

# ASEAN BETWEEN ASPIRATIONS AND REALITIES

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## Abstract

*The most important legal instrument of the Association of Southeast Asian Nations – the ASEAN Charter – entered into force on December 15, 2008 and bestowed a legal personality for this regional organization. The ASEAN Charter has given root to a new ASEAN.*

*In this original framework, the ASEAN meetings of 2009 and in particular the October 23-25, 2009, ASEAN Summit hosted in Thailand were conceived to herald a new phase in ASEAN's life.*

*By their results, the 2009 ASEAN Summits will have a special place in the history of this regional institution because they managed to consider in a constructive way and to find workable solutions on how to give tangibility to three communities: “A Community of Action”; “A Community of Connectivity”; “A Community of Peoples”.*

*This article contains an analysis from a diplomatic perspective of the most significant documents adopted at the ASEAN Leaders' level.*

*A fundamental question is: can ASEAN successfully cope with future predictable and unpredictable challenges (global or regional)? In this regard, is ASEAN able and equipped to take the lead in genuine institution building in the East Asia region?*

*The general conclusion is that ASEAN can play a more important role in its area and at global level, only if its members cooperate more closely in all fields.*

## บทคัดย่อ

เครื่องมือทางกฎหมายที่สำคัญที่สุดของสมาคมแห่งประชาชาติเอเชียตะวันออกเฉียงใต้หรืออาเซียน คือกฎบัตรอาเซียน (ASEAN Charter) ซึ่งมีผลบังคับใช้ตั้งแต่วันที่ 15 ธันวาคม 2551 และทำให้องค์กรภูมิภาคนี้มีสถานะทางกฎหมาย กฎบัตรอาเซียนทำให้เกิดรากฐานใหม่แก่อาเซียน การประชุมประเทศสมาชิกอาเซียนในปี 2552 โดยเฉพาะอย่างยิ่งการประชุมสุดยอดอาเซียนระหว่างวันที่ 23-25 ตุลาคม 2552 ซึ่งประเทศไทยเป็นเจ้าภาพ

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นั้น เป็นการประกาศให้รู้ถึงยุคใหม่ของอาเซียน ผลการประชุมสุดยอดอาเซียนในปี 2552 ทำให้การประชุมครั้งนี้มีความสำคัญต่อประวัติศาสตร์ขององค์กรภูมิภาคแห่งนี้ เนื่องจากที่ประชุมได้พิจารณาถึงวิธีดำเนินการอย่างสร้างสรรค์ในการทำให้อาเซียนเป็น “สังคมแห่งการกระทำ” “สังคมแห่งความสัมพันธ์” และ “สังคมแห่งประชาชน” บทความนี้วิเคราะห์เอกสารสำคัญในระดับผู้นำอาเซียน โดยวิเคราะห์จากมุมมองทางการพูด คำถามที่เป็นรากฐานสำคัญคือ อาเซียนจะสามารถเผชิญกับความท้าทายของโลกและภูมิภาคได้สำเร็จหรือไม่ ทั้งความท้าทายที่สามารถทำนายได้และไม่สามารถทำนายได้ อาเซียนจะมีความสามารถและเตรียมพร้อมเพื่อเป็นผู้นำในการสร้างองค์กรอย่างแท้จริงในภูมิภาคตะวันออกหรือไม่ ข้อสรุปทั่วไปคือ อาเซียนจะสามารถแสดงบทบาทที่มีความสำคัญมากยิ่งขึ้นทั้งในภูมิภาคและในประชาคมโลกได้ก็ต่อเมื่อสมาชิกทุกประเทศมีความร่วมมือกันอย่างใกล้ชิดมากยิ่งขึ้นในทุกๆ ด้าน

## 1. A New Beginning

Evolution of institutionalism in Asia is a highly topical issue. The major reason is obvious. As pointed out in one of the most recent and authoritative academic books, “Asia is characterized by a singular lack of regional organizations as compared with Europe, the Americas and Africa. The reasons for this remain unclear, although it may not be unrelated to the broad range of geopolitical interests and cultural groupings within the region”.<sup>1</sup>

Yet, the history of institutionalized cooperation in Asia offers an encouraging example: the functioning of the nearly 43 years old Association of Southeast Asian Nations (ASEAN)<sup>2</sup>. To understand the special place of ASEAN in the present Asian political configuration a few unique features of the area covered by it deserve to be enumerated, having in mind Asia’s original anatomy and fluid environment.

As pointed out by Dr Kantathi Suphamongkhon, former foreign minister of Thailand, who provided a recent overview of ASEAN diplomacy, Southeast Asia, encompassed by ASEAN, has slightly more

land and slightly more population than the European Union. (SEA: area 5,000,000 square kilometers, population 580 million. EU: area 4,325,000 square kilometers, population 499 million). Although occupying only three percent of the earth’s total surface, the ASEAN region contains over 20 percent of all known plant, animal, and marine species.<sup>3</sup>

Southeast Asia is located in a strategic part of the world. The Straits of Malacca are used for navigation from the Indian Ocean to the Pacific Ocean. These Straits are the main shipping channel linking the major economies of India, China, Japan and the Americas. Much of world trade, including a quarter of all oil transported by sea, passes through the Straits of Malacca.

With the exception of the newly independent Timor Leste, all 10 Southeast Asian countries are now members of ASEAN.

ASEAN covers a land of great diversity – in terms of cultures, wealth, languages, religions, and systems of government. There are 350 indigenous languages spoken in Indonesia alone. Southeast Asia has several religious denominations: Islam, Buddhism, Hinduism and Christianity. The largest Is-

lamic country in the world is Indonesia which has more Muslims than Egypt, Syria, Jordan and all the Arab states in the Persian Gulf combined.

The types of government in Southeast Asia are illustrated by an absolute monarchy, constitutional monarchies, republics, and including communist regimes.

Demographic and economic gaps are considerable. The population of Indonesia is 562 times larger than the population of Brunei Darussalam and Singapore's GDP is 150 times higher than that of Myanmar.

With a combined GDP of \$1.2 trillion, the 10 ASEAN member states are bound by geography, common objectives and a shared destiny. As a group, the first purpose of ASEAN is to maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region.

ASEAN has already achieved crucial milestones in its institutional and legal development, especially with the adoption in 2007 of the ASEAN Charter, signed and ratified by all its members. The Charter entered into force on December 15, 2008 under the theme "ASEAN Charter for ASEAN Peoples". While not a constitution in strict legal terms, the Charter (55 articles) will make ASEAN a more effective regional organization, with a clearer purpose and stronger juridical foundations, in accordance with legitimate aspirations of all its members.<sup>4</sup>

Beyond any doctrinal approaches, the United Nations welcomed the adoption of the ASEAN Charter. While it is generally assumed that through this legal instrument this regional institution transformed itself into a rule-based organization. There are many

valid questions about how effective the organization can be in the years to come.

The point of departure for a number of legitimate questions and criticisms is the very fact that some ASEAN members have not yet complied with their new obligations and commitments. Nevertheless, it is acknowledged at the same time that after 16 years of procrastination, the setting up of the ASEAN Intergovernmental Commission for Human Rights in October 2009 indicates the group's willingness – in a slow and evolutionary manner – to accept international norms and standards in a vital field.<sup>5</sup>

Irrespective of individual interpretations of the ASEAN Charter, authoritative and official assessments cannot be ignored. In this regard, in the sphere of significant facts, the Report of the UN Secretary-General A/63/228 S/2008/531 entitled *Cooperation between the United Nations and regional and other organizations* submitted on August 8, 2008 recalled that the ASEAN Charter serves as the constitutional framework for community-building. The Charter enshrines strong democratic principles and includes a provision on the establishment of a human rights body as a new organ of ASEAN. ASEAN plans to establish a commission for the promotion and protection of the rights of women and children for which the United Nations Development Fund for Women (UNIFEM) and UNICEF are providing expert advice.<sup>6</sup>

Assessments about ASEAN and its agenda are not limited to the matters developed in the UN Secretary-General's reports. It should be recalled that in 2006, by a decision taken by 192 countries, the General Assembly granted observer status to ASEAN and, in turn, the United Nations

(UN) was accorded full dialogue partner status with ASEAN.

The most recent diplomatic pronouncement on the matter is contained in resolution A/RES/63/35 entitled *Cooperation between the United Nations and the Association of Southeast Asian Nations* adopted by consensus by 192 Member States in a plenary meeting of the UN General Assembly on November 26, 2008 which welcomed the signing on 20 November 2007 of the Charter of ASEAN by leaders of ASEAN. It represents, the resolution says, a historic milestone for this regional institution reflecting a common vision and commitment to the development of an ASEAN community so as to ensure lasting peace, stability, sustained economic growth, shared prosperity and social progress in the region.

By the same resolution the General Assembly encouraged both the UN and ASEAN to further strengthen and expand their areas of cooperation, and in this context welcomed the signing on 27 September 2007 of the Memorandum of Understanding between ASEAN and the UN, a document which aims at establishing a partnership between ASEAN and the UN that will encompass the full range of cooperation based on mutual benefits.

The same document recognized the value of such a partnership in providing timely and effective responses to global issues of mutual concern. In this context, specific and relevant references were made to explore concrete measures for closer cooperation, particularly in the areas of food and energy security and the achievement of the UN Millennium Development Goals. It also encouraged effective cooperation be-

tween ASEAN member countries and the appropriate UN organizations in the delivery of operational activities in the area of development at the country level.<sup>7</sup>

On September 26, 2009 the UN Secretary-General Ban Ki-moon in a meeting with ASEAN Foreign Ministers in New York welcomed ASEAN's progress in implementing its new Charter and announced that the UN system will continue to cooperate with ASEAN in the socio-economic and cultural areas to implement the Charter. He encouraged ASEAN to appoint independent and impartial human rights experts to the relevant Commission to be created. The Office of the United Nations High Commissioner for Human Rights has valuable experience which is available to ASEAN. The UN is also ready to deepen its cooperation with ASEAN in conflict resolution, preventive diplomacy, crisis management, disaster management, cross-border challenges, such as forced population movements, trafficking and terrorism. The Secretariats of the two organizations were requested to develop a joint strategy for an increasingly dynamic partnership.<sup>8</sup>

At the end of the above meeting a Joint United Nations-ASEAN press statement was published following the UN-ASEAN ministerial-level meeting in New York on September 26. The document said that the meeting is an annual event which provides an opportunity for the ASEAN Foreign Ministers, the President of the General Assembly and the Secretary-General to exchange views on matters of mutual interest and represents the close cooperation between regional organizations and the UN.

The above mentioned meeting was briefed by the ASEAN Chair on develop-

ments in ASEAN following the entry into force of the ASEAN Charter in December 2008 and on the convening of the 15<sup>th</sup> ASEAN Summit and related summits in Thailand in October 2009, meant to move ASEAN towards becoming a more integrated and interconnected Community. The meeting was also briefed by the President of the General Assembly and the UN Secretary-General on latest developments in the UN, as well as on the priorities and expectations of this body during the 64<sup>th</sup> session of the General Assembly. The meeting welcomed the efforts undertaken in the area of reform of the UN and urged continued efforts, so that the UN can more effectively implement the UN Charter and address the global challenges facing the international community in cooperation with Member States and regional organizations.

During the same meeting, the participants stressed the importance of nurturing an effective partnership between ASEAN and the UN that will help both organizations effectively address the challenges affecting South-East Asia and the world. The meeting recalled the 2007 Memorandum of Understanding on ASEAN-UN cooperation, which has provided a sound framework for enhanced cooperation, including the successful ongoing ASEAN-UN partnership in the area of disaster management, particularly in the wake of Cyclone Nargis in Myanmar. There was recognition that further cooperation between ASEAN and the UN could be enhanced to address their common global challenges.

On the same occasion, the participants had a productive, frank and wide-ranging exchange of views on the key global and regional issues of common concern. The

meeting stressed the importance of such frank and comprehensive exchange of views, based on mutual respect, to promote progress towards the resolution of these issues.<sup>9</sup>

The meeting looked forward to the convening of the Third ASEAN-UN Summit in Viet Nam in 2010 which would help maintain a strong momentum in the growing ASEAN-UN partnership.

As seen from the global perspective offered by the UN, there is no doubt about ASEAN's aspiration to unite a region of great diversity with a common identity. But in order to give tangibility to that aspiration it is imperative for this regional organization to have a realistic strategy for building an ASEAN Socio-Cultural Community by 2015. To that end, the very fact that ASEAN countries are also members of the Group of 77 composed of 132 States and China, whose visibility at the UN is remarkable, should be used as a significant organizational tool of multilateral diplomacy to advance ASEAN's identity at regional and global levels. The constructive involvement of the younger generation in that process is crucial for the success of such a strategy, as required by the dialectic link between aspirations and realities.

Recent events have revealed optimistic directions to be followed. On the proposal of the Group of 77 and China, the UN General Assembly adopted in December 2009, a draft resolution entitled "*Proclamation of 2010 as International Year of Youth: Dialogue and Mutual Understanding*".

In accordance with this document, the General Assembly would encourage all states, the specialized agencies, funds and programs of the UN system and youth or-



ganizations to take advantage of the Year to promote actions at all levels aimed at disseminating among youth the ideals of peace, freedom, progress, solidarity and dedication to the objectives of progress and development.

Considered from a universalist perspective, the active participation of ASEAN in the preparation and celebration of 2010 as International Year of Youth would be a direct contribution to the promotion of an identity through the fostering of greater awareness of the diverse culture and heritage of the region, as specifically stipulated in the ASEAN Charter. The younger generation of this area is expected to have an important role in shaping a truly ASEAN identity. Ambassador Tommy Koh, an expert on ASEAN matters, formulated a specific wish on this topic: "The one area where I would like to see more action is student exchange. I would like to see an ASEAN scheme under which thousands of our students will spend a year studying at another university in another ASEAN country".<sup>11</sup> As we will see below, while analyzing significant ASEAN documents, the highest representatives of this institution recognized in clear terms the importance of ASEAN youth as the potential leaders of tomorrow in further reinforcing the ASEAN Community.

## **2. Searching for Substance**

The UN diplomatic dialogue with ASEAN proves that a true partnership demands substance. What can be the source for such substance? It can emerge only from ASEAN's own efforts and multilateral activities to give tangibility to its legal instru-

ments and first of all to its Charter, if, indeed, ASEAN wishes to be a strong political and normative institution.

In this respect, an expert on ASEAN, Kavi Chongkittavorn reminds us that the ASEAN's founders had in common a passionate belief in the regional grouping and a readiness to defend the ASEAN identity and values. They did it with valor and stood firm against heavy criticism from non-ASEAN countries. In short: no kowtowing to external demands without a consensus.<sup>12</sup>

In 2008-2009 the global economic and financial crisis pushed the role of Asian economies to the forefront. The continued growing influence of China and India – both key dialogue partners of ASEAN – further strengthened the grouping's international role and position. In this context, the search for substance in ASEAN's activities and the ambition to increase its international role are more obvious.

As emphasized with vigor by Dr Surin Pitsuwan, Secretary-General of ASEAN, while the ASEAN Charter bestowed a legal personality to ASEAN, its Leaders have adopted a Roadmap comprising the three community blueprints – political-security, socio-cultural, and economic - and the Initiative of ASEAN Integration work plan laying out the goals, strategies and actions to realize an ASEAN Community by 2015. Such an ASEAN Community should be politically cohesive and peaceful, economically integrated and vibrant, and socially responsible and caring.<sup>13</sup>

From this perspective, the ASEAN Day celebration in 2009 heralded a historic and eventful transformation of ASEAN. The event had a very apt theme – Green ASEAN which reflects the three-pronged

facets facing ASEAN: building an environmentally sustainable clean and green ASEAN; transforming the “green shoots” of growth in the face of the current global financial crisis into an economically resilient ASEAN; and more importantly, nurturing the new and green ASEAN to be a people-oriented and globally respected institution among the community of nations.<sup>14</sup>

Dr Surin Pitsuwan believes that the ASEAN Charter has given root to a new ASEAN. An ASEAN that is budding itself into a people-oriented organization. And a region that is taken as a serious regional inter-governmental organization with clear shared commitments and a collective responsibility.<sup>15</sup>

The 14<sup>th</sup> ASEAN Summit, Thailand, 26 February - 1 March 2009 brought persuasive examples of these shared commitments. This is illustrated by the adoption of many significant documents, enumerated, in the order they appear on official lists and with their original complete titles, such as those in the Appendix.

Interesting ideas have been advanced in the Remarks/Speeches pronounced by many participant Leaders and in particular by Abhisit Vejjajiva, Prime Minister of the Kingdom of Thailand, at the Closing Ceremony of the 15<sup>th</sup> ASEAN Summit and Related Summits and on the Occasion of the Inaugural Ceremony of the ASEAN Intergovernmental Commission on Human Rights (AICHR), Cha-Am Hua Hin, Thailand, 23 October 2009.

However, by its rich ideas, considerations and suggestions, the most comprehensive document is the 57 paragraphs Chairman’s Statement of the 15<sup>th</sup> ASEAN Summit entitled “Enhancing Connectivity,

Empowering Peoples”, as given at the end of the Summit which took place in Cha-Am Hua Hin, Thailand on October 23-25, 2009. We will summarize this referential document in the present and next sections of this article, using its original terminology and respecting the sequence of ideas formulated in it.

It should be emphasized that the Chairman’s Statement was carefully negotiated and drafted in advance and was released in its final form on behalf of all Heads of State/Government of ASEAN Member States participating in the 15<sup>th</sup> ASEAN Summit during which they had extensive, open and fruitful discussions under the theme of “Enhancing Connectivity, Empowering Peoples”.

The ASEAN Charter was the first point mentioned and developed in the Statement. The participating Leaders were pleased with the progress made in the implementation of the ASEAN Charter, particularly the operationalization of the Committee of Permanent Representatives (CPR) in Jakarta which will be instrumental in strengthening cooperation among ASEAN Member States, improving coordination with the ASEAN Secretariat, and enhancing relations with external partners.

A distinct paragraph refers positively to the work of the High-Level Legal Experts Group on the ASEAN Charter, to the signing of the Agreement on Privileges and Immunities of ASEAN by Foreign Ministers to confer legal status to ASEAN and to the progress in the drafting of the Protocol to the ASEAN Charter on a Dispute Settlement Mechanism (DSM).

One of the major achievements of the Summit was the Inauguration of the ASEAN

Intergovernmental Commission on Human Rights (AICHR) mentioned above. The Leaders welcomed the establishment of the AICHR as mandated by Article 14 of the ASEAN Charter and the efforts to build a more people oriented ASEAN Community. They pledged to fully support the operation of the AICHR in accordance with its Terms of Reference prepared by the High Level Panel on an ASEAN Human Rights Body (HLP) and approved by the Foreign Ministers. They envisaged that the AICHR will be the overarching framework for regional cooperation on human rights which shall continue to evolve and develop in order to strengthen the promotion and protection of human rights in ASEAN. In accordance with the Terms of Reference of AICHR, they envisaged the full operationalization of this body including the development of its work program and the provision of necessary financial resource needs. They also noted the offer by the Philippines to host the AICHR.<sup>20</sup>

On institutional matters the Leaders emphasized the need to allocate sufficient resources, including budget and personnel, to strengthen the ASEAN Secretariat so that it can fulfill its additional responsibilities and functions as required by the Charter. It should be specified in this regard that the ASEAN Secretariat has to organize or supervise an average of nine or ten meetings a week.

While acknowledging the impressive list of documents listed above an essential question comes to mind: are ASEAN members really prepared to implement them? There is no singular answer to this fundamental question. For the past, the answer is not encouraging: only 30 percent of legal commit-

ments have been put into practice.<sup>21</sup> There is no doubt that one of ASEAN's past failings was a culture of not taking its commitments seriously. For the future there are some optimistic assessments. As pointed out by ambassador Tommy Koh the ASEAN Charter gives the Secretary-General the responsibility to monitor the compliance of member-states with their commitments. If a dispute occurs between two members in connection with the observance of their commitments, the Charter offers a solution by referring the matter to an ASEAN dispute settlement mechanism. The very existence of such a mechanism may provide some assurances to all countries concluding agreements with or within ASEAN.<sup>21bis</sup>

### **3. Challenges and Options**

The Chairman's Statement of the 15<sup>th</sup> ASEAN Summit has a programmatic character and is remarkable for the reiteration and development of the commitments made by the 10 members of this regional institution concerning ASEAN's Community Building. In this regard, the Leaders were pleased with the progress made in their collective efforts to realize an ASEAN Community by 2015, particularly the establishment of the ASEAN Political-Security Community, the ASEAN Economic Community and the ASEAN Socio-Cultural Community Councils which will help coordinate ASEAN cooperation in all the three pillars.

The Leaders fully recognized that the successful building of an ASEAN Community that is truly people-oriented by 2015 requires the cooperation and contribution



of all sectors of ASEAN society and the participation of ASEAN peoples in all aspects of community-building. They therefore welcomed the fruitful meetings between ASEAN Leaders and representatives from the ASEAN Inter-Parliamentary Assembly (AIPA), ASEAN Youths, ASEAN Civil Society Organizations (CSOs) and the ASEAN Business Advisory Council (ABAC).

The Leaders were quite explicit in their approach by emphasizing the important role of ASEAN parliamentarians in promoting harmonization of laws to facilitate community-building and the development of a rules-based ASEAN community. They recognized, as specified in the first section of this article, the importance of ASEAN youth as the potential leaders of tomorrow in further reinforcing the ASEAN Community. They acknowledged the continuing contribution of CSOs in ensuring the close engagement of peoples in the community-building process. They stressed the contribution of the private and business sectors in forging a dynamic and competitive ASEAN community. They looked forward to similar engagements with these stakeholder groups in the future and encouraged continued close cooperation at all levels between governments and all sectors of society in the community-building process. They entrusted the Secretary-General of ASEAN with the practical task of helping to coordinate the meetings with a view to ensuring the smooth conduct and concrete outcome of such meetings.

Connectivity was a central theme of the Summit. Therefore, the Leaders recognized that enhancing intra-regional connectivity would benefit all ASEAN Member States

and their peoples. It would contribute to promoting ASEAN centrality in the regional architecture, facilitate the building of an ASEAN Community that is competitive and increasingly interlinked with the wider Asia-Pacific region and the world, and serve as a foundation for a more enhanced East Asian connectivity.

There is consensus on the fact that connectivity is a complex multidimensional concept. Therefore, in the Leaders' view, ASEAN connectivity requires the connecting of the hearts and minds of ASEAN peoples across the region, through closer people-to-people ties, cooperation in education and capacity-building efforts. They welcomed the adoption of the Statement on ASEAN Connectivity which called for the establishment of an ASEAN High Level Task Force (HLTF) to work with the ASEAN Secretariat, the Economic Research Institute for ASEAN and East Asia (ERIA), the Asian Development Bank (ADB), the UN ESCAP and other relevant organizations to develop an ASEAN Master Plan on regional connectivity and report recommendations in this regard to the 17<sup>th</sup> ASEAN Summit.

The imperative of strengthening education could not be omitted from the Chairman's Statement. Consequently, the Leaders underscored the importance of human resource development in promoting understanding among ASEAN peoples and ensuring the competitiveness of the ASEAN Community in the global market. In this regard, they adopted the Cha-Am Hua Hin Declaration on Strengthening Cooperation on Education to achieve an ASEAN caring and sharing society which would promote regional standards of competencies, pro-

mote greater mobility of students within educational institutions in the region, as well as promote ASEAN awareness in all three pillars of the ASEAN Community. To this end, they entrusted relevant Sectoral Ministers to develop a Five-Year Work Plan on Education.

As anticipated, during the Summit extensive discussions took place on the global economic and financial crisis and its adverse impact on the ASEAN region. On this matter, the Leaders underscored the need to continue domestic stimulus packages to ensure sustained recovery. They also supported the G-20 Statement issued at Pittsburgh in September 2009 to implement reforms of the International Financial Institutions (IFIs) to ensure transparent and efficient management of IFIs, and reflect the voice and growing importance of emerging and developing countries. They emphasized the need to strengthen regulatory reform to prevent the recurrence of financial and banking failure. The Leaders agreed that the ASEAN Chair and the Secretary-General of ASEAN should be invited to participate in future G-20 Summits so that ASEAN can present its collective views, as well as ensure close coordination between its regional approaches and the global approach undertaken by the G-20. In this regard, they agreed to entrust ASEAN Finance Ministers to coordinate ASEAN's position ahead of G-20 Summits and to establish an ASEAN G-20 Contact Group comprising the ASEAN Chair, Indonesia and the Secretary-General of ASEAN.

The impact of climate change to the economy, environment and well-being of people in the region was also discussed. On this crucial topic, the Leaders issued the

ASEAN Joint Statement on Climate Change. In this document the Leaders recognized the urgent need to pursue low-carbon green economies to mitigate the impact of climate change and the adaptation of measures for its adverse impacts particularly on food and energy productions.

To ensure food security in times of crisis and disasters, the Leaders tasked the relevant ministers and senior officials to expedite the establishment of an ASEAN Plus Three Emergency Rice Reserve (APTERR), as a permanent mechanism in the region before the East Asia Emergency Rice reserve Pilot Project expires in February 2010.

The Leaders expressed deep condolences and sympathies to all those who were affected by the latest natural disasters which affected some ASEAN Member States and appreciated the actions undertaken thus far by ASEAN Member States, the Secretary-General of ASEAN and the international community to alleviate the plight of those affected. They pledged to enhance cooperation in disaster management and instructed the ASEAN Disaster Management Committee (ACDM) to ensure effective and timely implementation of the ASEAN Standby Arrangements and Standard Operating Procedures (SASOP) and make fully operational the ASEAN Coordinating Centre for Humanitarian Assistance (AHA) under the ASEAN Agreement on Disaster Relief and Emergency Response (AADMER).

The Leaders reaffirmed their collective efforts to enhance regional capabilities in surveillance, preparedness and response to pandemic diseases. They stressed the need to enhance cooperation in the production

of affordable vaccines for Influenza A (H1N1).

A short but clear paragraph of the Statement deals with the need to narrow the development gap between Member States to enhance ASEAN integration. To this end, the Leaders entrusted relevant Ministers to expedite the implementation of the Initiative for ASEAN Integration (IAI) Work Plan II. The Work Plan, together with the three ASEAN Community Blueprints, will help move forward the community-building process in a more balanced, inclusive and sustainable manner.

*ASEAN Political-Security Community* is treated in the Statement in three paragraphs.

*Firstly*, the Leaders reaffirmed their commitment to implement the ASEAN Political-Security Community (APSC) Blueprint which envisages ASEAN to be a rules-based Community of shared values and norms in a just, democratic and harmonious environment; a cohesive, peaceful, stable and resilient region with shared responsibility for comprehensive security; as well as a dynamic and outward-looking region in an increasingly integrated and interdependent world. In this spirit, they welcomed the convening of the first and second meetings of the APSC Council and noted the priority areas of implementation of the APSC Blueprint.

*Secondly*, a special note was made of the accomplishments in implementing the APSC Blueprint, including in particular the accession by the United States of America to the 1976 Treaty of Amity and Cooperation in Southeast Asia (TAC), as a strong signal of its commitment to peace and security in the region and the adoption of the

ARF Vision Statement at the 16<sup>th</sup> ARF which will help ensure that the ARF remains effective and relevant in the evolving regional security architecture.

*Thirdly*, the Leaders reaffirmed the important role that the ASEAN Defense Ministers can play in contributing towards the peace and security of the region and to the realization of the APSC. They welcomed the ASEAN Defense Ministers' aspiration to establish a robust, effective, open and inclusive regional security architecture.

While paying great attention to enhancing regional integration, the Leaders also underscored the need to address and manage various issues challenging peace and security such as terrorism, internal conflicts, land and maritime boundary issues as well as national conciliation.

*The ASEAN Economic Community* is treated in paragraphs 32-41 of the Statement. The Leaders welcomed the outcome of the 2<sup>nd</sup> Meeting of the ASEAN Economic Community (AEC) Council, particularly on the AEC Scorecard that reflects progress made in the implementation of their commitments, and stressed the need to finalize all remaining measures within their given time-line. The Leaders were pleased to learn that the ASEAN Economic Ministers have been engaging in the extensive public-private sector consultations, notably with the textiles and automotive sectors. They looked forward to the continued efforts outreaching to other relevant stakeholders in order to enable them to enjoy the full benefits of the ASEAN Economic Community.

The Leaders noted that the realization of the ASEAN Free Trade Area (AFTA) on 1 January 2010 is well on track. On this issue there is also an interesting announce-

ment which deserves to be specifically mentioned. By 1 January 2010, all tariffs for products in the CEPT Inclusion Lists of the six original signatories to the CEPT Agreement, representing 99.65 percent of total tariff lines, would be eliminated for intra-ASEAN trade. These account for 87.2 percent of total intra-ASEAN imports. The remaining ASEAN members would also not be far behind as 98.86 percent of their products have tariffs within the 0-5 percent range. The effective implementation of this major milestone in AFTA brings ASEAN closer to the ASEAN Economic Community where free flow of goods is one of its major objectives.

On the international arena the Leaders fully supported the G20 statement in Pittsburgh that pledged to seek a conclusion of the Doha Round of trade talks by the end of 2010 and instructed Trade Ministers to examine how the talks are proceeding by early next year at the latest. They tasked their respective representatives in Geneva to work closely with other WTO members to narrow down differences and to seek progress on agriculture, non-agriculture market access, as well as services, rules, trade facilitation and all other remaining issues. However, in a realistic assessment, ASEAN believes that success of the Doha Round must come from concrete engagement from all parties and therefore the Leaders called for active participation, flexibility and political will to move forward from key members in the next few months so that the 2010 target would be truly attainable.

On the topic of *ASEAN Socio-Cultural Community* the Leaders emphasized the importance of promoting better understanding among the peoples of ASEAN, par-

ticularly based on common roots and shared historical heritage which would be the foundations for drawing up common regional projects and setting the strategic direction and strategic thinking for building the ASEAN Socio-Cultural Community. They underlined the importance of getting ASEAN to the people and agreed to utilize various media to offer to the people the shared common destiny and to forge a common identity. In this context, they encouraged Member States to organize socio-cultural activities exchanges such as festivals, publication of books to enhance a better understanding among the peoples and the translation of books/literature into the languages of ASEAN Member States.

The Leaders encouraged the use of English as an official language, the development of ASEAN curriculum, as well as ASEAN awareness activities to be implemented on a regular basis.

A special reference was included in the Statement about the importance of and advancements made in the promotion and protection of the rights of women and children in ASEAN which will complement the work of the AICHR presented above. The Leaders welcomed the adoption of the Terms of Reference of the ASEAN Commission on the Promotion and Protection of the Rights and Women and Children (ACWC) by the ASEAN Ministerial Meeting on Social Welfare and Development and instructed relevant Ministers and Senior Officials to ensure its establishment and operationalization by the 16<sup>th</sup> ASEAN Summit in Viet Nam in 2010.

The Leaders recognized the importance of science and technology in achieving sustainable economic and social development.

They expressed a common desire for a creative economy and knowledge-based society through strengthening research and development cooperation, pooling of technologically qualified manpower, as well as promoting networks of scientific and technological institutions and centers of excellence.

*Regional and international issues* are widely reflected in the Statement. For obvious urgent reasons, the Leaders underscored the importance of achieving national reconciliation in Myanmar and estimated that the general elections to be held in Myanmar in 2010 must be conducted in a fair, free, inclusive and transparent manner in order to be credible to the international community.

Dealing with the situation in the Korean Peninsula, the Leaders urged North Korea to comply fully with its obligations in accordance with the relevant UN Security Council resolutions. They urged all concerned parties to return to the Six Party Talks process as soon as possible and fully implement their commitments made in previous rounds of the Six-Party Talks which remains the main mechanism for achieving peace and stability in the Korean Peninsula.

On the regional architecture and the East Asian Community the Leaders welcomed the completion in 2009 of ASEAN's regional free trade agreements and comprehensive economic partnership agreements with the six Dialogue Partners (Australia, China, India, Japan, New Zealand and the Republic of Korea) which should help promote greater trade and investment cross-flows within the region. They agreed to the recommendations of both East Asia Free Trade Agreement (EAFTA) and the Com-

prehensive Economic Partnership for East Asia (CEPEA) studies together and set up four Working Groups on rules of origin, tariff nomenclature, customs-related issues and economic cooperation to take forward East Asia integration. They tasked the Economic Ministers to make recommendations on this matter. They looked forward to discussing with their Dialogue Partners on the future direction of a regional architecture with the ASEAN Community serving as its core.

It should be noted that the above considerations about the East Asian Community are quite general by their nature and will need further clarifications to become implementable.

More specific commitments were formulated on the important issue of the Review Conference of the Nuclear Non-Proliferation Treaty (NPT). In this regard, the Leaders recognized that the NPT is the central mechanism to contain and eliminate the threats of weapons of mass destruction. In this regard, they welcomed the Philippine's Presidency of the May 2010 NPT Review Conference, and committed themselves to working together to achieve a successful outcome of the Conference on the three pillars of nuclear disarmament, nuclear non-proliferation, and peaceful uses of nuclear energy. They also encouraged individual ASEAN Member States to make progress in becoming signatory or party to the Comprehensive Test Ban Treaty (CTBT), before the NPT Review Conference in 2010.

An essential section of the Statement is dedicated to ASEAN's External Relations. In this regard, the Leaders welcomed the interaction between the Committee of Permanent Representatives (CPR) and the non-ASEAN Ambassadors to ASEAN in



Jakarta which would be instrumental in enhancing relations and cooperation between ASEAN and its external partners.<sup>22</sup>

The Leaders welcomed the signing of ASEAN-China Investment Agreement on 15 August 2009 which effectively completed the mandate of the Framework Agreement on Comprehensive Economic Cooperation signed in 2002. The Leaders were pleased to note the progress in the implementation of the ASEAN-China Trade in Goods Agreement and looked forward to the realization of the ASEAN-China Free Trade Area (ACFTA) on 1 January 2010 when ASEAN 6 and China eliminate tariffs on products in their Normal Track. China has become ASEAN's third largest trading partner in 2009.

The signing of the three Memoranda of Understanding (MoU) between ASEAN and China was especially noted. It concerns: the MoU on Establishing ASEAN-China Centre, MoU on Cooperation in the Field of Intellectual Property, and MoU on Strengthening Cooperation in the Field of Standards, Technical Regulations and Conformity Assessment.

On relations with Japan, the Leaders welcomed the report of the ASEAN-Japan Eminent Persons Group with recommendations to deepen and broaden further the strategic partnership. They encouraged closer people-to-people contacts, especially among the younger generation, through the expansion of Japan-East Asia Network of Exchange for Students and Youth Programs (JENESYS) for ASEAN youths. They also welcomed Prime Minister Hatoyama's initiative to provide assistance to developing countries in mitigating and adapting to climate change, as well as the Mekong-Japan

Cooperation Framework to help narrow the development gaps in ASEAN.

The Leaders welcomed the signing of the ASEAN-Korea Investment Agreement on 2 June 2009 and its entry into force in September 2009. They were pleased to note that, with the signing of the Investment Agreement, the mandate of the ASEAN-Korea Framework Agreement on Comprehensive Economic Cooperation signed in 2005, has been completed. They also noted that the ASEAN-Korea Free Trade Area would be realized on 1 January 2010, when ASEAN 6 and Korea implement their commitment to eliminate tariffs on products in their Normal Track. They noted the impressive rate at which ASEAN-Korea trade has been growing. In 2008, ASEAN-Korea trade grew by 23.4 percent compared with 9.5 percent in 2007. ASEAN is now the third largest trading partner of Korea and Korea is ASEAN's fifth largest trading partner.

With reference to India, the Leaders welcomed the signing of ASEAN-India Trade in Goods Agreement on 13 August 2009. The Agreement is expected to create a free trade area comprising about 1.7 billion people with a combined gross domestic product of approximately US\$ 2.75 trillion as of 2008. They instructed their senior officials to exert maximum effort towards concluding negotiations in services and investment to complete the mandate in the Framework Agreement on Comprehensive Economic Cooperation between ASEAN and India, which they signed in 2003. They also encouraged the early establishment of ASEAN-India Business Council to strengthen business networks and opportunities.

One of the most significant and topical paragraphs of the Statement is dedicated to the decision by the United States and ASEAN to convene the ASEAN-U.S. Summit in Singapore on 15 November 2009. This diplomatic event marked a historic point in ASEAN-U.S. Dialogue Relations. The Leaders estimated that the Summit is a reflection of the strong commitment of the current US Administration to deepen and expand its engagement with ASEAN. The Leaders looked forward to the United States working closely with ASEAN to develop regional connectivity and to playing a pivotal role in contributing to the regional architecture in the Asia Pacific area.

In the last 57<sup>th</sup> paragraph of the Statement the Leaders took note of Viet Nam's proposal to host the 16<sup>th</sup> ASEAN Summit in Ho Chi Min City in April 2010 and the 17<sup>th</sup> ASEAN Summit and Related Summits in Ha Noi in October 2010.<sup>23</sup>

#### **4. Realistic Expectations**

Having presented the content of the programmatic Chairman's Statement, it is convenient to note that Abhisit Vejjajiva, Prime Minister of the Kingdom of Thailand, in his speech at the Closing Ceremony of the 15<sup>th</sup> ASEAN Summit and Related Summits on 25 October 2009 recalled that upon assuming ASEAN's Chairmanship Thailand laid down three goals. The first was to realize the ASEAN Charter, to operationalize new organs under the Charter, to inaugurate the ASEAN Intergovernmental Commission on Human Rights (AICHR). Achieving this is a highlight and reflects ASEAN's determination to realize a truly people-centered Com-

munity by 2015.

The second goal was to revitalize a people-centered and more integrated ASEAN Community. Connectivity – both physical and of the hearts and minds of our peoples – was a key topic of discussions.

The third goal was to reinforce human security for all. The Leaders have worked together to collectively address the challenges facing ASEAN region and peoples: the global economic and financial crisis; climate change; food and energy security; infectious disease; natural disasters. ASEAN's collective voice and views on these issues have been heard on the world stage and reflect the vibrant spirit of cooperation among ASEAN's members and their recognition of their shared destiny.

Thailand concludes her ASEAN Chairmanship on 31 December 2009. On the basis of her political and diplomatic experience Thailand offered some thoughts on how to embark on a new era of ASEAN cooperation.

First, it is necessary to make sure that ASEAN meetings produce 'concrete' outcomes to help address pressing issues affecting the well-being of peoples. Second, ASEAN has to ensure 'continuity' in its work so that all its decisions will be translated into real actions. Third, it is necessary to ensure that ASEAN continues to play a 'constructive' role in engaging with its external partners to maintain ASEAN's centrality in the evolving regional architecture.<sup>24</sup>

In another separate Statement dealing with the topic of "Regional Economic Integration: Are Our Present Models of Regionalism such as APEC and ASEAN Adequate?" made at APEC CEO Summit in Singapore on November 14, 2009, Abhisit

Vejjajiva said that it would be unfair to think about any regional cooperation architecture in the abstract. A more appropriate way of looking at this architecture is to ask the right question. Is the current architecture serving the needs of the people in the region; Can they complement each other; and Whether they continue to evolve to respond to the changing circumstances and challenges? In his opinion ASEAN has proved to be responsive to these key challenges.

The examples given in this regard are quite convincing. When the financial crisis took place, ASEAN and three of its Dialogue Partners took the Chiang Mai Initiative to a further level. They multilateralized it, increased the reserves pool, and it is coming into operation in 2010. It is as a model of regional cooperation to provide a facility that could help countries in the region if they should face liquidity problems, to complement the work of the International Monetary Fund.

Another example is about the need to say “no” to protectionism. In this regard ASEAN not only reaffirmed its commitment for free trade, against protectionism, but proved it by actually proceeding with the signing of further free trade agreements and economic partnerships with Dialogue Partners. This example suggests that the current institutional architecture is serving the needs of the people and is responding to the challenges that are posed by various situations.<sup>25</sup>

It should be also recalled that the work of ASEAN complements the work of other regional fora. It provides the core of East-Asia Summit, and the ASEAN Plus fora, including the ASEAN Regional Forum, as well as ASEAN and Dialogue Partners summits. ASEAN as a group is able to bring

around the table leaders of significant economic powers which it would be very difficult to imagine them getting together if ASEAN did not provide this centrality. However, ASEAN centrality has to be earned, and that’s why it is important for ASEAN to continue to evolve and should not be complacent. The argument that the current architecture is serving well the area of Southeast Asia should not distract ASEAN or lead it to conclude that it shouldn’t evolve.

As a general conclusion coming from Thailand as Chair of ASEAN in 2009, it should be recalled that in a Special Lecture on “Thailand’s Role in ASEAN”, given on August 8, 2009, Abhisit Vejjajiva said that ASEAN is now a single house, where more than 580 million people are residing. And although these peoples continue to be different, diverse, they have different strengths and some weaknesses. But they are now determined to live together, to seek complementarities, to cooperate, and put in that collective efforts for the good of all.<sup>26</sup>

## 5. Moderate Optimism

Under the title *EU-style Asian bloc dream* a largely circulated daily, the *New Nation*, published in Bangladesh, in its edition dated November 27, 2009, informed its readers that dreams of creating a huge economic bloc covering half the world’s population are slowly becoming a reality in a plan that would boost Asia’s global clout. In this context, the new Japanese Prime Minister Yukio Hatoyama’s proposal made at an East Asian regional summit held in October 2009 in Thailand is quoted. Yukio

Hatoyama suggested that the region should aspire to 'lead the world'. The plan still lacks details and is fraught with challenges, but much of the groundwork has already been done for a grouping that would further advance the idea of an 'Asian Century'.

In the same article, it is recalled that, as stated by experts, a more cohesive Asia would have a bigger role in global affairs, especially after the region rode out the global economic crisis more quickly than the West. It is not just Asia coming together economically but politically as well, according to the ASEAN Studies Centre chief. The foundations of any East Asian community would lie in the web of free trade agreements that the 10-member ASEAN has signed with number of countries. The regional leaders agreed at the Thailand Summit in October 2009 to carry out a feasibility study on a huge free-trade zone covering ASEAN, China, Japan and South Korea. A separate study on a wider grouping will be carried out in tandem and the two could be combined to create one larger bloc.

East Asia agreed in 2009 on a \$120 billion fund-using its currency reserves – to help nations in financial distress without the need to borrow from the IMF. Asian countries additionally made a concerted effort to provide stimulus packages during the recent economic recession which helped the region's relatively quick rebound. China's growing wealth has made it a major player in meetings with ASEAN in particular.<sup>27</sup>

These assessments and predictions request an attentive critical scrutiny.

For a balanced and well informed evaluation of the ASEAN's real political status in 2009 we will appeal again to the analysis made by Dr. Kantathi because of the cred-

ibility derived from the direct knowledge of ASEAN matters by a former head of Thai diplomacy.

In Kantathi's view, ASEAN is a truly home-grown organization created by the non-communist Southeast Asian countries, with no external input or influence. Its founders knew that unity means strength and created an institutional framework to manage relations in Southeast Asia, thus opening a home-grown regional architecture for international relations.

"I would say that we succeeded", asserts Dr Kantathi, in retrospect. The ASEAN framework was helpful to member states in the management of their relations. The initial strategy was meant to solve the solvable problems and enhance cooperation, while shelving the difficult and sensitive problems for future discussion. Another goal was: avoid armed conflicts between member states. "I think we got an A-for that", Dr Kanthathi says.<sup>28</sup>

For historical accuracy, in the same presentation it is recalled that in 1979 an armed conflict took place outside of the ASEAN area in Southeast Asia. Vietnam invaded and occupied Cambodia (known then as Kampuchea). ASEAN reacted effectively, using multilateral diplomacy at the UN. ASEAN's message to the world was clear. Vietnam's invasion and occupation of Kampuchea were illegal and must be reversed.

What happened afterwards? In a very short summary it should be recognized that during the process of ending the Cold War Cambodia, Laos, Myanmar and Vietnam have all joined ASEAN as full members and the new challenge was to change the underlying assumption among Southeast Asian

nations from zero-sum to positive sum. During the Cold War countries of this area were jealous of one another and had the assumption that each of them could only benefit at the expense of its neighbors. “We understand now that working together means winning together”, concludes Dr Kanthati.<sup>29</sup>

Taking ASEAN diplomatic practice as an example to be analyzed, professor Amitav Acharya from the American University noted that ASEAN was the only organization in the world where weaker countries would host and set agenda’s for more powerful countries to follow. This practice is considered to be unique and it was developed through the creative construction of the ASEAN regional architecture or ASEAN regional groupings to engage external powers. All these different groupings have different compositions and levels of meetings. While the US is represented in the ASEAN Plus One formula and in the ARF, it does not participate in the ASEAN Plus 3 or the EAS. The ASEAN Plus conferences and the EAS are organized at the summit level, while the ARF meetings take place at the ministerial level.<sup>30</sup>

From a wider institutional perspective, ASEAN is the only entity that all the above mentioned groupings have in common. All meetings are convoked, organized and hosted by ASEAN. In accordance with existing consensus, participants are selected by ASEAN who is always in the driver's seat and plays a central role in all the meetings. Consequently, Dr. Kanthati’s conclusion is: “*This was how ASEAN created strength from relative weakness*”.<sup>31</sup>

There are many authoritative assessments about the ASEAN’s economic potential. The International Monetary Fund cir-

culated data according to which “58 percent of global economic growth between 2009 and 2014 will be provided by China, India, Brazil, Argentina, South Africa and the ASEAN countries”.<sup>32</sup>

In the article “My Political Philosophy” by Yukio Hatoyama published in English in *The Wall Street Journal* on September 3, 2009 the author emphasizes the obvious fact that unlike Europe, the Asian countries differ in their population size, development stage and political systems, and therefore economic integration cannot be achieved over the short term. However, Yukio Hatoyama believes that Asian countries should aspire to the move towards regional currency integration as a natural extension of the path of the rapid economic growth begun by Japan, followed by South Korea, Taiwan and Hong Kong, and then achieved by the ASEAN and China. “We must therefore spare no effort to build the permanent security frameworks essential to underpinning currency integration”, asserts Yukio Hatoyama.<sup>33</sup>

The arguments advanced by Yukio Hatoyama cannot be under-estimated. In his opinion, ASEAN, Japan, China (including Hong Kong), South Korea and Taiwan now account for one quarter of the world’s gross domestic product. The economic power of the East Asian region and the mutually independent relationships within the region have grown wider and deeper, which is unprecedented. As such, the underlying structures required for the formation of a regional economic bloc are already in place. On the other hand, due to the historical and cultural conflicts existing between the countries of this region, in addition to their conflicting national security interests, it must be recog-



nized that there are numerous difficult political issues. The problems of increased militarization and territorial disputes, which stand in the way of regional integration, cannot be resolved by bilateral negotiations. Therefore, Yukio Hatoyama suggests that the issues which stand in the way of regional integration can only really be resolved through the process of moving towards greater regional integration. For example, the experience of the EU shows how regional integration can defuse territorial disputes.<sup>34</sup>

At the Summit with ASEAN Leaders on November 15, 2009 in Singapore, US President Barack Obama endorsed ASEAN centrality in future attempts to build a new regional architecture, recognizing that ASEAN as a driving force has an overall positive impact on the future US role in ASEAN and the Asian region as a whole. What will be the result? The answer offered by experts is thought – provoking: a new ASEAN is emerging that is no longer uptight and defensive.<sup>35</sup>

A related development emerges. Experts who attended ASEAN's Summits in Thailand in 2009 believe that ASEAN as an institution had more positive reactions in its dealings with external partners, being more receptive to new ideas and was more willing to listen to and consider proposals advanced by Japan and Australia.

Without advancing conventional explanations, the general conclusion seems to be that past skepticism is overcome and ASEAN is open to new approaches and initiatives leading to the strengthening of its role not only in Southeast Asia, but also at inter-regional and global levels. Building a regional architecture is no more conceived

as being limited to the ASEAN +3 process. It is a flexible process oriented towards a multidimensional diplomacy capable of offering fresh solutions to challenging problems.<sup>36</sup>

However, this promising trend risks being seriously affected in its advance by some disturbing events in intra-ASEAN relations. There are ongoing disputes among some countries of the area which are in direct contradiction with ASEAN's fundamental principles of non-interference, good neighborliness and peaceful settlement of disputes. ASEAN has proved to be non-instrumental in resolving disputes among its members. The relevant legal and institutional fundamentals are not used. In conformity with the Treaty of Amity and Cooperation (1976), ASEAN has a High Council for such a purpose but the members do not use it. However, there was no war among ASEAN members in the past 42 years.<sup>37</sup>

There is widespread agreement that in the years to come there are good perspectives for a more substantive diplomatic dialogue at all levels between ASEAN and its partners. Permanent diplomatic representatives to ASEAN will facilitate this process. The US and China have already decided to open their diplomatic missions to ASEAN in Jakarta by early 2010. On December 1, 2009, 27 countries have already fully accredited ambassadors to ASEAN.<sup>38</sup> This accreditation process will continue and will contribute to a better performance of the basic functions of diplomacy concerning negotiation, representation, information and promotion of multilateral cooperation.

However, some deep difficulties of a more general nature in relationships between ASEAN and the rest of the world

are far from being eliminated. As pointed out by Kazuo Ogoura, president of The Japan Foundation, many media commentators in Europe and the United States have taken a pessimistic view of ASEAN's future. Reference is made in this context to the fact that investment flows into the region are not growing as fast as those into China and other countries. ASEAN's role as a forum for political consultation is given even lower marks. Because the body is guided by a "principle of non-interference in internal affairs", for example, ASEAN has been criticized for its failure to resolve the military rule in Myanmar.

In the opinion of Kazuo Ogoura, these comments reveal in fact a lack of understanding about ASEAN's stature. ASEAN does not necessarily follow the European model of restricting the sovereignty of member states. It is precisely because of the principle of non-interference, paradoxically, that member states have been able to commit themselves to joint ASEAN goals. Measuring ASEAN's effectiveness by European standards is thus misguided.

The final conclusion of the Japanese author is that the attempts to impose European values on ASEAN represent a disregard of ASEAN's history. ASEAN must be seen through Asian eyes, not through the filter of Western values.<sup>39</sup>

How should be future developments envisaged from the perspective of ASEAN itself? While this review is not meant to be exhaustive, it does lead to some prudent conclusions based on persuasive facts.

Under the suggestive title *Re-engaging ASEAN, Re-affirming Its Centrality*, the ASEAN Secretariat, on November 19, 2009 circulated a press-release containing

an interesting assessment. It reads: "The plethora of regional architectures that has been proposed in recent times, not by ASEAN but by some of ASEAN's Dialogue Partners, seem to convey that the region is no longer playing a central role in the evolving regional make-up".<sup>40</sup>

However, in a quite optimistic way it is reminded that the re-engagement by one of ASEAN's oldest Dialogue Partners with the region seems to have debunked that theory. Specifically, the pace and manner that the US, under the Obama Administration, is re-engaging the region, is certainly re-affirming that centrality, observed Dr Surin Pitsuwan, the Secretary-General of ASEAN.<sup>41</sup>

The historic ASEAN-US Summit held in Singapore on November 15, 2009 concluded with a Joint Statement in which the Leaders said that the United States will support ASEAN's continuing role in multilateral efforts where ASEAN has a growing ability to make contributions. "The President of the United States also supported regional efforts initiated by ASEAN and ASEAN-led fora, to address the impact of the global financial and economic crisis in the region and looked forward to continued close coordination between such regional efforts and the global efforts undertaken by the G-20".

The Leaders, in recognition of the important role of ASEAN in regional issues, said that they shared a vision of a regional architecture that is inclusive, promotes shared values and norms, and respects the diversity within the region. "We agreed to work closely together in building this regional architecture, and were ready to study initiatives of this nature. We reaffirmed the importance of ASEAN centrality in this pro-

cess”, the ASEAN-US Summit Statement reads.<sup>42</sup>

President Barack Obama in his remarks had referred to ASEAN as an “organization of global importance” and was also quoted as saying that, the “US is not just a Dialogue Partner but a member of the ASEAN family due to linkages with families in America.”<sup>43</sup>

Noting the series of high-level interactions with ASEAN in 2009 and characterizing the transformation as “seismic”, Dr Surin Pitsuwan said that ASEAN centrality has received a crucial boost at time when recent developments seemed to question it. During the 15<sup>th</sup> ASEAN Summit and Related Summits in Thailand, Japan had proposed building, in the long run, an East Asian community, while Australia had proposed an Asia Pacific community.

As a general conclusion to be drawn from all these significant events and proposals, Dr Surin Pitsuwan said that it is the responsibility of the region to ensure ASEAN centrality, as it is the cornerstone of the region’s architecture, while ASEAN had to deepen its political and economic integration and also contribute more to the direction of any evolving architectures.<sup>44</sup>

What should be avoided while dealing with future predictable and un-predictable events in ASEAN’s evolution? From the diplomatic point of view exaggerated expectations should not be formulated or promoted. Indeed, history’s lessons are clear and uncontroversial and should not be forgotten: the grander the rhetoric about the future, the less impressive is the reality of Asian regionalism. It must not be forgotten, as mentioned earlier, that only 30 percent of ASEAN agreements are being imple-

mented. Confronted with this reality, analysts are justified to ask what will be the fate of agreements concluded in 2009, after the ASEAN Charter entered into force.

The ASEAN Charter has unavoidable legal and institutional limitations in its reach. Therefore, an effective way to maintain peace, stability and promote economic dynamism in the whole area covered by ASEAN would be to further strengthen and adapt this regional institution in order to maintain a lasting equilibrium in the region. A much stronger spirit of cooperation and some more innovative institution building efforts are crucial for ASEAN’s destiny. Recent events demonstrate that ASEAN is firmly engaged on this decisive road.<sup>45</sup>

In a keynote speech on “Building an ASEAN Economic Community (AEC) in the Heart of East Asia” at the International Symposium on East Asia Beyond the Global Economic Crisis held on 1 December 2009 in Tokyo, the Secretary-General of ASEAN, Dr Surin Pitsuwan, clearly stated that “ASEAN cannot be ad-hoc and informal in its approach to Community building. From now on, it will be more legalistic and more systematic....The ASEAN Charter and the Roadmap for an ASEAN Community are logical steps forward, especially in the context of increasing interdependence among ASEAN Member States”, he added.<sup>46</sup>

In a meeting with Yukio Hatoyama, the Prime Minister of Japan, Dr Surin Pitsuwan informed that “ASEAN endeavors to maintain ASEAN centrality by strengthening its commitment towards the 2015 target and we are resolved to deliver on promises espoused in the ASEAN Charter and the Roadmap for an ASEAN Community”.<sup>47</sup>

As already alluded to, ASEAN is involved in global, regional and inter-regional diplomacy. Its initiatives are first of all identifiable at the level of the geographic area covered by this institution. These initiatives may have a strong impact on global relations as a result of the unprecedented interdependence of nations which has led to the universalization of neighborhoods. In its practical manifestations regional diplomacy is in fact a form of multilateral diplomacy conducted between neighboring states.<sup>48</sup> The cumulative effect of all these initiatives remains to be seen in the coming years.

ASEAN's regional diplomacy as developed by a regional institution and by its 10 members is expected to give more tangibility to its initial and subsequent aspirations and to contribute to establishing more solid economic links, to improving mutual political understanding and promoting regional security. As an experienced practitioner of regional diplomacy, ASEAN has the potential to offer inspiring patterns and models for other continents. Therefore, it is not surprising that the marginalization of ASEAN is no more on the menu of global diplomacy.

While ASEAN's aspirations to move forward in fulfilling its mandate are obvious, its commitments should not remain at a declarative stage. ASEAN's institutional progress is not spontaneous and cannot be taken for granted. There are considerable difficulties, if not perennial, in implementing its ambitious Blueprints for an authentic ASEAN Community. The ASEAN Charter contains many promising stipulations, but they need good faith implementation by all its ten members. ASEAN cannot advance without full compliance of its members to its new provisions, rules, mechanisms and

legal instruments.

A fundamental question is: can ASEAN really and successfully cope with future predictable and unpredictable challenges (global or regional)? In this regard is ASEAN able and equipped to take the lead in genuine institution building in the East Asia region?

To use evaluative language, in a short realistic assessment, ASEAN can play a more important role in its own area and on the global arena only if all its members cooperate more actively and closely in all fields. In an era of planetary vulnerabilities, both ASEAN as a regional institution with clear legal personality and all its members must be more dynamic, they should speak to the world with one voice in a spirit of genuine solidarity and demonstrate a visible identity in international affairs, while dealing with current crises and new challenges.

One last point. Vietnam's Chairmanship of ASEAN in 2010 will further test the capacity of this regional organization to harmonize its aspirations with the changing realities of the irreversible process of globalization.

## Endnotes

<sup>1</sup>See Philippe Sands Q.C. and Pierre Klein, *Bowett's Law of International Institutions*, Sixth Edition, London, Sweet & Maxwell, 2009, p.231. For an Asian approach on the matter see C. Rodolfo Severino, *Southeast Asia in Search of an ASEAN Community*, Singapore Institute of Southeast Asian Studies, 2006, 520 p. A significant forthcoming book is Mark Turner, *ASEAN Regionalism: Co-operation, Val-*

ues and Institutionalisation, (Routledge Security in Asia Pacific Series) Routledge, London, 2010, 256 p. The information and data quoted in the present article are mostly taken from the official sources available on the ASEAN site at <http://www.aseansec.org> visited numerous times in November and December 2009.

<sup>2</sup>ASEAN was established on 8 August 1967 in Bangkok by the five original Member Countries, namely, Indonesia, Malaysia, Philippines, Singapore, and Thailand. Brunei Darussalam joined on 8 January 1984, Vietnam on 28 July 1995, Lao PDR and Myanmar on 23 July 1997, and Cambodia on 30 April 1999. See the relevant section about ASEAN members at <http://www.aseansec.org>. A relatively recent general book about ASEAN is Ellen L. Frost, *Asia's New Regionalism*, NUS Press, 2008, 292 p. The author asserts: "...ASEAN is extremely weak, but its very weakness makes it least distrusted. Under its roof some very creative diplomacy is taking place". *op.cit.* p.3.

<sup>3</sup>Dr Kantathi Suphamongkhon, former foreign minister of Thailand, provided a recent overview of ASEAN diplomacy at a conference jointly organized by Chile Ministry of Foreign Affairs and Chile Pacific Foundation on 29 October 2009. See *The Nation*, November 13, 2009 (online edition). For a more general approach to this topic, see David Shambaugh, Michael Yahuda, *International Relations of Asia (Asia in World Politics)*, Rowman & Littlefield Publishers, New York, 2008, 392 p.

<sup>4</sup>The full text of the ASEAN Charter is available at <http://www.aseansec.org>. For a very preliminary analysis of this important legal instrument see Tony Hotland, ASEAN

Charter ushers in historic new era for region, *The Jakarta Post*, December 16, 2008. For a recent and lucid assessment of this legal instrument see Tommy Koh, ASEAN Charter at one: A thriving tiger pup, *The Straits Times*, December 9, 2009.

<sup>5</sup>See the following articles: Kavi Chongkittavorn, First ASEAN-US summit: symbol and substance, *The Nation*, November 2, 2009. Kavi Chongkittavorn, US policy on Asia: balanced and pragmatic, *The Nation*, November 16, 2009. Kavi Chongkittavorn, ASEAN: from defiance to accommodation, *The Nation*, November 23, 2009.

<sup>6</sup>The most recent and comprehensive publication about UN-ASEAN relations is *Striving Together. ASEAN & the UN*, United Nations, ESCAP, Bangkok, 2009, 76 p. To identify the resolution A/RES/63/35 of November 26, 2008 entitled Cooperation between the United Nations and the Association of Southeast Asian Nations, as well as the relevant report of the UN Secretary-General see <http://www.un.org/ga/63/resolutions.shtml> visited on November 25, 2009.

<sup>7</sup>For the full text of the resolution see <http://www.un.org/ga/63/resolutions.shtml>.

<sup>8</sup>See UN Press Release SG/2156 of September 26, 2009.

<sup>9</sup>The Joint United Nations-Association of Southeast Asian Nations (ASEAN) press statement following the UN-ASEAN ministerial-level meeting in New York in September 2009 is available at [www.un.org/News/Press/docs/2009/sg2156.doc.htm](http://www.un.org/News/Press/docs/2009/sg2156.doc.htm) visited on November 25, 2009.

<sup>10</sup>For the full text of the resolution see <http://www.un.org/ga/64/resolutions.shtml>.

<sup>11</sup>See Tommy Koh, ASEAN Charter at



one: A thriving tiger pup, *The Straits Times*, December 9, 2009.

<sup>12</sup>See articles by Kavi Chongkitta-vorn, mentioned in note 5 supra.

<sup>13</sup>All statements by Dr. Surin Pitsuwan are available at <http://www.aseansec.org>.

<sup>14</sup>On ASEAN Day see the relevant section at <http://www.aseansec.org>.

<sup>15</sup>See note 14 supra.

<sup>16</sup>All documents of the 14<sup>th</sup> ASEAN Summit are available at <http://www.aseansec.org/20100.htm> visited several times in November and December 2009.

<sup>17</sup>To consult all documents of the 15<sup>th</sup> ASEAN Summit see <http://www.aseansec.org/20100.htm> visited several times in November and December 2009.

<sup>18</sup>The full text of the document can be accessed from <http://www.aseansec.org/20100.htm>.

<sup>19</sup>All enumerated documents can be consulted at <http://www.aseansec.org/23498.htm>. A more detailed presentation of the ASEAN Summits is available at <http://www.15thaseansummit-th.org/> visited several times in October-December 2009.

<sup>20</sup>For the Chairman's Statement see in particular <http://www.15thaseansummit-th.org/>.

<sup>21</sup>See Ellen L. Frost, *Asia's New Regionalism*, NUS Press, p.136

<sup>21bis</sup>Tommy Koh, art.cit., note 11 supra.

<sup>22</sup>As stipulated in Article 46 of the ASEAN Charter, non-ASEAN member states and relevant inter-governmental organizations may appoint and accredit ambassadors to ASEAN. As of December 1<sup>st</sup> 2009 the list of 27 ambassadors accredited to ASEAN is as follows: Australia, Austria, Bulgaria, Canada, China, Czech Republic, Denmark, European Commission, Finland,

France, Greece, India, Italy, Japan, Republic of Korea, Libya, Luxembourg, New Zealand, Norway, Peru, Portugal, Romania, Russia, Spain, Switzerland, United Kingdom, United States. See the relevant section at <http://www.aseansec.org> visited on December 1, 2009.

<sup>23</sup>In accordance with the existing practice, the Chairman's Statement summarized in this article, available at <http://www.15thaseansummit-th.org/>, is now under active consideration by the competent authorities in all 10 ASEAN member states.

<sup>24</sup>For the full text see <http://www.thaigov.go.th/eng/> visited on November 28, 2009.

<sup>25</sup>The text containing these assessments is available at <http://www.thaigov.go.th/eng/>.

<sup>26</sup>The special lecture can be consulted at <http://www.thaigov.go.th/eng/> visited on November 29, 2009.

<sup>27</sup>The article is available in e-version at <http://nation.ittefaq.com/issues/2009> visited on December 2, 2009.

<sup>28</sup>See Dr Kantathi Suphamongkhon's overview, note 3 supra.

<sup>29</sup>For further details see Dr Kantathi Suphamongkhon's overview, note 3 supra.

<sup>30</sup>See Amitav Acharya, *Reconstructing ASEAN: Challenges for the 21<sup>st</sup> Century*, *The Jakarta Post*, July 18, 2009.

<sup>31</sup>See note 3 supra.

<sup>32</sup>The quotation is from the statement of the United States Trade Representative, Ambassador Ron Kirk, at the Opening Plenary of the 7<sup>th</sup> Session of the WTO Ministerial Conference, November 30, 2009, available at <http://www.ustr.gov/about-us/press-office/blog/2009/november>.

<sup>33</sup>See Yukio Hatoyama, *My Political Philosophy*, *The Wall Street Journal* Sep-

tember 3, 2009.

<sup>34</sup>See Yukio Hatoyama, art.cit.

<sup>35</sup>See Kavi Chongkittavorn, ASEAN: from defiance to accommodation, *The Nation*, November 23, 2009, as well as other articles by the same author mentioned supra in note 5.

<sup>36</sup>See Kavi Chongkittavorn, art.cit., note 35.

<sup>37</sup>See Kavi Chongkittavorn and Tommy Koh, art.cit., notes 5 and 11.

<sup>38</sup>For the full list of 27 ambassadors accredited to ASEAN see note 22 supra.

<sup>39</sup>Kazuo Ogoura, ASEAN through Asian eyes, *The Japan Times*, February 5, 2008.

<sup>40</sup>See the full text of the press-release at <http://www.aseansec.org/23972.htm> visited on November 30, 2009.

<sup>41</sup>See note 40 supra.

<sup>42</sup>The full text of the ASEAN – US Joint Statement is available at <http://www.aseansec.org/23972.htm>.

<sup>43</sup>All relevant statements and remarks are available at <http://www.whitehouse.gov>. For a critical assessment see Elliott Abrams, People Not Placards, *The Weekly Standard*, November 27, 2009.

<sup>44</sup>Dr. Surin Pitswuan's relevant statements and remarks are available at <http://www.aseansec.org/23972.htm> visited in November and December 2009.

<sup>45</sup>See the following articles about the ASEAN Charter: Tony Hotland, ASEAN Charter ushers in historic new era for region, *The Jakarta Post*, December 16 2008; Tommy Koh, ASEAN Charter at one: A thriving tiger pup, *The Straits Times*, December 9, 2009.

<sup>46</sup>See note 44 supra.

<sup>47</sup>Dr. Surin Pitswuan's remarks were widely publicized. See, for instance, [www.pia.gov.ph/?m=12&fi=p091203.htm&no=14](http://www.pia.gov.ph/?m=12&fi=p091203.htm&no=14) dated December 3, 2009.

<sup>48</sup>On ASEAN's foreign relations see in particular Jurgen Haacke, *ASEAN's Diplomatic and Security Culture: Origins, Development and Prospects* Routledge, London, 2009, 304 p.

## APPENDIX

### List of documents from ASEAN's Summits in 2009

Chairman's Statement of the 14<sup>th</sup> ASEAN Summit, "ASEAN Charter for ASEAN Peoples", Cha-Am, 28 February - 1 March 2009; Press Statement on the Global Economic and Financial Crisis, Cha-Am, Thailand, 1 March 2009; Joint Statement of the Fifth Brunei Darussalam-Indonesia-Malaysia-Philippines East ASEAN Growth Area Summit (5<sup>th</sup> BIMP-EAGA Summit), Hua Hin, Thailand, 28 February 2009; "ASEAN and World Food Security": A Video Launched in Conjunction with the 14<sup>th</sup> ASEAN Summit, Cha-Am, Thailand, 27 February 2009; Joint Media Statement of the Inaugural ASEAN Economic Community (AEC) Council Meeting, Cha-Am, Thailand, 27 February 2009; Joint Media Statement on the Signing of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area, Cha-Am, Thailand, 27 February 2009; ASEAN Political-Security Community Blueprint, Cha-Am, Thailand, 1 March 2009; Blueprint for the ASEAN Socio-Cultural Community (2009-2015), Cha-Am, Thailand, 1 March 2009; Cha-Am Hua Hin Declaration on the Roadmap for the ASEAN Community (2009-2015), Cha-Am, Thailand, 1 March 2009; Statement on Food Security on the ASEAN Region.

In addition to the above list, more specialized documents deserve to be mentioned, such as: ASEAN Integrated Food Security (AIFS) Framework and Strategic Plan of

Action on Food Security in the ASEAN Region (SPA-FS) 2008-2013); Joint Declaration on the Attainment of the Millennium Development Goals in ASEAN, Cha-Am, Thailand, 1 March 2009; ASEAN Petroleum Security Agreement, Cha-Am, Thailand, 1 March 2009; Initiative for ASEAN Integration (IAI) Strategic Framework and IAI Work Plan 2 (2009-2015); Protocol on the Accession of the Kingdom of Thailand to the Agreement on Trade in Services Under the Framework Agreement on Comprehensive Economic Cooperation Among the Governments of the Member Countries of the ASEAN and the Republic of Korea; Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area, Cha-Am, Thailand, 27 February 2009; Implementing Arrangement for the ASEAN-Australia-Australia-New Zealand Free Trade Area Economic Co-Operation Work Program Pursuant to Chapter 12 (Economic Co-Operation) of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area; Understanding on Article 1 (Reduction And/Or Elimination of Customs Duties) of Chapter 2 (Trade in Goods) of the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area; ASEAN Mutual Recognition Arrangement on Medical Practitioners, Cha-Am, Thailand, 26 February 2009; ASEAN Mutual Recognition Arrangement on Dental Practitioners, Cha-Am, Thailand, 26 February 2009; ASEAN Mutual Recognition Arrangement Framework on Accountancy Services, Cha-Am, Thailand, 26 February

2009; ASEAN Trade in Goods Agreement, Cha-Am, Thailand, 26 February 2009; Annexes of the ASEAN Trade in Goods Agreement, Cha-am, Thailand, 26 February 2009; Protocol to Implement the Seventh Package of Commitments under the ASEAN Framework Agreement on Services, Cha-Am, Thailand, 26 February 2009; ASEAN Comprehensive Investment Agreement, Cha-Am, Thailand, 26 February 2009.<sup>16</sup>

While the institutional and legal fundamentals of ASEAN have been strengthened by the above mentioned documents, the process continued successfully during the 15<sup>th</sup> ASEAN Summit, Cha-Am Hua Hin, Thailand, 23-25 October 2009. The list of Declarations/Statements adopted on that occasion is impressive. It is reproduced below in the order and with the original terminology of official sources and includes:

Cha-Am Hua Hin Statement on East Asia Summit (EAS) Disaster Management, Cha-Am Hua Hin, Thailand, 25 October 2009; Chairman's Statement of the 4<sup>th</sup> East Asia Summit, Cha-Am Hua Hin, Thailand, 25 October 2009; Joint Statement - Sixth Brunei Darussalam - Indonesia - Malaysia - Philippines East Asean Growth Area Summit (6<sup>th</sup> BIMP-EAGA Summit), Cha-Am Hua Hin, Thailand, 25 October 2009; Chairman's Statement of the 7<sup>th</sup> ASEAN-India Summit, Cha-Am Hua Hin, Thailand, 24 October 2009; Cha-Am Hua Hin Statement on ASEAN Plus Three Cooperation on Food Security and Bio-Energy Development, Cha-Am Hua Hin, Thailand, 24 October 2009; Chairman's Statement of the 12<sup>th</sup> ASEAN Plus Three Summit, Cha-Am Hua Hin, Thailand, 24 October 2009;

Chairman's Statement of the 12<sup>th</sup>

ASEAN-ROK Summit, Cha-Am Hua Hin, Thailand, 24 October 2009; Chairman's Statement of the 12<sup>th</sup> ASEAN-Japan Summit, Cha-Am Hua Hin, Thailand, 24 October 2009; Chairman's Statement of the 12<sup>th</sup> ASEAN-China Summit, Cha-Am Hua Hin, Thailand, 24 October 2009; ASEAN Leaders' Statement on ASEAN Connectivity, Cha-Am Hua Hin, Thailand, 24 October 2009; ASEAN Joint Statement on Climate Change to the 15<sup>th</sup> Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the 5<sup>th</sup> Session of the Conference of Parties serving as the Meeting of Parties to the Kyoto Protocol; Cha-Am Hua Hin Declaration on Strengthening Cooperation on Education to Achieve an ASEAN Caring and Sharing Community; Chairman's Statement of the 15<sup>th</sup> ASEAN Summit -- "Enhancing Connectivity, Empowering Peoples", Cha-Am Hua Hin, Thailand, 23-25 October 2009.<sup>17</sup>

Thinking about ASEAN in diplomatic terms, special mention should be made about at least one of the most significant documents of this Summit: Cha-Am Hua Hin Declaration on the Inauguration of the ASEAN Intergovernmental Commission on Human Rights which will be further analyzed, in an appropriate context, in the next section of this article.<sup>18</sup>

To complete the above enumeration of documents which give substance to ASEAN's commitments, other documents should be listed, in accordance with the archives of the Hua Hin Summit, as established by the Ministry of Foreign Affairs of Thailand, acting as representative of the Chairmanship of the Summit. These documents are: Terms of Reference of the

ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC); Agreement on Privileges and Immunities of ASEAN; Memorandum of Understanding between ASEAN and China on Strengthening Cooperation in the Field of Standards, Technical Regulations and Conformity Assessment; Memorandum of Understanding between ASEAN and China on Cooperation in the Field of Intellectual Property; Memorandum of Understanding on Establishing the ASEAN-China Centre; Report of the ASEAN-Japan Eminent Persons Group; Report of the ASEAN-Republic of Korea Eminent Persons Group: Vision for a Strategic Partnership – “Partnership for Real, Friendship for Good”.<sup>19</sup>