, June 16, 2005, Washington, The Brookings Institution: See also *China's Peaceful Development Road*, Information Office, China's State Council, December 22 2005.

<sup>24</sup> See, for example, the joint declaration for strategic partnership between China and ASEAN in 2004.

<sup>25</sup> "President Bush Discusses Freedom and Democracy in Kyoto, Japan, November 16, 2005," <http://www.whitehouse.gov/news/releases/2005/11/20051116-6.html#>

<sup>26</sup> Report of the Eminent Persons Group on the ASEAN Charter, 2006, p.20.

<sup>27</sup> Rial Sukma, "Democracy Building in Southeast Asia. . . . .," *op.cit.* pp.8-13.



# **2 Challenges Facing ASEAN in the Building of the ASEAN Economic Community: Focusing on the Liberalization of Trade in Goods and Services**

Seiya Sukegawa

## **1. ASEAN Attempts to Maintain Its Centripetal Force through the Promotion of Economic Integration**

### **1.1. The ASEAN Economic Community Upholds Its Main Purpose of Attracting Foreign Investment**

The term, “ASEAN Economic Community,” was first used in 2003, and at the ASEAN summit held in Bali in October 2003, the Declaration of ASEAN Concord II (Bali Concord II) was adopted, which established the “ASEAN Economic Community” as the ultimate goal of intra-regional economic integration to be achieved by 2020. It is the aim of ASEAN to become a single market and production base through the realization of trade in goods and services, the free movement of investments and skilled labor, and a freer flow of capital.<sup>1</sup>

The term, “ASEAN Economic Community,” was first suggested by then Prime Minister of Singapore, Goh Chok Tong. Rodolfo C. Severino, Jr., the former ASEAN Secretary-General recalls in his memoirs that Goh Chok Tong believed that “amidst the weakening ability of ASEAN to attract foreign investments following the Asian Economic Crisis, the only way (to lure foreign investments) was to become further integrated,” and the heads of ASEAN states “used the term, ‘Economic Community,’ in order to make investors understand that ASEAN was serious about regional integration and its intent to propel that integration toward fruition.”<sup>2</sup> This intent was evidenced by one of the four characteristics of the ASEAN Economic Community. In other words, ASEAN clearly upheld its goal of becoming not only a “single market” but also a “single production base” by attracting foreign investments.

### **1.2. The Type of Integration Sought by the AEC**

The ASEAN Economic Community is considered to be the ultimate goal of the economic integration outlined in the ASEAN Vision 2020. Under the banner of AEC, the Vision consolidated economic cooperation/integration measures such as the ASEAN Free Trade Area (AFTA), which had previously been the driving force behind economic integration, while also incorporating new initiatives needed for the integration. Through the ASEAN Economic Community, ASEAN aims to become a “single market and production base” that enables it to have “equitable economic development” and to be a “highly

competitive economic region” that is “fully integrated into the global economy.”

The ASEAN Economic Community Blueprint, which can be considered to be the roadmap for the realization of the ASEAN Economic Community, consists of the three sections: “I. Introduction,” “II. Characteristics and Elements of the AEC” and “III. Implementation.” Although 77 items/measures have been proposed for implementation in the Blueprint in order to realize the Economic Community, in effect, the 62 measures listed under the 17 core elements that make up section “II. Characteristics and Elements of AEC,” which is the pillar of the AEC, will be implemented. In particular, among the 17 core elements, the seven core elements of (1) free flow of goods, (2) free flow of services, (3) free flow of investments, (4) freer flow of capital, (5) free flow of skilled labor, (6) priority integration sectors, and (7) food, agriculture and forestry and their 32 items/measures are cited as the means to realize “a single market and production base,” which is the core of the AEC. Among the 62 items/measures listed in section “II. Characteristics and Elements of AEC,” which are considered to be the measures that need to be implemented to realize the AEC, more than half of the measures have been classified as representing a specific field in which ASEAN has placed the most emphasis.

Is ASEAN aiming to construct an economic community that is similar to the type of economic community that has been advanced and built by Europe? In 1957 Europe signed the Treaty establishing the European Economic Community, known as the Treaty of Rome, and aimed to set up of a Customs Union and a Common Market as well as to homogenize their economic policies. In 1968, 11 years after the signing of the Treaty of Rome, Europe liberalized the movement of goods and created a Customs Union that adopted common external customs policies. However, it took another quarter of a century before Europe was able to achieve a Common Market that allowed the free flow of services, capital and people in Europe. Moreover, it was only in 1993 that Europe signed the Maastricht Treaty, leading to the realization of the Common Market.

Furthermore, in December 2009, the Treaty of Lisbon took effect and consolidated the three pillars of European policy stated in the Maastricht Treaty, the European Community (EC), the Common Foreign and Security Policy (CFSP) and the Police and Judicial Cooperation in Criminal Matters (PJCC), under the European Union. The treaty also took the “Community” a step further and made it a “Union.” In conjunction with these developments, the EU was conferred a single international legal personality and its foreign policies were unified. Additionally, an EU President has been elected, and the Union has taken a giant step from its initial economic integration to political integration.

Former ASEAN Secretary-General, Mr. Severino, stated in his memoirs that, “The ASEAN Economic Community may be evocative of the European Economic Community (EEC) but this does not necessarily mean that the ASEAN Economic Community will achieve the same levels of political and economic integration achieved by Europe today.”

For example, the ASEAN Free Trade Area (AFTA), which is a key element in ASEAN’s economic integration, aims to eliminate intra-regional tariffs by 2010 for the



Table 1 Framework of the ASEAN Economic Community

Chapter	Characteristics/ Elements	Core Elements	Breakdown of all 77 items/measures			
I.	<b>Introduction</b>		Total 4	4		
	<b>Characteristics and Elements of the AEC</b>			4		
	A) Single market and production base				1	
			(1) Free flow of goods		10	
			(2) Free flow of services		3	
			(3) Free flow of investments		8	
			(4) Freer flow of capital		2	
			(5) Free flow of skilled labor		2	
			(6) Priority Integration Sectors		3	
		(7) Food, Agriculture and Forestry		3		
	II	B) Competitive region		Total 62	1	
					(1) Competition policies	1
					(2) Consumer protection	3
					(3) Intellectual property rights	12
			(4) Infrastructure development		1	
			(5) Taxation		1	
		(6) E-commerce	1			
C) Equitable economic development			(1) SME development		1	
			(2) Initiatives for ASEAN Integration		3	
D) Integration into the global economy			(1) External economic relations		1	
		(2) Participation in the global supply network		1		
III	<b>Implementation</b>		Total 11	3		
	A) Implementation mechanism			5		
	B) Resources			1		
	C) Communications			1		
	D) Review			1		

Source: Prepared by the author based on the ASEAN Economic Community Blueprint

six original ASEAN member states and by 2015 for the four new member states. However, it will be difficult for ASEAN, whose member states vary widely in terms of their economic levels and scale, to become a Customs Union similar to Europe, which has adopted common external customs policies. The following reasons for this are offered as support for this claim.

First, as a condition for the Regional Trade Agreement (RTA), which is the basis for the exceptional treatment under the most favored nation treatment rules of WTO's GATT, the, "barriers against extra-regional countries and regions are not to be raised (compared to

the period before the conclusion of the RTA).” Whether ASEAN, which includes members such as Singapore which has income levels that are higher than Japan and is the only developed country in ASEAN, is to be treated as an exception under the RTA through WTO’s Enabling Clause is a matter that is open for discussion. However, even if the Enabling Clause is not applied, if ASEAN is to become a Customs Union, the other member states would have to align themselves with Singapore, which has the lowest tariffs in the region. Singapore has eliminated tariffs on all items except for six, one of which is alcoholic beverages. However, some countries in ASEAN still depend on tariffs for their national income. For example, according to the WTO,<sup>3</sup> whereas in most ASEAN member states the percentage of income from tariffs to total tax revenue is in the single digits (Indonesia: 4.6 percent, Malaysia: 5.4 percent and Thailand: 6.8 percent), in the Philippines income from tariffs accounts for 22.0 percent and in Cambodia 26.7 percent of total tax revenues, which represent a vital revenue source for the national budget. Consequently, the alignment of tariff levels with Singapore would be unacceptable to such countries as it would signify a substantial loss of revenue in the national budget. For this reason it would be unrealistic for ASEAN to go beyond the AFTA and attempt to form a Customs Union.

Furthermore, regional integration that enables the free flow of goods, services, capital and natural persons is generally referred to as a “common market,” but in the case of the ASEAN Economic Community, the Common Market is far from satisfactory. In the

*Table 2* Percentage of Tariffs to Total Revenue in the National Budget of ASEAN Countries

		Percentage of tariffs	Period
ASEAN	Thailand	6.8	2005 to 2007
	Malaysia	5.4	2001 to 2003
	Indonesia	4.6	2001 to 2003
	Philippines	22.0	2005 to 2007
	Singapore	0.1	2005 to 2007
	Brunei	n.a.	—
	Cambodia	26.7	2004 to 2006
	Laos	n.a.	—
	Myanmar	n.a.	—
	Vietnam	n.a.	—
(Reference)	China	6.6	2004 to 2006
	Japan	1.0	2004 to 2006

*Source:* Prepared by the author based on World Tariff Profiles 2009 (WTO)

area of trade in services (details are provided below), the scope of liberalization is limited compared to the liberalization in Europe. In the liberalization of trade in services, Mode 1 (Cross-border supply) and Mode 2 (Consumption abroad) are to be completely liberalized, while Mode 3 (Commercial presence), which refers to investments in services, is to be liberalized gradually but not completely. Furthermore, in terms of the free movement of natural persons, the Blueprint only proposes to “facilitate the movement of business persons, skilled labor and persons with talents” and does not aim for complete liberalization.

AEC, on the other hand, is more of an “AFTA-plus,” with AFTA at its core and the partial advancement of the liberalization of related measures, and the scope of its liberalization and facilitation is rather similar to the Economic Partnership Agreement (EPA) promoted by Japan (Ishikawa, 2009). ASEAN is building a moderate Economic Community that is different from the Common Market that has been realized by Europe.

### **1.3. Will the ASEAN Economic Community Materialize by 2015?**

In order to create the Economic Community by 2015, ASEAN has designated the eight years from 2008 to 2015, broken up into four two-year intervals, drawn up an ambitious schedule in the AEC Blueprint to implement the necessary measures in stages and has begun to implement these measures. One of the biggest challenges facing the realization of the AEC has been assuring the effectiveness of the various measures. In the past, each country, despite delays, has reduced its tariffs for the purpose of realizing the AFTAs, while delinquent countries have been implementing measures such as the retroactive application of tariff reductions to the day on which tariff reduction was to have taken place, in order to remain in compliance with the schedule.

In many cases, adjustments to existing national laws and amendments to such laws have become indispensable to the implementation of the measures required for the creation of the Economic Community, including the free movement of services and natural persons. At the same time, time-consuming procedures that substantially exceed the tariff reduction measures and adjustments with interested parties have also become necessary. ASEAN, unlike the EU, has not handed over sovereignty in its market integration and consequently even matters involving the entire ASEAN community cannot be decided without ratification by the member states.

Furthermore, one can imagine that penalties would be necessary to encourage the implementation of such measures. The Report by the Eminent Persons Group, which later became the original draft for the ASEAN Charter, included the passage, “in the case of serious breaches of ASEAN’s objectives, major principles, or commitments to important agreements, ... measures shall be taken to suspend any rights and privileges of membership, including expulsion.” However, the ASEAN Charter that went into force in December 2008 contained no such passage and merely stated, “in the case of a serious breach of the Charter, the matter shall be referred to the ASEAN Summit for decision.” No mention is made of

the measures to be taken in the event of noncompliance with the agreement.

Presently, there is no decisive factor that encourages the implementation of the measures, and thus, the member states will have no choice but to resort to peer pressure, such as using the AEC Scorecard, which keeps track of the progress of each member state in terms of the measures it has implemented.

The next section will focus on the measures relating to the free movement of goods and services, which is considered to be at the core of “the single market and production base” and constitutes the most symbolic and concrete measures of the AEC. In addition, the progress being made will also be examined.

## **2. “AFTA,” the Driving Force behind the Single Market and Production Base**

### **2.1. AFTA: Reborn as the Highest Quality and Most-utilized FTA**

The AFTA, which has been positioned as the key element of the ASEAN Economic Community, commenced in conjunction with the signing of the Common Effective Preferential Tariffs for ASEAN Free Trade Area (CEPT-AFTA) Agreement at the ASEAN Economic Ministers Meeting held in Singapore on January 28, 1992 by the five member states at that time. Tariff reductions began in the following year, and initially, the goal was to lower the tariffs on all items on the Inclusion List (IL) to 0-5 percent by 2008. Since then, ASEAN has accelerated its integration in the face of major changes in the external environment, including the Asian Economic Crisis in 1997. It has also set new goals and maintained its centripetal force in terms of attracting foreign investments under the motto of “ASEAN centrality.” The original ASEAN member states achieved the reduction of tariffs to 0-5 percent on the IL items in 2003, five years ahead of schedule and eliminated tariffs on almost all IL items in 2010. The new ASEAN member states have also been steadily lowering their tariff levels with the aim to eliminate them by 2015.

According to materials from the ASEAN Secretariat, the simple average tariff rate based on the AFTA of the ASEAN member states (although there were only five member states at that time) was 12.76 percent in 1993. In 2003, after the original ASEAN member states achieved tariff rates of 0-5 percent on IL items five years ahead of schedule, it was 2.39 percent; in 2009, it was further lowered to 0.79 percent, and it is currently almost 0 percent.<sup>4</sup>

Until recently, the AFTA has been described by critics as “a low-quality FTA” and “an unutilized FTA.” However, judging from the fact that the percentage of IL items to total number of items (liberalization ratio based on the number of items) was 99.2 percent in 2009 for the entire ASEAN and nearly 100 percent in 2010, AFTA has one of the smallest amounts of excepted items and thus may be considered to be an FTA of the highest quality. Furthermore, tariffs in the original six member states have been eliminated on almost all items.

Moreover, as a result of the falling levels of AFTA preferential tariff rates among the

ASEAN countries and flexible interpretation of the Rules of Origin (to be explained below), AFTA has become the most utilized FTA in the Asian region. The decision to utilize the FTA on the export side will depend on (1) whether the export products are exempt from payment of import duties at the export destinations through investment benefit schemes; (2) the size of the preferential margin (difference between the FTA preferential tariff rates and the MFN tariff rates); and (3) whether the volume of exports are commensurate with the procedural costs involved; and upon consideration of the above, (4) whether the said export product satisfies the Rules of Origin.

In this section we will examine the status of the AFTA with special emphasis on factors (2) and (4) above. According to a survey conducted by JETRO in 2009, the preferential margin at which Japanese-affiliated companies operating in ASEAN would decide in favor of using the FTA was, on the average, 5.2 percent. AFTA's average preferential margin, calculated for each item based on materials from the ASEAN Secretariat was 6.5 percent (2009, excluding Philippines), which exceeds the preferential margin of 5.2 percent indicated by the Japanese-affiliated companies (the average MFN tariff rate was 8.5 percent, whereas the average AFTA preferential rate was 1.9 percent), and thus, it may be said that the necessary conditions are in place for AFTA utilization.

As of 2009, the percentage of items with an average preferential margin exceeding 5.2 percent among the original ASEAN member states was a maximum 37.4 percent in Thailand, followed by 34.9 percent in Malaysia and 30.0 percent in Indonesia. Since the new ASEAN member states generally tend to have higher MFN tariff rates, their preferential margins also tend to be larger. In 2010, the original ASEAN member states will have eliminated AFTA preferential tariffs on almost all of their items, and consequently, the percentage of items with preferential margins of 5.2 percent or above is expected to further increase. Meanwhile, in Cambodia nearly half of its products, i.e. 49.6 percent of the items, and in Vietnam, which is attracting attention as an emerging market, 43.4 percent of its items have average preferential margins exceeding 5.2 percent. However, in many cases the export volume to the new member states is not enough to compensate for the costs involved in obtaining the Certificate of Origin, and in such cases regular export procedures, without utilizing the AFTA, are followed.

Meanwhile, in order to qualify for AFTA preferential tariff rates, products must originate from the ASEAN Free Trade Area, and whether a product has originated from AFTA is decided by the Rules of Origin. The Rules of Origin have become the key to facilitating intra-regional trade, but the nature of these rules is such that, depending on how they are implemented, they could very well become non-tariff barriers that hinder free trade. Until recently, the AFTA Rules of Origin required "ASEAN added value standards (RVC) of 40 percent or more." The added value standards had the disadvantage of possible fluctuations in the regional value content (RVC), such as fluctuations in exchange rates and raw material expenses or sudden drops in the price of electrical appliances due to shortened product cycles. For this reason, one company has said that it cannot use the AFTA unless it

Table 3 Tariff Rates and Preferential Margins in ASEAN Countries

Country	Total number of items	Average preferential margin	
			≥5.2 % (Percentage)
Thailand	8,301	10.7	37.4
Indonesia	8,737	6.0	30.0
Malaysia	12,332	7.9	34.9
Philippines	8,874	—	—
Brunei	10,702	4.1	21.8
Singapore	8,316	0.0	0.0
Original ASEAN member states	57,262	5.8	25.5
Vietnam	8,300	8.8	43.4
Cambodia	10,689	9.1	49.6
Laos	8,300	8.6	42.2
Myanmar	10,689	3.3	19.6
New ASEAN member states	37,978	7.3	38.1
ASEAN10	95,240	6.5	31.0

Note 1: MFN tariff rates are for 2008. AFTA tariff rates are for 2009. (2008 for Malaysia only)

Note 2: Preferential margin for the Philippines cannot be calculated as it does not release the MFN tariff rates.

Source: Prepared by the author based on the Consolidated 2008 CEPT Package

could be assured of a 5-10 percent buffer to cover these fluctuations. Moreover, companies are required to manage the RVC of each of their models, further adding to the cost burden, particularly for companies that maintain numerous models.

ASEAN, in order to maintain and secure its “unifying force” in East Asia, has begun to ease some of the Rules of Origin conditions in the belief that a transition to a set of Rules of Origin that does not hinder transactions and offers the highest-level of freedom is indispensable. Until recently, the use of Change in Tariff Classification (CTC) was limited to particular areas such as wood products, aluminum products and products in the priority integration areas. However, from August 2008, the general provisions of the Rules of Origin have allowed companies the option to choose either RVC or CTC. Now that companies have been given additional options, it has enabled a broader range of procurement and, depending on the industry segment, the opportunity to reduce administrative costs associated with the Rules of Origin.

Certain ASEAN countries, such as Thailand, have disclosed the amount of exports for which it has issued Certificates of Origin (Form D). Consequently, based on these figures, it is possible to calculate the export-based AFTA utilization rates. When we



exclude Singapore, which, having eliminated import duties on all but six items, does not require AFTA use, Thailand's AFTA utilization rate in exports to ASEAN jumped from a mere 6.4 percent in 2000 to 20 percent in 2006 and further increased to 26.8 percent in 2008. Particularly, in terms of Thailand's exports to Indonesia, the AFTA is utilized at a rate of over 60 percent, making it an often utilized FTA.

## **2.2. Reduction and Elimination of Non-tariff Measures for the Purpose of Liberalizing Trade in Goods**

ASEAN has been promoting trade in goods by aiming to lower or eliminate tariffs. However, despite progress being made on the surface through measures such as tariff reductions, the presence of business practices and measures that hinder trade could inhibit the economic effects of the AFTA. Such measures are referred to as non-tariff measures or barriers, and even certain non-tariff barriers such as sanitary and phytosanitary (SPS) measures that have been approved by the WTO for safety and health reasons could become non-tariff barriers that hinder free trade if they are implemented arbitrarily.

The ASEAN Secretariat, in order to enhance the transparency of non-tariff measures, has been engaged in forming procedures for various measures by requesting reports on the various non-tariff barriers of each country, classifying non-tariff measures into the three categories of red, yellow and green<sup>5</sup> and preparing a list of non-tariff measures after cross-checking them with the measures of other member states.<sup>6</sup> In terms of non-tariff measures and/or barriers, the original ASEAN member states, with the exception of the Philippines, are to remove all non-tariff barriers by 2010 under the principles of Standstill (no introductions of new trade restriction measures) and Rollback (gradual reduction and removal of existing trade restriction measures). The Philippines is to remove such barriers by 2012, and the new ASEAN member states, under flexible conditions, are to remove them by between 2015 and 2018. The ASEAN Trade in Goods Agreement (ATIGA), which was signed in February 2009 as a new framework to replace the AFTA-CEPT Agreement, proposes to eliminate non-tariff measures in three tranches, once every year starting from the year three years prior to the elimination deadline.

In order to determine the percentage of items subject to non-tariff measures, Ando (2009)<sup>7</sup> conducted an analysis using the "frequency ratio," which indicates the scope of application of non-tariff measures. Non-tariff measures are divided into core and non-core measures. Core measures are non-tariff measures that could directly or explicitly become trade barriers such as price controls, finance measures and quantity control measures, and non-core measures are non-tariff measures that could indirectly become trade barriers through arbitrary administration. While describing the characteristics of non-tariff measures, Ando points out that nearly half of the items (49 percent) are subject to direct/explicit non-tariff measures, including measures that could become hidden trade barriers. Ando also points out that a complex form of protection exists in that approximately 10 percent of the items are subject to both core and non-core non-tariff

measures and that judging from the fact that the frequency ratios for non-core measures were higher than for core measures (core: 27 percent, non-core: 32 percent), non-core measures, which are liable to become trade barriers through arbitrary administration, were more widely used, indicating the strong likelihood for the existence of hidden methods of protectionism.

Unlike the reduction and/or elimination of tariffs, non-tariff measures include explicit import quantity restrictions such as import quotas and non-automatic licensing, while also being subject to technical measures such as safety/industrial standards, health regulations/quality standards, and SPS measures. In many cases, the reduction and/or elimination of these non-tariff measures will take time as it will be necessary to make amendments to national laws, in addition to the strong opposition anticipated from consumer groups from the standpoint of safety. Therefore, the reduction and/or elimination of non-tariff measures according to the schedule agreed to in the ATIGA will be extremely difficult.

Indonesia, going against the tide of liberalization, has increased its administration of non-tariff measures. In anticipation of the elimination of tariffs in 2010 based on the AFTA and ASEAN-China FTA (ACFTA), concerns have been raised by domestic industries about the flow of inexpensive Chinese products into Indonesia just before the tariffs are eliminated. Bowing to pressure from the business community, the government has started to use every non-tariff measure imaginable, including the strict enforcement of National Standard (SNI) requirements, considerations for health, safety and the environment, intellectual property rights measures, anti-dumping measures and safeguards, and it has indicated its intention of preventing an influx of import goods.

ASEAN recognizes that the reduction and/or elimination of non-tariff barriers is indispensable to the liberalization of trade, and the efforts being made by ASEAN to eliminate non-tariff measures, primarily those classified as “Red,” are certainly commendable. On the other hand, there are also concerns that the excessive protectionist measures being implemented and introduced by countries such as Indonesia could spill over into neighboring countries and damper ASEAN’s economic integration.

### **3. Current Efforts Being Made Toward the Liberalization of Trade in Services and the Tasks at Hand**

#### **3.1. Disparities in the Level of Liberalization According to the Type of Service**

Trade in services, depending on its form, can be divided into four categories: Mode 1 (Cross-border supply) and Mode 2 (Consumption abroad), which are relatively easy to liberalize, Mode 3, which represents investments in the services field, and Mode 4, which refers to the movement of laborers. ASEAN’s efforts toward the liberalization of services began with the ASEAN Framework Agreement on Services (AFAS) in 1995.

In the AEC Blueprint, not all service sectors and forms under AFAS are to be

*Table 4* Current Application of Non-tariff Measures in the ASEAN Nations (Frequency Ratio)

	Total	Core	Non-core
Brunei	45.5	29.1	32.2
Indonesia	100.0	44.9	100.0
Malaysia	43.1	36.0	21.0
Philippines	100.0	4.8	100.0
Singapore	27.2	21.3	14.1
Thailand	10.9	3.7	8.7
Cambodia	5.9	4.0	3.5
Laos	19.9	—	19.9
Myanmar	100.0	100.0	7.9
Vietnam	33.8	21.9	13.9
Total ASEAN	48.6	26.6	32.1

*Source:* Ando (2009)

completely liberalized by 2015. Complete liberalization has been targeted for Modes 1 and 2, but the liberalization of Modes 3 and 4 are not necessarily intended to be fully liberalized. Although the basic approaches vary by country, ASEAN, in order to protect its frail domestic services industry, has not been as aggressive toward the liberalization of this field as it was toward the trade in goods until recently, and it has been wary of complete liberalization in general.

In regards to Mode 3, foreign capital restrictions are to be eased by first dividing the services industry into (1) the four priority sectors (air transport, e-ASEAN, health care and tourism), (2) logistics and (3) all other services. AFAS requires each member state to achieve the ultimate goal of allowing “foreign equity participation of 70 percent or more.” As an initial step, “foreign equity participation of 51 percent or more” is to be achieved in the four priority sectors by 2008 and by 2010 in logistics and all other service sectors. The ultimate goal of “foreign equity participation of 70 percent or more” is to be achieved for each sector by 2010, 2013 and 2015, respectively.<sup>8</sup>

In light of the above, the complete liberalization of Mode 4 is obviously too much to hope for. The disparity in income between Singapore, with the highest income level in the region, and Myanmar, with the lowest, is nearly 87 times.<sup>9</sup> Under such circumstances, the liberalization of Mode 4 could potentially destroy the industrial structure and working environment of the each nation. For this reason the movement of natural persons upheld in the AEC Blueprint is limited to “skilled labor.” In particular, it refers to the free movement of skilled labor within the region for qualified workers in certain sectors based on the ASEAN Mutual Recognition Agreement (MRA). However, it should be noted that

*Table 5* Schedule for Easing Restrictions on Foreign Capital Participation in ASEAN Mode 3 Trade in Services

	Total number of sectors (Minimum)	Four priority sectors	Logistics services	Other services	Architectural services
2006	55	Not less than 49%		Not less than 30%	
2007					
2008	65	Not less than 51%	Not less than 49%		Not less than 51%
2009	80				
2010		Not less than 70%	Not less than 51%		
2011					
2012		100	Not less than 70%	Not less than 70%	
2013	120				
2014					
2015		Not less than 70%			

*Note 1:* The four priority sectors are air transport, e-ASEAN, tourism and logistics.

*Note 2:* Other restrictions on market access in Mode 3 are to be lifted by 2015 in stages.

*Source:* Prepared by the author based on ASEAN Integration in Services (ASEAN Secretariat)

none of these MRAs have yet to go into force. Other “movements of natural persons” mentioned in the Blueprint are limited to the promotion of issuing visas and working permits for professionals and skilled labor.

### **3.2. Forms Taken by the Negotiations for the Liberalization of Trade in Services under AFAS**

The World Trade Organization (WTO) has divided the services industry into twelve sectors and 155 sub-sectors. In a move similar to the General Agreement on Trade in Services (GATS) by the WTO, ASEAN has been promoting the liberalization of the services industry on the basis of the positive list method. The positive list method involves the creation of a list of the sectors that are to assume the basic obligations of liberalization, including market access and national treatment. This method promotes liberalization by leaving the expansion of the scope of liberalization and enhancement of liberalization measures to future negotiations. Under Article 16, “Market Access,” in GATS, unless otherwise noted in the country’s schedule of commitments, the six measures of (1) limitations on the number of service suppliers, (2) limitations on the total value of service transactions or transaction assets, (3) limitations on the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units, (4) limitations on the total number of natural persons who are necessary for providing

services and directly engaged in providing services, (5) limitations on specific types of legal entities through which service suppliers can supply services, and (6) limitations on the participation of foreign capital, cannot be adopted.

If some kind of restriction will be established in the schedule of commitments for the liberalization of trade in services or if a commitment will be undertaken that limits liberalization, the specific restriction is to be stated in the Horizontal Commitments or the Sector-specific Commitments. If none of the six types of measures are to be adopted, “None” is to be entered, and if no commitments are undertaken, “Unbound” is to be entered.

Although WTO members, pursuant to GATS, have submitted their schedule of commitments to the WTO, AFAS represents a “GATS-plus” that provides ASEAN member states with liberalization that exceeds the liberalization they committed to in GATS. The first round of negotiations for the liberalization of trade in services in ASEAN was conducted from 1996 to 1998. In the third round of negotiations that began in 2002, the “ASEAN minus X” method<sup>10</sup> was adopted, which allowed the liberalization of certain sectors to be accelerated prior to the deadline. The Protocol to Amend the ASEAN Framework Agreement on Services (AFAS), which was signed at the ASEAN Economic Ministers Meeting in September 2003, stated that this method would allow bilateral or multilateral negotiations among the member states and that agreements could be reached on the liberalization of specific sectors and sub-sectors. Moreover, in the case of liberalization between specific countries, the decision to apply preferential treatment to other member states will be left to the discretion of those countries involved in the discussions.

Furthermore, it also stated that when a member state is incapable of fulfilling its commitments agreed to in the previous round of negotiations, it could be barred from participating in the next round of negotiations and that member states incapable of committing to sub-sectors agreed upon in the negotiations could substitute other sectors instead. Thus, this method promoted liberalization with a certain amount of flexibility, as indicated by its stance of allowing liberalization appropriate to the situation of each country.

The fifth round of negotiations has been concluded, and a total of seven packages of services commitments, excluding air transport and financial services, have been approved. Currently, the sixth round of negotiations has begun, and the eighth package of services commitments is currently being discussed. The Blueprint states that a liberalization schedule will be drawn up by taking up between seven to twenty new sectors as targets for liberalization every two years until 2015, which is the target year for the realization of the Economic Community.

### **3.3. Liberalization of Investments in the Services Sector**

Since Mode 1 (Cross-border supply) and Mode 2 (Consumption abroad) are relatively easy to liberalize, liberalization in the services sectors seems to be progressing

Table 6 ASEAN's Approach to the Liberalization of Trade in Services

	Services		Air transport service	Financial services	
	Negotiation round	Negotiation method			
1996	Round (Request and offer)	Request and offer method	1st Package (AEM)		
1997			2nd Package		
1998					
1999	Round 2	Common sub-sector method (agreement on a sector by 4 or more nations)	3rd Package		
2000					
2001					
2001	Round 3	Amended common sub-sector method (agreement by 3 or more nations/introduction of ASEAN-X method)	2nd Package (AFM)		
2003					
2004			4th Package	4th Package (ATM)	
2005	Round 4	5th Package	3rd Package		
2006					
2007	Round 5 (+10 Sub-sectors)		6th Package	5th Package	4th Package
2008			7th Package	6th Package	
2009					
2010					
2011	Round 6 (+15 Sub-sectors)				
2012	Round 7 (+20 Sub-sectors)				
2013					
2014	Round 8 (2014:+20, 2015; +7)				
2015					

Note 1: The number of sub-sectors to be added indicates the minimum target number.

Note 2: AEM: ASEAN Economic Ministers Meeting, AFM: ASEAN Finance Ministers Meeting,

ATM: ASEAN Transport Ministers Meeting

Source: Prepared by the author based on ASEAN Integration in Services (ASEAN Secretariat)

more smoothly when looking at the liberalization of the individual packages. However, when we focus on Mode 3, which represents the commitment schedule for investments in the services sector, in spite of the AEC Blueprint's intention to lift restrictions on the market access of Mode 3 by 2015 in stages, it is evident that many countries remain apprehensive toward undertaking such commitments for liberalization. A comparison between the AFAS 7<sup>th</sup> Package, which was signed in February 2009, and the GATS commitment schedule was done to ascertain the Mode 3 liberalization status of the four major ASEAN nations (Thailand, Malaysia, Indonesia, and Singapore). As liberalization negotiations are currently under way as part of the AFAS for financial services (12 sub-sectors) and air transport services (5 sub-sectors), a total of 138 sub-sectors, excluding the 17 sub-sectors currently under negotiation, were subject to the comparison.



The Schedule of Services Commitments is comprised of the “Limitations on market access,” “Limitations on national treatment,” and “Additional Commitments.” From the standpoint of measuring market accessibility, this section will focus on “Limitations on market access” and examine the liberalization status of each country.

In this section, the extent to which each country has committed to the liberalization of the trade in the services sector as “the Coverage of Sub-sector Liberalization” and the extent of liberalization as “the Levels of Liberalization” have been quantified.<sup>11</sup> The Coverage of sub-sector Liberalization shall be 1.00 point if all 138 sub-sectors are subject to the commitments. Points shall be deducted if commitments have been undertaken but only cover a portion of the sub-sectors. For example, if partial commitments have been undertaken in all 138 sub-sectors, then the country would be given 0.50 points. Furthermore, the average level of the liberalization of the Coverage of sub-sector Liberalization shall be 1.00 point if the sub-sectors to which commitments have been made are “not limited,” and points shall be deducted if certain conditions apply. The Mode 3 Overall liberalization rating is then calculated by multiplying each index. If the country has completely liberalized all service sectors, then it is given a score of 1.00 point.

Under GATS, the Coverage of sub-sector Liberalization is extremely limited for each country, in the range of 0.1-0.3 points. On the other hand, under AFAS, coverage in all four countries was between 0.3-0.5 points. Particularly in Indonesia, where the Coverage of sub-sector Liberalization under GATS is the smallest among the four countries, coverage under AFAS was the largest among the countries compared. In Indonesia, the sectors in which Mode 3 liberalization has been provided to ASEAN nations as “GATS-plus” under AFAS are infrastructure-related, such as telecommunications, architectural engineering, marine transport and land transport, while in Malaysia, the computer-related sectors, including IT-related technology, the architectural engineering, and the education sectors have been opened up to the other ASEAN member states. In Singapore and Thailand, sectors such as the distribution sector have been liberalized, with Singapore achieving its “GATS-plus” commitments in warehousing, wholesale, retail and franchising, and with Thailand doing so in wholesale and franchising.

Looking at the Levels of Liberalization of each commitment sub-sector, it is evident that Singapore and Thailand already maintain high levels of liberalization without attaching many conditions, even in the commitment sub-sectors under GATS. Consequently, for these countries, AFAS has not necessarily meant a higher level of liberalization. Indonesia, on the other hand, recorded a significant increase from 0.54 points to 0.64 points. All four nations recorded increases in the Overall liberalization rating, which was due mainly to the increases in the Coverage of Sub-sector Liberalization.

### **3.4. Tasks Facing the Liberalization of Investments in the Services Sector**

The ASEAN nations intend to gradually ease the restrictions on foreign capital ownership for other member states in the region to allow for foreign capital ownership of

*Table 7* Degree of Liberalization of Mode 3 Trade in Services

	GATS			AFAS		
	Coverage of sub-sector Liberalization	Levels of Liberalization (Commitment sub-sectors)	Overall Liberalization Rating	Coverage of sub-sector Liberalization	Levels of Liberalization (Commitment sub-sectors)	Overall Liberalization Rating
Indonesia	0.16	0.54	0.09	0.46	0.64	0.29
Malaysia	0.23	0.57	0.13	0.32	0.55	0.17
Singapore	0.18	0.71	0.13	0.37	0.70	0.26
Thailand	0.28	0.69	0.19	0.41	0.68	0.28

*Note 1:* “Average level of commitment sub-sector” refers to the level of liberalization in the sub-sectors for which the commitments have been made (Maximum 1.00 point).

*Note 2:* “Commitment sub-sectors” refer to the scope of the service commitments made to the total 138 sub-sectors (Maximum 1.00 point).

*Source:* Prepared by the author based on the AFAS 7th Package (WTO)

*Table 8* Status of GATS-plus in the Trade in Services (Mode 3) of Major ASEAN Countries

Indonesia	Telecommunication services, architectural engineering, education services, health/social services, tourism/travel services, marine transport services, railway transport services, land transport services, etc.
Malaysia	Computer-related services, architectural engineering, education services, marine transport services, etc.
Singapore	Professional services, distribution services, health/social services, etc.
Thailand	R&D services, real estate services, rental services without driver, distribution services, entertainment/cultural/sports services, etc.

*Source:* Prepared by the author based on the AFAS 7th Package and GATS Services Commitments of each country

up to 70 percent by 2015. Despite the blueprint drawn up by ASEAN, certain government officials have already expressed concerns that timely implementation will be difficult. An official of the Department of Trade Negotiation, Ministry of Commerce of Thailand, has said that easing the restrictions on foreign capital participation would “require at least four to five years (from the agreed deadline),” and believed that schedule delays would be inevitable.<sup>12</sup> This is due mainly to two reasons: first, the existence of multilateral regulations applicable to trade in services in some of the service sectors, and second, the multiple remedial measures contained in AFAS.

For example in the case of Thailand, the Foreign Business Act, which was enacted in 1972 and amended in 1999, clearly specifies the industry segments for which there are restrictions on majority foreign ownership in the form of a negative list. Although numerous service sectors, including accounting/legal services, retail/wholesale business with capital of less than 100 million baht and the tourism, are listed under restricted businesses, broad restrictions also apply to entry into service sectors that are not clearly specified in the list but are included under “21. Other categories of service business” in List 3 of the Appendix.<sup>13</sup> In addition, in the education sector, two other related laws, the “Private School Act (2007)” and the “Private Higher Education Institute Act (2003),” restrict foreign ownership to less than 50 percent and require that at least half of the executives and, in applicable cases, the managing director be Thai nationals. Thus the liberalization of investments in the services sector proposed by AFAS will require revisions not only to the foreign investment laws but also to the above industry laws.

There is also a concern that the inherent flexibility of ASEAN is slowing the progress of liberalization. As stated above, when a member state is incapable of fulfilling the commitments undertaken in the previous round of negotiations, it could be barred from participating in the next round of negotiations. Moreover, when a member state is incapable of committing to the sub-sectors agreed upon in the negotiations, it can substitute other sectors. This flexibility and exemption measures has become, in effect, convenient escape routes for countries that are opposed to liberalization in certain specific sectors. There is also the problem of not being able to easily monitor progress and a limit to what can be achieved by peer pressure.

Meanwhile, investors find it hard to monitor the progress of the liberalization of services sectors due to the multiple flexibility measures, and there are also challenges to predicting when delinquent countries will start to liberalize, if at all. The “ASEAN minus X” method fails to set deadlines for the subsequent implementation of liberalization. ASEAN, with its economic disparities, may benefit from flexibility measures for a certain period of time, but in order to maintain its centripetal force in attracting investments, it will need to set liberalization deadlines in an explicit and unequivocal way as well as disclose the state of progress and future outlook to the extent possible in order to improve overall predictability.

### **3.5. The Effectiveness and the Extent of Benefits from the Liberalization of Investments through the Promotion of AFAS**

As stated above, ASEAN has been promoting the liberalization of the services trade under AFAS. The caution is required as the services commitments under GATS do not necessarily translate into liberalization that extends beyond the actual situation. Earlier when we quantified the extent of the liberalization of investments in the services trade under AFAS, Singapore and Malaysia, the countries with the highest economic levels among the four countries, ended up with Overall Liberalization Ratings that were lower than the other two countries. In the past, Malaysia has demanded a minimum of 30 percent Bumiputra ownership in many of its services sectors. However, this is also an indication that the ultimate goal of “easing of restrictions to allow 70 percent foreign ownership” has been achieved in many of the services sectors. Furthermore, in April 2009, the 30 percent Bumiputra ownership restrictions were lifted and liberalized in 27 services sectors.

Singapore, on the other hand, only maintains its foreign ownership restrictions in specific sectors such as financial services, insurance, and media/broadcasting,<sup>14</sup> while in all other sectors 100 percent foreign ownership is permitted. Singapore, at present, has achieved almost complete liberalization. However, in terms of GATS and AFAS, it still maintains restrictions in a number of sectors. Consequently, even if Malaysia and Singapore were to make further progress in their services commitments under AFAS in the future, as they have already achieved levels of liberalization that go beyond the ultimate goals of ASEAN, liberalization under AFAS will have little or no impact.

In Thailand and Indonesia, on the other hand, where there are still restrictions on foreign ownership in numerous sectors, AFAS could play a major role in the liberalization of investments. Consequently, for ASEAN companies contemplating investments in these two countries, liberalization of investments in the services trade under AFAS could provide a vital breakthrough for entering these markets.

## **4. Conclusion: Establishment of the ASEAN Economic Community and the Role of Japan**

In the region of East Asia that includes ASEAN, the establishment of a greater economic bloc that spans the entire East Asian region is being considered. The two specific initiatives for the greater economic bloc currently being debated in the private sector and/or on the government level are the Comprehensive Economic Partnership in East Asia (CEPEA: ASEAN+6) led by Japan and the East Asia Free Trade Agreement (EAFTA: ASEAN+3) promoted by China and South Korea.

In order for Japan to develop the concept of the greater East Asia economic bloc into a broad-ranging and sophisticated initiative, it will need to actively participate in the establishment of the ASEAN Economic Community, which is targeted for completion by

integration. Although the Economic Community is targeted for completion by 2015, it is more than likely that the realization of measures other than tariff reduction measures will face difficulties in the road ahead. Currently, up to 16 nations are scheduled to take part in the greater East Asia economic bloc. Thus, measures that cannot be implemented by the ten ASEAN nations, which will be a majority of the participating countries in the economic bloc, will certainly not be possible to implement by the greater economic bloc. Consequently, the measures of the greater economic bloc will likely become the greatest common denominator of the measures of the ASEAN Economic Community or of the five ASEAN+1FTA of the five countries that have dialogues with ASEAN.

Therefore, in order for Japan to realize a higher level of integration in East Asia and bring the East Asia Community to fruition, providing active support to the ASEAN Economic Community is indispensable.

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<sup>1</sup> Ishikawa, K. Ed. by Ishikawa, K, Shimizu, K and Sukegawa, S. August 2009. ASEAN Economic Community and the Blueprint, *ASEAN Economic Community*.

<sup>2</sup> Severino, R.C. 2006. *Southeast Asia in Search of an ASEAN Community*. Singapore: ISEAS, p251, 344.

<sup>3</sup> World Trade Organization. 2009. *World Tariff Profiles*.

<sup>4</sup> ASEAN Secretariat. 2008. *Consolidated 2008 CEPT Package*. Jakarta.

<sup>5</sup> Non-tariff measures can be classified into three categories: red (Lacks transparency; the application is discriminatory and without scientific basis; if alternative measures that are less limiting exist, then the NTM are to be eliminated immediately), yellow (Is transparent; it is not discriminatory in its application in such a way that negates or incurs damages to the interested party or obligations of the country concerned; NTM that impacts the important trade goods of the region or the items of the nine priority integration areas and that cannot be clearly justified or determined to be barriers are subject to negotiation) and green (Is transparent; its application is not discriminatory; there are no alternative measures and it has a scientific basis; has been imposed for reasons of public health, religious or national security; and NTM that are consistent and reasonable, including phytosanitary quarantines and environmental regulations that have been recognized by the WTO, are to be justified and maintained). (Ishikawa, 2008)

<sup>6</sup> Ishikawa, K. 2008. ASEAN Non-tariff Barriers, *International Trade and Investment Quarterly*. Autumn 2008/No. 73.

<sup>7</sup> Ando, M, ed. by Ishikawa, K. Shimizu, K. and Sukegawa, S. August 2008. Non-tariff Measures and Trade/Investment Facilitation: Progress in the Establishment of the Community and Its Implications, ASEAN Economic Community.

<sup>8</sup> ASEAN Secretariat. 2009. *ASEAN Integration in Services*. Jakarta.

<sup>9</sup> World Economic Outlook (Oct.2009)IMF

<sup>10</sup> The "ASEAN minus X" method for trade in services began when Malaysia, the host country of the informal ASEAN Economic Ministers Meeting in July 2002, proposed that the "10 minus X principle" should be applied to the trade in services negotiations. This proposal has since become known as the "ASEAN minus X" method.

<sup>11</sup> "The Coverage of Sub-sector Liberalization," "the Levels of Liberalization (Commitment sub-sectors)," and "the Overall liberalization rating" have been calculated as follows using the GATS and AFAS Commitment Schedules.

(1) The Coverage of Sub-sector Liberalization: If all sub-sectors are subject to commitments then the country is given 1.0 point; if no sub-sectors are subject to partial commitments then the country is given 0.5 points; the sum of the scores for all sub-sectors is then divided by 138, which is the total number of sub-sectors (Maximum 1.00 point).

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(2) Levels of Liberalization (Commitment sub-sectors): If the sub-sectors in which commitments have been “51 percent or more foreign capital participation is allowed,” then the country is given 1.0 point. If the sub-sectors to which commitments have been made is unlimited then the country is given 0.75 point, if a portion is unlimited or partial conditions apply then it is given 0.5 points, if a portion is unlimited but partial conditions apply, then it is given 0.25 points and if no commitments have been made, then the country is given zero points; the sum of all the scores is then divided by the number of sub-sectors to which commitments have been made by the relevant country.

(3) Overall liberalization rating: Coverage of Sub-sector Liberalization x Levels of Liberalization (Commitment sub-sectors).

<sup>12</sup> In an interview conducted in December 2009.

<sup>13</sup> “Other services” are to exclude services specified in the ministerial regulations. However, no ministerial regulations have been issued to date so entry into such services is, in effect, prohibited.

<sup>14</sup> In these sectors shareholdings (shareholdings by individuals) and control (shareholding by a single investor or joint investors) are capped at 5-20 percent.



# 3 The ASEAN Socio-Cultural Community: Institutional Dynamics and Implications

Motoko Shuto

## 1. Introduction

According to the ASEAN Socio-Cultural Community (ASCC) Blueprint, which was adopted at the 14<sup>th</sup> ASEAN Summit in 2009, the ASCC envisages the following six elements: human development, social welfare and protection, social justice and rights, environmental sustainability, building the ASEAN identity, and narrowing the development gap between the ASEAN-6 countries and the CLMV (Cambodia, Laos, Myanmar, and Vietnam) countries. As the three pillars of the ASEAN Community are conceived to be “closely intertwined and mutually reinforcing,” as mentioned in the Declaration of ASEAN Concord II (Bali Concord II), it is of little use to compare the ASCC with the ASEAN Security Community (ASC) or the ASEAN Economic Community (AEC). Indeed, the success of parts of the agenda of the ASCC, such as poverty alleviation, protection from the negative impact of integration, and human development, would be crucial for the success of the AEC or stability of the ASC. Still, the ASCC has been discussed less than the ASC or the AEC. Why has the ASCC attracted less attention than the ASC or the AEC? This question may lead us to the core feature inherent within the ASCC.

There are at least four reasons why the ASCC has received less attention from the media and researchers. First, there is nothing particularly new in any of the ideas mentioned in the ASCC Blueprint. On the contrary, most agendas of the ASCC had been repeatedly written in declarations or other statements at ASEAN meetings. Some keywords have been common since the beginning of ASEAN, and especially since the ASEAN Vision 2020.

Second, related to this, almost all of the points mentioned in the ASCC agenda are actually what ASEAN has been committed to in the name of “functional cooperation” for decades with or without international cooperation. The functional cooperation of ASEAN has been a reality and ongoing process as well. In this respect, the major parts of the ASCC programs have been actually implemented under various ASEAN committees and related institutions. Therefore, it needs to be clarified how the proposed ASCC will be different from the existing functional cooperation programs of ASEAN in terms of objectives, institutional means, and policy process.

Third, though this may sound contradictory to the point above, most elements of the ASCC are nothing but the domestic agenda of national development and social welfare policies. In other words, most of the policy agenda of the ASCC has conventionally been

the responsibility of each state. Moreover, the “social and cultural integration” of the ASCC has been one of the utmost priorities of member countries in the domestic context up to the present. In this sense, it will be interesting to see if the ASCC can become a regional facilitator to promote a number of transnational public policy agendas related to human development and human security.

Fourth, perhaps partly due to the above reasons, compared with the case of the ASC or the AEC, the ASCC lacks academic experts who are willing to conceptualize and promote the vision of the ASCC to the public. It is well known that political and academic elites are the main proponents of the ASC and business groups are the direct stakeholders of the AEC. In parallel, the direct stakeholders for the ASCC would be the state and the people at large, though public attention to the ASCC is much less than the others.

Even if these are reasons why the ASCC has been discussed less than the ASC or the AEC, in the past several years civil society groups have set up new regional networks in order to conduct policy advocacy toward the formal ASEAN meetings. This will be, either directly or indirectly, significant for the prospects of the ASCC in the future, because the ASCC seems to largely depend on the role of, and relations with, such civil society groups within ASEAN, even though the primary actor of the ASCC is the state and the ASEAN organizations that primarily represent the member states.

Based on this general perception of the current situation, this paper discusses the current institutional dynamics, the process of existing functional cooperation, and the emerging or potential role of civil society groups for creating the ASCC.

## **2. Concept of the “ASEAN Socio-Cultural Community”**

In terms of the conceptual development of the ASCC, the concept of “a Community of Caring Societies” in the ASEAN Vision 2020 adopted in December 1997 at Kuala Lumpur was a remarkable step forward. It said that “(w)e envision the entire Southeast Asia to be, by 2020, an ASEAN community conscious of its ties of history, aware of its cultural heritage and bound by a common regional identity. . . . We envision a socially cohesive and caring ASEAN where hunger, malnutrition, deprivation and poverty are no longer basic problems, . . . and where the civil society is empowered and gives special attention to the disadvantaged, disabled and marginalized and where social justice and the rule of law reign.”<sup>1</sup>

Such a vision as “a socially cohesive and caring ASEAN” had never been addressed before as explicitly as in this Vision 2020. In this sense, this vision was a turning point toward a series of agreements directed toward an ASEAN Community. Subsequently, as is well known, ASEAN adopted the Hanoi Plan of Action (HPA) in 1998, the Declaration of ASEAN Concord II in 2003, and the Vientiane Action Programme (VAP) in 2004, and at the 14th ASEAN Summit on February 28 and March 1, 2009, the Blueprints for the ASEAN Political-Security Community (APSC) and the ASCC were adopted in Thailand.

The primary goal of the ASCC is, according to the Blueprint, “to contribute to realising an ASEAN Community that is people-centered and socially responsible with a view to achieving enduring solidarity and unity among the nations and peoples of ASEAN by forging a common identity and building a caring and sharing society.”<sup>2</sup> Clearly there is much in common with the concepts of the Vision 2020, with a few exceptions, such as the phrases “people-centered” and “socially responsible.” This is interesting in the sense that the concept itself has been evolving by absorbing new ideas. What is consistent in the idea of this ambitious goal is that the target of ASCC programs is human security, human resources, and social development in general.

### **3. Policy Sectors and Institutions of the ASCC**

The ASCC Council will be in charge of coordination of the overall implementation of ASCC projects. At the same time, all relevant ministers of the member states are responsible for the implementation of ASCC projects. Though there are six elements of the ASCC, as mentioned earlier, they can be classified into two types. One is a traditionally domestic policy agenda for which the state is primarily responsible, such as poverty alleviation, promoting education and health care, protecting and promoting the rights of women, youth, and children, preserving national art and cultural heritage, and so on. The other type of ASCC projects is policy agendas that are transnational by nature, such as environmental issues, transnational migration, and issues related to the building of an ASEAN identity and solidarity. Such transnational issues are beyond the capacity of any sovereign state alone. It needs collective efforts with shared goals and means to materialize a shared vision like an ASEAN identity based on the motto “One Vision, One Identity, One Community.”

For the former type of policy agenda, the ASCC Council is not likely to be an effective coordinator as long as the member states do not want any political sacrifice of sovereignty. For the latter type of transnational issues, the ASCC can, and should, become an effective facilitator and monitor for an ASEAN Community. However, such function as coordinator, facilitator, or monitor of ASEAN projects is actually what the ASEAN Secretariat has conducted so far. This being said, perhaps the major function of the ASCC is close to the principal part of the existing ASEAN itself. Regarding the budget for ASCC projects, however, it is important to note that each government runs its own budget individually.

With regard to the actors, the roadmap mentions that the ASCC will engage with “the dialogue partners, the private sector, civil society organizations and other relevant stakeholders.”<sup>3</sup> Along with this, the resource of policy implementation depends on these various actors who are involved with ASCC programs in addition to the ASEAN member states. The budget of the ASCC is appropriated by each government individually, but the ASEAN countries are allowed to ask for financial support from other external donors or

international organizations. This method of resource mobilization is almost the same as the reality of ASEAN at present.

On the other hand, in respect to institutionalization, a new momentum has already begun in Thailand since last year. Already formal meetings for the ASCC were held at the senior officials and ministerial levels in 2009. Though at the beginning the Philippine government was in charge of drafting the Action Plan of the ASCC, the Thai Ministry of Foreign Affairs hosted the senior officials meetings, namely, the ASCC Council Preparatory Meetings, at the director-general/senior official level twice in 2009. After the second senior officials meeting on August 22 and 23, the first ASCC Council meeting was held on August 24, 2009, in Bangkok. This was the first ministerial-level meeting of the ASCC since the ASEAN Charter came into effect in December 2008. The heads of various ministries, such as ministers of social affairs, ministers of culture, and ministers of community development, youth and sports, participated in the meeting.

This ministerial meeting adopted the ASCC Council's Rules of Procedure and the Communications Plan to promote the ASCC. In October, prior to the ASEAN Coordinating Council (ACC) meeting, the ASCC Council convened the meeting again and adopted two draft documents, one on education and the other on climate change. Subsequently, the "Declaration on Strengthening Cooperation on Education to Achieve an ASEAN Caring and Sharing Community" was adopted at the 15th ASEAN Summit in October 2009.

This declaration mentions a number of unusually concrete and, if they only wish to and have the funds, doable actions of member countries based on the shared perception that it is necessary to strengthen the role of education in building an ASEAN Community. They agreed, for instance, to promote better understanding of ASEAN through the school curriculum and by disseminating the ASEAN Charter translated into ASEAN national languages, conduct a regular school leaders' forum as a platform for the exchange of views on regional issues in ASEAN, develop a common content on ASEAN for schools, and so forth. This declaration also mentions several existing programs, such as the ASEAN School Tour, ASEAN Student Exchange Program, ASEAN Youth Cultural Forum, and ASEAN University Network (AUN).

This educational approach to the ASCC seems to be both practical and promising. It is practical because it does not demand much sacrifice of sovereignty, though it needs the cooperation of experts and a budget for the capacity development of teachers and researchers. Moreover, a number of regional networks have already been established with regard to education, especially higher education at the ASEAN level, as will be shown later. This is promising because the teaching of a regional identity through primary and secondary schools will certainly bring forth a positive output in the long term. One of the senior officials of the Department of ASEAN Affairs in the Ministry of Foreign Affairs of Thailand, who was involved in the preparation of this declaration, said, "Education is one of the most significant sectors that should be promoted to establish an ASEAN Community by 2015. It is necessary to build awareness of ASEAN identity among the people of ASEAN."<sup>4</sup>

Indeed, education is crucial to producing a regional identity in the long run. Now the ASCC Council has set the goal of ASEAN's education cooperation as the basis for building an ASEAN Community by 2015,<sup>5</sup> and there are a number of new interesting measures aimed at creating an ASEAN identity and imprinting human rights and environmental sustainability as well. Also, this second ASCC Council Meeting agreed to celebrate ASEAN Day (August 8) in schools, to establish an ASEAN educational research convention, and also to focus on cultural cooperation for the coming year. Thailand will take the initiative to produce a book on the common cultural aspects of ASEAN.<sup>6</sup>

With regard to the institutionalization of the ASCC, as of January 2010, there are 17 sectoral bodies under the ASCC Council (Table 1). However, according to the website of the ASCC, the following 13 sectors of ASEAN ministerial meetings are mentioned: Culture & Arts (AMCA<sup>7</sup>), Disaster Management (AMMDM<sup>8</sup>), Education (ASED<sup>9</sup>), Environment (AMME), Haze (AMMH), Health (AHMM), Information (AMRI<sup>10</sup>), Labor (ALMM), Rural Development (AMRDP<sup>11</sup>), Social Welfare & Development (AMMSWD), Women (ACW), and Youth (AMMY). Clearly the ASCC Council consists of a wide range of ministerial meetings. So far as the dynamics of SOMs and the ministerial meetings in 2009 are concerned, the ASCC Council meetings have much in common with the current procedure of having the SOMs prepare the drafts of the ministerial meetings and then prepare the final draft for the summit meetings. However, what is crucial from now on will be how innovatively these sectoral bodies can work to materialize a "people-centered ASEAN" in cooperation with civil society groups, local community groups, and other groups representing the people.

#### **4. ASCC and Achievements of ASEAN Functional Cooperation**

For discussing the prospects of the ASCC, it is important to review the achievements of the ASEAN functional cooperation projects so far in the sectors of human security and social development issues. ASEAN has already committed various socio-cultural programs for decades in all of the sectors mentioned above. Among the sectors pertaining to the ASCC, the four sectors below are of prominent significance and new dynamics seem to emerge.

**(Education)** One of the top priorities of the ASCC programs is education. It has been suggested that the teaching of ASEAN concerning its people, culture, history, language, and other knowledge could be included in national curriculums combined with an exchange of scholars, students, and artist programs.<sup>12</sup> Knowledge and understanding are essential to create a regional identity and solidarity, and for that purpose education and cultural cooperation should be one of the top priorities of the ASCC. Actually, the "Declaration on Strengthening Cooperation on Education," mentioned above, has much in common with the Joint Statement of the Fourth ASEAN Education Ministers Meeting in April (4<sup>th</sup> ASED),

*Table 1* ASEAN Sectoral Ministerial and Senior Officials Bodies under ASCC Council

1	ASEAN Ministers Responsible for Information—Senior Officials Meeting Responsible for Information
2	ASEAN Ministers Responsible for Culture and Arts --- Senior Officials Meeting Responsible for Culture and Arts
3	ASEAN Education Ministers Meeting ----- Senior Officials Meeting on Education
4	ASEAN Ministerial Meeting on Disaster Management --- ASEAN Committee on Disaster Management
5	ASEAN Ministerial Meeting on the Environment --- ASEAN Senior Officials on the Environment
6	Conference of the Parties to the ASEAN Agreement on Transboundary Haze Pollution (COP) ---- Committee under the COP to the ASEAN Agreement on Transboundary Haze Pollution
7	ASEAN Health Ministers Meeting ---- Senior Officials Meeting on Health Development
8	ASEAN Labor Ministers Meeting ---- Senior Labor Officials Meeting ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
9	ASEAN Ministers on Rural Development and Poverty Eradication Senior Officials Meeting on Rural Development and Poverty Eradication
10	ASEAN Ministerial Meeting on Social Welfare and Development Senior Officials Meeting on Social Welfare and Development
11	ASEAN Ministerial Meeting on Youth ---- Senior Officials Meeting on Youth
12	ASEAN Conference on Civil Service Matters
13	ASEAN Centre for Biodiversity
14	ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management
15	ASEAN Earthquakes Information Centre
16	ASEAN Specialised Meteorological Centre
17	ASEAN University Network

*Source:*

[http://www.news.gov.sg/public/sgpc/en/media\\_releases/agencies/mcys/press\\_release/P-20091021-1.html](http://www.news.gov.sg/public/sgpc/en/media_releases/agencies/mcys/press_release/P-20091021-1.html)

in which a five-year work plan was proposed for strengthening education cooperation within ASEAN and with the Dialogue Partners. At the same time the ministers tasked the ASEAN Secretariat to formulate the work plan, in close collaboration with the ASEAN University Network (AUN) and the Southeast Asian Ministers of Education Organization (SEAMEO).<sup>13</sup> Moreover, it was mentioned that “the Ministers were pleased with the progress of the assessment of ASEAN-related content in primary and secondary school curricula and instructional materials of ASEAN Member States to serve as a first-step toward developing a common curriculum framework.”<sup>14</sup> This proves that education cooperation has been in progress for some time.

In the context of higher education, the AUN was established in November 1995 for



the purpose of enhancing regional identity. Now the AUN, which consists of 22 universities, is one of the hub actors for regional cooperation in higher education. Now, like the European Credit Transfer System, the ASEAN Credit Transfer System (AUN-ACTS) has been institutionalized, and the ASEAN Student Exchange Program is also working. In the Vientiane Action Programme (2004–2010) it was recognized as a vital mechanism to promote cooperation among professionals in the region.<sup>15</sup>

In terms of primary and secondary education, SEAMEO, which was established in 1965, has a longer history than ASEAN itself. The function of SEAMEO, in reality, exactly overlaps that of the ASEAN Education Ministers Meeting (ASEM). For the sake of future institutional efficiency under the ASCC framework, such overlapping ministerial meetings should be merged into the ASEM, though SEAMEO is, of course, better known for its international cooperation, including with Japanese universities.

**(Culture)** This is one of the oldest, “most exciting and fulfilling”<sup>16</sup> sectors of institutional cooperation in ASEAN. At the first Meeting of the Committee on Culture and Information of ASEAN (ASEAN-COCI) in Manila in October 1978, the objective was to “promote effective cooperation in culture and information for the purpose of enhancing mutual understanding and solidarity among the peoples of ASEAN.” In December 1978, the ASEAN Culture Fund was established, and since then the COCI has carried out “over three hundred cultural and information projects throughout the region.”<sup>17</sup> The COCI adopted its own Plans of Action for Culture and Information, and its focus was continuously the promotion of ASEAN awareness, the development of ASEAN studies, the development of human resources, the preservation and revitalization of cultural heritage, and others.

Since the ASEAN Vision 2020 provided the objective of ASEAN becoming “a community conscious of its ties of history, aware of its cultural heritage and bound by a common regional identity,” the projects of the ASEAN-COCI have focused on the promotion of ASEAN awareness. Now the ASEAN anthem, “The ASEAN Way,” is already uploaded on the website. On the other hand, in the ASCC framework, the function of the ASEAN-COCI has been divided into the information sector and the culture and arts sector.

**(Environment)** Though the ASEAN Ministerial Meeting was established in 1981, it was only in the 1990s that environmental issues began to attract the serious attention of ASEAN. Since the ASEAN Vision 2020 called for a “Clean and Green ASEAN,” ASEAN has actively developed environmental projects, especially in response to the critical environmental degradation in the region. In the past decade, ASEAN seems to have been most active in organizing regional groups pertaining to environmental problems. In 2002 the environmental ministers agreed to synergize the cooperation by identifying 10 priority environmental areas.<sup>18</sup>

Already there have been a number of ASEAN Working Groups on specific environmental issues, such as ASEAN Working Groups on Nature Conservation and

Biodiversity (AWGNCB), Coastal and Marine Environment (AWGCME), Water Resources Management (AWGWRM), and Environmental Education (AWGEE). Related to the AWGEE, the ASEAN Environmental Education Inventory Database (AEEID) provides an interactive database of more than 500 records of environmental education materials in ASEAN countries. The database intends to share the best practices on environmental education resources and networking in the ASEAN countries.<sup>19</sup>

Environmental problems are transborder issues, and they always need concerted efforts. Environmental issues should be one of the top priorities of the regional actions of the ASCC. In this respect, it is understandable that there are more sectoral bodies related to the environment than to any other area. Also, environmental issues need multidisciplinary and multilateral cooperation not only within ASEAN countries but also with external countries on the one hand and close cooperation with local community and civil society groups on the other. This means that sooner or later environmental issues will necessarily touch on the political and legal structure of the domestic system.

**(Labor)** Labor is a challenging issue not only for domestic employment but also for ASEAN regional solidarity. It is directly related to the legal system of labor as well. Total employment in ASEAN countries increased by 11.8% from 2000 to 2008, and in the same period 27.8 million additional jobs were produced.<sup>20</sup> Still, several states of ASEAN are faced with the perennial challenge of producing jobs in order to absorb new workforces each year, as well as the regional agenda of universal coverage of social protection and workers' rights. Labor problems are the other side of liberalization of the market economy, which accelerates foreign direct investment (FDI) flows. Labor migration occurs on a massive scale between the places where there is a sizable wage difference and the growing number of brokers who intend to make a profit by bridging the supply side and the demand side of labor.

Since the 1980s a remarkably increasing number of migrant workers have begun to go abroad to work on a contract base, especially from the Philippines, Thailand, and Indonesia (Myanmar is an exception here, because there is no statistical data compiled in that country). The amount of their remittances has increased strikingly. For example, in the Philippines, the amount of foreign exchange remittances by migrant workers, which was US\$3.28 billion, the equivalent of a third of its total merchandise exports, had almost doubled to \$6.234 billion by 2001.<sup>21</sup> Likewise, the amount of foreign remittances in Thailand and Indonesia in the early 1990s had increased by almost seven times by 2001.<sup>22</sup> It is primarily the active policy of these governments to send their abundant labor force abroad and get foreign currency remittances. On the other hand, it is estimated that hundreds of thousands of migrants (or partly refugees) from Myanmar are based in Thailand as irregular workers earning cheaper wages than the nationals of Thailand. There are a number of research reports about such irregular migrant workers from Myanmar in Thailand.<sup>23</sup>

Among the ASEAN countries, there are obviously different, often confronting, stances between labor-sending countries, such as the Philippines and Indonesia, and labor-receiving countries, such as Malaysia and Singapore. Thailand has both aspects, but in the past decade Thailand has repeatedly amended labor migration policies related to Myanmar, Laos, and Cambodia, from where tens of thousands of migrants come to work in Thailand either legally or illegally. Though the ASEAN Labor Ministers Meeting (ALMM) has been held since 1975 for every two years, the ALMM has been scarcely useful or helpful in solving labor problems in the region up to the present. Instead, whenever problems of migrant workers occurred, they were often discussed, particularly since the mid-1980s, at the bilateral level of the governments concerned, and consequently the Memorandum of Understanding (MoU) was agreed and later amended.

Since 2000, however, the following new trends have emerged. In 2000, the ALMM adopted the Work Programme, which provides the framework to prepare for the issues of employment generation, labor market monitoring, labor mobility, social protection, and others in the era of globalization. Then in January 2007 ASEAN adopted the Declaration on the Protection and Promotion of the Rights of Migrant Workers, which ASEAN itself described as “a groundbreaking move.”<sup>24</sup> Subsequently, under the ALMM, the Senior Labor Officials Meeting has established four subsidiary bodies to implement the declaration.<sup>25</sup> The other important step came in March 2007, when ASEAN concluded the Cooperation Agreement with the Secretariat of the International Labor Organization (ILO). Since then, regular meetings have been held between the ASEAN and ILO secretariats.

Unfortunately, however, the situation has not changed much in states where labor rights are not protected. For instance, at the time of writing this paper, thousands of factory workers in industrial zones where 50,000 to 70,000 workers are employed in Myanmar protested against their working conditions and demanded a wage increase of US\$10 a month.<sup>26</sup> The factories are owned by Korean, Thai, and Myanmar nationals. The junta regime responded by bringing in hundreds of armed police and warning the workers that they would face a violent crackdown unless they dispersed immediately. There are no international agencies in Myanmar that can monitor the situation there.

Other than these four sectors mentioned above, there are many sectors of functional cooperation. Little is known, however, how a functional cooperation program is decided between ASEAN and the donor countries and/or organizations. While the number of functional cooperation programs has increased and the target sectors of the programs have expanded, it is criticized that existing functional cooperation programs have expanded widely without, or beyond, the coordination of the ASEAN Secretariat. Most programs evolved out of a common need “without a strong rationale for cooperation” at the ASEAN level, and those functional cooperation projects were “designed without the benefits of rigorous sector analysis and often resulted in unsustainable benefits.”<sup>27</sup>

As mentioned above, the ASCC can take over much from the experiences and institutional achievements of ASEAN functional cooperation. But the important difference

would be that the ASCC should not simply be an aggregation of many programs, each of which is decided through bilateral negotiation with donors. Instead, a clear sense of ownership, assessment based on the evaluation of local people, and coordination with related programs would be essential for the ASCC, because it is meant to be a “people-oriented” ASEAN Socio-Cultural Community.

## **5. New Advocacy Patterns and Strategy of Civil Society Groups toward ASEAN**

Throughout the decades-long ASEAN meetings and programs, it is only since the mid-1990s, and particularly in the past several years, that formal ASEAN meetings and civil society groups based in Southeast Asia have established regular contact. Before that, in the 1970s and 1980s, though ASEAN had recognized some 24 NGOs as “ASEAN-NGOs,”<sup>28</sup> they represented specific professional or business groups only. Indeed, there are regional groups that have had exceptionally strong links with the ASEAN Ministerial Meetings, such as the ASEAN Confederation on Women’s Organizations (ACWO), but the country organizations of the ACWO were closely linked to governmental organizations. In the sense that civil society is public space independent of the state, the ACWO is not genuinely a kind of civil society group. On the other hand, civil society groups that are committed to human rights, environmental degradation, and consumer associations have emerged in ASEAN countries since the 1970s, but they were separated far from one another until the early 1990s.

The remarkable turning point was a regional meeting held for the first time shortly in advance of the UN World Conference on Human Rights in Vienna in 1993. After that, a group of lawyers, scholars, and activists set up a Working Group for an ASEAN Human Rights Mechanism.<sup>29</sup> It was this Working Group that maintained policy advocacy toward the SOMs regularly each year. Eventually their idea that ASEAN should establish a regional human rights institution was adopted into the ASEAN Charter, and the ASEAN Intergovernmental Commission on Human Rights was inaugurated in 2009, though its function is much different from their original idea. At least, this dynamics of advocacy toward the SOMs and ministerial meetings of ASEAN for more than 10 years is an unprecedented campaign at the regional level and worthy of praise.

Apart from that, ASEAN-ISIS, which was established in 1984 as an association of the leading think tanks of ASEAN countries and has the status of an ASEAN-NGO, organized the first ASEAN People’s Assembly (APA), with the motto of “an ASEAN of the people, by the people, for the people,” at Batam, Indonesia, in 2000. About 300 representatives of NGOs, think tanks, and grass-roots leaders participated, and the agenda covered a wide range of issues, such as the impact of globalization, poverty, environmental degradation, human rights, and others.<sup>30</sup> It is from this stream of the APA that a vision of a “people-oriented (or people-centered) ASEAN” has been stressed, and eventually this concept has been adopted in the purpose of ASEAN (Article 1) of the ASEAN Charter.

Perhaps inspired by the APA but separately from that assembly, some well-known regional NGOs like Forum Asia and the South East Asian Committee for Advocacy (SEACA) organized a regional network of NGOs called Solidarity for Asian People's Advocacy (SAPA) in 2006. Apparently the SAPA is meant to become a main actor of civil society groups for a "people-oriented ASEAN" in the future. In early 2009 the SAPA opened the ASEAN People's Center in Jakarta for the purpose of having regular contacts with ASEAN and for enhancing the advocacy capacity of civil society groups.<sup>31</sup> Moreover, compared with the APA, the SAPA has wider networks of grass-roots NGOs, and they have strong links with civil society groups on Myanmar issues as well. It is the SAPA that has held the ASEAN Civil Society Conference at the same period and venue of the ASEAN Ministerial Meetings in the past three years.

In this way, particularly since the mid-1990s, some remarkable changes have emerged in the actions and strategy of civil society groups in ASEAN. In short, new patterns of regional advocacy have emerged from the side of civil society groups themselves. This is necessary, if not sufficient, for the fullness of the ASCC.

## **6. Conclusion: Prospects and Problems**

As has been discussed so far, first, the process of creating the ASCC is, as ever, primarily a top-down style. Judging from the dynamics in 2009, the SOMs and ministerial meetings concerned are likely to become the main part of the ASCC. This being so, as Weatherbee says, "(t)he future ASEAN Community will institutionally, procedurally, and normatively be very much like the existing ASEAN: an association of sovereign states that have sacrificed no sovereignty for the collective good."<sup>32</sup> However, even if there is little difference from the existing ASEAN in term of institutional framework, what really matters for the ASCC is how and to what extent the 17 bodies under the ASCC Council Meeting can substantiate close cooperation with NGOs, local communities, and university or other educational/research institutes. This will be a criterion for creating a people-centered ASEAN, which is the primary objective of the ASCC.

Second, however abundantly the working papers related to the ASCC might be from now on, one of the immediate obstacles is the lack of funds and human resources to carry out the programs. This reality will necessarily make the pattern of ASCC activities dependent on external financial assistance and technical cooperation, especially within the ASEAN Plus Three countries and the East Asia Summit countries, in addition to international donor agencies. In this sense, the ASCC will accompany an interestingly multilateral support regime in order to promote a centripetal regional community.

Third, as mentioned earlier, the ASCC should not be simply an aggregation of existing functional cooperation programs. Instead, a new integrative approach should be invented for the ASCC with a capacity to coordinate and monitor programs.

Finally, a sense of regional identity and solidarity cannot be imposed from above, but



it will be generated if society feels that it benefits from having a regional identity. For this purpose, an ASEAN Community should be able to provide peace and sustainable development so that society can see hopes for the future. In this sense, the ASCC is truly closely intertwined with the other two pillars of the ASEAN Community.

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<sup>1</sup> ASEAN Vision 2020, <http://www.aseansec.org/1814.htm>

<sup>2</sup> ASEAN Secretariat, *Roadmap for an ASEAN Community 2009-2015: One Vision, One Identity, One Community*, 2009, Jakarta: ASEAN Secretariat, p. 67.

<sup>3</sup> *Ibid.*, pp.90-91.

<sup>4</sup> Personal communication by e-mail in January 2010.

<sup>5</sup> The Second Meeting of the ASEAN Socio-Cultural Community Council October 22, 2009 [http://www.15thaseansummit-th.org/PDF/24-03PR\\_ASCC\\_Council.pdf](http://www.15thaseansummit-th.org/PDF/24-03PR_ASCC_Council.pdf)

<sup>6</sup> Manasvi Srisodapal, Deputy Director-General, Department of ASEAN Affairs, Ministry of Foreign Affairs of Thailand. "ASEAN Blueprint for the Socio-Cultural Community 2008 -2015: Promoting Corporate Social Responsibility" [http://www.unescap.org/tid/projects/csr\\_monstl\\_mfa.pdf](http://www.unescap.org/tid/projects/csr_monstl_mfa.pdf)

<sup>7</sup> This stands for ASEAN Ministers Responsible for Culture & Arts.

<sup>8</sup> ASEAN Ministerial Meeting on Disaster Management

<sup>9</sup> ASEAN Education Ministers Meeting

<sup>10</sup> ASEAN Ministers Responsible for Information

<sup>11</sup> ASEAN Ministers Meeting on Rural Development and Poverty Eradication

<sup>12</sup> Denis Hew, Chin Kin Wah, and Lee Hock Guan, *Towards Realizing an ASEAN Community: Brief Report on the ASEAN Community Roundtable*, Singapore: Institute of Southeast Asian Studies, 2004. p.17.

<sup>13</sup> Joint statement of the Fourth ASEAN Education Ministers Meeting, Phuket, Thailand, 5-8 April 2009. [www.aseansec.org/22485.htm](http://www.aseansec.org/22485.htm).

<sup>14</sup> *Ibid.*

<sup>15</sup> [http://www.aun-sec.org/archive.public\\_html/about\\_history.html](http://www.aun-sec.org/archive.public_html/about_history.html)

<sup>16</sup> <http://www.pia.gov.ph/asean-infoculture/default.asp?fi=about&i=achievements>

<sup>17</sup> *Ibid.*

<sup>18</sup> Global environmental issues, land and foreign fires and haze pollution, coastal and marine environment, sustainable foreign management, sustainable management of natural parks and protected areas, freshwater resources, environmental education, promotion of environmentally sound technologies, urban environmental management, and monitoring, and database harmonization related to sustainable development.

<sup>19</sup> <http://aeeid.aseansec.org/new>

<sup>20</sup> <http://www.aseansec.org/21009.htm>

<sup>21</sup> Graeme Hugo, "International Migration in Southeast Asia since World War II," in Aris Ananta & Evi Nurvidya Arifin, *International Migration in Southeast Asia*, Singapore: Institute of Southeast Asian Studies, 2004, p. 57.

<sup>22</sup> *Ibid.* p.58.

<sup>23</sup> Supang Chantavanich et al., *Thailand Policies towards Migrant Workers from Myanmar*, Bangkok: Asian Research Center for Migration, Institute of Asian Studies, Chulalongkorn University, 2006. Also see Motoko Shuto, "Labour Migration and Human Security in East and Southeast Asia" in Harald Kleinschmidt ed., *Migration, Regional Integration and Human Security: The Formation and Maintenance of Transnational Spaces*, Aldershot, UK: Ashgate, 2006, pp. 205–224.

<sup>24</sup> <http://www.aseansec.org/19605.htm>

<sup>25</sup> They are the Senior Labor Officials Meeting Working Group on Progressive Labor Practices, ASEAN Committee on the Implementation of the Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Occupational Safety and Health Network, and Working Group on the HIV Prevention and Control in the Work Place.



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<sup>26</sup> Urgent Appeal by Mekong Migration Network (MMN), Asian Migrant Centre, MAP Foundation, and the Workers and Farmers Solidarity League of Burma on February 12, 2010.

<sup>27</sup> Carolina S. Guina, "The ASEAN Socio-Cultural Community" *ASEAN Studies Centre Report- The ASEAN Community: Unblocking the Roadblocks*, No. 1, 2008, p.66.

<sup>28</sup> Johan Saravanamuttu & Datuk Sharon Ahmat, "ASEAN Non-Governmental Organizations: A Study of their Role, Objectives and Activities," Kuala Lumpur (unpublished report funded by the Asia Foundation), 1986.

<sup>29</sup> Motoko Shuto, "National Human Rights Commissions and Civil Society in Southeast Asia" (in Japanese) in *Leviathan*, Vol. 31, 2002, pp.63-89.

<sup>30</sup> Regarding the launching process of the APA, see Mely Caballero-Anthony, *Regional Security in Southeast Asia: Beyond the ASEAN Way*, Singapore: Institute of Southeast Asian Studies, 2005, pp. 240-252.

<sup>31</sup> Personal interview at the ASEAN Regional Center on August 5, 2009/ Motoko Shuto, "ASEAN and Civil Society" (in Japanese) in *World Trend*, vol. 170, Nov. 2009, Chiba: Institute of Developing Economies (IDE)-JETRO, pp. 20-23. The APA and SAPA are also discussed in Alan Collins, "A People-Oriented ASEAN: A Door Ajar or Closed for Civil Society Organizations?" in *Contemporary Southeast Asia*, Vol. 30, no. 2, 2008, pp. 319-328.

<sup>32</sup> Donald E. Weatherbee, *International Relations in Southeast Asia: The Struggle for Autonomy* (2<sup>nd</sup> edition), Lanham, Maryland: Rowman & Littlefield Publisher, 2009, p. 304. Regarding this point, See Termsak Chalermpananupap, "Institutional Reform: One Charter, Three Communities, Many Challenges" in Donald K. Emmerson ed., *Hard Choices: Security, Democracy, and Regionalism in Southeast Asia*, Singapore: Institute of Southeast Asian Studies, 2008, pp. 91-131.

# 4 The Changing Nature of ASEAN as an Organization under the ASEAN Charter

Sanae Suzuki

## 1. Introduction

ASEAN was founded in 1967 as a loose organization. The establishment of ASEAN was not based on treaties but declared by the foreign ministers of five countries<sup>1</sup> through a political document called the ASEAN Declaration (Bangkok Declaration).<sup>2</sup> It took about forty years for the ASEAN member states to draft a formal treaty prescribing ASEAN as a regional organization. The ASEAN Charter (“the Charter”) was signed in 2007 and put into effect in December 2008.<sup>3</sup> The Charter codifies the existing rules, norms and customs that ASEAN member states have developed and accumulated for forty years.

On the other hand, the Charter also advocates new institutional settings for building an ASEAN Community. This ASEAN Community consists of the ASEAN Security Community (later renamed the ASEAN Political-Security Community (APSC)), the ASEAN Economic Community (AEC) and the ASEAN Socio-Cultural Community (ASCC). The 2003 Declaration of ASEAN Concord II (“Concord II”) announced that the ASEAN member states would be establishing the ASEAN Community for the purpose of ensuring durable peace, stability and shared prosperity in the region.<sup>4</sup>

The character of the Charter prescribing new institutional settings reflects the different views of the member states on the ideal regional organization. Indonesia and the Philippines are reformers, insisting that ASEAN should have effective working methods to deal with the domestic issues of member states, while Vietnam, Cambodia, Laos and Myanmar are conservatives, maintaining a strict sense of national sovereignty.

The Charter has been criticized for not having effective measures against member states for serious breaches of or non-compliance with ASEAN agreements and principles that would establish ASEAN as a rule-based organization critical for building the ASEAN Community.<sup>5</sup> The Charter is regarded as a setback from the Report of the Eminent Persons Group (the EPG Report) mandated to make recommendations on drafting the Charter.<sup>6</sup> The EPG Report proposed bold measures against serious breaches or non-compliance, and disapproval has been voiced that the essential parts of the bold and visionary measures in the EPG Report were not adopted in the process of drafting the Charter.

However, not all the measures proposed in the EPG Report were rejected by the High Level Task Force (HLTF) in charge of drafting the Charter.<sup>7</sup> The Charter attempts to reform existing institutions as well as set up new ones. The establishment of a human rights body is a new provision not clearly included in the EPG Report and adopted in the Charter

despite opposition by some member states.<sup>8</sup>

This paper analyzes the possibilities and limits of the Charter for changing the nature of ASEAN as an organization to build the ASEAN Community. The analysis is divided into two sections. The first section concerns the decision-making mechanism. All communities have their own decision-making mechanisms for determining the fates of their members, and it is argued here that the Charter aims to promote efficient decision-making among member states.

The second section suggests that the member states attempt to develop a peaceful dispute settlement mechanism. Peaceful dispute settlement has been advocated as one of ASEAN's important norms. Concord II also confirms that ASEAN Security Community members shall rely exclusively on peaceful processes in the settlement of intra-regional differences. The Charter advocates legal instruments to resolve economic and political disputes.

## **2. Promotion of Efficient Decision-Making**

### **2.1. Hierarchical Structure of Decision-Making**

The fundamental feature of ASEAN as an organization has not changed in the Charter in that it is intergovernmental in nature, with national sovereignty being the most important principle for management of the organization. However, the decision-making mechanism became more well-structured and hierarchical under the Charter to promote efficiency.

The Charter clearly states that the ASEAN Summit ("the Summit") is ASEAN's supreme policy-making body (Art. 7.2 (a)). The Summit had not been regularized until 1992. Instead, the ASEAN Ministerial Meeting (AMM), an annual meeting (since 1967) of the foreign ministers of the member states, had long functioned as ASEAN's highest decision-making body.

The first Summit was held in 1976 in Bali, Indonesia, ten years after ASEAN was founded. The second Summit was in 1977 in Kuala Lumpur, Malaysia and the third was in 1987 in Manila, the Philippines. At the fourth Summit in Singapore in 1992, the ASEAN heads of government agreed to meet formally every three years, with informal meetings in between.<sup>9</sup> Based on this agreement, the fifth Summit was held in 1995 in Bangkok, Thailand. An informal Summit, however, had never been held until the informal Summit in Jakarta, Indonesia in 1996. In 1997, the second informal Summit was held in Kuala Lumpur, Malaysia. Since 2001, the formal Summit began to be held annually without a specific agreement on the frequency of the Summit.

The Charter also increases the frequency of the Summit, stating that the Summit shall be held twice a year (Art. 7.3). This contributes to the efficiency of decision-making, allowing the member states more opportunities to make important decisions at the Summit and to give instructions to ministerial meetings.

With the ASEAN Summit being the highest decision-making body, the Charter establishes several ministerial meetings (see Figure 1). The ASEAN Coordinating Council (ACC), consisting of the foreign ministers of the member states, prepares decisions at the Summit. There are three Community Councils: the ASEAN Political-Security Community Council (APSC) comprising foreign ministers dealing with matters related to building the APSC, the ASEAN Economic Community Council (AECC) and the ASEAN Socio-Cultural Community Council (ASCCC), responsible for matters concerning the AEC and the ASCC respectively.

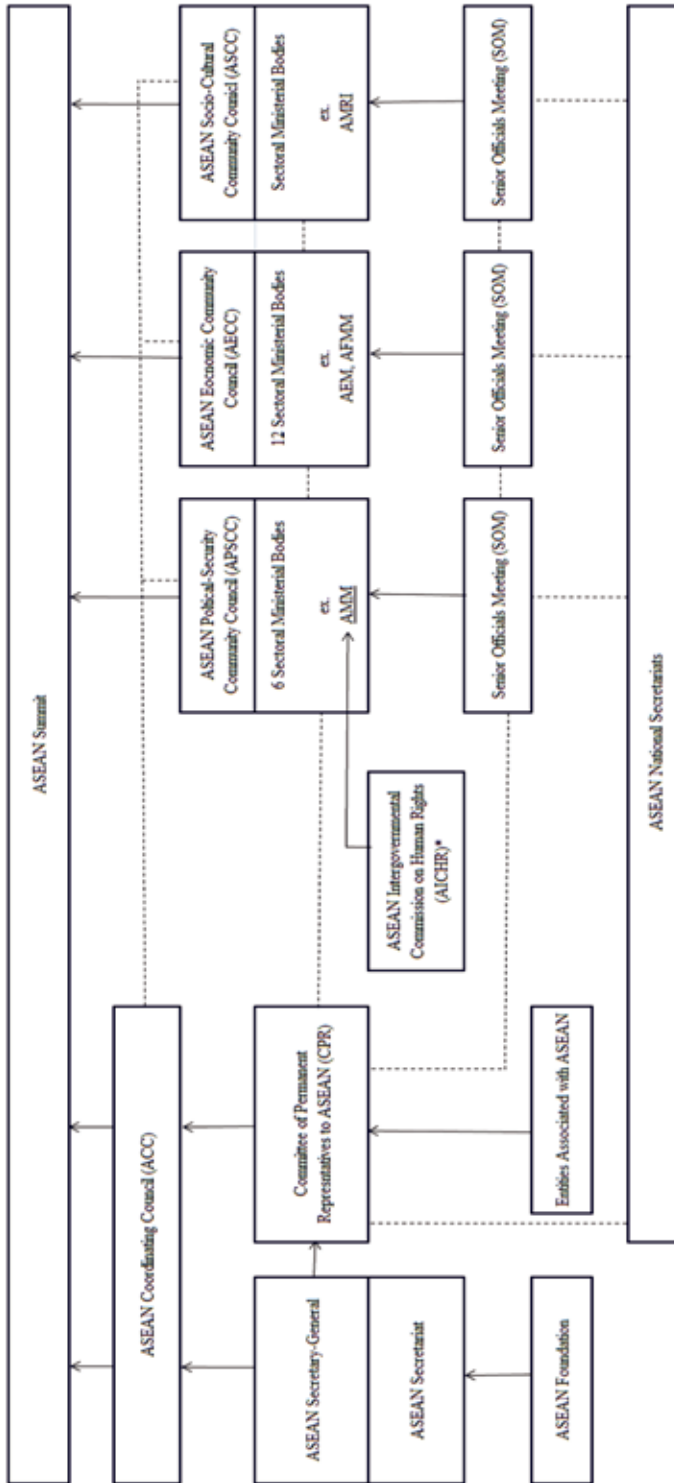
Each Community Council has sectoral ministerial bodies, most of which are existing ministerial meetings. The APSCC has six ministerial meetings, such as the Foreign Ministers Meeting (AMM)<sup>10</sup> and the ASEAN Defense Ministers Meeting (ADMM) established in 2006. The AECC includes the ASEAN Economic Ministers Meeting (AEM) institutionalized since 1975, the ASEAN Free Trade Area (AFTA) Council, and the ASEAN Finance Ministers Meeting (AFMM).<sup>11</sup> The senior officials meetings (SOM), which were institutionalized in the early 1980s, continue to function as preparatory meetings of the ACC, the Community Councils and sectoral ministerial bodies (Art. 8.3, 9.6, Annex I). In the new organizational structure of ASEAN, the foreign ministers of member states have various important roles in the ACC serving the Summit, the APSCC dealing with APSC matters and the AMM dealing with external relations and human rights issues.

The decisions and instructions at the Summit are expected to be coherent and consistent with those at Community Councils under a single Chairmanship system. Until the Charter came into force in 2008, most ASEAN meetings had been chaired by different member states in the same calendar year. The Charter states that ASEAN shall have, in a calendar year, a single Chairmanship by which the Member State assuming the Chairmanship shall chair: (a) the ASEAN Summit, (b) the ASEAN Coordinating Council, (c) the three ASEAN Community Councils, (d) the relevant ASEAN Sectoral Ministerial Bodies where appropriate, and (e) the Committee of Permanent Representatives (Art. 31).

## **2.2. Strengthened Roles of the Summit for Efficient Decision-Making**

As the highest decision-making body, the Summit has three important roles. First, the Summit can change decision-making procedures if necessary. The Charter states that consultation and consensus, in other words, decision by consensus, is the basic principle (Art. 20.1). However, it also specifies that, where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision is to be made (Art. 20.2). This role of the Summit is a product of compromise among the member states.<sup>12</sup> The EPG Report proposes that, on non-political issues, decisions may be taken through voting, either on the basis of a simple majority or on the basis of a two-thirds or three-fourths majority.<sup>13</sup> The proposal was rejected by some member states who disagreed with introducing voting procedures. Decision by consensus is an important procedure for these member states

Figure 1 Organization of ASEAN under ASEAN Charter



Note : \* The AICHR falls under the supervision of the AMM  
 AMM: ASEAN Foreign Ministers Meeting  
 AEM: ASEAN Economic Ministers Meeting  
 AFMM: ASEAN Finance Ministers Meeting  
 AMRI: ASEAN Minister Responsible for Information  
 ASEAN Intergovernmental Commission on Human Rights reports the AMM.  
 Source : Author based on the ASEAN Charter

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because it gives each member state a veto on any decision.

Second, the Summit is authorized to make decisions regarding serious breaches of the Charter or non-compliance (Art. 20.4). The Charter does not specify how the Summit is to fulfill this role. This ambiguous article also resulted from conflicting opinions towards the proposals in the EPG Report. The EPG Report proposes that the Summit be allowed to consider taking measures, including the suspension of rights and privileges, for any serious breach by any member state of objectives, principles, and norms adhered to by ASEAN.<sup>14</sup> It also identifies several serious breaches such as unconstitutional and undemocratic changes of government<sup>15</sup> and proposes that decisions to take measures require unanimity, without the participation of the member state(s) to which the measures would be applied.<sup>16</sup> These proposals were not adopted in the Charter due to disagreement from Thailand, Myanmar, and Vietnam.<sup>17</sup>

The third role of the Summit is a last resort to deal with unresolved disputes. The Charter advocates that, when a dispute remains unresolved after the application of the preceding provisions of the Charter, this dispute be referred to the ASEAN Summit for a decision (Art. 26). Unresolved disputes are not necessarily meant to be all disputes involving member states. They include those for which attempts at resolution have been made through the dispute settlement instruments described in the next section, which also argues that in practice the Summit is tasked with identifying unresolved disputes in consideration of their impact on ASEAN as an organization, on the solidarity of member states or on security and order in Southeast Asia.

The decision-making process for giving the above roles to the Summit implies that the Summit cannot fulfill these roles easily. Due to conflicting interests among member states, it is highly likely that the Summit would still face difficulties in that it would have to determine how decisions on serious breaches or non-compliance can be made or disputes resolved through *decision by consensus*.<sup>18</sup>

It bears mentioning, however, that the Charter prescribes that the Summit may attempt to change decision-making procedures, leading to more efficient decision-making, rather than persist with decision by consensus. It is also important to note that the Summit is given a role in dealing with serious breaches, non-compliance and unresolved issues rather than leaving them untouched. Holding the Summit twice a year would give the heads of governments more opportunities to play the above roles and take bold measures if necessary.

The ambiguity of the rules for measures against serious breaches and non-compliance in the Charter implies that the Summit's ability to fulfill its roles is subject to practice. In other words, it depends on how the member states are able to adjust *decision by consensus* flexibly to changing conditions and situations. On the other hand, it would appear that ASEAN member states have already addressed serious breaches and non-compliance by taking action to suspend the rights of member states. In 2005, Myanmar decided to skip its turn as ASEAN Chair of the 2006 AMM. Some member states were



concerned that the United States and some European countries would refuse to attend ASEAN-related meetings hosted by Myanmar. In 2005, Myanmar, after persuasion from some member states, decided to refrain from assuming the Chair.<sup>19</sup>

### **2.3. The Roles of Permanent Organs for Efficient Implementation**

The ASEAN Secretariat was established in 1976 as the first permanent organ of ASEAN. The Charter establishes another new permanent organ, the Committee of Permanent Representatives to ASEAN (CPR) (Art. 12). The Charter designed the two permanent organs to contribute to efficient decision-making for implementation. Based in Jakarta, the CPR is composed of the respective Permanent Representatives appointed by member states with the rank of Ambassador. The CPR falls under the supervision of the ACC (see Figure 1).

The Terms of Reference for the CPR were approved at the 41<sup>st</sup> AMM in July 2008.<sup>20</sup> The CPR mainly has the following roles: (a) coordinating the implementation of agreements and the decisions of the ASEAN Summit, (b) acting as the approving authority for ASEAN cooperation projects between ASEAN and dialogue partners, (c) approving the annual operational budget of the ASEAN Secretariat, (d) managing the rules of procedure for the accreditation of, and engagement with, entities associated with ASEAN, and (e) liaising with the Secretary-General of ASEAN and the ASEAN Secretariat on all relevant subjects.

The CPR essentially functions to streamline decision-making for implementation, such as by establishing procedural rules and approving projects and budgets. The CPR met once a month in 2009 and decided to meet twice a month in 2010. From January 2010, the CPR has become involved in ASEAN's external relations by having meetings regularly with dialogue partners to implement cooperation projects.<sup>21</sup>

Most of the CPR's roles used to be fulfilled by the ASEAN Standing Committee (ASC) under the AMM until the end of 2008. The ASC was established in 1967 as a preparatory meeting for the AMM. The ASC was composed of Director-Generals who led the respective National Secretariats of member states.<sup>22</sup> It met three to four times a year at the ASEAN Secretariat and in the member state chairing the ASC.<sup>23</sup> Therefore, it can be said that the CPR as a permanent organ has taken over the roles of the ASC.<sup>24</sup> The CPR, located in Jakarta, enables the member states to implement decisions more efficiently.

The CPR also accredits the entities associated with ASEAN. The Charter advocates promotion of a *people-oriented ASEAN* as one of the purposes of ASEAN, by which is meant that ASEAN should be an organization in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building (Art. 1.13). The entities associated with ASEAN include business and civil society organizations.<sup>25</sup> The CPR provides one of the consultation mechanisms by accrediting relevant organizations as entities associated with ASEAN. The CPR reports the results of such consultations to the ACC as policy recommendations. Acting as the contact

point for consultations with non-governmental organizations, the CPR helps incorporate the opinions of people living in the region efficiently into ASEAN's policy-making. However, due to differing attitudes among member states on how to engage with non-governmental organizations, it will take some time until the consultation mechanism between those organizations and the CPR is institutionalized to function effectively.

While the CPR facilitates efficient implementation of decisions and agreements, it is not clearly given policy-making roles such as preparation for ministerial meetings. The SOM continues to function as a preparatory meeting for each ministerial meeting. The coexistence of the CPR and the SOM differs from the EU's Committee of Permanent Representatives (COREPER), which prepares for decisions at ministerial and summit meetings together with the European Commission.<sup>26</sup>

The Charter gives additional roles to the Secretary-General of ASEAN for the implementation of decisions. The first is a monitoring function. The Secretary-General monitors progress in the implementation of ASEAN agreements and decisions (Art. 11.2 (b)), and compliance with the findings, recommendations or decisions resulting from ASEAN's dispute-settlement mechanism (Art. 27.1). The Secretary-General reports monitoring results to the Summit.

The second role is as an initiator for discussions on human rights issues. Establishing an ASEAN human rights body is the most outstanding institutional change under the Charter. In accordance with the new principles of strengthening democracy and promoting and protecting human rights and fundamental freedoms, the Charter prescribes the establishment of an ASEAN human rights body to promote and protect human rights and fundamental freedom (Art. 14). The establishment of this body, a matter of dispute among the member states, came in the form of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009, but it is doubtful that the AICHR will function effectively to protect human rights in the region. According to the Terms of Reference agreed in July 2009, the role of the AICHR is based on the principle of non-interference in the internal affairs of ASEAN member states and recognition that the primary responsibility for promoting and protecting human rights and fundamental freedoms rests with individual member states.<sup>27</sup>

However, it should be pointed out that the Secretary-General may bring relevant issues to the attention of the AICHR and inform the AMM of these issues.<sup>28</sup> This role is related to the promotion of a people-oriented ASEAN. In recent years, civil society organizations have attempted to become actively engaged in ASEAN's decision-making on human rights issues. The Working Group for an ASEAN Human Rights Mechanism, which made policy recommendations for setting up the AICHR, is registered as an entity associated with ASEAN. At the 14<sup>th</sup> Summit in Cha-am, Thailand in March 2009, representatives from the ASEAN Civil Society Conference met the heads of governments to offer policy recommendations.<sup>29</sup> The role of the Secretary-General in the working mechanism of the AICHR implies that the Secretary-General is able to actively consult

with civil society organizations.

The Secretariat was reorganized with four Deputy Secretaries-General (DSG) responsible for the APSC, the AEC, the ASCC and the Community and Corporate Affairs Department respectively (see Figure 2). As instructed in the Charter, two of the four DSGs were openly recruited in 2009, whereas the open recruit system had already been in use for other professional and local positions at the Secretariat since 1992.<sup>30</sup> New divisions such as the Strategic Planning and Coordination Division and the Legal Services and Agreements Division were established. Those divisions are regarded as supporting the Secretary-General in monitoring ASEAN decisions and agreements.

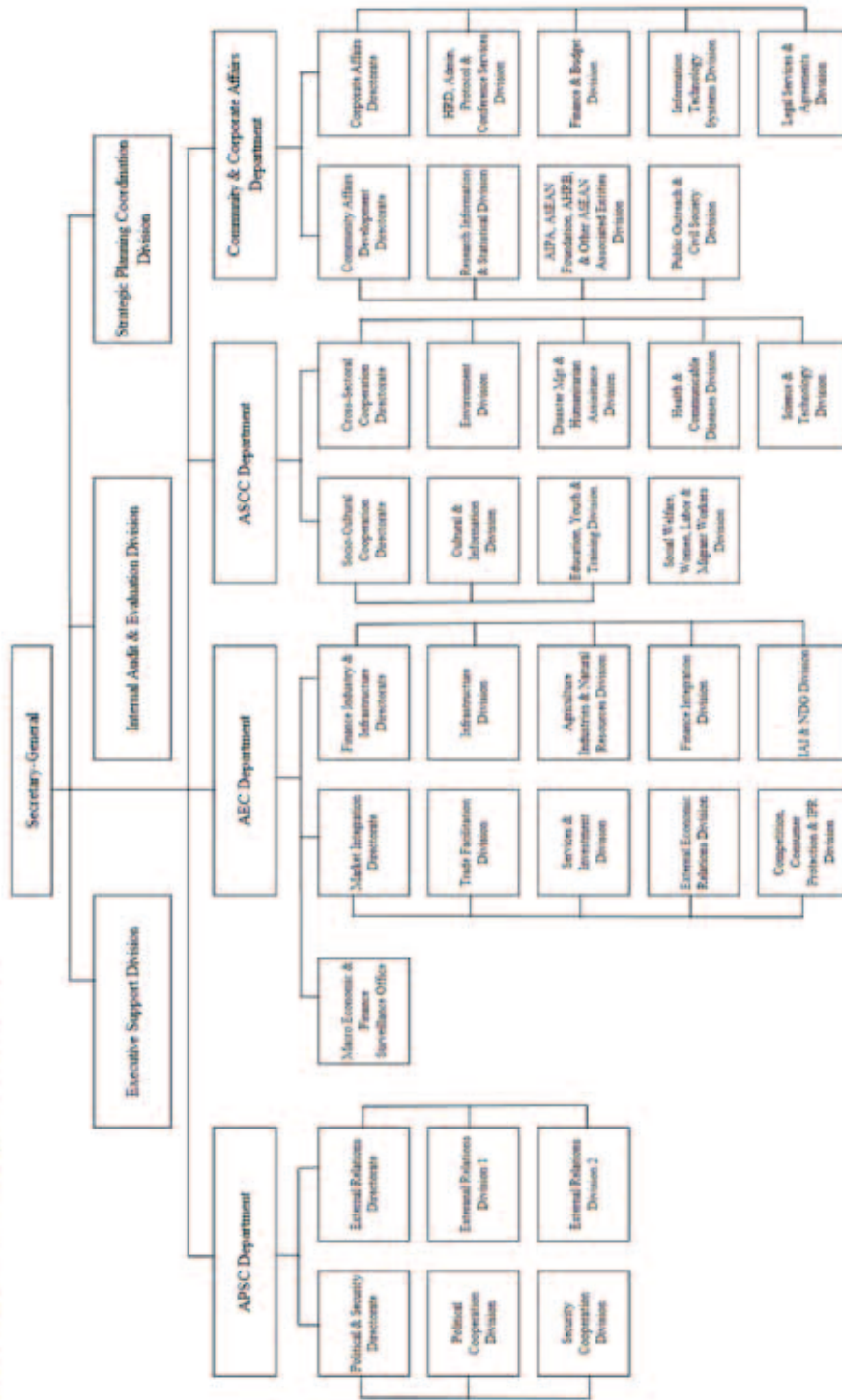
With regard to promoting a people-oriented ASEAN, there are two divisions that handle consultations with associated entities and other business and civil society groups. They are (1) the ASEAN Inter-Parliamentary Assembly (AIPA), ASEAN Foundation, ASEAN Human Rights Body (AHRB) and Other Associated Entities Division and (2) the Public Outreach and Civil Society Division (see Figure 2). The Secretariat can provide a venue for consultations between those organizations and governmental officials of the member states.

Apart from fulfilling its new roles in support of the Secretary-General, the biggest task of the Secretariat is implementation of cooperation projects between ASEAN and dialogue partners such as Japan and Australia.<sup>31</sup> The CPR was established to approve these cooperation projects efficiently. The CPR and the Secretariat coordinate with each other for efficient implementation of the projects.

The operational budget of the Secretariat increased from US\$8.49 million in 2007 to US\$13.5 million in 2009, and its staff also increased from about 200 in 2007 to 244 in 2009.<sup>32</sup> However, the budget is still small compared with those of other international or regional organizations and it cannot be expected to increase substantially because the Charter states that the budget is supported by the member states through equal annual contributions (Art. 30.2). The ASEAN Institute of Strategic and International Studies (ISIS) proposed in 2006 that the member states' contributions to the budget reflect their respective GDP per capita.<sup>33</sup> However, member states could not reach consensus on moving away from the current equal contributions.

The staff is also quite small, making it difficult to meet the demand for services for approximately 750 relevant meetings a year as well as implement cooperation projects with dialogue partners. Improving the staff's ability to manage several cooperation issues that require professional knowledge and skills is also a problem that must be addressed. Technical assistance for such capability enhancement has been provided by some dialogue partners.<sup>34</sup>

Figure 2 ASEAN Secretariat Organizational Structure



Source: Available <http://dep/www.aseansec.org/13106-OrgStructure.pdf> (accessed 27 January 2010).

### 3. Consolidation of Legal Means for Peaceful Dispute Settlement

#### 3.1. Basic Principle for Dispute Settlement Mechanism

One purpose in establishing ASEAN was to maintain a good-neighbor policy among the member states. ASEAN has been an ‘institutionalized vehicle for intramural conflict avoidance and management.’<sup>35</sup> The norm of peaceful dispute settlement has been the core value to be respected by ASEAN member states from the early stages. The 1976 Treaty of Amity and Cooperation in Southeast Asia (TAC) advocates settlement of differences or disputes by peaceful means and renunciation of the threat or use of force.<sup>36</sup> The Charter reemphasizes the importance of peaceful dispute settlement and aims to consolidate dispute settlement mechanisms through legal means.

In the process of drafting the Charter, the ASEAN-ISIS proposed establishing an ASEAN Court of Justice to ensure the timely resolution of any disputes that arise based on the agreed rules and obligations.<sup>37</sup> The criticism has been made that the Charter does not adopt this proposal but instead presents a ‘collection of existing and prospective options for dispute settlement among the ASEAN states.’<sup>38</sup> While the Charter does not establish such an organization for dispute settlement, it accepts most of the recommendations in the EPG Report and adds institutional settings for mediation on dispute settlement. It advocates that ASEAN establish dispute settlement mechanisms in all fields of ASEAN cooperation (Art. 22.2). The basic principle is direct dialogue, consultation and negotiation between the member states in dispute (Art. 22). Direct consultation among the parties in dispute has been common practice not only in ASEAN but also in the international community. The border dispute over the Preah Vihear Temple between Cambodia and Thailand was first discussed through direct consultation.

The Charter also states that the parties in dispute may request the good offices, conciliation or mediation of the Chairman of ASEAN or the Secretary-General of ASEAN (Art. 23). The emphasis on mediation was not present in the EPG Report and implies that the member states are encouraged to settle disputes through direct consultations with assistance from the mediators. As described later, the Chairman of ASEAN is assumed to be the mediator for political disputes whereas the Secretary-General plays a similar role for economic disputes.

As mentioned in the previous section, the attempt to consolidate dispute settlement mechanisms is clearly reflected in Article 26 of the Charter, which states that disputes remaining unresolved after the application of the preceding provisions of the Charter shall be referred to the ASEAN Summit for a decision (Art. 26). This is based on the recommendation of the EPG Report.<sup>39</sup> As argued in the previous section, it implies that the Summit is given the authority to identify unresolved disputes in ASEAN to avoid leaving disputes unsettled for a long time.

On the other hand, it can be argued that Article 26 emphasizes that the Summit should act as a *last resort* after the application of the dispute settlement instruments in the



Charter. The Summit, after all, is not a judicial body<sup>40</sup> but the highest political arena. Due to the character of the Summit, a heavy reliance on decisions by the Summit could undermine the legal procedures in the dispute settlement mechanisms. The Summit also has to respect the practice of receiving consent from the member states in dispute before putting the dispute on its agenda.

### **3.2. Economic Dispute Settlement Mechanism**

The Charter prescribes that disputes concerning the interpretation or application of ASEAN economic agreements shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism (Art. 24.3). In 2004, the member states signed the ASEAN Protocol on Enhanced Dispute Settlement Mechanism (the 2004 Protocol) as an amendment to the 1996 Protocol on Dispute Settlement Mechanism.<sup>41</sup>

The 2004 Protocol adopts the panel procedures from the World Trade Organization (WTO). The procedures in the 2004 Protocol are as follows (with specific periods of time): (1) the parties in disputes should have consultations, if necessary, through the good offices of the Secretary-General of ASEAN; (2) if consultations fail and either party makes a request, a panel may be set up for decisions by the Senior Economic Officials Meeting (SEOM), which is a preparatory meeting for the AEM; (3) the panel will submit its findings and recommendations to the SEOM and the parties concerned should comply with the recommendations or, if the parties in dispute are unsatisfied with the panel report, they can request the establishment of an Appellate Body to the AEM; and (4) if the parties in dispute fail to comply with the recommendations of the panel report or the report of the Appellate Body, compensation and suspension of concessions will be pursued.

It is important to note that the 2004 Protocol covers a wide range of agreements. It applies to disputes concerning provisions not only of the existing ASEAN economic agreements listed in Appendix I of the 2004 Protocol but also of future ones.<sup>42</sup> The Secretary-General is expected to monitor compliance with the recommendations of the panel report. The Secretariat maintains the list of nominations for panelists. If the parties in dispute fail to reach consensus on the selection, the Secretary-General, in consultation with the SEOM, shall determine the composition of the panel. The panel is independent from the parties in dispute because nationals of member states whose governments are parties to the dispute are not permitted to serve on a panel concerned with that dispute.<sup>43</sup>

No panel has ever been established since the 2004 Protocol was signed. The complaining parties are free to request establishment of a panel, but so far the member states have preferred direct consultations to establishment of a panel due to fear of involvement by the independent panel and of the legal procedures. It has been argued that the establishment of a panel is not necessarily a sign of an effective dispute settlement mechanism. Woon states that 'the success of a dispute settlement mechanism can be measured not by the number of disputes settled but rather by the scarcity of such cases. This is because, where such a mechanism exists, the parties will often make the extra effort



to come to terms with rather than push the matter to adjudication.<sup>44</sup>

In fact, the member states have engaged in direct consultations and agreed on compensation. In 2000, Malaysia requested deferment of the tariff reduction schedule on automobile products. Upon this request, the ASEAN member states signed the Protocol Regarding the Implementation of the Common Effective Preferential Tariff (CEPT) Scheme Temporary Exclusion List to allow limited flexibility in implementation and ensure compensatory adjustment measures.<sup>45</sup> Malaysia held consultations with Thailand and Indonesia and carried out compensatory adjustment measures toward these countries.<sup>46</sup> Direct consultation, however, is a time-consuming procedure. How ASEAN member states move beyond direct consultation if disputes remain unresolved for a certain time depends on their mutual confidence in the legal means for solving economic disputes.

### **3.3. Political Dispute Settlement Mechanism**

The dispute settlement mechanism for political disputes has three instruments, depending on the nature of the disputes. The first instrument is application of the TAC. The Charter states that disputes that do not concern the interpretation or application of any ASEAN instrument shall be resolved peacefully in accordance with the Treaty of Amity and Cooperation in Southeast Asia and its rules of procedure (Art. 24.2).

The TAC was signed in 1976 and provided norms of pacific settlement of disputes to ASEAN member states. The TAC enables the contracting parties to constitute a High Council comprising a Representative at ministerial level from each of the contracting parties if no solution can be reached through direct negotiations.<sup>47</sup> However, the establishment of a High Council has never been invoked. Leifer's analysis is that 'the strong reluctance to invoke that provision has been indicative of the recognition that engaging in formal intra-mural dispute settlement could well be highly contentious.'<sup>48</sup> He also states that 'the ASEAN member states have not had the self-confidence to use their own dispute settlement machinery.'<sup>49</sup>

It was not until 2001 that the Rules of Procedure of the High Council were adopted. According to these Rules, the Chairman of ASEAN assumes the position of chairperson of the High Council unless the current Chairman of ASEAN is a party in the dispute.<sup>50</sup> Given that the Chairman of ASEAN is expected to be a mediator or provide good offices as explained in the previous section, it is logical that the Chairman of ASEAN would serve as the chairperson of the High Council to mediate disputes among parties. The 2004 Vientiane Action Programme, compiling detailed actions to be taken for building the ASEAN Community, advocates activating the High Council of the TAC as a concrete measure for building the ASEAN Security Community.<sup>51</sup>

There is controversy over the kinds of disputes to which the TAC should be applied. The Charter points out disputes that are not related to the interpretation or application of any ASEAN instrument. The contracting parties to the TAC are not limited to ASEAN member states and also include non-ASEAN countries. In 1987, the ASEAN member states

decided to open accession to the TAC to states outside Southeast Asia. They also agreed to, however, limit application of the High Council to disputes likely to disturb *regional* peace and harmony.<sup>52</sup> This means that disputes to which the TAC is applicable should not only involve the contracting parties but also be likely to disturb order and security in Southeast Asia. Possible examples include territorial and border disputes among the contracting parties.

However, some territorial disputes among the ASEAN member states were resolved through the International Court of Justice (ICJ) rather than the TAC High Council. The dispute over Sipadan and Ligitan islands between Malaysia and Indonesia in 2002 and that over Pedra Branca (Batu Puteh) between Singapore and Malaysia in 2008 are cases in point. The border dispute over the Preah Vihear Temple between Cambodia and Thailand was suggested to be resolved through the TAC High Council by the President of Indonesia, Susilo Bambang Yudhoyono, together with his idea of setting up a *Contact Group* as an ad hoc alternative measure. Cambodia wished to have a Contact Group comprising Indonesia, Singapore, Vietnam and Laos rather than to request establishment of a High Council.<sup>53</sup> The TAC High Council was not the preferred measure for Cambodia and Thailand to resolve their dispute.

Territorial disputes between ASEAN member states and non-ASEAN countries who are contracting parties to the TAC include the one in the South China Sea among China, Vietnam, Malaysia and the Philippines. However, neither the ASEAN member states nor China have any intention of resolving the dispute through the TAC High Council. In the 2002 Declaration on the conduct of the parties in the South China Sea, they indicated their commitment to undertaking to resolve their territorial and jurisdictional disputes by peaceful means through friendly consultations and negotiations among the sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.<sup>54</sup> An analysis of the practices of the contracting parties to the TAC shows that the TAC continues to provide norms for pacific settlement to the contracting parties rather than serve as a dispute settlement instrument.

The second instrument is application of international instruments. As mentioned earlier, application of the ICJ to territorial disputes has been a common practice among the member states. The Charter states that the member states have the right of recourse to the modes of peaceful settlement contained in Article 33(1) of the Charter of the United Nations or any other international legal instruments to which the disputing member states are parties (Art. 28). It is said that, in practice, application of the ICJ has become a written rule of ASEAN.<sup>55</sup>

As the final instrument for political disputes, the Charter advocates establishment of a dispute settlement mechanism for disputes that concern interpretation or application of the Charter and other ASEAN instruments (Art. 25). The new instrument is being drafted and will come into effect in the future. Although Article 25 does not specify the nature of

the applicable disputes, the disputes could be political in nature because the Charter introduces new principles and institutions that are politically sensitive such as promotion of democracy and protection of human rights (Art. 1, 14). Considering the dysfunction of the TAC as a dispute settlement instrument, it is unlikely that the member states will be willing to apply the new dispute settlement mechanism. However, establishment of the new instrument is an important challenge and opportunity to encourage ASEAN member states to develop and share legal means for dispute settlement.

#### **4. Conclusion**

This paper analyzes the changing nature of ASEAN based on ambiguously worded articles in the Charter, in contrast with the current attitudes and practices of member states. The Charter leaves the ASEAN member states to decide how to implement the rules in the Charter in practice. This paper argues the possibilities and limits of the Charter for the changing nature of ASEAN as an organization, focusing on two institutional reforms, namely promotion of efficiency in decision-making and consolidation of peaceful dispute settlement.

The roles of the Summit, the CPR, the Secretary-General of ASEAN and ASEAN Secretariat are designed to promote efficiency in decision-making. The Summit is given important roles to avoid leaving issues undecided or unresolved. The establishment of the CPR is beneficial for efficient implementation of decisions and agreements. The Secretariat is expected to support the work of the CPR, other ministerial meetings and the Summit. The Charter also gives important roles to the Secretary-General, such as monitoring implementation of the ASEAN agreements and compliance with decisions in dispute settlements, and initiating action on human rights issues. The CPR and the Secretariat are also expected to promote a people-oriented ASEAN.

However, these reforms are not easily put into practice. There are conflicting interests among the member states on the ideal type of regional organization, depending on how much they want to preserve their sovereignty in decision-making and dispute settlement in ASEAN. Decision by consensus, where each member has a veto, would give way to the strengthened roles of the Summit. A people-oriented ASEAN is a controversial concept towards which the member states have conflicting attitudes. The member states achieved the establishment of the AICHR, but will face serious obstacles regarding how to make this institution work to protect human rights in the region.

The second institutional reform is the attempt to consolidate the legal means for peaceful dispute settlement. In economic issues, if the conflicting parties cannot reach a settlement through direct consultation, a panel can be set up. Application of the panel procedures depends on mutual confidence in the legal means among the member states. For political disputes, the TAC High Council does not seem to function as a dispute settlement instrument; the role of the TAC is limited to ensuring a code of conduct for peaceful

dispute settlement among contracting parties. On the other hand, the application of international legal instruments such as the ICJ is formally endorsed in the Charter and continues to be practiced by the member states. In addition to the application of international legal instruments, establishment of a new dispute settlement mechanism concerning interpretations of the Charter is crucial for ASEAN member states to develop and share legal means for dispute settlement.

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<sup>1</sup> The five countries are Indonesia, Malaysia, the Philippines, Singapore and Thailand. ASEAN now comprises ten member states with the addition of Brunei, Vietnam, Myanmar, Laos and Cambodia.

<sup>2</sup> *The ASEAN Declaration (Bangkok Declaration)*. Bangkok, Thailand. 8 August 1967. Available HTTP: <<http://www.aseansec.org/1212.htm>> (accessed 27 January 2010).

<sup>3</sup> *The ASEAN Charter*, 20 November 2007. Available HTTP: <<http://www.aseansec.org/publications/ASEAN-Charter.pdf>> (accessed 27 January 2010).

<sup>4</sup> *Declaration of ASEAN Concord II (Bali Concord II)*. Bali, Indonesia. 7 October 2003. Available HTTP: <<http://www.aseansec.org/15159.htm>> (accessed 27 January 2010).

<sup>5</sup> Rizal Sukma, 'Building the ASEAN Community: How Useful is the ASEAN Charter,' *The Indonesian Quarterly*. Vol.36, No.3-4. 2008. pp. 256-77. Kraft, Herman Joseph S. 'A Charter for ASEAN: Challenges and Prospects for Community Building,' *The Indonesian Quarterly*. Vol.36, No.3-4. 2008. pp.278-95.

<sup>6</sup> *Report of the Eminent Persons Group on the ASEAN Charter*, December 2006. Available HTTP: <<http://www.aseansec.org/19247.pdf>> (accessed 27 January 2010).

<sup>7</sup> As for the drafting process, please refer to Koh, Tommy, Rosario G Manalo and Walter Woon (eds.) *The Making of the ASEAN Charter*, (Singapore: World Scientific Publishing, 2009).

<sup>8</sup> Koh, Tommy, 'The Negotiating Process,' in Koh, Tommy, Rosario G Manalo and Walter Woon, op. cit., pp.58-59.

<sup>9</sup> *Singapore Declaration of 1992*. Singapore, 28 January 1992. Available HTTP: <<http://www.aseansec.org/5120.htm>> (accessed 27 January 2010).

<sup>10</sup> The ASEAN Ministerial Meeting (AMM) was renamed the ASEAN Foreign Ministers Meeting, although AMM remains its abbreviation. *Fact Sheet: Significance of the ASEAN Charter*, (Jakarta: ASEAN Secretariat, 10 December 2008), Available HTTP: <<http://www.aseansec.org/Fact%20Sheet/APSC/2008-APSC-004.pdf>> (accessed 27 January 2010).

<sup>11</sup> For details, see *ASEAN Charter, Annex 1*.

<sup>12</sup> On economic issues, *the ASEAN Minus Formula* practiced since the 1980s has become a clearly-stated rule for implementation in the ASEAN Charter (Art. 21.2). The formula gives the member states flexible participation in the implementation of economic commitments. It contributes to speedy decision-making in economic areas where some of the member states are ready to implement but others are allowed to participate later.

<sup>13</sup> *Report of the Eminent Persons Group*, p.41.

<sup>14</sup> *Ibid.* p.31.

<sup>15</sup> *Ibid.* p.29.

<sup>16</sup> *Ibid.* p.41.

<sup>17</sup> *Philippines Daily Inquiry*, 29 July, 2007, *Jakarta Post*, 15 June, 2007

<sup>18</sup> Rizal, op. cit., pp.274-75. Kraft, op. cit., pp.287-90.

<sup>19</sup> *Statement by the ASEAN Foreign Ministers*, Vientiane, 25 July 2005. Available HTTP: <<http://www.aseansec.org/17589.htm>> (accessed 27 January 2010). The process is analyzed in details in Haacke, Jürgen, *Myanmar's Foreign Policy: Domestic Influences and International Implications*, *Adelphi Paper*, No. 381 (London: the International Institute for Strategic Studies, 2006), pp.54-58.

<sup>20</sup> *Terms of Reference for the Committee of Permanent Representatives to ASEAN*, 41<sup>st</sup> ASEAN Ministerial Meeting, 21 July 2008 (obtained at ASEAN Secretariat).

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<sup>21</sup> Based on interviews by the author in January 2010 with some Permanent Representatives of member states.

<sup>22</sup> The ASC, when it was established in 1967, comprised the foreign minister of the host country or his representatives and the accredited ambassadors of the other member countries. *The ASEAN Declaration (Bangkok Declaration)*.

<sup>23</sup> Since July 1992, the Secretary-General has chaired, on behalf of the ASC Chairman, all meetings of the ASC except the first and last. *Protocol Amending the Agreement on the Establishment of the ASEAN Secretariat*, Manila, Philippines, 22 July 1992. Available HTTP: <<http://www.aseansec.org/1198.htm>> (accessed 27 January 2010).

<sup>24</sup> The ASC still appears as a preparatory meeting of AMM in *ASEAN Charter, Annex 1*. However, the *Joint Communiqué* of the 42<sup>nd</sup> ASEAN Foreign Ministers Meeting in 20 July 2009 no longer mentions the ASC as a preparatory meeting. Available HTTP: <<http://www.aseansec.org/22686.htm>> (accessed 27 January 2010).

<sup>25</sup> See *Appendix 2, ASEAN Charter*.

<sup>26</sup> Hayes-Renshaw and Helen Wallace, *The Council Ministers* (London: Macmillan Press, 1997), pp.70-100.

<sup>27</sup> *ASEAN Intergovernmental Commission on Human Rights (Terms of Reference)*, Available HTTP: <<http://www.aseansec.org/publications/TOR-of-AICHR.pdf>> (accessed 27 January 2010).

<sup>28</sup> Ibid.

<sup>29</sup> *Jakarta Post*, 5 March, 2009.

<sup>30</sup> *Singapore Declaration of 1992*.

<sup>31</sup> Based on interviews by the author in January 2009 with staff members in charge of project implementation in each division at the ASEAN Secretariat.

<sup>32</sup> Based on internal documents obtained by the author in January 2009 from staff members in charge of budgets and human resource development at the ASEAN Secretariat.

<sup>33</sup> Hadi Soesastro, Clara Joewono and Carolina G. Hernandez (eds.), *Twenty Two Years of ASEAN ISIS: Origin, Evolution and Challenges of Track Two Diplomacy*, (Jakarta: Centre for Strategic and International Studies (CSIS), 2006), pp.187-90.

<sup>34</sup> Based on interviews by the author in January 2009 with persons in charge delegated to the Secretariat from the governments of Australia, Germany and the United States. Australia has supported the work of building the ASEAN Economic Community, such as the ASEAN Scorecard to monitor implementation of economic agreements. German support has mainly concerned legal services since 2008, whereas the US has dealt with public affairs and information technology since 2004.

<sup>35</sup> Leifer, Michael, 'ASEAN as a Model of a Security Community,' in Chin Kin Wah and Leo Suryadinata (compiled and ed.) *Michael Leifer: Selected Works on Southeast Asia* (Singapore: Institute of Southeast Asian Studies (ISEAS), 2005), p.138. The original version is in Hadi Soesastro (ed.) *ASEAN in a Changed Regional and International Political Economy* (Jakarta: Centre for Strategic and International Studies, 1995), pp.129-42.

<sup>36</sup> *Treaty of Amity and Cooperation in Southeast Asia*, Indonesia, 24 February 1976. Available HTTP: <<http://www.aseansec.org/5047.htm>> (accessed 27 January 2010).

<sup>37</sup> Hadi Soesastro, Clara Joewono and Carolina G. Hernandez, op. cit., p.184.

<sup>38</sup> Kraft, op. cit., p.289.

<sup>39</sup> *Report of the Eminent Persons Group*, p.42.

<sup>40</sup> Woon, Walter, 'The ASEAN Charter Dispute Settlement Mechanism,' in Koh, Tommy, Rosario G. Manalo and Walter Woon (eds.), op. cit., pp.75-77.

<sup>41</sup> *ASEAN Protocol on Enhanced Dispute Settlement Mechanism*, Vientiane, Lao PDR, 29 November 2004. Available HTTP: <<http://www.aseansec.org/16754.htm>> (accessed 27 January 2010).

<sup>42</sup> Ibid.

<sup>43</sup> Ibid. *Appendix II Working Procedures of the Panel*.

<sup>44</sup> Woon, op. cit., p.73.

<sup>45</sup> *Protocol Regarding the Implementation of the CEPT Scheme Temporary Exclusion List*, Singapore, 22-25 November 2000. Available HTTP: <<http://www.aseansec.org/5306.htm>> (accessed 27 January 2010).

<sup>46</sup> Sanae Suzuki, 'Linkage between Malaysia's FTA Policy and ASEAN Diplomacy,' in Okamoto Jiro

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(ed.) *Whither Free Trade Agreements? Proliferation, Evaluation and Multilateralization*, (Chiba: Institute of Developing Economies, 2003), pp.293-96.

<sup>47</sup> *Treaty of Amity and Cooperation in Southeast Asia*.

<sup>48</sup> Leifer, Michael, 'The ASEAN Peace Process: A Category Mistake,' in Chin Kin Wah and Leo Suryadinata, op. cit., pp.123-24. The original is Michael Leifer, *The Pacific Review*, Vol.12, No.1 (1999), pp.25-38.

<sup>49</sup> Leifer, Michael, 'ASEAN as a Model of a Security Community,' p.140.

<sup>50</sup> *Rules of Procedure of the High Council of the Treaty of Amity and Cooperation in Southeast Asia*, Hanoi, Vietnam, 23 July 2001. Available HTTP: <<http://www.aseansec.org/3639.htm>> (accessed 27 January 2010).

<sup>51</sup> *The Vientiane Action Programme: 2004-2010*, Vientiane, Lao PDR, 29 November 2004, p.31. The ASEAN Security Community was later replaced as the ASEAN Political Security Community (APSC).

<sup>52</sup> *Protocol Amending the Treaty of Amity and Cooperation in Southeast Asia*, Manila, the Philippines, 15 December 1987. Available HTTP: <<http://www.aseansec.org/1218.htm>> (accessed 27 January 2010).

<sup>53</sup> Establishment of the Contact Group was not realized because Thailand chose direct consultations with Cambodia. *Jakarta Post*, 22 July, 2008, *Bangkok Post*, 23 July, 2008.

<sup>54</sup> *Declaration on the conduct of parties in the South China Sea*, Phnom Penh, Kingdom of Cambodia, 4 November 2002. Available HTTP: <<http://www.aseansec.org/13163.htm>> (accessed 27 January 2010). In the Declaration, the parties concerned also agreed to intensify efforts to build trust and confidence through cooperation regarding the safety of navigation and communications at sea, pending a comprehensive and durable settlement of the disputes.

<sup>55</sup> Woon, op. cit., p.74.



# 5 The Changing Norms of ASEAN: From the Principle of Non-Interference to the Promotion of Democracy and Human Rights

Taku Yukawa

## 1. Introduction

The Association of Southeast Asian Nations (ASEAN) has achieved a reputation as a constructive element for the international order in Southeast Asia. Its presence allows for a measure of accommodation and provides members with collective bargaining power. By some accounts ASEAN is the developing world's most successful organization.<sup>1</sup>

Many observers attribute the success of ASEAN to its unique approach to regional cooperation.<sup>2</sup> The key characteristic of this approach is its focus on adherence to members' sovereign rights. ASEAN member countries have achieved confidence building by respecting each other's sovereignty through such norms as non-interference in the internal affairs of other members and a consensus decision-making procedure. Although the consensus building was basically an unwritten principle, the non-interference principle was the central norm in ASEAN confirmed in such treaties as the Zone of Peace, Freedom and Neutrality (ZOPFAN) and the Treaty of Amity and Cooperation (TAC), which have important significance in the history of ASEAN.

In the background of the stable international relations being maintained in such a way, there is a pragmatism that calls for concrete benefits and economic growth rather than a certain universal idea. This implies that to raise such ideas as democracy and human rights and to define a "right" state of domestic governance internationally are important deviations from the order state of previous years. Moreover, it can be understood that the changes of the norms in ASEAN, or the disputes involving the norms, are basically a conflict between the norm of respecting each country's sovereignty, including the non-interference principle, and the norm of calling for better domestic governance, such as democracy and human rights. In that case, the domestic democratization and human rights in Myanmar became a focus making these international issues, as it is a member country. That is, disputes regarding the norms of ASEAN tend to become an issue involving attitudes toward Myanmar rather than an abstract argument over policy. Therefore, in this paper, the changes of the traditional norms in ASEAN are surveyed by following the two changes of the policies of ASEAN member countries toward Myanmar and the trials of main norm establishment in ASEAN.

## 2. Origin and Maintenance of the ASEAN Norms

It is true, of course, that one of the reasons why ASEAN members adhered strongly to the norm of respecting the member countries' sovereignties was that they were newly independent countries. That is, the history of colonial intervention in Southeast Asia and great power intervention in the Cold War led ASEAN members to consider sovereignty as an essential element of security. To prevent the great powers from intervening arbitrarily in the domestic affairs of the weak states in Southeast Asia, ASEAN members adhered to the norm of respect for sovereignty.

However, ASEAN norms are also understandable from the viewpoint of the internal relations of the region and the member states' domestic politics. To understand why the norm of respect for members' sovereignty was attractive to ASEAN when it was established in 1967, two important factors are to be considered. One is the primary security threats facing the weak states of ASEAN, and the other is regional instability. When ASEAN was established, the states faced a number of internal and external security challenges. Internally, there were challenges from various domestic social groups, such as ideological factions, ethnic groups, and religious movements.<sup>3</sup> At the time of the establishment of ASEAN, the leaders lacked not only the adequate coercive power and the exercise of force to impose their rule on those groups but also legitimacy by way of law or social practice. That is, domestically, the countries were very "weak." Externally, the five founding countries had various bilateral difficulties with their neighbors.<sup>4</sup> The most severe dispute was Indonesia's challenge to the legitimacy of the Malaysian state, *Konfrontasi*. Malaysia and the Philippines were locked in a dispute over ownership of the contested territory of Malaysia's Sabah province, and Singapore had been forced to leave Malaysia. The region was quite unstable before ASEAN was established.

Therefore, the five founding countries had to create regional order and stable international relations in order to devote their resources to state-building and to deal effectively with tense situations in domestic politics. Thus, ASEAN was primarily an organization for security, and setting the norms of respect for member states' sovereignty and the rule of the organization was a rational option for the leaders. It aimed especially to achieve confidence building among the member countries, so it was required to be a cost-free organization in which to participate so that each member country absolutely did not have any dissatisfaction in being a member country of ASEAN. Its primary importance was to avoid confrontations by any means. On the other hand, ASEAN as a regional organization was required to take the role not of an "actor" but of an "arena" at that time. A regional organization as an actor requires its members to pool their sovereignties to some extent. Therefore, the norms of ASEAN had been formed and managed in a stage where ASEAN was not assumed to have any concrete and functional cooperation but just to take a role as a meeting place for elites.

These norms were maintained for about 30 years. Since the year of its founding, no

states in ASEAN had waged war against each other by virtue of these norms, and under the stable regional order, the state-building process in the ASEAN member states went quite well. In the early 1990s, however, the traditional norms of ASEAN became a problem internationally and, subsequently, regionally.

### **3. Debates regarding the Non-Interference Principle and Tenacious Adherence to the Traditional Norms**

In the early 1990s the prospect of expansion of membership to include Myanmar caused much concern. The military junta then ruling under the banner of the State Law and Order Restoration Council (then, the State Peace and Development Council, or SPDC) refused to recognize the victory of Aung San Suu Kyi's National League for Democracy (NLD) in a general election in 1990 and faced intense criticism from the West, including sanctions and the retreat of international funding. The Western powers were adamant that Myanmar should not be granted any form of international legitimacy and pressured the ASEAN states to isolate Myanmar. After 1991, when for the first time the European Union expressed strong criticism of ASEAN's policy toward Myanmar at the 9<sup>th</sup> ASEAN-EU Ministerial Meeting in Luxemburg, this firm position against ASEAN's policy was maintained.

Despite the heavy pressure exerted by the United States and the European Union, the ASEAN states adhered to a strict respect for non-interference in a member's internal affairs. In contrast to the Western approach, ASEAN leaders maintained the relationship with the Myanmar junta and insisted that membership in ASEAN would improve Myanmar's internal human rights situation. ASEAN justified its dealing with Myanmar through the principle of "constructive engagement," which was coined by Thai Foreign Minister Arsa Sarasin in 1991. ASEAN argued that its policy of "constructive engagement" presented the best means to coax the Myanmar junta toward democratization. Though the term "constructive engagement" included the word "engagement," it meant "non-interference" in the domestic affairs of Myanmar. The necessity of using the concept "constructive engagement" was to repel Western powers and to legitimize its position revolving around the norm of non-interference. This meant that after the West weakened its heavy pressure on ASEAN to some extent in the late 1990s, ASEAN lost the necessity to use the term "constructive engagement." Thus, the concept "constructive engagement" was used only as long as the Western powers were criticizing ASEAN's policy.

On the other hand, for the Myanmar military junta, the association's principle of non-interference in the domestic politics of member states seemed an attractive creed. This principle was also attractive for the other new member countries---Vietnam, Laos, and Cambodia---because these authoritarian countries have problems with their own domestic situations of human rights and democratization as well.

However, a dispute among the ASEAN states regarding democracy and human rights

and an intramural challenge to the principle of non-interference occurred when Myanmar joined ASEAN in 1997. The Philippines and Thailand, which were advancing democratization in the region at that time, favored postponing Myanmar's membership because of its domestic problems. However, other ASEAN member countries rejected these countries' assertion as being "against the non-interference principle of ASEAN," and as a result Myanmar joined in July 1997 as scheduled.

Thailand, calling for involvement in Myanmar after its joining, presented the concept of "flexible engagement" to accept interference in a member country partially in 1998.<sup>5</sup> Thailand's Foreign Minister Surin Pitsuwan called on ASEAN to allow member states to discuss and comment on the domestic politics of fellow members when they had cross-border implications.<sup>6</sup> This was clearly a movement trying to overcome the conventional non-interference principle, and it was totally new in ASEAN history. In this case also, however, only the Philippines approved the proposal of Thailand, and other member states rejected it. In addition, it was confirmed that the traditional norm of ASEAN of respecting each country's sovereignty was maintained and ASEAN would not interfere in the domestic problems of Myanmar. For the overwhelming majority of ASEAN countries, "flexible engagement" seemed to potentially invite ASEAN intervention, which would endanger regional stability and jeopardize regime security. Instead of "flexible engagement," ASEAN leaders agreed to introduce a new concept, "enhanced interaction." But this concept had essentially no effect, and its introduction did not alter members' behavior. Thus, we can say that ASEAN's principle of non-interference was almost completely maintained.

It is interesting to note that the non-interference principle and consensus building were established as "the norms of ASEAN," that is, the "ASEAN Way," in this process. The norms, such as the non-interference principle and the consensus decision-making procedure, are also seen in international organizations other than ASEAN, especially in regional organizations in the third world. In that sense, there is nothing unique to ASEAN in the norms. But they were expressed as the norms of ASEAN for the purpose of opposing reformers. That is, the initial construction and definition of the term "ASEAN Way" was tied to legitimizing ASEAN's diplomatic practice vis-à-vis Myanmar's military government. Authoritarian members argued that flexible engagement challenged the "ASEAN Way" and weakened ASEAN solidarity. They used the term to delegitimize Thailand's proposal.<sup>7</sup>

#### **4. Hardening of the Policy toward Myanmar and Orientation toward a Community (2003–04)**

The stance of adhering tenaciously to the traditional norms began to change after an incident in which the prodemocracy movement was attacked by rioters in Depayin in Myanmar in May 2003 and Aung San Suu Kyi was placed under house arrest again. In

response, ASEAN member countries criticized Myanmar and showed an exceptionally strong stance, calling for a resumption of the democratization dialogue at a Ministerial Meeting in June. ASEAN issued an unprecedented joint statement that “urged Myanmar to resume its efforts of national reconciliation and dialogue among all parties concerned leading to a peaceful transition to democracy.”<sup>8</sup> They took the additional step of reaffirming their continued support for the efforts of the United Nations Secretary-General’s Special Envoy Razali Ismail. This incident came to be seen among the media also as an issue “breaking down the non-interference principle,”<sup>9</sup> and a month later Malaysian Prime Minister Mahathir Mohamad warned that Myanmar could be expelled from ASEAN if it did not reform its behavior. Several foreign ministers claimed that discussion of political developments in Myanmar at the ASEAN Ministerial Meetings did not constitute a breach of the principle of non-interference. For example, Singapore’s then Foreign Minister S. Jayakumar stated that he did not view the discussion as an interference in internal affairs because non-interference continued to be a principle<sup>10</sup> A stance of trying to strike a balance between involvement in Myanmar and the non-interference principle was evident. Domestic problems in Myanmar were again discussed at the ASEAN Ministerial Meeting in Jakarta in June 2004. In the Joint Communiqué, ASEAN members indirectly reiterated their criticism.<sup>11</sup>

While such changes were seen in the stance on Myanmar, it was also stated, in the Bali Concord II adopted at the summit meeting in October 2003, that ASEAN aimed to create a community and reestablish the norms of ASEAN. The Declaration of ASEAN Concord II (Bali Concord II) was meant to envision the establishment of an integrated economic, security, and socio-cultural community. This implied that the conventional norms, such as the non-interference principle and consensus building, would be reconfirmed in a way, and in particular consensus building, which had been an unwritten norm until then, was specified for the first time. To realize the ASEAN Security Community (ASC), the concord spelled out that ASEAN members were meant to “abide by the UN Charter and other principles of international law and uphold ASEAN’s principles of non-interference, consensus-based decision-making, national and regional resilience, respect for national sovereignty, the renunciation of the threat or the use of force, and peaceful settlement of differences and disputes.”<sup>12</sup> These were traditional ASEAN norms.

On the other hand, the efforts to reinvigorate the ASEAN norms were initially manifested in the Bali Concord II. In this declaration the word “democracy” was incorporated for the first time in an official document of ASEAN. According to the declaration, the ASEAN Security Community was “envisaged to bring ASEAN’s political and security cooperation to a higher plane to ensure that countries in the region live at peace with one another and with the world at large in a just, democratic and harmonious environment.”<sup>13</sup> Although it was only a one-word insertion, a dispute occurred among the member countries over the pros and cons. Specifically, while the new member countries that had joined ASEAN since the 1990s, such as Vietnam, Laos, and Myanmar, asserted the



non-interference in internal affairs and opposed introduction of the democratic norm, the original member countries, and especially Indonesia, which advanced democratization in 1998, positively asserted the introduction of the new norm.

In sum, the Bali Concord II was a political compromise between those who adhered to the traditional norm of respect for sovereignty and those that have favored the new norms. It is interesting that the new members preferred the old ASEAN norms and the original members, especially democracies such as the Philippines and Indonesia, preferred the new ones. The original draft proposal of the ASC was formulated by Rizal Sukuma from the Centre of Strategic and International Studies (CSIS).<sup>14</sup> Sukuma's draft insisted on the need for a fundamental change of ASEAN's traditional norms in more explicit ways, and the idea considerably influenced the proposal of Indonesia's Department of Foreign Affairs. However, the adopted version of the Bali Concord II only provided conceptual support for new norms, such as human rights and democracy.

In addition to the incorporation of the "new" norms, such as democracy and human rights, the Bali Concord II was important for ASEAN's norms in that this declaration set different norms in different issue areas by establishing plans for an "ASEAN Community" with security, economic, and socio-cultural "pillars." Establishing three different communities cleared the differences between the norms of each issue area. In the political area, the principle of non-interference and the consensus decision-making procedure was adhered to, and in the economic area, the "ASEAN Minus X formula" was employed. This means that if some countries disagree with a proposal, the proposal can still be passed and carried out by states that could do it. Thus, while traditional norms were preserved in the political area, more importance was attached to efficiency in the economic area.

In a further step toward the reinvigoration of ASEAN's norms, in June 2004 the ASEAN foreign ministers agreed not to condone unconstitutional and undemocratic changes of government.<sup>15</sup> At a summit meeting in December 2004, the Vientiane Action Programme (VAP) was adopted in order to make community formation a reality, but here also, the coexistence of the traditional norm of respecting each country's sovereignty and the norm of "democracy" was seen. The VAP noted that the ASC "embodies ASEAN's aspirations to achieve peace, stability, democracy and prosperity." In addition, in the ASEAN Security Community Plan of Action that was adopted at the same meeting, a quite specific expression, "ASEAN Member countries shall not condone unconstitutional and undemocratic changes of government," was seen. This sentence crucially refined ASEAN's normative terrain in that it expressed clearly that ASEAN's non-interference principle would not be applied to the domestic affairs of member states in the context of a particular situation, namely, an unconstitutional and undemocratic change of government. Though changes were quite pervasive in the histories of ASEAN countries, ASEAN now had the right to discuss the internal politics of its members.



## **5. Toward the Establishment of the ASEAN Charter (2005–)**

After 2005 the norms of ASEAN changed in the sense that (1) criticism of Myanmar became commonplace and (2) raising democracy and human rights as the norms of ASEAN were clarified even more.

Specifically, an issue regarding the chairmanship arose in 2005. The United States and EU strongly opposed Myanmar becoming the chair of meetings that included ASEAN and the relevant extra-regional countries from the second half of 2006. The Western powers adopted a tough posture toward Myanmar because Aung San Suu Kyi was under house arrest and no progress was being made toward democratic reform. Although Vietnam, Brunei, Cambodia, and Laos strongly insisted not to yield to this external pressure, some ASEAN governments began raising concern over Myanmar's chairmanship and the lack of any substantive progress on democratization through various diplomatic channels.<sup>16</sup> But some countries, such as Singapore and Malaysia, were careful not to refute ASEAN's principle of non-interference. For example, Singapore Foreign Minister George Yeo stated that "we affirmed that ASEAN cannot interfere in the domestic affairs of Myanmar."<sup>17</sup> Thus, Singapore and Malaysia wanted to improve domestic conditions in Myanmar, but at the same time they did not try to challenge ASEAN's traditional norms.

Some parliaments of the original member states also expressed concern about the ramifications of a Myanmar chairmanship. In Indonesia, the parliament's Commission on Defense and Foreign Affairs requested the government to boycott ASEAN if Myanmar took the chair.<sup>18</sup> In Malaysia, some parliamentarians filed a motion calling on the government to deny Myanmar the chairmanship of ASEAN if it did not improve its domestic problems. The Philippine Senate passed a motion calling on ASEAN to deny the chairmanship. In addition, various parliamentarians from these countries established the Inter-Parliamentary Myanmar Caucus (AIPMC) to express concern about the Myanmar problem. This was the first interstate parliamentary caucus in Southeast Asia.

At the annual Ministerial Meeting in Vientiane in July 2005, Myanmar informed the other members that it "had decided to relinquish its turn to be the Chair of ASEAN in 2006 because it would want to focus its attention on the ongoing national reconciliation and democratization process."<sup>19</sup> This came as a huge relief to the region's leaders, who said that Myanmar would be permitted to take its turn to be the chair when it was ready to do so. ASEAN could now avoid a conflict with the Western powers. In addition, at the summit meeting in December of the same year, the Chairman's Statement emphasized the democratization of Myanmar and release of people in custody, and it was determined to dispatch a mission to supervise the democratization situation.<sup>20</sup> However, the visit of a mission led by Malaysian Foreign Minister Shyd Hamid was postponed twice.<sup>21</sup>

In July 2007, at the Ministerial Meetings, foreign ministers "expressed concern on the pace of the national reconciliation process and urged Myanmar to show tangible progress that would lead to a peaceful transition to democracy in the future."<sup>22</sup> Although

this statement was one of ASEAN's most critical official statements on Myanmar, about two months after the statement an incident further hardened the ASEAN member countries' policy toward Myanmar. A large-scale demonstration calling for democratization and its suppression arose in Myanmar from August to September 2007. In response, international organizations, including the United Nations and the EU, made public statements and took action regarding the crisis in Myanmar. ASEAN foreign ministers met in private in New York on September 27 to review plans of ASEAN. Of the ASEAN countries, Singapore had the most severe posture toward the Myanmar junta. There was a stream of criticism concerning Myanmar at the informal meeting, and Singapore talked in exceptionally severe words about its "revulsion." The foreign minister of Singapore, the chair of ASEAN at the time, said that the ministers had "expressed their revulsion" to Myanmar's foreign minister "over reports that demonstrations" were forcibly suppressed and that fatalities had occurred. Foreign Minister George Yeo said they had "demanded that the Myanmar government immediately" stop violence against demonstrators and "strongly urged" Myanmar to "seek a political solution."<sup>23</sup> This chair statement took ASEAN watchers by surprise, and especially notable in this context was the ferocity of the word "revulsion."

While the democratization and human rights situation in Myanmar had become an issue at ASEAN, the ASEAN Charter was being advanced. The ASEAN Charter was to restipulate the purpose and principle of ASEAN, and it was very important from the viewpoint of the norms also. The Kuala Lumpur Declaration on the Establishment of the ASEAN Charter (2005) set out the "principles, goals and ideas" to be "reaffirmed" by the charter, including the "promotion of democracy, human rights and obligations, transparency and good governance and strengthening democratic institutions."<sup>24</sup> The charter was also intended to form the foundation of the so-called "ASEAN Community" that member states had agreed to pursue in the 2003 Bali Concord II. This declaration also established the Eminent Persons Group (EPG), which comprised mostly former ministers and diplomats, to "examine and provide practical recommendations on the directions and nature of the ASEAN Charter." In addition, changes, such as a reexamination of the non-interference in internal affairs principle, were seen at the informal Ministerial Meeting in April 2006. Therefore, the ASEAN Charter was expected to have real effects beyond the conventional non-interference in internal affairs principle or merely raising such norms as democracy and human rights. Certain civil society groups consulted with the EPG in the name of making ASEAN more "people-oriented."<sup>25</sup>

Actually, in the proposal that was set as a preceding step toward the establishment of the charter and submitted to the summit meeting in 2006 by the EPG, considerably specific contents were seen. In the proposal, the promotion of democracy was raised as a purpose of ASEAN. Its report proposed that the charter stated that the first of ASEAN's "Fundamental Principles and Objectives" was the "active strengthening of democratic values, good governance, rejection of unconstitutional and undemocratic changes of government, the rule of law including international humanitarian law, and respect for human rights and

fundamental freedoms.”<sup>26</sup> In addition, the following items were specified: First, the non-interference principle was preserved as being specified only in relations with extra-regional countries. Second, sanctions were included. The report stated that “serious breach of ASEAN’s objectives, major principles, and commitments to important agreements” by a member state could result in the “suspension” of its membership rights. Third, decision-making by majority voting was proposed. Although decision making was basically based on consensus, in case an agreement was not reached, a vote system was to be adopted except for sensitive domains. The sanctions and vote system were incorporated especially bearing the domestic problems of Myanmar in mind. So, the EPG’s report did make bold and visionary recommendations.

Regarding these contents, in addition to the new member countries including Myanmar, Singapore and Thailand also showed a cautious stance toward the changes. On the other hand, the ones who emphasized such norms as democracy and human rights were Indonesia and the Philippines, which had especially advanced democratization within the region. Therefore, in this way, through the disputes between the member countries with different expectations, the ASEAN Charter that was signed at the summit meeting in 2007 was considerably different from the EPG proposal. The EPG’s report suffered a fate similar to Indonesia’s proposal for the ASEAN Security Community.

There is no change regarding the point that the values of democracy and human rights are stated. Among the 15 purposes of ASEAN set out in Article 1, the seventh is “To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN.”<sup>27</sup> Further, in Article 2, ASEAN’s principles include “adherence to the rule of law, good governance, the principles of democracy promotion and protection of human rights, and the promotion of social justice.”<sup>28</sup>

However, considerable continuity with the conventional ways is evident in (1) for the non-interference in internal affairs principle, in addition to relations with extra-regional countries, a domestic issue of the member country was also included, (2) the proposal of sanctions was rejected substantially, and (3) the decision-making system by consensus has also been preserved. The phrase “rejection of unconstitutional and undemocratic changes of government” was omitted and replaced by a reference to “adherence” to “constitutional government.”

Therefore, the ASEAN Charter is a compromise between the states (mainly the new member states) that prefer to maintain the traditional norm of respect for sovereignty and the states (mainly the original member states) that try to introduce the promotion of democracy and human rights into ASEAN norms. This suggests that on the one hand democracy and human right are set as the principles of ASEAN and on the other hand the non-interference principle and the consensus decision-making function serve as a kind of "safety valve" so that raising democracy and human rights as the norms of ASEAN may

not become a disadvantage to those countries that are reluctant to see changes, mainly the new member countries. Thus, the non-interference principle and the consensus decision-making procedure protect member states from interference in their domestic affairs. The other item that catches attention is the establishment of a local human rights body, but it is considerably doubtful to what extent this will have an effect.

Following the ASEAN Charter, the “ASEAN Political-Security Community Blueprint” was submitted at the 14<sup>th</sup> ASEAN Summit on February 26 – March 1, 2009. Although most important documents concerning the politics and security of ASEAN refer to the principle of non-interference, this blueprint does not. Thus, it may be possible to regard this document as a turning point for ASEAN norms. On the other hand, though, nothing concrete is mentioned about the promotion of democracy and human rights. The norms of ASEAN have drifted in a range that can at least satisfy the new members, which adhere to the traditional norm of respect of sovereignty.

## **6. The ASEAN Norms at Present**

So far, the changes from 1997, when Myanmar joined ASEAN, to the present have been reviewed. Following the Depayin incident in 2003, the domestic problems of Myanmar have become a common topic raised in ASEAN, especially after the issue of Myanmar’s chairing the organization in 2005 and the suppression of demonstrations in 2007. In addition, such norms as democracy and human rights have clearly been positioned as “the principles of ASEAN.” These can be considered to be major changes, because the state of governance in member countries has begun to be considered a part of what ASEAN involves as a regional organization. This is quite unlike the traditional condition of ASEAN, which stabilized international relations among member countries by adhering to the non-interference principle.

What have caused these changes of the norms of ASEAN? One may think that concern about the image or reputation of ASEAN occasioned such unprecedented changes. Some ASEAN members, such as Malaysia and Singapore, understood that protecting Myanmar from external pressure and adhering to traditional norms damage ASEAN’s international standing and ties with dialogue partners. In contrast to Indonesia and the Philippines, which insist on the need to change the norms of ASEAN, Singapore and Malaysia prefer the old norm of respect for sovereignty. That is, these states hope that the traditional norms will be maintained. But these countries frequently criticize the Myanmar junta, because the situation in Myanmar is impacting on the image and credibility of ASEAN. On the other hand, many regional organizations in the international community, such as the EU, the Organization of American States, and the African Union, incorporate democracy and human rights into their regional norms. Therefore, we can say that it is quite common to define a “right” state of domestic governance in member states regionally. In these circumstances, ASEAN states feel the need to appeal to external countries by

endorsing such ideas as democracy and human rights as its regional norms.

However, probably what is most important as the background of the changes in ASEAN's norms is the democratization of member countries, because a dispute among ASEAN members regarding ASEAN norms has occurred. The conventional ASEAN was more like a place where foreign ministers gathered and held discussions than anything else. ASEAN was criticized as being an elitist organization. However, the democratization of member countries has begun to change this structure. For example, in the chairmanship issue in 2005, the parliaments of the Philippines, Malaysia, and Thailand raised a question and a resolution requesting Myanmar to decline to be the host country. Organizations such as the AIPMC, which consists of assembly members in ASEAN member countries, also claimed to apply some pressure on Myanmar for its democratization. And in its foreign policy, the Indonesian government has asserted democracy and human rights vigorously since 2003 and has had quite an effect in appealing to its own domestic opinion. In other words, the foreign policies of the original member countries have become complicated along with democratization, and this has been one factor in changing the norms of ASEAN as a regional organization.

At the same time, though, it is wrong to emphasize only the changes. As mentioned above, the ASEAN Charter, which was expected to have a real effect on the promotion of democracy and human rights, continued to respect member countries' sovereignties. The evaluation of the ASEAN Charter was also suggested by the ways of ratification after the charter was signed at the summit meeting in 2007. That is, while the conservative countries completed ratification right away, dissatisfied opinions calling for changes were raised in the parliaments of Indonesia and the Philippines, and ratification was considerably delayed. This means that the contents of the charter were difficult to accept for the parties that were trying to promote human rights and democracy beyond the traditional norms. In addition, the reason why the Myanmar government, after Cyclone Nargis in 2008, accepted ASEAN as a contact while refusing assistance from Europe and the United State out of fears of interference in its internal affairs was probably because it estimated that ASEAN would not apply too much pressure. ASEAN remains such an existence for Myanmar.

To summarize the above discussions, the current situation of the norms of ASEAN is that even though it advocates such norms as human rights and democracy, this does not have any real effect on their promotion. A future focus is still considered as to how to build a concrete structure while the opposition from the conservative countries, including Myanmar, is still strong – either by adopting a stance of monitoring or by taking action through sanctions.

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<sup>1</sup> Donald Weatherbee, *International Relations in Southeast Asia: the Struggle for Autonomy* (Lanham:



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Rowman & Littlefield Publishers, 2005).

<sup>2</sup> Jurgen Haacke, *ASEAN's Diplomatic and Security Culture: Origins, Development and Prospects* (London: RoutledgeCurzon, 2003); Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Security Order* (London; New York: Routledge, 2001); Melly Caballero-Anthony, *Regional Security in Southeast Asia: Beyond the ASEAN Way* (Singapore: ISEAS, 2005).

<sup>3</sup> Mohammed Ayoob, *The Third World Security Predicament: State Making, Regional Conflict, and the International System* (Boulder, CO: Lynne Rienner, 1995); Brian Job (ed.) *The Insecurity Dilemma: National Security of Third World States* (Boulder, CO: Lynne Rienner, 1992); Kalevi Holsti *The State, War, and the State of War* (Cambridge: Cambridge University Press, 1996).

<sup>4</sup> Bernard K. Gordon, *The Dimensions of Conflict in Southeast Asia* (Englewood Cliffs; Prentice-Hall, 1966); Andrew Tan, *Intra-ASEAN Tensions* (Royal Institute of International Affairs, 2000).

<sup>5</sup> Many scholars have argued that the economic crisis in 1997 disturbed traditional ASEAN norms, the "ASEAN way." However, such a view is flawed, as little attention has been given to the ASEAN members' dialogue regarding their norms. In reality, ASEAN members have referred only to engagement with Myanmar as a challenge to their norms, and they did not view the economic crisis as injuring ASEAN's principles. While the grouping resisted calls for reviewing their traditional norms in the political area, they compromised the rigid non-interference policy in the economic area.

<sup>6</sup> Jurgen Haacke, "Enhanced Interaction with Myanmar and the Project of Security Community: Is ASEAN Refining or Breaking with Its Diplomatic and Security Culture?" in *Contemporary Southeast Asia*, 27(2), 2005, pp. 188–216.

<sup>7</sup> Of late, scholars influenced by constructivist ideas have offered a social basis for analyzing the long peace among the members of ASEAN. According to constructivists, the "ASEAN Way" has been at the core of ASEAN regionalism as a symbol of solidarity. But the term emerged and was used frequently because ASEAN's traditional method fluctuated.

<sup>8</sup> Joint Communiqué of the 36<sup>th</sup> ASEAN Ministerial Meeting.

<sup>9</sup> *The Nation*, June 18, 2003.

<sup>10</sup> Jurgen Haacke, "Enhanced Interaction with Myanmar and the Project of a Security Community: Is ASEAN Refining or Breaking with Its Diplomatic and Security Culture?" in *Contemporary Southeast Asia*, 27(2), 2005, p. 197.

<sup>11</sup> Joint Communiqué of the 37<sup>th</sup> ASEAN Ministerial Meeting, Jakarta, June 29–30, 2004.

<sup>12</sup> Declaration of ASEAN Concord II (Bali Concord II), Bali, Indonesia, October 7, 2003.

<sup>13</sup> *Ibid.*

<sup>14</sup> Rizal Sukma, "The Future of ASEAN: Towards a Security Community" (paper presented at a seminar on "ASEAN cooperation: Challenges and Prospects in the Current International Situation, New York, June 3, 2003).

<sup>15</sup> *Jakarta Post*, June 30, 2004.

<sup>16</sup> Jurgen Haacke, *Myanmar's Foreign Policy: Domestic Influences and International Implications* (London: The International Institute of Strategic Studies, 2006), p. 55.

<sup>17</sup> *The Straits Times*, April 12, 2005.

<sup>18</sup> *Jakarta Post*, June 2, 2005.

<sup>19</sup> Statement by the ASEAN Foreign Ministers, Vientiane, July 25, 2005.

<sup>20</sup> Chairman's Statement of the 11<sup>th</sup> ASEAN Summit, Kuala Lumpur, December 12, 2005.

<sup>21</sup> The reason for this postponement may have been that Syed Hamid requested to meet with Aung San Suu Kyi. In the end, the delegation was not permitted to meet Suu Kyi.

<sup>22</sup> Joint Communiqué of the 40<sup>th</sup> ASEAN Ministerial Meeting, "One Caring and Sharing Community," Manila, July 29–30, 2007.

<sup>23</sup> Statement by ASEAN Chair, Singapore's Minister for Foreign Affairs George Yeo, New York, September 27, 2007.

<sup>24</sup> The Kuala Lumpur Declaration on the Establishment of the ASEAN Charter, Kuala Lumpur, December 12, 2005.

<sup>25</sup> Alan Collins, "A People-Oriented ASEAN: A Door Open or Closed for Civil Society Organizations?" in *Contemporary Southeast Asia*, 30(2), 2008, pp. 313–331.

<sup>26</sup> Report of the Eminent Persons Group on the ASEAN Charter, December 2006.

<sup>27</sup> Charter of the Association of Southeast Asian Nations, Singapore, November 20, 2007, Article 1.

<sup>28</sup> *Ibid.*, Article 2.



# 6 The Bridge over the ASEAN Divide: Can Sub-regional Cooperation in the Mekong Basin Promote ASEAN Integration?

Maki Aoki-Okabe

## 1. Introduction

This paper compares the activities and background of sub-regional development initiatives in the Mekong Basin and examines their impact on ASEAN's effort to bridge the gap between its new and old members toward an integrated regional community.

In the late 1990s ASEAN welcomed Cambodia, Laos, Myanmar, and Vietnam (CLMV) as its new members. This expansion of membership was an epoch-making event in ASEAN's history, but it raised a new issue at the same time: the political/economic gap between the new and old members.<sup>1</sup>

Politically, the CLMV's accession widened the variety of political regimes within the region. ASEAN newly had the communist regimes of Vietnam and Laos, the Cambodian constitutional monarchy, and Myanmar under martial rule with restrictions on the nation's political freedom and rights. This variability of political regimes could be a disturbance in communication among members. The old members, except for Brunei, are basically countries with democratic regimes---at least in the sense that none of them refuse or deny democracy. ASEAN had been based on the members' common understanding that they share a common political mind and manner. Having new members, ASEAN had to enhance its communication through further cooperation so that it can avoid a possible communication gap within the region.

Moreover, the huge economic disparity between the CLMV and the original members could be an immediate challenge to ASEAN's integration process. ASEAN's old members agreed at the second ASEAN Summit in 1992 to establish the ASEAN Free Trade Area (AFTA) and embarked on tariff elimination within 15 years (later it was rescheduled to 10 years). The new members were also expected to join the AFTA process, but difficulties were anticipated. While the six countries of ASEAN enjoyed export-led economic growth in the 1980s, continual conflicts and economic isolationist policies hampered the CLMV's development. Consequently, the economic gap between the CLMV and the ASEAN 6 remarkably widened. Based on per-capita gross domestic product (GDP) in 1990, for example, it ranged from Cambodia's US\$105.9 to Singapore's US\$12,090.<sup>2</sup> It was obvious that the CLMV's economic infrastructures were not yet mature enough to absorb the AFTA. ASEAN's old members tried to make the newcomers catch up with the AFTA process by bestowing on them a special tariff reduction schedule, but the fact

remained that the CLMV eventually have to remove substantially all trade barriers in the near future. After all, in order to make ASEAN a genuine regional community both politically and economically, it was inevitable to develop the CLMV's economic/political infrastructure to a level concomitant with the old members.

The members were fully aware that the political/economic gap between the new and old members could divide ASEAN. They called it the "development divide" and tried to bridge the gap through sub-regional development cooperation. Sub-regional cooperation is an economic cooperation formula that originally arose among the old members. It was applied to CLMV development, such as the ASEAN Mekong Basin Development Cooperation (AMBDC) and the Initiative for ASEAN Integration (IAI). On the other hand, ASEAN was not the only promoter of CLMV development. The Greater Mekong Sub-region (GMS) and the Ayeyawaddy-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS) are development initiatives in which ASEAN members in the Mekong Basin (CLMV and Thailand) and non-ASEAN actors, such as China and the Asia Development Bank (ADB), work together. It is noteworthy that both the GMS and ACMECS were originally started as non-ASEAN activities but recently appear in ASEAN's official documents as sub-regional arrangements that contribute to ASEAN's effort to narrow the gap. However, it is not necessarily clear how non-ASEAN sub-regional cooperation "contributes" to ASEAN's effort to bridge the divide. The question to be asked here is why, then, ASEAN mentioned the GMS and ACMECS as contributors to its integration. Do non-ASEAN frameworks really contribute to the AMBDC or IAI? If so, how are they related with each other then? By examining those questions, this paper tries to depict the competitive relationship among ASEAN members over Mekong development.

## **2. Sub-regional Cooperation: ASEAN's Effort to Narrow the Gap among Members**

Even before the CLMV's accession in the 1990s, ASEAN had made efforts to narrow the economic gap among members. We can define the so-called "Growth Triangle" that emerged in the mid-1980s as the prototype of ASEAN's sub-regional development cooperation. The first Growth Triangle was inaugurated by Indonesia, Malaysia, and Singapore. Singapore's Prime Minister Lee Kuan Yew integrated existing individual economic cooperation projects among those three countries under the single name of the "Indonesia-Malaysia-Singapore Growth Triangle" (IMS-GT). Soon after that, the IMS-GT was endorsed by the second ASEAN Summit in 1992 as ASEAN's activity to promote ASEAN'S economic cooperation.<sup>3</sup> This was followed by the Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT) established in 1993 and the Brunei-Indonesia-Malaysia-Philippines Eastern ASEAN Growth Triangle (BIMP-EAGA) in 1994. Behind the quick spread of the Growth Triangle as a new formula for ASEAN's activities, there was members' urgent need to re-boost ASEAN integration. In the late 1980s the Cambodian conflict, which had been functioning as a political rallying point for

ASEAN, was showing signs of being concluded in the near future. ASEAN members strongly recognized the necessity to re-think its new rallying point and embarked on realizing the ASEAN Free Trade Area (AFTA) in 1992, so that they gathered again toward economic integration. By subordinating individual cooperation initiatives among partial members, ASEAN supposedly tried to incorporate the momentum of economic development and to emphasize ASEAN's solidarity.<sup>4</sup> Actually, sub-regional cooperation, except for the IMS-GT, has not delivered substantial results so far. Nonetheless, ASEAN members never abandon them and repeatedly mention these sub-regional frameworks as important tools for narrowing the development gap among members. The above fact suggests that ASEAN's sub-regional cooperation was largely employed as a symbolic device to ensure ASEAN's unity, rather than as a concrete economic achievement. ASEAN's Mekong development initiatives are thus introduced as an extension of such sub-regional cooperation.

### **2.1. The AMBDC and IAI: Sub-regions in the Name of ASEAN**

ASEAN Mekong Basin Development Cooperation (AMBDC) was proposed by Singapore's Prime Minister Goh Chok Ton at the fifth ASEAN Summit held in Singapore in December 1995. It was realized in June 1996 with strong support from Prime Minister Mahathir Mohamad of Malaysia. We can call the 1990s "the decade of Mekong development" for the continuous emergence of Mekong development initiatives. For example, the GMS was started in 1992, and the Japanese Ministry of Foreign Affairs proposed the Forum for Comprehensive Development of Indochina in 1993. This was followed by an agreement between the Ministry of Trade and Industry of Japan (MITI) and ASEAN economic ministers to launch the ASEAN-MITI Working Group for Economic Cooperation in Indochina in 1994 and the establishment of the Mekong River Committee in 1995. In such an environment, the first ministerial meeting of the AMBDC was held with the participation of ASEAN's original members, the newly joined Vietnam, and non-ASEAN countries like Cambodia, Laos, Myanmar, and China. Having the most comprehensive membership in Southeast Asia at that time, ASEAN held a dominant position in Mekong development. Therefore, the AMBDC required the full participation of all ASEAN members even though it was a "sub-regional" activity targeting Mekong Basin countries.

At the first AMBDC ministerial meeting in 1996, the members vowed to take action to enhance the sustainable development of the Mekong Basin and to encourage a process of dialogue and common project identification that can result in firm economic partnerships for mutual benefit and to strengthen the interconnections and economic linkages between the ASEAN member countries and the Mekong riparian countries.<sup>5</sup> Then they agreed on cooperation in such areas as transportation, telecommunications, energy, trade and investment, agriculture, and human resource development. Despite a successful start, the AMBDC lost momentum due to the impact of the Asian financial crisis on members'

economies, and they had to wait another four years for the second ministerial meeting to be held. After the second meeting in July 2000, the AMBDC constantly held annual meetings and institutionalizes Ministerial dialogues. On the other hand, as this paper will show in the next chapter, each project remained unimplemented or delayed because of a chronic budget shortage.

The Initiative for ASEAN Integration (IAI) was proposed in 2000 in a manner that encompassed the AMBDC. Right after the last newcomer, Cambodia, formally joined ASEAN in 1999, Singapore proposed the IAI at the fourth ASEAN Informal Summit in Singapore, emphasizing the aim “to narrow the divide within ASEAN and enhance ASEAN's competitiveness as a region.”<sup>6</sup> Stressing the basic concept that the more developed ASEAN members could help those member countries most in need, Singapore offered cooperation in areas like human resource development and information and communications technology. The author would like to emphasize that in the IAI proposal Singapore mentioned the Singapore-Kunming Railway Link (SKRL) project, which was the flagship project of the AMBDC. Singapore, as chair, emphasized that the IAI was guided by Dr Mahathir's principle of “prosper thy neighbour”<sup>7</sup>—thus, the heads of ASEAN members tried to show their willingness to address Mekong development as an issue for the whole of ASEAN. At the 34<sup>th</sup> ASEAN Ministerial Meeting held in 2001, the foreign ministers issued the Hanoi Declaration on Narrowing the Development Gap for Closer ASEAN Integration and announced that ASEAN's original members would provide assistance to the CLMV for the development of infrastructures for transportation, telecommunications, and energy. Since then 186 IAI projects have been implemented, and 177 of them were funded by the six ASEAN original members.<sup>8</sup> However, it should be noted that those 177 projects include those co-funded with non-ASEAN donors, such as the Japan International Cooperation Agency. On the other hand, China expressed its will to support the AMBDC at the ASEAN-China Summit in November 2001 as a measure to enhance its economic relationship with ASEAN. The author would like to emphasize that the AMBDC and IAI supposedly function as a device for external donors to express their will to support ASEAN's effort to narrow the gap among new and old members and promote ASEAN integration.

## **2.2. The GMS and ACMECS: Non-ASEAN Mekong Development Initiatives**

The GMS is a regional cooperation initiative that was established in 1992. In tandem with the ADB, Thailand worked on the CLMV and China's Yunnan Province to join the circle in the late 1980s. However, the memories of belligerence still remained fresh among the people of the Mekong nations, and the mood among them was far from one of amity or cooperation.<sup>9</sup> Thailand tried to solve the antagonism by introducing outside actors, such as the ADB and Japan.<sup>10</sup> At that time, the ADB had just launched a hydropower plant project in Southern Laos. By rearranging this project into a multilateral one that provides electric power to other Indochinese countries and Thailand, the ADB succeeded to mediate and

push these countries toward international cooperation.<sup>11</sup> Thus, the first GMS Economic Ministers Meeting was held in October 1992 with the full participation of Thailand, the CLMV, and China's Yunnan Province.

After that, the GMS implemented quite a few projects without having any formal organization. It was in 2000 that the GMS started to build its organizational body. The first case was the GMS Business Forum (GMS-BF), which was initiated by the Thai Chamber of Commerce. It consists of the chambers of commerce of the six member countries, which promote mutual consultation among the private sectors in order to harness GMS development projects to their business. This was followed by the first GMS Summit held in November 2001 with the strong leadership of the Thai government. By 2007 the GMS had established an institutional structure for regular consultations among member governments.<sup>12</sup>

The goal of the GMS is to promote the sound development of Mekong Basin countries and to enhance economic partnership among them, thereby reducing poverty in the region. It is interesting for this paper that it does not necessarily aim to contribute to ASEAN integration. In fact, GMS activities went on without having any formal interaction with ASEAN through the 1990s. The situation was changed, however, by the Hanoi Declaration on Narrowing the Development Gap for Closer ASEAN Integration, announced at the 34<sup>th</sup> ASEAN Ministerial Meeting in 2001, which mentioned the GMS as a sub-region in ASEAN together with other growth area initiatives.<sup>13</sup> In 2004, another Mekong regional development initiative was established by Thailand and the CLMV: the ACMECS. Though it was proposed as a non-ASEAN initiative like the GMS, ASEAN raised its name in the Vientiane Action Programme, which was endorsed at the tenth ASEAN Summit in November 2004, and described it as a tool "to narrow the development gap, reducing socio-economic disparities and eradicating poverty within ASEAN."<sup>14</sup> The Vientiane Action Programme was a roadmap for ASEAN integration after the Hanoi Plan of Action (endorsed in 1998) terminated in 2004. It put greater emphasis on redressing the intra-ASEAN divide and recommended the establishment of an ASEAN Development Fund and the expansion of the IAI's target from the CLMV to original members. ASEAN tried to enhance its infrastructure for Mekong development in a manner that follows the development of non-ASEAN Mekong regional initiatives. In this way, according to a staff member of the IAI unit in the ASEAN Secretariat, ASEAN members intended to integrate various development initiatives in the Mekong region under the IAI and control them in a form consistent with ASEAN's goal of bridging the divide toward an integrated ASEAN community.<sup>15</sup>

So far we have outlined the sub-regional initiatives for Mekong development. The AMBDC and IAI were started under the name of ASEAN aimed at bridging the intra-ASEAN development divide. In contrast, the GMS and ACMECS were basically non-ASEAN initiatives. Even though they aim to develop the CLMV nations, they do not necessarily harness their activities toward ASEAN's integration. The former group is

promoted by Singapore and Malaysia, while Thailand plays a significant role in the latter (Table-1). The fact that ASEAN recently defined the GMS/ACMECS as part of their “sub-regions” and set the IAI as their umbrella framework can be interpreted as a competition among ASEAN members (Singapore, Malaysia, and Thailand) over leadership in Mekong development.

### 3. Project Performance and Influence of Leadership

Does competition among the members have an influence on the performance and direction of each sub-regional cooperation initiative? In this chapter, I would like to examine the project performance of the AMBDC/IAI and GMS/ACMECS and study their effect on the direction of cooperation.

Table 1 Mekong Region Development under ASEAN's Framework

Initiatives	Greater Mekong Subregion	ASEAN Mekong Basin Development Cooperation	Initiative for ASEAN Integration	Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy
	GMS	AMBDC	IAI	ACMECS
Established	1992.10	1996.6	2001.11	2003.11
Proposer	ADB/Thailand	Malaysia	Singapore	Thailand
Japan		△※1		
Rep. Korea		△※1		
China	◎(Yunnan Province)	◎		
Vietnam	◎	◎	◎	○※2
Laos	◎	◎	◎	◎
Cambodia	◎	◎	◎	◎
Myanmar	◎	◎	◎	◎
Thailand	◎	◎	◎	◎
Philippines		◎	◎	
Malaysia		◎	◎	
Singapore		◎	◎	
Indonesia		◎	◎	

Notes: ◎:Original members

○: Members joining later

△: Members with special status

※1 Admitted in October 2001

※2 Joined in may 2004

Source: websites



### 3.1. AMBDC, IAI

The Singapore-Kunming Railway Link project (SKRL) has been the flagship project of the AMBDC since its inauguration in 1995, but it fell behind due to a chronic budget shortage. In the feasibility study completed in 2001, the member countries agreed to set the route from Singapore passing Bangkok, Phnom Penh, Ho Chi Min, and Hanoi to Kunming so that they could utilize existing rail tracks as much as possible and thereby save funds.<sup>16</sup> We can see from Table-2 that there was no funding from non-Mekong Basin countries, except for Malaysia, and that it is non-ASEAN donors, such as the Republic of Korea and the ADB, that finance the project instead. In other words, we can point out that the SKRL strongly relies on non-ASEAN actors even though it is one of the main pillars of ASEAN's activities. So far, it can hardly be said that the AMBDC has achieved brilliant success, but nevertheless (or rather, perhaps for this very reason) ASEAN members have iteratively mentioned the AMBDC on official occasions so that they could strengthen their will to accomplish it. Right after the Asian economic crisis hit the region in 1997, ASEAN, with Malaysia's leadership, promulgated the ASEAN Vision 2020, which declares their will to continue efforts to realize an ASEAN community. The Hanoi Declaration of 1998, adopted by the sixth ASEAN Summit, in which the idea of the Vision 2020 was further developed, advocated enhancing sub-regional cooperation, including the AMBDC. This fact implies

Table 2 SKRL Donors as of 2008

No	Link/Spur Line	Donor
1	Poipet-Sisophon (Cambodia)	Malaysia, Thailand
2	Railway Network in Cambodia (Track rehabilitation & upgrading and restructuring of Railway Authority)	ADB
3	Preliminary Technical Study on Phnom Penh-Loc Ninh Missing Link (Cambodia, Vietnam)	PR China
4	Loc Ninh-Ho Chi Minh (Vietnam)	Vietnam
5	Nam Tok-Three Pagoda Pass Spur Line (Thailand, Myanmar)	Republic of Korea
6	Three Pagoda Pass-Thaphyuzayat Spur Line (Myanmar)	Republic of Korea
7	East - West spur line (Route 3) Vung Ang - Tan Ap - Mu Gia (125 km) connecting the SKRL from Lao PDR	Vietnam
8	Rehabilitation of 141km railway link between Yuxi and Mengzi in PR China on the Kunming - Hekou route	PR China
9	Construction of the 3.5 km section from the middle of Friendship Bridge between Thailand and Laos to Ban Thanaleng in Laos.	Thailand

Source: ASEAN Secretariat website and ADB-GMS website (<http://www.adb.org/Documents/Others/GMS/GMS-TAs-2008.pdf>)

that the AMBDC is a symbol that embodies ASEAN's unity and solidarity. Therefore, Malaysia upheld the AMBDC in the midst of the Mekong Basin development race in the 1990s in order to demonstrate ASEAN's will to take the initiative there.

How about the performance of the IAI, which follows the AMBDC in both substance and name? By examining Table-3 we can get the sense that a salient number of projects were initiated by Singapore and Malaysia. The table shows that Singapore most actively promotes projects in the human resource development sector, while Malaysia is most active in the sector of trade and investment.

Malaysia's action in the IAI is supposedly parallel with its international aid strategy launched by Prime Minister Mahathir Mohamad. Mahathir propelled international economic cooperation with developing countries from the early 1990s. By doing so, he intended to get access to markets in developing economies and also aimed to gain support from them in order to carry a greater weight in the international society. In this strategy, Malaysia targeted the enhancement of trade and investment with the CLMV and China.<sup>17</sup> On the other hand, there is still a lot of room for further study about Singapore's international aid strategy. However, Sato reports that Singapore embarked on an international human training program for developing countries from 1992. Sato interprets that Singapore intended to spread its famous public administration system through the training program so that it could exercise its soft power to attract the favor of recipient countries.<sup>18</sup> Though the author hesitates to conclude that the IAI is merely a tool of Malaysia or Singapore to pursue their national interests, we can say that those strategies were some of the main factors in the IAI's development.

*Table 3* Contribution by ASEAN6 to IAI Work Plan (number of completed projects as of Oct. 2009)

country /sector	Infrastructure	HRD	ICT	Regional Economic Integration for Trade and Investment	Tourism	General	Total	Joint projects with non-asean doner
Brunei Darussalam	0	10	2	1	0	0	13	2
Indonesia	6	7	0	0	2	1	16	5
Malaysia	6	20	15	23	0	2	66	13
Philippines	0	5	0	3	0	1	9	1
Singapore	1	35	7	11	4	1	59	4
Thailand	3	6	2	1	1	1	14	5
Total	16	83	26	39	7	6	177	30

*Source:* Status of the IAI Work Plan I (2002-2008), 35th Meeting of IAI Task Force, 17 October 2009, ASEAN Secretariat, Jakarta (<http://www.aseansec.org/documents/Status-Update-IAI-WP-2002-2008.pdf>, last downloaded 15th December 2009)

Despite the strong leadership of those two ASEAN countries, the IAI still has problems to be improved. According to the Mid-term Review of the IAI compiled in 2005, the weak ownership of the CLMV, mismatches in project designing, poor preparation, and lack of collaboration between donors and recipients cause inefficiencies in project implementation.<sup>19</sup> In order to solve those problems, the Roadmap for ASEAN Integration, which was endorsed by the heads of ASEAN states in March 2009, recommends enhancing financial support by the outer donors and dialogue partners.<sup>20</sup>

### **3.2. GMS, ACMECS**

Since its foundation in 1992, the GMS has implemented projects in the six prioritized areas of transportation, energy, telecommunications, tourism, human resource development, and infrastructure development. Those projects are basically proposed by member countries along with their national development plans and examined by the ADB. Therefore, it is possible to implement projects of other regional initiatives as the GMS as long as they are proposed by GMS members. To take an example, the SKRL was implemented under the framework of the GMS. A project for the construction of missing parts of the railway link in Cambodia was approved by the ADB as a GMS project in 2003, and a feasibility study is now being conducted.<sup>21</sup> This fact shows that the GMS supposedly offers a financial and institutional platform for other sub-regional development initiatives like the AMBDC and IAI.

Taking a look at the GMS's projects performance, 115 technical assistance projects and US\$12.7 billion in loans had been implemented by 2008. Tables 4-1 and 4-2 show the number of GMS technical assistance projects and amount of loans by sector. We see from these tables that the GMS puts most emphasis on transportation infrastructure development, especially land transportation. As noted previously, the AMBDC and IAI also focused on land transportation as a priority area. But we can conclude that it is the GMS that substantially developed land transportation in the Mekong region with sufficient financial support from the ADB. Above all, the economic corridor project has the highest priority in the GMS. It is a comprehensive development project aiming to offer opportunities for economic/social development in areas along transportation networks. The GMS carried out a two-year feasibility study from 1992 and approved the construction of three corridors in a regional economic meeting in 1994.<sup>22</sup> Among the three, the East-West Corridor was almost completed in 2006. Along with the progress of road construction, the member countries substantially agreed on a Cross Border Transport Agreement to establish an institution both physically and politically to encourage the transnational flow of goods and people.<sup>23</sup>

Behind the progress of the transportation network by the GMS, I would like to emphasize the expanding presence of China and Thailand, especially after 2000. China hosted the second GMS Summit in Kunming, Yunnan Province, and succeeded in obtaining members' consensus on the accession of Guangxi Province into the GMS. China's action derived from the fact that trade between Myanmar and Yunnan and between Vietnam and

Table 4-1 Number of GMS Technical Assistance Projects by Sector (1992-2008)

sector /year	Transportation	Multisector	HRD	Energy	Environment	Agriculture	Trade & Investment	telecom	Total
1992	0	1	0	0	0	0	0	0	1
1993	0	1	0	0	0	0	0	0	1
1994	1	0	0	0	0	0	0	0	1
1995	1	0	0	1	1	0	0	1	4
1996	3	1	1	1	1	0	0	0	7
1997	2	1	1	1	1	0	0	2	8
1999	1	3	1	5	1	0	0	0	11
2000	0	3	2	1	0	0	1	1	8
2001	2	2	1	0	0	0	1	1	7
2002	5	3	2	0	1	1	0	0	12
2003	1	5	2	3	2	2	0	0	15
2004	3	2	2	1	3	3	2	0	16
2005	5	2	4	0	4	0	2	0	17
2006	4	2	0	3	0	3	1	0	13
2007	1	0	2	2	0	4	0	0	9
2008	7	2	4	2	3	3	0	0	21
Total	36	28	22	20	17	16	7	5	151

Source: ADB-GMS website (<http://www.adb.org/GMS/projects/adb-projects.asp>, last viewed on 20th Dec. 2009)

Table 4-2 GMS Loans by Sector

Sector	Sub-category	Total Cost (\$ million)
Health and Social Protection/Health Programs		1818.7
Energy/Electricity Transmission and Distribution		1780
Industry and Trade		69.1
Transport and ICT	Ports, Waterways, & Shipping	389.5
	Rail Transport	781
	Road Transport/ Transport Management and Policies	6647.2
	Roads and Highways	1291.8
		9109.5
Total		12777.3

Source: ADB-GMS website (<http://www.adb.org/GMS/projects/adb-projects.asp>, last accessed on 20th Dec. 2009)

Guangxi had rapidly expanded since 2000.<sup>24</sup> Based on this fact, China apparently envisaged enhancing the economic partnership with the CLMV to make them a “dynamo” for the development of these border provinces and to turn the Mekong region into China’s “bridge” to maritime Southeast Asia.<sup>25</sup> It can be said that China utilizes the GMS as a tool for its own domestic development.

Turning now to Thailand, it has been focusing on strengthening economic integration with the CLMV through the ACMECS. In April 2003 Thai Prime Minister Thaksin Shinawatra proposed an Economic Cooperation Strategy to the heads of Cambodia, Laos, and Myanmar. The initiative kicked off as the ACMECS a year after having Vietnam as a fifth member. It aimed to promote the economic growth and economic competitiveness of member countries through development of the border economic zone. Thailand under the Thaksin administration promoted development strategy by building an international division of the production/distribution system between Thailand and its neighbors, namely, Cambodia, Laos, and Myanmar. This was intended to harness the wage disparities and gaps in the level of industrial accumulation between them.<sup>26</sup> It is obvious that Thailand initiated the ACMECS as a tool for its national development strategy.

So far, the ACMECS has carried out activities in six sectors together with 14 flagship projects. Although most of them are still at the proposal phase or undergoing feasibility studies, we can assume its performance from information about completed projects. Table 5-1 shows an outline of flagship projects, and we can see from it that Thailand most actively participated in those projects, followed by Cambodia and Laos. In addition, Thailand offers funding for at least 7 out of 14 projects. When we look at Table 5-2 and 5-3, which outlines the completed bilateral projects, we see that projects are most actively conveyed between Thailand and Cambodia and between Thailand and Laos. Moreover, Table 5-3 indicates that Thailand focuses on industrial cooperation with Cambodia while putting weight on transportation linkage with Laos. Given that the ACMECS will be carried out in this way, we can assume that Cambodia and Laos will be strongly interconnected with Thailand while the others will be left behind.

The facts that we have seen so far suggest that economic linkage in the Mekong region is taking shape in the form of a hub-and-spoke network around cities with relatively developed industrial accumulation. In the Mid-Term Review of the Greater Mekong Sub-region Strategic Framework 2002–2012, issued in 2007, the ADB recommends the promotion of further development of the economic corridors based on the assumption that transnational transportation infrastructure has a positive impact on the GMS countries’ total trade amount.<sup>27</sup> We predict that the ADB’s policy will accelerate the movements of Thailand and China in the Mekong area. Remember the ASEAN Vientiane Action Plan, in which ASEAN members defined the GMS and ACMECS as contributors to ASEAN integration; we can conclude that ASEAN members, especially non-Mekong region countries, tried to check the individual initiatives of Thailand and China in the GMS and to confirm ASEAN’s preponderance in Mekong region development.

Table 5-1 Flagship Projects of ACMECS

Area	Project	Countries Involved					Fund source
		Thailand	Cambodia	Laos	Myanmar	Vietnam	
Agriculture and Industry	Programme of the Community Based Sustainable Irrigated Agriculture Development for Poverty Alleviation in the Remote Areas of the Mekong Basin	0	1	1	0	1	—
Agriculture and Industry	Establishment of Knowledge Base on International Standards for Industrial Standards for Industrial Manufacturers in ACMECS Countries	1	1	1	1	1	Thailand
Agriculture and Industry	Fruit Tree Development Center Project in the Northern Provinces of Cambodia	1	1	0	0	0	Thailand/potential development partners
Agriculture and Industry	Conduct Competitiveness Study of Various Sectors for Joint SME Development and Promotion	1	1	1	1	1	Thailand/potential development partners
Agriculture and Industry	Study on Promotion of Para Rubber-based Industrial Cooperation between Thailand and Cambodia	1	1	0	0	0	Thailand/potential development partners
Agriculture and Industry	Strengthening Human Resource Capacities for Agricultural Competitiveness of ACMECS countries	0	1	1	1	1	Development partners
Agriculture and Industry	Research and Development of Biofuel and Biomass Production	1	1	1	1	1	ACMECS governments, international donors
HRD	Savannakhet Technical School Development Project	1	0	1	0	0	Thailand/potential development partners
Industry and Energy	Building GIS Linkage for ACMECS Industrial Development	1	1	1	1	1	Thailand/potential development partners
Industry and Energy	Establishment of a Network of National Information and Consultation Centers in the CLMTV	1	1	1	1	1	Thailand/potential development partners
Tourism	Feasibility Study to Develop ACMECS Buddhist Trail	1	1	1	1	1	Development partners
Transportation	Upgrade Inland Waterway College No 2 of Vietnam into a Training Centre for 5 ACMECS countries	1	1	1	1	1	Vietnam/potential development partners
Transportation	The Renovation of Savannakhet Airport						—
Transportation	Study on Facilitation of Cross Border Movements of Goods and Passengers among Laos PDR, Myanmar and Viet Nam on the Route: Yangon - Meikhtila - Tarlay - Kenglap (Myanmar) -Kengkoc- Loungnamtha-Oudomxay- Deptaechang (Lao PDR) - Tay Trang - Ha Noi (Viet Nam)	0	0	1	1	1	—

Source: ACMECS Official website



Table 5-2 Completed Bilateral ACMECS Projects by Countries Involved (as of 2009)

	Thailand	Laos	Cambodia	Myanmar	Vietnam
Thailand	—	—	—		—
Laos	17	—	—		—
Cambodia	11	1	—		—
Myanmar	2	0	0		—
Vietnam	0	3	0	0	—

Source: ACMECS official website (<http://www.acmeecs.org/index.php?id=124>, last downloaded on 15<sup>th</sup> January, 2010)

Table 5-3 Completed ACMECS Projects by Area (as of 2009)

	Industry /Energy	Transportation	Public Health	Agriculture	HRD	Tourism
T-C	6	1	0	2	0	0
T-L	7	7	0	1	1	0
T-M	0	2	0	0	0	0
T-V	0	0	0	0	0	0
C-L	0	0	0	0	0	0
C-M	0	0	0	0	0	0
C-V	0	0	0	0	0	0
L-M	0	0	0	0	0	0
L-V	0	3	0	0	0	0
M-V	0	0	0	0	0	0
T-C-L	0	0	2	0	0	0
ACMECS	1	0	4	0	0	0
Projects by Area	14	13	6	3	1	0

T=Thailand C=Cambodia L=Laos M=Myanmar V=Vietnam

Source: ACMECS official website

## 4. Conclusion

Since the mid-1990s ASEAN countries have established the AMBDC and IAI under the name of “ASEAN” and defined the CLMV as a “sub-region” of ASEAN. Singapore and Malaysia strongly promoted the AMBDC and IAI not only to harness them to pursue their national strategies but also to fix ASEAN’s dominant position in the Mekong region while other international actors approached the CLMV at that time. ASEAN attempted to integrate the new members to the ASEAN community by upgrading the CLMV’s economies and administrative abilities to the level of the old members. Actually, however, the activities of the AMBDC stagnated due to insufficient funding and lack of coordination of interest among members. The IAI, the upgraded version of the AMBDC, tries to overcome these problems through the establishment of an ASEAN Development Fund and by strengthening the authority of the ASEAN Secretariat’s IAI unit as a coordinator of the project.

Turning to the GMS, in contrast, the ADB serves as a stable source of funding, which gives member countries great incentive to participate in the activities. However, the present situation shows that the relatively bigger countries in terms of economy and administrative ability, Thailand and China, actively implement the projects while the other members are left behind. Even though the economic corridor projects have potential to spread development opportunities for less developed areas, the development of economic linkage between regional economic centers will go ahead at a faster pace. Kimura and Kobayashi point out the necessity for a comprehensive approach to Mekong development in which various policy modes and a number of stakeholders are effectively coordinated in order to avoid the development of uneven economic linkage.<sup>28</sup>

It is to be noted that the AMBDC and IAI are initiatives that aimed to eliminate the divide, while the GMS and ACMECS so far utilize the gap for building an international division of industrial systems. In order to harness the achievements of the GMS/ACMECS to ASEAN’s goal, regional integration overcoming internal gaps, ASEAN approached these non-ASEAN Mekong development initiatives by subordinating them under the framework of the IAI or the ASEAN Roadmap for ASEAN Community. Their attempts have just marked the beginning.

In concluding, I would like to clarify some factors for ASEAN in pursuing Mekong development toward ASEAN integration. First, I suggest that it is essential to enhance the development management capacity of the CLMV countries. The CLMV, as full members of the GMS, have potential to design GMS projects along with ASEAN’s vision, so they can play pivotal roles to bridge non-ASEAN initiatives with ASEAN. Second, there remains room for non-ASEAN actors, such as Japan, China, and the ADB, to offer a chance for ASEAN and GMS members to coordinate their interests and policies. For example, Japan has supported ASEAN’s effort to bridge the divide through the ASEAN Economic Ministries and Ministry of Economy, Trade and Industry of Japan Consultations

(AEM-METI) since 1992. In 2006 Japan proposed to ASEAN to establish the Economic Research Institute for ASEAN and East Asia (ERIA), which was realized two years later in cooperation with the ASEAN Secretariat. The ERIA provides chances for coordination of interest among GMS and ASEAN members under the framework of East Asian economic integration. I would like to emphasize, however, that this support by Japan has all been conveyed on the basis of ASEAN's framework. Japan hosted Japan-Mekong meetings of foreign ministers and heads of state in 2009, but ASEAN has maintained a benign neglect about this so far. This suggests that Mekong Basin development in itself can be a source of division among the nations of the Mekong Basin and other members of ASEAN. As ASEAN's dialogue partners, we have to pay attention to this point in supporting ASEAN's integration.

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<sup>1</sup> The old members of ASEAN are Brunei, Indonesia, Malaysia, Philippines, Singapore, and Thailand.

<sup>2</sup> International Monetary Fund, *World Economic Outlook Database, April 2009*. Available on the IMF's website (URL: <http://www.imf.org/external/pubs/ft/weo/2009/01/weodata/index.aspx>; last accessed on January 28, 2010).

<sup>3</sup> See article four of *Framework Agreement On Enhancing ASEAN Economic Cooperation*, Singapore, January 28, 1992. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/5125.htm>; last accessed on January 31, 2010).

<sup>4</sup> Sato, Koichi, *ASEAN Regime: Development of Conference Diplomacy of ASEAN and its Problems*, (ASEAN Rejimu: ASEAN ni okeru Kaigi Gaiko no Hatten to Kadai) (Tokyo, Keiso Shobo, 2003), pp. 107–108.

<sup>5</sup> *Basic Framework of ASEAN- Mekong Basin Development Cooperation*, Kuala Lumpur, June 17, 1996. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/6353.htm>; last accessed on January 4, 2010).

<sup>6</sup> *Press Statement by Chairman, 4th ASEAN Informal Summit*, Singapore, November 25, 2000. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/5310.htm>; last accessed on December 29, 2009).

<sup>7</sup> Loc cit.

<sup>8</sup> See *Status Update of the IAI Work Plan (2002–2008)*, which was submitted to the thirty-fifth IAI Taskforce Meeting, October 2009, Jakarta. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/documents/Status-Update-IAI-WP-2002-2008.pdf>; last accessed on December 29, 2009).

<sup>9</sup> About the details of Thailand's policy change called the "Marketizing Indochina policy" and the GMS, see Aoki, Maki, "Thailand's International Economic Strategy and GMS: Regional Cooperation for Handling Globalization" (Tai no Kokusai Keizai Senryaku to GMS: Gurobarizeishon he no Taiou to shite no Chiiki Kyoryoku) in Suehiro, Akira (ed.), *ISS Contemporary Chinese Studies Series No.3, Reconsidering the Greater Mekong Sub-region from the Viewpoint of China (Gendai Chuugoku Kyoten Kenkyu Sirizu No. 3, Dai Mekon ken [GMS] wo Chugoku kara Torae Naosu)* (Tokyo: Institute of Social Science, University of Tokyo, 2009), pp.171–208.

<sup>10</sup> Japan embarked on cooperation with Indochinese countries with a view to taking the initiative on post conflict development in the Mekong region. However, it hesitated to take concrete action until 1992. Thus, Thailand chose the ADB before partnership with Japan and launched the GMS. Regarding the details of the policy process of the Japanese government's Indochinese policy, see Ishii, Risako, "Japanese International Aid Policy in Post-Cold War Indochina: Utilizing International Aid toward Realization of Regional Policy Initiative and Its Limit" (Posuto Indoshina ni okeru Nihon no Enjo Gaiko: Chiiki Seisaku Koso Gugenka ni

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Muketa Enjo no Katsuyo to Genkai) in *International Relations Studies*, September 2003, Vol. 20 (Tokyo: Study Group of International Relations, University of Tokyo, 2003), pp. 83–113.

<sup>11</sup> Aoki, op. cit., p. 179.

<sup>12</sup> ADB-GMS, *Mid-Term Review of the Greater Mekong Subregion Strategic Framework 2002-2012*, June 2007 (Manila: Asian Development Bank, 2007), p. 32. Available on the ADB's website (URL: <http://www.adb.org/Documents/Reports/Mid-Term-Review-GMS/mid-term-review-gms.pdf>; last accessed on January 16, 2010).

<sup>13</sup> See Section 24 of the *Hanoi Declaration on Narrowing the Development Gap for Closer ASEAN Integration*, Hanoi, Vietnam, July 23, 2001. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/934.htm>; last accessed on February 1, 2010).

<sup>14</sup> Section 2 of *Vientiane Action Programme* endorsed by the tenth ASEAN Summit in Vientiane, November 29–30, 2004. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/VAP-10th%20ASEAN%20Summit.pdf>; last accessed on December 15, 2009).

<sup>15</sup> Author's interview with an IAI unit staff member on September 26, 2009.

<sup>16</sup> Morizono, Koichi, *Japan International Cooperation Agency Visiting Research Fellow Study Report, Status and Problem of Indochina Regional Cooperation (Greater Mekong Sub-region): From the Viewpoint of Regional Development Cooperation by Our Country (Indoshina Chiiki (Kakudai Mekon ken) Kyoryoku no Genjo to Kadai: Wagakuni no Chiiki Kaihatsu Kyoryoku no Shiten kara )* (Tokyo: Japan International Cooperation Agency, 2002), p. 20. Available on JICA's website (URL: [http://www.jica.go.jp/jica-ri/publication/archives/jica/kyakuin/pdf/200203\\_09.pdf#search='AMBDC'](http://www.jica.go.jp/jica-ri/publication/archives/jica/kyakuin/pdf/200203_09.pdf#search='AMBDC'); last accessed on December 1, 2009).

<sup>17</sup> Torii, Takashi, "Mahathir's Development Strategy and ASEAN: Focusing on Vision 2020" (Mahattiru no Kaihatsu Senryaku to ASEAN 2020 bijon wo Chushin ni) in Susumu Yamakage (ed.), *JIIA Studies Series 3, ASEAN at Turning point: New Challenge to Emerging Issues (JIIA Kenkyu 3, Tenkan-ki no ASEAN: Aratama Kadai he no Chosen)*, (Tokyo: Japan Institute of International Affairs, 2001), pp. 53–92, 73–80.

<sup>18</sup> Sato, Jin, "International Aid Policy of Thailand, Singapore, and Malaysia: Emerging Donors in Southeast Asia" (Tai, Singaporu, Mareshia no Enjo Seisaku: Tonan Ajia no Shinko Dona) in *Journal of Research Institute for Development and Finance*, October 2007, Vol. 35 (Tokyo: Japan for International Cooperation Bank 2007), pp. 40–71.

<sup>19</sup> See *Report on the Mid Term Review of the Initiative for ASEAN Integration (IAI) Work Plan*, 2005. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/18201.htm>; last accessed on December 12, 2009).

<sup>20</sup> See *ASEAN Roadmap for ASEAN Community 2009-2015*, p. 97. Available on the ASEAN Secretariat's website (URL: <http://www.aseansec.org/publications/RoadmapASEANCommunity.pdf>; last accessed on January 3, 2010).

<sup>21</sup> See *ADB-GMS Projects progress reports*. Available on the ADB's website (URL: <http://www.adb.org/Documents/Others/GMS/GMS-TAs-2008.pdf>; last accessed on December 14, 2009).

<sup>22</sup> In November 2001 the ministers of the GMS agreed to construct and improve the routes as shown below:

- 1) North-South Corridor: Route 3 (from Kunming to Chiangrai), Route 5 (Kunming–Hanoi–Haifon)
- 2) East-West Corridor: Route 2 ( Mawlamyint Myawaddy Mae sot Mukdahan Savannakhet Lao bao Da nang)
- 3) South Corridor: Route 1 (Bangkok– Phnom Penh–Ho Chi Minh–Vung Tau)

See *GMS 10th Ministerial Conference: Summary of Proceedings* (Draft in November 2001) in Annex 2 of Morizono op. cit.

<sup>23</sup> Thailand, Laos, and Vietnam signed the agreement in November 1999, followed by signing by Cambodia in 2001, China in 2002, and Myanmar in 2003.

<sup>24</sup> According to Oizumi, the CLMV's trade dependency on Yunnan and Guangxi is increasing. As of 2006, China was the third biggest importer for Myanmar, Laos, and Vietnam and the biggest exporter for Myanmar and Vietnam. On the other hand, Thailand held the foremost place both in imports and exports for Laos. See Oizumi, Keiichiro, "Greater Mekong Sub-region Program and Development of the CLMV: Growing Chances by Economic Corridor Development and Japan's Role" (Mekon ken (GMS) Kaihatsu Puroguramu to CLMV no Hatten: Keizai kairo Seibi de Hirogaru Kanousei to Nihon no Yakuwari) in *Kan-Taiheiyō Bijinesu Joho RIM*, Vol. 8, No. 30 (Tokyo: Japan Research Institute Limited, 2008), p. 15.

<sup>25</sup> Bi, Sihong, "Economic Interaction in the Border Area of Chinese Yunnan Province, Laos, Myanmar, and Vietnam" (Chugoku Unnan sho to Laosu, Myanma, Betonamu Kokkyo Chitai no Keizai Katsudo) in

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Ishida, Masami (eds.), *Study of Mekong Region Development: Border Economic Zone into Motion* (Mekong Chiiki Kaihatsu Kenkyu: Ugokidasu Kokkyo Keizaiken), (Tokyo, Institute of Developing Economies, 2008), pp. 181–214 and Oizumi op. cit.

<sup>26</sup> Aoki, Maki, “The Thaksin Government’s Foreign Policy: Stepping Up the International Status of Thailand” (Takkusin Seiken no Taigai Seisaku: Seiken no Shudo ni yoru Tai no Chusin-koku ka) in Tamada, Yoshifumi and Tsuruyo Funatsu (eds.), *Tai Seiji Gyosei no Henkaku: 1991–2006 (Thailand in Motion: Political and Administrative Changes, 1991–2006)*, (Tokyo: Institute of Developing Economies, 2008).

<sup>27</sup> ADB-GMS, op. cit., p. 11.

<sup>28</sup> Kimura, Fukunari and Izuru Kobayashi, “Why is the East Asia Industrial Corridor Needed?” *ERIA Policy Brief, No. 2009-01, January 2009* (Economic Research Institute for ASEAN and East Asia; 2009). Available on the ERIA’s website (URL: <http://www.eria.org/pdf/ERIA-PB-2009-01.pdf>; last accessed on February 1, 2010).

# 7 ASEAN's External Relations and the Changing Regional Structure in East Asia: Can ASEAN Stay in the "Drivers' Seat"?

Mie Oba

## 1. Introduction

In East Asia, various regional institutions have been developing since the end of 1980s and these constitute the regional architecture in this region. It has been said that ASEAN has occupied the "drivers' seat" in East Asian cooperation because ASEAN is institutionally the core of the regional architecture. ARF, ASEAN+3 and EAS are literally part of the "ASEAN regime" while ASEAN+X FTAs have been concluded since the early 2000s. APEC is not a part of the ASEAN regime but main members of ASEAN are affiliated with this institution and have a certain influence. In other words, the regional architecture in East Asia has developed on the basis of ASEAN's external relations with main powers, such as Japan, China, ROK, Australia, New Zealand and the United States on the condition that ASEAN countries emphasize the solidarity of ASEAN, rather than each ASEAN country promoting its own diplomacy toward external powers.

Why could ASEAN keep the "drivers' seat" in this region although it is composed of only medium and small powers, while global and regional powers surround the ASEAN countries? As will be shown in detail later, there are mainly two factors that influence the ASEAN-centered structure of the regional architecture. One is the ASEAN countries' strategy to enhance linkages with external powers, to maintain and promote stability and prosperity of their own region. The other is each external powers' approach to increase their influence toward Southeast Asia in order to construct favorable regional circumstances for itself.

On the other hand, it should not be ignored that new trends that may transform the ASEAN-centered structure of regional architecture have been emerging. Some countries, especially Singapore and Thailand, have accelerated the promotion of bilateral FTAs with countries both in and out of East Asia. These trends may undermine the solidarity of ASEAN itself. In addition, there are new attempts to enhance linkages among countries in the region such as the promotion of Trans-Pacific Strategic Economic Partnership (TPP), proposals of Asia-Pacific Community and East Asia G8. Under these circumstances, can the ASEAN continue to occupy the "drivers' seat" also in the future?

The purpose of this chapter is to clarify how ASEAN's relationship with main external powers has developed, how it has shaped the form of East Asian regional architecture in which the ASEAN is positioned as a "core" or a "hub," and how the current



regional architecture may change due to the new trends and proposals for regional linkages and cooperation in East Asia. Section 1 of this chapter will examine how the ASEAN countries have attempted to enhance the relationship with external powers since 1970s and how these attempts caused the development of regional architecture in East Asia in which ASEAN occupies the institutional core position. Section 2 will demonstrate that ASEAN actively accelerated the strengthening of bilateral ties with external powers by means of bilateral FTAs and the Treaty of Amity and Cooperation in Southeast Asia (TAC). Section 3 will show the development process of East Asian institutions, ASEAN+3 and EAS, both of them being ASEAN-centered institutions. Section 4 will examine why ASEAN has been able to occupy the core or the “drivers’ seat” in the East Asian regional architecture. Section 5 will indicate that there are some trends to weaken ASEAN’s solidarity which may erode the ASEAN-centered regional architecture. The conclusion will consist in a temporal examination on the prospect of ASEAN’s role in the regional architecture of East Asia.

## **2. ASEAN and the Development of Regionalism in Asia**

The Bangkok Declaration of 1967 emphasized that the aims and purposes of ASEAN are mainly the promotion of economic and social cooperation “to accelerate the economic growth, social progress and cultural development.”<sup>1</sup> Economic and social concerns however, were not the real motivation for constructing this new regional framework. Rather, the political motivations of Southeast Asian countries to stabilize strategic and political circumstances prompted them to establish ASEAN. In 1970s, ASEAN began to enhance the relationship with external powers through the promotion of dialogue in order to stabilize regional circumstances. After the ASEAN first started a dialogue over synthetic rubber issues with Japan in 1973, it set about pursuing dialogues with Australia, New Zealand, Canada and America. These dialogues were ad hoc at first, but ASEAN and the external powers gradually developed a system of dialogue partnership. In 1979, the Post-Ministerial Conference (PMC), in which ASEAN countries and ASEAN’s dialogue partners gathered, was launched. In the 1980s, the PMC provided an important opportunity for the foreign ministers of Australia, Canada, Japan, New Zealand, the United States and the representative of the EC to exchange opinions over various political and economic issues in Asia Pacific. In a sense, the PMC functioned as a virtual Asia-Pacific framework in 1980.

On the other hand, until the end of 1980s the ASEAN countries were reluctant to support the construction of a broader regional framework in which ASEAN could not take the initiative. For example, the ASEAN countries opposed the construction of a governmental framework for Pacific Cooperation which was proposed by some Australian and Japanese intellectuals. The ASEAN countries were wary of a rise in political clout of the great powers, especially the United States and Japan, with a broader and more formal framework in this region. Besides, they wanted to avoid the relative decline of ASEAN’s presence in Asia Pacific. As a result, the Pacific Economic Cooperation Conference

(PECC), which was a semi-governmental organization, was launched.

However, the passive and reluctant attitudes of ASEAN countries towards the construction of a broader regional framework at the governmental level changed at the end of the 1980s, because the rapid economic development of these countries accelerated their concerns for a new framework in which East Asian countries and the United States could discuss common issues of trade and development. The change in attitude of ASEAN countries enabled the establishment of APEC in 1989, which was led by Australian and Japanese governments.

At the time of the first meeting of APEC in November 1989, the end of the Cold War became obvious in East Europe. The termination of the ideological split allowed ASEAN countries to expand and enhance their external relationships with new partners. ASEAN and the ROK concluded sectoral dialogue relations in 1989, and the ROK was accorded full Dialogue Partner status by ASEAN in 1991.<sup>2</sup> India and the ASEAN accomplished a sectoral Dialogue Partnership in 1992 and elevated it to a full Dialogue Partnership in 1995.<sup>3</sup> Russia became a full Dialogue Partner in 1996.<sup>4</sup> Pakistan managed to obtain a sectoral dialogue status in 1993 and the inaugural meeting to build a sectoral Dialogue Partnership was held on November 1997. Besides, the ASEAN Regional Forum, which was the first security dialogue mechanism in Asia Pacific, was established in 1994. With the support of external powers, ASEAN succeeded in taking the initiative in constructing this dialogue framework. As a result, ARF as a newly-established dialogue mechanism became an ASEAN-centered institution

In a new context after the Asian financial crisis in 1997, the ASEAN+3 pattern developed rapidly. In early 1997, it was already agreed that an ad hoc summit of China, Japan, the ROK and ASEAN countries was to be held at the end of the same year. The first ASEAN+3 summit took place in December 1997, after the crisis had severely affected the economies of East Asian countries in the summer. As a result, participants of the summit discussed how they should cooperate with each other in order to overcome the damage wrought by the crisis and how to construct a robust regional system which could bring stability and prosperity to East Asia. The second ASEAN+3 summit was held in December 1998 and the same topics as at the first summit were discussed. Besides, it was decided to make this summit an annual event. The third ASEAN+3 summit adopted the statement of East Asian Cooperation, which stipulated that ASEAN+3 should promote not only economic but also political and social cooperation for the promotion of peace, stability and prosperity in the region.<sup>5</sup>

While ASEAN+3 has been regarded as the embodiment of East Asian regionalism, it also is institutionally an ASEAN-centered framework, In other words, ASEAN+3 has been a framework where ASEAN “invited” three larger external powers. In reality, however, various programs of regional cooperation in the ASEAN+3 framework have been led by the three external powers rather than the ASEAN countries. The process of the development of the Chiang Mai Initiative (CMI) showed to great extent Japan and China

gradually expanding their influence over the promotion of this cooperation scheme.

### **3. Further Enhancement of Relations between ASEAN and External Countries**

In the 2000s, ASEAN and external countries further enhanced their mutual relationship concerning East Asian regional circumstances. There are two vehicles that serve to strengthen the relationship. One is the affiliation of external powers with the Treaty of Amity Cooperation (TAC), which was concluded at the first ASEAN summit in 1976.<sup>6</sup> The other is the conclusion of a Free Trade Agreement (FTA) between ASEAN and each external power.

Affiliation with the TAC initially meant that the signatory to the treaty declared that it would contribute to the peace and stability in Southeast Asia, following common norms determined by ASEAN members. These include mutual respect for independence, sovereignty, non-interference, equality, territorial integrity and national identity of all nations, settlement of disputes by peaceful means, renunciation of the threat and use of force, and effective cooperation among nations. Later, this treaty was used as a device for the expansion of ASEAN. Non-founding members of ASEAN at first affiliated with the TAC to demonstrate their intention to follow ASEAN's norms as outlined above. Such countries first obtained observer status and later full membership in ASEAN. This includes Brunei (1984), Vietnam (1995), Myanmar, Laos (1997) and Cambodia (1999).

After ASEAN 10 was accomplished, the TAC began to assume a new function. Affiliation of an external power with the TAC demonstrates that the signatory pledges itself to contribute to peace and stability while obeying the norms and rules stipulated by the TAC. From ASEAN's point of view, it acquires the support and endorsement of an external power for stabilizing regional conditions in keeping with the "ASEAN Way." On the other hand, from the view of the external power, affiliation with this treaty is an important means of keeping and expanding its own influence and presence in Southeast Asia. Beginning with China and India in 2003, most Dialogue Partners, except for Canada, were affiliated with the TAC one after another (see Table 1).

Furthermore, ASEAN attempted to enhance economic linkage with each external power through the conclusion of FTAs from the early 2000s onwards. For example, ASEAN and China concluded the Framework Agreement on Comprehensive Economic Cooperation on November 2002 and began to reduce tariffs in 2005. The Agreement on Trade in Goods (ACFTA) was signed in 2004 and implemented in July 2005 by the ASEAN countries and by China. Moreover, the Trade in Service between China and the ASEAN (TIS) was concluded in January 2007 and came into force in July 2007.<sup>7</sup>

ASEAN and Japan adopted the Framework for Comprehensive Economic Partnership in Bali in October 2003 and they signed the Agreement on Comprehensive Economic Partnership (AJCEP) in April 2008.<sup>8</sup> The AJCEP came into force by December 2009 between Japan and Singapore, Laos, Malaysia, Myanmar, Vietnam, Thailand and

Table 1 Bilateral Relationships between ASEAN and External Powers

	Dialogue partners and others	ASEAN+X FTA (*6)	TAC
Japan	○(*1)	⊙	○(2004)
China	○	⊙	○(2003.10)
ROK	○	⊙	○(2004)
Australia	○	○ (CER)	○(2005)
New Zealand	○	○ (CER)	○(2005)
Canada	○	×	×
United States	○	×	○(2009)
Russia	○	×	○(2004)
India	○	○	○(2003.10)
Pakistan	△(*2)	×	○(2004)
Papua New Guinea	△(*3)	×	○(1989)
East Timor	△(*4)	×	○(2007)
France	△(*5)	△(*7)	○(2007)

Notes: \*1: ○ in the column "Dialogue partners and others" means a full Dialogue Partner.

\*2: Sectoral Dialogue Partner

\*3: Observer

\*4: Guest for the AMM

\*5: France is negotiating an FTA with the ASEAN as a member of the EU.

\*6: ⊙ in the column "ASEAN+X FTA" means that a treaty about goods came into force, ○ in this column means it has been signed, and △ means that an FTA is under negotiation.

\*7: Under ASEAN-EU

Source: ASEAN HP, <http://www.aseansec.org/>

Brunei.<sup>9</sup> Besides, the FTA for goods between ASEAN and the ROK came into force, while ASEAN has signed FTAs for goods with India and the Closer Economic Relations (CER) which is composed of Australia and New Zealand. The United States does not have an FTA with ASEAN. However, instead of an FTA, it signed the Trade and Investment Framework Agreement (TIFA) after it envisaged the Enterprise for ASEAN Initiative (EAI) in 2002. An FTA between ASEAN and the EU is under negotiation, while ASEAN and Pakistan are promoting a joint study on the feasibility of an FTA. The GCC and ASEAN also are conducting a joint study on an FTA.

#### **4. What Has the Establishment of the EAS Shown?**

The EAS was established in December 2005 after long discussion on members, modality and functions of this new “East Asian” institution. The idea of an “East Asian Summit” was proposed by the East Asian Vision Group (EAVG) which submitted the final report to the ASEAN+3 Summit in 2001.<sup>10</sup> The original concept of the East Asian Summit aimed to replace ASEAN+3 with a genuine East Asian institution in which the ASEAN countries and three external powers were to participate with the same rights and status. Considering the realities of ASEAN+3, it is an ASEAN-centered organization. Under the ASEAN+3 framework, ASEAN countries always organized the summit and other ministerial meetings as host countries and it was basically them who “invite” the three external powers. The main objective of ASEAN +3 has been basically how the “plus three countries” can support and activate ASEAN countries. In other words, initial proponents for the East Asian Summit regarded ASEAN+3 as an institution that was not sufficient to deal with and discuss common issues in East Asia and to construct the East Asian solidarity and identity.

Unfortunately, the EAVG’s proposal for an East Asian Summit was not adopted as the main agenda in East Asia for a while, but the establishment of this new framework began to be seriously discussed in ASEAN and ASEAN+3 at the end of 2004, when Indonesia accepted the realization of the East Asian Summit. However, the original idea of the East Asian Summit is different from the EAS which was really launched in two ways. One aspect is the issue of members. In the original idea for an East Asian Summit, the members were expected to be the participants of ASEAN+3. However, the EAS now includes Australia, New Zealand and India as well as the members of ASEAN+3. The other aspect is the basic rules of the EAS which determine its characteristics. For example, ASEAN determined the three criteria for participation in the EAS.<sup>11</sup> First, participants of the EAS must be affiliated with the TAC. Second, they must be full Dialogue Partners of ASEAN. Third, they must have substantive cooperative relations with ASEAN. Besides, it was also decided that the summit could be chaired only by an ASEAN country. In short, the idea of the EAS took shape but it also became an ASEAN-centered institution just as ASEAN+3 was. It was stipulated that both ASEAN+3 and the EAS, which is often called “ASEAN+6,” should contribute to the formation of the East Asian Community.

Besides, the process of establishment of the EAS showed ASEAN's intention to institutionally retain the core position in the regional architecture. As outlined before, the original idea of the East Asian Summit was conversion of ASEAN+3 into a genuine East Asian framework in which all members were to have the same status and commitments. However, eventually, the EAS was established while ASEAN+3 continues to exist. Australia, New Zealand and India were added as members of the EAS. In addition, the EAS also possesses ASEAN-centered characteristics.

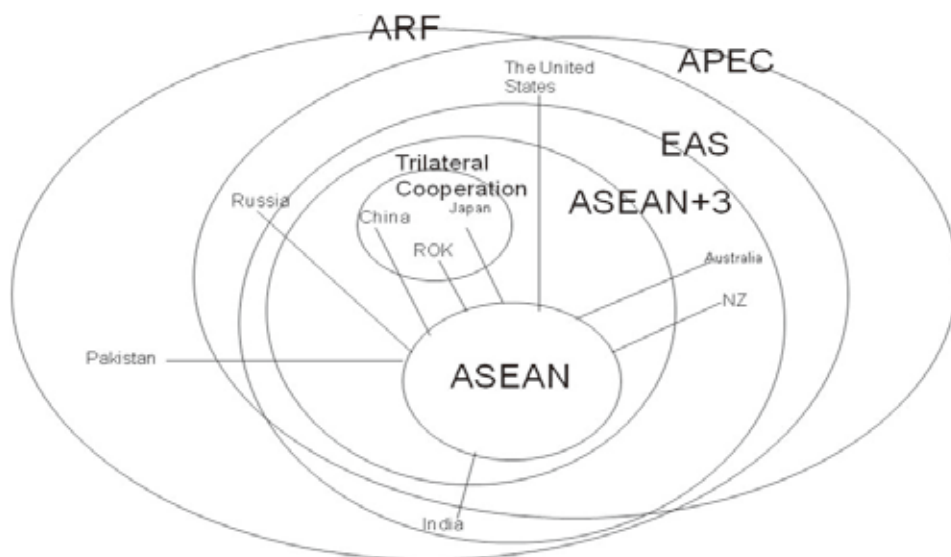
Three main reasons why the EAS was constructed with these characteristics can be

mentioned. Firstly, the ASEAN countries did not avoid the establishment of a new institution which might dilute the influence of the ASEAN. Secondly, each external power does not attempt to demonstrate its superiority in the region to other external powers because such attitudes might cause suspicion among other countries about their political intention and might result in the serious frictions with them. Rather, from their point of view, to keep the “balance” of influence over the ASEAN and the region would further their interests in the long run. Consequently they accept institutions such as the EAS in which ASEAN plays a key role.

### 5. Why Has ASEAN Occupied the “Hub” in the Region?

As related above, ASEAN has enhanced its relationship with external powers while occupying the institutional core of most of regional frameworks. In short, since the early 1990s an ASEAN-centered structure has appeared in East Asia and has become definite by the enhancement of bilateral ties through FTAs and the TAC as well as the development of multilateral frameworks like the ARF, ASEAN+3 and the EAS. Why has ASEAN, which is composed of smaller powers compared to external ones been able to occupy the “hub” or “drivers’ seat” of the regional architecture?

Figure 1 ASEAN-centered Regional Architecture and Main External Powers



Note: Cambodia, Myanmar and Laos are not yet affiliated with ASEAN.



Several factors bringing about such a trend can be pointed out. On one hand, the ASEAN countries' strategy to promote economic prosperity and stabilize regional conditions by means of involving external powers in the regional affairs engenders the reinforcement of linkages between ASEAN and external powers. Trends towards globalization in the economic sphere have obliged the ASEAN countries to seriously work out measures for "survival," causing them to attempt to expand the markets for their products and to capture investments from outside Southeast Asia. Constructing an FTA network with external powers is expected to be a specific instrument for the economic survival of ASEAN countries.

Furthermore, from a broader point of view, the ASEAN countries have endeavored to shape the regional circumstances according to their own wishes, in order to keep their influence. It should be pointed out that FTAs are not seen only as devices to enhance the economic relations between the signatory countries. Rather, FTAs are instruments for getting economic benefits as well as strengthening political ties among signatories. Besides, the TAC is also regarded by leaders of ASEAN countries as an effective means to promote this objective.

On the other hand, each external power has attempted to retain and if possible extend its own influence in Southeast Asia in order to realize a favorable regional order for its own purposes. The promotion of FTAs and affiliation with the TAC are regarded by them as effective instruments for accomplishing their own aims. This reflects competition between several external powers over enhancing linkages with ASEAN countries through these instruments since the early 2000s. Competition between external powers is desirable for ASEAN countries because they do not want just one external power, for example, China, Japan or the United States, to control circumstances in the region. In other words, ASEAN countries try to balance the influences of external powers by means of FTAs and the TAC in order to avoid only one power having a prominent influence to shape regional conditions.

As it happens, the interests of ASEAN countries coincided with those of the external powers. Both ASEAN countries and external powers welcome the structure in which ASEAN has occupied the "core" or "hub," because they can maintain political ties with each other by means of an ASEAN-centered regional architecture in order to manage the conditions in the region without apparent friction and disputes over superiority.

## **6. Will the Solidarity of ASEAN Weaken?**

The ASEAN-centered regional architecture has developed on the condition that the ASEAN member countries maintain solidarity under the ASEAN banner. Recently, however, there are certain trends that weaken ASEAN's solidarity and may erode the ASEAN-centered regional architecture. First of all, some ASEAN countries, especially Singapore and Thailand, actively have promoted negotiation of bilateral FTAs with

countries both inside and outside the region. Singapore already has bilateral FTAs coming into force with China, Japan, ROK, India, Jordan, New Zealand, Panama, Peru and the United States, as well as participating in the AFTA and ASEAN+X FTA. Singapore also takes part in the Trans-Pacific Strategic Economic Partnership (TPP) when an FTA among Singapore, Switzerland, Liechtenstein and Iceland comes into force. Besides, Singapore already signed FTAs with Costa Rica and the GCC. Bilateral negotiations between Singapore and Canada, Mexico, Pakistan, and the Ukraine are under way.<sup>12</sup> Thailand has bilateral FTAs taking effect with Australia, Japan and New Zealand, and signed an FTA with Peru. Thailand and India already implemented early-harvest since September 2004 and they continue to negotiate comprehensive trade agreements.<sup>13</sup>

There are two ways to interpret these two countries' active promotion of bilateral FTAs. One is that these countries' activities apparently indicate the reduced expectations that member countries place in ASEAN as an instrument for accomplishing and maintaining peace, stability and prosperity of the region. The other is that it rather does show the opposite situation in ASEAN; namely, ASEAN countries do not have a problem with some members' active promotion of the bilateral FTAs beyond ASEAN because the solidarity of ASEAN is solid and stable and they do not regard such bilateral FTAs as eroding this solidarity. Both kinds of interpretations seem to have a point. However, considering other trends touched upon below, it is doubtful if the solidarity of ASEAN is stable, and it might be possible that the ASEAN-centered regional architecture is being transformed into one in which the ASEAN countries might be split into several camps.

The advancement of the TPP indicates that some ASEAN members are embarking on accelerating liberalization of trade and economy with a high-standard and comprehensive FTA, the TPP. The Singapore-New Zealand FTA, which took effect in January 2010, was the starting point of the TPP. In addition to these two countries, Brunei and Chile took part in it and they concluded the TPP in June 2005.<sup>14</sup> These four founding members are small countries and the impact of the TPP was limited although it aimed to promote high-level and comprehensive economic liberalization.<sup>15</sup> However, in September 2008, the United States under the Bush administration announced that it would start negotiation to join the TPP.<sup>16</sup> After the US announcement, Australia, Peru and Vietnam also announced their participation in negotiations to join the TPP.<sup>17</sup> The Obama administration also declared that it would "engage" in the TPP in order to realize high-level liberalization in Asia Pacific region.<sup>18</sup> So the TPP became a remarkable attempt towards the construction of a broader regional economic area. The point is that some ASEAN members, namely Singapore, Brunei and Vietnam are involved in the TPP which is an ambitious and high-standard FTA while the other members are rather reluctant to promote liberalization at this level.<sup>19</sup>

Besides, it should not be ignored that some proposals for regional frameworks are proposed and they do not always regard the ASEAN as occupying the "drivers' seat." The Australian Prime Minister Kevin Rudd proposed an "Asia Pacific Community" in June 2008.<sup>20</sup> He insisted that a new regional institution "which is able to engage in the full

spectrum of dialogue, cooperation and action” not only on economic but also political and security matters should be constructed because at present existing regional mechanisms like the APEC, the ARF, ASEAN, ASEAN+3 and the EAS are not “capable of achieving these purposes.” It is remarkable that Rudd clearly mentioned only Indonesia among ASEAN countries, as well as the United States, Japan, China, India, as the core members of the Asia Pacific Community. It means that Rudd’s idea of an Asia Pacific Community was the construction of a “coalition” of big powers in the region, and it split ASEAN countries into two groups, Indonesia and the others. Elites of ASEAN countries except Indonesia passionately criticized this idea. In response, Rudd gradually modified his stance to emphasize the importance of solidarity within ASEAN and its role in the regional architecture. However, it is important to note that Rudd’s proposal derived from the notion that ASEAN-centered institutions will not effectively “underpin an open, peaceful, stable, prosperous and sustainable region.”<sup>21</sup> ASEAN-centered institutions might lose their legitimacy if a majority of regional powers begins an attempt to construct “strong and effective regional institutions” in East Asia.

Besides, the idea for an East Asian G8 has been discussed, and some elites of Indonesia in particular are in strong support of this idea. According to Jusuf Wanandi, a prominent intellectual in Indonesia and Southeast Asia, “it is increasingly doubtful whether ASEAN will be able to take the lead in institution building in the East Asia region,” because the new ASEAN Charter, which was adopted in 2007, would not enhance ASEAN’s cohesion which is indispensable for ASEAN’s core role in East Asia and the Charter was “not equipped to make ASEAN a credible option for taking a lead role” in East Asian cooperation. Instead, Wanandi proposed a new regional mechanism overarching traditional security, political and economic issues whose members would be only big or regional powers; Australia, China, India, Indonesia, Japan, the ROK, Russia, and the United States.<sup>22</sup> In the same manner as the Asia Pacific Community proposal, the idea of an East Asian G8 is based on the notion that existing regional institutions, which constitute the ASEAN-centered regional architecture in East Asia, are ineffective for reaching goals of regional cooperation, serving more as mere talk-shops. Besides, this idea also singles out Indonesia among ASEAN countries. Other member nations criticized the idea of the East Asian G8 because it divides ASEAN countries.

## **7. Conclusion**

ASEAN countries have had advanced links with external powers since the early stages as a means of enhancing ASEAN’s solidarity and cohesion. Such attempts by ASEAN countries contributed to the development of broader regional institutions as well as the profusion of bilateral ties between ASEAN and main external powers through FTAs and the TAC. These institutions and ties provide the foundation for the construction of an ASEAN-centered regional architecture. Strategies of external powers to wield influence

over Southeast Asia in order to shape regional circumstances in East Asia in their favor also have placed ASEAN in the “drivers’ seat” of the regional architecture. Now, trends which may erode the ASEAN-centered structure have emerged, although the ASEAN countries continue to utilize the solidarity and cohesion under the ASEAN banner in order to negotiate with external powers, most of them being larger than each ASEAN country. Several, sometimes contradictory trends are shaking up the regional circumstances in Southeast and East Asia, so that the development trajectory of the regional architecture looks to have an uncertain future.

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<sup>1</sup> The ASEAN Bangkok Declaration, August 8, 1967.

<sup>2</sup> “ASEAN-Republic of Korea Dialogue Relations” <http://www.aseansec.org/7672.htm>, accessed on February 26, 2010.

<sup>3</sup> “ASEAN-India Dialogue Relations” <http://www.aseansec.org/20188.htm> accessed on February 26, 2010.

<sup>4</sup> “ASEAN-Russia Dialogue Relations” <http://www.aseansec.org/5922.htm>, accessed on February 26, 2010.

<sup>5</sup> ASEAN+3, Joint Statement of East Asian Cooperation, November 28, 1999, Manila.

<sup>6</sup> Treaty of Amity and Cooperation in Southeast Asia, Indonesia, February 24, 1976 <http://www.aseansec.org/5047.htm>, (accessed on March 2, 2010).

<sup>7</sup> “Overview of China-ASEAN FTA” the homepage of the Singaporean Government, [http://www.fta.gov.sg/fta\\_acfta.asp?hl=2](http://www.fta.gov.sg/fta_acfta.asp?hl=2) (accessed on February 26, 2010).

<sup>8</sup> Houkatsutekina-keizaijouno renkei-ni kansuru nihonkoku oyobi tounanjia-shokoku-rengo koseikoku no aida no kyotei ni tsuite (press release, on the AJCEP) METI homepage, [http://www.meti.go.jp/speeches/data\\_ed/ed080414aaj.html](http://www.meti.go.jp/speeches/data_ed/ed080414aaj.html).

<sup>9</sup> “Wagakuni to Kakkoku-kakuchiiki tonon EPA-FTA no Torikumi (Japan’s EPA and FTA with countries and regions) METI homepage, [http://www.meti.go.jp/policy/trade\\_policy/epa/html2/2-torikumi3-asean.html](http://www.meti.go.jp/policy/trade_policy/epa/html2/2-torikumi3-asean.html)

<sup>10</sup> The final Report of East Asian Vision Group, .

<sup>11</sup> “Countries keen to join East Asian Summit should fulfill criteria; Syed said” Bernama The Malaysian National News Agency, April 11, 2005, “Regional perspective: The new East Asia: the shape of things to come” The Nations, May 2, 2005.

<sup>12</sup> International Enterprise Singapore, Singapore Government website, [http://www.fta.gov.sg/sg\\_fta.asp](http://www.fta.gov.sg/sg_fta.asp), accessed on March 2, 2010.

<sup>13</sup> JETRO website, [http://www.jetro.go.jp/world/asia/th/trade\\_01/](http://www.jetro.go.jp/world/asia/th/trade_01/), accessed on March 2, 2010.

<sup>14</sup> As for detail, see “Trans-Pacific Strategic Economic Partnership Agreement”, and “Media info note: Trans-Pacific Strategic Economic Partnership Agreement”, Government of Singapore, June 3, 2005. <http://www.mfat.govt.nz/Trade-and-Economic-Relations/Trade-Agreements/Singapore/index.php>

<sup>15</sup> As for specific contents of the TPP, see “Trans-Pacific Strategic Economic Partnership Agreement”, and as the summary of them, see “Media info note: Trans-Pacific Strategic Economic Partnership Agreement”, Government of Singapore, June 3, 2005.

<sup>16</sup> “Trans-Pacific Partners and United States Launch FTA Negotiations, USTR, Sept 22, 2008,

<sup>17</sup> “Trans-Pacific FTA: Australia, Peru, Vietnam want to join the mega trade pact” ASEAN Affairs, September 24, 2008, [http://www.aseanaffairs.com/page/trans\\_pacific\\_fta\\_australia\\_peru\\_vietnam\\_want\\_to\\_join\\_the\\_mega\\_trade\\_pact](http://www.aseanaffairs.com/page/trans_pacific_fta_australia_peru_vietnam_want_to_join_the_mega_trade_pact)

<sup>18</sup> Remarks by President Barack Obama at Suntory Hall, Suntory Hall, Tokyo, Japan, November 14, 2009.

<sup>19</sup> According to media, some industrial sectors in Malaysia is interested in the Malaysia’s participation in the TPP but the attitude of the Malaysian government is still cautious. See “Trans-Pacific pact will provide better results, says AMCHAM” New Straits Times, February 3, 2010.

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<sup>20</sup>Kevin, Rudd, Prime Minister of Australia, “It’s time to build an Asia Pacific Community”, Address to the Asia Society AustralAsia Centre, Sydney, June 4, 2008, The Homepage of Prime Minister of Australia, <http://www.pm.gov.au/node/5763> (accessed on June 15, 2009.)

<sup>21</sup> *ibid.*

<sup>22</sup> Regarding the proposal of East Asian G8 by Wanandi, see Jusuf Wanandi, “Remodeling Regional Architecture” Global Communications Platform, Japanese Institute of Global Communication, [http://www.glocom.org/debates/20090219\\_wanandi\\_remodel/index.html](http://www.glocom.org/debates/20090219_wanandi_remodel/index.html) (Accessed on February 25, 2010)

# 8 ASEAN and Regional Economic Partnership: Review and Outlook from the Perspectives of Politics and Economics

Tomoharu Washio

The trend toward transnational, regional political and economic partnership as part of the continuing globalization has intensified of late. Even as environmental protection and energy conservation are widely accepted as global issues, and even as terrorist acts spread, differences in economic gains and losses and differences in values in global society have created a host of problems. However, along with the long-standing recognition that large markets are indispensable to secure industrial competitiveness, it has been accepted that individual countries cannot separately deal with many of the growing challenges, compelling them to confront them as global as well as regional matters.

Needless to say, there is nothing new about nations working together out of necessity. History is full of examples of nations under shared pressure moving in lockstep toward a certain goal.

In 2003 the Association of Southeast Asian Nations (ASEAN) decided to create various “communities” within the association for a variety of goals. The question since then has been whether individual members are willing not just to deal with external pressures but to do what is necessary to achieve the stated goals by strengthening internal cohesion and by, where crucial, giving up part of their own sovereignty.

To examine this question, I will begin by reviewing the history of ASEAN from the start.

## 1. Southeast Asia during the 1960s and 1970s

During the 1960s and 1970s Southeast Asia was tossed about in the rough waves of the Cold War. The Vietnam War raged on. Behind the “Bamboo Curtain,” China, which succeeded in its first nuclear test in 1964, launched the Cultural Revolution in May 1966. But despite the internal turmoil, it tried to counter the communist containment policies of the United States and its allies. Thus, it worked to solidify its relations with Burma (Myanmar), Laos, and Cambodia, while it sought to establish a rapprochement with Indonesia under the banner of nonalignment. But Indonesian President Sukarno was forced out of office in March 1967.

It was in the midst of such political turmoil, both internal and external, that five countries—Indonesia, Malaysia, the Philippines, Singapore, and Thailand—declared the formation of ASEAN. That was in August 1967.



At its formation, the internal cohesion of ASEAN was fragile. This was clear in the fact that the heads of the five nations did not meet to discuss the matter; instead, their ministers did. The reason for this probably lay in the founders' desire to fend off any intrusion from the outside as best they could and minimize conflicts within. There was the powerful presence of the United States, which, even as it waged war with North Vietnam in the name of defending South Vietnam, regarded the five nations as falling under its security umbrella in the region that was primarily meant for Taiwan. The assumption was that the United States would not allow Thailand and Malaysia to let their communist forces get out of control.

In fact, it took nearly a decade for ASEAN to take its first significant step to move as a unit, convening its first summit meeting in Bali, Indonesia, in 1976. Yet this step also reflected external considerations rather than the internal wish or need to strengthen the association. Following US President Richard Nixon's surprise visit to China in 1972, the Vietnam War finally came to an end with the fall of Saigon in April 1975, which was followed by the Pathet Lao's victory in Laos in December. Even with the communists' victories, the trend was judged to be moving toward a reduction of Cold War tensions in the region. This was indicated in the announcement that the Bali Summit was informal and irregular.

Nevertheless, the lack of a compelling reason for the existence of ASEAN since the beginning was made up for by the signing of the Treaty of Amity and Partnership (TAC) during the Bali meeting, which called for "friendship, good neighbourliness and partnership" and the "pacific settlement of disputes."<sup>1</sup> It provided the first framework for the association.

The ASEAN summit was held in 1977 as well, but it remained informal. By then Mao Zedong had died and the Cultural Revolution was dying in China, but the conflict between Vietnam and Cambodia was worsening. The region, in other words, was still highly unstable. So, even though the need for holding the summit was recognized to show that the members continued to work together, the circumstances were still deemed insufficient to make the matter formal. Indeed, the third summit was not held for another 10 years, until 1987. The question is why?

## **2. The Collapse of the Cold War Regime and ASEAN**

During the 10 years between the second and third ASEAN summits, and the five years that followed, until 1992 when the fourth summit was held, the political situation in East Asia, along with much of the rest of the world, changed greatly again.

In January 1979 Chinese-US relations were normalized. But just about the same time, from December 1978 to January 1979, the long-standing Cambodian-Vietnamese War, which was really a proxy conflict between the Soviet Union and China, flared up, leading to the collapse of the Khmer Rouge government. Also, in the spring of 1979, China

attacked Vietnam in response to Vietnam's attack on Cambodia. The war was brief but bloody. These developments shook the member countries of ASEAN in their position vis-à-vis China, throwing their solidarity into disarray.

In the 1980s even greater upheavals occurred. Mikhail Gorbachev, who became general secretary of the Soviet Union in 1985, soon set into motion democratic and structural reforms that eventually led to the fall of the Berlin Wall in November 1989 and to the disintegration of the Soviet Union in August 1991. There was also the Tiananmen Incident in June 1989, although even that did not prevent the demise of the Cold War regime. In October 1991 peace was achieved in Cambodia.

The ending of the Cold War regime, ironically, was seen as a threat by the leaders of ASEAN. The collapse of the Soviet Union seemed to prove the absolute superiority of the market economy, as opposed to the planned economy, and spawned the myth that a nation cannot economically prosper unless it tied up with the giant capitalist market. Former socialist countries rushed to link themselves with the US and European economies. To the members of ASEAN, which had enjoyed a comparatively advantageous position as production-export bases for the Western markets, this meant a suddenly fierce competition for foreign capital. Up to then, it could be assumed that the clear, institutional distinction between market and planned economies precluded the socialist economies from seeking production capital from Western economies. But now Western capital, seeking cheaper labor costs, poured into the former socialist countries.

These developments explain why ASEAN held its third summit, still informal, in 1987, 10 years after the second, and made its fourth, held in 1992, formal. Its leaders felt that their strategy of attracting foreign investment to export to sustain their economic prosperity was being badly shaken, as if by severe earthquakes.

The first and most conspicuous move among socialist countries was made by ASEAN's immediate neighbor, China. In January and February 1992 Deng Xiaoping, the de facto leader of the Communist Party, toured the southern regions of his country and made it clear in his talks that he would institute great policy reforms to open the regions to foreign investment. The trigger worked. Foreign investors began to pour into China.

The Bogor Declaration, issued in November 1994 during the ministerial meeting of the Asia-Pacific Economic Cooperation (APEC) forum in Bogor, Indonesia, was the association's reaction to these changes. Among other things, it announced a "commitment to complete the achievement of [the] goal of free and open trade and investment in the Asia-Pacific no later than the year 2020."<sup>2</sup> In effect, it marked the beginning of an era of competition for foreign capital in the region.

Directly behind ASEAN's use of the APEC forum to announce the goal of market liberalization lay the switch in the US presidency from the Republican George H. W. Bush (41st) to the Democrat Bill Clinton. In general, Republican administrations tend to narrow the issues to be dealt with to a few manageable ones, partly because of the party's advocacy of "small government," whereas Democratic administrations tend to deal with a number of

issues in a “comprehensive” fashion. With this general understanding, it may be said that President Clinton, while having APEC commit itself to spreading a network of liberalization over the entire Asia-Pacific, intended to press each member country for liberalization, including the removal of investment barriers, while ASEAN, led by the year’s chair Indonesia, followed along as a means of preventing China from absorbing all the foreign investment.

### **3. Internal Reform Effort**

It was during the 1990s that ASEAN recognized “the need to reform itself” on its own.

As is known, the “geese-flight pattern” theory was once used to explain the economic development in Asia in the years after World War II. First, Japan achieved a sizable economic growth, followed by the four Asian countries of South Korea, Taiwan, Hong Kong, and Singapore, called the newly industrializing economies (NIES). This was in turn followed by ASEAN (excluding Singapore), with each body tracing its own economic trajectory.

Aside from the theory of spreading economic development touched off by the success of a single country, the region’s economic development as a whole was realized, in my view, largely because of the political reality—the existence of the “bamboo curtain” that excluded China. The Asian socialist zone with China as its center could neither become a recipient of capital from the West nor depend on the West as a market for its products. This enabled the Asian countries rimming the Pacific Coast, which belonged to the West in a broad sense and could count on the United States as the market of last resort, to achieve economic growth one after another.

The collapse of the Cold War regime in general, and the removal of the “bamboo curtain” in particular, would quickly alter this paradigm. As China began to seek foreign investment aggressively and export its products to the United States, the direction of the flow of direct foreign investment would start to change. For American and other investors, China would become a market with the greatest potential, simply because of China’s sheer size. The process would be one of reciprocal feeding: the clearer China’s position as an export-led-growth economy became, the greater foreign investors’ expectations in that country rose.

ASEAN foresaw this development and quickly responded. Its fourth summit meeting, in 1992, mentioned earlier, was the first turning point. There the association spelled out its decision to reform itself internally with several specific steps.

First, it made its summit official. Second, it decided to hold one every three years. Third, it reconfirmed the body’s importance by taking steps to strengthen its secretariat.<sup>3</sup> Fourth, recognizing that the world was turning into extended free-market spheres or blocs, it decided to move toward expanding its own sphere by adding new members. Fifth, it would start talking and dealing with nonmember countries as a unit. And, sixth, it would

start seriously solidifying its own cohesiveness.

ASEAN's idea for a free trade agreement (the ASEAN Free Trade Area, or AFTA) was born as a result.<sup>4</sup> Set into motion in 1993 and completed in 2003, the AFTA aimed to push the further industrialization of each member while broadening the markets for ASEAN as a whole.

The plan to expand its membership was successful. In just six years, that is, by 1999, it added four countries: Vietnam, Cambodia, Laos, and Myanmar. The idea of ASEAN as a unit to deal with other countries brought fruit in 1997 in the form of inviting the leaders of China, Japan, and South Korea to a summit meeting—the so-called ASEAN Plus Three.

The year 2003, when the AFTA was finally worked out, became another milestone for ASEAN. In the meeting that year, the ninth, held, like the first, in Indonesia and under Indonesia's strong leadership, ASEAN announced that its summit meetings would be annualized thenceforth. It also issued the second Declaration of ASEAN Concord that spelled out some epochal future plans.<sup>5</sup> Its first declaration was made at the first summit meeting in 1976. Put another way, ASEAN, for the first time in its history, took a major step in turning itself into a truly international organization.

#### **4. Growing External Pressure and Growing Internal Effort**

The second Declaration of ASEAN Concord announced the intent to establish three “communities”: one for political and security cooperation, one for economic cooperation, and one for socio-cultural cooperation. The establishment of these communities was initially set for 2020, though the target year was later moved forward to 2015. To provide a foundation for establishing the communities, the ASEAN summit in 2005, held in Malaysia, agreed to create an ASEAN charter, which was adopted two years later during the summit in Singapore.<sup>6</sup> The meeting, which was the 13th, also marked the 40th anniversary of the founding of ASEAN.

The charter's aim was to elevate ASEAN as an organization, and, to that end, the charter (1) specified the summit as “the supreme policy-making body,” (2) set up a “community council” for each of the three communities for cooperation, and (3) strengthened the secretariat.

However, in the end, the political reality did not allow the organization to change as fundamentally as some of the experts involved in the writing of the charter had hoped. The central criticism had to do with the failure to change the decision-making from that by unanimity – or “consensus,” as the charter put it – to that by a majority.

Behind this criticism lay the expanded membership that rendered reaching a “consensus” extremely difficult. The initial members shared certain values and outlooks that were not too different from one another: They were part of the West in history and experience; they were more or less at the same developmental stages; and they were internationalized to about the same degree. However, the new members—Cambodia, Laos,

Vietnam, and Myanmar—were “too different” in those respects, so that the requirement for a unanimous agreement would work as an obstacle to furthering ASEAN as a cooperative body, hindering the improvement or reform of its functions.

The criticism is easy to understand. While the members shared values and outlooks, a decision by a majority, rather than by unanimity, might have been relatively easy. When new members with less shared values and outlooks joined the body, making a decision by a majority, rather than by unanimity, became a necessity. That was the thinking of the reformers. From that viewpoint, it was a disappointment that the old members compromised with the new to stick to decision-making by “consensus.” In the circumstances, the only room for hope for the reformers is that the charter does not exactly say how the leaders should make a decision when “consensus” is not obtained.

Let us look at this question from another angle.

Until the charter was worked out, ASEAN held to the principle of non-interference in internal affairs. In this it followed the UN Charter, which sets rules for regulating the relations among sovereign states. In other words, ASEAN members agreed not to surrender any of their sovereignty. However, the reformers tried to change this in working out the charter by asking the member states to surrender part of their sovereignty where necessary—or, if the phrase is not quite appropriate, to narrow the interpretation of sovereignty—by agreeing to make a decision by a majority rather than by unanimous consent. This is because the requirement for members of a minority to go along with a decision by the majority means surrendering part of their sovereignty to ASEAN.

And the reformers failed—meaning that the character of ASEAN as a decision-making body did not change before and after it accepted the new members.

## **5. The Economic Community Comes First**

For any “community” to make sense, there have to be values to be shared—at least in theory. In this regard, the ASEAN Charter recognized the sharing of values by stressing the need to adhere to “the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms.”

Some cynics might say that the charter stressed those principles because the member states do not share them yet, and indeed even the most optimistic would not say that all the members adhere to them. And that fact may hinder their effort to work toward a greater unity within the body.

In the meantime, outside pressure on ASEAN to increase unity and cohesion continues. For example, the idea for an agreement on economic partnership between ASEAN and one other country—the so-called ASEAN Plus One—appears to be nearing completion, but as it makes further progress, the focus will shift to the negotiations between Japan and China, between Japan and Korea, or between China and India. This will compel ASEAN to seek a stronger internal unity.

There will also arise questions on the contents of ASEAN Plus One—be “the one” Japan, China, or Australia/New Zealand. Are they going to be the same? If they are different, are they amenable to revision? These matters will be important because the contents will determine the question of corporate locations in East Asia as whole.<sup>7</sup> ASEAN cannot stay indifferent to these issues.

ASEAN must deal realistically with these possibilities and thus will be forced to redouble its efforts toward the stated goal of establishing the three “communities.” In these efforts, the goal of establishing the “economic community,” in my opinion, should be the easiest for the simple reason that it will be able to respond readily to the moves and the influences of the surrounding countries. After all, such countries as Japan, China, South Korea, India, Australia, and New Zealand have each pressed ASEAN to work out an economic agreement—the process that has made it necessary for the association to strengthen its secretariat.

After that will come an agreement for economic partnership covering the entire East Asia, which has already been taken up for discussion. The step toward that will lead to two developments, both inevitably strengthening ASEAN’s internal cohesion: one, the increasing importance of ASEAN as an economic hub as a unifying force; and, two, the strengthening of bilateral or multilateral linkages outside ASEAN, such as that between India and Japan, between China, Australia, and New Zealand, and so forth.

For these reasons, we may expect ASEAN to come under ever greater pressure to create the “economic community” as well as to achieve greater internal unity.

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<sup>1</sup> Treaty of Amity and Partnership in Southeast Asia: Indonesia, February 24, 1976  
<http://www.aseansec.org/1217.htm> . Also, Treaty of Amity and Partnership in Southeast Asia  
[http://en.wikipedia.org/wiki/Treaty\\_of\\_Amity\\_and\\_Partnership\\_in\\_Southeast\\_Asia](http://en.wikipedia.org/wiki/Treaty_of_Amity_and_Partnership_in_Southeast_Asia).

<sup>2</sup> [http://www.apec.org/apec/leaders\\_\\_declarations/1994.html](http://www.apec.org/apec/leaders__declarations/1994.html).

<sup>3</sup> <http://www.aseansec.org/13106-OrgStructure.pdf>.

<sup>4</sup> <http://www.aseansec.org/4920.htm>.

<sup>5</sup> <http://www.humantrafficking.org/events/90>.

<sup>6</sup> <http://www.aseansec.org/21069.pdf> .

<sup>7</sup> “ASEAN plus One to benefit China-based Taiwanese companies: scholar,” Taiwan News, January 30, 2010. The ASEAN and China agreement took effect on January 1, 2010.  
[http://www.etaiwannews.com/etn/news\\_content.php?id=1169038&lang=eng\\_news&cate\\_img=83.jpg&cate\\_rss=news\\_Politics](http://www.etaiwannews.com/etn/news_content.php?id=1169038&lang=eng_news&cate_img=83.jpg&cate_rss=news_Politics) .



# 9 The United States and the ASEAN Community: Factors for Active US Engagement in ASEAN Community Building

Takeshi Yuzawa

## 1. Introduction

During the presidency of George W. Bush, the United States was subjected to severe criticism from both home and abroad for its acute disregard of Southeast Asia, illustrated by the absence of US Secretary of State Condoleezza Rice at the Ministerial Meeting of the ASEAN Regional Forum (ARF) on two occasions and American unilateral postponement of the US-ASEAN Summit scheduled for 2007.<sup>1</sup> While this criticism can be justified in some regards, it overlooks certain important features of US Southeast Asia policy. Although it certainly cannot be said that the Bush administration was deeply engaged politically with the Association of Southeast Asian Nations (ASEAN), as evidenced by the aforementioned examples, at the bureaucratic level the US government has actually given strong support for ASEAN's plan to construct an "ASEAN Community" consisting of three pillars: the ASEAN Political-Security Community (APSC), the ASEAN Economic Community (AEC), and the ASEAN Socio-Cultural Community (ASCC).<sup>2</sup> US assistance for the ASEAN Community project has not been so significant compared to Japan's support in budgetary terms, but its potential impact on the direction of the ASEAN Community should not be underestimated, since it has exerted significant influence on the formulation and implementation of the community projects. For instance, the US government has dispatched many experts to the ASEAN Secretariat to provide ASEAN officials with technical assistance and training as well as advice on policy proposals and assessment. US officials have even been involved in the drafting process of blueprints for the ASEAN Community as well as their implementation. Why has the United States shown active commitment to ASEAN community building?

The main objective of this chapter is to investigate the major factors behind US involvement in ASEAN community building. The paper begins with a brief examination of US supporting activities for the ASEAN Community project. It then examines factors for US active engagement in it. The paper argues that US interest in the ASEAN Community has reflected mainly three factors: its expanded economic interest in ASEAN, the war on terrorism and reaffirmation of Southeast Asia's strategic importance, and its growing concern about China's rising influence in Southeast Asia. The concluding section examines the prospects of US commitment to ASEAN community building.

## 2. US Activities Supporting ASEAN Community Building

US active engagement in ASEAN community building began when US Secretary of State Colin Powell announced the ASEAN Cooperation Plan (ACP) in August 2002. The ACP was developed with the aim of advancing ASEAN integration and was built on three pillars: (1) strengthening the ASEAN Secretariat, (2) building cooperation to address transnational challenges, including terrorism, human trafficking, and infectious diseases, and (3) promoting ASEAN economic integration and development. The ACP has so far initiated over 20 projects, involving not only various government agencies but also nongovernmental organizations and private-sector entities.<sup>3</sup>

The largest cooperative initiative in the context of the ACP is the ASEAN-US Technical Assistance and Training Facility (TAIF), operated by the US Agency for International Development (USAID) with funding from the US Department of State. The main purpose of the TAIF is to strengthen the role of the ASEAN Secretariat in achieving regional economic integration and addressing transnational issues by providing ASEAN officials with technical assistance and training as well as advice on policy proposals and assessments.<sup>4</sup>

The TAIF has been implemented through two phases. Among the achievements of TAIF Phase I, implemented from October 2004 to December 2007 with a budget of US\$6 million, were (1) helping ASEAN streamline its tariff nomenclature, (2) providing principles of an ASEAN roadmap to integrate logistics and services, (3) developing recommendations for a comprehensive ASEAN investment agreement, (4) contributing to the development of an ASEAN Single Window, (5) helping prepare for non-health sectors for potential pandemics, (6) sponsoring ASEAN Talks Business, and (7) overhauling the information technology network of the ASEAN Secretariat.<sup>5</sup> Table 1 shows other accomplishments and ongoing works of the ACP.

US support for ASEAN community building was further strengthened with the issue of the Joint Vision Statement on the ASEAN-US Enhanced Partnership (EP), signed by President Bush and the leaders of ASEAN countries in November 2005. The objective of the EP was not only to establish a comprehensive relationship between the United States and ASEAN in all areas ranging from security and economic ties to social development but also to support the implementation of the Vientiane Action Program, outlining ASEAN's plans to achieve the three pillars of the ASEAN Community: political-security, economic, and social-cultural.<sup>6</sup> Followed by this, in July 2006 the EP Plan of Action was developed as "the master plan to enhance ASEAN-US relations and cooperation in a comprehensive and mutually beneficial manner for the next 5 years (2006–2011)." The EP Plan of Action consisted of about 160 cooperative measures spreading across mainly three areas: political-security affairs, economic affairs, and social development.<sup>7</sup> Table 2 shows a brief outline of the EP Plan of Action.

*Table 1* Major Activities of the ASEAN Cooperation Plan

Fostering Economic Integration and Development	Building Regional Cooperation on Transnational Challenges	Supporting the ASEAN Secretariat
Increasing the capacity of ASEAN to become a stronger regional economic institution by providing technical assistance and training (USAID)	Supporting the ASEAN Regional Forum (ARF): Creating an ARF website and providing necessary computer equipment to the Forum (USAID)	Increasing the Internet bandwidth capacity of the Secretariat (USAID)
Understanding standards and conformity: Sponsoring a number of trainings in the ASEAN region and the US concerning standards and conformity assessment (US Department of Commerce)	Improving responses to crisis and disaster: Helping ASEAN and its member countries to utilize the Incident Command System (US Forest Service)	Funded ASEAN Associate Officer internships at the Secretariat (USAID)
Developing sound competition policy: Providing technical assistance on competition policy, placing a resident advisor in the region, and sponsoring workshops (US Federal Trade Commission and US Department of Justice)	Combating the spread of HIV/AIDS: A USAID advisor was placed at the Secretariat to assist ASEAN in fighting the spread of HIV and AIDS (USAID)	Increased human capacity through specialized training programs (provided training to ASEAN Secretariat staff in information technology, international security, environment, and trade (USAID)
Protecting and enforcing intellectual property rights: Helping to institutionalize consistency in IPR issues across ASEAN member countries (US Patent and Trademark Office)	Improving data collection on trafficking in persons (TIP) among ASEAN states: Conducting a pilot research project to improve data collection on trafficking within ASEAN (International Organization of Migration)	
	Conducting a counterterrorism assessment: Providing an ASEAN consultant to work with the Secretariat to develop implementation strategies for the counterterrorism component of the Plan of Action (USAID)	
	Helping to create environmentally sustainable cities: Presenting demonstration projects to support ASEAN's Framework for Sustainable Cities (US Council of State Government)	

Source: USAID website <sup>8</sup>

Table 2 EP Plan of Action

Political Security Cooperation (5 Plans: 39 Measures)	Economic Cooperation (13 Plans: 66 Measures)	Social and Development Cooperation (10 Plans: 55 Measures)
<ul style="list-style-type: none"> <li>- Deepening Political Cooperation</li> <li>- Deepening Security Cooperation</li> <li>- Enhancing Communication</li> <li>- Supporting a Peaceful and Stable Region</li> <li>- Traditional and Non-traditional Security Issues</li> </ul>	<ul style="list-style-type: none"> <li>-Trade and Investment</li> <li>-Financial Cooperation</li> <li>-Industry</li> <li>-Standards and Conformance</li> <li>-Intellectual Property Rights</li> <li>-Transport</li> <li>-Energy</li> <li>-Agriculture</li> <li>-Tourism</li> <li>-Small and Medium Enterprises</li> <li>-Minerals</li> <li>-Information and Communication Technology</li> <li>-Competition Law and Policy</li> </ul>	<ul style="list-style-type: none"> <li>-Disaster Management and Energy Response</li> <li>-Reconstruction and Rehabilitation</li> <li>-Public Health</li> <li>-Science and Technology</li> <li>-Environment</li> <li>-Education and Human Resources Development</li> <li>-Culture and People-to-People Contact</li> <li>-Promoting Development of Vulnerable Groups</li> <li>-Training and Technical Assistance to the ASEAN Secretariat</li> <li>-ASEAN-US Development Assistance</li> </ul>

Source: The EP Plan of Action<sup>9</sup>

Since 2007 the United States has also been implementing the ASEAN Development Vision to Advance National Cooperation and Economic Integration (ADVANCE) as a supplemental plan to the EP Plan of Action. ADVANCE has aimed to help public- and private-sector stakeholders achieve regional integration by developing projects implemented on a regional and bilateral level. The projects have addressed a wide range of issues under the three pillars of the ASEAN Community, from integration of small and medium size enterprises to regional environmental issues and workforce development.<sup>10</sup> ADVANCE has mainly comprised of four projects:

- 1) ADVANCE ASEAN-US Facility: Providing technical assistance, training, time-sensitive policy assessments, and support for the preparation/implementation of ASEAN blueprints for the ASEAN Community
- 2) ADVANCE ASEAN Single Window: Supporting the development of the ASEAN Single Window, which is a system for coordinating the flow of data among national single windows in ASEAN to support the more rapid clearance of goods and greater transparency in cross-border transactions
- 3) ADVANCE ASEAN Competitiveness Enhancement (ACE) Project: Enhancing the competitiveness and integration of ASEAN's textile and apparel and tourism supply chains. Working with the ASEAN Federation of Textile Industries, the ASEAN Tourism

Association, the ASEAN Secretariat, the Mekong Tourism Coordinating Office, and other stakeholders, ACE has removed constraints in the business environment that affect ASEAN's competitiveness and integration

4) Lao ADVANCE: Providing line ministers and the National Assembly with technical assistance and training to help them understand and support the Lao government's efforts to liberalize its trade and investment regime consistent with commitments under the US-Lao BTA, World Trade Organization accession requirements, and the ASEAN Economic Community Blueprint.<sup>11</sup>

The ASEAN-US Facility is not only the centerpiece of ADVANCE but also a TAIF Phase II program (implementation period: five to eight years from 2007 with a budget of US\$20 million). Its activities are currently focused on the following: (1) confirmation of barriers to trade in goods, (2) assessment of the progress made toward realization of an economic community, (3) support for the passage of legislation governing electronic commerce, (4) assistance in cataloging barriers as a step toward liberalizing trade in services, and (5) support for dispute resolution mechanisms.<sup>12</sup>

### **3. Factors for Active US Engagement in ASEAN Community Building**

#### **3.1. Economic Interests**

Why has the United States provided strong support for ASEAN community building since 2002? There are mainly three reasons. The first factor accounting for US active commitment is its expanded economic interest in ASEAN. Since 2002, alongside counterterrorism issues, the promotion of free trade agreements (FTAs) has become one of the key agendas in US policy toward Southeast Asia. At the beginning of this decade, despite efforts by China and Japan to conclude FTAs with ASEAN countries, as represented by the 2001 China-ASEAN agreement to begin negotiations on a China-ASEAN FTA and the 2002 Japanese proposal to create a comprehensive economic partnership with ASEAN, the Bush administration showed almost no interest in Washington's economic and trade relations with Southeast Asia. This was due mainly to its overwhelming focus on the war on terrorism following the terrorist attacks of September 11, 2001.

However, this did not mean that Washington was totally indifferent to new economic trends in East Asia. The above Chinese and Japanese initiatives raised serious concern among US business interest groups with significant stakes in the region, most notably the US-ASEAN Business Council, that new economic arrangements might develop in East Asia in ways that excluded the United States. These concerns thus led them to lobby the Bush administration and Congress to enhance US economic engagement with ASEAN.<sup>13</sup> As a result of their extensive lobbying activities, the Bush administration eventually came to realize the economic importance of ASEAN as an enormous market of 550 million

people and the potential core of regional economic integration. As a result, in 2002 President Bush announced the Enterprise for ASEAN Initiative (EAI) that aimed to expand trade and investment relations with ASEAN and to provide the basis for negotiating bilateral FTAs with ASEAN countries.<sup>14</sup> Subsequently, the United States signed an FTA with Singapore in 2003 and began FTA negotiations with Thailand and Malaysia in 2004. Moreover, in August 2006 the United States and ASEAN concluded the ASEAN-US Trade and Investment Framework Arrangement (TIFA) in order to provide “strategic frameworks and principles for dialogue on trade and investment issues.”<sup>15</sup>

US active support for ASEAN community building is intimately connected to this growing interest in developing FTAs with ASEAN countries. More specifically, by backing ASEAN’s work on the AEC, the United States has aimed to promote reform in the trade and domestic regulatory practices of ASEAN countries that hamper US exports and thus to conclude bilateral and multilateral FTAs with ASEAN in ways conforming to its own ideals. Such US intent is evident in the fact that the economic dimensions of ACP and ADVANCE projects have strongly reflected the important features of US FTA policy, which emphasize the importance of “comprehensiveness” and “high quality” trade agreements that are designed to reflect intellectual property standards, growth of the service sector, and labor and environmental considerations.<sup>16</sup> US supporting activities, such as compiling an inventory of restrictions for the liberalization of trade in services, identifying barriers to trade in goods for further liberalization, institutionalizing consistency in IPR issues across ASEAN countries, and liberalizing Laos’ trade and investment regime, can be seen as good examples of this. Moreover, it is not surprising that the content of the AEC blueprint has mirrored such US preferences regarding FTAs, including the removal of all restrictions on trade in services for all sectors and the protection of IPR, given the fact that the blueprint was actually developed with US assistance.<sup>17</sup> In addition, as mentioned above, in order to ensure ASEAN’s commitments to the AEC blueprint, the TAIF has undertaken to assess the implementation of the AEC blueprint in each ASEAN country every six months, indicating just how strong US economic interests are in its support for ASEAN community building.

### **3.2. The War on Terrorism and Reaffirmation of the Strategic Importance of Southeast Asia**

The terrorist attacks of September 11, 2001, and the consequent reaffirmation of Southeast Asia’s strategic importance have also been a major factor for US active engagement in ASEAN community building. In declaring the “war on terrorism” in 2001, the Bush administration labeled Southeast Asia as the “secondary front” in the war after the Middle East and South Asia, having concerns about the spread of al Qaeda’s influence over Southeast Asia and possible terrorist attacks by local terrorist groups. Since the early 1990s, al Qaeda had developed close relationships with regional terrorist groups, such as the Abu Sayyaf Group (ASG) and the Moro Islamic Liberation Front (MILF) in the Philippines and Jemaah Islamiyah (JI), an Indonesian Islamist group, by transferring its ideology and combat experience to them.<sup>18</sup>



US concern about terrorist activities in the region reached the highest point when Singapore police arrested JI militants who were planning terrorist attacks on American and other foreign embassies and military facilities in December 2001. (Such US anxiety was eventually realized by a series of terrorist attacks in Indonesia, including the devastating Bali bombings in October 2002 and the Marriott Hotel bombing in Jakarta in August 2003.)<sup>19</sup>

Acute concern about regional terrorist activities led to the issue of the ASEAN-US Joint Declaration to Combat Terrorism in August 2002, aiming to provide “a framework for cooperation to prevent, disrupt and combat international terrorism through the exchange and flow of information, intelligence and capacity building.”<sup>20</sup> US-ASEAN cooperation on counterterrorism has mainly focused on the capacity building of major ASEAN countries through the provision of military training and equipment and intelligence collaboration.<sup>21</sup> For instance, in 2002 Washington announced that it would spend more than US\$100 million to train and equip the Philippine armed forces while giving Indonesia US\$60 million worth of counterterrorism assistance, including the strengthening of its capacity to combat terrorist financing and money laundering.<sup>22</sup>

However, while helping develop the counterterrorism capabilities of major ASEAN countries, US policymakers also recognized the need to strengthen ASEAN as an institution, because the success of counterterrorism in the region would ultimately require the development of practical cooperation among regional countries, such as a mechanism for rapid information sharing and the establishment of common procedures for prosecution and extradition. At the same time, Washington also acknowledged the necessity of supporting regional efforts to deal with the underlying causes of terrorism, including poverty and economic disparities. President Bush, for instance, stated at the United Nations Financing for Development Conference in March 2002 that “We fight against poverty because hope is an answer to terror. . . . We will challenge the poverty and hopelessness and lack of education and failed governments that too often allow conditions that terrorists can seize and try to turn to their advantage.”<sup>23</sup>

These considerations significantly influenced US motivation behind the formulation of the ACP. For example, James Kelly, then assistant secretary of state, stated in a policy speech shortly after the announcement of the ACP that the main objective of the ACP was “to support ASEAN's own efforts at integration, a codeword for helping the newer and poorer members such as Laos, Cambodia, Vietnam, and Myanmar develop politically and economically in order to close the development gap that divides and weakens ASEAN.” At the same time, Kelly also stressed the need to build the capacity of the Secretariat by providing technical expertise and training officials so that it could serve as a channel for regional cooperation on transnational issues, including terrorism.<sup>24</sup>

As shown in Table 1, the ACP has actually provided a range of assistance, aiming to bolster the capabilities of the ASEAN Secretariat to address such transnational issues as improving data collection on trafficking in persons and providing the Secretariat with

consultants to develop implementation strategies for counterterrorism measures.<sup>25</sup> In addition, the ACP's support for the passage of competition laws and the promotion of female employment can be seen as a part of US-ASEAN cooperative efforts to develop the regional economy while reducing the economic disparities between ASEAN members.

### **3.3. Growing Concern about China's Rising Influence in Southeast Asia**

Finally, the growing concern of the United States about China's expanding influence in Southeast Asia has also contributed to the strengthening of its support for the ASEAN Community project. Since the beginning of this decade, China-ASEAN relations have deepened dramatically, due mainly to a series of initiatives by Beijing. For instance, in 2001 China persuaded ASEAN to agree to the formation of an ASEAN-China FTA. Following this, China and ASEAN signed the Framework Agreement on ASEAN-China Economic Cooperation in 2002 that would establish an FTA by 2010 for the old ASEAN members and by 2015 for the new ASEAN members.<sup>26</sup> The agreement was expected to promote the massive expansion of Sino-ASEAN trade and investment links. In fact, trade between China and ASEAN has grown by 30%-40% annually since 2002, with China passing the United States in 2005 to become ASEAN's third largest trading partner.<sup>27</sup>

Beijing has also expanded its economic presence by seizing the initiative in the project of the Greater Mekong Subregion (GMS), being pursued with Vietnam, Laos, Cambodia, Thailand, and Myanmar with the aim of promoting economic development in the Mekong area.<sup>28</sup> In addition, Beijing's presence in the region has also grown in political and security fields. For example, in 2003 China signed not only the Treaty of Amity and Cooperation in Southeast Asia (TAC) ahead of major countries, including the United States, Japan, and India, but also the "Joint Declaration on Strategic Partnership" with ASEAN, calling for the deepening and expansion of ASEAN-China cooperative relations in a comprehensive manner.<sup>29</sup>

China's growing economic and political influence in Southeast Asia, combined with the inauguration of the East Asia Summit (EAS) in December 2005 that excluded the United States, stirred misgivings among US policymakers about a relative waning of US influence and a possible Chinese orientation to future regionalism.<sup>30</sup> The result of such growing anxiety in the United States was its conclusion of the EP with ASEAN, which aimed to promote US-ASEAN cooperation in multi-sectors and support ASEAN's efforts for its community building.<sup>31</sup> One of the key features of the EP is its emphasis on the promotion of democratic values and norms in ASEAN countries. According to a fact sheet published by the US State Department's Bureau of East Asian and Pacific Affairs, the objective of the EP's political and security cooperation is to "assist ASEAN goals of a just, democratic and harmonious political environment."<sup>32</sup> The US focus on democracy promotion in the EP represents one of the important aspects of the US strategy to deal with China's rising influence in the region. Green and Twining, for example, argue that:

“With an agenda for strengthening governance, rule of law and democratic principles, the US-ASEAN relationship can establish a richness and depth not available in other ASEAN partnerships more narrowly focused on trade and development. . . . Given the democratic trend across Asia over the past two decades, China’s authoritarianism looks like the outlier in Asia, not the model its neighbors mean to follow. Moreover, to the extent that a common political identity is a fundamental source of security cooperation among states, as liberals and constructivists argue, the pervasiveness of democracy across Asia leaves China with few alliance options.”<sup>33</sup>

To put this another way, by helping ASEAN countries to develop the ASEAN Community in ways that conform to democratic values and norms, which China cannot easily accept, Washington has tried to expand its overall influence in Southeast Asia vis-à-vis China’s influence, thus protecting its vital economic and security interests as well as strengthening the existing US-centered regional order in East Asia. In this regard, it is critical for the United States to boost ASEAN’s efforts to promote democratic values and norms in Southeast Asia. Reflecting such US interests, the EP Plan of Action has regarded strengthening of the rule of law, judicial systems, good governance and civil service in ASEAN countries as essential efforts in the area of political cooperation.<sup>34</sup> As China’s political and economic influence in Southeast Asia grows ever deeper, the United States will likely strengthen its policies designed to deeply inculcate democratic norms and values in the ASEAN Community to counter China’s rising influence, thus enhancing its influence and presence in the region.

#### **4. Conclusion**

Although the United States attracted a lot of criticism both at home and abroad for disregarding ASEAN under the former Bush administration, the US government actually provided active support for ASEAN community building at the bureaucratic level. As we have seen, US supporting activities have been extended not only to the capability building of the ASEAN Secretariat in addressing transnational issues and achieving economic integration but also to the formulation and implementation of the blueprints for the ASEAN Community, thus exerting profound influence on the direction of the community. Such strong backing for ASEAN community building by the United States has been mainly influenced by three factors: its expanded economic interest in ASEAN, the war on terrorism and reaffirmation of Southeast Asia’s strategic importance, and its growing concern about China’s expanding influence in Southeast Asia. For Washington, which has faced enormous challenges from the rise of East Asian regionalism and China’s growing presence, helping ASEAN to construct the ASEAN Community in ways that conform to American values and norms is essential for not only protecting its economic, security, and political interests in the region listed above but also maintaining the US-centered regional order in East Asia.

Reflecting in particular growing concerns about China's rising presence in the region among US policymakers, in recent years the US government has been strengthening its commitment to ASEAN at the political level as well. For instance, in 2008 the United States became the first country to appoint an ambassador to ASEAN.<sup>35</sup> With the inauguration of the administration of President Barack Obama, the level of US political engagement in ASEAN has been further deepened, as represented by its conclusion of the TAC in July 2009 and the initiation of the First ASEAN-US Leaders Meeting, attended by President Obama and leaders of all of the ASEAN member countries, in November 2009. In the meeting, President Obama pledged to enhance US engagement with ASEAN as a key partner in promoting regional peace and stability. Moreover, President Obama and the ASEAN leaders agreed not only to establish an ASEAN-US Eminent Persons Group to develop greater cooperation in addressing regional and global issues but also to expand cooperation on educational exchanges, including in science and technology and in people-to-people interactions.<sup>36</sup>

Now that the United States has stepped up its political commitment to ASEAN, it seems that US backing for ASEAN community building will grow all the more enthusiastic. This also indicates that US influence on the future prospects of the ASEAN Community will likely be more profound and significant. In this regard, follow-up studies of US involvement in ASEAN community building should be conducted. Meanwhile, in order to reveal the specific impact of US involvement on the course of the ASEAN Community, more detailed examination of US supporting activities, for instance, focusing on the degree to which US advice was being reflected in the community blueprints, is necessary. This would be a promising area of future research.

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<sup>1</sup> Satu P. Limaye, "United States-ASEAN Relations on ASEAN's Fortieth Anniversary: A Glass Half Full" in *Contemporary Southeast Asia*, Vol. 29, No. 3 (2007), p. 448. Aice Ba, "Systemic Neglect? A Reconsideration of US-Southeast Asia Policy" in *Contemporary Southeast Asia*, Vol. 31, No. 3 (2009), p. 370.

<sup>2</sup> For the details of the ASEAN Community, see the Association of Southeast Asian Nations (ASEAN), "Declaration of ASEAN Concord II," Bali, Indonesia, October 7, 2003. Available online at <http://www.aseansec.org/15159.htm> (last accessed on July 30, 2009).

<sup>3</sup> The US Agency for International Development (USAID), "United States Assistance to ASEAN." Available online at [http://www.asean-us-partnership.org/us\\_assistance1.htm](http://www.asean-us-partnership.org/us_assistance1.htm) (last accessed on August 27, 2009).

Koiichi Ishikawa, "ASEAN kyodotai sousetsu wo shien suru beikoku no tai ASEAN kyoryoku" in *Kokusaiboeki to Toshi*, No. 74 (Winter 2008).

<sup>4</sup> The activities of the TAIF have been clustered in nine areas: trade negotiations, investment, trade in services, customs and trade facilitation, integration of ASEAN's priority sectors, public health, natural resource management, policy coordination and dialogue, and strengthened secretariat resources. See USAID, "The ASEAN-US Technical Assistance & Training Facility." Available online at [http://www.asean-us-partnership.org/asean\\_us\\_facility.htm](http://www.asean-us-partnership.org/asean_us_facility.htm) (last accessed on August 26, 2009).

<sup>5</sup> Ibid.

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- <sup>6</sup> “Joint Vision Statement on the ASEAN-US Enhanced Partnership,” November 17, 2005.
- <sup>7</sup> “Plan of Action to Implement the ASEAN-US Enhanced Partnership,” Kuala Lumpur, July 27, 2006. Available online at <http://www.aseansec.org/18589.pdf> (last accessed on July 30, 2009). According to the EP Plan of Action, cooperative measures that will be implemented from 2011 will be drafted in 2010.
- <sup>8</sup> USAID, “The ASEAN-US Technical Assistance & Training Facility.”
- <sup>9</sup> “Plan of Action to Implement the ASEAN-US Enhanced Partnership.”
- <sup>10</sup> USAID, “Advancing the ASEAN-US Enhanced Partnership ADVANCE.” Available online at <http://www.asean-us-partnership.org/advance.htm> (last accessed on July 30, 2009).
- <sup>11</sup> Ibid.
- <sup>12</sup> USAID, “The ASEAN-US Technical Assistance & Training Facility.”
- <sup>13</sup> See, for instance, “US-ASEAN Business Council--US investors committed to staying in ASEAN region” in *AFZ News Limited*, April 8, 2002. LexisNexis. “Lobbying for US-Singapore FTA pays off: US pressure group members are happy over key provisions” in *The Business Times*, May 5, 2003. LexisNexis. *Nihon Keizai Shimbun*, April 2, 2006, p. 4. The US-ASEAN Business Council is a leading private business organization in the United States dedicated to promoting increased trade and investment between the United States and ASEAN countries. The council’s membership includes approximately 150 of the Fortune 1000 American companies with trade and investment interests in Southeast Asia. See “The US-ASEAN Business Council,” available online at <http://www.us-asean.org/index.php> (last accessed on August 30, 2009).
- <sup>14</sup> Office of the United States Trade Representative, “Enterprise for ASEAN Initiative.” Available online at <http://www.ustr.gov/trade-agreements/other-initiatives/asean-initiative> (last accessed on August 30, 2009).
- <sup>15</sup> Tommy Koh, “The United States and Southeast Asia” in *America’s Role in Asia: Asian and American Views* (San Francisco: The Asia Foundation, 2008), p. 39. For the details of the TIFA, see “Trade and Investment Framework Arrangement between the United States of America and the Association of Southeast Asian Nations,” Kuala Lumpur, August 25, 2006.
- <sup>16</sup> Anthony Kim and Daniella Markheim, “US Trade Policy Tracker” in *Backgrounder*, No. 1949 (July 7, 2006), p.1. Available online at [http://www.heritage.org/research/tradeandeconomicfreedom/upload/bg\\_1949.pdf](http://www.heritage.org/research/tradeandeconomicfreedom/upload/bg_1949.pdf) (last accessed on August 31, 2009).
- <sup>17</sup> ASEAN, *ASEAN Economic Community Blueprint*, Singapore, November 20, 2007.
- <sup>18</sup> Satu P. Limaye, “Minding the Gaps: the Bush Administration and the US-Southeast Asia Relations” in *Contemporary Southeast Asia*, Vol. 26, No. 1 (2004), p.81. See also Amitav Acharya and Arabinda Acharya, “The Myth of the Second Front: Localizing the ‘War on Terror’ in Southeast Asia” in *The Washington Quarterly*, Vol. 30, No.4, p. 77.
- <sup>19</sup> Richard P. Cronin, “The Second Bush Administration and Southeast Asia,” The Henry L. Stimson Center, (July 2007), p.3. Available online at <http://www.stimson.org/pub.cfm?id=446> (last accessed on July 30, 2009).
- <sup>20</sup> For details see “ASEAN-United States of America Joint Declaration for Cooperation to Combat International Terrorism,” Bandar Seri Begawan, August 1, 2002. Most ASEAN countries, in particular Indonesia and Malaysia, had been reluctant to admit the existence of terrorist threats in Southeast Asia due to domestic pressure from nationalist and Islamic groups. However, actual terrorist attacks, such as the 2002 Bali bombing and the 2003 Marriott Hotel bombing, brought home the threat of terrorist attacks to ASEAN in a significant way, and they became more serious about counterterrorism cooperation with the United States. Limaye, “Minding the Gaps,” p. 82.
- <sup>21</sup> David Capie, “Between a Hegemon and a Hard Place: the ‘War on Terror’ and Southeast Asian-US relations” in *Pacific Review*, Vol. 17, No. 2 (2004), pp. 223–248.
- <sup>22</sup> Ibid.
- <sup>23</sup> “President Outlines US Plan to Help World’s Poor,” *White House Press Releases*, March 22, 2002. LexisNexis.
- <sup>24</sup> “Assistant Secretary of State’s remarks on terrorism, other threats,” The Office of International Information Programs, US Department of State, December 11, 2002.
- <sup>25</sup> ASEAN’s cooperation on counterterrorism has not made significant progress due mainly to bilateral tensions and distrust among ASEAN countries. For instance, Malaysia and Singapore have a number of outstanding issues, including territorial disputes, as do Malaysia and Indonesia. ASEAN countries have



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continued to cooperate against terrorism primarily in an ad hoc manner and with outside powers, particularly the United States and Australia. Acharya and Acharya, "The Myth of the Second Front," p. 84.

<sup>26</sup> Naoko Munakata, "Has Politics Caught Up with Markets?: In Search of East Asian Economic Regionalism" in Peter J. Katzenstein and Takashi Shiraishi, *Beyond Japan: The Dynamics of East Asian Regionalism* (Ithaca: Cornell University, 2006), p.151. It is expected that the China-ASEAN FTA will lead to more than \$10 billion increases of trade volumes between China and ASEAN, while ASEAN exports to the United States and Japan will decrease by \$700 million and \$1 billion, respectively. Evelyn Goh, "Great Powers and Hierarchical Order in Southeast Asia: Analyzing Regional Security Strategies" in *International Security*, Vol. 32, No. 3 (Winter 2007/08), p.140.

<sup>27</sup> Cronin, "The Second Bush Administration and Southeast," p. 13.

<sup>28</sup> China has seen the GMS as a tool for deepening its economic relations in the region. In fact, trade between China and the CLMV countries (Cambodia, Laos, Myanmar, and Vietnam) has rapidly grown in recent years. For instance, the total bilateral trade volume between China and the other five GMS countries in 2004 exceeded \$US25 billion, double the 2002 level. See Thomas Chang, "China's Participation in the Greater Mekong Subregion (GMS): A Review and Analysis of Chinese News Media," Report, The Henry L. Stimson Center, (July 2007), p. 3. Available online at

<http://www.stimson.org/southeastasia/?SN=SE20060518998> (last accessed on August 30, 2009).

<sup>29</sup> For details, see the "Joint Declaration of the Heads of State/Government of the Association of Southeast Asian Nations and the People's Republic of China on Strategic Partnership for Peace and Prosperity." Available online at <http://www.aseansec.org/15265.htm> (last accessed on July 30, 2009).

<sup>30</sup> See, for instance, Cronin, "The Second Bush Administration and Southeast Asia," p.14. Bruce Vaughn and Wayne M. Morrison, "China-Southeast Asia Relations: Trends, Issues, and Implications for the United States," *Congressional Research Service*, (April 2006), pp. 1-40.

<sup>31</sup> Ba, "Systemic Neglect? A Reconsideration of US-Southeast Asia Policy," p. 379.

<sup>32</sup> "Fact Sheet: ASEAN-US Enhanced Partnership," *US Fed News*, July 26, 2006. LexisNexis.

<sup>33</sup> Michael J. Green and Daniel Twining, "Democracy and American Grand Strategy in Asia: The Realist Principles Behind an Enduring Idealism" in *Contemporary Southeast Asia*, Vol. 30, No.1 (2008), p. 19.

<sup>34</sup> See "Plan of Action to Implement the ASEAN-US Enhanced Partnership."

<sup>35</sup> "US Senate Confirms First US Ambassador to ASEAN," *Malaysia General News*, May 1, 2009. LexisNexis.

<sup>36</sup> Joint Statement on the First ASEAN-US Leaders Meeting, Singapore, November 15, 2009. Available online at <http://www.aseansec.org/24020.htm> (last accessed on January 8, 2009).