

## **The ASEAN Experience: Insights for Regional Political Cooperation**

### **SYNOPSIS**

This South Centre Analytical Note provides a background and discussion on the history of the Association of Southeast Asian Nations (ASEAN) regional political cooperation and the insights it can provide to developing countries seeking to build greater integration in their region. Analysis focuses on the evolution of political cooperation in Southeast Asia in the areas of security, energy, the environment, health issues, and cross-border movements of people.

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## List of Acronyms

ACB	ASEAN Centre for Biodiversity
ACE	ASEAN Centre for Energy
ADB	Asian Development Bank
AEGCD	ASEAN Expert Group on Communicable Diseases
AFAS	ASEAN Framework Agreement on Services
AFTA	ASEAN Free Trade Area
AHMM	ASEAN Health Ministers Meeting
AIHD	ASEAN Institute for Health Development
AMAF	ASEAN Ministers on Agriculture and Forestry
AMEM	ASEAN Ministers on Energy Meeting
AMM	ASEAN Ministerial Meeting
AMMTC	ASEAN Ministerial Meeting on Transnational Crime
APEC	Asia Pacific Economic Cooperation
ARCBC	ASEAN Regional Centre for Biodiversity Conservation
ARF	ASEAN Regional Forum
ASA	Association of Southeast Asia
ASC	ASEAN Standing Committee
ASEAN	Association of Southeast Asian Nations
ASEAN+3	ASEAN members plus, Japan, China, and Republic of Korea
ASEAN+6	ASEAN members plus Australia, China, India, Japan, Republic of Korea, and New Zealand
ATFOA	ASEAN Task Force on AIDS
CBD	Convention on Biological Diversity
CEPT	Common Effective Preferential Tariff
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
DGICM	ASEAN Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs
DSM	Dispute Settlement Mechanism
EAC	East Asian Community
EAS	East Asia Summit
ECSC	European Coal and Steel Community
EEC	European Economic Community
EEZ	Exclusive Economic Zone
EID	Emerging Infectious Diseases
EURATOM	European Atomic Energy Community
FAO	United Nations Food and Agricultural Organization
FDI	Foreign Direct Investment

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FPDA	Five Power Defense Agreement
GATS	General Agreement on Trade and Services
GMS	Greater Mekong Sub-Region
GPAI	World Bank's Global Program for Avian Influenza
HPA	Ha Noi Plan of Action
HPAI	Highly Pathogenic Avian Influenza
ILO	International Labor Organization
IOM	International Organization on Migration
IUCN	International Union for the Conservation of Nature and Natural Resources
JAIF	Japan-ASEAN Integration Fund
LDC	Least Developed Country
MDG	Millennium Development Goals
MPA	Marine Protected Area
MRA	Mutual Recognition Agreement
MRC	Mekong River Commission
NEAT	Network of East Asian Think-Tanks
NM	Nautical Mile
PA	Protected Area
PTA	Preferential Trading Agreements
PLHA	People Living with HIV and AIDS
RHAP	Regional Haze Action Plan
SAARC	South Asian Association for Regional Cooperation
SADC	Southern African Development Community
SARS	Severe Acute Respiratory Syndrome
SEAFDEC	Southeast Asian Fisheries Development Center
SEANWFZ	Treaty on the Southeast Asia Nuclear Weapon-Free Zone
SEATO	Southeast Asia Treaty Organization
SOME	ASEAN Senior Officials Meeting on Energy
SOME+3	SOME plus China, Japan, and Republic of Korea
TAC	Treaty of Amity and Cooperation in Southeast Asia
TAGP	Trans-ASEAN Gas Pipeline
TBPA	Transboundary Protected Area
TRAFFIC	A Wildlife Trade Monitoring Network
TRIPS	Trade Related Aspects of Intellectual Property
UNCLOS	United Nations Convention on the Law of the Sea
UNEP	United Nations Environment Programme
WHO	World Health Organization
ZOPFAN	Zone of Peace, Freedom and Neutrality

## Executive Summary

Discussions about globalization in the late 1990's have led to a new debate on the equity and accountability of global institutions and reinvigorated arguments for greater regional integration. In the past, regional integration largely involved the integration of states at similar stages of development to support national economic strategies. Today's new regionalism or open regionalism, particularly in South-South initiatives, looks very different. As a complement of or alternative to supporting national strategies for development, regionalism in the South is being viewed as a development option in itself. The debate and diversity in ideas about regionalism are reflected in the many forms that it takes today.

The Association of South East Asian Nations (ASEAN) holds a unique position among Southern regional integration organizations as it was established before today's new regionalism, yet at its inception it focused on issues other than economic. ASEAN-wide confidence building started with political, in particular security, cooperation with economic integration beginning in earnest much later. This paper looks at the track record of ASEAN political integration in five areas of cooperation: security, energy, the environment, health issues, and migration.

The final section discusses how ASEAN regional integration differs from the EU, the advantages and disadvantages of the "ASEAN Way", and the prospects for ASEAN's future. The last part of the paper concludes with several recommended areas for countries to consider when initiating regional integration efforts:

1. *What are the objectives of potential regional integration partners?*
2. *Can a unified agenda for cooperation be established? What would it contain?*
3. *What are the most realistic and most difficult areas for cooperation?*
4. *What types of diplomatic processes are currently utilized in the region?*
5. *What is potential power imbalances exist among members to a new regional agreement?*
6. *What extra-regional relationships could impact regional integration efforts positively or negatively?*
7. *What types of regimes are represented amongst the group of potential regional integration partners?*

## The ASEAN Experience: Insights for Regional Political Cooperation\*

### I. Introduction

1. Beginning in the late 1990's the force and pace of globalization have been in a process of change. The initial steps toward a more integrated global system were most visibly taken by international businesses and governments. In recent years, however, the impact of globalization has compelled citizens and local governments to become involved in the debate over the future of the global system. Discussions about globalization have also instigated a debate on the equitability and accountability of global institutions and reinvigorated arguments for greater regional integration. Proponents of further regional integration as an alternative to continued integration into the present global economic system, particularly for developing country blocs, see the recent suspension of the World Trade Organization's (WTO) Doha Round talks as further evidence that regionalism is the way forward.
2. In the past, regionalism involved greater integration of the economies of states at similar stages of development to support national economic strategies. Today's new regionalism or open regionalism, particularly in South-South initiatives, looks very different. Rather than supporting national strategies for development, regionalism in the South is being viewed as a development option in itself.<sup>1</sup> The debate and diversity in ideas about regionalism are reflected in the many forms that regionalism takes today. Many North-South agreements, such as the North America Free Trade Agreement, still largely focus on trade and economic issues. On the other hand, many South-South agreements aim for regional cooperation in many areas such as health and security, in addition to economic issues.
3. The Association of Southeast Asian Nations (ASEAN) holds a unique position among regional integration organizations as it was established before today's new regionalism, yet at its inception it focused on issues other than economic. The founders of ASEAN created three pillars for cooperation: political, economic, and cultural. ASEAN has been most active in developing regional political cooperation, with economic integration efforts gaining force in the early 1990's.

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<sup>1</sup> Luis Abugattus Majluf, *Swimming in the Spaghetti Bowl: Challenges for Developing Countries Under the "New Regionalism"*, UNCTAD Policy Issues in International Trade and Commodities Study, Series No. 27, 2004, p. 3, [http://www.unctad.org/en/docs/itcdtab28\\_en.pdf#search=%22new%20regionalism%20definition%20developing%20countries%22](http://www.unctad.org/en/docs/itcdtab28_en.pdf#search=%22new%20regionalism%20definition%20developing%20countries%22).

The culture pillar, which must involve ASEAN's 550 million citizens, has seen less progress.

4. This paper looks at the track record of ASEAN political integration in five areas of cooperation: security, energy, the environment, health, and migration. From this basis the final section discusses how ASEAN regional integration differs from other models, and the advantages and disadvantages of the "ASEAN Way". This section also considers the future of ASEAN and prospects for the Association to attain its vision and goals for greater cooperation by 2020. The conclusion then reflects on the ASEAN integration experience and proposes several recommendations for countries to consider in their pursuits for further regional integration.

## II. History of Contemporary Regional Integration in Southeast Asia

5. Geographically, Southeast Asia includes the area south of China and to the east and southeast of India. It has two main regions - i.e. continental Southeast Asia (which includes Myanmar, Vietnam, Lao PDR, Thailand, Cambodia, Singapore, and peninsular Malaysia) and archipelagic Southeast Asia (which includes Malaysian Sabah, Brunei Darussalam, Indonesia, the Philippines, and Timor Leste). For the purposes of this paper the area of Southeast Asia includes the current ten members of ASEAN: Vietnam, Lao PDR, Cambodia, Thailand, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, and Brunei Darussalam.

### A. *Southeast Asia Treaty Organization (SEATO)*

6. Contemporary regional cooperation in Southeast Asia after World War II began with founding of the SEATO in 1954. SEATO was established based on the NATO model, to prevent the spread of communism to Southeast Asia; therefore the key members of SEATO were the influential regional and post-colonial powers of Australia, France, UK, New Zealand, Pakistan, and the United States (US). Ironically, despite its name, SEATO had only two members from Southeast Asia: Thailand and the Philippines.
7. The alliance was primarily military with members holding joint military exercises each year. In the late 1960's the US sought the support of the organization to justify its intention to intervene in Indochina. However, Pakistan and France withheld support. In 1967 France withdrew from military cooperation with SEATO and the UK refused military participation in the Vietnam conflict. Since the organization charter required actions to be taken with unanimity the usefulness of the organization to the US was brought into question.



8. The alliance was further weakened in the 1960s by disputes between India and Pakistan which resulted in the US backing India, and Pakistan building developing stronger ties with Russia.<sup>2</sup> The lack of cohesion of members on a range of issues resulted in the members' decision in 1975 to bring an end to joint activities and formally dissolve the organization in 1977.

*B. Association of Southeast Asia (ASA)*

9. The second post-World War II attempt to improve regional ties in Southeast Asia was the Association of Southeast Asia (ASA) formed in 1961 by Thailand, the Philippines, and Malaysia. The ASA was a forum for foreign ministers of each country to participate in confidence building and form closer regional ties.<sup>3</sup>
10. In the early 1960s all ASA members were dealing with domestic communist insurgencies. Neighboring Indonesia was also in the midst of trying to reduce the impact of communism in its territory. When a new non-communist government was established in Indonesia in 1965 its leadership approached the ASA about becoming a member. Given the size and political weight of Indonesia the members of ASA were wary of the impact Indonesia would have if it were to join.<sup>4</sup>
11. During difficult negotiations with Indonesia about joining the ASA, the leaders began to realize that perhaps regional cooperation should encompass more than ASA with or without Indonesia. Rather than Indonesia joining the ASA, a new organization was formed. In 1967 ASA members along with Indonesia and the newly independent Singapore founded the Association of Southeast Asian Nations (ASEAN) largely based on the ASA model.

*C. Association of Southeast Asian Nations – The Early Years*

12. Unlike SEATO with its limited participation of Southeast Asian countries and ASA with its small membership and limited influence; the members of ASEAN were all from the region and the inclusion of Indonesia gave the association more weight and substance. Some argue that were it not for the change of government in Indonesia and its priority to engage with neighboring countries, ASEAN as we know it today would not exist. This shift of perspective in Indonesia enabled the founding members of ASEAN to engage and build trust with Indonesia, the regional powerhouse, at a critical time in a cooperative manner.

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<sup>2</sup> Answers.com, *Southeast Asia Treaty Organization*, <http://www.answers.com/topic/southeast-asia-treaty-organization>.

<sup>3</sup> Prof. Rodolfo C. Severino, *Indonesia's Leadership Role in ASEAN World Economic Forum's Indonesia Matters - Diversity, Unity and Stability in Fragile Times*, Asian Institute of Management, <http://www.aim.edu/home/announcement.asp?id=412>.

<sup>4</sup> Ibid.

13. As mentioned previously the new ASEAN leaders envisioned a larger and more inclusive regional association from the inception of ASEAN. The short, initial ASEAN Declaration stipulated “that the Association would be open for participation by all States in the Southeast Asian region subscribing to its aims, principles and purposes.”<sup>5</sup> Paragraph one of the Declaration states that the three main pillars for ASEAN cooperation as economic, political and cultural.
14. The Declaration’s repeated reference to security issues reflects ASEAN’s concerns with the deepening involvement of the US in the Vietnam conflict. Members of the new ASEAN were worried about the potential impact of the conflict in their countries. The negative economic impact of the war and the potential increase in foreign military bases in the territory of ASEAN members were top concerns. The issue of foreign bases is addressed in paragraph six of the preamble of the ASEAN Declaration which states:
- “..all foreign bases are temporary and remain only with the expressed concurrence of the countries concerned and are not intended to be used directly and indirectly to subvert the national independence and freedom of States in the area or prejudice the orderly processes of their national development.”<sup>6</sup>*
15. A few years after the establishment of ASEAN its members went further in their commitment to reduce foreign military influence in the region when they signed the Zone of Peace, Freedom and Neutrality (ZOPFAN) Declaration in November 1971. The members signed on to “exert initially necessary efforts to secure the recognition of, and respect for, South East Asia as a Zone of Peace, Freedom and Neutrality, free from any form or manner of interference by outside Powers.”<sup>7</sup>
16. The security issue was taken up again five years later with the Treaty of Amity and Cooperation (TAC) which has been described as “an original and indigenous Southeast Asian answer to the question of how to cope with intra-regional conflicts and disputes ... the treaty if signed by all Southeast Asian States, would constitute the regional foundations for regional neutrality.”<sup>8</sup> The Treaty commits members to settle disputes peacefully and establishes a code of conduct for members if disputes arise.
- While these initiatives were taken during the Vietnam and Cold War eras with an eye to limiting the role of the US and Russia in the region, they remain important as the economic and military power and influence of neighboring India and China increase.

<sup>5</sup> ASEAN, *The Founding of ASEAN*, <http://www.aseansec.org/7069.htm>.

<sup>6</sup> ASEAN, *The Founding of ASEAN*, <http://www.aseansec.org/7069.htm>.

<sup>7</sup> ASEAN, *Zone of Peace, Freedom and Neutrality Declaration, Malaysia, 27 November 1971*, <http://www.aseansec.org/1215.htm>.

<sup>8</sup> Surya P. Subedi, *Problems and Prospects for the Treaty on the Creation of a Nuclear-Weapon-Free Zone in Southeast Asia*, *International Journal of Peace Studies*, [http://www.gmu.edu/academic/ijps/vol4\\_1/subedi.htm](http://www.gmu.edu/academic/ijps/vol4_1/subedi.htm).

17. Though the early years of ASEAN were largely preoccupied with security concerns the association is now deeply involved with an array of regional issues. The ASEAN policy of non-interference in the domestic affairs of member states and the emphasis on consensus have resulted in an association that has been adept at engaging members with various government structures and adapting to political shifts such as the end of the Cold War. ASEAN

#### *D. Beyond ASEAN*

18. Within the ASEAN framework members have established cooperation in several areas including: security, the environment, migration, health, energy, banking, finance, and development. ASEAN members work extra-regionally through:
  - ASEAN+3 (ASEAN Plus Three, APT): ASEAN, Japan, China, and Republic of Korea;
  - ASEAN+6: ASEAN, Japan, China, Republic of Korea, Australia New Zealand, and India; and
  - ASEAN Regional Forum (ARF) includes: ASEAN+6, Bangladesh, Canada, European Union, Democratic Peoples' Republic of Korea, Mongolia, Pakistan, Papua New Guinea, Russian Federation, Timor Leste, and the United States.

ASEAN also holds high level meetings with extra-regional dialogue partners like the US and the European Union (EU).

### **III. Political Cooperation in Southeast Asia Today**

19. Cooperation in ASEAN has progressed based on three key principles: (i) consensus decision-making; (ii) respect for national sovereignty; and (iii) non-interference in the domestic affairs of members. These three principles are the core of what has been called the "ASEAN Way".
20. Critics of the "ASEAN Way" point to the lack of progress on many issues. The small ASEAN secretariat has virtually no power and its limited funding for research and implementation of agreements, action plans, etc has resulted in poor follow through on many fronts. ASEAN has no tested formal dispute settlement mechanism nor any means of requiring members to follow through on ASEAN commitments. Therefore, where the political will to implement policies by national leaders is lacking, so too is the realization of improved ASEAN integration.
21. Despite the perceived limitations by critics of the ASEAN Way, significant progress has in fact been made in improving cooperation and building confidence among ASEAN's diverse membership. The areas of political cooperation in the region are deeply inter-related but for the purpose of this

paper the areas to be covered fall under the broad headings of: security, energy, the environment, health, and migration. These areas have been chosen because they represent the wide range of issues that ASEAN has taken on and achieved equally wide degrees of success.

#### A. Security

22. As discussed previously, one of the founding aims of the establishment of ASEAN was to improve the security of the region and limit extra-regional influence in member countries. In the early years ASEAN members made several agreements on security issues; however a significant amount of distrust and suspicion between ASEAN members remained. The negotiation and signing of ZOPFAN (1970) and TAC (1976) were starting points for ASEAN confidence building and cooperation on security.
23. Since that time a number of bi-lateral, multi-lateral, and extra-regional security cooperation initiatives have established what some have called the "ASEAN defense spider web".<sup>9</sup> The plethora of agreements and fora include: the Five Power Defense Agreement (FPDA), the ASEAN Regional Forum (ARF), bilateral security agreements among ASEAN members, and bilateral military agreements among extra-regional players and ASEAN members.
24. The FPDA the oldest of the extra-ASEAN security agreements, involves Singapore, Malaysia, New Zealand, the United Kingdom (UK) and Australia. The most significant contribution to improving regional security however, lies in the FPDA making available;

*a common platform for security cooperation for Malaysia and Singapore which have difficulty in forging close bilateral military collaboration; it calms some of Singapore's nerves regarding perceived threats from Malaysia and Indonesia...*<sup>10</sup>

The agreement was signed in 1971 shortly after the founding of ASEAN and the signing of ZOPFAN. Under the FPDA the three ASEAN members established a framework for carrying out joint military exercises.

#### i. Bilateral Intra-ASEAN Security Cooperation

25. An overarching theme of ASEAN diplomacy, particularly with regard to security, has been the importance for members to retain sovereignty in ASEAN commitments. At the bilateral level, however, especially among countries with

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<sup>9</sup> Richard Sokolsky, Angel Rabasa, C R Neu, *The Role of Southeast Asia in U.S. Strategy Toward China, Chapter 5 ASEAN Defense Policies and Expenditures*, RAND, 2000, p. 43, [www.rand.org/pubs/monograph\\_reports/MR1170/MR1170.ch5.pdf](http://www.rand.org/pubs/monograph_reports/MR1170/MR1170.ch5.pdf).

<sup>10</sup> Mohamed Jawhar, *The ASEAN Regional Forum: A Critical Appraisal*, <http://www.ndu.edu/inss/symposia/pacific2001/jawharpaper.htm>.

common borders, the sovereignty issue seems to be less of a barrier. Examples of recent cooperative security arrangements include:

- joint Thai and Singaporean air force training in the Philippines;
- agreement between Malaysia and the Philippines providing for military information exchanges, usage of each other's military facilities for repairs, and joint military exercises;
- agreements between Singapore and Indonesia enabling Singapore to hold naval exercises in Indonesian waters;
- extension of Malaysian-Thai joint air exercises to patrol cooperation in maritime areas; and
- bilateral defense cooperation between Indonesia and Malaysia resulting in joint military exercises and frequent high level military exchanges and visits.<sup>11</sup>

26. The steady growth in bilateral relations on security issues demonstrates that ASEAN countries are willing and able to cooperate on security issues in a manner producing clearer outcomes than those obtained through ASEAN or the ARF. Given the history of conflict in the region, the above examples along with the various Joint Border Commissions<sup>12</sup> that have been established, point to concrete improvements in security cooperation.

#### ii. ASEAN Regional Forum (ARF)

27. At the end of the Cold War ASEAN realized there was an opportunity to develop stronger ties on security in Asia. As a result in 1994 ASEAN established the ARF. The ARF involved ASEAN's Dialogue Partners and then later went on to involve extra-regional consultative partners. The ARF now has 26 members, including North Korea, and as such is the most inclusive forum for discussing security issues in the region.
28. The ARF has two main objectives: to foster constructive dialogue and consultation on political and security issues of common interest and concern, and to contribute to confidence building efforts and preventive diplomacy in the

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<sup>11</sup> Richard Sokolsky, Angel Rabasa, C R Neu, *The Role of Southeast Asia in U.S. Strategy Toward China, Chapter 5 ASEAN Defense Policies and Expenditures*, RAND, 2000, p. 44-45. [www.rand.org/pubs/monograph\\_reports/MR1170/MR1170.ch5.pdf](http://www.rand.org/pubs/monograph_reports/MR1170/MR1170.ch5.pdf).

<sup>12</sup> Examples of these include the bilateral Joint Border Commissions between Myanmar and Thailand, Thailand and Malaysia, Malaysia and Indonesia, Malaysia and the Philippines. From: Mohamed Jawhar, *The ASEAN Regional Forum: A Critical Appraisal*, <http://www.ndu.edu/inss/symposia/pacific2001/jawharpaper.htm>.

Asia-Pacific region.<sup>13</sup> Despite initial opposition by the US; the ARF has become as a key forum for track one, and track two diplomacy<sup>14</sup> in the broader Asia region.

29. Some claim the ARF is merely a “talk shop”, with few definitive outcomes. Critics, particularly from developing countries, also question if the involvement of powerful countries such as the US, Australia, and Japan produces an ARF agenda focusing on issues relevant to influential extra-regional members rather than ASEAN. In an interview with the *Jakarta Post* the Indonesian Foreign Minister addressed these oft-repeated critiques. With regard to the “talk shop” criticism he noted:

*Although many say that the grouping does the talking, we have seen a relatively peaceful region for 39 years because of ASEAN...For instance, ARF has attracted 17 countries to be its members while countries along our perimeter, such as India, Japan, South Korea, Australia, New Zealand and Timor Leste have all signed a treaty of amity and cooperation (TAC).*

On the issue of agenda setting he stated:

*...ASEAN will try to be in the driver's seat although it cooperates with big powers. We don't have to feel that we are being hijacked only because they don't agree with ASEAN's statement. Remember ARF is the only forum in Asia and the Pacific for political and security dialogs, and ASEAN needs to consider the opinion of other countries in the regions because they are the parties concerned.<sup>15</sup>*

### iii. A Potential New Cold War in Asia: ASEAN's Careful Balancing Act

30. While some question the efficacy of the ARF the growth in its membership is an example of how greater cooperation within ASEAN has engaged extra-regional players on key political and security issues. While the initial purpose of ASEAN security cooperation was reducing the influence of polarizing US and Soviet Union Cold War policies, the current focus is on a possible new regional Cold War. The potential new division pits China and Japan (along with its key ally the US) in vying to improve ties with ASEAN. Tensions between China and Japan go back Japan's imperial era. Despite the end of the war over 60 years ago the Japan-China relationship remains tense.

<sup>13</sup> ASEAN, *Overview*, <http://www.aseansec.org/92.htm>.

<sup>14</sup> Track I Diplomacy: official government diplomacy. Track II Diplomacy: unofficial, informal interaction between members of adversary groups or nations aiming to develop strategies, to influence public opinion, organize human and material resources to help resolve the conflict." Jeffrey Mapendere, *Track One and a Half Diplomacy and the Complementarity of Tracks*, *Culture of Peace Online Journal*, p. 67-68, <http://www.copoj.ca/pdfs/Jeffrey.pdf#search=%22%22track%20one%22%20%22track%20two%22%20diplomacy%20definition%22>.

<sup>15</sup> The *Jakarta Post*, *ASEAN sets norms for peaceful resolutions*, August 1, 2006, <http://www.thejakartapost.com/yesterdaydetail.asp?fileid=20060801.B08>.

31. ASEAN's attempts to engage with Japan and China are evident in the numerous meetings of APT established in the 1990s. More recently the APT has been at the center of developing a future East Asian Community (EAC). The first Asia-wide meeting to discuss an EAC was at the First East Asia Summit (EAS) in May 2005. Heads of States / Governments from APT countries, India, New Zealand, and Australia all participated in the meeting. At the meeting leaders engaged in "informal confidence building and functional cooperation in areas such as WMD nonproliferation, counter-terrorism, piracy, maritime joint cooperation zones as well as the establishment of an East Asian Free Trade Area."<sup>16</sup> While most of the discussions focused on security issues, there have also been discussions about developing an EAC to foster greater regional economic cooperation.
32. The lack of US presence at the 2005 EAS however, does not signify that ASEAN is trading in relations with the US for closer ties with Asia. At a meeting on July 27, 2006 ASEAN began a process of strengthening its ties with the US through agreement "on a master plan to enhance ASEAN-US relations and cooperation for the next five years."<sup>17</sup> The new Framework Document stems from a meeting in 2005 between the US and ASEAN where the parties issued a Joint Vision Statement on the ASEAN-US Enhanced Partnership covering the following areas: political and security, economic and social, and development cooperation.
33. Among ASEAN members Indonesia in particular, has been keen to maintain a warm relationship with the US.<sup>18</sup> Thailand, Singapore, and the Philippines also all have bilateral military alliances with the US.<sup>19</sup> However, some ASEAN countries, such as Myanmar, Laos and Cambodia, are benefiting significantly from China's growth. While some members are developing closer ties with China, areas of contention persist. Overlapping claims by four ASEAN members (Brunei Darussalam, Malaysia, the Philippines and Vietnam), China, and Chinese Taipei to the Spratly Islands in the South China Sea (taken up in the next section of the paper) remains a key issue.
34. Thus far ASEAN has maintained a careful balancing act between large extra-regional players; however, challenging issues remain including the status of Chinese Taipei. As recently as May 2006 the US Assistant Secretary of State for East Asian and Pacific affairs reiterated that Chinese Taipei is a "very close interest" to the US and that "maintaining cross-strait peace and stability is vital

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<sup>16</sup> Barry Desker, *Southeast Asia Casts Wide Net for Cooperation*, YaleGlobal Online, May 30, 2006, <http://yaleglobal.yale.edu/display.article?id=7484>.

<sup>17</sup> ASEAN, *ASEAN and US Step up Cooperation* Kuala Lumpur, ASEAN Bulletin, July 2006, <http://www.aseansec.org/18546.htm#article-4>

<sup>18</sup> Barry Desker, *Southeast Asia Casts Wide Net for Cooperation*, YaleGlobal Online, May 30, 2006, <http://yaleglobal.yale.edu/display.article?id=7484>.

<sup>19</sup> Mohamed Jawhar, *The ASEAN Regional Forum: A Critical Appraisal*, <http://www.ndu.edu/inss/symposia/pacific2001/jawharpaper.htm>.

not only for the security and prosperity of the people on both sides, but for the rest of the region as well as the U.S."<sup>20</sup> The US and ASEAN both maintain one-China policies, however if China were to take aggressive action to reincorporate Chinese Taipei into the mainland it is hard to say where ASEAN would stand.

#### iv. Transnational Crime & Terrorism

35. Security in ASEAN also involves transnational crime. While many recent headlines about transnational crime in ASEAN involve terrorism ASEAN began transnational crime cooperation in the mid 1990's focusing on illegal migration, money laundering, and drug trafficking. Development of the initial declaration, plan of action, and subsequent work programs on transnational crime by ASEAN were the result of work that began in the late 1990's with the ASEAN Ministerial Meetings on Transnational Crime (AAMTC) held in 2-3 year intervals. These meetings were prompted by the First International Conference on Terrorism held in the Philippines in 1996. The conference took place shortly after the sarin nerve gas subway attack in Japan, and when various ASEAN countries, including Indonesia and Cambodia, were dealing with insurgent groups.
36. In 1997 high-level meetings resulted in the signing of the ASEAN Declaration on Transnational Crime. The declaration committed members to work at the regional level to combat transnational crime, a step forward in what had been until that point an amalgamation of bilateral and sub-regional efforts. The agreement resolved to improve coordination among ASEAN bodies handling different aspects of transnational crime including ASEAN Law or Justice Ministers and Attorneys-General, Chiefs of National Police, Finance Ministers, Directors-General of Immigration, and Directors-General of Customs.<sup>21</sup>
37. Although there are now thirteen protocols and conventions related to terrorism, not all have been signed by all ASEAN members.<sup>22</sup> The 2001 Declaration on Joint Action to Counter Terrorism adopted at the 7<sup>th</sup> ASEAN Summit called on members to ratify all existing ASEAN terrorism protocols and conventions. The declaration established several priority areas for tackling terrorism including:
- deepening cooperation among ASEAN's front-line law enforcement agencies in combating terrorism;
  - studying relevant international conventions on terrorism with the view to integrating them with ASEAN mechanisms;
  - enhancing information/intelligence exchange; and

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<sup>20</sup> Jane Morse, U.S., *China Not Competitors in Southeast Asia, State's Hill Says*, USINFO.STATE.GOV, <http://usinfo.state.gov/eap/Archive/2006/May/23-999615.html>.

<sup>21</sup> ASEAN, *ASEAN Declaration on Transnational Crime*, December 20, 1997, <http://www.aseansec.org/5640.htm>.

<sup>22</sup> ASEAN, *Joint Communique of the Fifth ASEAN Ministerial Meeting on Transnational Crime (AMMTC)*, November 29, 2005, <http://www.aseansec.org/17937.htm>.



- developing regional capacity building program to enhance existing capabilities of ASEAN member countries to investigate, detect, monitor and report on terrorist acts.<sup>23</sup>
38. The above items and others identified in the declaration were then incorporated in the 2002 ASEAN Plan of Action to Combat Transnational Crime. The Work Programme to implement the plan of action establishes an agenda for ASEAN cooperation on: drug trafficking, trafficking of persons, sea piracy, arms smuggling, money laundering, international economic crimes, cybercrime, and terrorism. For each area of cooperation the Work Programme includes specific action lines addressing: information exchange, legal matters, law enforcement, training, institutional capacity building, and extra-regional cooperation.<sup>24</sup>
39. Many aspects of the Work Programme are in the process of being implemented. There are efforts to develop regional databases for disseminating information on respective national laws, regulations, bilateral and multilateral treaties or agreements. In 2003 ASEAN carried out training projects and courses on such issues as bomb detection and airport security for those involved in intelligence and law enforcement.<sup>25</sup> Involvement with APT has also been initiated.
40. At the most recent meeting of the AAMTC in November 2005 ministers reviewed and revised the current Work Programme, and committed to further improve cooperation and communication among the various agencies and ASEAN bodies responsible for addressing transnational crime. The ministers also highlighted the need for an ASEAN convention on counter-terrorism. The next AAMTC conference is scheduled for 2007.

#### v. Vision for the ASEAN Security Community

41. The breadth and depth of security issues requiring further cooperation among ASEAN members resulted in the Declaration of ASEAN Concord II signed in October 2003 at the 9<sup>th</sup> ASEAN Summit in Bali. The declaration adopted a new vision for a more deeply integrated ASEAN. One of the key pillars of the vision involves the formation of an ASEAN Security Community (ASC) by 2020.
42. Section A of the declaration details the purpose and goals for ASEAN's new ASC. The section reiterates the commitments of members to previous agreements such as ZOPFAN, TAC, and the Southeast Asia Nuclear Weapon Free Zone Treaty (SEANWFZ), brought into force in 1997. Paragraph 10 of Section A states the following:

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<sup>23</sup> ASEAN, *ASEAN Efforts to Counter Terrorism*, <http://www.aseansec.org/14396.htm>.

<sup>24</sup> ASEAN, *Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime*, May 17, 2002, <http://www.aseansec.org/5616.htm>.

<sup>25</sup> ASEAN, *ASEAN Efforts to Counter Terrorism*, <http://www.aseansec.org/14396.htm>.

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*The ASEAN Security Community shall fully utilize the existing institutions and mechanisms within ASEAN with a view to strengthening national and regional capacities to counter terrorism, drug trafficking, trafficking in persons and other transnational crimes; and shall work to ensure that the Southeast Asian Region remains free of all weapons of mass destruction. It shall enable ASEAN to demonstrate a greater capacity and responsibility of being the primary driving force of the ARF.*<sup>26</sup>

43. It remains to be seen how the ASEAN Security Community will continue to be the “primary driving force of the ARF”. The declaration limits the initial membership to ASEAN members; however, language is also included to extend participation to non-members. If non-members participate in a similar fashion as in the ARF it is hard to envision how the ASC will define itself. Perhaps the real significance of the ASC commitment is that it establishes a new vision for improved ASEAN security cooperation, and was the first such agreement negotiated with ASEAN’s newest member, Cambodia, admitted in 1999.
44. A subsequent step to realize the ASEAN Security Community vision was the May 2006 meeting of ASEAN member defense ministers. The ministers called for, an extradition treaty, and further counter-terrorism measures. Although the ASC vision will only be realized incrementally, ASEAN’s Deputy Secretary-General Wilfrido Villacorta said the group (of defense ministers) will “lead efforts as far as defense and security projects are concerned.”<sup>27</sup> Based on this comment, the ASC could have an instrumental role to play in the future of ASEAN security cooperation.
45. The plethora of security fora to which ASEAN is a member begs the question: to what extent are these fora effective and not duplicative or merely talk shops? Further, as a founding concern of ASEAN was limiting the influence of foreign powers, is the involvement of China, the US, Australia, etc., in ASEAN security enabling deeper foreign influence into ASEAN security affairs? While there is certainly value in having an Asia-wide security forum like the ARF, real progress on security cooperation remains largely bilateral in nature. So long as ASEAN members remain adamant about retaining sovereignty in ASEAN agreements, progress in multi-lateral security cooperation will face limitations.

#### *B. Energy*

46. One can easily argue the critical importance of energy security and cooperation for ASEAN. Access to affordable and reliable energy is critical for ASEAN members to reach key development goals. The ASEAN Centre for Energy (ACE) forecasts that energy demand for eight of the countries in Southeast Asia, including Singapore, Thailand, Indonesia, Malaysia, Myanmar and the

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<sup>26</sup> ASEAN, *Declaration of ASEAN Concord II (BALI CONCORD II)*, <http://www.aseansec.org/15159.htm>. Emphasis added.

- Philippines, will rise 59% in the decade through 2010.<sup>28</sup> Further, overall demand for oil between 2003 and 2025 in Asia is expected to rise on average by 3% annually, with more than one-third of this increase coming from China alone.<sup>29</sup>
47. Individually, the energy needs of ASEAN members are low compared to their rapidly growing and energy hungry neighbors India and China, and long-time regional energy importers Japan, South Korea, and Chinese Taipei. ASEAN has much to gain from working as a bloc to ensure that the region will not be squeezed out of the energy market by wealthier and/or larger energy consuming neighbors.
  48. ASEAN is not as resource poor as Japan, Chinese Taipei and South Korea but the unequal distribution of energy resources in the region could cause problems for ASEAN cooperation over energy issues. The majority of the region's resources lie with Indonesia, Malaysia, Vietnam, and Brunei. Indonesia and Brunei are among the top five liquid natural gas producers in the world, and ASEAN countries control 40% of the oil and gas resources in the Asia-Pacific region.<sup>30</sup> The only Southeast Asian nation not a member of ASEAN, Timor Leste, may also have significant oil resources depending on how disputes with Australia over maritime borders are resolved. If Timor Leste gains the rights to these resources and joins ASEAN, energy security could improve for ASEAN.
  49. ASEAN's history of cooperation on energy issues goes back to the mid-1980s. In March 1986 members signed two key documents; the Agreement on Energy Cooperation and the ASEAN Petroleum Security Agreement. The Agreement on Energy Cooperation established commitments to cooperate in the six areas of: planning, energy development, conservation, training, security of energy supply, and the exchange of information. The agreement puts the responsibility for review of ASEAN energy cooperation with the Senior Officials of the ASEAN Economic Ministers on Energy Cooperation. The Petroleum Security Agreement established an emergency petroleum sharing system among members for times of shortage and over-supply.
  50. ASEAN developed another energy plan of action in the late 1990's dividing cooperation efforts into six categories with more specificity than the previous 1986 agreements:
    - ASEAN Power Grid;

<sup>27</sup> Elisia Yeo, *Southeast Asia Defense Meet To Enhance Security Cooperation*, Agence France-Press on DefenseNews, May 10, 2006, <http://dfn.dnmediagroup.com/story.php?F=1764704&C=asiapac>.

<sup>28</sup> *Southeast Asia seeks foreign investors for gas pipelines*, Alexander's Gas and Oil Connections, News and Trends in East and Southeast Asia, August 8, 2002,

<sup>29</sup> US Energy and Information Administration, *South China Sea Region*, 2003 <http://www.eia.doe.gov/emeu/cabs/schina.html>.

<sup>30</sup> H.E. Ong Keng Yong, *Energy Security and High Oil Prices: Impact on Economic Growth of ASEAN Countries*, ASEAN, July 2005, <http://www.aseansec.org/17540.htm>.

- trans-ASEAN Gas Pipeline (TAGP);
  - coal;
  - energy efficiency and conservation;
  - new and renewable sources of energy; and
  - regional outlook, energy policy and environmental analysis.<sup>31</sup>
51. Each area for cooperation has particular objectives and to that end subsector organizations have been established to work on these issues. The work program and budgets for the subsector organizations are determined by the ASEAN Senior Officials Meeting on Energy (SOME) and the ASEAN Minister's of Energy Meeting (AMEM). The ASEAN Centre for Energy (ACE) is responsible for coordinating the efforts of the subsector organizations.
52. Progress on the Plan of Action thus far includes:
- completion of the TAGP Master Plan in 2000 identifying seven gas pipeline connections to implement;
  - July 2002 signing by ASEAN members of the Memorandum of Understanding for the TAGP, establishing the framework for the private and public sector cooperation on the project;
  - review and update of the 1986 ASEAN Petroleum Security Agreement completed; and
  - establishment of the Trans-Borneo Power Grid Interconnection Coordination Committee.<sup>32</sup>
53. ASEAN is also developing ties on improving its energy infrastructure and cooperation with extra-regional partners Japan, South Korea, and China. Meetings with these partners occur through SOME, subsequently these larger meetings are now called SOME+3. While ASEAN is developing extra-regional cooperation on energy, several ASEAN members are also involved in energy resource disputes in the region. The most significant and complicated are the Spratly Islands disputes in the South China Sea.

#### i. The Spratly Islands

54. Energy disputes over resources in the South China Sea sit at the nexus of security and energy issues in Southeast Asia. ASEAN, at the initiative of Indonesia, has played a pivotal role in scaling down hostilities over claims to potential natural gas and oil reserves in the area. Vietnam, Malaysia, the Philippines, China,

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<sup>31</sup> ASEAN Centre for Energy, *ASEAN Plan of Action for Energy Cooperation 1999 – 2004*, [http://www.aseanenergy.org/publications\\_statistics/apaec\\_1999-2004/apaec.htm](http://www.aseanenergy.org/publications_statistics/apaec_1999-2004/apaec.htm).

<sup>32</sup> ASEAN, *ASEAN Plan for Action on Energy Cooperation (APAEC) 2004-2009*, 9 June 2004, p. 4-5, <http://www.aseansec.org/pdf/APAEC0409.pdf>.

- Brunei, and Chinese Taipei all have over-lapping territorial claims, the most significant of which involve the Spratly Islands.
55. The Spratly Islands disputes revolve around interpretation of several provisions of the United Nations Convention on the Law of the Sea (UNCLOS) which was established in 1982 and came into force in the mid-1990s. All the parties to the Spratly disputes, except Chinese Taipei, are signatories to UNCLOS, although Chinese Taipei has stated that it will abide by the convention.<sup>33</sup> Many of the claims in the area date back decades, even centuries, however it can be argued that the assertions of claims were reignited with UNCLOS.
56. UNCLOS significantly expanded the maritime areas within the jurisdiction of coastal states. It also increased the value and importance of the islands through endowing them with a minimum 12-nautical mile (nm) territorial sea zone as well as potentially larger Exclusive Economic Zones (EEZ), of up to 200 nm when an island meets certain criteria.<sup>34</sup> The current debate lies in the interpretation of three UNCLOS's provisions: the EEZ, definition of a continental shelf<sup>35</sup>, and concept of archipelagic waters, which in general can only be used by island states.
57. Disputes over the Spratly Islands primarily involve fishing rights and rights to natural resources in the area. The proven oil reserves in the South China Sea region are estimated at 7.5 billion barrels, with current oil production at over 1.3 million barrels per day.<sup>36</sup> The limited exploration of the area has resulted in widely varying estimates about the total volume of oil and gas near the Spratlys. China's figures are the highest with estimates of the Spratly and nearby Paracel Islands oil resources ranging from 105 to 213 billion barrels.<sup>37</sup> Natural gas estimates are likewise wide-ranging and largely unconfirmed. The U.S. Geological Survey estimates that 60-70% of the region's hydrocarbon resources are natural gas, not oil.

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<sup>33</sup> S. Tonnesson, *China & The South China Sea: A Peace Proposal*, Centre for Development and Environment University of Oslo, Security Dialogue 2000, Sage Publications, Vol. 31 (3), p. 312.

<sup>34</sup> Interpretation of a EEZ remains in question, UNCLOS defines an EEZ as a zone beyond and adjacent to the territorial sea in which a coastal state has: sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living. <http://www.geoplance.com/hottopics/CIAwfb/factbook/docs/notesanddefs.html>.

<sup>35</sup> The continental shelf of a coastal state is comprised of the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance, <http://www.geoplance.com/hottopics/CIAwfb/factbook/docs/notesanddefs.html>.

<sup>36</sup> GlobalSecurity.org. *South China Sea Oil and Natural Gas*, <http://www.globalsecurity.org/military/world/war/spratly-oil.htm>.

<sup>37</sup> E. Kreil, *Energy Issues in the South China Sea*, Baker J. C. & Wienack D. (Eds). In *Cooperative Monitoring in the South China Sea*, Westport CT: Praeger Publishers, 2003, p.41.

58. While the most recent significant clash between Vietnam and China over the Spratly Islands occurred more than 15 years ago<sup>38</sup>, the lack of resolution of the disputes has resulted in a prolonged period of high tension among the disputants. Unannounced military exercises, the construction of a structure on an island, even the movements of lost fishing vessels have caused political squabbles among the parties. Tensions remain due to the high stakes for definitively attaining or losing claims to any of the Spratlys. Successfully obtaining rights over one or more of the islands could result in huge energy resource gains and may enable the rights holder to establish an EEZ and/or continental shelf claims around the holding.

59. Primarily through bilateral talks with China, ASEAN has worked to decrease tensions over the Spratlys. As a result in the last 15 years ASEAN members have signed two declarations to address disputes in the South China Sea. The most recent 2002 Code of Conduct was signed by all ASEAN members and China. The document commits the parties to:

*...undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea;*<sup>39</sup>

The document also provides a list of confidence building measures to reduce tensions such as; informing other countries about military exercises in the area, and holding dialogues between military officials.

60. The Code of Conduct is non-binding however, and is not signed by all disputing parties. The non-binding nature of the agreement has been criticized by Vietnam and the Philippines who pushed for a binding agreement. A binding agreement was not agreed to by China. Additionally, Chinese Taipei is not a signatory to the 2002 declaration. From China's perspective, Chinese Taipei's participation would in effect begin a two-China policy.<sup>40</sup> Both the Chinese and Chinese Taipei claims to the Spratlys are based on the same map and history as adopted by China in 1947.

61. Chinese Taipei was the first in the region to occupy any of the Spratlys with its sole holding of Itu Aba Island. Although Chinese Taipei withdrew troops from the island in the mid-1990s, its disputes in the region over the Spratlys continue.

<sup>38</sup> In 1988 China and Vietnam clashed militarily over Fiery Cross Reef. The battle resulted in the loss of three Vietnamese ships and in the deaths of an estimated 70 Vietnamese soldiers.

<sup>39</sup> ASEAN, *Declaration on the Conduct of Parties in the South China Sea*, paragraph 4, 14 November 2002, <http://www.aseansec.org/13163.htm>.

<sup>40</sup> C. C. Joyner, *The Spratlys Islands Dispute: Rethinking the Interplay of Law, Diplomacy, and Geopolitics in the South China Sea*, *The International Journal of Marine and Coastal Law*, Kluwer Law International, Vol. 13, No. 2., 1998, p. 213.

- In December 2005 Chinese Taipei's decision to build a runway on Itu Aba provoked a response from Vietnam. Vietnam said Chinese Taipei's plans for runway construction would violate Vietnamese sovereignty and negatively impact peace and security in the region. As Chinese Taipei is not a party to the 2002 Code of Conduct it therefore is not bound to the provision which "forbids construction of new buildings on uninhabited islands in the Spratlys to prevent the territorial disputes from escalating".<sup>41</sup>
62. Fortunately, some progress has been made. Even China, with the largest claims, has participated in frequent bi-lateral and multi-lateral negotiations. All parties have been engaged in track two and government level discussions, mainly through ASEAN. Further, since entering into the 2002 Code of Conduct, China has held bilateral talks with several countries involved in the disputes. China's warming ties with Spratly claimants can also be seen in the \$1.2 billion of military aid China donated to the Philippines in 2005.<sup>42</sup>
  63. Another example of emerging cooperation is the agreement Vietnam, China, and the Philippines signed in March 2005 to conduct joint surveys of potential oil and gas deposits in the South China Sea. The project will take place over three years and cover an area of roughly 143,000 sq. km. *Radio Free Asia* quoted Philippine President Gloria Arroyo as saying "This is a historic event because it is the first, it is the breakthrough in implementing the provisions of the Code of Conduct in the South China Sea".<sup>43</sup> The agreement is a step forward for the countries involved although the lack of information provided about the location of the survey work has upset other countries in the region. The parties agreed to abide by UNCLOS and the 2002 Code of Conduct but some assert that by not revealing the location for the survey the parties have already violated UNCLOS's principle of transparency.<sup>44</sup>
  64. The parties also agreed that the joint survey work would not undermine the sovereignty claims of the members of the agreement. The ability of the countries to strike the deal shows their capacity to set sovereignty issues aside in a multi-lateral context to the benefit of each of the claimants. The danger lies in what may happen if significant oil or gas deposits are found. Knowing the true value of the natural resources in the area could decrease cooperation and result in a return to rigid positions.
  65. It is clear that ASEAN members and the wider Asia region will face significant increases in their demand for energy in the coming years. Obtaining access to reliable and affordable energy resources is a vital security and economic issue for

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<sup>41</sup> C. Yun-ping, *Vietnam Protests Spratly Runway Plan.*, Taipei Times, December 31, 2005, <http://www.taipetimes.com/News/front/archives/2005/12/31/2003286740>.

<sup>42</sup> Beting Laygo Dolor, *China Gives Military Aid to Philippines*, Pacific News Service, March 14 2005, [http://news.pacificnews.org/news/view\\_article.html?article\\_id=4b11fc54b8df81a42b376c22bedf719a](http://news.pacificnews.org/news/view_article.html?article_id=4b11fc54b8df81a42b376c22bedf719a).

all countries in the region. If ASEAN can find the political will and pool the resources necessary to implement plans for an ASEAN Power Grid, the TAGP, and develop more renewable energy resources the region's energy security will be improved. Equally important will be finding a peaceful and equitable solution to the Spratly Islands disputes.

### C. Environment

66. Environmental cooperation among ASEAN members began with the 1977 ASEAN Subregion Environment Programme. However, significant cooperation did not emerge on environmental issues until the early 1990's when forest fires caused significant losses to the region's rich biodiversity. Environmental cooperation was also prompted by the sustainable development focus of the 1992 Earth Summit, and one of its key documents, the Convention on Biological Diversity (CBD).
67. Due to the small size of the ASEAN Secretariat, National Focal Points, designated by each member, are responsible for the implementation of ASEAN environmental initiatives. Some members also take on additional coordination responsibilities such as the Philippines' hosting of the ASEAN Centre for Biodiversity Conservation (ACB) and Malaysia's hosting of the Marine Turtle Conservation Program.<sup>45</sup> Environmental cooperation in the region also occurs through the MRC of the Greater Mekong Subregion (GMS), and the ASEAN Wildlife Trade Initiative. Among the many areas of environmental cooperation the most important regional issues are: transboundary haze, biodiversity protection, and marine and freshwater conservation.

#### i. Transboundary Haze

68. Transboundary haze cooperation, at least on paper, began with the 1994 ASEAN Cooperation Plan on Transboundary Pollution. The Plan identified three areas for cooperation; atmospheric pollution, movement of hazardous wastes, and ship-borne pollution. Transboundary haze became a more urgent issue however, in 1997 when huge forest fires ravaged Indonesia which had a significant impact on air pollution in the region. According to the UN Environment Program

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<sup>43</sup> Radio Free Asia, *China, Philippines, Vietnam Sign Joint South China Sea Oil Search Accord.*, March 14, 2004, [http://www.rfa.org/english/news/business/2005/03/14/china\\_vietnam\\_spratlys/](http://www.rfa.org/english/news/business/2005/03/14/china_vietnam_spratlys/).

<sup>44</sup> C. Hurng-yu, *Chinese Taipei needs Spratly-deal details*, Taipei Times, July 19 2005, <http://www.taipetimes.com/News/editorials/archives/2005/07/19/2003264151>.

<sup>45</sup> Koh Kheng Lian and Nicholas A. Robinson, *Regional Environmental Governance: Examining the Association of Southeast Asians (ASEAN) Model*, p. 5, <http://environment.yale.edu/documents/downloads/h-n/koh.pdf>.



- (UNEP), roughly 10 million hectares of forest were destroyed and over 20 million people were subjected to dangerous air and water pollutants from the fire.<sup>46</sup>
69. The Indonesian government explained the tragic fires as a combination of reduced rainfall due to the El Nino weather pattern, and the use of fire by many in forested regions to clear underbrush. Others assert, however, that the real problems lie in Indonesia's forestry management policies. It is speculated that some of the fires may have been set in protest of the government's forestry management policies whereby rural people are considered illegal occupants of the land.<sup>47</sup>
70. The scale of the fires and their economic, health and environmental impact for ASEAN members Brunei Darussalam, Indonesia, Malaysia, and Singapore, put transboundary haze issues high on the ASEAN agenda. In December 1997 ASEAN members agreed on a Regional Haze Action Plan (RHAP). The Plan identified goals for improved cooperation on: preventative measures, regional monitoring mechanisms, and fire fighting capability.
71. Under the topic of preventative measures the RHAP instructs members to develop National Plans "to encapsulate their policies and strategies to prevent and mitigate land and forest fires."<sup>48</sup> While the National Plans are the domestic responsibility of members, the sections on regional monitoring mechanisms and fire fighting capability are the envisioned future steps toward cooperation for the region. The Plan established a Haze Technical Task Force and called on the ASEAN Environment Ministers to work with the Task Force to review and provide guidance on the implementation of the RHAP. The RHAP was followed up with the 2002 Agreement on Transboundary Haze Pollution. The Agreement reiterates commitments made in the RHAP and established the ASEAN Coordinating Centre for Transboundary Haze Pollution Control to facilitate implementation of the Agreement's provisions.
72. Until now, six ASEAN members have ratified the 2002 Agreement on Transboundary Haze Pollution. However, without the signature of Indonesia, ASEAN's most significant contributor to the haze problems, the provisions of the Agreement lack the support needed to realize region-wide implementation. In addition to being uncooperative in signing the 2002 agreement, it is arguable that Indonesia has taken steps to worsen the situation. In 1999 a new Indonesian forestry law began allowing companies to use fire to clear land if they get a permit, which are reportedly easy to obtain.<sup>49</sup> Although Indonesia often blames

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<sup>46</sup> Asia Times, *ASEAN haze pact nothing but smoke*, August 29, 2002, [http://www.atimes.com/atimes/Southeast\\_Asia/DH29Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/DH29Ae01.html)

<sup>47</sup> Ibid.

<sup>48</sup> ASEAN, *Regional Haze Action Plan*, <http://www.aseansec.org/8953.htm>.

<sup>49</sup> Martin Khor, *ASEAN needs to act on haze crisis*, Third World Network, August 15, 2005, <http://www.twinside.org.sg/title2/gtrends67.htm>.

rural poor farmers for such fires, there is a likelihood that the fires are actually caused by corporate fire permit-holders.

73. While Indonesia has been a leader in ASEAN on some issues, it has dampened the effect of ASEAN's efforts on transboundary haze. Without the ratification and support of Indonesia it is unlikely that real progress can be made on this issue. ASEAN's policy of non-interference with the national policies of members can be an advantage but for the other nine ASEAN members Indonesia's lack of cooperation on transboundary haze has effectively stalled progress on this issue.

## ii. Biodiversity Protection

74. At a meeting in Indonesia in May 2006 ASEAN members declared the theme of the 2006 ASEAN Environment Year Biodiversity: Our Life, Our Future. The purported aim of the theme is to raise awareness about ASEAN's rich biodiversity, and strengthen regional cooperation and implementation of actions on environment conservation. But what does this mean for biodiversity cooperation in Southeast Asia?
75. Southeast Asia is home to approximately 20 per cent of the world's species despite only accounting for 3 per cent of the world's land coverage.<sup>50</sup> The value and importance of biodiversity protection in Southeast Asia is widely agreed upon, the challenge lies in how to protect biodiversity effectively. With growing urban and rural populations demands on the region's natural resources are also increasing, hence conservation plans must also incorporate important development objectives.
76. ASEAN cooperation on biodiversity began in the early 1990's with the establishment of the ARCBC. The ARCBC was an environmental partnership between the EU and ASEAN. The EU provided the funds for networking, applied research, training and technical assistance, and ASEAN provided office space and facilities, and support personnel. In 2005 ASEAN members changed the name of the ARCBC to the ASEAN Centre for Biodiversity (ACB). The new name came with a new vision for the organization focusing squarely on the biodiversity aims of the Millennium Development Goals (MDGs). The organization's four broad objectives are: saving biodiversity, studying biodiversity, teaching about biodiversity, and using biodiversity. The new ACB also receives a bulk of its funding from the EU.
77. The ACB is continuing with over 50 biodiversity research initiatives begun under the ARCBC and maintains the ARCBC's training resource database which numerous publications and the names and contact information of conservation specialists in the region. The ACB is also the home of the ASEAN Heritage Parks

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<sup>50</sup> ASEAN, *ASEAN launches Environment Year 2006*, 18 May 2006, <http://www.aseansec.org/18423.htm>.

- program, which are protected areas of high conservation importance for preserving in total a complete spectrum of representative ecosystems of the ASEAN.<sup>51</sup>
78. Region-wide cooperation to address biodiversity protection can be seen in the increases of ASEAN Heritage Parks and transboundary protected areas (TBPAs) over the last 15 years. the International Union for Conservation of Nature and Natural Resources (IUCN) defines a TBPA as:  
*An area of land and/or sea that straddles one or more borders between states, sub-national units such as provinces and regions, autonomous areas and/or areas beyond the limit of national sovereignty or jurisdiction, whose constituent parts are especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed cooperatively through legal or other effective means.*<sup>52</sup>
79. According to IUCN TBPAs have been increasing in Asia. In 1988, there were seven recognized TBPA groups in Asia, by 1997 the number of groups jumped to 26 involving 76 protected areas (PAs). By 2001 the 30 TBPA groups in Asia involved 108 PAs, a more than 40% increase in the number of PAs participating in Asia's transboundary projects since 1997.<sup>53</sup>
80. There are many challenges to coordinating the management of TBPAs ranging from effective local involvement to forging agreements between national governments. The increased number of TBPAs in Asia is encouraging and attests to the interest in improving transnational environmental cooperation in the region. Unfortunately, the development of cross-border conservation partnerships do not always lead to improved biodiversity preservation. In many areas of Southeast Asia illegal logging, the use of fire for clearing underbrush, and the trafficking of endangered species continue. For TBPAs to deliver on biodiversity protection aims better management, improved legal structures, and improved capacity building for forestry staff and rural communities must be developed.
81. Better biodiversity protection in ASEAN is also hampered by the fact that only a handful of ASEAN members have signed the Convention on Biodiversity (CBD). And while all ASEAN members have signed the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), implementation has been weak due to porous borders, lack of law enforcement on endangered species trafficking, and the low number of CITES checkpoints in the region.

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<sup>51</sup> ASEAN's Center for Biodiversity, *The ASEAN Declaration on Heritage Parks*, <http://www.aseanbiodiversity.org/AGP/default.htm>.

<sup>52</sup> Sandwith T., Shine C., Hamilton L., & Sheppard D. *Transboundary Protected Areas for Peace and Co-operation*, International Union for Conservation of Nature and Natural Resources. 2001, forward p. 3. <http://app.iucn.org/dbtw-wpd/edocs/PAG-007.pdf>.

<sup>53</sup> Ibid, p. 56.

82. One way ASEAN is addressing endangered species trafficking is through a partnership with TRAFFIC and WWF-ASEAN called the ASEAN Wildlife Trade Initiative. The initial aim of the collaboration involving the ASEAN Secretariat was developing a framework for regional cooperation to improve CITES implementation prior to the 13<sup>th</sup> CITES Conference of the Parties in 2004. Now the main focus is leveraging national-level action and commitments centered on tigers, elephants and marine turtles.<sup>54</sup>
83. For improved biodiversity protection to be achieved ASEAN countries will need to build better, more inclusive multi-stakeholder management systems for domestic PA and TBPA projects. Members also need to take significant steps toward implementing their current regional and international biodiversity preservation commitments.

## ii. Freshwater Cooperation and Marine Protection

84. As a region ASEAN is faced with significant future population increases and subsequently an increasing demand for freshwater. In 1985, 12 cities in Asia (including India and China), and 3 in Southeast Asia, had populations of over 5 million. As of 2005 there were 23 cities with over 5 million residents, now 4 in Southeast Asia. While much of the growth has been in India and China<sup>55</sup> ASEAN estimates that water demand in the region will grow by one-third in the next 20 years.<sup>56</sup> The growing thirst for water in ASEAN and beyond will require ASEAN to improve systems to maintain and provide freshwater resources.
85. The importance of freshwater accessibility is also the focus of MDG 7, Target 10 to reduce by half the proportion of people without sustainable access to safe drinking water by 2015. To reach this goal the ADB initiated a new water financing program in 2006 to increase bank financing of water investments in Asia to \$2 billion annually in urban, rural, and basin water projects.<sup>57</sup> While there has been significant progress on water supply coverage in Southeast Asia, over 113 million people still do not have access to freshwater. More than 75% of those

<sup>54</sup> ASEAN Wildlife Trade Initiative, <http://www.traffic.org/25/network9/ASEAN/about/index.html>.

<sup>55</sup> BBC, *Interactive Map: Urban Growth*, <http://news.bbc.co.uk/2/shared/spl/hi/world/06/urbanisation/html/urbanisation.stm>

<sup>56</sup> ASEAN Working Group on Water Resources Management, *ASEAN Strategic Plan of Action on Water Resources Management, 2005*, p. 5, <http://www.aseansec.org/awgwr/ASEAN%20Strategic%20Plan%20of%20Action%20on%20Water%20Resources%20Management.pdf>.

<sup>57</sup> Asian Development Bank, *Water Financing Program 2006-2010, Water for All: The Next 5 Years*, <http://www.adb.org/Water/Operations/WFP/default.asp>.

without access reside in rural areas.<sup>58</sup> Among ASEAN members water supply capacities are the lowest in Cambodia and Laos.

86. The need to develop a regional water resource management plan in ASEAN was first recognized in the 1999-2004 Ha Noi Plan of Action (HPA). The HPA states in Water Utility section that ASEAN should:

*...cooperate on a regular basis, exchange of information, knowledge, and experiences among Member States as means to improve water resources management and water supply system within the region...<sup>59</sup>*

87. In 2003 ASEAN's Environment Ministers adopted the ASEAN Long-Term Strategic Plan for Water Resources Management. The ministers' vision, to be achieved by 2025 involves:

*...the attainment of sustainability of resources to ensure sufficient water quantity of acceptable quality to meet the needs of people in terms of health, food security, economy and the environment.<sup>60</sup>*

The ASEAN Working Group on Water Resources Management is responsible for realizing the vision and in 2005 published the ASEAN Strategic Plan of Action on Water Resources Management. The Plan of Action includes several concept project proposals for realizing the Long-Term Strategic Plan from domestic level research to the development of an ASEAN-wide river classification section. The Plan of Action identifies activities to meet project objectives with implementation time frames, and measures for success. The major challenges for ASEAN will be finding the resources to carry out research, and maintaining the political will of members. Greater cooperation with extra-regional partners and the ADB may help buffer implementation costs.

88. A significant organization for water resource management in the region is the MRC, formed in 1995 as a result of the Agreement on the Cooperation for Sustainable Development of the Mekong River Basin. The MRC involves Cambodia, Laos, Thailand, and Vietnam along with dialogue partners China and Myanmar. The MRC and its partners are working to alleviate poverty in the region and address one of ASEAN's five categories for water cooperation; integrated river basin management. The MRC's Mekong Programme divides the tasks of accomplishing poverty elimination and water resource management into several project areas.

<sup>58</sup> Asian Development Bank, *Water and the Millennium Development Goals, Target 10 in Southeast Asia*, <http://www.adb.org/Water/Topics/MDGs/target-ten-southeast.asp>.

<sup>59</sup> ASEAN, *Hanoi Plan of Action*, <http://www.aseansec.org/8754.htm>.

<sup>60</sup> ASEAN Working Group on Water Resources Management, *ASEAN Strategic Plan of Action on Water Resources Management*, 2005, p. 1, <http://www.aseansec.org/awgwrw/ASEAN%20Strategic%20Plan%20of%20Action%20on%20Water%20Resources%20Management.pdf>.

89. Marine area management and protection are also very important for ASEAN. Developing an improved marine management system in ASEAN will need to take into account: future potential energy exploration in the South China Sea (as previously discussed), maintenance of fishing resources for coastal economies and as an affordable source of protein, and pressure from the international community to protect marine habitats.
90. Southeast Asia is home to rich marine biodiversity that requires improved management for sustaining biodiversity and local fishing needs. Reef fish in the region's coral reefs are a significant source of protein for many ASEAN members with the Philippines, Malaysia and Indonesia deriving 60-70% of their animal protein intake from marine fisheries.<sup>61</sup> Further, beyond the value of fish for consumption; invertebrates and seaweed found in and around coral reefs are also significant sources of export income for many countries.<sup>62</sup>
91. ASEAN fisheries cooperation began in 1983 with the ASEAN Ministerial Understanding on Fisheries Cooperation. The Ministerial Understanding on Fisheries Cooperation commits ASEAN members to improve cooperation on:
- management and conservation, of the fisheries resources of the EEZs in the ASEAN region;
  - sharing and transfer of technology at all levels to improve the socioeconomic status of the fishermen;
  - increasing production in aquaculture to improve the income of fish farmers;
  - all aspects of post-harvest technology in support of production and marketing efforts;
  - promoting the trade and marketing of fish and fishery products among the ASEAN members and other countries;
  - identifying common areas for commercial cooperation in fisheries; and
  - working towards a common stand and understanding on regional and international matters in fisheries.<sup>63</sup>
92. Fisheries cooperation also occurs through the Southeast Asian Fisheries Development Center (SEAFDEC), established in 1967. SEAFDEC includes all ASEAN members and Japan. While the organization is focused on fisheries production it also has several consultative groups working on such issues as:

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<sup>61</sup> Cathering P.S. Chung, Porfirio M. Alino, Andre Jon Uychiaoco, Hazel O. Arceo, *Marine Protected Areas in Southeast Asia*, ARCBC Department of Natural and Environmental Resources, 2002, p. 3, [http://www.arcbc.org/arcbcweb/pdf/mpa\\_in\\_sea.pdf](http://www.arcbc.org/arcbcweb/pdf/mpa_in_sea.pdf).

<sup>62</sup> Ibid, p. 1,

<sup>63</sup> ASEAN, *ASEAN Ministerial Understanding on Fisheries Cooperation*, <http://www.aseansec.org/6177.htm>.

conservation and management of sea turtles, and coastal resource management. Together ASEAN and SEAFDEC are currently working to implement a Code of Conduct for Responsible Fisheries.<sup>64</sup>

93. Southeast Asia, considered an area of the highest marine biodiversity in the world, is also the most seriously threatened.<sup>65</sup> Factors that threaten marine habitats include: over-fishing due to poverty and hunger; coastal population increases and development; the need for export income; and pollution from river run off. One way ASEAN members are trying to increase protection of endangered species and enabling degraded marine habitats to recover, are through the establishment of Marine Protected Areas (MPAs). IUCN defines MPAs as

*..any area of the intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law or other effective means to protect part or all of the enclosed environment.*<sup>66</sup>

94. MPAs in Southeast Asia are increasing quickly. Currently, there are over 280 MPAs in the region; and more than 125 others that have been proposed.<sup>67</sup> The best example of regional cooperation in this area is joint marine conservation project on the Turtle Islands involving Malaysia and the Philippines. The project is the first and only trans-frontier protected area for marine turtles in the world.
95. Although the number of MPAs are increasing, like TBPAs, few are managed effectively. A recent study of MPAs in Southeast Asia found that as few as 10-20% are adequately managed. One of the biggest problems is the inconsistency of MPA management. Domestic legislation and capacity building for MPA managers and coastal communities are also fundamentally important for improving MPA management and efficacy.<sup>68</sup>
96. Environmental cooperation has a young history in ASEAN, and in many ways occurs only on paper. Difficulties to furthering environmental cooperation include: the perceived lack of urgency of environmental issues as compared with

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<sup>64</sup> SEAFDEC, *Resolution on Sustainable Fisheries for Food Security for the ASEAN Region*, November 24, 2001, [http://fish.seafdec.org/Sida/seafdec\\_resolution.pdf](http://fish.seafdec.org/Sida/seafdec_resolution.pdf).

<sup>65</sup> Cathering P.S. Chung, Porfirio M. Alino, Andre Jon Uychiaoco, Hazel O. Arceo, *Marine Protected Areas in Southeast Asia*, ARCBC Department of Natural and Environmental Resources, 2002, p. 3, [http://www.arcbc.org/arcbcweb/pdf/mpa\\_in\\_sea.pdf](http://www.arcbc.org/arcbcweb/pdf/mpa_in_sea.pdf).

<sup>66</sup> Marine Protected Areas of the United States, *What Are Marine Protected Areas?*, [http://mpa.gov/information\\_tools/archives/what\\_is\\_mpa.html](http://mpa.gov/information_tools/archives/what_is_mpa.html).

<sup>67</sup> Cathering P.S. Chung, Porfirio M. Alino, Andre Jon Uychiaoco, Hazel O. Arceo, *Marine Protected Areas in Southeast Asia*, ARCBC Department of Natural and Environmental Resources, 2002, Table i.3, p. 8, [http://www.arcbc.org/arcbcweb/pdf/mpa\\_in\\_sea.pdf](http://www.arcbc.org/arcbcweb/pdf/mpa_in_sea.pdf).

<sup>68</sup> Cathering P.S. Chung, Porfirio M. Alino, Andre Jon Uychiaoco, Hazel O. Arceo, *Marine Protected Areas in Southeast Asia*, ARCBC Department of Natural and Environmental Resources, 2002, Table i.3, p. 1, [http://www.arcbc.org/arcbcweb/pdf/mpa\\_in\\_sea.pdf](http://www.arcbc.org/arcbcweb/pdf/mpa_in_sea.pdf).

security or health issues, and the limited political reward for leaders to attain environmental cooperation. Achieving success on regional environmental issues takes time and is less visible than progress on other issues. These realities and many of the principles of the ASEAN Way (non-intrusiveness and elite diplomacy among them) have until now put environmental issues in the back seat of ASEAN diplomacy. As populations in the region rise and the subsequent demand on natural resources increase however, it is likely that ASEAN cooperation on environmental issues will have a larger role in the ASEAN agenda.

#### D. Health Issues

97. Technological innovations over the last few decades have accelerated the speed with which individuals can communicate, travel, and trade across vast distances. Increases in the movement of people and goods worldwide have also resulted in the increased mobility of diseases from country to country, and region to region. One need only recall the Severe Acute Respiratory Syndrome (SARS) outbreak in China and its subsequent rapid spread to other countries in 2003 for an example of the urgency and international impact that health problems can have in our modern world.
98. ASEAN cooperation on health began in the early 1980's with a series of ASEAN health ministers meetings (AHMM). In 1982 the ASEAN Institute for Health Development (AIHD) based in Bangkok and plays an increasingly important role in promoting multilateral cooperation with other international agencies to carry out training, research, and documentation projects in the areas of primary health care and participatory community-based development.<sup>69</sup> More recently, AIHD has become involved in HIV/AIDS research, and is now home to the ASEAN Regional HIV/AIDS Coordination Center.
99. In 2002 ASEAN health ministers adopted the Regional Action Plan on Healthy ASEAN Lifestyles. In the agreement "Healthy Lifestyles" are defined as:

*... behaviours and social practices conducive to good health that are adopted by individuals but reflect the values and identities of the groups and societies in which they live.*<sup>70</sup>

The vision of the Action Plan is for all ASEAN citizens to lead healthy lifestyles consistent with their values, beliefs and culture in supportive environments by 2020.

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<sup>69</sup> Cathering P.S. Chung, Porfirio M. Alino, Andre Jon Uychiaoco, Hazel O. Arceo, *Marine Protected Areas in Southeast Asia*, ARCBC Department of Natural and Environmental Resources, 2002, Table i.3, p. 1, [http://www.arcbc.org/arcbcweb/pdf/mpa\\_in\\_sea.pdf](http://www.arcbc.org/arcbcweb/pdf/mpa_in_sea.pdf).

<sup>70</sup> ASEAN, *Regional Action Plan on Healthy ASEAN Lifestyles*, <http://www.aseansec.org/8625.htm>.



100. The plan highlights several areas for cooperation including:
- strengthening policy development through improved research;
  - enhancing the health literacy of ASEAN citizens; and
  - building supportive environments for healthy lifestyles through improving living and working conditions and establishing dialogues between government, NGOs, and civil society.<sup>71</sup>

The Plan identifies several high priority health issues for the region, making reference to the trend in re-emerging infectious diseases (like avian flu) and the ASEAN HIV/AIDS taskforce. The plan makes no mention of SARS as the outbreak in China had not yet occurred.

101. Beginning in 2003 with the SARS, ASEAN discussions on health issues began involving non-ASEAN countries especially APT members Japan, Korea, and China. There are many diseases and health issues that need more attention in ASEAN states, the most significant are: HIV/AIDS, SARS, and Avian Flu.

#### i. HIV/AIDS

102. The HIV/AIDS issue in Southeast Asia is no small matter. Out of the estimated 550 million inhabitants of the region there are over 1.5 million people living with HIV and AIDS (PLHAs). The highest rates of infection are in Cambodia (2.6%) and Thailand (1.5%)<sup>72</sup>. The death rate of PLHAs is highest in Thailand followed by Cambodia and Myanmar.<sup>73</sup> Generally, transmission of HIV in ASEAN is through unprotected sexual intercourse; except in Myanmar and Vietnam where transmission is primarily due to intravenous drug use.<sup>74</sup>
103. The economic costs of HIV/AIDS to developing countries add up quickly. The initial costs of treating and supporting PLHAs include:
- sufficient training for hospital/clinic doctors and staff;
  - hospital/clinic infrastructure to ensure urban and rural residents have reasonable access to treatment; and
  - funding for drugs to treat PLHAs since individuals in developing countries can rarely afford to pay for the drugs they need.

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<sup>71</sup> Ibid.

<sup>72</sup> According to the UN an infection rate of more than 2% of the population is considered an epidemic.

<sup>73</sup> International Labor Organization, *HIV and AIDS and the World of Work in ASEAN*, December 2005, p. 5, <http://www.ilo.org/public/english/protection/trav/aids/publ/asean.pdf>.

<sup>74</sup> Ibid, p. 14.

There are also significant economic costs to countries struggling with large HIV/AIDS populations. The loss of productivity of citizens in their prime work years, who may be the heads of their households; also pose a significant challenge for improving livelihoods and reducing poverty.

104. ASEAN first addressed the HIV/AIDS issue at the 4<sup>th</sup> ASEAN Summit in 1992. One of the outcomes of this meeting was the creation of the ASEAN Task Force on AIDS (ATFOA) which met for the first time in 1993. The primary task for the ATFOA was to develop an ASEAN-wide AIDS program. With the help of the World Health Organization (WHO) and the ASEAN Secretariat the ATFOA produced the ASEAN Regional Program on HIV/AIDS Prevention and Control for the years 1995-2000.<sup>75</sup>
105. The lack of positive effect of ASEAN cooperation on HIV/AIDS became evident in an October 2001 BBC report stating Asia was on the brink of an AIDS crisis in the region. According to the report:
- one in five sex workers in Vietnam were HIV positive;
  - Indonesian blood donors were seeing a ten-fold increase in infection rates;
  - Cambodia and Vietnam's rates of infection were above 2%;
  - some UN officials speculated 7% infection rates in Burma; and
  - in the Thailand-China border area rates for male infection were estimated to be as high as 10%<sup>76</sup>
106. Perhaps in response to the BBC report the first significant commitments to work regionally on HIV/AIDS occurred later that year. In November 2001 at the 7<sup>th</sup> ASEAN Summit members signed a Declaration on HIV/AIDS which identifying two joint actions for ASEAN:
- strengthening regional mechanisms and increase and optimize the utilization of resources to support joint regional actions to increase access to affordable drugs and testing re-agents; and
  - monitoring and evaluating activities at all levels and conducting reviews and information sharing with the full and active participation of non-governmental organisations, community-based organisations, PLHAs, and vulnerable groups and caregivers<sup>77</sup>

<sup>75</sup> ASEAN, *ASEAN's Efforts in Combating HIV/AIDS*, p. 2, [http://www.aseansec.org/zip/ASEAN\\_combat\\_aids.pdf](http://www.aseansec.org/zip/ASEAN_combat_aids.pdf).

<sup>76</sup> Larry Jagan, *Asia Warned of AIDS Epidemic*, BBC News, October 5, 2001, <http://news.bbc.co.uk/2/hi/asia-pacific/1580333.stm>.

<sup>77</sup> ASEAN, *7th ASEAN Summit Declaration on HIV/AIDS*, November 5, 2001, <http://www.aseansec.org/8582.htm>.

107. With regard to accessing more affordable HIV/AIDS drugs a workshop was held in June 2002 with seven ASEAN members, the Asia-Pacific Network of HIV-Positive People, and the Asia-Pacific Council of AIDS Service Organisations. At the workshop countries shared their experiences of gaining access to cheaper drugs. Countries successful at purchasing cheaper drugs, such as Thailand, Malaysia and Brazil, made presentations to share their knowledge. At the meeting the participants also discussed trade-related issues affecting drug access such as the WTO Trade-Related Aspects of Intellectual Property (TRIPS) Agreement.
108. Evaluation and monitoring of commitments has largely been taken on by the AIHD's HIV/AIDS Regional Coordination Center. Perhaps as a result of AIHD's location in Bangkok HIV/AIDS infection rates have decreased in Thailand. Currently, AIHD is strengthening its capacity to help Cambodia, Laos, Myanmar, and Vietnam with their increasing infection rates.<sup>78</sup> AIHD plays an important role in: research, training, and building cooperation among civil society and government stakeholders.
109. Participation of civil society in ASEAN efforts on HIV/AIDS (as referenced in the 2001 Declaration) has taken place through the AIHD and with NGOs and religious groups working on HIV/AIDS issues. Since 1998, periodic workshops have been held to gather the region's Islamic religious leaders to discuss the HIV/AIDS issue. More recently, in May 2006 ASEAN secretariat officials, government representatives, participants from the Coalition of Asia Pacific Regional Networks on HIV/AIDS, and UNAIDS met in Indonesia to discuss HIV/AIDS issues.
110. ATFOA's 2002-2005 program of action carried over some aspects of the old program and integrated it with new AIDS issues arising in the region. The 2002-2005 program had four objectives:
- reduce the rate of HIV transmission in ASEAN;
  - create a positive environment for HIV/AIDS prevention activities, and provide treatment and support for PLHAs;
  - strengthen national responses to HIV/AIDS prevention, treatment, care, and support inter-country activities; and
  - strengthen multi-sectoral cooperation among governments and regional partners to facilitate national and regional programs<sup>79</sup>
111. While ASEAN is in its own way stepping up to address the AIDS issue, infection rates continue to rise with 99% of cases in the region from Indonesia, India, Thailand and Myanmar. The number of PLHAs in the region (including

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<sup>78</sup> ASEAN Institute for Health Development, *HIV/AIDS Regional Coordination Center*, <http://www.aihd.mahidol.ac.th/InterProject.htm>.

<sup>79</sup> Ibid, p. 3.

India, Nepal, Sri Lanka, and Bangladesh) now stands at over 6.7 million.<sup>80</sup> While the bulk of these cases are outside of ASEAN, the proximity of such widespread infection in nearby countries is an issue that requires continued vigilance by ASEAN.

## ii. Severe Acute Respiratory Syndrome (SARS)

112. Although the initial cases of SARS occurred in late 2002 it was not until late February 2003 that the WHO learned of the new health emergency in China. On March 12<sup>th</sup> the WHO issued a global alert, and on March 15<sup>th</sup> a heightened global alert as cases were discovered in Singapore and Canada. Between November 2002 and July 2003 a total of 8096 cases of SARS were reported, resulting in 774 deaths.<sup>81</sup> Before the 2003 outbreak was contained it had spread to several ASEAN countries:

- Singapore – 206 cases
- Vietnam – 63 cases
- The Philippines – 12 cases
- Malaysia – 8 cases
- Indonesia – 2 cases
- Thailand – 8 cases<sup>82</sup>

113. In response to the WHO alerts about the nearby outbreak in China ASEAN called a Special Meeting on April 29, 2003 to develop strategies to combat the health emergency. As the epicenters of the outbreak were in China and Hong Kong, they were also invited to the meeting. The participants of the meeting agreed on three main areas of cooperation:

- information sharing, leaders exchanged mobile phone contact numbers to improve communication;
- coordination of a method to combat spread of the disease through an “isolate and contain” strategy, to enable travel of non-affected persons, and contain infected individuals; and
- formation of a public awareness and education campaign<sup>83</sup>

114. After the April 2003 meeting ASEAN held two follow up meetings of APT in June. The first involved only health ministers, the second involved the

<sup>80</sup> WHO, *Facts about HIV/AIDS in the South-East Asia Region*, [http://w3.whosea.org/en/Section10/Section18/Section348\\_9917.htm](http://w3.whosea.org/en/Section10/Section18/Section348_9917.htm).

<sup>81</sup> WHO, *Summary of probable SARS cases with onset of illness from 1 November 2002 to 31 July 2003*, [http://www.who.int/csr/sars/country/table2004\\_04\\_21/en/index.html](http://www.who.int/csr/sars/country/table2004_04_21/en/index.html).

<sup>82</sup> John Roberts, *SARS outbreak deepens economic decline in South East Asia*, World Socialist Website, June 2, 2003, <http://www.wsws.org/articles/2003/jun2003/sars-j02.shtml>.

<sup>83</sup> H.E. Ong Keng Yong, Secretary-General of ASEAN, *The Impact of SARS on Asian Economy and ASEAN's Leaders' Response*, ASEAN, May 13, 2003, <http://www.aseansec.org/14787.htm>.

ministers and other high level health officers. There were also several observers to the meetings including a representative from Canada and the WHO. The participants issued a joint statement titled “ASEAN is a SARS-free Region”. The declaration referenced the implementation of the strategies agreed upon at the April meeting. And mentioned several meetings had taken place between ASEAN and extra-regional parties since April 2003 including:

- a high-level ASEAN Labor Ministers meeting in May 2003;
- a May 2003 ASEAN Aviation Forum on containing SARS;
- an early June 2003 meeting on the China-ASEAN Entry-Exit Quarantine Meeting on SARS and;
- a WHO Global Conference on SARS in June 2003.<sup>84</sup>

115. In the declaration participants resolved to improve cooperation on four fronts: guidelines for international travel, development of an ASEAN SARS Containment Information Network, capacity building for outbreak alert and response, and public education and information.<sup>85</sup> Given the non-intrusive nature of the “ASEAN Way”, some countries implemented plans of action very quickly while others took longer to enact new polices such as improved health and airport screening procedures during the outbreak. Fortunately, the efforts taken were sufficient to bring about an end to the outbreak.

116. While the rapid spread of SARS was contained before it reached epic proportions ASEAN members must still develop better strategies for a potential future outbreak of SARS (or another fast spreading disease). The previous outbreak not only caused 40+ deaths in ASEAN, but also significantly impacted the region’s economy. China and Hong Kong were the hardest hit however, the entire Asian region suffered. As a result of SARS air travel to Asian countries dropped between 50%-90% with many canceling travel plans due to fear, and the hassle of tight health screenings at airports.<sup>86</sup> The huge reduction in travelers to the region caused loses to the tourism industry and all of its off-shoots including: hotels, restaurants, even taxi drivers. For many ASEAN members tourism is a key industry accounting for up to 5 or 10% of GDP. As a result of SARS the ADB estimated growth in Southeast Asia (Indonesia, Malaysia, the Philippines, Singapore and Thailand) in 2003 would decline by an average 0.5%, to an annual rate of 3.4 percent.

117. ASEAN needs continue its work on developing a better response system for health emergencies to ensure that any future outbreak will be likewise contained. One key aspect ASEAN will need to grapple with, and taken up in the

<sup>84</sup> ASEAN, *ASEAN is a SARS-free Region*, June 10-11, 2003, <http://www.aseansec.org/14823.htm>.

<sup>85</sup> Ibid.

<sup>86</sup> Mehmood-UI-Hassan Khan, *Global comparative study and Socio-economic implications of SARS*, Media Monitors Network, January 24 2004, <http://usa.mediamonitors.net/content/view/full/4252/>.

next section of the paper, is better management of the movement of people in the region. There is also some concern that the urgency of addressing the avian flu outbreak in the region has knocked SARS off the ASEAN priority list. While the 2003 joint declaration identifies actions for future cooperation all SARS related documents on the ASEAN website are dated 2003.

### iii. Avian Influenza

118. As of June 2006 over 225 cases of H5N1, avian influenza (avian flu), had been reported to the WHO, and of those infected 128 have died. The majority of cases have occurred in Asia with the most significant numbers in Vietnam, Indonesia and Thailand.<sup>87</sup> While these numbers may not seem substantial, without careful monitoring and preventative actions avian flu could become more widespread. The world has seen three previous similar pandemics in 1918, 1957, and 1968. The 1918 pandemic killed between 20-40 million and there is some evidence that the virus may have originated from birds.<sup>88</sup>
119. The urgency for addressing avian flu stems from the fact that the virus which spreads avian flu is highly unstable. If the virus were to mutate and replicate it could spread quickly, as humans would have no immunity to the disease. Such a crisis could kill millions causing enormous human and economic consequences. In the first quarter of 2006, thirteen countries reported finding infected birds and over two million birds had been killed to avert spread of the disease.<sup>89</sup>
120. Since the outbreak of the newest strain of avian flu ASEAN has held many regional meetings and begun several new initiatives. In April 2004 the ASEAN Expert Group on Communicable Diseases (AEGCD) recognized the need to begin inter and extra-regional avian flu efforts quickly, and endorsed the formation of an APT Emerging Infectious Diseases (EID) Program in April 2004.
121. At the October 2004 meeting of ASEAN Ministers of Agriculture and Forestry (AMAF) the Task Force on Highly Pathogenic Avian Influenza (HPAI) was established. The HPAI Task Force then developed a detailed action plan assigning responsibility for each action to various ASEAN members for elimination of avian flu in the region by 2008;

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<sup>87</sup> WHO, *Cumulative Number of Confirmed Human Cases of Avian Influenza A/(H5N1) Reported to WHO*,

[http://www.who.int/csr/disease/avian\\_influenza/country/cases\\_table\\_2006\\_06\\_06/en/index.html](http://www.who.int/csr/disease/avian_influenza/country/cases_table_2006_06_06/en/index.html).

<sup>88</sup> WHO, *Avian Influenza: Review of the Current Situation*, March 1, 2006, p. 1, [http://w3.who.int/LinkFiles/Update\\_2006\\_aireview010306.pdf](http://w3.who.int/LinkFiles/Update_2006_aireview010306.pdf).

<sup>89</sup> WHO, *Avian Influenza: Review of the Current Situation*, March 1, 2006, p. 1, [http://w3.who.int/LinkFiles/Update\\_2006\\_aireview010306.pdf](http://w3.who.int/LinkFiles/Update_2006_aireview010306.pdf).

- disease surveillance, Thailand;
- effective containment measures, Malaysia;
- stamping out and vaccination policy, Indonesia;
- diagnostic capabilities, Thailand;
- establishment of disease free zones, Malaysia;
- information sharing, Singapore;
- emergency Preparedness Plans, Malaysia; and
- public awareness, the Philippines.

122. Beyond the HPAI Task Force the AHMM and AMAF have held multiple meetings. Additionally, regional coordination of an early warning and response system, laboratory diagnostics and epidemiological surveillance cooperation are now in place.<sup>90</sup> ASEAN members also participate in the Southeast Asian Nations Infectious Diseases Outbreak Surveillance Network developed by the U.S. Naval Medical Research Unit No. 2 in cooperation with the Indonesian government and the ASEAN Secretariat. The framework to set up the online network was agreed upon in 2000 at the Regional Action Conference for Surveillance and Response: Infectious Disease Outbreaks in Southeast Asia. The project networks various national institutions and facilitating “regional cooperation to improve infectious disease outbreak detection and response capabilities.”<sup>91</sup> The website provides outbreak reports by country and daily information on health developments in the region, such as avian flu.

123. In 2006 there have been several meetings to further collaboration on avian flu. In January the 3<sup>rd</sup> HPAI Task Force met and endorsed implementation of the Regional Framework for Control and Eradication of Highly Pathogenic Avian Influenza. Also in January international conference was held in Beijing to address the problem of funding that many countries face in implementing measures to prevent the spread of avian flu. Although \$1.9 billion was pledged by donors at the conference, much of that has yet to be disbursed.<sup>92</sup>

124. The ADB has pledged a total of \$470 million to funding avian flu prevention efforts, and in March 2006 Japan pledged roughly \$70 million to be deposited into a Japan-ASEAN Integration Fund (JAIF).<sup>93</sup> Additional funding for managing avian flu outbreak is also available through the World Bank’s Global Program for Avian Influenza (GPAI). The Bank expects some 25 countries to

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<sup>90</sup> ASEAN, *Combating Avian Flu in ASEAN*, p. 2, <http://www.aseansec.org/Avian-Flu.pdf>.

<sup>91</sup> Southeast Asian Nations Infectious Diseases Outbreak Surveillance Network, *About ASEAN-Surveillance-Net*, <http://www.ads-net.org/ASNHistory.asp>.

<sup>92</sup> ADB. *Progress Report: Prevention and Control of Avian Influenza in Asia and the Pacific*, p. 5-6, <http://www.adb.org/Documents/Progress-Implementations/REG/39662-REG-PI.pdf>.

<sup>93</sup> ASEAN, *ASEAN Response to Combat Avian Influenza*, April 2006, <http://www.aseansec.org/18392.htm>.

receive funding from this program by the end of 2006. As of July 2006 Lao PDR and Vietnam had received project funding from GPAI.<sup>94</sup>

125. ASEAN, along with international partners the UN Food and Agricultural Organization (FAO), WHO, ADB and extra-regional governmental partners (APT, Australia etc), is working to prevent a potential pandemic of avian flu. Thus far ASEAN has been quite active in its attempts to address the issue with concrete action. It is quite possible that the 2003 SARS outbreak provided ASEAN with a useful foundation of experience to address avian flu more quickly. Time will tell if their efforts until now have been sufficient or not.
126. While ASEAN has stepped up to the plate on the recent urgent health issues that have rocked the region over the last few years, the threat of a global avian flu outbreak remains. To ensure the health of citizens in the region ASEAN must develop an inter-related two pronged strategy for health cooperation; one for urgent and one for longer-term health issues. Some progress has been made on improving communication and information sharing on urgent health issues like avian flu. However, ASEAN must do more to realize the Regional Action Plan on Healthy ASEAN Lifestyles, particularly with regard to improving civil society dialogue and the health literacy of citizens.

#### *E. Migration and Cross-Border Movements of People*

127. Many of the issues in this paper are inter-related, however migration more than any other connects to all of them. With regard to security, ASEAN migration strategies must address transborder crime, illegal human trafficking, and terrorism. Increased migration also contributes to the growth of cities which take their toll on the environment and have increasing demands for energy. Attention on migration must also take into account health issues, as increased intra-ASEAN immigration could accelerate the spread of infectious diseases. As with many areas under the realm of ASEAN many of the concrete steps taken on migration are bilateral, however, recent initiatives have indicated more extensive region-wide cooperation is developing.
128. Since the 1970's Southeast Asian migration has been mainly intra-ASEAN in nature. The differing economies and levels of development within Asia have resulted in 22 million of the estimated 80 million migrant workers worldwide

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<sup>94</sup> World Bank, *Projects to Address Avian Influenza Control and Pandemic Preparedness*, <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTHEALTHNUTRITIONANDPOPULATION/EXTTOPAVIFLU/0,,contentMDK:20865058~pagePK:64168445~piPK:64168309~theSitePK:1793593,00.html>.



- working in Asia.<sup>95</sup> Many of these migrants fall in the realm of “irregular migration” composed largely of undocumented, workers or those involved in human trafficking. According to the International Organization on Migration (IOM) 30-40% of migration in Asia is irregular migration.<sup>96</sup> With regard to migration issues ASEAN has primarily worked in two areas: improving the flow of skilled workers, and reducing the flow in the illegal trafficking of persons.
129. The primary migrant sending states in ASEAN are Indonesia, the Philippines, and Thailand. Although with respect to Thailand, the situation has been slowly changing as its economy has improved. The main migrant receiving states are Singapore and Malaysia. Historically, borders between ASEAN nations have been porous however, since the 1970’s many countries (especially Singapore and Malaysia) have been tightening immigration policies to limit the inflow of foreign workers. The 1997 currency crisis and recent health emergencies have also contributed to increasing restrictions on the movement of people within ASEAN.
130. Initial steps by ASEAN to tackle the sensitive issue of migration began at the 5<sup>th</sup> ASEAN Summit in 1995. At the Summit members initiated the first consultative meeting of the ASEAN Heads of Immigration to focus on simplifying immigration procedures to strengthen economic cooperation.<sup>97</sup> At the 5<sup>th</sup> meeting of the ASEAN Directors-General of Immigration Departments and Heads of Consular Affairs Divisions of the Ministries of Foreign Affairs (DGICM) in September 2001 participants developed the ASEAN Plan of Action on Immigration Matters.
131. The Plan of Action aims to bring ASEAN closer to its goals for improved economic cooperation. DGICM discussions led to the linking the immigration websites of ASEAN members for one-stop information access. The participants also agreed to improve the exchange of vital immigration information, cooperate to combat the trafficking of persons in the region, and to the gradual implementation (initially bilaterally) of a Smart Card system to enable citizens to travel more easily.<sup>98</sup>

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<sup>95</sup> Amarjit Kaur, *Crossing Frontiers: Race, Migration and Borders in Southeast Asia*, IJMS: International Journal on Multicultural Societies, 2004, vol. 6, no.2, p. 215, <http://unesdoc.unesco.org/images/0013/001385/138592E.pdf#page=13>.

<sup>96</sup> International Organization for Migration, *Migration in South East Asia*, <http://www.iom-seasia.org/>.

<sup>97</sup> ASEAN, *ASEAN Plan of Action for Cooperation on Immigration Matters*, <http://www.aseansec.org/16572.htm>.

<sup>98</sup> ASEAN, *Joint Press Statement of the 5th Meeting of ASEAN Directors-General of Immigration Departments and Heads of Consular Divisions of ASEAN Ministries of Foreign Affairs*, September 3-5, 2001, <http://www.aseansec.org/5669.htm>.

132. Representatives of ASEAN DGICM met for the first time with an extra-regional partner (Australia) in November 2005 to discuss enhancing cooperation on immigration matters. More recently, in January 2006, ASEAN participated in the Bali Process Workshop on Operationalizing Immigration Intelligence. The Bali Process began at a Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime in 2002 to bring

*...participants together to work on practical measures to help combat people smuggling, trafficking in persons and related transnational crimes in the Asia-Pacific region and beyond.*<sup>99</sup>

133. The most recent and significant development in the area of cross-border movements of people within ASEAN is the new ASEAN Framework Agreement on Visa Exemption signed in July 2006. Article I of the agreement states:

*Member Countries, where applicable, shall exempt citizens of any other Member Countries holding valid national passports from visa requirement for a period of stay of up to 14 (fourteen) days from the date of entry, provided that such stay shall not be used for purposes other than visit.*<sup>100</sup>

While the visa-free period is only for 14 days, it is a significant step forward in intra-ASEAN migration cooperation. Prior to this agreement, visa-free travel between ASEAN countries had been governed by various bi-lateral or multi-lateral arrangements with varying conditions.

#### i. Facilitating the Movement of Skilled Labor

134. ASEAN has focused much of its attention on migration on improving the movement of skilled (or talented) workers in the region. According to the January 2005 volume of the ASEANONE the “movement of business peoples and skilled labor and talents is deemed as one of the key strategies for ASEAN to achieve a single ASEAN market by 2020.”<sup>101</sup>

135. The movement of “natural persons” is generally regulated under Mode 4 of the WTO’s General Agreement on Trade and Services (GATS). ASEAN has taken up a similar model to GATS in their ASEAN Framework Agreement on Services (AFAS) to promote more intra-regional skilled migration. ASEAN members open their labor markets under AFAS on a country-by-country basis.

<sup>99</sup> Bali Process, Home, [www.baliprocess.net](http://www.baliprocess.net).

<sup>100</sup> ASEAN, ASEAN Framework Agreement on Visa Exemption, July 25, 2006, <http://www.aseansec.org/18570.htm>.

<sup>101</sup> ASEANONE, Labor Migration within ASEAN, an Unexploited Opportunity for Economic Cooperation, <http://www.aseansec.org/aseanone/article215.pdf#search=%22ASEAN%20skilled%20labor%20migration%22>.

On the whole AFAS labor market opening has not been as broadly implemented as that of GATS due to a number of domestic factors like local lobby groups and regional factors like the lack of harmonization in professional qualifications and licenses.<sup>102</sup> ASEAN is addressing the issue of professional qualifications through adopting bilateral and multilateral Mutual Recognition Arrangements (MRAs). ASEAN intends to complete the MRA process in major professional services by 2008 and liberalize air travel, healthcare, and electronic commerce sectors by 2010.<sup>103</sup>

136. ASEAN is also seeking to increase intra-ASEAN foreign direct investment (FDI). Studies have shown that migration flows tend to mirror the movement of FDI. Since ASEAN has received much of its FDI from extra-regional partners nearly 80% of skilled migrants in ASEAN have come from non-ASEAN FDI providing countries.<sup>104</sup> Increased intra-ASEAN FDI is being promoted primarily through agreements made to realize the ASEAN Free Trade Area (AFTA).<sup>105</sup>
137. ASEAN may be keeping its focus on the movement of skilled workers in part because it is easier to address at the regional level than unskilled, undocumented labor issues. With regard to unskilled (also called low-skilled) labor, reference from ASEAN is largely limited to the issue of illegal trafficking of women and children while other types of unskilled labor are rarely mentioned. Irregular migration in ASEAN is largely dealt with at the bilateral level and sub-regional levels (such as in the Greater Mekong Subregion). But as intra-ASEAN irregular migration continues to increase, the urgency for addressing the issue at the ASEAN level will become more important. The consequences of not effectively addressing unskilled labor migration in a long-term and sustainable manner that also protects the rights of migrant workers while taking into account national concerns could have regional ramifications on a range of issues, including health, social cohesion, and economic development for both the sending and receiving countries.

### iii. Illegal Trafficking of Persons

138. The transboundary nature of human trafficking in Southeast Asia is an issue requiring action at the national and regional level to achieve real progress. Along with ASEAN several organizations are working on the human trafficking issue in the region including: the IOM, Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), Asia Against Child Trafficking, and the

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<sup>102</sup> Ibid.

<sup>103</sup> ASEAN, *Towards an ASEAN Single Market and Single Investment Destination*, H.E. Ong Keng Yong Secretary-General of ASEAN at the Boao Forum for Asia Annual Conference, November 2003, <http://www.aseansec.org/15365.htm>.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

International Labor Organization (ILO). The plethora of organizations that have emerged reflects the intensity of human trafficking in the region. According to the IOM anywhere from 250,000 to 400,000 women and children are annually trafficked from the Greater Mekong Sub-region alone.<sup>106</sup> Factors such as poverty, lack of education, and few employment opportunities contribute to increases in human trafficking.

139. Discussions on human trafficking tend to focus on the trafficking of women and children. Women who are trafficked generally fall into two categories: those who voluntarily choose to leave their country and enter another illegally, and those who do not. Those who leave voluntarily may be paid low wages or face debt-bondage situations where they may receive no wages until the costs of their transport are covered. Women in this category often work in factories, fisheries, and domestic labor.<sup>107</sup> Women in involuntarily trafficked on the other hand are often forced into prostitution or other types of sex-related work. Recently, the trafficking of children is also increasing. Trafficked children may be used for begging in the streets, or in the case of young girls to be married as child brides.<sup>108</sup>

140. ASEAN's efforts to reducing human trafficking in the region began with references to trafficking in transborder crime agreements in the 1990's. In 1993, the ASEAN Plan of Action for Children highlighted the problem of trafficking of children and in the 1998 Hanoi Action Plan (HPA) referenced the trafficking of women and children. Section 4.5 of the HPA commits members to "strengthen ASEAN collaboration in combating the trafficking in, and crimes of violence against, women and children".<sup>109</sup>

141. It was not until 2004, however, that ASEAN developed any declaration focused on trafficking. At the 10<sup>th</sup> ASEAN Summit members signed the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children. In the declaration members committed to:

- establish a regional focal network to prevent and combat trafficking in persons, particularly women and children;
- adopt measures to protect the integrity of their respective passports, official travel documents, identity and other official travel documents from fraud;

<sup>106</sup> International Organization for Migration, *Migration in Southeast Asia*, <http://www.iom-seasia.org/>.

<sup>107</sup> Phil Marshall, *Globalization, Migration and Trafficking: Some Thoughts from the Southeast Asia Region*, September 2001, p. 8, [http://www.un.or.th/TraffickingProject/Publications/globalisation\\_paper.pdf#search=%221997%20economic%20crisis%20Southeast%20Asia%20migration%20trafficking%20](http://www.un.or.th/TraffickingProject/Publications/globalisation_paper.pdf#search=%221997%20economic%20crisis%20Southeast%20Asia%20migration%20trafficking%20).

<sup>108</sup> Ibid.

<sup>109</sup> ASEAN, *Ha Noi Plan of Action*, December 1998, <http://www.aseansec.org/687.htm>.

- regularly exchange of views, information sharing on relevant migratory flows, trends and patterns, strengthening of border controls and monitoring mechanisms, and the enactment of applicable and necessary legislations;
- intensify cooperation among immigration and other laws enforcement authorities;
- distinguish victims of trafficking in persons from the perpetrators, and identify the countries of origin and nationalities of such victims and thereafter ensure that such victims are treated humanely and provided with essential medical and other forms of assistance;
- undertake actions to respect and safeguard the dignity and human rights of genuine victims trafficked;
- undertake coercive actions/measures against individual and/or syndicates engaged in trafficking in persons; and
- take measures to strengthen regional and international cooperation to prevent and combat trafficking in persons.<sup>110</sup>

142. The ASEAN bodies responsible for managing issues related to human trafficking are: the Ministerial Meeting on Transnational Crime, the Chiefs of National Police and the Sub-Committee on Women. These ASEAN bodies have also worked with international organizations such as the UN Development Program, the Canadian International Development Agency, and the UN Development Fund for Women among others.<sup>111</sup>

143. At the international level ASEAN members also participate in the Bali Process which began with a February 2002 Asia Pacific conference on human trafficking in the region. The Bali Process involves participants from more than 50 countries, and 15 international organizations. The Bali Process is coordinated by a six-member Steering Group which includes Indonesia and Thailand. At the second meeting of the group in 2003 participants agreed to improve human trafficking cooperation with regard to: information sharing, improved regional law enforcement and cooperation on border and visa systems, cooperation in verifying the identity and nationality of illegal migrants and trafficking victims, providing appropriate protection and assistance to the victims of trafficking, and assisting countries to adopt best practices in asylum management.<sup>112</sup>

144. Although membership in the group is voluntary and decisions non-binding progress has been made, including:

<sup>110</sup> ASEAN, *ASEAN Declaration Against Trafficking in Persons Particularly Women and Children*, December 2004, <http://www.aseansec.org/16793.htm>.

<sup>111</sup> ASEAN, *Fighting Trafficking in Women and Children in ASEAN*, November 1999, <http://www.aseansec.org/2822.htm>.

<sup>112</sup> Bali Process, *About the Bali Process*, <http://www.baliprocess.net/index.asp?pageID=2145831401>.

- establishment of a Bali Process website
- two legislation workshops for regional immigration, police and justice officials resulting in the development by Australia and China of model legislation to criminalize people smuggling and trafficking;
- law enforcement/travel document fraud workshop in China
- two workshops on best practices for determining the status of asylum seekers and balancing a country's right to determine who enters its territory with the right of victims of persecution or violence to seek and receive protection in other countries;
- a people trafficking/public awareness workshop in the Republic of Korea;
- workshop on identity management and document fraud in Thailand;
- workshop among law enforcement agencies, focusing on cooperation in identifying and targeting key people smugglers and traffickers in the region<sup>113</sup>

145. As concrete data on human trafficking remains difficult to obtain, it is hard to determine if ASEAN's efforts to reduce the flow of human trafficking in the region have been successful. It is important to note that developing improved information flows, increasing ties among regional law enforcement agencies, and holding public awareness workshops represent only one side of reducing irregular migration in the region. Ultimately many migrants are in a search of employment opportunities unavailable in their home country or region. So long as such economic conditions persist human traffickers and smugglers will be in demand by people hoping to find a better future elsewhere.

*F. 2007 Annual ASEAN summit , Cebu*

146. The annual ASEAN summit meetings took place this year at Cebu (Philippines) from 9-15 Jan 2007. The following summit meetings were held:

- 12th ASEAN Summit Meeting - 13 Jan 2007
- 10th ASEAN Plus 3 Summit Meeting - 14 Jan 2007
- 2nd East Asia Summit Meeting - 15 Jan 2007

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<sup>113</sup>Bali Process, About the Bali Process, <http://www.baliprocess.net/index.asp?pageID=2145831401>.

147. Prior to these meetings the Annual Ministerial Meetings of the ministers of the member countries and dialogue partners were held to formulate the issues for deliberations at the summit level.
148. The 12<sup>th</sup> ASEAN summit saw five agreements being signed. They were:
- Cebu Declaration Towards a Caring and Sharing Community
  - Cebu Declaration on the Blueprint for the ASEAN Charter
  - Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015
  - ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
  - ASEAN Convention on Counter Terrorism - aims at enhancing and deepening regional cooperation on counter terrorism activities.
149. The high point of the summit was the decision to hasten the process for establishment of the ASEAN community by 2015. In this connection the establishment of an ASEAN Economic Community, ASEAN Security Community and ASEAN Socio-Cultural community was reviewed.
150. The Cebu Declaration on the Blueprint of the ASEAN charter to endorse the report of the Eminent Persons Group (EPG) was signed at the summit. The drafting of the ASEAN Charter is to be completed by a High Level Task Force in time for deliberation at the 13<sup>th</sup> summit in Singapore. The charter will help in establishing the institutions and structure for effective functioning of this grouping.
151. The leaders of the 10 nations signed the Convention on Counter Terrorism which allows for easier prosecution and extradition of terror suspects and sharing of intelligence.. The summit also welcomed the accession of France and Timor Leste to the Treaty of Amity and Cooperation in South East Asia.
152. In addition, a Special Session on HIV-AIDS was held at which leaders agreed on the need to bolster the campaign against HIV-AIDS not only in ASEAN but worldwide.
153. The 10<sup>th</sup> ASEAN plus Three (China, Japan and Republic of Korea) summit was held on 14 January 2007 and was attended by Heads of State /Government of all the participants. At the summit, the commitment to ASEAN plus Three (APT) Cooperation as the main vehicle in achieving a long term goal of realizing an East Asia Community with ASEAN as the driving force and with the active participation of the Plus Three Countries, was reaffirmed. The progress achieved on APT cooperation in the areas of women, poverty alleviation and disaster

- management and minerals was reviewed. The summit welcomed the East Asia Free Trade Area (EAFTA) as an important avenue for integration.
154. The Second East Asia Summit was held on 15 Jan 2007 and was attended by the Heads of State/ Government of the 10 ASEAN countries, Australia, China, India, Japan, ROK and New Zealand.
155. The highlight of this summit was the signing of the Cebu Declaration on East Asian Energy Security which aims to achieve the following goals.
- Improve the efficiency and environmental performance of fossil fuel use;
  - Reduce dependence on conventional fuels through intensified energy efficiency and conservation programs, hydropower, expansion of renewable energy systems and bio-fuel production/ utilization, and for interested parties, civilian nuclear power;
  - Encourage the development of open and competitive regional and international markets geared towards providing affordable energy at all economic levels
  - Mitigate greenhouse gas emission through effective policies and measures, thus contributing to global climate change abatement and
  - Pursue and encourage investment in energy resource and infrastructure development through greater private sector involvement.
156. The other issues discussed related to regional educational cooperation, Avian Influenza prevention, natural disaster mitigation, Doha Development Agenda, economic development and regional integration, interfaith initiatives and denuclearization of Korean Peninsula

#### **IV. ASEAN at 40: Where to Go from Here?**

157. Next year ASEAN will mark its 40<sup>th</sup> anniversary and with it will be contemplation and speculation on the organization's past, present, and future. This section will also address these issues but through the lens of what insights can be gleaned from the ASEAN experience to inform the current dialogue on regionalism. The following pages will discuss several aspects of ASEAN, as it compares with the EU, the advantages and disadvantages of its process principles, and its vision for the future. The last pages will then propose some recommendations for developing countries to consider in forming their strategies for regional integration.



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A. ASEAN and the EU

158. Although several organizations have been established to foster regional integration few have the history and experience of the EU and ASEAN. The EU was established ten years prior to ASEAN; and while the initial motivation of each organization was similar their subsequent trajectories have led to the development of two very different types of regionalism. This section will discuss three key differences that have impacted the different forms of regional integration that the EU and ASEAN have developed.

i. Different Histories

159. The EU and ASEAN founding members initiated the regional integration processes as a means of developing greater regional security; however their approaches for attaining that security differed. Their different approaches stem from fundamental differences in their histories.

160. At the end of World War I many in Europe thought it was the war to end all wars. However, only 20 years later World War II added millions more to the number of Europe's war dead in the 20<sup>th</sup> century. The leaders in post-World War II Europe realized that political stability could only be achieved if the economies of the region's biggest powers were intertwined. Hence European integration began with improved economic cooperation as a means to attain political stability.

161. Prior to ASEAN's founding many Southeast Asian countries had only recently attained independence after years of colonization, and the process was still unfolding. During World War II, Japan had captured Myanmar, Malaysia and Singapore from the British, Indonesia from the Dutch, Indochina (except Thailand) from the French, and the Philippines from the US. Then after World War II France tried to reclaim its colonial holdings of Laos, Cambodia, and Vietnam. France gave up its claims after the First Indochina War (1946-1954) leaving Vietnam with some level of independence, but it was short-lived. When the French left Vietnam Ho Chi Minh (supported by China) controlled Northern Vietnam, while the new South Vietnamese government was supported by the US. The refusal of the South to hold elections on unification of the country resulted in North Vietnamese efforts to reunite the country by force.<sup>114</sup>

162. The Second Indochina War (also called the Vietnam War) was in full force during the period of ASEAN's birth and its impact was heavy on the minds of ASEAN's founding members. Tensions were also high among the founding members of ASEAN. Thailand and Indonesia were both dealing with communist insurgencies and Singapore only gained independence from Malaysia in 1965. As

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<sup>114</sup> Wikipedia, *Vietnam War*, [http://en.wikipedia.org/wiki/Vietnam\\_War](http://en.wikipedia.org/wiki/Vietnam_War).

could be expected all of this created mistrust among the region's leaders and a preoccupation with ensuring stability through solid national security.

## ii. Different Membership

163. Beyond the looming suspicions among the founding members (and with new members as they came on board) ASEAN also had greater diversity in its membership than the EU. The founding EU members were mainly Christian-oriented states with histories of pluralist democracy. On the other hand ASEAN members then and now include members with an array of governance structures, cultures, and levels of economic development.
164. The ability of ASEAN to facilitate cooperation among members with communist (Vietnam) and military-led (Myanmar) governments as well as several countries that have transitioned from authoritarian systems to new democracies (Thailand, Indonesia) during ASEAN's 40 year history, exemplify the association's adaptability. With regard to culture and religion ASEAN is also more diverse compared to the EU. Among the founding ASEAN members the Philippine population is more than 85% Roman Catholic, Thailand has a significant Buddhist population, and Indonesia has the largest Muslim population in the world estimated at over 182,000,000.<sup>115</sup>
165. Like ASEAN the geographical size of the founding EU members varied greatly (compare France and Luxemburg) however, the range of economic strength among the founding EU countries was reduced considerably in the aftermath of World War II. ASEAN on the other hand had to balance different levels of geographic, political and economic strength among members from the beginning. Among ASEAN founders Indonesia had the most economic and political strength compared to other founding members. Geographically, ASEAN also had to position itself carefully between communist China to the North and the US, with its presence in the Vietnam and numerous military bases in the region.
166. The huge differences in development levels present at the establishment of ASEAN continue to today. In 2003 the average per capita income in the region was \$1,266. Singapore had the highest per capita income in the region at over \$20,000, while Cambodia had the lowest at only \$310 per capita.<sup>116</sup> The vast differences in development have resulted in an ASEAN composed of least developed (Cambodia, Laos, Myanmar, Vietnam), middle developed (Thailand, Indonesia, Malaysia, the Philippines, Brunei Darussalam), and developed (Singapore) countries.

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<sup>115</sup> Aneki.com, *Largest Muslim Populations in the World*, <http://www.aneki.com/muslim.html>.

<sup>116</sup> The European Union and the World, *Regions of Asia: Southeast Asia*, [http://ec.europa.eu/comm/external\\_relations/asia/reg/sea.htm](http://ec.europa.eu/comm/external_relations/asia/reg/sea.htm).

### iii. Different Institutions

167. The differences in membership, history, culture, and levels of economic development among EU and ASEAN members have all impacted the processes and institutional frameworks developed by each organization. The development of institution-based as opposed to more informal and relationship-based regional integration may also have been affected by US foreign policy. After World War II a significant portion of the funding for reconstruction in Europe came from the US, who actively promoted European multilateralism in its foreign policy after the war.<sup>117</sup> On the other hand, in Southeast Asia the US promoted bi-lateral relationships because it believed regional institutions would only serve to constrain US policy in the region.<sup>118</sup>
168. Today the EU model of regional integration has been described as more formalized or hard integration. The ASEAN model has been described as less formalized or soft integration. In general, the EU model is more decision-making oriented than ASEAN. The three early pillars of European integration: the European Coal and Steel Community (ECSC), the European Atomic Energy Community (EURATOM), and the European Economic Community (EEC) all had specific areas of expertise along with governance structures for decision-making.
169. The first Post World War II Europe-wide institution was the High Authority of the ECSC. The nine-members of the body were chosen by the member governments and made independent of those governments. Its independence was guaranteed by providing the Authority with its own source of income. In 1967 the High Authority was incorporated into the new European Commission.<sup>119</sup> As the scope and the role of the EU has grown additional institutions such as the European Parliament and the European Court of Justice have been established.
170. The EU and ASEAN institutions for public participation also vary greatly. Residents of the EU have the right to vote for members of the European Parliament. Citizens living in an EU member state other than their home country are also able to vote in elections. Until now, ASEAN has had no institution enabling such public participation. There is a possibility however that this could

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<sup>117</sup> Axel Berkofsky, *Comparing EU and ASEAN Integration Processes – the EU a Role Model for Asia?*, European Policy Centre, p. 8, [http://www.soc.nii.ac.jp/eusa-japan/download/eusa\\_ap/paper\\_AxelBerkofsky\\_s12.pdf#search=%22ASEAN%20integration%20model%22](http://www.soc.nii.ac.jp/eusa-japan/download/eusa_ap/paper_AxelBerkofsky_s12.pdf#search=%22ASEAN%20integration%20model%22).

<sup>118</sup> Ibid.

<sup>119</sup> Answers.com, *European Coal and Steel Community*, <http://www.answers.com/topic/european-coal-and-steel-community>.

- change. In 2005 the final report of an ASEAN Eminent Persons Group (EPG)<sup>120</sup> suggested the establishment of an ASEAN Consultative Assembly consisting of members of parliaments and representatives of civil society to provide advice, feedback and oversight to the ASEAN Secretariat.<sup>121</sup>
171. Unlike the EU, ASEAN has a lightweight structure and less institutionalized decision-making process. The rationale for the lack of institutional framework in ASEAN is based on many of the ideas noted previously. The high level of distrust when ASEAN was established and the heavy focus on security have produced an integration model enabling members to opt for cooperation when it is useful, while also ensuring the ability to retain sovereignty. ASEAN declarations and joint statements are the product of the relationships built over the years at regular meetings of ministers in a wide range of areas from health to environment to energy issues. Decisions are made by consensus with the implementation of agreements left to national governments with little ASEAN oversight.
172. ASEAN also has little in the way of formal dispute resolution mechanisms (DSMs). Although, Chapter 5 of the 1976 TAC addresses dispute resolution through instructing members to refer irresolvable issues to a High Council, nothing in the Chapter is mandatory. The chapter's voluntary nature is made clear in Article 16 which states: "the foregoing provision of this Chapter shall not apply to a dispute unless all the parties to the dispute agree to their application to that dispute."<sup>122</sup>
173. As ASEAN commitments for economic cooperation increased in the 1990's however, the need for a DSM quickly became apparent. In 1996 ASEAN established a DSM for disputes related to the ASEAN Free Trade Area's (AFTA) Common Effective Preferential Tariff (CEPT) scheme. The DSM is largely based on the WTO DSM process providing for a mediation phase followed by the appointment of an arbitration panel if disputes cannot be amicably resolved between the parties.<sup>123</sup> The impact of the new DSM is questionable however, since as of 2003 no cases had been filed making it difficult to evaluate the DSM's effectiveness. ASEAN also has a DSM for investment protection.

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<sup>120</sup> The Eminent Persons Group (EPG) comprising ten highly distinguished and well respected citizens from ASEAN Member Countries was established to examine and provide recommendations on the direction of ASEAN and the nature of the ASEAN Charter, <http://www.aseansec.org/17945.htm#Article-5>.

<sup>121</sup> Blog on Globalization Universities and Social Science, *ASEAN and the EU*, April, 19, 2006, <http://blog.beerkens.info/2006/04/asean-and-eu.html>.

<sup>122</sup> ASEAN, *Treaty of Amity and Cooperation in Southeast Asia*, February 1976, Ch. 5, Art. 16, <http://www.aseansec.org/1217.htm>.

<sup>123</sup> UNCTAD, *Dispute Settlement: Regional Approaches* 6.3 ASEAN, 2003, p. 9-10, [http://www.unctad.org/en/docs/edmmisc232add29\\_en.pdf](http://www.unctad.org/en/docs/edmmisc232add29_en.pdf).

174. While the development of a DSM for trade and investment issues are steps toward a more formalized legal framework in ASEAN, most issues are still resolved by informal diplomatic channels. The ASEAN Institute for Strategic and International Studies has suggested the creation of an ASEAN Court of Justice to be given jurisdiction over economic agreements, interstate disputes and ASEAN agreements<sup>124</sup>, however a new court is unlikely to be established anytime soon. In the meantime ASEAN disputes will continue to use informal diplomacy to reach resolution.

*B. Advantages and Disadvantages of the "ASEAN Way"*

175. The "ASEAN Way" has been written about extensively, some in praise of the consensus-building model of decisions-making and some critical of the model for its lack of speed and results. Informal diplomacy, consensus decision-making, and ASEAN's non-intrusive principle are at the heart of the ASEAN Way. In defining the ASEAN Way many scholars look to one of ASEAN's most significant, early documents the TAC. Chapter 1, Article 2 of the TAC includes three fundamental principles for relations among members to the agreement:

- mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- the right of every State to lead its national existence free from external interference, subversion or coercion;
- non-interference in the internal affairs of one another<sup>125</sup>

176. Understanding the ASEAN Way however, requires drawing upon the history of the region and the foundation it provides for ASEAN's decision-making framework. Prior to colonization diplomacy in the region was considered "personalistic, informal, and non-contractual".<sup>126</sup> This brand of diplomacy was then continued when colonization ended. Formal political institutions were created during and after colonization, however,

*...in reality most states in Southeast Asia were ruled by small elite circles...this had the effect of institutionalizing a highly private and informal political culture.*<sup>127</sup>

177. Many of these high-level diplomatic processes were then incorporated in the proposals for Maphilindo (including Malaysia, the Philippines, and Indonesia), an organization proposed to bring about unity among the Malay

<sup>124</sup> Blog on Globalization Universities and Social Science,, *ASEAN and the EU*, April, 19, 2006, <http://blog.beerkens.info/2006/04/asean-and-eu.html>.

<sup>125</sup> ASEAN, *Treaty of Amity and Cooperation*, <http://www.aseansec.org/1217.htm>.

<sup>126</sup> Gillian Goh, *The ASEAN Way*, *Greater East Asia*, Vol. 3, No. 1, Spring 2003, p.114-115, <http://www.stanford.edu/group/sjeaa/journal3/geasia1.pdf#search=%22%22ASEAN%20Way%22%22>.

<sup>127</sup> *Ibid*, p. 115.

peoples in 1963.<sup>128</sup> Ultimately, Maphilindo was unsuccessful, however many Maphilindo ideas, like consensus decision-making, were carried over to the new ASEAN.

178. As with any political system, the ASEAN Way has advantages and disadvantages. The ASEAN Way has been criticized for its lack of authority and ability to implement agreements. On the other hand, the relative lack of conflict and record of improved economic growth in the region are highlighted as proof of ASEAN's success.

i. Elite Level Consensus Building: Effective or Disconnected from Reality?

179. In recalling the sub-themes of the paper the elite level at which confidence-building and decision-making takes place in ASEAN becomes clear. Most agreements and declarations have been negotiated by the highest officials in the appropriate ministries with little input from citizens or organizations representing civil society.

180. The elite level of diplomacy in ASEAN has advantages. ASEAN decisions on important regional issues are made by those with significant authority in their governments, and negotiated often based on personal relationships with their counter-parts in other member states. The usage of consensus decision-making is also a means of ensuring that more powerful states do not entirely take over the organization's agenda or trajectory. With the varying sizes, governments, and levels of development maintaining this kind of balance may be essential for the survival of the association.

181. There are also drawbacks to the diplomatic style which ASEAN employs. As many decisions are made at the highest levels they are often far removed from the daily lives of residents in the region. While issues like security may arguably be best handled by high level officials at the regional level, decisions and region-wide commitments pertaining to health, migration, and the environment all have a direct impact on citizens who currently have little voice in ASEAN's system of decision-making. The lack of citizen voice in ASEAN is complicated by its diverse membership, which enable varying degrees of domestic public participation and civil society activism. Recently, the disadvantages of the consensus decision-making approach have been recognized by ASEAN and there are rumblings of change on the horizon. In the 2005 members of the EPG agreed that the approach of decision-making by consensus in ASEAN needed to be revised.<sup>129</sup>

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<sup>128</sup> Wikipedia, *Maphilindo*, <http://en.wikipedia.org/wiki/Maphilindo>.

<sup>129</sup> Blog on Globalization Universities and Social Science, *ASEAN and the EU*, April, 19, 2006, <http://blog.beerkens.info/2006/04/asean-and-eu.html>.

ii. Preservation of Sovereignty: Pragmatic Integration or Imitation Community?

182. Regionalism as developed by ASEAN has been labeled by some as “pragmatic integration” or market driven integration. Market driven integration means that integration has been successful in areas where the benefits of integration for members are well perceived.<sup>130</sup> As a result cooperation on security issues and a handful of political issues has been more successful than cooperation on the economic front. Recently, ASEAN has taken several steps to increase economic cooperation, and has ambitious goals for economic integration to be attained by 2020. With the recent collapse of the Doha Round trade talks; it is possible that if greater access to markets cannot be attained through the WTO, ASEAN members will move more swiftly to realize improved intra-ASEAN economic cooperation.

183. Pragmatic integration implies that integration in ASEAN occurs when it is deemed suitable to all members. As membership of ASEAN has grown from its original five members to the current ten, forging agreements among ten members has at times been more difficult to achieve. When agreement cannot be reached on an issue, members may choose to work bi-laterally or through the pragmatic “ASEAN minus X” and “2 plus X” formulae for flexible participation in cooperation activities and projects that have already been agreed upon by all ASEAN member countries. The ASEAN X Formula is a “mechanism through which members who are ready to cooperate on certain issues can do so without having to compel members who are not ready to go with them.”<sup>131</sup> ASEAN X then is a middle ground process between bi-lateral and ASEAN-wide agreements.

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<sup>130</sup> Axel Berkofsky, *Comparing EU and ASEAN Integration Processes – the EU a Role Model for Asia?*, European Policy Centre, p. 7, [http://www.soc.nii.ac.jp/eusa-japan/download/eusa\\_ap/paper\\_AxelBerkofsky\\_s12.pdf#search=%22ASEAN%20integration%20model%22](http://www.soc.nii.ac.jp/eusa-japan/download/eusa_ap/paper_AxelBerkofsky_s12.pdf#search=%22ASEAN%20integration%20model%22).

<sup>131</sup> Jenina Joy Chavez, *A Social Charter for the ASEAN? Deepening Integration By Regionalizing Labor Solidarity and Social Standards*, Focus on the Global South, 2005, p. 9, [http://portal.unesco.org/shs/en/file\\_download.php/fcc7dbe378f8bd36ed4c5f4bdca44ad3monte\\_video\\_chavez.pdf](http://portal.unesco.org/shs/en/file_download.php/fcc7dbe378f8bd36ed4c5f4bdca44ad3monte_video_chavez.pdf).

184. Proponents of Formula X point to the flexibility it gives members who are ready to move forward on particular issues, however there are drawbacks. Formula X also results in different tiers of integration and cooperation developing within ASEAN. As many issues dealt with at the ASEAN level are regional in nature only partial progress from a minority of members is unlikely to make a significant difference. Evidence of this can be seen with regard to transboundary haze where lack of cooperation from the biggest contributor to the problem, Indonesia, has stalled progress on the issue for other ASEAN members.

184. Another downside to pragmatic integration is that important issues not deemed beneficial (economically or politically), or considered too controversial may be left off the table or dealt with only peripherally. One could say this is the case with the issue of migration in ASEAN. Most efforts focus on skilled migration; enabling computer programmers to more easily transfer their qualifications to work in another member state. While real efforts to address irregular migration are rarely taken with the exception of human trafficking (and it is arguable that these efforts have been catalyzed by international pressure). Unfortunately, tackling irregular migration would require significant efforts domestically and regionally, but would only produce marginal political and economic benefits, if any, for leaders.

185. Critics of the ASEAN Way question whether pragmatic integration has attained *any* level of integration among members. Australian professor (and former resident of Singapore) David Martin Jones has gone so far as to call ASEAN an “imitation community”. According to Professor Jones:

*ASEAN is neither a security nor an economic community, either in being or in prospect. It is in fact an imitation community...Such insecurity translated to a regional level produces a rhetorical and institutional shell. The shell delivers declarations, holds ministerial meetings, and even supports a secretariat, but beyond the flatulent musings of aging aristocrats or post modern constructivists pontificating in Track Two fora nothing of substance eventuates.*<sup>132</sup>

Many would disagree with Professor Jones statement, nonetheless actual implementation of many ASEAN agreements and declarations remain weak and subject to the will of individual members to implement.

### iii. Non-Interference: Keystone of Adaptability or Hindrance to Progress?

186. The principle of non-interference is a hallmark of the ASEAN Way and permeates ASEAN’s processes. The non-interference principle has enabled

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<sup>132</sup> Donald K. Emmerson, *Will the Real ASEAN Stand Up? Security, Community, and Democracy in Southeast Asia*, Southeast Asia Forum, Stanford University, p.2, [http://iis-db.stanford.edu/evnts/4130/Emmerson\\_04\\_05\\_2005.pdf#search=%22%22ASEAN%20Way%22%20critique%22](http://iis-db.stanford.edu/evnts/4130/Emmerson_04_05_2005.pdf#search=%22%22ASEAN%20Way%22%20critique%22).



ASEAN to become a flexible organization with a wide diversity in membership, and it is arguable that were this principle replaced with a more formal sanction-oriented structure ASEAN's membership might look very different today. The non-interference principle gives members more flexibility for implementing agreements and ASEAN commitments. Given the vastly different economic levels and resources at the disposal of members this flexibility may be essential.

187. On the other hand, the non-intrusive approach embraced by ASEAN is also a handicap to realizing many of the goals established in the numerous declarations and agreements that members have signed. With implementation in the hands of each member, follow thru on many of ASEAN's ambitious agreements has been poor. What is the purpose of signing ASEAN agreements if they are unlikely to be implemented? With no mechanism for requiring members to comply with their ASEAN commitments, do these agreements have any meaning?

188. Like many components of the ASEAN Way the non-intrusive principle is also being questioned. Proponents of the ASEAN Way might argue that the real value of ASEAN agreements are in the foundation they create for relationships and confidence-building in a region that has seen many conflicts and a history of distrust among leaders. But after 40 years is the sole achievement of confidence-building sufficient? At what point should confidence-building transfer into action? The EPG took up this issue as well and have nearly come to agreement on a "means to strengthen the role of the ASEAN secretary-general and effecting a sanction mechanism for recalcitrant members."<sup>133</sup>

### *C. ASEAN at 40: Entering Maturity or a Mid-Life Crisis?*

189. The pillars of ASEAN's cooperation since 1967 have been political, economic, and cultural and as previous sections have discussed progress in these areas have varied. ASEAN has established several goals for further regional integration to be achieved by 2020. The Declaration of ASEAN Concord II established the vision for the ASEAN Security Community (see page 19) and the 1997 ASEAN Vision 2020 document establishes the path for further ASEAN integration on economic, social, and development issues.

190. Further, as the organization turns 40 many will be questioning if ASEAN should remain an association of Southeast Asian members only. Recent APT discussions and regional meetings have reinvigorated ideas about developing an East Asian Community. Amidst the many current and growing economic powerhouses neighboring ASEAN it is possible that the association merge into a larger East Asian Community.

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<sup>133</sup> Blog on Globalization Universities and Social Science, *ASEAN and the EU*, April, 19, 2006, <http://blog.beerkens.info/2006/04/asean-and-eu.html>.

i. ASEAN Vision 2020, Bali Concord 2003 & the Cebu Declaration

191. In 1997, at age 30, ASEAN members commenced a dialogue about the future of the organization. These conversations resulted in the adoption of ASEAN Vision 2020: Partnership in Dynamic Development. ASEAN Vision 2020 established goals for ASEAN's future regional integration related to economic, development and social issues. In the document members commit to developing:

*...a stable, prosperous and highly competitive ASEAN Economic Region in which there is a free flow of goods, services and investments, a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities.<sup>134</sup>*

192. *At the 9th ASEAN Bali Summit in October 2003, the leaders reaffirmed the broad vision for ASEAN 2020. The Leaders agreed to establish an ASEAN Community that would be supported by the three pillars of " political and security cooperation", "economic cooperation", and " socio-cultural cooperation."*

193. The ASEAN Vision 2020 details several areas for cooperation to advance economic integration by 2020 including:

- fully implement the AFTA;
- accelerate liberalization of trade in services;
- realise the ASEAN Investment Area by 2010 and free flow of investments by 2020;
- intensify and expand sub-regional cooperation in existing and new sub-regional growth areas;
- further consolidate and expand extra-ASEAN regional linkages for mutual benefit cooperate to strengthen the multilateral trading system; and
- reinforce the role of the business sector as the engine of growth<sup>135</sup>

While Vision 2020 also mentions cooperation in areas such as food security, the trans-ASEAN transportation network, the Trans-ASEAN Gas Pipeline, and many of the issues for political cooperation covered in the previous pages; the core of the agreement is economic integration and implementation of AFTA. *In January 2007, at the 12<sup>th</sup> annual ASEAN Summit, the Cebu Declaration on the Acceleration of the Establishment of an ASEAN Community by 2015 moved forward this plan by five years*

194. The AFTA is built on the ASEAN Preferential Trading Agreements (PTA) initiated in 1977. The AFTA and its CEPT scheme were originally signed in 1992.

<sup>134</sup> ASEAN, *ASEAN Vision 2020*, <http://www.aseansec.org/1814.htm>.

<sup>135</sup> *Ibid.*

The CEPT set the deadlines for regional tariff reductions for 2008 and included a provision for tariffs on all manufactured and for processed agricultural products to be reduced to 0-5%. The CEPT scheme includes “all manufactured products, including capital goods, processed agricultural products and those products falling outside the definition of agricultural products, as set out in this Agreement.”<sup>136</sup> The AFTA also provides for all quantitative restrictions and other non-tariff barriers restraining intra-regional trade to be removed. Since the signing of the CEPT ASEAN membership has increased by four (Vietnam, Cambodia, Laos, and Myanmar) resulting in a two-track system for AFTA tariff cuts.

195. In 1998 ASEAN leaders signed the Ha Noi Plan of Action (HPA) establishing concrete steps for attaining Vision 2020. The HPA covers several areas of cooperation for the years 1999-2004 with a particular focus on economic and financial issues including: liberalizing trade in services, implementation of the Framework Agreement on ASEAN Investment Area, enhancing intellectual property cooperation, and accelerating AFTA implementation. In the HPA the original six signatories revised forward their deadline for implementing CEPT tariff reductions to 2003. Newer members have implementation timelines ranging from 2005 to 2008.<sup>137</sup>
196. Overall considerable progress has been made since the signing of the CEPT. Figures for intra-ASEAN trade for the years 1993 to 2003 shows a tremendous increase from \$44.2 billion in 1993 to \$95.2 billion in 2000 representing an annual increase of over 11%.<sup>138</sup> While some of the increase in these numbers stem from the addition of new ASEAN members joining AFTA, it is evident that intra-ASEAN trade is on the rise. ASEAN has also been actively pursuing free trade agreements with large regional players such as China and Japan.
197. ASEAN Vision 2020, the Bali Concord 2003 and the Cebu Declaration accelerating the plan, commit members to further integration on a range of political, social, and economic issues. It seems likely that for these goals to be achieved, the ASEAN Way will need some revision. For further economic integration ASEAN needs a system that ensures that all members make good on their commitments. Related to this will be testing and modifying ASEAN’s DSM for trade disputes. It is also becoming clear that achieving progress on cultural integration will require enabling ASEAN’s 550 million residents to have some voice in association’s work. Recommendations from the EPG are a starting point for revising the ASEAN Way. It is now up to ASEAN leaders to determine which

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<sup>136</sup> ASEAN, *Agreement on the Common Effective Preferential Tariff (CEPT) Scheme for the ASEAN Free Trade Area*, January 1992, Art.2 (5), <http://www.aseansec.org/1164.htm>.

<sup>137</sup> ASEAN, *Ha Noi Plan of Action*, <http://www.aseansec.org/687.htm>.

<sup>138</sup> ASEAN, *Southeast Asia: A Free Trade Area*, 2002, p. 5, <http://www.aseansec.org/viewpdf.asp?file=/pdf/afta.pdf>.

proposals to implement. These decisions will play a significant role in whether or not ASEAN is able to realize its vision for regional integration.

## ii. ASEAN and a Future East Asian Community

198. As ASEAN develops greater economic and political integration it is possible that the ASEAN identity discussed at the diplomatic level will trickle down to the street. The new initiative enabling 14 days visa-free entry for intra-ASEAN travel and making professional licenses portable within ASEAN are two examples of steps that will affect the lives of ASEAN citizens. If economic integration continues and citizens feel its positive impact on their lives perhaps progress on ASEAN's cultural integration pillar might be achieved. As mentioned previously, increasing the voice of citizens in ASEAN processes will also be important for progress on ASEAN's cultural pillar.

199. At the same time, as ASEAN turns 40 many will question the purpose of the association. ASEAN has developed considerable ties with extra-regional players through ASEAN+6, APT and various dialogue partners on security, health, and economic issues. The question remains if the focus on extra-regional relationships is at the expense of ASEAN level integration or to its benefit. The aim of ASEAN to continue to be "outward looking" is reemphasized in ASEAN Vision 2020 when it states:

*We see an outward-looking ASEAN playing a pivotal role in the international fora, and advancing ASEAN's common interests. We envision ASEAN having an intensified relationship with its Dialogue Partners and other regional organisations based on equal partnership and mutual respect.<sup>139</sup>*

200. Related to the future role and outward focus of ASEAN are recent discussions on developing an East Asian Community (EAC) involving ASEAN, China, Japan, and South Korea and potentially Australia, New Zealand, and India. An early proponent of an EAC was Malaysia's former Prime Minister Mahathir Mohamad who proposed the idea in the 1980's. Mahathir was clear that a new EAC should not include the US. Unsurprisingly, the US did not support the idea and expressed its opposition to its bilateral partners in the region.<sup>140</sup>

201. In some ways the foundation for an East Asian Community was begun with the creation of APT in the late 1990's. APT discussions on developing an EAC resulted in the establishment of two working groups which then proposed a new Network of East Asian Think-Tanks (NEAT) to further research and develop ideas for creating an EAC. Since the first meeting in 2003 the network

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<sup>139</sup> ASEAN, *ASEAN Vision 2020*, <http://www.aseansec.org/1814.htm>.

<sup>140</sup> Tim Shorrocks, *East Asian Community Remains Elusive*, Asia Times Online, February 5, 2002, <http://www.atimes.com/china/DB05Ad02.html>.

has held annual meetings and served as a Track II process to support Track I government discussions on a future EAC.<sup>141</sup> Also, in 2003 the first East Asia Forum was held in Seoul with a follow up meeting in Malaysia in 2004. Additionally, the Council on the East Asian Community was established in Japan in 2004.

202. In December 2005, APT countries, Australia, New Zealand, and India held the 1<sup>st</sup> East Asian Summit (EAS). The resulting statement by the participants included five declarations:

- the EAS is a 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;
- efforts of the EAS to promote community building will be consistent with and reinforce the realisation of the ASEAN Community, and will form an integral part of the evolving regional architecture;
- the EAS will be an open, inclusive, transparent and outward-looking forum with ASEAN as the driving force working in partnership with the other participants;
- the EAS will focus on: fostering strategic dialogue and promoting cooperation in political and security issues, promoting development, financial stability, energy security, economic integration and growth, eradicating poverty and narrowing the development gap in East Asia; and
- participation in the EAS will be based on the criteria for participation established by ASEAN<sup>142</sup>

While the future of an EAS remains unclear, the multiple meetings of high level leadership to discuss realization of an EAC are encouraging steps for greater integration for ASEAN with the broader region.

203. Recent efforts to build a unified vision for an EAC however, do not diminish the serious challenges that developing an EAC will encounter. With regard to economic integration it took ASEAN nearly 25 years to earnest begin this process and there remains much to be done. The current situation of tiered tariff cuts and vastly different levels of economic development are significant challenges that will only increase in difficulty if economic integration plans grow to involve a larger group of East Asian countries.

204. There is also the history of the region to be reckoned with. The memory of Japanese imperialism in Asia in the first half of the 20<sup>th</sup> century lingers and

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<sup>141</sup> Working Group of NEAT, *About NEAT*, <http://www.rieti.go.jp/users/neat/en/index.html>.

<sup>142</sup> ASEAN, *Kuala Lumpur Declaration on the East Asia Summit*, December 2005, <http://www.aseansec.org/18098.htm>.

continues to affect political relationships and cause deep distrust of Japan in the region. Additionally, while the fast growing economies of India and China could provide opportunities for ASEAN's economic growth, if trade agreements are unbalanced toward the stronger powers it could be disastrous to the economies of already struggling ASEAN LDC members. Lastly, nascent ideas of an EAC could face strong opposition from the US depending on how the EAC vision for involvement of the US evolves.

*D. Lessons and Insights on Regional Integration from the ASEAN Experience*

i. Regional Integration Considerations

205. *What are the objectives of integration for your potential regional partners?*

It is vital that leaders of states entering into regional commitments are clear and in agreement on the objective(s) and purpose of undertaking integration efforts. For the EU and ASEAN improved security was the issue of overarching importance for all founding members due to the history of conflict in both regions.

As discussed in the introduction, regional integration in developing countries is now often viewed as an option for economic growth. Is this the case for you and your regional partners? To what extent do the main objective(s) for integration coincide with current regional cooperation efforts?

206. *Can a unified agenda for cooperation be established? What would it contain?*

While security was a vital issue for both the EU and ASEAN; the EU pursued economic cooperation first, while ASEAN proceeded with confidence-building and security cooperation in the beginning. What are the top agenda items for your region and does the political will exist to address these issues? Confidence-building maybe the first step depending on the current status of relationships among regional integration partners.

New regional integration initiatives may also want to develop a system similar to the ASEAN X Formula for situations where not all members are ready to move forward on a certain issue. This kind of system might enable greater flexibility; however it could also result in fragmenting regional integration efforts.

207. *What are the most realistic and most difficult areas for cooperation in the short and long term?*

Related to agenda setting is categorizing what issues on the agenda are the most difficult and realistic for cooperation. Perhaps it is best to initially undertake further cooperation in areas which already have a foundation for cooperation, as it can be important for a new regional organization to attain some level success in the near term to maintain support. The establishment of the ECSC resulted in near term, tangible progress on a narrow issue and

served as a building block to broader economic integration that could not be attained right away.

Likewise, identifying the areas that will be the most challenging (and often the most important) is also a valuable exercise to ensure that thorny issues of high relevance are not continually skirted to the side because they are difficult to take on. In ASEAN some would argue that “pragmatic integration” has resulted in some critical issues, with little or no political gain for leadership, being pushed off the table.

208. *What types of diplomatic processes are currently utilized in the region?*

The comparison of ASEAN and EU processes shows clearly two vastly different methods for attaining regional cooperation. A new regional organization may not look like the EU or ASEAN depending on the culture and history of the countries involved. In the event that no common system for diplomatic decision-making is present leaders will need to discuss what kind of processes will be acceptable to all stakeholders.

209. *What potential power imbalances exist among members to a new regional agreement?*

In ASEAN the most powerful (in terms of economic weight, population, and size) member is Indonesia. It is clear from the transboundary haze example that lack of cooperation from a strong member can seriously impact progress in some cases. On the other hand Indonesia, as a non-claimant to the Spratly Islands disputes, has been helpful in leading ASEAN’s efforts to de-escalate tensions among claimants. Indonesia’s role in ASEAN should cause leaders to pause and consider how a new regional integration effort should empower or limit the strength of strong members. Powerful members can give a new organization further credibility and voice internationally as was the case with Indonesia as early cooperation in Southeast Asia change from the ASA to ASEAN.

A new regional integration initiative must also pay attention to the needs of weaker members. Smaller or weaker states stand to gain significantly from participation in a new regional organization though this depends largely on how smaller members are empowered in the new regional dynamic. In short, a new regional integration scheme must intentionally develop a means to ensure all stakeholders have a voice in decision-making.

210. *What extra-regional relationships could impact regional integration efforts positively or negatively?*

As mentioned previously it is possible that the difference between the US attitude in Western Europe and Southeast Asia on regional integration played a role in how these organizations developed. What extra-regional relationships do potential regional integration partners have that could

influence the progress of regional integration efforts? Are there significant extra-regional states that might perceive regional integration as a threat? How should the new regional organization react or interact to limit the negative impact such states might have?

ASEAN has developed extra-regional dialogue partners with a number of influential states in the region. Although ASEAN has proceeded in establishing a clearer vision for future integration its efforts are also likely to be influenced by the voice they have given to dialogue partners and by a new EAC if it is realized. These extra-regional relationships are in some ways essential for improving security and achieving economic growth however, the impact of these big powers could also weaken the strength of ASEAN itself if the focus of the organization becomes too outwardly focused.

211. *What types of regimes are represented amongst the group of potential regional integration partners and how might this impact regional cooperation?*

As is evident with the EU and ASEAN the membership of an organization has a significant impact on how it develops. The history of conflict and diversity of members in ASEAN has made institution-building take a back seat to confidence building, while the founding EU members focused squarely on institution-building from the start.

Membership can also impact the extra-regional relationships of a regional organization. For ASEAN the scheduled rotation of military-led Myanmar to serve at the chair of the ASEAN Secretariat caused a significant internal struggle for ASEAN as well as for ASEAN dialogue partners. Myanmar's system of government and human rights record led the US and EU to state that if Myanmar were to take over the chairmanship of ASEAN the two key economic partners would not attend multinational meetings held by ASEAN.<sup>143</sup> After significant diplomatic pressure inside and outside of ASEAN, Myanmar agreed to defer its chairmanship of the organization.

## V. Conclusion

212. All of the experiences and ideas that have factored into the ASEAN we see today can inform other countries in their dialogues about furthering regional integration with their neighbors. The association's history and processes for cooperation place it in a unique position with ASEAN's relatively progressive agenda juxtaposed with processes that have been less results-oriented than other regional organizations. While it is arguable that the ASEAN Way has been successful in attaining ASEAN's original goals for improved regional security,

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<sup>143</sup> Seth Mydans, Myanmar to Forgo Leadership of ASEAN, International Herald Tribune Asia-Pacific, July 25, 2005, <http://www.iht.com/articles/2005/07/26/news/asean.php>.



the disadvantages of ASEAN processes are being examined by the EPG and others to determine what aspects require change for progress on ASEAN's economic and cultural pillars.

213. This period of reflection for ASEAN demonstrates that no cookie cutter model for successfully attaining regional integration exists. ASEAN's ability or inability to adjust its processes to account for a revised trajectory (from security to deeper political and economic cooperation) will determine whether the association achieves its goals for further integration or merely maintains today's status quo.
214. All regional integration initiatives, current and future, are unique and need to balance the need for stability and adaptability. Regional integration efforts must establish a foundation for cooperation; often involving diverse religious, cultural, and economic differences, in a manner that enables further integration to meet the objectives and needs of all members. This is a tall order for nascent regional cooperation initiatives; however some insight can be gleaned from the experiences of existing regional integration models like ASEAN.

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South Centre Analytical Note

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