The ASEAN Community and the ASEAN Charter: Toward a New ASEAN?

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INTRODUCTION
In recent years ASEAN has taken a number of landmark decisions. At the 9th ASEAN Summit in Bali in 2003, the ASEAN leaders signed the Declaration of ASEAN Concord II or the Bali Concord II which envisaged the realisation of the ASEAN Community by 2020. Attention is now on developing an ASEAN Charter which is believed to be indispensable for the successful building of this ASEAN Community. The need for a Charter was advanced by the Minister of Foreign Affairs of Malaysia, The Honourable Dato’ Seri Syed Hamid Albar in a discussion paper entitled "Review of ASEAN Institutional Framework: Proposals for Change" that was circulated at the ASEAN Foreign Ministers’ Retreat on 4 March 2004 in Ha Long Bay, Vietnam. The paper argued that in order to successfully transform into the ASEAN Community, ASEAN would have to be prepared for profound changes including in its institutional

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1 Much of the primary sources used in this paper are based on official ASEAN documents such as the Chairman’s Press Statements of the ASEAN Summits, Joint Communiqués of the ASEAN Ministerial Meeting (AMM), Joint Press Statements of the ASEAN Economic Ministers, Press Releases of the ASEAN Economic Ministers, Treaties, Agreements, Declarations and other ASEAN documents including ASEAN statistical data. These documents can be accessed from the ASEAN website: http://www.aseansec.org

2 The notion of an ASEAN Charter, however, is not new. It was articulated as early as at the 7th AMM in 1974. In earlier discussions it was generally held that an ASEAN Charter would run counter to the consensus principle and would likely introduce tension and rigidity into the ASEAN system. See the article by Muthiah Alagappa, “ASEAN Institutional Framework and Modus Operandi: Recommendations for Change” (Sopiec et al., eds., 1987), page 190.

3 Karuppannan et al. (eds., 2005).
framework and working methods, the relationship among the members of ASEAN and their mode of interaction, and ASEAN’s role within the region. This has raised the question as to whether the move towards creating an ASEAN Community and drawing up a Charter marks a defining moment or a new beginning for ASEAN.4

The objective of this study is three-fold. First, it aims to understand the factors that compelled ASEAN to move towards integrating itself into the ASEAN Community. Second, it intends to answer the question of whether the move towards becoming an ASEAN Community and the development of a Charter represent a new beginning for ASEAN. Third, it proposes some possible recommendations for the development of the ASEAN Charter.

WHY STUDY ASEAN?
There is no doubt that Southeast Asia and ASEAN are of great strategic and economic importance. One can get a quick idea of the relative importance of this region and ASEAN by conducting a search on the internet. A simple search using the search engine Google on 25 January 2006 revealed that the term “ASEAN” was indexed 7.8 million times. By contrast, Mercosur was indexed only 3.3 million times. Others organisations such as the Organisation of Islamic Conference (OIC) and the Organisation of American States (OAS) came far below with only 1.8 million times and 0.1 million times, respectively.

Geographically, Southeast Asia sits astride one of the most important maritime zones—the Straits of Malacca which serves as a primary conduit for the movement of cargo and people between the Indo-European region and the rest of Asia and Australia. It is the shortest East-West sea route compared to Indonesia’s Macassar and Lombok Straits. Every year about US$ 1 trillion worth of goods and services pass through the region formed by the Straits of Malacca and other associated shipping routes. More than 50,000 vessels ply the Straits of Malacca annually.

Economically, the Southeast Asian region is one of the fastest growing regions. ASEAN’s population is almost 500 million. Its combined GDP is US$2.3 trillion or about two-thirds of Japan’s GDP of US$3.6 trillion or one-third of China’s GDP of US$6.6 trillion.5 The region is also rich in primary resources such as oil and gas.

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4 Acharya (2005).
5 Keynote Address by Mr. Ong Keng Yong, Secretary General of ASEAN at the 2nd SIF-ASEAN Student Fellowship Alumni Conference, “The ASEAN Pulse—From Vision to Action”, Singapore, 8 April 2005.
timber, food crops and fisheries. Together these make up for 23 per cent of the region’s exports and 20 per cent of its GDP. Over the past three decades ASEAN has been able to leverage on these intrinsic strengths to increase productivity and competitiveness. This enabled ASEAN to double its share of exports to 5.4 per cent of total global exports in 2003 from 2.7 per cent in 1975. Intra-ASEAN trade is today about 23 per cent of ASEAN’s total trade amounting to US$170 billion in 2003. Total market capitalisation exceeds US$600 billion with more than 2300 listed companies across the region. There are more than 100 ASEAN companies that have a market capitalisation exceeding US$1 billion.

From the politico-historical context, 6 ASEAN provides a rich area of research for academics, researchers and foreign policy practitioners alike. In the 1960s the security and stability outlook of the region was indeed bleak. As most of the Southeast Asian states were newly independent, socio-economic and political cohesion amongst them was weak. Their immediate priority was to deal with the baggage left behind by the retreat of the colonial powers, such as questions of political legitimacy in certain countries, internal political strife among contending political forces, irredentist movements, economic problems and unresolved territorial disputes. In addition, the region was ideologically polarised as a result of the Cold War rivalry.

Despite such difficult beginnings, ASEAN not only survived but is today one of the most important regional organisations 7 after the EU. It has lived through major strategic shifts in the region. It will be celebrating its 40th birthday next year. Its most notable achievement has been its ability to maintain peace and stability in what has been an unstable region sometimes described as the “Balkans of the East”, or a “region of dominoes”. 8 ASEAN has also been the core and driving force for a number of key regional initiatives including the ASEAN+3 process, the ASEAN Regional Forum and the East Asia Summit. Through these fora ASEAN has provided participants with, at one time or another, an additional, albeit informal venue to meet and discuss various

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6 The historical background of ASEAN is well documented both from the perspective of academic research as well as anecdotal history as recorded by statesmen who had been intimately involved in the formative years of ASEAN. A selective listing of references would include Broinowski (1982), Acharya (2001), Solidum (1982), Leifer (1989), Caballero-Anthony (2005) and Rajendran (1985).

7 ASEAN has been loosely described as a regional organisation in this study. Strictly speaking, ASEAN is not a regional organisation but an association of sovereign states.

8 This view is shared by most ASEAN scholars and experts. See, for example, Acharya (2001) and Alagappa (2003).
bilateral issues. ASEAN has also been instrumental in the development of regional free trade agreements with its dialogue partners. That this region could achieve such an impressive track record despite the odds is indeed remarkable.

THE EVOLUTION OF ASEAN
For the purpose of this study, the evolution of ASEAN has been divided into four phases based on ASEAN's major focus during each phase.

1967–1976 1st Phase: Identity building and establishment of ASEAN norms

1977–1989 2nd Phase: Intra-regional cooperation and challenges to the 'ASEAN Way'

1990–1996 3rd Phase: Towards ASEAN integration

1997–present 4th Phase: Community building

1ST PHASE (1967–1976): IDENTITY BUILDING AND ESTABLISHMENT OF ASEAN NORMS
Given the milieu in which it was born, the first decade of ASEAN's existence was focused on creating a spirit of “togetherness”. This phase was more of a confidence-building period. The numerous meetings at all levels facilitated socialisation and improved understanding among the countries. Furthermore, ASEAN deliberately eschewed any form of institutionalisation in order to keep its working methods as flexible and informal as possible. The fact that ASEAN did not have a secretariat for most of this phase underscores the importance placed on informality and confidence building. During this period the ASEAN norms of inter-state relations also evolved and began to play a central role in the development of an ASEAN identity. ASEAN's norms were derived from organisations and movements such as the Charter of the United Nations and the 1955 Bandung Asian-African Conference as well as the region's own social, cultural and political practices. These norms were codified in four instruments,

9 Former Secretary of State Colin Powell and the Foreign Minister of North Korea had informal bilateral discussions on the margins of the 9th ARF Ministerial Meeting in Brunei Darussalam in July 2002; see http://www.state.gov/secretary/former/powell/remarks/2002/12410.htm. Similarly, the ASEAN+3 meetings provided China, Japan and the ROK the opportunity to conduct informal trilateral consultations among themselves.

10 Shafie (2000).
namely, the Bangkok Declaration (1967), the Kuala Lumpur Declaration on the Zone of Peace, Freedom and Neutrality (1971), the Treaty of Amity and Cooperation in Southeast Asia (1976) and the Treaty of the Southeast Asia Nuclear Weapons-Free Zone (1995). Collectively, the observance of these norms and ASEAN’s working methods gave rise to the term the ‘ASEAN Way’. 11

Clearly, economic integration was not on ASEAN’s agenda12 during this phase although the Bangkok Declaration gave the impression that ASEAN’s primary focus was economic cooperation. However, the fact that the Bangkok Declaration placed the Foreign Ministers Meeting at the apex of the ASEAN structure gave away the fact that ASEAN’s focus was in fact profoundly political in nature. The first oil crisis of 1973 shocked the ASEAN countries into realisation that some of their problems could no longer be solved by individual nations acting alone. Apart from the oil crisis, the security challenges posed by the Fall of Saigon which ended the Vietnam war also accelerated ASEAN’s shift to collective action.

Interestingly, at the 7th ASEAN Ministerial Meeting (AMM) in 1974, the ministers agreed that “ASEAN, having completed its first and presently entering its second stage of cooperation, should now embark on a more substantial and meaningful economic collaboration”. In this regard the ministers proposed three approaches, namely, trade liberalisation, complementary agreements and package deal arrangements. Acting on this decision, the 8th AMM in Kuala Lumpur in 1975 agreed to establish an ASEAN Trade Negotiation Body to set up an ASEAN system of trade preferences and adopted the guidelines for ASEAN industrial complementation.

Convinced that ASEAN would need a clear direction in order to better respond to the changing geo-political and geo-economic environment, the 1st ASEAN Summit was convened in Bali in 1976. The Declaration of ASEAN Concord and the Treaty of

11 Although the origin of the term is unclear, the ‘ASEAN Way’ is generally described as a decision-making process based on extensive consultation and consensus. This approach is marked by discreteness, informality, non-confrontation and consensus-building and a high premium has often placed on the need to allow for face saving. Some authors have described it as the ability to disagree without being disagreeable, always striving to arrive at a consensus through deliberately avoiding open conflict or confrontation, and giving as much importance to process as to outcome.

12 In his opening address at the 15th AMM on 13–14 April 1972, then Prime Minister Lee Kuan Yew mentioned ‘observing from the records of ASEAN proceedings, he gained the impression that ASEAN did not for the present aim at integrating a regional economy; It would therefore be, unrealistic for ASEAN to propose programmes and projects which did not fit into and assist in the consolidation of the respective economic development plans of the five countries’.
Amity and Cooperation in Southeast Asia were signed at this summit. The Summit also mandated the creation of an ASEAN Secretariat in Jakarta. In order to pursue economic cooperation in a coordinated manner the Summit approved the creation of the ASEAN Economic Ministers Meeting (AEM). The Summit also gave its support for the role of the other sectors of the society in ASEAN affairs.

During this phase the ASEAN norms of non-interference, respect for sovereignty, independence and territorial integrity were ingrained in ASEAN's practices. These norms played a central role in moulding a regional identity and a sense of togetherness. As observed by the former Deputy Prime Minister of Malaysia Tan Sri Musa Hitam, “the ASEAN process has resulted in the creation of an ASEAN sense of community, of family feeling, not a negative attitude of “we versus others” but a positive sense of our own interests and our own togetherness.”


Having set the basic policy as well as institutional framework for increased ASEAN economic cooperation, a major initiative taken at the 2nd ASEAN Summit in Kuala Lumpur in 1977 was the signing of the ASEAN Preferential Trading Arrangement (PTA). The PTA (regarded as the lowest form of economic integration) was aimed at providing fresh impetus to economic cooperation by liberalising and increasing intra-ASEAN trade. The Summit also agreed that ASEAN’s economic cooperation with its dialogue partners be further intensified. During this phase ASEAN introduced an array of initiatives to expand economic cooperation including expansion of PTA, tariff reductions, signing of the Basic Agreement on ASEAN Industrial Complementation (AIC) and the Basic Agreement on the ASEAN Industrial Joint Ventures (BAIJV) and the ASEAN Swap Arrangement.

To ensure that the economic measures also translated into the consolidation of ASEAN as a strong, viable and cohesive regional organisation, the 2nd ASEAN Summit emphasised ASEAN’s desire to develop peaceful and mutually beneficial relations with all countries in the region including the Indochinese countries. However, the invasion of Cambodia by Vietnam in 1978 became a key test of ASEAN’s resolve and ability to seek a political settlement to the conflict within a regional framework while upholding its norms. Conditioned by its norms, ASEAN initially took an uncompromising stance.
against Vietnam's occupation of Cambodia and kept up pressure for the withdrawal of the Vietnamese troops and support for Cambodia's right to self-determination. However, as the crisis progressed, it proved difficult to maintain this position due to the differing perceptions of the problem among the ASEAN member states. ASEAN's stance also underwent changes, from seeking complete withdrawal of foreign forces to finding a political solution to the problem even if it meant going against its own norms. ASEAN therefore resorted to the internationalisation of the conflict by convening the International Conference on Kampuchea in 1981 though this strategy was tantamount to inviting external influence in regional issues. At a later stage ASEAN's support for China's actions to dislodge Vietnam ensured a disproportionate influence for China in the search for a solution to the Cambodian conflict. In addition Thailand's precarious position as a frontline state was used as justification by some ASEAN member countries to provide military assistance to Thailand and the non-communist Khmer forces. Although this form of assistance appears to go against ASEAN's norm, it should be borne in mind that the decisions were considered as bilateral decisions rather than an ASEAN collective decision.

As the crisis prolonged, the region once again entered into a period of severe recession of 1985–1986. The ASEAN countries were faced with the collapse of commodity prices, a massive increase in debt burdens following the revaluing of the Yen under the Plaza Accord and a bleak international economic environment due to the protectionist mood in the developed countries. Collectively these developments led to a serious erosion of confidence in ASEAN.

Against this background the 3rd ASEAN Summit was convened in Manila in 1987. Affirming the importance of economic cooperation in fostering peace and stability, the Summit endorsed several specific and detailed economic cooperation initiatives including expansion of the PTA, facilitation of ASEAN Industrial Joint Ventures (AIJVs), finance and banking measures, and expansion of physical connectivity through road, rail, shipping and air transport as well as communications systems. The Summit also created a new coordination mechanism known as the Joint Ministerial Meeting (JMM) comprising foreign and economic ministers to facilitate coordination among political and economic initiatives. However, of late this mechanism has not been used much.

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14 Alagappa's article, op.cit. (1988).
15 Acharya's article “Constructing a Security Community in Southeast Asia—ASEAN and the Problem of Regional Order” (2001), page 89.
Although ASEAN did not resolve the Cambodian conflict and in fact earned criticism about its ineffectiveness, ASEAN’s role in the search for a solution defined ASEAN and what it stood for. Despite the inherent weakness of the ‘ASEAN Way’, it enabled ASEAN to explore collective action. The experience gained by ASEAN during this phase also emphasised the need for ASEAN to refine its institutional framework and working methods and structure and to deepen integration in order to enable it to deal with future challenges.

Hence it can be concluded that ASEAN’s role in the Cambodian crisis had had a paradoxical effect on ASEAN’s norms and identity. While on the one hand it propelled ASEAN into the limelight and thus had a positive effect on its identity and international stature, on the other, it also threatened to compromise its own norms. It also exposed the limits of the ASEAN Way since the search for consensus was not easy especially when the differing perceptions of member countries made the search for consensus impossible.

This second phase was essentially a learning experience for ASEAN. First, ASEAN realised that the ‘ASEAN Way’ could not be satisfactorily applied in dealing with new and emerging challenges. Indeed, the Cambodian conflict proved that ASEAN must enrich its working methods by employing flexibility. Second, it proved that ASEAN’s development as a regional grouping depended to a great extent on the vagaries of the external environment and the direct link between its collective prosperity and its ability to project its influence within the regional theatre. Third, ASEAN learned that as long as any Southeast Asian state remained outside the ASEAN fold it would invite external interference and disrupt regional peace and stability.

3RD PHASE (1990–1997): TOWARD ASEAN INTEGRATION
The 23rd AMM in 1990 agreed that it was timely for ASEAN to take concrete steps towards a more effective intra-ASEAN economic cooperation. In this regard, a paradigm shift occurred at the 4th ASEAN Summit in Singapore in 1992, as member countries agreed to create the ASEAN Free Trade Area (AFTA) using the Common Effective Preferential Tariff (CEPT) (a step higher than PTA) within 15 years beginning 1 January 1993. The Summit recognised the importance of strengthening and/or establishing cooperation with other countries, regional/multilateral economic organisations. The Summit also recognised the importance of close consultation with the East Asian economies in contributing to closer cooperation between the region’s economies.

The Summit also introduced major changes in the institutional framework of ASEAN on the basis of the recommendations of the Eminent Persons Group established in 1990 and headed by Tan Sri Ghazali Shafie. The ASEAN Summit was institutionalised as a regular part of the ASEAN framework. It was to be convened every three years with informal summits in between. An open recruitment system for professionals in the ASEAN Secretariat was introduced and the Secretary General was given ministerial rank and accorded an expanded mandate to initiate, advise, coordinate and implement ASEAN activities. Further, the institutional framework of ASEAN was streamlined by dissolving the five Economic Committees and replacing them with the Senior Economic Officials’ Meeting (SEOM).

The 4th ASEAN Summit was also significant in that it introduced security cooperation under ASEAN. A momentous milestone was achieved with the establishment of the ASEAN Regional Forum which met for the first time on 25 July 1994. The Summit also agreed that ASEAN should pursue community and identity building initiatives by involving universities, the youth and women. The ASEAN Flag and ASEAN logo were adopted as symbols of a common identity.

While ASEAN clearly stood its ground where its norms were concerned, it also exhibited sensitivity toward opinions of the international community. Following the international consensus on human rights achieved during the World Conference on Human rights in Vienna in 1993, the 26th AMM in 1993 agreed that ASEAN should also consider the establishment of an appropriate regional mechanism on human rights.

The 5th Summit in Thailand in 1995 adopted the Agenda for Greater Economic Integration to bring forward the date of realisation of AFTA. Apart from agreeing to remove quantitative restrictions and non-tariff barriers, introducing greater transparency in standards and conformance, harmonising tariff codes and promoting freer trade in services, the Summit also agreed that all decisions on economic cooperation would be made by flexible consensus. This was done to allow member countries to proceed on economic initiatives while those who were not ready could do so at a later date. Additionally, it was agreed that ASEAN should adopt a General Dispute Settlement Mechanism to apply to all disputes arising from ASEAN economic initiatives.
This phase also saw the expansion of ASEAN to achieve what its founding fathers considered to be its manifest destiny—the completion\(^{18}\) of ASEAN 10. The 5\(^{th}\) ASEAN Summit in Bangkok on 14–15 December 1995 committed ASEAN to speedily realise ASEAN 10 and to further strengthen the ASEAN identity, spirit and sense of community through wider participation of ASEAN citizens.

It took two decades for ASEAN to embark on real integration through expansion and AFTA. For the first time too ASEAN had formally agreed to go beyond the ‘ASEAN Way’ albeit in the economic field by adopting flexible consensus and to introduce a dispute settlement mechanism. A deeper analysis reveals complex and various subtle motives for these developments.

On the one hand, it reflected ASEAN’s desire to shield the region from external interference. Toward this end it was crucial to bring in the Indochinese countries into the ASEAN fold. Politically, it was believed that bringing Cambodia, Laos, Myanmar and Vietnam (known as the CLMV countries) into the ASEAN fold would remove grounds for antagonism and suspicion and therefore the potential for external interference. On the other hand, economic integration was an imperative for further economic progress. Furthermore, economic integration could also serve to strengthen the ASEAN identity. The process of ASEAN enlargement appears to have economic underpinnings as well. A number of ASEAN countries were competing to gain an economic foothold in Indochina. Enlargement was therefore, in some ways, a reflection of intra-ASEAN competition for trade.

Enlargement required in turn that ASEAN reexamine the application of its own norms. The inclusion of Myanmar in particular was a test for ASEAN. Modalities such as “constructive engagement” were a means to get around the stricture imposed by its norm of non-interference. However, the limits of this argument were quickly established when the notion of “constructive intervention”\(^{19}\) proposed by former Malaysian Deputy Prime Minister Anwar Ibrahim in 1997 and “flexible engagement”\(^{20}\) proposed by former Thai Foreign Minister Surin Pitsuwan were roundly rejected by the other ASEAN members.

\(^{18}\) The period 1990–1999 is designated as the phase during which ASEAN 10 was achieved although Cambodia was only admitted in 1999. If not for the internal political turmoil Cambodia would have been admitted into ASEAN in 1997 together with Laos and Myanmar.


In the economic area, however, variations such as flexible consensus had become acceptable, suggesting greater confidence among its members. Hence, by the end of the third phase it was with a renewed sense of self-confidence that ASEAN was poised to forge ahead with deeper integration in the economic field.

Although the pursuit of ASEAN 10 was a political imperative, the greater degree of heterogeneity introduced by the inclusion of the new members brought with it new challenges and implications. Consequently, initiatives were taken to reduce the gap in the level of development among member countries. It is these integration initiatives that brought ASEAN to the 4th and current phase of its evolution.

4TH PHASE (1997–PRESENT): COMMUNITY BUILDING

ASEAN entered the current phase at the peak of self-confidence. However, ironically ASEAN’s 30th anniversary brought with it the greatest challenge the organisation had ever known. The Asian financial crisis brought in its wake unprecedented political and social turmoil. The crisis in effect revealed the ineffectiveness of previous ASEAN attempts at ‘soft regionalism’. Even mechanisms such as the Swap Arrangement proved to be ineffective. Without an effective regional mechanism to deal with the crisis, each country was forced to take its own initiatives to protect its economy. Without a show of unity it was feared that domestic troubles in certain parts of the region could eventually affect intra-ASEAN relations adversely and threaten ASEAN’s survival. The former Secretary General of ASEAN described the stark choice facing ASEAN at that point: “The financial crisis has thus brought to the fore an emerging irony in ASEAN: The very integration envisioned and long regarded as a source of strength can be a point of weakness….ASEAN can address this irony in two ways. One is to hesitate and slow down or pause, if not to retreat or reverse course, on the road to further economic integration….The other way is to proceed and, indeed, advance faster on the road of integration and cooperation, while ensuring that closer and faster integration is further developed as a source of strength and its potential as a point of weakness diminished. …..The ASEAN countries, at the highest levels, early on firmly rejected this (second) option.”

The Asian financial crisis and its aftermath was also evidence that ASEAN regional cooperation worked well only during favourable economic conditions but broke down in adverse conditions. Hence, the subsequent focus of ASEAN was to promote more
meaningful integration through the development of a comprehensive development agenda, including, enhancing ASEAN economic integration, involvement of the people as well as advancing the realisation of Vision 2020 by building a ‘community of peace’.

The 2nd ASEAN Informal Summit in Kuala Lumpur in 1997 marked a watershed development as the member countries adopted the ASEAN Vision 2020 which envisages transforming ASEAN into a “concert of Southeast Asian nations, outward looking, living in peace, stability and prosperity, bonded together in partnership in dynamic development and in a community of caring societies.”

The role of the civil society in community building was further enhanced with the establishment of the ASEAN Foundation to promote greater awareness of ASEAN through greater interaction among the peoples of ASEAN as well as their wider participation in ASEAN’s activities. The 2nd Informal Summit also ushered in the ASEAN+3 process with the convening of the first ASEAN+3 Summit. The initial aim was to engage the East Asian countries to provide external support for ASEAN’s economic recovery. Subsequently, this cooperation was extended to cover practically all areas. 23

The following year, at the 6th ASEAN Summit in Hanoi in 1998, ASEAN agreed to bring forward the realisation of AFTA to 2002. A raft of initiatives was also launched to promote economic competitiveness and attract FDI. These included the Statement on Bold Measures, Short Term Measures to Enhance ASEAN Investment Climate, ASEAN Framework Agreement on the Facilitation of Goods in Transit and ASEAN Framework Agreement on Mutual Recognition Arrangements. The Summit also adopted the Hanoi Plan of Action as the first action plan to realise the ASEAN Vision 2020. In addition, an ASEAN Eminent Persons Group on Vision 2020 led by Prof. Chin Tet Yung of Singapore was also mandated to tap the expertise from the private sector and the academics for fresh insights to realise the ASEAN Vision 2020.

In line with Vision 2020, the 7th ASEAN Summit in 2000 agreed on the need for a Roadmap for Integration of ASEAN (RIA) to chart specific steps and timetables to achieve integration. The Summit also agreed to commission an ASEAN Competitiveness Study which would become part of the RIA. Further steps towards integration came about with the launching of the Initiative for ASEAN Integration

23 As of July 2005, the ASEAN+3 process covers about 17 areas involving 49 meetings from the summit level to working group/expert level.
This period also saw the creation of various sub-regional cooperation groupings such as the Greater Mekong Sub-Region Cooperation (GMS), Brunei-Indonesia-Malaysia-Philippines East ASEAN Growth Area (BIMP-EAGA), Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT), ASEAN Mekong Basin Development Cooperation (AMBDC) and the West-East Corridor.

As recommended by the ASEAN Competitiveness Study, which suggested that economic integration could boost competitiveness, the 8th ASEAN Summit in 2002 adopted an Agenda towards a Community of Southeast Asian Nations which included the idea of an ASEAN Economic Community as the end goal for the Roadmap for Integration in ASEAN (RIA) and the ASEAN Vision 2020. But the following year the 9th ASEAN Summit agreed to broaden the notion of community to include political and socio-cultural areas. This was achieved through the Declaration of ASEAN Concord II or Bali Concord II which envisaged an ASEAN Community supported by three pillars, namely, the ASEAN Security Community, ASEAN Economic Community and the ASEAN Socio-Cultural Community. Each of the pillars has its own Plan of Action. As ASEAN had embarked on economic integration much earlier, naturally the economic dimension is most advanced in terms of integration attributes. The ASEAN Economic Community is envisaged as an “AFTA-plus and Customs Union-minus”. There is also an Enhanced Mechanism for Dispute Settlement.

The vision of the ASEAN Community is therefore a composite view of the various approaches towards integration and community building enunciated under the ASEAN Vision 2020, Roadmap for Integration in ASEAN, Hanoi Plan of Action and the Initiative for ASEAN Integration.

With the foundation for the ASEAN Community in place, ASEAN focused on the institutional structure that would be needed to guide the building of this Community. The Malaysian paper circulated at the ASEAN Foreign Ministers’ Retreat in 2004, highlighted the following:

- That the ASEAN Community is a monumental task and one that would have structural and normative implications for ASEAN. As such the present ASEAN institutional framework would have to be re-configured and its working methods and rules revised or replaced;
- The importance of engaging all sectors of the society in building this Community in order to ensure its durability;
- That ASEAN would have to place importance on ‘community values’ which goes beyond pure national interests;
That ASEAN would have to be cognisant of emerging problems and issues that can only be addressed at the ‘community’ level;

- The importance of enhancing predictability, transparency and enforcement of ASEAN’s initiatives and the need to overcome the perennial problem of coordination and proliferation of structures that have plagued ASEAN.

- At the 11\textsuperscript{th} ASEAN Summit in Kuala Lumpur in 2005, ASEAN leaders mandated the creation of an Eminent Persons Group (EPG) to provide input on the drafting of the ASEAN Charter. It is envisaged that following the EPG’s report to the Summit, the actual drafting of the Charter would commence. As it stands now there is no deadline for the completion of the ASEAN Charter. Additional clues as to ASEAN’s thinking on the ASEAN Community and the Charter have been advanced by Malaysia\textsuperscript{24} and Singapore.\textsuperscript{25,26}

FUTURE TRENDS AND PERSPECTIVES

From the preceding narrative, it is clear that ASEAN has undergone dramatic changes. From a cautious beginning as an association of countries, jealous of their sovereignty, the ASEAN countries are slowly moving towards deeper integration\textsuperscript{27} to becoming a ‘community’ with a capital ‘c’.\textsuperscript{28} Why is ASEAN prepared to undergo such a transformation? The analysis of ASEAN’s focus in the four phases of its development offers important clues.

In a hierarchical ordering of ASEAN’s interests, clearly its overriding core interest has been to maintain peace and stability in the region. It has sought to do this by preventing the Southeast Asian region from becoming a theatre for major power competition and interference by external powers. It has therefore been imperative for ASEAN to prove its capability and willingness to manage intra-regional affairs while demonstrating sensitivity to perceptions and concerns of the international community on issues such as human rights, environmental protection and today, terrorism. This has been at the heart of ASEAN’s logic in promoting ZOPFAN, SEANWFZ, and its efforts to deal with regional issues such as the Cambodian conflict, the haze problem and the overlapping claims in the South China Sea (through the Declaration of the Conduct of Parties in the South China Sea), as well as its desire to realise ASEAN 10, the creation of the ASEAN Regional Forum (ARF), the ASEAN+3 process and the East

\textsuperscript{24} Karuppannan et al. (2005).
\textsuperscript{25} See “Towards Realising an ASEAN Community” (2000).
\textsuperscript{26} See “Framing the ASEAN Charter” (2005).
\textsuperscript{27} Vandoren (2005), “Regional Economic Integration in Southeast Asia”.
\textsuperscript{28} Ibid.
Asia Summit. The same logic was also behind ASEAN’s decision to promote an ASEAN mechanism of Human Rights and the conclusion of the various Declarations to combat terrorism with its dialogue partners.

Second, ASEAN has also sought to promote peace and stability through promoting the feeling of “togetherness” or the “we feeling”. ASEAN has therefore always given importance to identity building through this feeling of “togetherness” among its members. ASEAN chose to do so by developing an appropriate normative and structural framework. The norms were supposed to act as “rules of behaviour”. The ASEAN structure was deliberately kept flexible and informal to allow for greater socialisation among members to further develop this “we feeling”. Hence the ‘ASEAN Way’ was central to the process of identity building and identity projection. ASEAN’s constructive engagement with Myanmar and its on-going discussions on Myanmar are aimed at nudging Myanmar towards an “acceptable standard of behaviour”. The importance accorded to socialisation as a means of creating the “we feeling” also explains why ASEAN has generally been loath to undertake a radical restructuring of ASEAN. For ASEAN, its identity has always been a unique and defining feature. ASEAN has also sought to define its identity more explicitly through symbols such as the ASEAN Flag, the ASEAN Logo, adoption of the ASEAN Day and the creation of AFTA. Similarly, the ASEAN Community is also an exercise in identity building. Therefore, one rationale for the move toward the ASEAN Community is to foster identity building.

Third, it has been important for ASEAN to maintain a flexible institutional form and adopt an outward-looking stance. This flexibility has allowed ASEAN to adapt itself to a constantly changing environment without giving rise to undue stress and strain within itself. Therefore, ASEAN had always eschewed fixed ideas, constructs or theories and instead adapted them to suit its own needs, which explains the relative ease with which ASEAN had re-looked at its own ‘ASEAN Way’, though it had served it well during its formative years. ASEAN’s track record shows that the principle of non-interference has also not been treated as an absolute or inelastic norm. Even the norm of consensus is being re-examined albeit in the economic field with the introduction of the concepts of “flexible consensus”, “ASEAN Minus X”, “2 Plus X”. Similarly, ASEAN has showed preparedness to experiment with “two-speed” ASEAN by allowing more time for the CLMV countries to meet the AFTA requirements.
Therefore, in order to ensure for ASEAN to promote and project its core interests, the proposed ASEAN Charter should incorporate the following aspects:

IDENTITY BUILDING AND CREATING THE “WE FEELING”
The Charter should clearly define the ASEAN Community, its attributes, competencies, as well as the various symbolic representations of the Community. In Prime Minister Dato’ Seri Abdullah Haji Ahmad Badawi’s speech, symbols such as the Flag, Anthem, Logo, common identity and travel documents and common time were mentioned. The Charter could also enable ASEAN to assume a legal personality or be represented in the United Nations. Such symbolic representations would certainly strengthen identity. Though socialisation would continue to contribute towards the development of the “we feeling”, the Charter should also define an “acceptable standard of behaviour or comportment”. In other words, the Charter should allow for the development of appropriate norms to support community building. Non-interference should no longer be used to justify “unacceptable behaviour”. It must also define the “costs” or “penalty” for breaching or not conforming to such standards. An appropriate mechanism should be created and empowered to review a member country’s performance should the need arise. Similarly allowance should be given for new approaches to decision making procedures in addition to the principle of consensus.

MAINTAINING ASEAN’S ROLE AS A MANAGER OF REGIONAL ISSUES
In order for ASEAN to manage regional issues, the ASEAN Charter should allow ASEAN to maintain its centrality in the various forums that make up the regional architecture. The Charter should clearly define rules for dealing with issues that are “community type” or “regional” in nature. In the face of the emergence of complex and transnational challenges, ASEAN also needs to re-examine some of its norms. The avoidance of military alliance is one such norm. Since the end of the Cold war ASEAN member countries have de-emphasised defense capabilities revolving around armed insurgencies and separatist movements and focused on external security concerns instead. Therefore in the last decade or so, defense modernisations have been aimed at conventional military posture and force structures. Although the ASEAN countries

29 Keynote address by Prime Minister Abdullah Haji Ahmad Badawi. 8 August, 2004. Towards an ASEAN community. Shah Alam: National Colloquium on ASEAN.
do not envisage going to war against each other, defence cooperation is clearly a necessity, especially to prevent this process of force modernisation from becoming a source of instability. Similarly the ASEAN Charter should provide clear instructions on dealing with some of the other contentious "community type" issues such as the haze and environmental concerns, epidemics and transnational crime including terrorism.

MAINTAINING A FLEXIBLE, OPEN AND OUTWARD-LOOKING ASEAN

Flexibility is key to enabling ASEAN to withstand the stresses and strains of community building. Hence ASEAN may have to allow for different norms to evolve such as alternative decision making procedures and temporary allowance for "multi-speed" ASEAN. The Charter should also provide space for civil society to provide input to community building. This would not only send the message that the ASEAN governments are serious about making the ASEAN Community an irreversible certainty but it would also ensure a greater degree of acceptance at the societal level. Pooling of some degrees of sovereignty in ensuring follow-up or resolution of disputes may be necessary for ASEAN to achieve deep integration. The Charter should also provide room for a clear and transparent manner of settlement of disputes. It also goes to suggest that strict deadlines for community building must be avoided. In this sense the Charter should provide flexibility for the development of the final form of the ASEAN Community.

Other factors that also need to be addressed include strengthening the role of the ASEAN Secretariat to play a more independent role. The funding of ASEAN activities is also a very important issue. The present funding mechanism which largely depends on contributions from member countries and funding from dialogue partners for specific projects puts a limit on ASEANs ability to play a greater role. ASEAN would have to devise new ways to raise funds to resolve this issue.

32 Conflicts and tensions between ASEAN member countries have not degenerated into war. Recent examples are the exchange of artillery fire by Myanmar and Thailand military forces in 2001 following the spillover of Myanmar’s civil conflict over the Thai border, the 2003 conflict between Cambodia and Thailand over rumours of a slur by a Thai artist, the standoff between Malaysia and Indonesia over the territorial dispute over Ambalat in 2005, and the escalation of the Malaysia-Singapore water issue in 2003. In all these instances, the ASEAN countries concerned resorted to using bilateral diplomatic approaches to resolve their problems.
CONCLUSION
This study began by asking the question of whether ASEAN's decision to move towards becoming an ASEAN Community and the efforts to draft the ASEAN Charter represents a new beginning for ASEAN. As this study has argued, deeper integration in a real sense with some attributes of supra-nationalism is an imperative. Therefore the answer to the question would be a yes. A new ASEAN is in the making.

After almost four decades of incremental approach it appears that ASEAN has realised the limits of remaining as an association of nations. ASEAN has found it difficult, if not impossible, to protect and project its collective interests while remaining in its old form as a mere association of sovereign states.

From the economic angle, periodically suffering one economic downturn after another in roughly 10 year cycles had proved that attempts to limit economic cooperation to merely tariff reduction and trade liberalisation would only leave the ASEAN economies vulnerable. The region would remain exposed to external perturbations so long as the economies remain un-integrated. The fact that the ASEAN Economic Community is envisaged as an "AFTA-Plus and Customs Union Minus" entity reveals ASEAN's split interest in this issue as some ASEAN countries are anxious to move ahead with closer economic integration, while some others are still jealously defending their sovereignty. Whether this hybrid entity would work is anyone's guess. However it should not come as a surprise if a Customs Union eventually emerges as an outcome of ASEAN integration.

Similarly, from the socio-political angle too, ASEAN's experience shows that its present structure and working methods are increasingly becoming ineffective in dealing with emerging problems that require a "community type" response. There is also greater expectation on the part of the international community for ASEAN to stand up to international scrutiny over the behaviour of its members over issues such as good governance, human rights and democracy. ASEAN needs to evolve a new normative framework that re-interprets the notion of sovereignty and non-interference. Regulatory mechanisms may have to be devised. In any case, the evolution of such a new normative framework that is more tolerant of interference and introspection would require greater political cohesion.
Notes
Views expressed in this paper are the author’s own and do not necessarily represent the views of the Government of Malaysia.

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