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Revisiting ASEAN and ASEAN-led Mechanisms:
Taking Stock and Thinking Through



one vision
one identity
one community

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Revisiting ASEAN and ASEAN-led Mechanisms: Taking Stock and Thinking Through

**The ASEAN Secretariat
Jakarta**

Message

Made up of ten Member States, ASEAN is a home to more than 660 million people, which collectively is the 5th largest economy in the world. For five and a half decade, ASEAN has promoted economic prosperity, social progress, as well as stability and security in the Southeast Asian and the wider region through ASEAN and ASEAN-led mechanisms and platforms.



These include, among others, the East Asia Summit (EAS), the ASEAN Regional Forum (ARF), the ASEAN Plus Three (APT), the ASEAN Defence Ministers Meeting (ADMM) and ADMM-Plus, the Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ) Commission, the ASEAN Ministerial Meeting on Transnational Crime (AMMTC), the ASEAN Ministerial Meeting on Drugs (AMMD), the ASEAN Network of Regulatory Bodies on Atomic Energy (ASEANTOM), and the ASEAN Intergovernmental Commission on Human Rights (AICHR).

As ASEAN embarks on the 55th year of its journey as a Community this year, it is timely to revisit these mechanisms and platforms, take stock of their contributions to ASEAN's community building, reflect on the challenges encountered and see the prospects they bring to the table. Amidst certain challenges faced, the strengths of these mechanisms and platforms as well as opportunities they make available to ASEAN should be leveraged.

With this collection of essays, this *APSC Outlook* would hopefully contribute to the continuing conversation on how to further enhance ASEAN and ASEAN-led mechanisms. This is an important element in the discussions as ASEAN commences with the exercise to develop the ASEAN Community's Post-2025 Vision.

A handwritten signature in black ink, appearing to read 'Lim Jock Hoï'. The signature is fluid and cursive, with a large initial 'L' and 'H'.

DATU LIM JOCK HOI

Secretary-General of ASEAN

Foreword

The publication of the *APSC Outlook* is an effort to share with a wider audience views on ASEAN Community building as seen from the lenses of the ASEAN Secretariat. From the inaugural issue in 2019, readers have been shared with pieces on the ASEAN Political-Security Community (APSC)'s journey to results of the Mid-Term Review of the APSC Blueprint in 2020 to looking what is in store beyond 2025.



This 2022 issue of the *APSC Outlook* looks at selected ASEAN and ASEAN-led mechanisms as well as frameworks of cooperation. Readers would be familiar with mechanisms under the APSC, such as the East Asia Summit (EAS), the ASEAN Regional Forum (ARF), the ASEAN Plus Three (APT), the ASEAN Defence Ministers Meeting (ADMM) and ADMM-Plus, the ASEAN Ministerial Meeting on Transnational Crime (AMMTC), the ASEAN Ministerial Meeting on Drugs (AMMD), the Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ) Commission, the ASEAN Network of Regulatory Bodies on Atomic Energy (ASEANTOM), and the ASEAN Intergovernmental Commission on Human Rights (AICHR).

These ASEAN and ASEAN-led mechanisms were established in a particular context and setting, with certain objectives in mind taking into account the regional situation at the time they were established. But they remain equally relevant today. Their adaptability to new challenges at present is therefore an important consideration.

With these essays on selected ASEAN and ASEAN-led mechanisms under the ASEAN Political-Security Community Pillar, the reader is provided with a view of how ASEAN mechanisms continue to adapt to the changing global and regional landscape.

A handwritten signature in black ink, appearing to read 'R. M. Michael Tene'. The signature is stylized and fluid, with a large loop at the beginning and a long, sweeping tail.

R. M. MICHAEL TENE

Deputy Secretary-General of ASEAN
for ASEAN Political-Security Community

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Revisiting ASEAN and ASEAN-led Mechanisms: An Introduction*

Raymund Jose G. Quilop**

Beyond the proverbial ASEAN Way characterised by dialogues and consultations towards consensus, ASEAN's other hallmarks are the mechanisms established, which through the years have come to comprise the so-called ASEAN ecosystem. These mechanisms, taken broadly, range from sectoral bodies within ASEAN to wider platforms and fora (involving ASEAN's external partners) to frameworks. Without going to a technical debate of which begets what, i.e. do mechanisms lead to frameworks or do frameworks result in mechanisms, it suffices to say that in ASEAN, all these are a means to a higher end – the building of the ASEAN Community.

As noted in the Foreword by the Deputy Secretary-General of ASEAN for Political-Security Community, these mechanisms have been established in a particular setting or

*ASEAN and ASEAN-led Mechanisms
were established in a particular context
and borne out of a specific need.*

context, something which needs to be kept in mind and taken into consideration. Each mechanism is also borne out of a specific need (not only of ASEAN in particular but also of the region in general) of a particular milieu.

For example, the ASEAN Regional Forum (ARF) emerged in a context of the early 1990s when the region was in search of a platform for dialogue to promote security cooperation in a broad sense, in a setting where the Cold War has just ended. The East Asia Summit (EAS) came about in 2005 out of the felt imperative at that time to have a platform whereby ASEAN leaders could engage the leaders of six ASEAN's dialogue partners. The EAS would eventually expand to include two additional participating countries, making it a leaders-led forum of 18 countries.

The ASEAN Defence Ministers Meeting (ADMM) was convened in 2006 given the shared sense among ASEAN defence ministers of the utility of having a platform for them to engage one another. Four years later (2010), the inaugural ADMM-Plus was convened. It was borne out of the increasing view that it would serve ASEAN's interest to engage the defence ministers of eight ASEAN's dialogue partners. Incidentally, it was also the same year when the two additional countries (the United States and Russia) first took part in the EAS.

* The views expressed in this essay are the personal views of the author and do not reflect the position of ASEAN or the ASEAN Secretariat.

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In the aftermath of the 1997 Asian Financial Crisis, the ASEAN Plus Three (ASEAN Plus China, Japan and Republic of Korea) emerged out of the need to have a cooperation framework to mitigate the impact of similar developments in the future.

Mechanisms have indeed been established to help ASEAN deal with specific issues. For example, the establishment of the ASEAN Ministerial Meeting on Drugs (AMMD) and its Senior Officials Meeting (ASOD) was to help ASEAN address the growing problem of illicit drug use and trafficking across its Member States. The ASEAN Ministerial Meeting on Transnational Crime (AMMTC) which was predated by its Senior Officials Meeting (SOMTC) was put up to promote collaboration among ASEAN's law enforcement mechanisms, given the recognition of the increasing cross-boundary nature of criminal activities.

The Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ) was an advocacy that discourage at least or prevent at most the Nuclear Weapons States (NWS) from plying their wares in the region, which could cause instability, something that was a big possibility during the Cold War period. While the SEANWFZ Treaty was signed in 1995, at a time when the Cold War has already ended, the advocacy of keeping Southeast Asia free from nuclear weapons still remains relevant.

The ASEAN Intergovernmental Commission on Human Rights (AICHR) emerged out of the need for ASEAN to promote a regional approach to the issue of human rights while being cognisant of the unique situation of individual ASEAN Member States.

Beyond the context where these mechanisms have been put up as well as their specific purpose at the time they were established, they have been able to adapt to the changing environment. Necessary adjustments have been made through the years as to how matters within their purview are dealt with. This helps explain why, notwithstanding some reservations which outside observers may have had hurled at these mechanisms, they have nonetheless withstood the test of time.

ASEAN mechanisms have been able to adapt and withstood the test of time.

For example, beyond being a platform for security dialogue, the ARF has evolved to undertake tangible cooperation activities. The changed security landscape of more recent years calls for the undertaking of practical cooperation to complement security dialogue.

Contrast this with the case of the ADMM-Plus. Right in its initial years, the so-called practical cooperation was the focus; hence the establishment of Experts Working Groups on several areas (maritime security, counter-terrorism, Humanitarian Assistance and Disaster Relief (HADR), peacekeeping operation (PKO), and military medicine). However, the equal importance of it being a platform for defence and security dialogue immediately got to be recognised. It was therefore decided to increase the frequency of ADMM-Plus meetings from the originally intended every three years to every two years (a change effected immediately after the second ADMM-Plus in 2013 so much so that the 3rd ADMM was already held in 2015)

to annually, a decision made in 2017. Beginning 2018, the ADMM-Plus was meeting every year.

And while the ARF (as contained in the 1995 Concept Paper) was originally envisioned to evolve along the three stages of promotion of confidence-building measures (CBMs) to promotion of preventive diplomacy measures to elaboration of approaches to conflict, it was eventually realised that CBMs and preventive diplomacy overlap. In fact, it could even be argued that CBMs are within the broader ambit of preventive diplomacy as CBMs help prevent conflict from arising, which is the essence of preventive diplomacy. Given this, the ARF now promotes both CBMs and preventive diplomacy measures in tandem. The two are no longer seen as different phases so to speak.

In the case of the EAS, it is no longer solely a summit bringing together the EAS Leaders for “strategic discussions”. Practical activities have been pursued under and within its ambit, with relevant EAS Leaders’ declarations serving as the framework of these activities.

Matters attendant to the SEANWFZ are no longer confined to proliferation of nuclear weapons per se. Practical initiatives with the International Atomic Energy Agency (IAEA) to include, among others, ensuring the safety and security of nuclear-related materials and technology are now also brought within the umbrella of the SEANWFZ discussions.

Capable of addressing challenges coming from within or outside.

Alongside their abilities to adapt to the changing needs of the times, these mechanisms have likewise been able to address challenges that emanate either from within or from the outside environment.

Challenges specific to these mechanisms are discussed in the essays contained in this volume. But one thing that is common is the “dynamics” of interaction among those involved, sometimes among the ASEAN Member States themselves or at times between them and ASEAN’s external partners. This is expected given diversity in the political, social and economic systems of the countries taking part in these mechanisms.

One thing that is worth noting though is that outright acceptance of such a diversity has enabled those taking part in these mechanisms to manage differences and to a certain extent overcome this fundamental challenge. The shared commitment to pursue cooperation and collaboration is another factor.

Meanwhile, the increasing realisation that the issues faced by ASEAN cut across pillars and sectors offers both a challenge and an opportunity. Challenge as these mechanisms, as discussed previously, have either specific issues under their respective purviews or they focus on a particular aspect of an issue. Opportunity because the cross-cutting nature of issues is expected to induce greater collaboration across these mechanisms. Cross-cutting issues require and therefore encourage a holistic and comprehensive approach. The individual contributions of these mechanisms in dealing with a specific aspect of an issue therefore becomes a key component of the overall approach.

The ability to adapt as well as the capacity to address challenges while leveraging their potential help explain why to date, these mechanisms, have persisted and remain to be around. In other words, these

*ASEAN as an institution
in regional affairs remains relevant
and appreciated.*

mechanisms have become institutions in their own right. Indeed, one element of institutionalisation is the persistence of interaction among those involved. Thus, when interactions persist through time, the mechanism or platform where such interactions are pursued become institutions. This is the very essence of ASEAN, not only as an organisation, but as an institution in regional affairs, whose relevance continue to be appreciated and its Centrality remain to be supported by other regional players.

As the Secretary-General of ASEAN shares in his message, ASEAN this year is embarking on an exercise to think through what lies beyond 2025. Taking stock of developments within these ASEAN and ASEAN-led mechanisms, coming through grips with the challenges that are faced and leveraging what they bring to the table is an important element in the conversation towards an ASEAN Post-2025 Vision.

Defence Cooperation in ASEAN: Recalling its Genesis and Looking Forward*

By Mala Selvaraju and Andreas Nugraha**

Introduction

It took forty-three years for ASEAN to establish a sectoral body for defence cooperation, namely the ASEAN Defence Ministers Meeting (ADMM). Its establishment in 2006 showcases an increasing comfort level among the ASEAN Member States to provide defence establishments a platform, at the ministerial level, to tackle issues of common concern. The Leaders of ASEAN, however, were clear that the founding of the ADMM does not signal that ASEAN is a military bloc. Fifteen years on, the ADMM has evolved into a rapidly growing sectoral body and become the region's premier defence diplomacy platform.

Prior to the ADMM's establishment, ASEAN defence officials were involved in the annual ASEAN Special Senior Officials Meeting (ASEAN Special SOM) through the Working Group on Security Cooperation, which first met in 1996. Defence officials also participated in numerous ASEAN Regional Forum (ARF)-related meetings, such as the ARF Security Policy Conference (ASPC) and the ARF Defence Officials Dialogue (ARF-DOD). Military-to-military interactions have also been undertaken through regular meetings involving the Chiefs of Defence Forces, Army, Navy and Air Force of ASEAN Member States.

Formation of the ADMM is a milestone.

It is worth recalling that the establishment of the ADMM is anchored on the *ASEAN Security Community (ASC) Plan of Action* and the *Vientiane Action Programme (VAP)* adopted during the 10th ASEAN Summit in 2004, which stipulated the annual convening of an ADMM. It is said that the formation of the ADMM also signified an important milestone for ASEAN in embarking towards multilateral defence dialogue and in constructing a regional political-security community focused on norms-setting, confidence-building, conflict prevention, and conflict resolution.

In their inaugural meeting, the defence ministers acknowledged that security challenges abound and that sustained efforts should be undertaken to address them. It was then agreed

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that the ADMM would promote regional peace and stability through dialogue and cooperation. And in consideration of the existence of military interactions discussed above, it was decided that the ADMM would provide guidance to existing dialogue and cooperation mechanisms of defence officials, promote mutual trust and confidence through greater understanding, transparency, and openness and contribute to the establishment of an ASEAN Security Community.

Four years after the ADMM's establishment, defence ministers were of the view that the ADMM could then cooperate with ASEAN's external partners amidst the steady interest from a growing number of external partners to engage the ASEAN defence sector. Such an engagement was also seen necessary to facilitate channels of communication and cooperation as well as bringing expertise, perspectives, and resources to bear on the region's security challenges. The ADMM-Plus was therefore born with the inaugural meeting convened in 2010, involving ASEAN and eight of its Dialogue Partners (commonly referred to as "the Plus Countries" in the defence sector). In addition to providing a platform for defence policy dialogue, the ADMM-Plus also promotes practical functional cooperation to enhance the capacity, capability, and interoperability of the participating countries through its Experts' Working Groups (EWGs) on maritime security, counter-terrorism, Humanitarian Assistance and Disaster Relief (HADR), military medicine, peacekeeping operations (PKO), humanitarian mine action and cybersecurity. Each EWG is co-chaired by one ASEAN Member State and one Plus Country. The co-chairmanship is for a duration of three years.

Current State of Affairs

Cooperation in the defence sector started with "low-hanging fruits" in the initial years and eventually matured to tackling other and more complex areas. For example, HADR and PKO, although

From "low hanging fruits", the ADMM's cooperation eventually matured to more complex areas.

complex issues, were considered as low hanging fruits, which were not only seen as areas of mutual concern and unique to the military but something that the defence sector was comfortable to work on given its regular interaction and network already in place. It must be stressed too that in the early years of the ADMM, what ASEAN Defence Ministers agreed were mostly conceptual. This approach illustrates how the ADMM was open towards practical cooperation, but simultaneously cautious about how initiatives would be developed. With the formation of the ADMM-Plus, more areas of cooperation namely maritime security, military medicine and counter-terrorism were introduced in the multilateral defence sector cooperation.

The level of maturity in the defence sector's cooperation is notable. Among its niche initiatives is a network of defence experts, which focused exclusively on countering chemical,

biological and radiological threats. With a growing confidence in the ability of ASEAN in managing potential tension, the ADMM also agreed to adopt the *Guidelines for Air Military Encounters* and the *Guidelines of Maritime Interaction*. More recently, a multilateral stand-by arrangement for HADR was created after years-long negotiations.

The early success of the ADMM initiatives and the ADMM-Plus EWGs contributed to the expansion of areas of cooperation. From the original five EWGs when the ADMM-Plus was established in 2010, there are now seven ADMM-Plus EWGs with the addition of the EWG on Humanitarian Mine Action in 2014 and the EWG on Cyber Security in 2017. The ADMM, in the same vein, has included counter-terrorism, military medicine and most recently cyber security. Majority of the ADMM initiatives are active and a significant number are now operational.

In addition to promoting cooperation within its own sector, it is equally important to highlight the defence sector's growing contribution to cross-sectoral issues. These would include its longstanding partnership with the ASEAN Committee on Disaster Management (ACDM), which works to strengthen civil-military coordination in HADR. One recent example is through military medical initiatives, another area that is unique to the defence sector. The ASEAN Center of Military Medicine (ACMM) and the ASEAN Military Medicine Conference (AMMC) have joined ASEAN's collective response to the COVID-19 pandemic, particularly its

The ADMM contributes to cross-sectoral initiatives.

capacity-building activities which aim to improve future pandemic preparedness. Likewise, the ADMM-Plus EWGs have now touched on a wider range of issues from Blue Economy to the Women, Peace and Security (WPS) Agenda.

This year, a stocktaking exercise on the ADMM and the ADMM-Plus was conducted and subsequently a discussion concerning the future of the defence sector has commenced. These have enabled the ADMM and the ADMM-Plus to reexamine its mission, reorient itself in the regional security architecture, and ensure efficiency in its working mechanism. It is worth noting too that some ADMM-Plus EWGs, i.e. on Maritime Security and Cyber Security, are working on long-term frameworks/road maps to guide and promote continuity of their cooperation.

Strengths, Limitations and Prospects

Confidence-building mechanisms

The core strength of the defence sector lies in its very existence. While not a military alliance, the formation of the defence sector demonstrates the growing comfort level among the ASEAN Member States towards an arrangement for regional defence cooperation. The ADMM has indeed been able to nurture a culture of cooperation among militaries – entities that are traditionally competitive and averse to multilateral overtures. Moreover, its confidence-building is not only anchored in the frequent policy dialogue among ministers and senior officials, but also equally strengthened through numerous practical initiatives involving various units in the armed forces.

The ADMM has nurtured a culture of cooperation among militaries.

Assets

The available resources under the stewardship of ASEAN militaries and the ability to muster it, allow the defence sector to make considerable progress since its founding in 2006. The defence sector is highly diverse and the entities that contribute to the work of the ADMM and the ADMM-Plus range from policy officers to military doctors and from cyber security specialists to defence scientists. The assets can also be repurposed for many different settings from disaster relief to public health crises.

Exercises

The assets of the defence sector are displayed during field-training exercises (FTXs). These exercises are large-scale, resource-intensive, and often considered flagship activities in the defence sector, which aim to measure the compatibility of simulated scenarios with real-world operations. The ADMM-Plus EWGs, usually culminate the three-year cycle with FTXs, during which they test new standard operating procedures or guidelines and also, technology-enabled information systems. FTXs are also enriched with the involvement of various regional and international organisations. Thus far, twenty FTXs have been undertaken by the defence sector.

There have been calls to combine or co-locate FTXs of the ADMM-Plus EWGs, not only to make it more resource-efficient but also to value-add the experience with more complex and realistic scenarios. There are also ongoing discussions to explore alternatives in lieu of FTXs.

Working Mechanisms

The current working mechanism, which begins with the Working Groups reporting to the Senior Officials and further to the Ministers, has served the defence sector well, in three ways. First, it mirrors the hierarchical culture of the military where there is notable camaraderie amongst equivalent ranks, as well as those with similar specialisation. In fact, it has formed a myriad of networks involving defence scholars and attachés.

Second, the establishment of the ADMM-Plus, where the ADMM collectively engages with eight of ASEAN's Dialogue Partners, has enabled the ADMM to manage its growing external engagements in a calculated manner. Such engagements would have been more challenging had the ADMM chosen to engage its partners through so-called "Plus One" arrangements, whereby the ADMM meets the Plus Countries separately and not collectively under the ADMM-Plus. Although informal Plus One engagements have somewhat become an issue of concern, the ADMM has explored ways to address it, among others by convening the ADMM-Plus annually (from the previous biennial) and by setting a cap on the number of informal meetings that can be accommodated annually.

Third, the two separate platforms within the same sector provide each other the opportunity to experiment with new areas of cooperation. Military medicine and cyber security for instance were first initiated in the ADMM-Plus before subsequently pursued in the ADMM. On the other hand, several initiatives under the ADMM are being expanded to the ADMM-Plus or to individual Plus Countries, owing to its early success and merit of involving non-ASEAN countries in the defence sector.

Reviews and Sustainability

The defence sector is monitoring its growth carefully. Reviews have been introduced in recent years to take stock of the progress and to identify ways forward. In 2019, an assessment was conducted to determine whether the EWGs under the ADMM-Plus should be

More candid future assessment exercises to produce honest reviews and useful recommendations.

retained, merged or dissolved. In the same year, an annual review to ensure the sustainability of ADMM's initiatives commenced. In 2021, a post-implementation review of the annual convening of the ADMM-Plus was also completed, four years after the current frequency of annual

meeting was first put in place. This would allow the defence sector to ensure that the ADMM and the ADMM-Plus will remain relevant and efficient in moving ahead. However, future assessment exercises can be performed more candidly and meaningfully to produce honest reviews and useful recommendations.

The COVID-19 pandemic

The profound and long-term impacts of the pandemic are likewise felt by the defence sector. This is precisely because the ADMM and the ADMM-Plus are not just dialogue platforms, but are heavily invested in many practical, on-the-ground initiatives which could not be readily be undertaken “online”. The cycle which should have commenced in 2020 had to be postponed to 2021. Work has resumed but uncertainty remains. While commitment in the defence sector appears to be unwavering, defence budget constraints could pose limits as to how far the ADMM and the ADMM-Plus can progress in the years to come. The COVID-19 restrictions may also affect how the younger generation in the defence sector builds camaraderie among them, noting the considerably lower number of opportunities to have in-person interactions.

Conclusion

Establishing the ADMM after more than four decades after the formation of ASEAN shows that ASEAN Member States have come a long way, and this has contributed to

Establishing the ADMM addresses the so-called “trust deficit” in the region.

confidence-building as well as help address the so-called “trust deficit” in the region. In a broader context, a peaceful and secure region is prerequisite to sustained economic development and the social well-being of the ASEAN peoples. While the defence sector has moved towards this direction, regional cooperation remains a work in progress. In order to consolidate and sustain its contributions, the defence sector must therefore continue to assess its work regularly and be able to respond in a timely manner to pressing and emerging issues. It will in turn allow the broader public to agree that the defence sector is indeed a success story of ASEAN.

ASEAN Law Enforcement Cooperation: Origins and Progress Through the Years*

By Retno Astrini**

Introduction

Discussions on organised crime at relevant international fora began to emerge in mid-1970s, while the threat of organised crime to security and sovereignty was only progressively recognised in the mid-1990s, as the global landscape was shaped by the end of the Cold War and the advent of globalisation that followed.¹ Globalisation has provided opportunities for organised crime groups to expand their criminal activities across borders and led to the rise of various forms of transnational crime, which were then globally perceived by states as their new security threats. The United Nations General Assembly (UNGA), as stated on its

Transnational crime became prominent in ASEAN's agenda in the mid-1970s.

Resolution 44/71 in 1989 and 45/123 in 1990, began to recognise the increased occurrence of organised crime globally along with the rise of its transnational character, and highlighted the need to garner international cooperation on this issue.²

In ASEAN, concerns over transnational crime, illicit drugs in particular, became more prominent in its agenda in the mid-1970s. The signing of the *Declaration of ASEAN Concord* by Leaders of the founding members of ASEAN on 24 February 1976 gave the impetus for ASEAN to address this threat through institutionalised mechanisms against transnational crime. But mindful of the global recognition of the transnational nature of organised crimes in the 1990s, ASEAN Member States inevitably had to recognise other forms of transnational crime (no longer just illicit drugs) as a threat to regional stability as reflected in high political level ASEAN meetings in mid-1990s.³

* The views expressed in this essay are the personal views of the author and do not reflect the position of ASEAN or the ASEAN Secretariat.

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¹ Ian Tenant, *The Promise of Palermo: A Political History of the UN Convention against Transnational Organized Crime*, Global Initiative Against Transnational Organized Crime, 2020, p. 2-3. Available online at <<https://globalinitiative.net/wp-content/uploads/2020/10/The-promise-of-Palermo-GI-TOC-Tennant.pdf>>, accessed on 8 November 2021.

² See *International Co-Operation in Combating Organized Crime*, Resolution 44/71, General Assembly, 1989. Available online at <https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1980-1989/1989/General_Assembly/A-RES-44-71.pdf> accessed on 8 November 2021 and *International Co-Operation in Combating Organized Crime*, Resolution 45/123, General Assembly, 1990.

Available online at <https://www.unodc.org/documents/commissions/CCPCJ/Crime_Resolutions/1990-1999/1990/General_Assembly/A-RES-45-123.pdf>, accessed on 8 November 2021.

³ Ralf Emmers, *The Securitization of Transnational Crime in ASEAN*, Working Paper no. 39, Institute of Defence and Strategic Studies Singapore, 2002, p. 8. Available online at <<https://www.rsis.edu.sg/wp-content/uploads/rsis-pubs/WP39.pdf>>, accessed on 8 November 2021.

At the ASEAN Ministerial Meeting (AMM) in July 1996, the Foreign Ministers shared the view that management of such transnational issues were urgently called for so that they would not affect the long-term viability of ASEAN and its Member States. The Ministers agreed that all the works and projects of existing ASEAN bodies in these areas should be urgently reviewed and recommendations be submitted to the ASEAN Heads of Government for consideration. The *ASEAN Vision 2020* adopted at the 1997 Informal ASEAN Summit held in Kuala Lumpur, Malaysia envisioned the “evolution of cooperative measures to deal with problems that can be met only on a regional scale”. These include drug trafficking, trafficking in women and children and other transnational crimes.

The following week after the 1997 Informal Summit, ASEAN Ministers of Interior/Home Affairs held an inaugural meeting and signed the *ASEAN Declaration on Transnational Crime*, which marked

The AMMTC is the highest policymaking and coordinating body for issues on transnational crime.

the establishment of the ASEAN Ministerial Meeting on Transnational Crime (AMMTC). The AMMTC continues to be the highest policymaking and coordinating body on cooperation in combating transnational crime.

This essay is an attempt to reflect on the twenty-four years of ASEAN cooperation to combat transnational crime. It will look into the existing cooperation mechanisms under the AMMTC, their achievements and shortcomings as well as possible new approach to cope with the challenges in the years to come. The discussion will begin with an overview of existing mechanisms, highlight their significant contributions to the overall objective of combating transnational crime, identify the strengths and weaknesses as well as issues that have posed challenges for their effectiveness and opportunities to be optimised. It will conclude with a call for the AMMTC to conduct a comprehensive assessment and to set vision for its future cooperation, particularly in the aftermath of the COVID-19 pandemic.

Current State of Affairs

Working Mechanisms

AMMTC

Since its first meeting in 1997, the AMMTC met once every two years until the Leaders’ Retreat in 2015 decided to convene the meeting annually from 2017. The *AMMTC Terms of Reference (TOR)* that was adopted in the same year also stipulates an alignment of the AMMTC chairmanship with that of ASEAN. The ASEAN Member States are represented by the Ministers of Interior, Home Affairs or the Chief of National Police in the annual AMMTC meeting.

Aside from briefings on recent developments in ASEAN by the ASEAN Secretariat and reports on recent meetings of the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) and the ASEAN Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs (DGICM) by their respective

The AMMTC allows for an exchange of views on regional and international efforts in combating transnational crime.

Chairs, the main feature of the AMMTC is the exchange of views on regional and international efforts in combating transnational crime. A Leaders' Retreat session may be convened in between plenary sessions or as a standalone meeting.

At the Ministerial-level, the AMMTC engages with the Plus Three countries in annual Consultations. As follow-up to the decision of the ASEAN Plus Three Summit in 2002, the AMMTC Plus Three Consultation convened its inaugural meeting in 2004. Three years later, the Informal AMMTC Plus China Consultation was held in 2007 to discuss implementation and possible review of the *Memorandum of Understanding (MoU) on Cooperation in the Field of Non-Traditional Security Issues*, signed in 2004. The Consultation with China was institutionalised in 2009. The AMMTC Plus Japan Consultation then followed in 2013, while the AMMTC Plus the Republic of Korea Consultation started more recently in 2019.

SOMTC

The *ASEAN Plan of Action to Combat Transnational Crime* adopted in 1999 stipulates that SOMTC be convened at least once a year and before the AMMTC. SOMTC convened its inaugural meeting in 2001, chaired by Thailand and has since met annually. Its chairmanship followed an alphabetical rotation that was separate from the AMMTC chairmanship, until the Ministers in 2019 endorsed the alignment of chairmanships of SOMTC and the AMMTC with ASEAN's chairmanship. This decision has been put into effect during Brunei Darussalam ASEAN's chairmanship in 2021.

The agenda of SOMTC annual meeting includes exchange of views on transnational crime issues, briefing by the ASEAN Secretariat on recent developments in ASEAN, reports by the Chairs of SOMTC Working Groups and Voluntary Lead Shepherds of the 10 priority areas, project matters and preparation for Consultations with Dialogue Partners. A SOMTC Leaders' Retreat has been convened in between the plenary sessions to discuss specific agreed topics or new proposals.

Since 2003, engagement with Dialogue Partners has also been convened through annual Consultations that are organised back-to-back following SOMTC's plenary session. Each Consultation features exchange of views on transnational crime situation and discussion on implementation of work plans, as well as project matters. Pre-requested interface with external parties may also be considered upon consensus, following the *Guidelines on Inviting External Parties' Participation in the Open Sessions of the ASEAN SOMTC*.

DGICM

The DGICM was inaugurated as a gathering of ASEAN Heads of Immigration and was initiated by Indonesia in 1996. It was organised following the ASEAN Summit's deliberation in 1995 that identified simplification of immigration procedures to support ASEAN's economic integration.⁴ As reflected in its name, the ASEAN Member States are represented by two national agencies, namely, the immigration agencies, usually at the Director-General level and Ministry of Foreign Affairs' Consular Affairs Division.

Under the auspices of the DGICM, the immigration sector in particular has been focusing on issues pertaining to border control such as document security, visa, migration and prevention against cross-border crime. The agenda of its annual meeting includes exchange of views on immigration and consular matters, briefing on recent developments in ASEAN by the ASEAN Secretariat, report from the Chair of the ASEAN Intelligence Information Forum (AIIF) as its subsidiary body, discussion on ongoing initiatives as well as cross-sectoral and cross-pillar issues.

Border control issues is the focus of the DGICM.

The annual meeting of the DGICM is preceded by the convening of the Heads of Major Immigration Checkpoints Forum (AMICF) and the AIIF. The AIIF is a meeting of ASEAN focal points and Immigration-24/7 Hotline, which was established in 2005 to facilitate immigration intelligence cooperation among the ASEAN Member States. In light of the emerging concern over the movement of foreign terrorist fighters (FTFs), the AMICF convened its first meeting in 2017 to share intelligence and best practices. The Forum has since then been convened annually and reports to the AIIF.

Australia has been engaging with the DGICM through the annual DGICM Plus Australia Consultation at the end of the DGICM plenary session since 2005. The focus areas are detecting fraudulent travel documents, strengthening immigration intelligence gathering and sharing of information, visa integrity and effective utilisation of information technology for immigration personnel. Capacity-building activities and workshops have been conducted annually. In 2017, the ASEAN-Australia Training Immigration Committee was established to serve as a platform for ASEAN and Australian immigration officers to exchange experiences and share information on immigration training needs as well as explore options for common training tools that benefit the region.

Priority Areas, Lead Shepherds and Working Groups

The adoption of the *ASEAN Plan of Action* by the 2nd AMMTC in 1999 was followed by the establishment of an ad hoc working group to develop a work programme to implement the Plan of Action. Eight Task Forces were convened during the Ad Hoc Experts Group Meeting, each being tasked to formulate measures and initiatives to implement each area of

⁴ *ASEAN Summit Declaration of 1995*, Bangkok, 1995. Available online at <<https://asean.org/bangkok-summit-declaration-of-1995-bangkok14-15-december-1995/>>, accessed on 1 November 2021.

the work programme and chaired by Member States with strong interest on issues. These issues are : (1) terrorism, chaired by Indonesia; (2) arms smuggling, chaired by Brunei Darussalam; (3) trafficking in persons, chaired by the Philippines; (4) piracy and armed robbery at sea, chaired by Malaysia; (5) money laundering, chaired by Malaysia; (6) illicit drug trafficking, chaired by Thailand; (7) cybercrime, chaired by Singapore; and (8) international economic crime, chaired by Singapore.

*The first SOMTC Work Programme
was adopted in 2002.*

The results of the Task Forces' deliberations were the first-ever *SOMTC Work Programme*, adopted by the SOMTC in 2002. In the implementation of the Work Programme and its subsequent renewals, the

Chairs of the Task Forces continued their role as Voluntary Lead Shepherds for the same priority areas, with the exception of arms smuggling whose lead shepherdship was transferred in 2005 from Brunei Darussalam to Cambodia⁵.

Among the first eight Voluntary Lead Shepherds, Indonesia, the Philippines, and Singapore took a step further by proposing for establishment of the first SOMTC Working Groups, namely on counter-terrorism, trafficking in persons and cybercrime, respectively.

The SOMTC Working Group on Counter-Terrorism was set as a monitoring mechanism of the *ASEAN Convention on Counter-Terrorism (ACCT)* following its signing by the ASEAN Leaders in 2007. Its first meeting was held in 2008, chaired by Indonesia, with the main agenda of drafting the *ASEAN Comprehensive Plan of Action on Counter-Terrorism*.

Similarly, the SOMTC Working Group on Trafficking in Persons (TIP) was established as a monitoring mechanism for the implementation of the *2007-2009 Work Plan to Implement the ASEAN Declaration on Trafficking in Persons especially Women and Children*. The first meeting of the Working Group in 2008 was chaired by the Philippines and among others discussed Indonesia's proposal for an ASEAN convention on trafficking in persons. Supporting this Working Group, the Heads of Specialist Anti-Trafficking Units (HSU) Process, which was established in April 2004, has since February 2010, been placed under the auspices of the SOMTC Working Group on TIP.

The establishment of the SOMTC Working Group on Cybercrime was Singapore's proposal, which SOMTC endorsed in 2013. The Working Group first met in 2014, chaired by Singapore.

The three Working Groups have since met at least once a year back-to-back with the annual SOMTC and chaired by the same set of Chairs. Their agenda feature exchange of views on their respective areas, review of the implementation of their respective areas of the *SOMTC Work Programme*, new initiatives and project matters.

⁵ Report of the Preparatory SOMTC for the 5th AMMTC, Hanoi, 2005.

In 2016, Cambodia proposed for the establishment of the SOMTC Working Group on Arms Smuggling, with the main agenda to discuss its proposal for an ASEAN convention against trafficking in firearms.⁶ Upon the Ministers' approval in 2017, the new Working Group first met in Kuala Lumpur in 2018, chaired by Cambodia.

With the rising concerns over the emerging challenges in the region, the AMMTC Leaders' Retreat in 2015 agreed to expand the priority areas by adding people smuggling and illicit trafficking of wildlife and timber, proposed by Malaysia and Thailand,

In 2015, the priority areas of AMMTC has been expanded to include trafficking of wildlife and timber.

respectively. The AMMTC in 2017 also agreed on the establishment of new SOMTC Working Groups, namely on Illicit Wildlife and Timber and People Smuggling, respectively. The Working Group on People Smuggling has not yet convened its meeting since then, while the Working Group on Illicit Wildlife and Timber has met annually since 2018, chaired by Thailand.

ASEAN Conventions

ASEAN's responses to the 9/11 terrorist attack in 2001 were reflected in various declarations and statements, which eventually called for an ASEAN convention on counter-terrorism as stipulated in the *Vientiane Action Programme 2004-2010*. The Convention was signed by the ASEAN Leaders in January 2007 and came into force in May 2011 as the first legally-binding document under the auspices of the AMMTC. The Convention reaffirms the strong commitment of ASEAN Member States to enhance cooperation in preventing, countering and suppressing all forms and manifestations of terrorism.

Pursuant to the decision of the AMMTC Retreat in 2007 to explore the possibility of developing an ASEAN convention on trafficking in persons, an Experts' Working Group Meeting was set up to draft the convention from 2011. The draft *ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP)* was completed after its legal scrubbing in 2015, signed by the Leaders at the ASEAN Summit in the same year and came into force in April 2017. As the first-ever ASEAN's regional convention on TIP, all ASEAN Member States are obliged to comply with the recommendations and action plans therein. The Convention sets out clear objectives of preventing trafficking in persons and ensuring just and effective punishment for traffickers, protecting victims of trafficking in persons, and promoting cooperation among the Parties.

Plans of Action and Work Plans

The first *ASEAN Plan of Action to Combat Transnational Crime* that was adopted in 1999 was renewed as mandated in the *Kuala Lumpur Declaration in Combating Transnational Crime* that the AMMTC signed in 2015. Similar to the former document, the new Plan of

⁶ *Summary Record of the 16th SOMTC*, Jakarta, 2016.

Action that covers the period of 2016-2025 is also implemented through the SOMTC Work Programme.

The first *SOMTC Work Programme* was adopted by SOMTC in 2002. It was structured based on the eight priority areas and according to the programme of actions identified in the *1999 Plan of Action*. The ASEAN Secretariat was tasked to monitor its implementation through a matrix submitted to the annual meeting of SOMTC. In 2005, SOMTC decided to revise the Work Programme and prioritise the areas of terrorism, illicit drug trafficking, trafficking in persons, money laundering, while maintaining cooperation in the other four areas. In 2006, SOMTC decided to review the Work Programme every two years. The subsequent review has since been led by the Voluntary Lead Shepherds. SOMTC is currently developing its new Work Programme for 2022-2024.

Aside from the general plan of action and work programme, the *ASEAN Comprehensive Plan of Action on Counter-Terrorism* was also adopted by the AMMTC in 2009 and outlining in detailed measures that would support ASEAN Member States in

The ASEAN Comprehensive Plan of Action on Counter-Terrorism was adopted in 2009.

implementing their obligations as Parties to the ACCT. The document was then renewed in 2017. In light of the threat of terrorism and violent extremism and the issuance in 2017 of the *Manila Declaration to Counter the Rise of Radicalisation and Violent Extremism*, the *ASEAN Plan of Action to Prevent and Counter the Rise of Radicalisation and Violent Extremism 2018-2025* was also adopted in 2018 and soon followed by the *Bali Work Plan 2019-2025* to implement the Plan of Action. Led by Indonesia as Voluntary Lead Shepherd on terrorism priority area, the *Bali Work Plan* has since become ASEAN's largest work plan with the involvement of in total 19 Sectoral Bodies/Organs/ Entities to lead in implementation of more than 100 identified activities. As the Lead Sectoral Body in cross-pillar and cross-sectoral coordination for counter-terrorism since 2018, SOMTC is leading the coordination of Bali Work Plan's implementation.

In the area of trafficking in persons, the Philippines as SOMTC Voluntary Lead Shepherd also engaged eight other sectoral bodies to develop first cross-sectoral and cross-pillar initiative under the AMMTC, titled the *Bohol Trafficking in Persons Work Plan 2017 – 2020*, which was adopted in 2017. SOMTC has also taken since 2018 the role as the Lead Sectoral Body in cross-sectoral and cross pillar coordination on the issue of trafficking in person.

To guide its cooperation with the Dialogue Partners, SOMTC also has in place standalone work plans with almost all individual Partners, with periodic reviews undertaken prior to their renewal. These work plans include possible areas of cooperation and proposed project activities that are in line with SOMTC's priority areas.

Strengths and Limitations

Established mechanism

The previous sections discussed the structure of the AMMTC and its working mechanisms that serve as platforms for cooperation among ASEAN law enforcement bodies, as well as with external partners. Institutionalisation of working groups on most of the priority areas as well as the more recent modality of interface with other sectoral bodies also create opportunities for monitoring and implementation of initiatives prescribed in plans of actions and work plans. The trust and confidence nurtured through years of dialogues among the ASEAN law enforcement bodies have even culminated in the signing of two Conventions that reinforce cooperation against transnational crime. The Consultations with Dialogue Partners have also resulted in the signing of MoUs on combating transnational crime, joint capacity-building projects for law enforcement and other frontline officers and support to ASEAN Member States in the implementation of legal instruments. The AMMTC has also witnessed the growing stewardship of ASEAN Member States in navigating relations with external partners, with the aim of strengthening extra-regional cooperation while upholding ASEAN Centrality and promoting ASEAN's interests.

Chairmanships and voluntary lead shepherds

Chairmanships of the AMMTC and its subsidiary bodies went through several processes of adjustment. Both the AMMTC and SOMTC were chaired by different ASEAN

The Voluntary Lead Shepherds play an important role in setting ASEAN's agenda in combating transnational crime.

Member States, that neither was the incumbent Chair of ASEAN, a modality since their inaugural meetings and only changed in January 2021, with both the Chairs of the AMMTC and SOMTC now the current ASEAN Chair. The Chairs carried the responsibilities not only to

host but also to chair all meetings and Consultations with Dialogue Partners that are taking place in the same series of the annual meetings. The only difference was the chairmanship of the Working Groups that remained with the respective Voluntary Lead Shepherds.

A Chair of the AMMTC would host and chair up to 10 meetings, and up to 18 meetings in SOMTC. This practice was adjusted with SOMTC's decision in 2010 to assign each Country Coordinator to lead the discussion on the future cooperative activities with respective Dialogue Partners.⁷ The role of Country Coordinator has since manifested in the co-chairmanship by the ASEAN Country Coordinator and its respective Dialogue Partner. The ASEAN Co-Chair is responsible for setting the agenda of the Consultation, in coordination with the other Member States and its non-ASEAN Co-Chair, which contribute to promoting the

⁷ *Summary Record of the 10th SOMTC*, Manila, 2010.

sense of ASEAN Centrality in the process. The most recent decision to align chairmanship of the AMMTC, SOMTC and ASEAN, including its period and rotation was another move towards more seamless coordination.

The Voluntary Lead Shepherds play equally an important role in setting and pursuing ASEAN's agenda in combating transnational crime. While chairmanships rotate on periodical basis, Voluntary Lead Shepherds continue to navigate the direction of their respective priority area. For lead shepherds of terrorism and trafficking in persons priority areas, their role has expanded since 2018 to include cross-sectoral and cross-pillar coordination in these areas. Effective lead shepherdship has resulted in the progress achieved under the priority areas, the signing and implementation of the ACCT and ACTIP are some cases in point.

Engagement with Dialogue Partners

Consultations with Dialogue Partners have created opportunities to generate capacity-building activities, including those in support of realisation of commitments outlined in the Conventions, MoUs and plans of action. In the area of trafficking in persons, Australia has been one of the stronger supporters through its regional cooperation programme that commenced as early as 2003, which have been renewed in several phases along with new investments. In 2018, an amount of AU\$ 80 million has been earmarked to implement programmes for the ten-year span to 2028, targeted primarily to support ASEAN and the ASEAN Member States in the implementation of ACTIP.⁸ The ASEAN-Australia Immigration Training Committee under the DGICM Plus Australia Consultation run at least two capacity-building trainings and workshops for ASEAN immigration front line officers on an annual basis. Japan, through the Japan-ASEAN Integration Fund (JAIF) and the JAIF 2.0, is another stronger supporter of SOMTC's projects on most of its ten priority areas. More recently, the United States through the Partnership for Regional Optimization within the Political-Security and Socio-Cultural Communities (PROSPECT) has been supporting the implementation of the cross-sectoral and cross-pillar activities under the *Bali Work Plan*.

The DGICM should consider expanding its cooperation with more Dialogue Partners.

With almost all Dialogue Partners now having their work plans with SOMTC, there are ample opportunities for SOMTC to formulate future programmes and projects to strengthen capacity of ASEAN law enforcement in the aftermath of the COVID-19 pandemic. With this in mind, it is high time for the DGICM to consider expanding its network of cooperation with more Dialogue Partners to advance initiatives on immigration and consular matters that benefit ASEAN as a region.

⁸ *ASEAN-Australia Counter-Trafficking Investment Design*, Australian Government Department of Foreign Affairs and Trade, March, 2018. Available online at <<https://www.dfat.gov.au/sites/default/files/asean-australia-counter-trafficking-investment-design.pdf>>, accessed on 7 November 2021.

Proposed activities vis-à-vis reality

The *SOMTC Work Programmes to Implement the Plan of Action to Combat Transnational Crime* on average identified more than 70 measures as their policy guidance, each includes at least one action line. The first Work Programme adopted in 2002 identified more than 100 measures and action lines. In 2004, the ASEAN Secretariat reported to the Preparatory SOMTC for the AMMTC that the implementation rate of the Work Programme was slow.⁹ The number of measures identified as policy guidance decreased to approximately 70 – 80 in more recent Work Programmes, but the implementation rate remains low with only a few of these measures having activities reported at the end of the period. This may raise a question on the interests and priorities of ASEAN Member States with respect to these adopted measures.

Conversely, the DGICM needs to consider developing new plan of action and the accompanying work plan to explore a set of priority areas to guide its future cooperation. The existence of such a plan of action and work programme will also contribute to monitoring the progress of existing initiatives – some of which have been long outstanding and expediting their implementation.

National vs ASEAN-wide initiatives

The ASEAN Member States annually report their national activities that correspond to the measures identified in *SOMTC Work Programme*. The same can be observed in the

Low implementation rate of ASEAN-wide activities can lead to questions on the effectiveness of existing cooperation mechanisms

implementation of the seven work plans with individual Dialogue Partners that are currently in place. Among the reported activities, majority are implemented at the national level with the support of Dialogue Partners and only a few are participated by all 10 Member States. The low rate of ASEAN-

wide activities in all work plans may lead to the question of effectiveness of existing cooperation mechanisms to promote ASEAN's regional interests. Despite the widely available resources to support initiatives to combat transnational crime, the AMMTC may lack the incentive to encourage a more robust implementation of ASEAN-wide initiatives in its work programmes.

Institutional memory

In the time and place where quick access to information is of the essence, the repository of information on the law enforcement cooperation has been limited to the ASEAN Website as well as the archives of the ASEAN Secretariat and some of the ASEAN Member States. More important than access to documents is actually the institutional memory of the

⁹ *Progress Report on ASEAN Cooperation in Combating Transnational Crime and Decisions of Relevant ASEAN Mechanisms*, ASEAN Secretariat, Bangkok, 2004.

personnel assigned to the ASEAN desks at the national ministries and agencies. The rotation of the personnel within the ministries means the loss of institutional memory of the ASEAN desk at the individual Member States' level. The incomplete or absence of proper handover between the outgoing and incoming officers has been identified as the main reason for the interruption, albeit briefly, of the work process within the AMMTC itself and in coordination with external partners.

Challenges and Prospects

Beyond exchange of views

With well-functioning structures under its oversight and strong support from partners, the AMMTC could have moved beyond dialogue to more practical and operational initiatives. Trainings, joint exercises, joint operations on less sensitive issues could be considered in the next work programme for the period of 2022-2024. The *Bandar Seri Begawan Declaration*, adopted most recently by the AMMTC, calls for these new forms of cooperation to better prepare ASEAN law enforcement in post-COVID-19 pandemic era.¹⁰ If implemented, the new focus on practical initiatives may lead to a departure from the role of the AMMTC as the platform for diplomatic exchanges to a robust mechanism to safeguard the region from the threats of transnational crime.

Given the emerging challenges in post-pandemic era, reviewing priority areas should be high in the AMMTC agenda.

Furthermore, various dialogues under the AMMTC recognised the importance of implementing a holistic approach in combating transnational crime. In pursuing more practical and operational initiatives under the AMMTC, exploring further engagements with non-government actors, such as the private sector and civil society, may offer opportunities to build ASEAN Member States' capacities for a whole-of-society approach, in order to address the complex and evolving nature of transnational crime.

Priority areas: too many yet too few?

The proposal for a new priority area of trafficking of "antiquities"¹¹ in 2018 brought up the issue of parameters to review the existing priority areas and to consider new ones. Among the 10 priority areas, those with institutionalised Working Groups have their progress manifested in various initiatives, in contrast to the remaining areas that have been mostly idle. At the same time, a bit delayed is the review of priority areas pending the establishment of the Working Group on General Transnational Crime Matters. With the emerging challenges in post-COVID-19 pandemic era, reviewing the 10 priority areas should be high in the AMMTC agenda in the coming years. Priority areas that have been dormant should be discussed and

¹⁰ *Bandar Seri Begawan Declaration on Combating Transnational Crime Post-COVID-19 Pandemic*, Brunei Darussalam, 2021.

¹¹ Please see draft Concept Note entitled "*SOMTC-Viet Nam's Proposal to Consider Illicit Trafficking of Antiquities*".

the possibility of having them replaced with new ones that are more relevant to challenge facing ASEAN and the Member States should be considered. It may also be beneficial to have a rotation on voluntary lead shepherd in advancing regional cooperation on existing priority areas which have remained idle.

Cross-sectoral coordination

The role of Lead Sectoral Body in cross-sectoral and cross-pillar coordination includes, among others, ensuring harmonisation, synchronisation, coherence and streamlining of programmes and activities.¹² Since 2018, SOMTC has agreed to lead the cross-sectoral and cross-pillar coordination in the areas of terrorism and trafficking in persons, while the DGICM agreed to lead border management cooperation.

For the first two areas, this coordination has been assumed by the voluntary lead shepherds for practical reasons, particularly in light of the implementation of *Bohol TIP* and *Bali Work Plans*. Within the limited mandate of SOMTC and the DGICM, however, the task to minimise duplication of efforts through cross-sectoral and cross-pillar coordination would be a tall order. The most they could deliver is convening multisectoral meetings to promote information exchange, while the sectoral activities remain the prerogative of each sectoral body to decide. This however runs the risk of having duplication.

Conclusion

The fast-evolving dynamics of transnational crime requires an agile, adaptable and forward-looking AMMTC. The types of crime may remain, but the *modus operandi*, targets,

The fast-evolving dynamics of transnational crime requires an agile, adaptable and forward-looking AMMTC.

means of the perpetrators and nexus with other crimes will continue to change; more so with the influence of fast-growing technology and use of digital space. The COVID-19 pandemic brought valuable lessons learned that when the pandemic placed enormous

strain on governments and societies, transnational crime actors remained active even when physical mobility and crossing of borders were restricted. This is unfortunately in contrast to regional cooperation to combat the crime, that was in standstill for almost one year after the pandemic hit.

With the growing interests of Dialogue Partners, it is important for the AMMTC to continue upholding ASEAN Centrality to ensure that ASEAN's interests are promoted. Aside from agenda setting for the Consultations, it would be timely for the AMMTC to develop a set of modality to guide engagement with Dialogue Partners and external parties, based on existing ASEAN's practice, work programmes, terms of reference and other ASEAN

¹² *Terms of Reference for Lead Sectoral Bodies for ASEAN Cross-Pillar and Cross-Sectoral Issues, 2021.*

documents. This modality would standardise the practice in the preparation of meetings that involve or are supported by these partners as well as in the development of work plans and initiatives with the Dialogue Partners.

The year of 2022 will mark the twenty-five years since the ASEAN Ministers first met to address cooperation to combat transnational crime. The time could not be more appropriate for the AMMTC to conduct an overall assessment of its achievements and challenges and to set the direction of its future cooperation. The *Bandar Seri Begawan Declaration* could be a point of reference to guide the process of reviewing and revitalising the AMMTC and its mechanisms towards a more robust ASEAN's response against transnational crime in the years to come.

Dealing with Illicit Drugs: Mechanisms, Challenges and the Road Ahead*

By Retno Astrini**

Introduction

Advancing cooperation to combat illicit drugs and curb its harmful consequences has been in ASEAN's agenda as early as five years after its founding. A structure of cooperation mechanism has been developed and institutionalised to promote, coordinate and eventually realise the long-held aspiration of eradicating illicit drugs from the region.

It was in 1972 when the ASEAN Expert Group Meeting on the Prevention and Control of Drug Abuse was held in Manila. This was followed by the Meeting of ASEAN Legal Experts on Narcotics in Jakarta in 1973, which recommended, among others, to convene meetings of experts in the various fields related to drug problems.¹ Subsequent to this, the Meeting of ASEAN Heads of National Narcotic Bureaus and Enforcement Agencies in Manila in 1975 recommended that a meeting of ASEAN Drug Experts be held annually and cover law enforcement, preventive education, treatment and rehabilitation, research and training, a recommendation that materialised in 1976.

Five years after its formation, ASEAN began to advance cooperation on combatting illicit drugs.

In 1976, ASEAN Leaders issued the *Declaration of ASEAN Concord* containing their commitment to "the intensification of cooperation among member states as well as with the relevant international bodies in the prevention and eradication of the abuse of narcotics and the illegal trafficking of drugs". In the same year, the Foreign Ministers of ASEAN founding members signed the *ASEAN Declaration of Principles to Combat the Abuse of Narcotics Drugs*. This set the foundation for future cooperation by strengthening of cooperation on vigilance and preventive and penal measures, drug research and education and improvements in national legislation in the fight against the abuse of drugs.

These developments eventually led to the convening of the First Meeting of ASEAN Drug Experts held in Singapore in 1976. The meeting continued to be held annually to the Eight Meeting in 1984 before it was renamed as ASEAN Senior Officials on Drug Matters (ASOD), a name first used in the 9th meeting. Under the organisational structure at that time, prevention and control of narcotic drugs abuse was under the purview of the ASEAN Committee on Social

* The views expressed in this essay are the personal views of the author and do not reflect the position of ASEAN or the ASEAN Secretariat.

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¹ *Report of the Meeting of ASEAN Legal Experts on Narcotics, Jakarta, 24-27 September 1973.*

Development.² It was the Meeting of ASEAN Drug Experts in 1980 that agreed on the recommendation for drug abuse and illicit drug trafficking to be recognised as a threat to national security.³

When the ASEAN Standing Committee in their meeting in 1984 renamed the ASEAN Drug Experts as Senior Officials on Drug Matters, this practically elevated the status of the group from a group of experts to the level of senior officials. The next meeting held the following year (1985) then became the Meeting of Senior Officials on Drug Matters (ASOD), which has since served as the main ASEAN Senior Official body responsible for drug related matters. ASOD then reported to the ASEAN Ministerial Meeting on Transnational Crime (AMMTC).

*ASEAN sped up the realisation
of Drug-Free ASEAN
from 2020 to 2015.*

The importance ASEAN gives to the matter of combatting illicit drugs was further reinforced with the convening of the ASEAN Special Ministerial Meeting on Drug Matters in 2012. Subsequent developments of the AMMD as the main ASEAN

cooperation mechanism to combat illicit drugs are elaborated under the section below on working mechanisms.

This essay attempts to reflect on the four decades of ASEAN cooperation to combat illicit drugs. It will look into the existing cooperation mechanisms, their achievements and shortcomings as well as possible new approach to adapt to the expectations and cope with the challenges in the years to come.

Current State of Affairs

A Vision for A Drug-Free ASEAN

Concerns over illicit drugs continue to be reflected in the Leaders' Declarations in the years following the institutionalisation of ASOD. The *Bangkok Summit Declaration of 1995* explicitly highlights the aspiration for a drug-free ASEAN. This was reaffirmed in the *ASEAN Vision 2020* issued in 1997. The *Joint Declaration for A Drug-Free ASEAN*⁴ signed by the Foreign Ministers in July 1998 outlines measures to achieve this by, among others, seeking all modalities to eradicate illicit drug production, processing, trafficking and use in ASEAN by the year 2020 and promoting linkages among existing regional mechanisms. The rising concerns over threat from drug and abuse and drug trafficking in the region then prompted the

² Chavalit Yodmani, *The Role of the Association of South-East Asian Nations in Fighting Illicit Drug Traffic*, Bulletin on Narcotics. October-December 1983, p. 98, <<https://www.ojp.gov/pdffiles1/Digitization/119789NCJRS.pdf>>, accessed on 7 October 2021.

³ *Summary Report of the Fifth Meeting of ASEAN Drug Experts*, Manila, 11-16 December 1980.

⁴ *Joint Declaration for a Drug-Free ASEAN*, Manila, July, <<https://asean.org/wp-content/uploads/2016/10/Doc2-D-437-Joint-Declaration-for-a-Drug-Free-ASEAN-1988.pdf>>, accessed on 20 October 2021.

agreement of the ASEAN Foreign Ministers at the 33rd ASEAN Foreign Ministers Meeting (AMM) in July 2000⁵ to speed up the realisation of Drug-Free ASEAN from 2020 to 2015.

As the Ministerial-level body overseeing cooperation on illicit drugs at that time, the AMMTC in 2007 adopted the *Report on Vision, Benchmarks and Recommendation Towards Achieving Drug-Free ASEAN 2015* to elaborate the drug-free ASEAN vision, which was to successfully and effectively control illicit drug activities and mitigate its negative consequences to society. This includes significant and sustainable reductions in illicit crop cultivation, illicit manufacture and trafficking of drugs and drug-related crime and prevalence of illicit drug use.

To monitor efforts in realising a drug-free ASEAN, ASEAN worked with the United Nations Office on Drugs and Crime (UNODC) in producing the *Drug-Free ASEAN 2015: Status and Recommendations*⁶ in 2008 as a mid-term progress report. Supported by the United States and Japan, the Report highlighted the importance of a regional approach in addressing the illicit drug problem, with a multilateral approach complementing national actions, especially in dealing with the cross-border aspects of the problem. The Report's findings were then followed through with the adoption of the *ASEAN Work Plan on Combating Illicit Drug Production, Trafficking and Use 2009 – 2015* by ASOD in 2009.

Needed is a more holistic approach to overcome the challenges posed by illicit drug trafficking.

To reinforce the commitment for a drug-free ASEAN, the *ASEAN Leaders' Declaration on Drug-Free ASEAN 2015* was adopted in 2012, calling for ASEAN Member States to prioritise efforts to realise the vision and goal of a drug-free ASEAN Community by 2015. It also called on relevant Ministers to speed up the implementation of the *ASEAN Work Plan on Combating Illicit Drug Production, Trafficking, and Use 2009-2015* and the *Roadmap for an ASEAN Community (2009-2015) on Drug-Free ASEAN* by 2015. As a manifestation of this commitment, the Special Ministerial Meeting on Cooperation in Drug Matters was then convened in Thailand in 2012 and agreed that where all ASEAN Member States must continue to work towards the realisation of ASEAN Drug-Free by 2015.

The final assessment on the implementation progress of the ASEAN Work Plan 2009-2015 was conducted by the UNODC in 2014. The following year (in 2015), a Technical Review of the *Drug-Free ASEAN 2015: Evaluation and Recommendations Post-2015* was submitted to ASOD. Its key findings include, among others, the issues of lack of national resources and expertise, as well as uneven governance among the ASEAN Member States. The Report

⁵ *Joint Communiqué of the 33rd ASEAN Ministerial Meeting*, Bangkok, Thailand, 24-25 July 2000, <<https://asean.org/joint-communicue-of-the-33rd-asean-ministerial-meeting-bangkok-thailand-24-25-july-2000/>>, accessed on 20 October 2021.

⁶ *Drug-Free ASEAN: Status and Recommendations*, Publication No. 01/2008, United Nations Office on Drugs and Crime Regional Centre for East Asia and the Pacific, 2008, <https://www.unodc.org/documents/southeastasiaandpacific/Publications/ASEAN_2015.pdf>, accessed on 20 October 2021.

concluded that governments of the ASEAN Member States need a more holistic approach to overcome the challenges posed by illicit drug trafficking.⁷ ASEAN agreed that recommendations from this Report would serve as a reference in the development of the new work plan post-2015 and not for publication.

In the ensuing period, ASEAN remains firm in its resolve to pursue the aspiration of drug-free ASEAN by implementing both the *ASEAN Work Plan on Securing Communities Against Illicit Drugs 2016-2025* (adopted in 2016) and the action lines under the *ASEAN Community Blueprints 2016-2025*.

ASEAN's Position Statements

In the lead-up to the United Nations General Assembly Special Session (UNGASS) on the World Drug Problem in 2016, the AMMD in 2015 adopted ASEAN's Position Statement as the basis of an ASEAN statement to be delivered at the UNGASS. Six key points were agreed,

ASEAN pursues a comprehensive and balanced approach against illicit drugs.

namely, zero-tolerance approach against drugs; comprehensive and balanced approach towards drugs; support for international drug control conventions and standing firm against drugs, including against calls to legalise controlled drugs; respect for sovereignty of each country; readiness to work with other regions; and

commitment to support the role of the Commission on Narcotic Drugs (CND)⁸. Malaysia, as the representative of ASEAN, delivered the Position Statement at UNGASS 2016.

Subsequent Statements reiterating ASEAN's common position were developed in 2018 in preparation for the global drug policy beyond 2019. Representing ASEAN, Singapore and Viet Nam delivered the ASEAN Statement at the 5th Intersessional Meeting of the 61st of the CND and the High-Level Segment of the 62nd CND in November 2018 and March 2019, respectively.

Working Mechanisms

The matter of countering illegal drugs is pursued by the AMMD, supported by, ASOD and its Working Groups, Task Forces and other mechanisms, as well as through plan of actions and work plans.

AMMD

To recall, it was in 2012 when the ASEAN Special Ministerial Meeting on Drug Matters was convened. In the subsequent years after that Special Ministerial Meeting, the Ministers continued to meet annually with the name ASEAN Ministerial Meeting on Drug Matters (AMMD). It was at the 26th ASEAN Summit in April 2015 that the ASEAN Leaders officially endorsed the establishment of the AMMD, which was subsequently included (in October

⁷ *Drug-Free ASEAN 2015: Evaluation and Recommendations Post-2015, Technical Review*, 2015, pp. 11-12

⁸ *Position Statement Endorsed and Adopted by the 4th ASEAN Ministerial Meeting on Drug Matters*, Malaysia, 2015

2015) in the roster of sectoral bodies listed under the *ASEAN Charter*. To further provide political impetus and intensify ASEAN's efforts on combating drugs, the AMMD was institutionalised through the adoption of its Terms of Reference (TOR) in 2016, which moved ASOD from the structure of the AMMTC to the AMMD and decided on the biennial frequency of the Ministerial Meeting.

Held biennially since 2016, the ASEAN Member States have been represented by their relevant Ministers or Heads of national agencies responsible for illicit drug matters. The AMMD chairmanship rotates alphabetically among the ASEAN Member States. Considering that four Member States had chaired and hosted the first four meetings, the current rotation works among those who have not yet assumed this role in since the first meeting was convened in 2012.

The AMMD serves as platform for ASEAN Ministers to share information on the drug situation in their respective countries, counter-measures at the national, regional and international level to counter illicit drugs. The ASEAN Secretariat likewise briefs on recent developments in ASEAN. Reports by the Chairs of ASOD that were convened prior to the ministerial meeting are noted and major documents prepared by ASOD such as new work plans are adopted. A preparatory meeting is convened among ASOD Leaders the day prior to the AMMD to finalise the Ministers' agenda and outcome documents for Ministers' adoption. A chairman's statement is adopted at the conclusion of the AMMD.

For over 40 years, ASOD has been ASEAN's main cooperation mechanism on drug matters.

The AMMD is open for dialogue and interface with ASEAN Dialogue Partners and other external parties. Decision to convening of such interface is based on consensus and guided by the *Guiding Criteria and Modalities in Engaging External Parties for the ASEAN Ministerial Meeting on Drug Matters (AMMD) and its Subsidiary Mechanisms*. Since the adoption of this Guiding Criteria, all engagements with Dialogue Partners and external parties have taken place at the Senior Officials level under ASOD.

ASOD

ASOD has been ASEAN's main cooperation mechanism on drug matters for over forty years now. Held annually and attended by the Senior Officials responsible for drug matters, the main agenda of its annual meeting has been an exchange of views through the presentation of country reports that highlight recent drug situation, national counter-measures with respect to the five priority areas of ASOD, namely, preventive education, law enforcement, treatment and rehabilitation, research, and alternative development. The ASEAN Secretariat's presentation on recent developments in ASEAN, briefings by the Chairs of ASOD's working groups and task forces, updates on the implementation of work plans and discussion on recent developments in the CND have been in the agenda of ASOD in recent years.

ASOD's chairmanship follows alphabetical rotation among the ASEAN Member States and it differs from the AMMD's chairmanship. ASOD reports to the AMMD which is held biennially. In the full series of the annual ASOD meeting, five ASOD Working Groups convene their meetings in parallel sessions (at the same time) on the day prior to the Senior Officials Meeting. Each Working Group addresses issues according to the assigned priority area and chaired by the lead of the respective area (discussed below). ASOD has convened Consultations with the Plus Three countries (China, Japan and Republic of Korea), India and Russia. In accordance with the ASOD's new TOR adopted in 2020 and to promote continuity of dialogue, the Consultation is co-chaired by the ASEAN Country Coordinator and the Dialogue Partner.

Working Groups, Task Forces and Other Working Mechanisms

The work of ASOD is supported by five Working Groups (WG) namely, on Preventive Education (chaired by the Philippines), Treatment and Rehabilitation (chaired by Malaysia), Law Enforcement (chaired by Thailand), Research (chaired by Singapore), and Alternative Development (chaired by Indonesia). The Working Groups meet during the course of the annual ASOD Meeting and provide updates and recommendations for future activities to promote information sharing and capacity-building in each respective priority areas.

ASEAN-NARCO serves as a coordinating platform on drug-related cases.

The ASEAN Airport Interdiction Task Force (AAITF) and the ASEAN Seaport Interdiction Task Force (ASITF) also meet annually. Established in 2011, the AAITF serves as a sharing platform to enhance joint operations and investigations among relevant ASEAN drug law enforcement agencies on the rising cases of drug trafficking through international airports. For its part, ASITF was established in 2016 and has since served as a platform for enhancing joint operations and investigations among relevant ASEAN drug law enforcement agencies on the rising cases of drug trafficking through international seaports and waterways checkpoints. Each Task Force is chaired by different ASEAN Member States that rotate alphabetically on an annual basis.

The ASEAN Narcotics Cooperation Center (ASEAN-NARCO) was set up in response to the *ASEAN Leaders' Declaration on ASEAN Drug-Free 2015* and the Special Meeting of ASEAN Ministers on Drug Control held in 2012. Thailand spearheaded its establishment and provided the main funding support for its operation since it was launched in 2014. The Center is located in Thailand's Office of the Narcotics Control Board (ONCB). The Center serves as a coordinating platform for ASEAN Member States to work together on drug related cases, including collection of data and facilitation of information exchange for drug investigation.

The ASEAN Drug Monitoring Network (ADMN) was initially convened as a biannual workshop until it was institutionalised as a meeting in 2020. First convened in 2015, the Network is established within the framework of the ASEAN-NARCO, supervised by ASOD.

Thailand has chaired and hosted the ADMN biannual meetings since 2015. According to the new ADMN TOR⁹, ASOD Chair of the respective year will chair the first of the biannual meetings, while Thailand will chair the second one in the year. The new chairmanship modality will start in 2023. The ADMN facilitates cooperation in the areas of technical developments and capacity-building for data collection, sharing of drug control strategies and best practices as well as serves as early warning mechanism.

With the support of the ASEAN-NARCO, the ADMN also coordinates the publication of the *ASEAN Drug Monitoring Report*, which is an ASEAN flagship publication by ASEAN Member

ASEAN Drug Monitoring Report presents the drug situation in the region.

States to present the drug situation in the region. The first Report was launched in 2015 and has since been published annually. The *2020 ASEAN Drug Monitoring Report* was launched at the AMMD in October 2021.

Plan of Action and Work Plans

The first ASOD's work plan was adopted in 1993, titled the *ASEAN Three Year Plan*, followed by the adoption of the *Work Programme to Operationalise the ASEAN Three-Year Plan of Action on Drug Abuse Control* in the 18th ASOD in 1995. Both documents identify programme areas and priorities under the then four ASOD's major areas, namely Preventive Education, Treatment and Rehabilitation, Law Enforcement, and Research.

The subsequent work plan, titled the *ASEAN Work Plan on Combating Illicit Drug Production, Trafficking and Use 2009-2015* was structured based on the benchmarks set by the *Report on Vision, Benchmarks and Recommendation Towards Achieving Drug-Free ASEAN 2015*. It focused on the realisation of the Drug-Free ASEAN Vision 2015 and set on key elements of significant and sustainable reductions in illicit crop cultivation, illicit manufacturing and trafficking of drugs and drug-related crime, and the prevalence of illicit drug use, while the proposed programmes addressed the five priority areas of ASOD.

The *ASEAN Work Plan on Securing Communities Against Illicit Drugs 2016-2025* has taken a different approach by structuring the activities into 7 sections with 26 components, namely, General, Preventive Education, Law Enforcement, Treatment and Rehabilitation, Research, Alternative Development, and Extra-regional Cooperation. This structure encourages all working mechanisms under the AMMD to contribute to the implementation of this Work Plan.

In response to the *ASEAN Work Plan 2016-2025*, that includes addressing the drug problem in the Golden Triangle, the *ASEAN Cooperation Work Plan to Tackle Illicit Drug Production and Trafficking in the Golden Triangle 2017 – 2019* was adopted in 2017. The ASEAN Cooperation Plan is divided into six components focusing on the interception of

⁹ *Terms of Reference of the ASEAN Drug Monitoring Network (ADMN)*, adopted ad-referendum on 18 September 2020.

precursor chemicals smuggling and illicit drugs trafficking, namely, precursor chemicals smuggling interdiction/suppression plan; suppression of illicit drugs trafficking via land, sea/waterways, air routes plan; investigation and arrest of major drug producers/traffickers/syndicates who are active in the Golden Triangle plan; supportive plan on demand reduction, health measures and area development; development of management mechanism plan; and support from ASEAN Member States and external parties. In its recent mid-term review, the implementation period of this Cooperation Plan was recommended to be extended to 2025 to align it with the *ASEAN Work Plan 2016 – 2025*.

Strengths and Limitations

Established Structure

The mechanisms put in place since the 1970s continue to evolve to align with ASEAN's organisational structure as well as to respond to challenges facing the region. The current structure provides ASEAN with opportunities to discuss issues, propose initiatives and implement activities to achieve the aspiration of a drug-free region. The formal exchanges and information sharing as well as the less-formal conversations at sidelines of these meetings in the past forty years, complemented by networks developed through bilateral cooperation have created comfort level to discuss sensitive matters and thus contributed to building confidence and trust among the Member States law enforcement bodies.

Promotion of ASEAN's Position

The ASEAN's vision for a drug-free ASEAN is a testament to a regional common position against illicit drugs. Despite the criticism of this ambitious aspiration and timeline,

*Cooperation against illicit drugs
anchored on ASEAN's vision
for a drug-free ASEAN.*

ASEAN maintains its resolve to pursue it and takes this aspiration seriously, including consistently pronouncing such in various international fora. Since its adoption in the late 1990s, ASEAN's cooperation against illicit drugs has been anchored in this vision. ASEAN recognised the challenges in

realising this vision 2015, adapting to a more attainable strategy of zero-tolerance approach against drugs. The adoption of key points for the ASEAN's Position Statement at UNGASS on World Drug Problems 2016 was a milestone to promote ASEAN's common position on drug issues. In subsequent years, ASEAN's stance against drugs, including legalisation of illicit drugs, was reinforced through the ASEAN Statements delivered at the Intersessional Meeting of the 61st Session of the CND in 2018 and the High-Level Segment of the 62nd CND 2109, respectively. Both were means for ASEAN to assert its common position as a response to the global move to legalise certain types of drugs. This move also demonstrates the expertise and potential of the AMMD as a law enforcement sectoral body to represent the region in the formulation of international drug policy.

ASEAN Drug Monitoring Report as Flagship Initiative

The annual publication of the *ASEAN Drug Monitoring Report* signifies ASEAN's commitment to realise a drug-free region by closely monitoring developments of the regional drug situation. A flagship initiative, the Report is ASEAN-owned, a result of collaborative work of the ASEAN Member States through sharing of data and assessments and utilises available ASEAN resources and expertise. The assessment reported in this publication is based on official data available with the national drug agencies of each Member State. This Report not only promotes transparency among the Member States; it also presents the views of ASEAN on its regional drug situation to the public, which is important to balance assessments conducted by external parties.

Multiple Chairmanships

The biennial frequency of the AMMD and limited resources are often the reason for multiple chairmanships, with that of the AMMD and ASOD being different in terms of rotation and period. In the year when the AMMD does not meet (it meets biennially), the outgoing ASOD Chair only reports to the incoming Chair, not to the AMMD as a ministerial whole. As Chair of the ministerial body, the AMMD Chair does not play the leading or coordinating role, such as in the preparation of consolidated position for submission to the ASEAN Summit or other sectoral bodies. This role has instead been performed by the Chair of ASOD. The role of the AMMD Chair is usually limited to preparing for its biennial meetings, of which agenda mostly follows that of ASOD's. The ASOD Chair, on the other hand, sets its agenda - usually following on the ASOD meeting of the previous year and coordinates the deliverables including in cross-sectoral and cross-pillar initiatives. Despite the institutionalisation of the AMMD as a Sectoral Ministerial Body listed in the *ASEAN Charter*, the different chairmanships between the AMMD and ASOD may pose a question of its leadership and create complications, especially when the priorities or positions of the Chairs of the AMMD and ASOD differ on certain issues.

Different chairmanships between AMMD and ASOD can lead to challenges.

Follow-up to Working Groups and Consultations

In its current physical meeting arrangement, five ASOD Working Groups are convened in a parallel full-day session the day prior to ASOD's plenary meeting. With this set-up, the Chairs of the Working Groups prepare and circulate provisional agenda in advance of their meetings but no official summary report is prepared for adoption at the end of the meetings. The highlights of the Working Groups' discussion are simply presented to ASOD and recorded in the summary report of ASOD. Follow-ups to Working Groups' discussions then usually just takes place at their next meetings the following year, unless otherwise instructed by ASOD.

ASOD Plus Dialogue Partner's Consultations are also still to materialise into concrete initiatives. Among the first results though is the adoption of the *TOR of the new ASEAN-China*

Cooperative Operations in Response to Dangerous Drugs (ACCORD) and its Technical Guidelines.

National vs ASEAN-wide Implementation

It is without a doubt that all ASEAN Member States place the illicit drug issue high in their national agenda. Their commitments towards realising a drug-free region are delivered through various measures from enactment of tough anti-drug national laws to robust national programmes that address all five priorities set by the AMMD. Such commitment, however, has not been reflected on ASEAN's cooperation under the AMMD. This can be observed from

National commitments are not reflected on ASEAN-wide cooperation in realising a drug-free region.

most activities reported to the *ASEAN Work Plan 2016-2025* and the *ASEAN Cooperation Plan 2017-2019/2020-2022* are implemented outside the AMMD or ASEAN framework and no new ASEAN-wide project has been proposed in recent years.

At the same time, resources are widely available for the Member States to tap into in implementing AMMD projects, including from ASEAN's portion of the ACCORD Fund¹⁰ and other Dialogue Partner's trust funds. This brings up the question of the individual national approaches vis-à-vis ASEAN regional initiatives in combating illicit drugs.

Cross-sectoral Coordination

Since ASOD decided in 2018 to take up the role as the Lead Sectoral Body for cross-sectoral and cross-pillar coordination on illicit drugs, specific activities to shepherd the issue, such as interface with relevant sectoral bodies to discuss ongoing initiatives or explore potential joint cross-pillar activities, are still to be taken. Neither have cross-sectoral and cross-pillar issues been included in the agenda of the annual meetings under the AMMD. Nonetheless, with the ongoing implementation of the *ASEAN Work Plan 2016-2025* and the *ASEAN Cooperation 2020-2022*, collaboration with other sectoral bodies will certainly contribute to the programmes and activities under these Plans and promote the coordination among the ASEAN Sectoral Bodies in the realisation of the aspiration for a drug-free ASEAN.

Challenges and Prospects

Beyond Exchange of Views

As a Sectoral Body for ASEAN law enforcement, the AMMD has the potential to move beyond dialogue and official exchanges of diplomatic statements to exploring new modalities and format of cooperation to include practical capacity-building activities. Diplomatic

¹⁰ ASEAN-China Cooperative Operations in Response to Dangerous Drugs (ACCORD) Fund is a fund to combat and eradicate the threat of illicit drugs in the region. The Fund is earmarked from voluntary contributions of the ASEAN Member States and China. Among the ASEAN Member States, Thailand is the regular contributors to the Fund. While the account is managed by the ASEAN Secretariat, China's contributions have been channelled through the United Nations Office on Drugs and Crime (UNODC).

exchanges have their own merits, but are best completed with concrete activities to respond to the current and future challenges of illicit drugs. The alarming trends of abuse, production and trafficking of illicit drugs post COVID-19 pandemic call for ASEAN to take a more rigorous approach by focusing on delivery of concrete activities and joint initiatives. The experiences from bilateral or multilateral joint operations could be emulated to prepare for similar activities in exercise format, to be participated by front liner officers from ASEAN Member States. A small-scale table top exercise simulating interdiction operation at border area, for example, may generate lessons learned to be considered in subsequent initiatives.

Post-pandemic context calls for a more rigorous approach.

ASEAN's (Common) Position?

The global move towards legalisation of certain types of drugs and the Commission on Narcotic Drugs' (CND) voting for the removal of Cannabis from Schedule IV of the 1961 Single Convention on Narcotic Drugs in 2020 has tested ASEAN's common position of a zero-tolerance approach against drugs as well as ASEAN's advocacy for a drug-free ASEAN. In the lead-up to the voting at the CND, the divergent views among the ASEAN Member States on international drug policy vis-à-vis ASEAN's position became apparent.

COVID-19 Pandemic

At the onset of the COVID-19 pandemic, all Chairs of the AMMD and its working mechanisms put on hold their 2020 scheduled activities. Only two meetings were convened through virtual platform. It was with caution that ASOD decided to meet via videoconference for the first time, mindful of the readiness of the Member States to adapt to this new modality. It is interesting to note that the Member States were quick to adapt to this new modality and resumed the annual meetings on virtual platform in 2021, with the exception of the five Working Groups and Consultations. Notwithstanding the pandemic, the period of 2020-2021 actually turned out as productive years for the AMMD with the timely completion of major initiatives including the TOR of ASOD, mid-term reviews of both the ASEAN Work Plan and Cooperation Plan and publication of the *ASEAN Drug Monitoring Report* for both years.

Conclusion

Forty-five years (since 1976) of cooperation is a testament to ASEAN's resolve to eradicate the illicit drug menace, guided by its vision of a drug-free region. More to maintaining its existence in the years to come, the AMMD would need to adapt to the new challenges, emanating from the fast-evolving nature of the crime, the changing landscape of the international drug policy and the different priorities of ASEAN Member States.

To maintain its relevance, it is critical for the AMMD to promote its value beyond a platform for diplomatic exchanges. With the emerging and alarming developments in the regional drug situation in the aftermath of the COVID-19 pandemic, the AMMD would need

to additional consider approaches that further focus on strengthening capacity and capability of frontline officers. These include joint exercises, regional campaigns, technical trainings on advanced technologies for detection, interdiction and investigation, projects to improve treatment and rehabilitation facilities, are some examples.

It is worthwhile to explore a single chairmanship of the AMMD and ASOD.

In anticipation of the expanding role of the AMMD to coordinate cross-pillar approaches on illicit drugs, an option for a single chairmanship may be worth exploring. Having one chairing

country at least at the AMMD and ASOD-levels will ease the coordination for issues that would require high-level decision making.

The recent CND's decision to reschedule Cannabis and Cannabis-related substances should serve as a reminder for ASEAN to stay its course and more importantly, stay united, in the fight against the move to ease the international control of certain types of drugs. The trust and confidence built throughout the four decades should be an asset for the AMMD to navigate the differences among the ASEAN Member States for the ultimate goal of a drug-free ASEAN.

The Southeast Asia Nuclear Weapon-Free Zone Treaty: Challenges and Prospects*

By Thao Thi Thanh Nguyen with Annisa Nurul Wahidah**

Introduction

The Southeast Asia Nuclear Weapon-Free Zone (SEANWFZ) Treaty was signed in 1995 by Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam, and entered into force in 1997. But the notion of Southeast Asia as a nuclear-weapons-free zone dates back as early as 1971, when the original five members of ASEAN signed a *Declaration on a Zone of Peace, Freedom, and Neutrality* (ZOPFAN). As indicated therein, the establishment of a nuclear weapons free zone in Southeast Asia was a major objective to be pursued by ASEAN.

It is important to note that ZOPFAN was signed in the context of the Cold War when the two major powers and their allies were in an arms race, including on nuclear weapons. ZOPFAN was meant to prevent Southeast Asia from being a battleground of major power rivalries. However, by the time the SEANWFZ Treaty was signed in 1995, the Cold War had ended. With nuclear wars between major powers being no longer an imminent threat to the world, the global discourse on nuclear weapons has accordingly shifted towards non-proliferation and disarmament.

The SEANWFZ Treaty reaffirms ASEAN's commitment to the Non-Proliferation of Nuclear Weapons.

Beyond the SEANWFZ Treaty's purpose of establishing a nuclear weapons-free zone (NWFZ), the other objectives are to contribute to complete disarmament of nuclear weapons, strengthen regional peace and security and protect the region from environmental pollution and the hazards caused by nuclear materials. It also reaffirms ASEAN's commitment to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which entered into force and was indefinitely extended in 1995, the same year when the SEANWFZ Treaty was signed. The Treaty likewise has a protocol which is open to accession by the five Nuclear Weapons States (NWS).

* The views expressed in this essay are the personal views of the authors and do not reflect the position of ASEAN or the ASEAN Secretariat.

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Current State of Affairs

As stated in Article 8 of the Treaty, the SEANWFZ Commission was established to “oversee the implementation of the Treaty and ensure compliance with its provision.” To support the work of the Commission, an Executive Committee (EXCOM) of the Commission was instituted and is tasked primarily with verification and compliance-related matters as well as other duties assigned by the Commission. A working group is also convened on an ad hoc basis to deal primarily with the issue of moving forward the signing and ratification of the Treaty’s Protocol by the NWS.

In 2013, a *Plan of Action to Strengthen the Implementation of the SEANWFZ Treaty* (POA) was adopted. This POA was renewed in 2018 through 2022, with the following main areas of work.

First is compliance with the undertakings in the SEANWFZ Treaty. This include accession, ratification and universalisation of key international instruments on non-proliferation and nuclear safety and security. State Parties are encouraged to conclude Additional Protocols with the International Atomic Energy Agency (IAEA). They are also expected to implement a Control System to verify compliance with the obligations of State Parties and encouraged to submit a national report on their respective implementation of the POA. The role of ASEAN’s relevant ASEAN Sectoral Bodies such as the ASEAN Network of Regulatory Bodies on Atomic Energy (ASEANTOM) and the Nuclear Energy Cooperation Sub-Sector Network (NEC-SSN) is given importance with a view to eventually setting up a regional nuclear safety regime.

ASEANTOM contributes in strengthening a regional approach on nuclear safety and security.

Second is consultations with the NWS on their accession and ratification of the Protocol to SEANWFZ. The other areas of work are cooperation with the IAEA and other partners, and strengthening institutional arrangements.

In regard to the first area of work, ASEAN Member States have made good progress with their accession to international instruments on nuclear safety, security and safeguards. Among others, ASEANTOM, the ASEAN Centre for Energy (ACE) and NEC-SSN are ASEAN Sectoral Bodies that have contributed to the strengthening ASEAN’s regional approach towards nuclear safety and security and regional capacity-building.

ASEANTOM, in particular has made important progress in terms of visibility, institutional building and substantive work in the area of nuclear safety and security. Since its establishment in 2012, ASEANTOM has continuously strengthened its institutional capacity. After being formally included in 2015 as an ASEAN Sectoral Body listed in Annex 1 of the

ASEAN Charter, it adopted their Five-Year Workplan in 2018. Five Technical Working Groups (TWGs) were established in 2021 to support nuclear capability development within ASEAN to respond to nuclear/radiological incidents in the following areas: (1) emergency preparedness and response, (2) radiation monitoring, (3) hazard assessment and radiological dispersion modelling, (4) radiological and nuclear security, and (5) public emergency communications.

ASEANTOM has been actively engaged with other ASEAN Sectoral Bodies, including NEC-SSN, ACE, and the ASEAN Coordinating Centre for Humanitarian Assistance on disaster management (AHA Centre). It recently participated in the 16th Joint Task Force on Humanitarian Assistance and Disaster Relief (JTF-HADR) in October. Additionally, in 2021, ASEANTOM finalised an *ASEAN Protocol for Preparedness and Response to a Nuclear or Radiological Emergency*, with the support of the IAEA. Upon its operationalisation, the Protocol is expected to become an example for other regions. ASEANTOM also has robust international cooperation with external parties, including with several ASEAN's Dialogue Partners.

ASEANTOM has robust international cooperation with external parties.

In regard to cooperation with the IAEA and other partners, which is another area of work contained in the POA, a *Practical Arrangements between ASEAN and IAEA on Cooperation in the Areas of Nuclear Science and Technology and Applications, Nuclear Safety, Security and Safeguards* (PA) was signed in 2019. The implementation of the PA is currently coordinated by the ASEAN Secretariat and the IAEA Director General's Office for Coordination. While ASEANTOM is the main implementing agency, the PA involves quite a number of ASEAN Sectoral Bodies across all three pillars. A wide range of cooperation initiatives, have been identified under the PA. New initiatives, especially in the area of non-nuclear power applications, have potentials in contributing to ASEAN's ongoing efforts to addressing emerging development issues. Among others, these initiatives include Nuclear Technology (NUTEC) Plastics for Plastic life cycle management, Zoonotic Disease Integrated Action, preservation and conservation of cultural heritage and improvement of agricultural productivity.

Challenges and Prospects

The SEANWFZ Treaty represents ASEAN's strong message against nuclear weapons. Given recent developments in the region, with nuclear-related matters once more being at the forefront, the "revival" of the SEANWFZ spirit and a resurgence of attention given to the matter of SEANWFZ could further reinforce the importance of making Southeast Asia a zone free from nuclear weapons.

SEANWFZ, like other NWFZs, has an important role in the global nuclear disarmament and non-proliferation. This, notwithstanding the observation by some that because none of the ASEAN Member States possesses nuclear weapons, the Treaty is of little value in regard to the matter of promoting the region as a nuclear weapons free zone.

Skeptics also allude to the fact that ASEAN Member States and the NWS are already bound by NPT and its safeguards systems administered by the IAEA, as well as the Comprehensive Test Ban Treaty (CTBT), thus SEANWFZ would be of little value. It could be argued, however, that SEANWFZ constitutes an important bedrock in the universalisation and strengthening of international norms in the region given the fact that it embraces elements of the NPT and CTBT. It likewise provides a reference for ASEAN Member States in

The SEANWFZ is a bedrock in the strengthening of related international norms in the region.

advancing their common interests, for example, in adopting joint statements on thematic issues, including the biennial ASEAN-sponsored resolution on SEANWFZ by the 1st Committee of the United Nations General Assembly (UNGA) or negotiating unconditional negative security assurances with the NWS.

However, just as in the case of other international agreements, challenges remain in regard to its full implementation. There are observations about some inconsistencies in some of its provisions. For example, while the Treaty articulates in Article 2.1 that the “Treaty and its Protocol shall apply to the territories, continental shelves, and EEZ of the States Parties within the Zone in which the Treaty is in force”; Article 3 of the Protocol narrows down the scope of application to exclude exclusive economic zones (EEZs) and continental shelves (CS).

Another example is while Article 7 of the Treaty requests the NWS to notify the concerned State Party on port visits or transit in its territorial sea or archipelagic waters, Article 2 states that “Nothing in this Treaty shall prejudice the rights or the exercise of these rights by any State under the provisions of the United Nations Convention on the Law of the Sea of 1982, in particular with regard to freedom of the high seas, rights of innocent passage, archipelagic sea lanes passage or transit passage of ships and aircraft”.

Another challenge is the absence of an enforcement mechanism. Still to be set-up is a Control System to verify the compliance by State Parties. National reports to the SEANWFZ Commission on the implementation of the Treaty, which are optional are also still to be submitted.

It is also observed that SEANWFZ is currently the only NWFZ without legally-binding negative security assurances by the NWS. Accession to the Protocol by the NWS, which is considered as key in the effective realisation of Southeast Asia being a nuclear weapons free zone remain to be a goal rather than a reality. Relatedly, reservations of the NWS constitute

a big challenge in achieving the objective of the Treaty and ensuring its integrity. Russia, France, the United Kingdom and the United States have announced that they will make reservations. Some of the reservations, if allowed, could render the Treaty a bit less effective.

Among the five NWS, China has manifested that it is ready to accede to the Protocol and has offered to sign ahead of the other NWS without reservations. However, there is the argument that it would be best to have all the NWS accede to the Protocol together to ensure the effectiveness and integrity of SEANWFZ. Accession to the Protocol would also mean being bound by the Treaty's Article 3.3, with the acceding party therefore being held responsible for any act of environmental pollution resulting from discharge of nuclear materials to the sea. However, with the territorial disputes in the South China Sea, it is difficult to identify the scope of application of Article 3.3 in the South China Sea.

Another challenge that ASEAN would need to look into as regards the Treaty's Protocol is the fact that there are countries that possess nuclear weapons even if they are not officially recognised as NWS by the NPT. In this regard, there arises the question of whether ASEAN needs to engage these countries even if they are not granted the status of a nuclear weapon state.

The concern today has shifted to the matter of security and safety of nuclear materials.

Meanwhile, it could not be ignored that the global and regional context has changed significantly since the SEANWFZ Treaty was signed. The concern today is no longer focused on nuclear weapons per se but has shifted to the matter of security and safety of nuclear materials. Whether the SEANWFZ Treaty will be able to bring into its ambit these new concerns is something that begs to be answered.

Moving Forward

Notwithstanding the challenges outlined above, the SEANWFZ Commission and its EXCOM remain relevant as ASEAN mechanisms established by the Treaty to pursue the agreement's objectives. It would therefore be useful to ensure that discussions within the Commission and its EXCOM continue to be infused with vigour. For example, in addition to the matter of moving forward with the Treaty itself and its protocol, other agenda items such as on environmental nuclear hazards, cooperation with the IAEA or regional approach on nuclear security, safety and its peaceful applications, could be included.

In the case of ASEANTOM, its work has increased significantly and its presence felt in recent years. According to ASEAN's official lines, ASEANTOM reports to ASEAN SOM. However, ASEAN Member States' representation within ASEANTOM is under other ministries and government agencies at national level. It is therefore important to maintain close cross-

sectoral coordination between the MFA-led ASEAN SOM and their ASEANTOM counterparts, as well other relevant ASEAN Sectoral Bodies such as the ASEAN Nuclear Energy Cooperation – Sub-sector Network (NEC-SSN), the ASEAN Center for Energy (ACE) and the ASEAN Committee on Science, Technology and Innovation (COSTI).

Meanwhile, policy dialogues at SOM and ministerial-level on the topics of nuclear security and safety, international law on disarmament and non-proliferation and others could be considered for the purpose of awareness raising and capacity-building. This will enable ASEAN SOM to guide the work of ASEANTOM more effectively and the SEANWFZ Commission and EXCOM to guide the policy coordination on related matters in ASEAN as a whole.

Engagement and cooperation with other Nuclear Weapons Free Zones in the world should also be pursued. To date, in addition to the Southeast Asia Nuclear Weapons Free Zone, four other such zones exist. These are Latin American and the Caribbean NWFZ under the Treaty of Tlatelolco, the South Pacific NWFZ under the Treaty of Rarotonga, Central Asia under CANWFZ and Africa under the Treaty of Pelindaba.

Exchanging views and sharing experiences with other NWFZs may benefit ASEAN.

Each of them has its own strength. For example, the Latin America and the Caribbean NWFZ is highly institutionalised with its own Secretariat. The Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) was established in 1969

to ensure the compliance of the Treaty of Tlatelolco. The South Pacific NWFZ and CANWFZ have rich experience with nuclear tests bans. The South Pacific NWFZ is pioneering its environmental agenda through commissioning a laboratory to assess the environmental impacts of nuclear tests in their zone. Last year, it issued the First Ministerial Statement manifesting common positions¹. Exchanging views and sharing experiences with other NWFZs may benefit ASEAN in its future endeavor to strengthen the SEANWFZ institutional capacity, enhance its presence and develop a working agenda which benefits the region as a whole.

Conclusion

The SEANWFZ Treaty and its Protocol manifest ASEAN's strong commitment about preserving Southeast Asia as a zone free of nuclear weapons and other weapons of mass destruction. The geo-political landscape of the region has changed significantly from the day when the Treaty was negotiated and signed. ASEAN is no longer faced with the imminent threats of nuclear weapons.

¹ Accessed at: <https://www.forumsec.org/2020/12/15/22991/>

However, as an ASEAN instrument with established mechanisms for implementation, namely the SEANWFZ Commission and its EXCOM, the Treaty and its Protocol remain valid in ASEAN's efforts to address nuclear-related challenges such as nuclear safety and security, environmental protection against nuclear hazards as well as peaceful applications of nuclear energy.

The SEANWFZ Treaty and its Protocol remain relevant in addressing nuclear-related challenges.

In the meantime, the Treaty's Protocol is still to be acceded to by the NWS, ASEAN may consider exploring other related endeavours that contribute to the fulfillment of the Treaty's objectives, such as in the areas of nuclear safety, security and peaceful applications. Policy dialogues at the SOM or ministerial-levels on these issues would be helpful for the purpose of policy coordination among the ASEAN Member States. ASEAN, as a whole, could enhance the profile of SEANWFZ through the issuance of thematic statements, including the biennial ASEAN-sponsored resolution on SEANWFZ by the 1st Committee of the United Nations General Assembly (UNGA) and engage with other Nuclear Weapons Free Zones in the world for the purpose of sharing experiences and best practices.

Strategic Dialogue and Cooperation: The Case of the East Asia Summit*

By Pham Minh Thu**

The EAS was established in 2005 as a Leaders-led forum for dialogue on broad strategic, political and economic issues of common interest and concern with the aim of promoting peace, stability and economic prosperity in East Asia. Today, with its composition of 18 countries, namely ten ASEAN Member States and Australia, China, India, Japan, New Zealand, the Republic of Korea, Russia Federation, and the United States, the EAS is the only Summit-level platform created by ASEAN that successfully brought all major powers together to discuss strategic issues affecting peace, stability and prosperity of the region. Built on ASEAN's unity and centrality to promote coherence with mutually-reinforcing ASEAN-led

*The EAS has successfully brought
all major powers together.*

processes, the EAS forms an integral part of the open, inclusive, transparent and evolving regional architecture. It is widely acknowledged as a major success of ASEAN as an initiator and promotor of regional dialogue and cooperation.

Promoting strategic dialogue and trust has been the primary purpose of the EAS. Further than that, the EAS also seeks to enhance practical cooperation in the region. A number of mechanisms have been established to pursue cooperation and follow-up on the Leaders' decisions and initiatives. From the six priority areas identified in the early years (environment and energy, education, finance, global health issues and pandemic diseases, natural disaster management, and ASEAN connectivity), EAS cooperation expanded to include, but not limited to, new areas under the *Manila Plan of Action 2018-2022*, namely trade and economic, food security, and maritime cooperation. Furthermore, the EAS recognises the need to enhance collaboration to address emerging issues and challenges, as seen through the adoption of Leaders Statements on various issues such as cyber security, smart cities, terrorism, violent extremism, public health, and sustainable development.

There have also been ASEAN's continuous efforts to strengthen the EAS process. Several exercises were led by the ASEAN Chair in 2015, 2018 and 2020 respectively. These rounds of deliberation highlighted areas and issues where improvement could be made to enhance the EAS' effectiveness and responsiveness to the changing regional environment. These include, among others, the need to improve the format of the Leaders' Meeting to allow for more candid and substantive discussions; to strengthen the follow-up mechanisms to effectively

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implement the Leaders' decisions and initiatives; to enhance synergy between the EAS and other ASEAN-led mechanisms and avoid duplication among them; and to maintain ASEAN's centrality in the EAS process.

Over the years, several changes and adjustments have been introduced to address these issues. Arrangements were made to conduct the EAS Leaders' Meetings in a more business-like manner while retaining its informal nature to facilitate discussions among the Leaders, such as by convening the Meeting in a retreat format in 2018. In line with the *2015 Kuala Lumpur Declaration on the 10th Anniversary of the EAS*, regular engagement among the EAS Ambassadors in Jakarta was established in 2016 to discuss implementation of Leaders' decisions as well as exchange information on regional development cooperation initiatives and security policies and initiatives. An EAS Unit was also created at the ASEAN Secretariat to enhance coordination and facilitate EAS cooperation.

The EAS is “the apex of the ASEAN-centred regional architecture”.

The rapidly shifting geostrategic environment and rising major power rivalry, including the development of new regional cooperative strategies and arrangements such as the “Indo-Pacific” as a concept and the *ASEAN Outlook in the Indo-Pacific (AOIP)*, present new opportunities and challenges to the EAS.

As the Leaders-led forum on broad strategic, political and economic issues, the EAS sits “at the apex of the ASEAN-centred regional architecture”¹. In recent years, there have been calls among the EAS participating countries for strengthening the EAS as “an overarching framework” in the ASEAN-led frameworks and mechanisms. The EAS is also identified as one of the existing ASEAN-led mechanisms where ASEAN could pursue strategic discussions and practical cooperative activities in the key areas identified in the AOIP². Indeed, EAS cooperation includes areas similar to the key areas of the AOIP such as maritime cooperation and connectivity, and the various Statements adopted by the EAS Leaders so far also cover issues and areas relevant to those under the Outlook.

On the other hand, rising major power rivalry and lack of strategic trust may render the decision-making process in the EAS more challenging. The EAS participating countries may have different interest and priorities in carrying out EAS practical cooperation. Enhancing dialogue and promoting strategic trust thus remain important objectives of the EAS. Focusing collaboration on issues of shared interest and priorities, together with strengthening the existing EAS mechanisms, could contribute to further progress in EAS cooperation.

¹ Ha Noi Declaration on the 15th Anniversary of the East Asia Summit

² *ASEAN Outlook on the Indo-Pacific*

Adopted in 2020, the *Hanoi Declaration on the 15th Anniversary of the EAS* provides the latest guide for further strengthening the EAS process and its mechanisms. In addition, from a practical point of view, a number of suggestions may also be worth considering.

First of all, in developing the next Plan of Action (2023-2027), it is necessary to include new and emerging issues and challenges facing the EAS such as public health, digital economy, cybersecurity, and sustainable development. While enhancing synergy with other ASEAN-led frameworks is necessary, it is also important to seek complementarity and alignment with new ASEAN approaches such as the AOIP and the ASEAN Comprehensive Recovery Framework (ACRF). To facilitate implementation, it may also be beneficial to have some forms of “leadership” or “shepherd” role on certain issues and areas of cooperation to drive collaboration forward. In fact, several EAS participating countries have been seen taking the lead in carrying out activities in certain areas and they should be encouraged to continue doing so.

*ASEAN’s centrality is not just
a goodwill of ASEAN but
a recognised principle of ASEAN.*

Second, the EAS should leverage the EAS Statements adopted so far. While being primarily Leaders’ political commitments, these Statements carry the EAS consensus and could be transformed into concrete actions. A feasible solution is for the

proponent of a statement to draw up a plan or actions to implement a statement after its adoption. Monitoring progress would help facilitate follow-up. Some of the previously adopted Statements, such as the *2011 Bali Declaration on the Principles for Mutually Beneficial Relations* for example, are still very much relevant and valid in the current regional context and should therefore be put into play to serve the interest of the EAS process.

A final thought about ASEAN’s centrality in the EAS process. It is often said that ASEAN needs to navigate more skillfully in the EAS in order to reach a consensus and there have also been occasions when an ASEAN-led effort did not arrive at a consensus among the 18 EAS participating countries. In view of tackling this challenge, it should be remembered that ASEAN’s centrality is not just a goodwill of ASEAN but also a principle and prerogative of ASEAN recognised by Dialogue Partners who have joined ASEAN-led mechanisms. Through consistent efforts to strengthen the EAS mechanisms and enhance EAS cooperation, ASEAN will continue to uphold and further substantiate its central role in the EAS process. At the same time, while working in close partnership with the other participating countries, ASEAN should continue to explore effective ways to exercise its prerogative, including by adopting, as and when appropriate, EAS processes and procedures to facilitate the decision-making process in the EAS.

The ASEAN Regional Forum: A Look Once More*

By Mala Selvaraju with Anisa Aidid**

Introduction

In the early 1990s as the Cold War ended, uncertainties emerged on how the dynamics of big, middle and small powers would play out and affect the region as well as how to address emerging security issues. As a way to promote consultations on regional and security issues, the 26th ASEAN Ministerial Meeting (AMM) held in Singapore in July 1993 agreed to invite several countries and Dialogue Partners to participate in a new dialogue platform, the ASEAN Regional Forum (ARF), which would have its Inaugural Meeting the following year (1994) in Bangkok.

Since then, the ARF has been held annually and remains an inclusive platform of constructive dialogue and consultation on political and security cooperation issues. It contributes to confidence-building and preventive diplomacy efforts within the Indo-Pacific region. With ASEAN serving as the driving force, the ARF is characterised by consensus-based decision-making and progresses at a pace comfortable to all.

The ARF is an inclusive platform for constructive dialogue and consultation.

Current State of Affairs

To date, the ARF consists of twenty-seven Participants, namely: Australia, Bangladesh, Brunei Darussalam, Cambodia, Canada, China, Democratic People's Republic of Korea, the European Union, India, Indonesia, Japan, Lao PDR, Malaysia, Mongolia, Myanmar, New Zealand, Pakistan, Papua New Guinea, the Philippines, Republic of Korea, Russia, Singapore, Sri Lanka, Thailand, Timor-Leste, the United States, and Viet Nam. A moratorium on additional participants has been in place since 2007.

As a regional mechanism, the ARF is intended to evolve along three stages: (1) promotion of confidence-building measures (CBMs), (2) development of Preventive Diplomacy (PD) mechanisms, and (3) development of Conflict-Resolution mechanisms over the long-term. It is notable that the promotion of CBMs is progressing steadily while the development of preventive diplomacy is still in the early stages.

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In conducting its activities, the ARF follows an Inter-Sessional calendar (from September of the current year to August of the succeeding year). The ARF's calendar begins after the annual ARF Ministerial Meetings, usually in August. Activities in each Inter-Sessional Year include all annually convened meetings as well as ad-hoc activities such as workshops and trainings proposed by ARF Participants.

The annual meetings include (1) the ARF Ministerial Meeting; (2) the ARF Senior Officials' Meeting (SOM); (3) the ARF Inter-Sessional Support Group Meeting on Confidence-Building Measures and Preventive Diplomacy (ISG on CBMs and PD); (4) the five ARF Inter-Sessional Meetings (ISMs) on Maritime Security, Disaster Relief, Non-Proliferation and Disarmament, Counter-Terrorism and Transnational Crime, and Security of and in the Use of Information and Communication Technologies; (v) the ARF Security Policy Conference (ASPC); (6) the ARF Defence Officials' Dialogue (DOD); (7) the ARF Heads of Defence Universities/Colleges/Institutions Meeting (HDUCIM); and (8) the ARF Experts and Eminent Persons' Meeting (EEPs). Although the ARF Peacekeeping Experts' Meeting is held as and when deemed necessary, it has been held on an almost annual basis.

The ISG on CBMs and PD reviews the overall undertakings of the ARF.

The ARF, while being a forum, has a structure as well as established processes and procedures wherein the Ministerial Meeting is the highest decision-making body. In undertaking its work, the

Ministers are assisted by the ARF SOM, composed of senior officials from the Ministries of Foreign Affairs of ARF Participants. The ARF SOM's views, recommendations or decisions are reported to the Ministers for consideration. As an ASEAN-led mechanism, the ASEAN Chair presides over the ARF Ministerial Meeting and the ARF SOM.

The ARF ISG on CBMs and PD is co-chaired by the ARF Chair and a non-ASEAN ARF Participant. This ISG plays the role of 'clearing house' in reviewing the overall undertakings of the ARF including proposals of ARF Statements and activities as well as in considering and providing recommendations on the implementation of proposals, work plans and action plans.

There are five ARF ISMs which discuss specific issues namely on (1) disaster relief, (2) Counter-Terrorism and Transnational Crime, (3) Non-Proliferation and Disarmament, (4) Maritime Security, and (5) Security of and in the Use of Information and Communications Technologies (ICTs Security)¹. The work of each ISM is guided by its respective work plans and

¹ Brief description of each ISM:

- i. ARF ISM on Disaster Relief (ISM on DR), created in 1996, is a platform for dialogue on regional disaster relief issues;
- ii. ARF ISM on Counter-Terrorism and Transnational Crime (ISM on CTTC), created in 2002, is a platform to discuss issues related to terrorism and transnational crime;
- iii. ARF ISM on Non-Proliferation and Disarmament (ISM on NPD), created in 2008, is a platform to exchange views on issues of non-proliferation, disarmament and peaceful uses of nuclear technology;
- iv. ARF ISM on Maritime Security (ISM on MS), created in 2008, is a platform to discuss maritime security issues in the ARF; and

guided by the *ARF Ha Noi Plan of Action*, which was renewed in 2020 as part of efforts to realise the *2009 ARF Vision Statement*.

Defence-related discussions took place within the ambit of the ARF even prior to the establishment of the ASEAN Defence Ministers Meeting (ADMM) in 2006. Such discussions were undertaken through the ARF Security Policy Conference (ASPC), the ARF Defence Officials Dialogue (DOD), and the ARF Heads of Defence Universities/Colleges/Institutions Meeting (HDUCIM).

The ASPC, a Vice Ministerial level mechanism, participated by defence and foreign affairs officials, is meant to enhance mutual trust and understanding among these officials as well as strengthen cooperation on CBMs in the defence sphere within the ARF framework and open new channels of dialogue and exchanges.

Meanwhile, the ARF DOD was established to promote understanding and confidence-building among ARF defence establishments, enhance networking among ARF defence officials, and provide a platform for defence officials to discuss issues of common interest. It is participated by defence representatives at the director level or one level below SOM and/or military representatives at the Lieutenant-Colonel level and above.

Prior to the establishment of the ADMM, defence-related discussions took place within the ambit of the ARF.

The ARF HDUCIM, provides a platform for information exchange on the academic orientations of defence educational institutions, as well as discussions on regional security issues and networking, and is participated by the senior leadership of defence universities, colleges and institutions of ARF Participants. Whilst the ASPC is Chaired by the ARF Chair, the ARF DOD and the ARF HDUCIM follow the ARF's co-chairmanship arrangement, with an ASEAN participant and a non-ASEAN participant serving as co-chairs.

The EEPs are a group of expert persons appointed by each participants' government. Each ARF Participant can nominate, on a voluntary basis, up to five EEPs. The EEPs may, through the ARF Chair, provide non-binding and professional views or recommendations to the ARF Participants when they are requested to undertake in-depth studies and researches or serve as resource persons on issues relevant to their expertise. Co-Chairmanship of the annually held EEPs Meeting is similar to the other ARF meetings, having one ASEAN Co-Chair and one non-ASEAN Co-Chair.

v. ARF ISM on the Security of and in the Use of Information and Communications Technologies (ISM on ICTs Security), created in 2017, is a platform to promote and develop an open, secure, stable, accessible and peaceful ICT environment through CBMs, information sharing and capacity building.

Meanwhile, the ARF Peacekeeping Experts' Meeting, aims to promote discussion on peacekeeping cooperation in the ARF and to support the regional and global agenda on peacekeeping.

In 2020, an *ARF Guide to Processes, Procedures, Practices and Protocol* was adopted by the 53rd ASEAN Ministerial Meeting and noted by the 26th ARF held during that year. This guide is meant to serve as a reference for ARF Participants in regard to ARF activities. To support the work of the ARF mechanisms discussed above, an ARF Unit was established within the ASEAN Secretariat.

Challenges and Prospects

The ARF's strength lies in its robust structure, inclusive membership, as well as established reporting system and procedures wherein each mechanism has its respective advantages and contributes towards realising the objectives of the ARF as well as of ASEAN as a whole.

The Ministerial Meeting, SOM and ISG on CBMs and PD provide well-structured and grounded decision-making platforms, whilst the ISMs provides an indispensable platform for ARF Participants to discuss and provide recommendations on matters under their respective

The ARF's strength is its robust structure and inclusive membership.

purviews. Issues such as humanitarian assistance and disaster relief (HADR), maritime security and ICTs Security are cross-sectoral in nature and involves many different stakeholders.

However, synergy should be promoted and duplication of efforts should be avoided. Towards this end, further deliberations on the topics could be considered, particularly considering that there are many well-established mechanisms in ASEAN such as the ADMM-Plus and the East Asia Summit, which equally have these issues under their ambit.

For example, topics that are discussed at the ISMs on DR in recent years have been quite similar to those that are raised in the other mechanisms such as in the ASEAN Committee on Disaster Management (ACDM) as well as the ADMM-Plus Experts' Working Group on Humanitarian Assistance and Disaster Relief (EWG on HADR). Additionally, the ARF had in the past, convened several practical civil-military HADR exercises. However, similar activities had also been undertaken by the ACDM and the ADMM-Plus.

In effort to further support the ARF's vision and objectives, the ARF might also consider further revitalising the various platforms and mechanisms within its ambit. A study on the various platforms and their respective advantages/disadvantages could be undertaken which could serve as basis of recommendations to be provided to the Ministers' consideration and further guidance. Should the ARF wishes to be a more "action-oriented" forum, a thorough assessment and review of its objectives, processes and mechanisms may be required.

Conclusion

The ARF is a mechanism built for CBMs that allows for exchange of views between 27 participants. The ultimate goal pursued through the ARF is to build trust and confidence among its Participants as well as serve as a platform for constructive dialogue for regional peace and stability.

The ASEAN Plus Three: A Vehicle for Community-Building in East Asia*

By Pham Minh Thu**

The ASEAN Plus Three (APT) cooperation process began in December 1997 with the convening of an Informal Summit among the Leaders of ASEAN and China, Japan and the Republic of Korea in Kuala Lumpur, Malaysia. In 1999, the Leaders issued a *Joint Statement on East Asia Cooperation* at the 3rd APT Summit in Manila, the Philippines, in which they agreed to enhance the APT dialogue process and strengthen cooperation with a view to advancing East Asian collaboration in various priority areas of shared interest and concern. This commitment was renewed in the *Second Joint Statement on East Asia Cooperation* adopted in 2007 which underlined the role of the ASEAN Plus Three process as the main vehicle towards the long-term goal of building an East Asian community, with ASEAN as the driving force.

Often said to be born out of the Asian financial and economic crisis in 1997 which saw the growing realisation of the urgent need for the creation of a formal regional mechanism to deal with similar crisis in the future, the APT cooperation process was launched with a focus for taking concrete, practical collaborative action. Key APT mechanisms were formed, notably the Multilateralization of the Chiang Mai Initiative (CMIM) which came into effect in 2010 to mark APT members' continued commitment and efforts to promote financial stability in the region; the establishment in 2016 of the ASEAN Plus Three Macroeconomic Research Office (AMRO) as a regional macroeconomic surveillance organisation that aims to contribute to securing the macroeconomic and financial stability in the ASEAN Plus Three region; and the launch in 2012 of the APT Emergency Rice Reserve (APTERR) in an effort to conduct a mechanism to help prevent the regional food price crisis in the 2000s.

*APT cooperation process
focuses on taking concrete,
practical collaborative action.*

Going beyond that, today the APT has become the most comprehensive regional framework with over 65 mechanisms established to promote practical cooperation in a wide range of areas covering political-security, economy, agriculture, energy, environment and biodiversity conservation, health and pandemic diseases, culture, tourism, science, technology and innovation, information and communication technology, poverty eradication, disaster management, youth and education, and connectivity. An APT Cooperation Fund was set up to support projects and activities. The APT countries also reaffirmed in the *2017 Manila*

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Declaration on the 20th Anniversary of APT Cooperation the commitment to further deepen and broaden the APT process, and strengthen its important role for peace, security and prosperity in the East Asian region.

The COVID-19 pandemic has revived the special role of the APT as a regional framework to deal with crises and challenges facing the region. The APT was one of the first ASEAN-led mechanisms that initiated response to the outbreak of the pandemic through the engagement among APT health officials. As early as April 2020, a Special APT Summit on the COVID-19 pandemic was held virtually, which resulted in the adoption of a Joint Statement on strengthening cooperation through the APT mechanisms to respond to the pandemic. Furthermore, a *Joint Statement on Enhancing Economic and Financial Cooperation in Face of Emerging Challenges* was adopted at the 23rd APT Summit in November 2020. These manifested the expectation placed on the important role of the APT in addressing the current public health crisis and future regional emergencies.

*The APT promotes practical cooperation
towards community-building
in East Asia.*

The aforementioned APT Statements have provided directions and guidance to strengthen the APT cooperation and action. One of the priorities is to continue efforts to strengthen existing key APT mechanisms such as CMIM, AMRO, and APTERR, and to

better utilise them to facilitate the regional recovery process. Furthermore, new initiatives should also be welcomed and explored with a view to enhancing the APT capacities and responsiveness to emerging challenges. An example is the proposal for an APT Regional Reserve of Medical Supplies for Public Health Emergencies (APT RRMS) which is being considered by the APT countries and expected to complement the ASEAN RRMS.

Looking forward, it should be kept in mind that the central role of the APT is to promote practical cooperation towards community-building in East Asia. The year 2022 will mark the 25th Anniversary of the APT process and on this occasion a new five-year APT Cooperation Work Plan will be developed to follow through the current 2017-2022 Work Plan. The new Work Plan would need to build on the progress of APT cooperation and embrace solutions to new and emerging issues and challenges. Key areas and priorities have been discussed on many occasions and shared among the APT countries, such as public health, sustainable development, climate change, disaster management, connectivity and infrastructure, to name just a few. A new work plan with concrete and feasible actions would be an effective guide to help advance the APT cooperation beyond 2025 and contribute to a more sustainable and resilient East Asian community.

ASEAN Plus One: A Key Engagement Modality*

By Joanne Lin**

Introduction

Amidst the plethora of mechanisms centered on and led by ASEAN, the oldest mechanism ASEAN has for engaging its external partners remains equally important – the ASEAN Plus One. ASEAN started establishing dialogue relations with key partners in 1974 and by 1996 has established a total of ten dialogue partnerships before a moratorium on having additional ones was put in place in the same year.

The adoption of the *ASEAN Charter* in 2007 further provided a framework for ASEAN cooperation with external partners. Article 41 states that ASEAN shall develop mutually beneficial dialogue, cooperation, and partnerships with countries. Article 44 forms the basis of ASEAN Plus One cooperation in which the ASEAN Foreign Ministers Meeting may confer on an external party the formal status of Dialogue Partner, Sectoral Dialogue Partner, Development Partner, Special Observer, Guest or other status that may be established.

The ASEAN Charter provides the framework for ASEAN engagement with external partners.

Subsequently, with Article 44 as a basis, a set of *Guidelines for ASEAN's External Relations* was developed and adopted in 2004. This serves as a guide for ASEAN in responding to requests by external parties for formal engagement. The Guidelines ensures coherence and consistency in the conduct of ASEAN's external relations as it contains guiding principles, categories of engagement and procedures for the establishment of a formal engagement.

Dialogue, Sectoral Dialogue and Development Partnerships

ASEAN Dialogue, Sectoral Dialogue and Development Partnerships all have the objective of enhancing ASEAN cooperation in support of ASEAN's community building efforts across the three Community pillars and to enhance ASEAN's international standing. However, they differ in the level of engagement the partners have with ASEAN. Dialogue Partners or DPs as they are called are entitled to all levels of engagement (senior officials, ministerial and leaders), while Sectoral Dialogue Partners (SDPs) are only up to ministerial level mechanisms in the respective sectors of cooperation, and Development Partners are only with senior

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officials' level mechanisms. The conferment of a particular type of partnership is of course anchored on the level of political, economic and socio-cultural relations that ASEAN and its Member States have with a would-be external partner including its ability, readiness and commitment to undertake cooperation with ASEAN.

The ASEAN Plus One partnerships are guided by regular dialogues conducted through key mechanisms. For DPs, these include the Joint Cooperation Committee (JCC) Meetings, Senior Official Meetings, Post-Ministerial Conferences (PMCs) + 1 Sessions, as well as regular or commemorative or ad hoc Leaders' Summits. These regular meetings review ASEAN's cooperation with partners and discuss future direction including by exploring new areas of cooperation to address existing and emerging challenges. Furthermore, the meetings also provide a platform for ASEAN and its individual partners to discuss and exchange view on important regional and international issues of common interest and concern.

ASEAN Plus One partnerships are guided by regular dialogues.

Cooperation between ASEAN and its external partners is guided by major frameworks such as 5-year Plans of Action / Practical Cooperation Areas which cover cooperation across the three ASEAN Community pillars, Free Trade Agreements (FTAs) and Sectoral Plans of Action /Work Plans. Activities and engagements are undertaken through cooperation funds between ASEAN and its partners, as well as other platforms such as Business Councils/ Councils and cultural centres between ASEAN and its partners. Interestingly, cooperation with individual partners are also sometimes undertaken through multilateral engagements such as through the United Nations (UN), the Asian Development Bank (ADB), and the World Bank.

There are many similarities in cooperation between various ASEAN Plus One partners. Current areas of cooperation commonly pursued with various external partners are combating transnational crime including counter-terrorism and trafficking in persons; maritime security and cooperation; cybersecurity; border management; and promotion and protection of human rights including vulnerable groups. Also included as areas of cooperation are trade and investment; Micro, Small and Medium Enterprises (MSMEs) development; renewable energy; food security, agriculture and forestry; transportation; disaster risk management; health; climate change; education including scholarships and Technical and Vocational Education and Training (TVET); tourism and cultural exchanges; people-to-people exchanges; sustainable development; connectivity; smart cities; and narrowing the development gap.

Some of the new potential areas of cooperation as highlighted through various ASEAN Plus One meetings include cooperation under the *ASEAN Outlook on the Indo-Pacific (AOIP)*; Women, Peace and Security (WPS) Agenda; possible FTAs and air services agreements with some DPs; digital economy, e-commerce and data protection in response to digital

transformation and the Fourth Industrial Revolution (4IR); implementation of the Regional Comprehensive Economic Partnership (RCEP) agreement; WTO reform; sustainable development; smart cities partnership; and health security.

More recently, ASEAN has underscored the importance of collaboration with its Plus One partners in addressing challenges of COVID-19 pandemic and other public health emergencies. Ministerial meetings were held with Dialogue Partners including Australia,

Collaboration to address challenges of the COVID-19 pandemic has become significant.

China, the European Union (EU), Russia and the United States via videoconference to exchange views and explore cooperation to mitigate, control and respond to the impact of COVID-19. Several ASEAN partners have extended their provided contributions to the COVID-19 ASEAN Response Fund, the ASEAN Regional Reserves of Medical Supplies and other initiatives. All have manifested their readiness to work closely with ASEAN in pursuing the post-pandemic recovery through the ASEAN Comprehensive Recovery Framework (ACRF).

Noting the importance of maintaining effective and productive ASEAN Plus One partnerships, ASEAN has underscored the need to review its relations with all its formal partners on a periodic basis. This would ensure that these relations continue to yield positive and beneficial, and tangible outcomes for the benefit of the region.

Challenges and Prospects

While ASEAN Plus One partnerships could be most effective and relatively easier to manage compared to other ASEAN-led mechanisms that involve multiple partners, challenges could also be identified.

ASEAN Plus One partners which see their relations with ASEAN as “strategic” could bring to the table its own aspirations, issues and other concerns requiring the attention and extensive discussions by various ASEAN organs and bodies. This could include a partners’ request for membership in ASEAN-led mechanisms. It must be noted that ASEAN-led mechanisms have their own respective processes for bringing in additional partners and bilateral partnership with ASEAN does not guarantee automatic membership in such mechanisms. Other concerns a bilateral partner could bring to the table are elevation of its partnership to a higher level, request for annual Leaders’ Summits, requests for Special Summits, and requests for more regular platforms for dialogue and cooperation beyond what is available for their respective level of partnerships as discussed previously.

Requests for a change in the nomenclature of their partnership with ASEAN (from strategic partnership to comprehensive strategic partnership) such as those recently made by a couple of ASEAN’s Dialogue Partners, could be seen by outside observers as a manifestation

of an attempt to have greater recognition in their cooperation with ASEAN. The need for greater attention from ASEAN also brings with it more time and resources in handling the increase demands of these longstanding important partners.

There is also an increasing number of requests for Sectoral Dialogue and Development Partnerships. The increasing number of formal partners for ASEAN, while a manifestation of the increasing importance external partners accord to ASEAN, would have implications. The increased number of meetings and cooperation mechanisms in support of the partnerships could affect human and financial constraints for ASEAN as a whole and the ASEAN Secretariat.

It is in ASEAN's vision to "deepen cooperation with Dialogue Partners, strengthen engagement with other external parties and reach out to new potential partners for mutually beneficial relations" as detailed in the *ASEAN Political-Security Community Blueprint 2025*.

ASEAN carefully considers the need to engage new potential partners and identifies the most appropriate means to do so.

However, ASEAN will need to carefully consider the need to engage with new potential partners and identify the most appropriate means to do so, noting the interests of potential countries to become new Dialogue Partners and ASEAN's physical and resource constraints.

Another issue in which ASEAN may need to examine is the current moratorium that was put in place informally in 1996 and formalised in 1999. The moratorium was put in place to allow ASEAN to focus on regional integration efforts, concentrate on consolidating existing dialogue relationships, and to take into consideration limited resources in ASEAN to handle increased number of dialogue relations.

However, with the granting of Dialogue Partnership to the United Kingdom in 2021, the issue of lifting moratorium on Dialogue Partnerships has come to the fore. As previously discussed, new Dialogue Partnerships entail additional resources to coordinate and manage the multiple new mechanisms established at all levels. This include having a Country Coordinator for the new DPs resulting in some ASEAN Member States having to coordinate more dialogue relations than the current one each for the 10 Dialogue Partners. Sectoral bodies will also need to allocate additional resources to explore new areas of cooperation with the new Dialogue Partners. The ASEAN Secretariat will have to service additional meetings, coordinate cooperation programmes/projects and manage trust funds should such funding modality be established. All these would entail additional human and financial resources.

Notwithstanding these challenges, ASEAN Plus One mechanism remains the core of ASEAN's external relations whose relevance could be further leveraged. Apart from exchange of views on key regional issues, ASEAN could tap into expertise and resources made available

by these partners for its Community building efforts and deeper integration. Some recommendations to this effect could include the following:

First is ensuring support for ASEAN Centrality and principles of international law as well as shared norms and values, including those enshrined in the *ASEAN Charter*, the *Treaty of Amity and Cooperation in Southeast Asia* (TAC), and the *ASEAN Outlook on the Indo-Pacific* (AOIP) to reinforce the importance of a transparent, inclusive and rules-based regional architecture.

Second is strengthening the role of the Country Coordinator and the practice of coordinating ASEAN common positions before meetings with formal partners, including the delivery of ASEAN Common Statements at the PMC+1 with Dialogue Partners and the ASEAN+1 Summit to allow more time for substantive discussions among Leaders and Ministers.

Third is prioritising areas of cooperation according to the capabilities and potential of the formal partners. For example, current Plans of Action should be tailor-made to suit the needs of ASEAN and the capabilities of the individual formal partners. Practical and feasible action lines/measures should be included so as to be more focused and targeted with better utilisation of resources as well as to ensure full and effective implementation.

Plans of Action should be tailor-made to suit ASEAN's needs and the individual partners' capabilities.

Fourth is strengthening ASEAN cross-sectoral/pillar coordination including through the ASEAN Coordinating Council (ACC), the ACC Working Group, and the Committee of Permanent Representatives to ASEAN (CPR) as well as between ASEAN and its formal partners. This is particularly important given, notable increase in the number of cross-pillars /cross-sectoral areas of cooperation arising from expanded and deepened cooperation with partners in various areas such sustainable development, climate change actions, and WPS Agenda, as well as the increasingly intertwined global challenges such COVID-19 pandemic.

Fifth is sustained improvement in the utilisation of trust funds by developing long-term programmes/projects that are more focused to ensure that they bring meaningful impact to ASEAN Community building.

In regard to the matter of the moratorium discussed above, ASEAN should ensure that only potential applicant countries which are able to bring strategic and tangible long-term benefits to ASEAN to be considered, given the human and resource implications discussed previously. The new set of comprehensive *Criteria for Dialogue Partnership* adopted by the ASEAN Foreign Ministers in March 2021 should be fully leveraged.

Conclusion

Moving forward, ASEAN will continue to put premium on the importance of an outward looking approach in its external relations in line with its Community Vision 2025. In charting out its future direction post-2025, ASEAN will continue to promote its principles, values including multilateralism and its experiences in regional integration as an example for other countries and regions. This would in turn enhance ASEAN's profile and role globally and to further promote ASEAN Centrality in the evolving regional architecture.

Human Rights Cooperation in ASEAN: Quo Vadis?*

By Le Thi Nam Huong**

The ASEAN Intergovernmental Commission on Human Rights (AICHR) was inaugurated on 23 October 2009 by virtue of the *Cha-Am Hua Hin Declaration on AICHR*. In the said Declaration, the ASEAN Leaders applauded the establishment of AICHR as a concrete expression to the implementation of Article 14 of the *ASEAN Charter* as well as that of ASEAN's commitment to pursue a forward-looking strategy to strengthen regional cooperation on human rights.

Fast-forwarding thirteen years and heading to its 13th year of existence in 2021, AICHR has established itself as the primary forum on human rights in ASEAN. It has played a key role in shaping the human rights agenda in the region and promoting cross-sectoral efforts in

AICHR is ASEAN's primary forum on human rights.

mainstreaming human rights. It works to identify emerging rights issues and advocate for rights-based policy responses and remedies across three Community pillars towards the building of a people-oriented, people-centred ASEAN.

Meanwhile, a reassuring consideration is to have an objective review on the progress, or its lack thereof in certain aspects, of AICHR evolution, as well as a rigorous reflection on AICHR's contribution to ASEAN Community building. The Declaration establishing AICHR also states that its Terms of Reference (TOR) shall be reviewed every five years after its entry into force to further develop mechanisms on both the protection and promotion of human rights. This exercise shall be undertaken by the ASEAN Foreign Ministers Meeting (AMM).

In the meantime, AICHR has carried out its self-assessments: the first review was conducted in 2014, and the second review was in 2020-2021.¹ Many of the recommendations from the first assessment have been put into effect. Some recommendations remain unaddressed, mainly those concerning the monitoring function and the protection mandate of AICHR.² In general, human rights protection is part of the three key elements of state

* The views expressed in this essay are the personal views of the author and do not reflect the position of ASEAN or the ASEAN Secretariat.

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¹ Report of the first assessment for the period of 2009–2014, entitled "AICHR's Assessment and Recommendations on the Review of the TOR for the consideration of the AMM" was submitted to the AMM in October 2014, which included ten recommendations for strengthening the capacity, governance of AICHR and the implementation of its mandate. The Self-Assessment on Progress of AICHR After 10 Years was deliberated consecutively in July-September 2021; its draft report with recommendations was circulated in November 2021.

² Recommendations nos. 5-7: AICHR may (i) be invited to engage in a dialogue on national implementation of human rights commitments in accordance with the AHRD and obligations under regional and international human rights instruments; (ii) be engaged in thematic visits to share best practices on the promotion and protection of human rights organized by the

obligations in international human rights law, which include: (1) respect - to refrain from interfering or curtailing the enjoyment of rights; (2) protect - to prevent rights violations and provide remedies when violations occur; and (3) fulfil - to take positive action to facilitate the enjoyment of rights.

It is at the national level that human rights can be first and most effectively protected. In addition, there are also mechanisms for the protection of human rights by the United Nations human rights system at international level, as well as mechanisms that are established in the regional settings by the African Union, the Organization of American States, the Council of Europe, and ASEAN respectively.

In the operationalisation of its mandate, AICHR runs into two challenges. First is the implementation gap due to the discrepancy between an ambitious priority-programmes work plan on par with insufficient resources and a tedious decision-making process. Second is the ambiguous text of its mandate and functions as provided in its TOR³. This could be open to varying interpretations. In the case of Article 4, for example, there could be leeway for either a strict interpretation or in some occasions granting a Member State the power to veto any discussion, statement or activity by AICHR, even if the vast or overwhelming majority of members are keen to undertake it.

*AICHR's establishment contributes
in making ASEAN
a people-centred community.*

Another area worth revisiting is ASEAN's pledge in building a human rights body. According to the *Chairman's Statements of the 14th ASEAN Summit and the 15th ASEAN Summit* held in 2009, the establishment of AICHR was considered "one of the most important undertakings to make ASEAN a genuinely people-oriented community". Furthermore, AICHR "will be the overarching framework for regional cooperation on human rights which shall continue to evolve and develop to strengthen the promotion and protection of human rights in ASEAN". The intent was for AICHR to serve as a vehicle for "progressive social development and justice, the full realisation of human dignity and the attainment of a higher quality of life for ASEAN peoples," as stated in the *Cha-Am Hua Hin Declaration*.

The path of building an ASEAN human rights body could be a long and arduous road. AICHR has been operating in a complex environment with limited resources and a restricted mandate. Nevertheless, its role in human rights promotion has been evident. It has also conducted initiatives of an advisory role to ASEAN Sectoral Bodies on issues with rights implications. AICHR is yet to consider a monitoring role, which is subject to the interpretation of AICHR's TOR. In general, monitoring mandate of a regional mechanism might involve acceptance of communications or complaints by individuals, and conduct investigation of specific situations in response to the submissions by individuals, or investigation on its own

inviting AMS; (iii) assist AMS in the provision of technical assistance and capacity-building for the promotion and protection of human rights.

³ For the text of AICHR's TOR, please see <https://aichr.org/wp-content/uploads/2020/02/TOR-of-AICHR.pdf>.

motion. With regard to the protection mandate of AICHR, there is divergence of views and opinion, as discussed above, on what is under its scope in the current TOR as well as the modalities to realise it.

The questions that remain include what does the future hold for AICHR, and how can ASEAN further support and empower its human rights body in the promotion and protection of human rights for ASEAN peoples. In the context of these questions, it is worth referring to discourses on human rights in Southeast Asia.

An evolutionary approach, which is the dominant view at the moment, in ASEAN's undertakings on human rights, highlighting the politics of human rights where it could be used as a tool in foreign policy, and not for the promotion of human rights *per se*. Based on international human rights laws, all ASEAN Members have ratified three core international

ASEAN has adopted an evolutionary approach to human rights.

instruments concerning the rights of children, women and persons with disabilities, henceforth the states' obligations are to respect, promote and fulfil the rights as enshrined in the conventions they are parties to. Member States have their respective interpretations of human rights and different ways and means in implementing them. Considerations to

adopt international human rights norms and standards have been met with concerns over cultural relativism, neo-colonialism, unilateral imposition of Western values, and external monitoring of possible rights violations. Meanwhile, there were calls for ASEAN to put human rights and economic growth equally as priorities.

There were also reminders of what a regional mechanism is all about. In other regions of the world, the rationale for creating a regional mechanism was to strengthen the protection and enjoyment of human rights by taking into consideration the regionally shared customs, values, culture, and practices. When domestic institutions fail to uphold the law or when they were the violators of the law, it might be possible or necessary to seek redress beyond national boundaries. Regional legal frameworks could give violated rights-holders the possibility of bringing their case in front of a regional body, providing that the country in question is part of this framework, and providing that all national remedies had either been exhausted or deemed inefficient.

Against the backdrop of a global health emergency caused by the COVID-19, and new developments in the region and beyond, it is an opportune time to rethink a fundamental shift in the ASEAN human rights cooperation. Some considerations could include the following. First is to leverage the support to AICHR enabling it to carry out effectively its mandate and functions. Second is to support AICHR in having an advisory role on thematic issues with rights implications, such as environment and climate change adaptation, digital rights in the Fourth Industrial Revolution (4IR), and the intersection between Sustainable Development Goals (SDGs) and human rights, to name a few. Third is to encourage AICHR to build the much-needed technical and institutional expertise in response to emerging issues

and developments. And fourth is for AICHR to actively pursue a complementary role bridging efforts of regional and national institutions on human rights. These endeavours should be undertaken with a focus on technical and substantive aspects of the matters involved.

The long-term goal should be to empower AICHR with capabilities and characteristic of a regional human rights mechanism in terms of authority, structure and resource. The current mandate and functions may need to be revisited to enable AICHR to deal with future challenges and reinforce a culture of respect for human rights in ASEAN. Toward strengthening AICHR as a regional human rights body, its composition and membership may have to be reconsidered. Adjustment for professional expertise and a certain level of autonomy in decision-making may be useful. To this end, a common set of indicators to measure the performance of the body and its representatives could be developed. Meanwhile, the process to select and nominate representatives to AICHR could be standardised on a merit basis instead of political appointment.

Strengthening AICHR contributes in realising the aspiration for ASEAN peoples to live in peace, dignity and prosperity.

Underpinning the ASEAN Community building, human rights is considered an important benchmark to sustain peace, security and stability. As it is acknowledged, addressing human rights gaps would address root causes of unrest, instability and conflict. Thus, strengthening AICHR could contribute in realising the aspiration to have ASEAN peoples live in peace, dignity and prosperity.

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