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**ASSOCIATION OF SOUTHEAST ASIA NATION (ASEAN)
A SECURITY ORGANISATION IN NEED OF REFORM**

By/ par

COLONEL AZIZ TAMIT

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ABSTRACT

In October 2003, the Ninth Summit of Association of Southeast Asian Nation (ASEAN) leaders in Bali Indonesia marked a very important milestone for the association. During the summit, ASEAN leaders formally declared their aim of setting up ASEAN security community by 2020. The security community concept that ASEAN is embarking is arguably a modification of a 'pluralistic' security community that was developed by Karl Deutsch and associates in the mid twentieth century.

This paper argues that ASEAN's initiative to form the security community is an uphill battle. There are several key issues that likely to impede the realization of the initiative. First is the leadership of ASEAN. ASEAN will remain rudderless unless Indonesia, ASEAN's traditional leader, overcomes its domestic problems. Secondly is the diplomatic norm of ASEAN states known as the 'ASEAN Way', which has limited the ability of ASEAN to construct a credible response to regional issues and crisis, and thus needs redefining. The final impeding factor is the territorial disputes that exist within ASEAN that have in the past sparked tensions and sour diplomatic relations between ASEAN states. Leaving the territorial disputes unresolved, offer an obstacle to the realization of ASEAN security community.

The above issues highlight the need for ASEAN to take extensive reforms in many areas. Absent of constructive reforms will only render the security community ineffective, if it were to exist, and will question, the institution's credibility and relevance in the region.

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ASSOCIATION OF SOUTHEAST ASIA NATION A SECURITY ORGANISATION IN NEED OF REFORM

INTRODUCTION

Association of South East Asian Nation (ASEAN) has long needed a cooperative security to counter trans-national crime, including piracy and trafficking in drugs and humans in the region. In fact, the creation of Asian Regional Forum (ARF) 1994 was an attempt by ASEAN to address and discuss region – wide security issues in a multilateral setting. However, the group was not able to keep regional security cooperation going on a formal basis. There are also several factors that affect ASEAN ability to address the trans-boundary threats. In brief, the factors are poverty and economic disparity² across ASEAN member states, which fuel criminal activities, and Myanmar as a member of ASEAN is one of the worlds biggest drug producing and trafficking states.³ Nonetheless, the terrorist attack on 11 September 2001 on the United States, and the United States global campaign against international terrorist brought new urgency for the association to

¹ Roger Mitton and Alejandro Reyes, "Hurting Hanoi," 2- /2 6, December 25, 1998, <http://www.asiaweek.com/asiaweek/98/1225/nat1.html>, Internet; accessed 06 April 2006.

² Romeo A.Reyes, "Will ASEAN Economic Integration Help the Poor?," 2- 2 <http://www.aseansec.org/16507.htm>; Internet; accessed 15 February 2006.

³ Thailand Press, "Thailand Myanmar (Burma) makes empty promises on controlling drug trade," 7 ' ! \$ January 31, 2006, <http://www.burmanet.org/news/2006/01/31/thai-press-reports-thailand-myanmar-burma-makes-empty-promises-on-controlling-drug-trade-2/>; Internet 15 February 2006.

set up a collective security structure. ASEAN states began to realize that there is a need to overcome their differences and strengthen its security assessment and responses collectively. Terrorism in the Southeast Asia wide has challenge the state and human security as well as ASEAN capability to respond.⁴ Additionally, Indonesia and Malaysia in particular fear that if ASEAN does not deal with local terrorism effectively, the United States will intervene in the region and encroach on the states sovereignty.⁵ Consequently, Indonesia brought up the idea for ASEAN to become a security community in order to retain the sense of sovereignty within ASEAN in the wake of United States involvement in the region. Therefore, in October 2003, at the Ninth Summit of ASEAN in Bali, the leaders of the organization formally declared their aim of setting up ASEAN Security Community (ASC) in the Southeast Asia by the year 2020.⁶ The ASC initiative is certainly a step forward for the ASEAN communities but there remain some significant issues that likely to impede the realization of the ASC.

This paper will assert that, if ASEAN, is unable to redress three major shortcomings; specifically, lack of leadership, its ad hoc and consensus decision making dynamic (the ASEAN Way) and continuing inter-state territorial disagreements, the establishment of the ASC by 2020 is probably ‘ a bridge too far.’ First, ASEAN lack a strong centralized leadership to steer its path and implement the grand strategic plan of

⁴ Ong Keng Yong, “Mobilizing Multilateral Resources in the War against Terrorism: The Role of ASEAN Inside and Outside of Southeast Asia,” 2- 2 !November 20, 2003, <http://www.aseansec.org/15399.htm>; Internet; accessed 15 February 2006.

⁵ Bilveer Singh, 2- 2 !2 \$' & #!& !" ! & & ! !" !8 &&!/\$& #&! "' & ! (Canberra: Strategic and Defence Studies Centre; 2003),64 – 65.

⁶ ASEAN, “Declaration of ASEAN Concord II (Bali Concord II),” October 07, 2003, <http://www.aseansec.org/15159.htm>; Internet; accessed 24 January 2006.

becoming a security community. Nonetheless, Indonesia, as the largest and most populous nation in Southeast Asia, has played a vital role in regional security and has traditionally become the association's leader. In 1997, a major economic downturn struck many of the ASEAN states.⁷ The worst affected state was Indonesia. The financial crisis gravely weakened Indonesia's political and economic power and created a setting of instability in the largest Southeast Asian state. The internal disorder has disposed Indonesia's leadership of the region, which also weakened ASEAN position in the Southeast Asian region.⁸ The leadership vacuum in the association is up for grab but no member states are willing to take the initiative. Hence, the lack of central leadership would leave ASEAN member states to continue their individual interest and could erode the group solidarity. In addition, some nations within ASEAN are also inclined to external influences that could also affect ASEAN cohesion and consensus. For example, the United States would voice their concerns in the association through Thailand, the Philippines and Singapore,⁹ while the Chinese would suggest their concerns through Myanmar and Cambodia to whom the Chinese are providing political and financial support.¹⁰ Unless, any of the founding nation states take over Indonesian leadership, or

⁷ Shaun Narine, 2- 2 !& !" ! &\$!2\$&! + #!*' #/\$!Canadian Consortium on Asia Pacific Security Paper Number 23, 2003. 1.

⁸ Bilveer Singh, "The 2004 Presidential Elections in Indonesia: Much Ado about Nothing?," * % ' &)!- " &\$!2\$& 25, no. 3 (2003), <http://www.questia.com/PM.qst?a=o&d=5002577036>; Internet; accessed 15 February 2006.

⁹ Esther Pan, "New Focus on US – Southeast Asia Military Ties," * +#! ! ' # !9 &# \$ February 02, 2006, http://www.cfr.org/publication/9742/new_focus_on_ussoutheast_asia_military_ties.html; Internet; accessed 15 February 2006.

¹⁰ Embassy of People's Republic of China in USA, "China – ASEAN Expo to boost cooperation," March 11, 2004, <http://www.china-embassy.org/eng/xw/t168802.htm>; Internet; accessed 15 February 2006.

Indonesia as the most influential nation in the region restored its domestic affair, ASEAN will unlikely be able to transform into a security community.

The unique norm of interstate relations within ASEAN known as the 'ASEAN Way' is the second major impeding factor for the success of the ASC. ASEAN Way is a decision making process which has developed throughout ASEAN's existence. The process is strongly informal and characterized by a high degree of consultation and consensus. Whenever consultation cannot reach a consensus, the ASEAN states would avoid the disputed issues and continue to pursue on other less confrontational issues. As a result, the ASEAN Way has promoted the skill of conflict avoidance instead of conflict resolution. A clear uniqueness of the diplomacy is that conflicts and issues are not resolve through the force of law.¹¹ Thus, outstanding contentious conflicts and issues would likely to affect future relations and cooperation amongst ASEAN states. Further, evidently, the diplomatic model of ASEAN Way is ineffective in responding to emerging complex regional crisis or disasters this paper will explain later. Emphasizing the creation of a security community base on the ASEAN Way will only enhance ASEAN credibility gap.

Third is the contentious issue of territorial and border disputes among ASEAN members, from the Thailand-Myanmar border to Spratly Islands in the South China Sea to the Northeast of Borneo. Over the years, ASEAN failed to resolve the territorial and border disputes that existed among the member states because of its extreme complexity and sensitivity. The disputes not only arise between ASEAN member states but also

¹¹ Amitav Acharya, * \$' + # !&- + '#)!* #)!# !- " &\$!2\$&!2\$ & !& !" !4' (! !9 # &! ' ' (London: Routledge, 2001), 63, <http://www.questia.com/PM.qst?a=o&d=102733222>; Internet; accessed 16 February 2006.

involve China and Taiwan. A common perception across the claimant states is that the South China Sea has vast reserves of oil and gas resources as well as significant amount of fish stocks.¹² A growing concern is a powerful and assertive China. Currently, China is the second largest oil consumer in the world, which amounts to 40 percent of the world's oil.¹³ China's quest for future energy resources will likely reinforce its claim over the whole of South China Sea. Several states, including China, Vietnam, Malaysia and the Philippines, maintain a military presence in the Spratly archipelago. These countries have already proven willing to resort to military action to back territorial claims.¹⁴ Other ASEAN countries also have laid several claims on other parts of the South China Sea and have resorted to military presence to back up their claims. A recent example of this incident is the clash between Malaysia and Indonesia over Ambalat Islands in 2005. Both states deployed their forces to enforce their territorial claims leading to fears over potential conflict. In 2002, Southeast Asian leaders and China signed an agreement aimed at avoiding conflicts over the disputed Spratly Islands in South China Sea.¹⁵ While this is a progress to regulate the tension, sovereignty disputes remain unresolved amongst the claimants and they continue to exercise their military presence in the region to reinforce respective claims. Certainly, the potential of confrontation and armed conflict exist.

¹² Bob Cartley and Makmur Keliat, *South China Sea: A Guide to the Dispute* (USA: Ashgate Publishing Company, 1997), chap.3.

¹³ Chietigj Bajpae, "China fuels energy cold war," *South China Sea* - March 2, 2005, <http://www.atimes.com/atimes/China/GC02Ad07.html>; Internet; accessed 15 February 2006.

¹⁴ Clive Schofield, "A Code of Conduct for the South China Sea?," *South China Sea*, November 01, 2000, http://www8.janes.com/Search/printFriendlyView.do_docId=/; Internet; accessed 12 January 2006.

¹⁵ ASEAN, "Declaration on the Conduct of Parties in the South China Sea," 2002, <http://www.aseansec.org/13163.htm>; Internet; accessed 15 February 2006.

Unless, an effective binding mechanism is in place to restrain claimants from resorting to the use of force, and the territorial disputes are resolved legally, closer cooperation for a security community may be hard to come by. Moreover, a security community would naturally engage cross border cooperation and joint border patrols and such operation may likely be difficult when member nations are suspicious of their neighbour intentions.¹⁶ In addition, if the territorial disputes are not resolved by ASEAN, offers no security safeguard in the region.

THE CONCEPT OF A SECURITY COMMUNITY

Adler and Barnett explained that Karl Deutsch and his associates came with the theory and concept of a security community when they were studying the emergence of North Atlantic states cooperation in 1957. Deutsch defined a 'security community' as an integration of a group of people, to a point that there is a "real assurance that the members of that community will not fight each other physically, but will settle their disputes in some other way".¹⁷ Deutsch observed that there are two types of security communities known as 'amalgamated' and 'pluralistic'. An amalgamated security community exist when multiple independent states merged formally into a larger entity and run by a common government after amalgamation, and proposed the United States as

¹⁶ Timo Kivimaki, *Security Communities in Asia* (UK: Nordic Institute of Asian Studies Press; 2002, 131).

¹⁷ Emanuel Adler and Michael Barnett, *Security Communities* (United Kingdom: Cambridge University Press, 1998), chap 1.

an example. On the other hand, states within a 'pluralistic security community' retain its sovereignty.

The key characteristic of a 'pluralistic security community' is that states resort to non-use of force as a means of asserting their respective interest. Hence, member states will not acquire offensive weapons for any contingencies. The members of the community hold the same political values and behave in a way which other members can predict. The possibility of armed conflict becomes unthinkable.¹⁸ Applying Deutsch's model to Southeast Asian region would be problematic because important elements that he suggested as important in the North Atlantic, such as democratic systems are missing from many of the ASEAN states for example Myanmar, Laos, Cambodia and Brunei. Nonetheless, looking at the binding norms and values in the ASEAN declaration for a security community as cited earlier, ASEAN has subscribe to the statement of democratic peace, which means member countries believe democratic processes will promote regional peace and stability.

Additionally, ASEAN still reaffirms the "fundamental importance of adhering to the principle of non-interference and consensus in ASEAN cooperation" for the creation of a security community.¹⁹ This suggests that ASEAN peoples primary loyalties are still towards their respective state or ethnicity rather than having a strong Southeast Asian sense of identity for a strong ASEAN community. In sum, the ASEAN proposal of ASC is a modification of Karl Deutsch pluralistic security community model.

¹⁸ Emanuel Adler and Michael Barnett, - + '#)!* ## \$. . . . # # chap 1.

¹⁹ ASEAN, "Declaration of ASEAN Concord II (Bali Concord)," October 07, 2003, <http://www.aseansec.org/15159.htm>; Internet; accessed 15 Feb 2006.

THE EVOLUTION OF ASEAN

To provide some context this paper will outline the evolution of ASEAN from its creation to contemporary settings. Southeast Asia region comprise of countries with diverse ethnic populations (Malay, Chinese, Indian and others), religious affiliations (Islam, Buddhism, Hinduism, Christianity) and enormous linguistic diversity. Indonesia itself has over 300 ethnic groups and 200 different languages.²⁰ In the early 1960s, the region experienced the development of many bilateral disputes. The disputes are namely, between Malaysia and the Philippines over Sabah, Malaysia and Brunei over Limbang province of Sarawak, and Malaysia and Thailand over their common border. Malaysia also expelled Singapore from the Federation of Malaysian states in 1965.²¹

In 1967, Thailand, Singapore, Indonesia, Malaysia, and the Philippines signed the ASEAN Declaration in which Indonesia played a leading role. The creation of ASEAN is the aftermath of a political settlement to Indonesia's coercive challenge to the legitimacy of the federation of Malaysia between 1963 and 1966. Indonesia under President Sukarno viewed Malaysia as a British neo-colonial state and thereafter launched the

²⁰ Canada: CBC Online News In Depth, "Indonesia in crisis: Struggling with History," 07 March 2005, <http://www.cbc.ca/news/background/indonesia>; Internet; accessed 27 Feb 2006.

²¹ Michael Leifer, *2- 2 !& !" !- + '#)! !- " &\$!2\$&* (London: Routledge; 1989), chap. 2.

policy of “Confrontation” that is coercion by Special Forces in the Southeast Asian states. General Suharto ended the “Confrontation” when he took over from Sukarno. In contrast, President Suharto policy was for Indonesia to support regional cooperation and economic development in pursuance of regional reconciliation.²²

To be sure, the establishment of ASEAN was an attempt by the founding nations to prevent future conflict and perhaps manage existing ones. This was evident that by 1971, the ASEAN states signed Zone of Peace, Freedom and Neutrality Declaration (ZOPFAN) to strengthen their solidarity and to be free from external powers interference. In 1976, the ASEAN states convened their first summit meeting of head of state in Bali and adopted two key documents. First, the Declaration of ASEAN Concord which emphasized the peaceful settlement of intra-regional disputes and reaffirmed ZOPFAN, and second, the Treaty of Amity and Cooperation in the Southeast Asia. The summit also established several key guiding principles for ASEAN members including respect for state sovereignty, non-interference in internal affairs of other nation, peaceful settlement of intra-states disputes, and denial of the use of force.²³

During the Cold War ASEAN nations was threatened by Vietnam’s alliance with the Soviet Union and its invasion of Cambodia in 1979 including attacks on Thai territory. Although Vietnam is not an ASEAN member, ASEAN regarded Vietnam’s action violated ASEAN’s Treaty of Amity and Cooperation, which is designed to serve as a code of conduct for regional relationship. Consequently, by diplomatic coercion

²² /(#, 2 - 4

²³ Association of Southeast Asian Nations, “Declaration of ASEAN Concord”, Indonesia,” 24 February 1976, <http://www.aseansec.org/1216.htm>: Internet; accessed 15 February 2006.

through the United Nation, ASEAN reversed the Vietnamese invasion of Cambodia.²⁴

The diplomatic success to stabilise Indochina portrayed ASEAN solidarity and credibility as an organization on the global stage.

Following this event, ASEAN progressively expanded its membership by taking in Vietnam (1995), Laos, Myanmar (1997) and Cambodia (1999). ASEAN membership now grew to 10 states as Brunei had joined earlier in 1984. The expansion of ASEAN faces some challenges especially in trying to integrate a widely diverse new member states into a setting of regional cooperation. As the association gets bigger, issues within ASEAN become more complex and reaching a consensus on any issues certainly get harder.

At the same time in 1994, ASEAN also extended its influences in the Western Pacific Region by creating Asian Regional Forum (ARF) aimed at hosting dialogue on security issues affecting the region. The ARF members are comprised of the ASEAN countries, South Korea, China, India, Japan, Papua New Guinea, Russia, Australia, New Zealand, Canada, the European Union, the United States and North Korea. However, the credibility of ARF is always being criticised by most of the members, as stated in the Financial Times, “[the] loosely structured forum, though valuable for confidence building, has made little progress towards the goal of resolving regional conflict”.²⁵

In 1997 a major economic crisis paralyzed ASEAN. It was the region’s worst economic downturn. ASEAN failure to restore order effectively indicated the

²⁴ Michael Leifer, 2- 2 !& !" !- + '#)! !- " &\$!2\$& ,138.

²⁵ Financial Times, “Asia politics :ASEAN urged to set up security community,” / ! # \$ # ! !; ' <!8 !5 !=>>? % & <http://proquest.umi.com/pgdweb?did=664777311&Fmt=3&clientId=1711&RQT=309&VName=PQD> : Internet; accessed 20 February 2006.

association's lack of credibility. The crisis also caused political turmoil in Indonesia with the ousting of President Suharto.²⁶ Indonesia's leadership on ASEAN was over. Even until today, Indonesia struggles to restore its domestic problems.

The financial crisis also affected Indonesia's rule in East Timor.²⁷ Following a UN – sponsored agreement between Indonesia, Portugal and the United States, a UN supervised referendum took place in 1999. The East Timorese voted for full independence. The referendum also triggered the Indonesian militia campaign of murder and terror and destroyed buildings and infrastructure of East Timor. ASEAN, as the regional institution, was also unable to construct an effective response because of non – interference policy of the internal affairs of Indonesia. Clearly, ASEAN has distance itself from member state internal issue and more importantly is from the dominant state in the region. The paralysis of the regional institution created an opportunity for an international intervention. Hence, a peacekeeping force led by Australia intervened to restore order in East Timor.²⁸ East Timor finally achieved full independence on 20 May 2002. No doubt, this event has questioned ASEAN's relevance as a regional organization in the region.

²⁶ Shaun Narine, 2- 2 !& ! " ! &\$!2\$& ! + #!* ' #/\$\$5 – 15.

²⁷ Indonesian forces invaded East Timor a former Portuguese colony in 1975. The territory was declared 27th province of Indonesia. Indonesia rule in East Timor was marked by extreme violence and brutality.

²⁸ BBC News World Edition, "Timor chooses independence," 04 September 1999, <http://news.bbc.co.uk/2/hi/asia-pacific/438145.stm>, Internet; accessed 21 February 2006.

ASEAN LACKS CENTRAL LEADERSHIP

ASEAN is leaderless while Indonesia, ASEAN's traditional leader, continues its focus on restoring the nation's domestic order. This paper will look into various ASEAN member states that have the ability to assert influence and exercise leadership in ASEAN base on their role for the creation of ASEAN. These nations are the founding nations, which can be short listed into Malaysia, Thailand and Philippines. This paper will also look at the magnitude of Indonesia's domestic problem. However, this paper has excluded Singapore and Brunei, the two very small member states, which have played influential roles amongst their big neighbours in the region.²⁹ Unless ASEAN mechanisms allow the states to lead, taking over Indonesia's leadership and leading ASEAN will not be in the tiny states agenda. However, by joining ASEAN, both states enjoy security and economic prosperity as other giant members states are restrained from interfering domestic affairs of other member states. Beyond the small states are Vietnam, Laos, Cambodia and Myanmar. The remaining states are new members in the club. They are relatively poor and in the process of economic development and adjusting to contribute and cooperate within the regional framework.³⁰ Thus, those states are unlikely to take over Indonesia's role to lead the association. Certainly, Myanmar is very unlikely

²⁹ Amitav Acharya, * \$' + # !&- + '#)!* #)!# !- " &\$!2\$&!2\$ &!& !" !4' (!9 # &! ' ' (London: Routledge, 2001), 49, <http://www.questia.com/PM.qst?a=o&d=102733208>; Internet; accessed 18 February 2006.

³⁰ ASEAN Secretariat, "Bridging the Development Gap among Members of ASEAN," 2- 2 2000, <http://www.aseansec.org/14683.htm>; Internet; accessed 20 February 2006.

to steer the helm of ASEAN as its human rights records remains in question by the international community.

First, the paper will look at Philippines. Philippines has suffers many major political crises and economic problem over the years. Since independence in 1946, the democratic government is inherently weak due to a struggle between the poor people and the rich elite's political parties. In the last decade Philippine saw, the removal of two presidents and a coup attempt. In the economic dimension, Philippines suffer extreme poverty relative to its ASEAN partners. Criminal activities are mushrooming in large cities especially kidnappings of business elites. Aggravating the internal situation are the long running communist insurgencies and Islamic separatism in the Southern part of the Philippines. The Communist Party of the Philippines (CPP) have been mobilising significant numbers of anti government demonstrations. Meanwhile, the Moro Islamic Liberation Front (MILF), the largest Islamic rebel group in the southern Philippines is seeking Independence for Mindanao's Muslims. In addition is the Islamist Abu Sayyaf Group (ASG) from the southern part of the Philippines claiming to be fighting for a Muslim state.³¹ The Philippine government has accused the Islamic separatist of having ties and link to Al Qaeda network. In 2001, the United States deployed 600 military troops to the Southern Philippines to conduct joint training in support of the Philippine

³¹ Jane's Sentinel Security Assessment – Southeast Asia, “Executive Summary – Philippines,” 16 February 2006, http://www4.janes.com/subscribe/sentinel/SEAS_doc_view.jsp?Sent_Country=Philippines, Internet; accessed 27 February 2006.

government campaign against the Islamic terrorist.³² Externally the Philippines is in territorial dispute with ASEAN members and China over Spratly Islands.

These points highlight the fact that the Philippines has very serious domestic issue threatening its internal security and political stability, which demands a strong focus and enormous effort from the government to improve the situation. The nation's close ties with the United States will also reduce the Philippines influence in the region. ASEAN member states perception will likely be that the Philippine is susceptible to United States influence. In sum, the Philippine government is distracted by its serious internal problem, which only strengthens their position for not willing to take over Indonesia and exercise a leadership role in ASEAN.

Thailand is also one of the founding nations of ASEAN. Externally, Thailand has expanded its influence in the region by committing troops to the international force in East Timor. More importantly is that Thailand has also established strong defence cooperation with the United States. In December 2003 Thailand was designated by President Bush "...as a major non-NATO ally." This underscores the enormous support that Thailand has contributed to United States military operation especially in the war on terrorism.³³ Internally Thailand is plagued with Islamist separatism in the southern part of the state that border Malaysia. As stated in the Jane's security assessment, "Thailand's primary security concerns remain internal. The country's most immediate security threat is an ongoing Islamist separatist insurgency in its southernmost provinces that has caused

³² FRONTLINE/World, "Philippines – Islands Under Siege," June 2006, <http://www.pbs.org/frontlineworld/stories/philippines/tl04.html>, Internet; accessed 04 April 2006.

³³ Emma Chanlett-Avery, "ASEAN: A Regional Security Assessment," CRS Report for Congress, January 13, 2005, http://www.wto.org/english/tratop_e/tpr_e/s123-0_e.doc; Internet; accessed 18 February 2006.

daily violence since January 2004.”³⁴ On April 28 2004, Thailand security forces clashed with Muslims separatist leaving over 100 deaths.³⁵ At the end of 2004 there were more than 700 casualties reported by the government.³⁶ Consequently, the government of Thailand was under fire by its neighbour Malaysia which has a large Muslim community and shares its border with Thailand, on the over use of force on the insurgents. The marginalization of Thai Muslims in the Southern provinces by the Thai authorities and the lack of development in the affected provinces motivated the insurgent. The separatism will likely prolong into the future, as there is no clear evidence on its settlement. Tensions also arise when Thailand started claiming that Malaysians are involved in the separatist violence in the South.³⁷ What is more, Thailand also faces security challenges on its border with Myanmar. As one of the world’s biggest narcotic producers and traffickers, an ethnic insurgent is causing instability along the Thai – Myanmar border.³⁸ This border issue leads the Thai government to periodic tension with its neighbour. With the uncertainty of the internal security issues Thailand is unlikely to exert strong leadership influence in ASEAN and transform the association to become

³⁴ Jane’s Sentinel Security Assessment – Southeast Asia, “Executive Summary, Thailand,” June 02, 2005 http://www4.janes.com/subscribe/sentinel/SEAS_doc_view.jsp?Sent_Country=Thailand, Internet; accessed 28 February 2006.

³⁵ Andrew Holt, “Thailand’s Trouble Border: Islamic Insurgency or Criminal Playground?,” *25& #8211; 21/ ’ &# 21/ \$#* May 20, 2004, <http://www.asiamedia.ucla.edu/article.asp?parentid=11383>; Internet; accessed 25 January 2006.

³⁶ Wikipedia, “South Thailand Insurgency,” http://en.wikipedia.org/wiki/South_Thailand_insurgency, Internet; accessed 04 April 2006.

³⁷ S P Harish, “How Malaysia sees Thailand’s southern strife,” *2- /2! / -*, February 08, 2006, http://www.atimes.com/atimes/Southeast_Asia/HB08Ae01.html; Internet; accessed 04 April 2006.

³⁸ Anthony Davis and Mae Ai, “The Enemy on the Border,” *2- /2 6*, February 11, 2000 Vol.26 No.5, <http://www.asiaweek.com/asiaweek/magazine/2000/0211/nat.thailand.html>; Internet; accessed 16 February 2006.

ASC. Thailand's close cooperation with the United States may further allow United States intervention in the region's security affairs, which will undermine ASEAN's credibility. Moreover, the Thai Prime Minister has just stepped down due to massive protest.³⁹ Unless the political instability and its domestic problems are resolved, Thailand's focus will certainly be domestic affairs and not taking the helm of ASEAN.

On the other hand, Malaysia is relatively a powerful state in Southeast Asia with a stable political system. As the founding nation of ASEAN, Malaysia has been able to assert its influence in the region under the rule of Prime Minister Mahathir Mohamad. During Mahathir's 22-year rule, Malaysia enjoyed a good economic development but the political culture became increasingly authoritarian. There is little independence in the press and judiciary system. As stated in the Jane's Sentinel Security Assessment on Malaysia "...a draconian colonial law, the Internal Security Act (ISA), has been used widely to suppress opposition parties and politicians." Since Mahathir's retirement in 2003, Malaysia's new leader Abdullah Badawi appears to be conservative in dealing with national priorities. He is mainly focusing on improving the nation's economy, education and fighting corruption within the political circles in the state. In sum, Malaysia's political leadership strongly focuses on domestic affairs as it strives to achieve its vision to be a fully developed nation by 2020.⁴⁰ On the regional aspect, Malaysia is in dispute over land and maritime boundary with all its neighbours, namely Brunei, Indonesia, the Philippines, Singapore and Thailand. The Island of Pulau Borneo is under dispute by

³⁹ BBC NEWS, "Thai PM's exit leaves questions," 05 April 2006, <http://212.58.240.36/1/hi/world/asia-pacific/4878362.stm>; Internet; accessed 06 April 2006.

⁴⁰ Jane's Sentinel Security Assessment – Southeast Asia, "Executive Summary, Malaysia," http://www4.janes.com/subscribe/sentinel/SEAS_doc_view.jsp?Sent_Country=Malaysia; Internet; accessed 28 February 2006.

Malaysia and Singapore, and the Malaysian territory of Sabah is claimed by the Philippines. With Thailand, there are disputes over fishing areas. What is more, Malaysia and Brunei are in dispute over Limbang that divides Brunei in two.⁴¹ So neighbours will naturally become suspicious if Malaysia were to engage in leading ASEAN security agenda. Naturally, regional security threats are trans-national and combating the threats will involve cross border operations and joint patrols. Member states may not be comfortable to allow ASEAN peacekeepers encroaching in their backyard when there are still outstanding territorial disputes with Malaysia left unresolved. Nevertheless, in 2004 Malaysia led an International Monitoring Team (IMT) under the auspices of the Organisation of the Islamic Countries, deployed to the southern Philippines. The key role of the IMT is “.... to monitor the cessation of hostilities and to undertake confidence building measures....” between the government of Philippine and the Islamist separatist MILF.⁴² The Malaysian effort portrayed the government’s effort in contributing to regional security and exercising its influence. Although Malaysia has the capacity to lead ASEAN, nonetheless, Malaysian Prime Minister is poised to focus on internal development as his primary leadership goal.⁴³

This leaves Indonesia poised to reassume a stronger leadership role in ASEAN that was ended during the financial crisis in 1997. Indonesia is traditionally the most influential states in ASEAN. It was Indonesia’s initiative to propose the formation of

⁴¹ Military, “International Disputes – Malaysia,” <http://www.globalsecurity.org/military/world/war/disputes.htm>; Internet ; accessed 04 April 2006.

⁴² The International Institute For Strategic Studies, “The Philippines’ southern insurgency,” Volume 11 Issue 3, May 2005, <http://www.iiss.org/publications/strategic-comments/past-issues/volume-11-2005/volume-11---issue-3/the-philippines-southern-insurgency>; Internet; accessed 04 April 2006.

⁴³ Jane’s Sentinel Security Assessment – Southeast Asia, “Executive Summary, Malaysia,”.....ibid

ASC at the ASEAN Ministerial Meeting (AMM) in Phnom Penh. As the largest and most populous nation in Southeast Asia, Indonesia plays an important role in regional security. However, the country is currently suffering from a range of political, economic and security legacies from thirty-two years autocratic rule under President Suharto.⁴⁴ From 1998 to 2005, Indonesia had four presidents and Susilo Bambang Yudhoyono is the current elected leader. After the ousting of Suharto, the country suffered several bloody conflicts by separatist movement ranging from Aceh on the west to East Timor on the eastern part of the country.⁴⁵ The challenges faced by President Bambang Yudhoyono are complex to resolve.⁴⁶ The domestic situations even become increasingly difficult to resolve following the tsunami disaster that struck the province of Aceh in Indonesia.⁴⁷ At the same time, the domestic security is also worsening by the emergence of religious extremism. The fact that Indonesia denies its existence worsened the situation. They argued that religious extremism is just a creation by United States and its allies that are against Islam and Indonesia. Bilveer Singh also explained that Islamic constituency is also becoming politically powerful in a newly democratic Indonesia that weakens the government actions against the hard-line Muslims groups. The perfect example was the Indonesian government acquittal of radical Islamic Cleric Bashir of terrorism charges in

⁴⁴ Borgna Burner, "The Year of Living Dangerously: Indonesia after Suharto," / % &\$ June 07, 1999, <http://www.infoplease.com/spot/indonesia1.html>; Internet; accessed 01 April 2006.

⁴⁵ WIKIPEDIA, "Indonesia – History," <http://en.wikipedia.org/wiki/Indonesia>; Internet; accessed 01 April 2006.

⁴⁶ Rachel Harvey, "Yudhoyono's challenges ahead," 77*! - September 22, 2004, <http://news.bbc.co.uk/1/hi/world/asia-pacific/3679032.stm>; Internet; accessed 17 February 2006.

⁴⁷ William Pesek Jr, "For Yudhoyono, a challenge on two fronts," / ' &# &!@ ' & ! ' # <http://www.iht.com/articles/2005/01/10/bloomberg/sxpesek.php>; Internet; accessed 17 February 2006.

2003 for the hotel bombing in Jakarta and 2002 nightclub bombings in Bali. He was convicted only of criminal conspiracy for involvement with those who carried out the attacks and his 30-month sentence was reduced by four and a half months.⁴⁸ Based on the Indonesian government action, rather than leading ASEAN combating and disrupting the terrorism network in Southeast Asia, Indonesia has been the region's weakest point.⁴⁹ However, in 2002, Indonesia government's official admitted that the nation is harbouring terrorist. The government is now cooperating with the United States and Australia in combating the local terrorist militants⁵⁰ At the same time, it is also clear that the Indonesian political leader will have to face a tough battle against the terrorist because of its large Muslim population. In the economic realm, Indonesia is making steady progress with its structural reforms as well as monetary and fiscal policies. However, Indonesia does not expect a full economic recovery in the very near future.⁵¹ Unless Indonesia restores its domestic affairs, it will not be able to transform ASEAN into a security community.

In sum, the leaders of ASEAN founding nations and its traditional leader, Indonesia, are very much distracted with complex domestic issues. The implication is that

⁴⁸ Bilveer Singh, *2- 2 !2 \$' & #& !" ! & & ! !" !8 &&!/\$& #&! "' & !* (Canberra: Strategic and Defence Studies Centre; 2003),15.

⁴⁹ /(# ! ! ! A

⁵⁰ Council on Foreign Relations, "Terrorism Havens: Indonesia," December 2005, http://www.cfr.org/publication/9361/terrorism_havens.html; Internet; accessed 04 April 2006.

⁵¹ Asia-Pacific Economic Cooperation, "Economy Report- Indonesia," 2004, http://www.apecsec.org.sg/content/apec/member_economies/economy_reports/indonesia.html; Internet; accessed 04 April 2006.

ASEAN will float without a strong and credible leader. A leaderless ASEAN will render the organization ineffectiveness and let alone in trying to become a security community.

LIMITATION OF THE ASEAN WAY

One factor that is likely to impede the realization of the security community is the ASEAN principles often referred as the “ASEAN Way.” Since the formation of ASEAN in 1967, its members have developed a unique style of diplomacy for inter-state cooperation. The cooperation has been through informal understandings that impose no legally binding obligations. The association operates based on ad hoc understandings and informal procedures rather than within the framework of binding agreements ending with a formal process.⁵² Many features of ASEAN diplomacy are outlined in the Treaty of Amity and Cooperation (TAC) in the Southeast Asia signed in 1976. Article 2 of the TAC, adopted at ASEAN’s Head of State Summit in 1976, provided several guiding principles for member states. Those principles are mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations.⁵³ Since the adoption of the guiding principles, many authors regarded the unique style of ASEAN diplomacy as the “ASEAN Way.”⁵⁴

⁵² Amitav Acharya, * \$' + # !&- + '#)!* #)!# !- " &\$!2\$&!2\$ & !& !" !4' (! 19 # &! ' ' (London: Routledge, 2001), 63 - 64, <http://www.questia.com/PM.qst?a=o&d=102733222>, Internet; accessed 04 April 2006.

⁵³ ASEAN, “Treaty of Amity and Cooperation in Southeast Asia, (Indonesia),” February 24, 1976, <http://www.aseansec.org/1217.htm>; Internet; accessed 15 February 2006.

⁵⁴ Gillian Goh, “The ‘ASEAN Way’ Non-Intervention and ASEAN’s Role in Conflict Management,” - & ' !8 ' &! ! &\$!2\$&!2 &# \$5, Volume 3, no. 3 (Spring 2003): 113 – 115,

So what exactly is the ASEAN Way? First, the principle of non – interference in the internal affairs of other member states is the most important principle. The ASEAN countries strongly avoid infringing on the sovereignty of its members. The second principle is quiet diplomacy. This second principle is to allow the ASEAN members to resolve any bilateral issues or tensions in an informal session. Each member refrains from criticizing the policies of others publicly. The quiet diplomacy involves a high degree and lengthy consultation to reach a consensus on any issues. Third, is the principle of non-use of force, or peaceful settlement of disputes, which is equally important. There is an Asian context to this principle. In the West, the words non – use of force or peaceful settlement imply the settlement of disputes through legal means.⁵⁵ In contrast, the ASEAN members opted for an informal approach to conflicts. The main aim of ASEAN’s approach is to prevent the escalation of conflicts by promoting mutual trust. Fourth, is the principle of decision – making through consensus. The ASEAN process does not impose a decision on its members by a majority vote. In Southeast Asia, the word consensus means the common understanding of an agenda achieved through lengthy and a high degree of consultation. What seems unique is the process of arriving at a consensus through a rather lengthy manner or long – winded way. These four principles together constitute the ASEAN Way, which emphasizes an informal approach to cooperation based on high degree of consultation and dialogue. The principles are closely

<http://72.14.207.104/search?q=cache:36QoR1Gm5K4J:www.stanford.edu/group/sjeaa/journal3/geasia1.pdf>
; Internet; accessed 04 April 2006.

⁵⁵ ASEAN, “The ASEAN Way and the Rule of Law,” September 03, 2001,
<http://www.aseansec.org/2849.htm>; Internet; accessed 06 April 2006.

interrelated.⁵⁶ Clearly, the ASEAN Way does not provide any guidance to resolve any conflicts through legal means.

The strong adherence to these principles derives from the fact that most of the Southeast Asian states were the colonies of the western powers throughout half of the twentieth century. During the cold war, some states were intervened by major powers for instance the Vietnam War. To be sure, Southeast Asian states suffered internal strife due to weak government following the postcolonial era. The non-interference principle has brought peace to the region and states are able to focus on their economic and social development. Until the second half of 1990, the ASEAN model appeared to be a successful example of regional cooperation. ASEAN successfully opposed Vietnam's invasion of Cambodia from 1979 to the end of Cold War.⁵⁷

The ASEAN Declaration establishing the security community by 2020 places a strong emphasis on the principles associated with the ASEAN Way as a means of realizing a security community. While the "ASEAN Way" allows ASEAN states to enjoy their sovereignty, it may also impede the realization of the ASC. The ASEAN Way norms have undermined ASEAN's credibility in responding regional issues in the past. Consensus has been difficult to reach and issues are left unresolved. The ASEAN Way no longer works today. This paper will discuss few examples that the ASEAN diplomatic model being either unconstructive or challenged. The non – interference principle is,

⁵⁶ Amitav Acharya, * *ASEAN: A Regional Model of Cooperation* (London: Routledge, 2001), chap. 2, <http://www.questia.com/PM.qst?a=o&d=102733222>; Internet; accessed 04 April 2006.

⁵⁷ Michael Leifer, *ASEAN: A Regional Model of Cooperation*, chap.4.

arguably, an excuse not to deal with regional issues, which could cause controversy and disagreement between states.

In dealing with the 1997 East Asian economic crisis, ASEAN failed to come up with a regional response. ASEAN's principle of non-interference at some degree contributed to the association's weaknesses.⁵⁸ The differences within the region made it difficult to create an effective regional response to the crisis. Rather than imposing on all - state commitment to pursue a common policy, instead each state unilaterally, pursue its respective economic interest. No doubt, ASEAN has made huge progress in economic cooperation, and intra – regional trade had been growing fast. However, it was also clear that ASEAN failure to respond to the crisis draws attention to the weakness of ASEAN's claim to be an economic institution.

At the same time, in 1997, ASEAN's decision to expand its membership by incorporating the far less developed states of Vietnam, Laos, Cambodia and Myanmar; reduced ASEAN's cohesion and further complicated its decision making process. Cambodia's admission to ASEAN as the 10th member portrays the weakness of ASEAN Way. Due to Cambodia's weak government, Singapore, Thailand and the Philippines opposed Phnom Penh's immediate admission to the association. In contrast, Indonesia led the remaining member states to support otherwise. Those opposing nations demanded that Cambodia take steps beyond forming a government such as setting up the senate and amending the Constitution before considering its membership to ASEAN. Indonesia plus five other nations views the opposing nation's demand, as interfering in Cambodia's

⁵⁸ Shaun Narine, 2- 2 !& !" ! &\$!2\$& ! + #!* ' #/\$\$....., 1.

domestic affairs, which is against ASEAN's principle of non-interference of other states affair. Consequently, ASEAN denied Cambodia's membership for nearly two years because of the unresolved split view. This event underscored the weakness and violation of ASEAN's diplomatic norms.⁵⁹

Myanmar's incorporation into ASEAN further indicates the weakness of the

ASEAN if Myanmar continued to defy world pressure to release the NLD leader.⁶² The lack of follow through on such statements presents a serious credibility issue for ASEAN. However, ASEAN remains adamant that its constructive engagement policy on Myanmar has failed.⁶³ Until today, the military junta remains in power and the NLD leader is still under house arrest.⁶⁴ Myanmar, now as a member of ASEAN, still refuses to answer questions about human rights and continues to regard the rule of law and democracy as inappropriate interference in states internal affairs. The human rights issue in Myanmar has affected ASEAN's solidarity and challenges ASEAN relations with western nation and other organizations particularly the European Union and the United States⁶⁵. Myanmar's resistance to resolve its human rights problems will affect ASEAN solidarity for an effective ASC. The human rights issue is no longer an internal issue but may warrant intervention by external power when the situation worsens.⁶⁶ Moreover, refugees fleeing away from the oppression can spark tensions between neighbouring countries and

⁶² Phar Kim Beng, "Myanmar: ASEAN's thorn in the flesh," *25 July 2003*, http://www.atimes.com/atimes/Southeast_Asia/EG25Ae01.html; Internet; accessed 26 March 2006.

⁶³ ASEAN, "ASEAN to Pursue Constructive Engagement with Myanmar After Power Struggle," October 25, 2004, <http://www.aseansec.org/afp/78.htm>; Internet; accessed 26 March 2006.

⁶⁴ Bernama News, "ASEAN Lawmakers Want Myanmar Expelled if No Reform In A Year," December 03, 2005, http://aseanmp.takizo.com/index.php?option=com_content&task=view&id=42&Itemid=19; Internet; accessed 26 March 2006.

⁶⁵ STATFOR, "2- 2 !-&+ ## \$- # & #)! ' ! ' % & ! & < \$!22 Jan 1999," <http://www.stratfor.com/products/premium/print.php?storyId=100725>; Internet; accessed 22 Feb 2006.

⁶⁶ 9 % ' ! ! " !/ ' & # & !* # \$! !/ ' # !& !- & !- ' #) Mr Gareth Evans and Mohamed Sahnoun, Co – Chairs (Ottawa: International Development Research Centre, 2001), 29 – 37.

hence, disrupt, regional security environment.⁶⁷ Myanmar's prolonged human rights crisis has rendered ASEAN diplomatic norms to be obsolete.

The emergence of an independent East Timor in 1999 also provided huge challenges to ASEAN. The crisis with East Timor portrayed serious shortcomings of ASEAN as an institution to deal with regional crisis. What was clear is that the principle of non-interference has played a very influential role in ASEAN decisions. ASEAN nations debated how to handle the situation in East Timor without violating the non-interference policy. Due to ASEAN's unwillingness to take any concrete actions, a peacekeeping force known as International Force East Timor (INTERFET) led by Australia intervened to restore order. INTERFET was a multinational peacekeeping force, mandated by the United Nations to tackle the humanitarian and security crisis in East Timor until the arrival of United Nations peacekeepers. Thailand, Malaysia and the Philippines were the only ASEAN members to support and assisted the operations.⁶⁸ However, those countries emphasized that the support and assistance contributed in East Timor were not under the ASEAN banner.⁶⁹ ASEAN failed to respond quickly and effectively to brutality in its backyard, but also demonstrated that consensus between the members states is extremely difficult to reach.

⁶⁷ Brad Adam, "Burma: Forced Displacement by Nurmese Army Continues in Karen State," @ & !9# " \$ \$ June 10, 2005, <http://hrw.org/english/docs/2005/06/10/burma11108.htm>; Internet; accessed 05 April 2006.

⁶⁸ Adam Cobb, "East Timor and Australia's Security Role: Issues and Scenarios," 4& #& &)! #' &) September 21, 1999, <http://www.aph.gov.au/library/pubs/CIB/1999-2000/2000cib03.htm#9>; Internet; accessed 06 April 2006.

⁶⁹ Sonny Inbaraj, "ASEAN's commitment to East Timor faces tough test," 2- /2! / - February 01, 2000, <http://www.atimes.com/se-asia/BB01Ae01.html>; Internet; accessed 06 April 2006.

Prior to East Timor crisis, the ASEAN region was also plagued with trans-boundary air pollution caused by massive forest fires in Indonesia. The region experienced the worst environmental disaster and reported damage amounting to US\$4.5 billion. Excessive deforestation and a major drought caused by the effect of El Nino phenomena, combined to cause the disastrous smoke haze clouding the region atmosphere.⁷⁰ ASEAN response to the disaster was too slow. Not surprisingly is the fact that, while the haze originated from the Indonesian backyard, it did not motivate any ASEAN member to pressure Indonesia to curb the situation. Once again, any infringement of other state internal affairs from other member states, would amount to a violation of the ASEAN diplomatic principles. However, resentment among ASEAN people grew high particularly in Singapore and Malaysia against their own governments, demanding ASEAN to do more to tackle the disaster. It was only after several months that crisis was under control, followed by an apology statement from Indonesian president to other ASEAN states. This disaster of such magnitude obviously demands a multilateral approach and action which the ASEAN failed to deliver effectively and timely. In sum the failure of regional response is very much attributed to the strict adherence to non – intervention policy of ASEAN.⁷¹

The principles associated with the ASEAN Way have proven to be ineffective in dealing with regional issues and crises. The strict adherence to the non-interference

⁷⁰ Bryan Tan, "The Norms that Weren't – ASEAN's shortcomings in Dealing with Transboundary Air Pollution," / ' &# &! # &!4 ##\$(SPRING 2005): 1 -2 <http://72.14.207.104/search?q=cache:00dp5qXpkfAJ:surj.stanford.edu/2005/pdfs/Bryan.pdf>; Internet; accessed 05 April 2006.

⁷¹ Murray Hiebert, "Trial by Fire – Smog crisis test ASEAN's vaunted cooperation," &! &\$ ' ! + #!9 # October 16, 1997, <http://www.singapore-window.org/1016feer.htm>; Internet; accessed 05 April 2006.

policy of other members affairs have muted ASEAN's ability to coerce other members to comply. ASEAN refusal to redefine the principle of non-intervention will paralyse the organisation. The compelling evidence highlighted above on the negative effect of the ASEAN diplomatic practices should have convinced ASEAN's members of the need for serious reform. However, only Thailand and the Philippine mooted the idea of reform.⁷² All remaining members strongly opposed any attempt to change their comfortable practices and, hence, complicate the creation of a security community.

INTER – STATE TENSION

One complex factor that could complicate the transformation of ASEAN into a Security Community is the territorial disputes between ASEAN states plus non-ASEAN states. There are several areas in the South China Sea that are sensitive and in dispute. The disputed areas are the group of Spratly Islands, Paracel Islands, Natuna Islands, Gulf of Tonkin and Gulf of Thailand and several small islands. The Gulf of Thailand is subject to multiple overlaps involving Cambodia, Vietnam, Malaysia and Thailand. The Natuna Islands, are contested by Indonesia, Vietnam and China. On the other hand, the Paracel Islands located on the northwestern part of the South China Sea are claimed by China and Vietnam. Meanwhile, the Spratly Islands sovereignty is claimed by six nations, that is, China, Taiwan, Vietnam, Malaysia, the Philippines and Brunei.⁷³

⁷² The Irrawaddy, "ASEAN needs "flexible engagement," August 01, 1998, <http://www.irrawaddy.org/aviewer.asp?a=1166&z=104>; Internet; accessed 05 April 2006.

⁷³ Bob Cartley and Makmur Keliat, - % &) \$! " ! # \$ % ! # ! " ! - " ! * " # & - & (USA: Ashgate Publishing Company, 1997), 7.

The Spratly Islands are located in the southern part of the South China Sea, which spreads across the world's busiest sea-lanes. This group of islands consists of more than 100 small groups of islets, coral reefs and sandbars, with some of them visible only during the low tide. The waters around these islands are rich fishing grounds, and potentially rich in natural gas and oil deposits.⁷⁴ Figure 1.1, shows the map of South China Sea and the competing claims.

The 1982 United Nations Conventions on the Law of the Sea (UNCLOS) have provided states the opportunity to claim an exclusive economic zone (EEZ) of 200 nautical miles beyond their territorial waters and extend their sovereign rights to exploit the marine and mineral resources within the EEZ.⁷⁵ The EEZ claims not only reinforced coastal states claims, but also resulted in overlapping of territorial claims over the Spratlys. Thus, the Spratly Islands region has turned into a region of disputes where six nations scramble to occupy the areas to reap the potential economic benefits.

Three nations - China, Taiwan, and Vietnam claimed the entire Spratly Islands, while Malaysia, Brunei and the Philippines claimed a portion of it. China currently occupies about 7 islands with about 260 troops deployed, Malaysia has 70 soldiers stationed, the Philippines stationed about 480 troops, Taiwan deployed about 100 soldiers and Vietnam stationed soldiers reaching 600 strong. Brunei is a claimant but does not occupy any island or reef.⁷⁶ Skirmishes between China and Vietnam occurred in 1988

⁷⁴ STRATFOR, 1 &\$!2\$&/ + &\$# !* % ## ! '!9 \$ ' + \$ November 26, 2004, <http://www.stratfor.com/products/premium/print.php?storyId=239981>; Internet; accessed 12 January 2006.

⁷⁵ United Nations Convention on The Law of The Sea, "4& ! ! O+ \$# ! + #!B 1982, http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm; Internet; accessed 25 February 2006.

⁷⁶ Timo Kivimaki, &! '!4 &+ !#! " !- " !* "# &- &....., 64.

over the disputed island of Fiery Cross and between China and the Philippines in 1995 over the Mischief Reef.⁷⁷

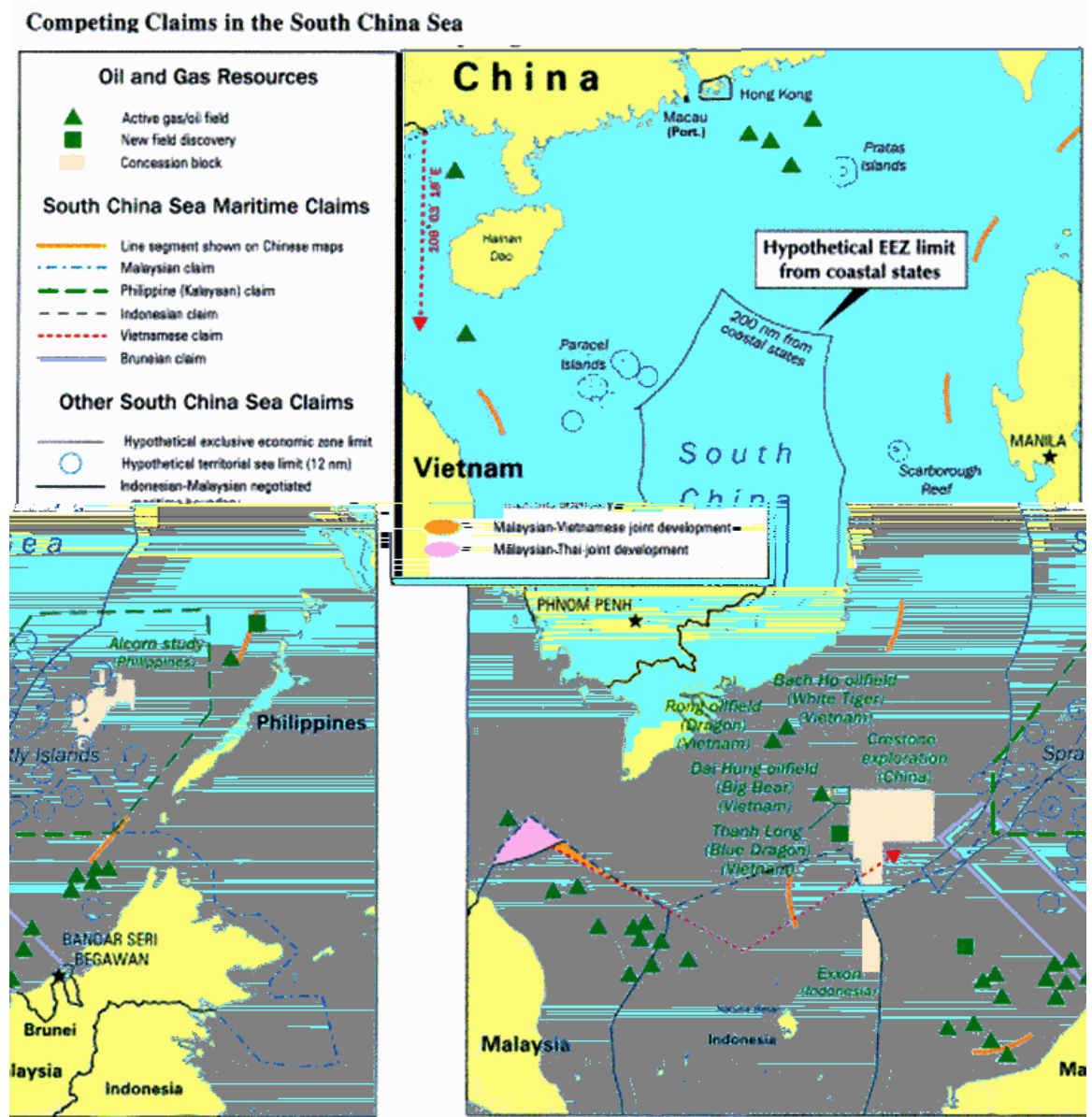


Figure 1.1 Map of South China Sea; Competing Territorial Claims

⁷⁷ BBC NEWS, "World: Asia-Pacific Trouble brews on Mischief Reef," January 22, 1999, <http://news.bbc.co.uk/1/hi/world/asia-pacific/260762.stm>; Internet; accessed 05 April 2006.

Source: Global Security Org, - % &)!/\$ & \$

<http://www.globalsecurity.org/military/world/war/images/schinasea.gif>; Internet;

accessed 25 February 2006.

Several others near clashes between Vietnam and the Philippines, and exchanges of harsh diplomatic notes between Malaysia and the Philippines and between China and Malaysia have occurred because of these competing claims. These nations have come close to armed conflict over the territory on several occasions in the recent years, and on August 2002, Vietnamese troops based on one islet fired warning shots at a Philippines' air force reconnaissance plane.⁷⁸ The PRC and Vietnam have both been active in prosecuting their claims. The Paracel Islands were seized by China in 1974 and 18 soldiers were killed. The Spratly Islands have been the site of a naval clash, in which over seventy Vietnamese sailors were killed just south of Chigua Reef in March 1988. Disputing claimants regularly report clashes between naval vessels. ASEAN has been keen to ensure that the territorial disputes within the South China Sea do not escalate into armed conflict. As such, Joint Development Authorities have been setup in areas of overlapping claims to develop the area jointly and dividing the profits equally without settling the issue of sovereignty over the area. This is true, particularly in the Gulf of Thailand.

⁷⁸ Clive Schofield, "A Code of Conduct for the South China Sea?," *18 & 39 / # + !9 #*, November 01, 2000, [; Internet; accessed 12 January 2006.](http://www8.janes.com/Search/printFriendlyView.do_docId=)

The issues of overlapping claims, which remains unresolved to date, will likely hamper greater cooperation between member states of ASEAN and hence, affect the realization of an ASC initiative. In 2002, ASEAN and China signed a joint Declaration on the conduct of parties in the South China Sea. In the declaration, ASEAN and China pledged to respect the principles of International Law, including the 1982 UNCLOS and to avoid using force.⁷⁹ However, the declaration remains non – binding. Although ASEAN sought a binding “code of conduct,” China maintained its refusal to enter any binding agreement and continued to claim sovereignty over most of the sea. More over, the code of conduct does not mention the restrictions on constructing buildings on the occupied Spratly islands.⁸⁰ In reality, the signing of the code of conduct does not signal an end to the dispute.

What is interesting is that ASEAN members have increasingly ignored the ASEAN mechanism for conflict resolution. Instead, ASEAN states favoured international institution to settle bilateral disputes. The dispute over Pulau Batu Puteh or Pulau Branca arose in 1979 when Malaysia published a new map that includes the island as Malaysian territory. Malaysia claims the island has been its territory since 1513.⁸¹ The Anglo-Dutch Treaty in the mid-1800s gave rights of regional control, which led to the British government building Horsburgh Lighthouse on Pedra Branca Island. The lighthouse is

⁷⁹ Association of Southeast Asian Nations, “Declaration on The Conduct of Parties in The South China Sea, 2002,” <http://www.aseansec.org/13163.htm> ; Internet; accessed 24 February 2006.

⁸⁰ Clive Schofield, “A Code of Conduct for the South China Sea,” *Journal of Energy & Development*, # 19 # 1, October 01, 2000, http://www8.janes.com/Search/documentView.do_docId=/content1/janesdata/mags/jir/hist; Internet; accessed 21 March 2006.

⁸¹ Brendan Pereira, “Singapore refutes ‘wild’ KL allegations,” *The Straits Times*, December 27, 2002, http://pgoh13.free.fr/wild_allegations.html; Internet; accessed 02 April 2006.

to aid navigation for ships sailing past the island safely. Malaysia became independent in 1963 and Singapore in 1965. Following that Singapore has maintained the lighthouse until today and there has been no protest by Malaysia until 1979. Malaysia argues that Singapore is just looking after the lighthouse and the sovereignty of the island remains with the Malaysian. In response, Singapore has denied all Malaysian claims.

Consequently, over the years there have been confrontations on the water.⁸² In 1994, both governments agreed to bring the matter to International Court of Justice (ICJ) for arbitration and the hearing is due in 2007.⁸³ The action to resort to ICJ for arbitration of the dispute highlight the fact that ASEAN as an institution is unable to settle disputes. This clearly manifested in the lack of the institution credibility. Similar territorial dispute between Malaysia and Indonesia also ended up at the International Court of Justice in 2002. The dispute was over the sovereignty of Pulau Litigan and Pulau Sipadan in the Celebes Sea, off the Northeast of Borneo Island. The court concluded the arbitration and issued a settlement that favoured the Malaysians.⁸⁴

In 2005 tension erupted between Indonesia and Malaysia over who has the sovereignty of East Ambalat, a block of maritime space in the Sulawesi. The dispute arises because of Malaysia's decision to issue exploration rights to national oil firm

⁸² The International Court of Justice, "Sovereignty over Pedra Branca/ Pulau Batu Puteh, Middle Rocks and South Ledge," 2005, pg 37, http://www.amun.org/Handbook/IAA_05_ch8.pdf; Internet; accessed 02 April 2006.

⁸³ Wikipedia, "Pedra Branca," http://en.wikipedia.org/wiki/Pedra_Branca; Internet; accessed 02 April 2006.

⁸⁴ International Court of Justice Press Release 2002/39, "Sovereignty over Pulau Litigan and Pulau Sipadan (Indonesia/Malaysia)," December 17, 2002, http://www.icj-cij.org/icjwww/ipresscom/ipress2002/ipresscom2002-39_inma_20021217.htm; Internet; accessed 02 April 2006.

Petronas in partnership with Royal Dutch Shell for concession blocks within East Ambalat. The Malaysian blocks largely overlap with Indonesian exploration blocks, the Ambalat and East Ambalat block. Meanwhile, the Indonesians awarded Italian oil company, ENI and the US oil company, Unocal, exploration rights in the concession blocks in 2004. The Indonesian government protested Malaysia's action as a violation of Indonesia's sovereignty and warned Shell not to enter Indonesian waters. The Malaysian government responded with a protest to Indonesia over the concessions the Indonesian government had issued to ENI and Unocal. The event has triggered both nations to deploy military forces to assert their claims of the territory.⁸⁵

Indonesia deployed four F-16s and five naval vessels assigned to patrol the disputed areas. The incident resulted with anti-Malaysian demonstrations and flag-burnings outside the Malaysian Embassy in Indonesia. Both states agreed to cool down the situation by diplomatic means. The military manoeuvre has great implication for ASEAN. First, Indonesian action to send military forces to the dispute area negates the credibility of Indonesia's proposal for the creation of ASC by 2020. Indonesian actions also violated the ASEAN diplomatic principles of not resorting to the use of force for dispute settlement. The incident did not escalate into an armed conflict. Both Indonesian and Malaysian government held diplomatic talks and cooled down the tension. The territorial issue has long been outstanding, however there is a lack of significant efforts

⁸⁵ Clive Scholfield and Ian Storey, "Energy Security and Southeast Asia: The Impact on Maritime Boundary and Territorial Disputes," *Asia Quarterly* (April 14, 2006), <http://www.asiaquarterly.com/content/view/full/160/1/>; Internet; accessed 03 April 2006.

from ASEAN to diffuse the tension and resolve the dispute.⁸⁶ This clearly demonstrated the growing irrelevance of the association in dealing with regional security issues.

In reality, South China Sea remains a flash point. States have continued to use force to enforce their territorial claims. No doubt, the issue is extremely complex. However, if territorial disputes are left unresolved legally, fresh tension will likely to occur in the future. This tension will certainly sour diplomatic relation, affect the cohesion within ASEAN, and hence, impede the realization of the security community initiative.

WAY AHEAD - TOWARDS A CREDIBLE ASEAN

By proposing ASEAN security community by 2020, Indonesia is trying to restore the credibility of the association after the economic crisis in 1997, which paralyzed ASEAN dramatically. Although, the ARF exists to address regional security issues, the organization is very much subject to the influence of much bigger powers like the United States⁸⁷, China and Japan when it comes to setting up the agenda. ASEAN needs a credible leadership to steer the association towards effectiveness especially in resolving regional disputes or issues. An effective leadership will strengthen the association decision-making process. ASEAN must collectively tackle this reality.

⁸⁶ Indahnesia News, "Indonesia sends 4 F-16 jetfighters to East Kalimantan," March 07, 2005, http://news.indahnesia.com/item/200503071/indonesia_sends_4_f-16_jetfighters_to_east_kalimantan.php?PHPSESSID=eaa46b644553bd96851a073fabbcf675; Internet; accessed 02 April 2006.

⁸⁷ Dana R.Dillon, Balbina Y. Hwang, and John J. Tkacik, Jr, "ASEAN Regional Forum: Promoting U.S. Interest," " !@ '#& ! &# , June 10, 2003, <http://www.heritage.org/Research/AsiaandthePacific/BG1659.cfm>; Internet; accessed 05 April 2006.

Further, ASEAN needs to institutionalize the way it functions. The secretariat must also be given authority to exercise its mandates to ensure member states is in compliance with all signed treaties and mechanism within the association. Strengthening the secretariat will allow it to cope with dynamic uncertainties. The secretariat should be proactive in dealing with regional issues. The High Council that exists in the Treaty of Amity and Cooperation has to function for dispute settlement.⁸⁸ Any disputes that arise amongst the member states must be resolved through legal means instead of using quiet diplomacy or informal methods. Resolving issues through quiet diplomacy may forestall any potential conflict. However, such action is simply avoiding conflict, and the same disputes may spark again in the future, thus negating the credibility of the institution. The use of the High Council, a mechanism in ASEAN to resolve emerging disputes in the region is no longer an option. Resolution of territorial disputes shall be by ruled-base or legal means in the High Council. On the other hand, referring territorial issues to ICJ for arbitration render the High Council ineffective. Effective territorial dispute resolution amongst ASEAN members will increase the association credibility when engaging China on territorial issues.

The ASEAN Way, the ASEAN diplomatic principle, needs some form of serious transformation or redefining. The principle worked extremely well during the Cold War era when the globe was bi-polarized. States coalesced together to confront the spread of communism. However, in the post Cold War era, new threats are emerging both conventional and non-conventional which are more dynamic. The strategic dynamism

⁸⁸ ASEAN, "Treaty of Amity and Cooperation in the Southeast Asia, Indonesia, 24 February 1976 - Article 14, Chap. IV," <http://www.aseansec.org/1217.htm>; Internet; accessed 05 April 2006.

that the region faces requires innovative responses from the association. Sovereignty – sensitive and consensus – oriented approaches have proven to be ineffective.

Interdependence between member states to address such trans-boundary threats or crisis is progressively growing strong.⁸⁹ A security community demands joint operations and transparency in combating trans-national threats. Therefore, the non-interference principle must be redefined for the association to intrude other states actions, if such state's action or event originating in that particular state poses a greater security or economic implication to the wider region.

No doubt extensive talks, consultations and dialogues are extremely important within the association especially in dealing with key regional security issues. However, talks should not overshadow actions. ASEAN needs to produce substantive actions and results. Lacking substantive results will erode confidence in ASEAN. With the enlargement of ASEAN, the current decision making process proved very difficult.⁹⁰ ASEAN needs to identify constructive ways to improve its decision making process within the enlarged ASEAN. Effective decision making process will allow progress on key issues or otherwise to be measured and evaluated.

Creating a credible ASEAN would negate external forces intervention because ASEAN can look after its backyard by itself. A strong ASEAN will certainly have the capability to regulate territorial tension with the powerful China. However, to earn the credibility in the international community, ASEAN has to take positive and credible

⁸⁹ ASEAN Annual Report, 2- 2 , 2004 – 2005, 15, <http://www.aseansec.org/AR05/PR-Peace.pdf>; Internet; accessed 07 April 2006.

⁹⁰ Termsak Chalermpananupap, “ASEAN - 10 Meeting The Challenges,” 2- 2 , June 01, 1999, <http://www.aseansec.org/2833.htm>; Internet; accessed 05 April 2006.

actions in dealing with regional crises. The contemporary strategic setting in the region needs a proactive ASEAN, to combat terrorist networks and separatism within the region and to pressurize Myanmar to improve its human rights conditions. Terrorist activities, which do not recognize borders, have created a climate of insecurity within the region and its economic implication is real especially in the tourism sector. This paper will not make any economic analysis on the impact of terrorist. However, it is adequate to say that if a travel ban is imposed on a nation, certainly economic income is severely affected. Hence, combating the terrorist activities will enhance regional security and indirectly provide prosperity to the region as well.⁹¹ ASEAN success in tackling the current regional issues will strengthen the confidence of all member states that ASEAN security community by 2020 is achievable.

The Myanmar human rights record is very damaging to ASEAN credibility. From a narrow point of view, ASEAN did not gain much from Myanmar membership other than endorsing the existence of the ruling military junta. Moreover, Myanmar's presence in the association affects ASEAN engagement with other group of nations in the West especially the EU. As highlighted in the earlier part of the paper, the postponement of ASEAN – EU meeting in 1998 was because the EU would not accept full participation by Myanmar. The ruling junta remains in power until today and remains adamant that its government model and human rights condition are its domestic affairs. The ASEAN policy of constructive engagement on Myanmar surely has failed and new measures are

⁹¹ ASEAN, "Indonesia President Calls for Greater Cooperation to Combat Terrorism," 2- 2 ! - + ' & #, January 20, 2003, <http://www.aseansec.org/13989.htm>; Internet; accessed 07 April 2006.

required.⁹² ASEAN must look for new ideas as a driving force for Myanmar to give in and improve its human rights record. The association must follow up diplomatic coercion exerted on Myanmar. Expelling Myanmar from ASEAN if Myanmar fails to comply is an option. Settling Myanmar issue will reinstall ASEAN credibility and relevance in the region.

CONCLUSION

In sum, ASEAN as an institution is sovereignty – sensitive and consensus – oriented. Being a sovereign sensitive organization, this suggests that ASEAN people's primary loyalties are still to states or ethnicity, rather than a strong Southeast Asian sense of identity. This weakens the sense of community across member states populace. During the Cold War ASEAN did very well to respond to regional key issues particularly the reversal of the Vietnamese invasion of Cambodia 1978 – 1991. The noble achievement has earned ASEAN as one of the most successful organization in the world. More importantly, ASEAN has survived for over three decades and there has been no major conflict occurred in the region.

Nonetheless, ASEAN's future as an effective security community is bleak after considering all the weaknesses and shortcomings highlighted earlier in the paper. What is more, as Indonesia is on the road to economic recovery and stabilization of its domestic

⁹² Kanbawza Win, "The Last Nail in the Coffin of Constructive Engagement," *2S& ! '#*, June 01, 2005, http://www.asiantribune.com/show_news.php?id=14600; Internet; accessed 01 April 2006.

affairs, which is likely to be far-reaching, a leadership vacuum in ASEAN exist.⁹³

However, other states seem unwilling to take the bold move to play a leadership role.

ASEAN without a leader is rudderless. The organization will likely fail if it continues to be leaderless.

Institutionally, ASEAN is weak and does not possess the supranational decision – making process to interfere with any sovereign decision of its members states. Many issues were left unresolved due to their complexity and sensitivity. ASEAN inclination to deal with inter-states conflict by sweeping them under the carpet rather than resolving them is a testimony of the association’s limitation. To be sure, the strict adherence to longstanding norms of ASEAN Way has muted ASEAN’s ability to intrude member states sovereign decision. This weakness has aggravated ASEAN’s credibility in security dialogue processes.

No doubt, there has been an enormous amount of cooperation amongst ASEAN states over the three decades, but this offers no guarantee about the future. By conflict avoidance, ASEAN is not safeguarding the region from the probability of conflict in the future, for example the Spratly Islands issue. China’s hunger for energy has the potential to spark new tension with ASEAN. The ASEAN Way has enhanced the organization capability gap, which resulted in the failure to respond to the economic crisis, the environmental disaster caused by forest fires, the brutal violence in East Timor and the human rights problem in Myanmar. The weakness of ASEAN Way has also paved the way for Australia to intervene and led INTERFET instead of ASEAN tackling its

⁹³ Public Information Notice No. 06/18, “IMF Executive Board Concludes Fourth Post-Program Monitoring Discussion with Indonesia,” / ' &# &! &')! , February 22, 2006, <http://www.imf.org/external/np/sec/pn/2006/pn0618.htm>; Internet; accessed 05 April 2006.

regional issue. Furthermore, the ASEAN-led ARF is considered to be no more than talk-shop, much like the ASEAN itself. The ASEAN Way, emphasizing informality and consensus-oriented dialogue process seemed ineffective in laying the foundations of Asia Pacific regional order. Clearly, the ASEAN Way needs redefining into a much robust diplomatic norms for an effective security community to exist.

A security community demands the convergence of states strategic perspectives and political goal, which seems to be missing within ASEAN. With its many weaknesses, ASEAN continues to be a weak security community. ASEAN will likely survive but its course towards becoming a security community needs a credible leader on the helm as much as enormous support from all its members. Even if a security community exist by 2020, its effectiveness remains doubtful unless, extensive reforms are taken.

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⁹⁴ ASEAN, "The ASEAN Way and the Rule of Law," September 03, 2001, <http://www.aseansec.org/2849.htm>; Internet; accessed 06 April 2006.



Fig 1.2 Map of Southeast Asia

Source: University of Texas,
http://www.lib.utexas.edu/maps/middle_east_and_asia/southeast_asia_pol_2003.jpg;
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