

# ASEAN NEWSLETTER

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## ASEAN News Updates

### ASEAN And Europe Strengthen Cooperation On Patents

(February 27, 2014)

The first regional Memorandum of Cooperation (MOC) on Industrial Property was signed Thursday in Siem Reap, Cambodia, by nine Heads of ASEAN Member States Intellectual Property Offices (AMS-IPOs) and European Patent Office (EPO) President Benoit Battistelli to establish an institutional framework for structured cooperation in the field of patents. The signing of the MOC is intended to support ongoing patent-related initiatives under the ASEAN Intellectual Property Rights Action Plan 2011-2015, such as: work-sharing arrangements, patent information, and development of search and examination capacities of the ASEAN patent offices. Thus, the EPO-ASEAN cooperation will include: training of patent examiners; data exchange; patent classification; machine translation; search tools; and exchange of best practices and technical/policy solutions. Also, this signing complements the established framework of bilateral agreements between the AMS-IPOs and EPO, which dates back more than 20 years. A point to note would be Mr. Battistelli's acknowledgment of notable growing economic significance of the Southeast Asian region. This new regional cooperation framework will contribute to further consolidating the development of innovation and the knowledge-based society among ASEAN state members. (Source: Bernama)

### Mid-Term Review on ASEAN Integration: Development Gaps

(February 24, 2014)

While over the past 20 years Cambodia, Lao PDR, Myanmar and Viet Nam have experienced robust growth, existing gaps in development may hinder the plans for the creation of an ASEAN Economic Community and may hold back progress in regional cooperation efforts in the ASEAN Socio-Cultural and Political Security communities. Representatives from the Senior Officials, Senior Economic Officials, Senior Officials Committee for the ASEAN Social-Cultural Community and the Initiative for ASEAN Integration Task Force shared their views on the progress of the development challenges. They also underscored the timeliness of the review to allow the strategic focus of the IAI and to make it more effective and efficient. Issues discussed included improving coordination among the various ASEAN sectorial working groups and stakeholder. Meetings were also held with ASEAN Dialogue Partners and international institutions to solicit their views on how to support IAI in the next few years and beyond 2015. Representatives from the Dialogue Partners expressed their continued technical support in the aspects of monitoring & evaluation; program management; and resource mobilization to help in ASEAN's efforts to further narrow the development gap. (Source: ASEAN Secretariat)

### ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)

(February 18, 2014)

The Eight Meeting of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) was convened at the ASEAN Secretariat in Jakarta, Indonesia. The progress of twenty-four projects and activities under the ACWC Work Plan 2012-2016 was reviewed. The ACWC considered the draft Guidelines for Handling of Women Victims of Trafficking in Persons, an outcome document of the Workshop on the Promotion of Access to Justice for Women Victims of Violence in Trafficking Cases held on 3-5 February 2014. Led by Thailand, "stop violence against women" public campaign posters, pamphlets, stickers and VDOs were produced for dissemination to ASEAN Member States to commemorate the International Day for the Elimination of Violence Against Women on 25 November. Complementing this, a website was under construction for the same purpose and expected to be fully functioning in March 2014. Earlier on, the compilation of ASEAN best practices in eliminating violence against women and violence against children was published and launched by the Minister of Women, Family and Community Development of Malaysia on 12 December 2013 in Kuala Lumpur, Malaysia. Consultation sessions with the Australia's Global Ambassador for Women and Girls, and representatives of the Government of New Zealand, European Union, and United States of America took place on 18 February 2014. Scope and mechanisms of their respective support to the work of ACWC were discussed. (Source: National Journal)

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**21st ASEAN-New Zealand Dialogue Notes Good Progress**

(February 14, 2014)

ASEAN and New Zealand noted good progress in the implementation of the Plan of Action to Implement the Joint Declaration for ASEAN-New Zealand Comprehensive Partnership (2010-2015) and the Four Flagship Initiatives on education, disaster management, young business leadership and agriculture diplomacy. Recognising the untapped potentials for cooperation in SMEs development, technology and innovation, food productivity, safety and sanitary, ASEAN and New Zealand agreed to enhance their efforts to realize cooperation in these areas. Both ASEAN and New Zealand committed to accelerate business-to-business interactions, connectivity, people-to-people contact, tourism and disaster management. The two sides also agreed to jointly address global challenges such as terrorism and transnational crime, climate change, food and energy security, among others. New Zealand reiterated its support for ASEAN centrality and its core role as a regional institution in the promotion of peace, stability and prosperity in the Asia-Pacific Region. To conclude the dialogue, the two sides discussed preparations for the ASEAN-New Zealand Commemorative Summit in 2015 and commemorative activities to mark the 40th Anniversary of the Dialogue Relations.

**EU-ASEAN Aviation Summit**

(February 12, 2014)

The Summit brought together some 300 political and business leaders including a number of EU and ASEAN Transport Ministers. The Summit discussed the rich opportunities in the EU and ASEAN aviation markets and the benefits which both the EU and ASEAN stand to achieve from greater market access and integration in air services and the aviation industry, cooperation to enhance the efficiency of air traffic management and harmonization of safety and security standards, amongst others. In particular, the Summit noted these and more potential benefits that the peoples and companies of both regions could enjoy from a comprehensive air transport agreement between the EU and ASEAN. At the EU-ASEAN Aviation Summit, Vice-President Kallas announced that he will propose to the European Commission to seek authorisation from the Council of the European Union at the earliest possible to start negotiations on an EU-ASEAN comprehensive air transport agreement. (Source: Europa)

## **ASEAN Community 2015: Form and Substance?**

*Steven C.M. Wong*

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As an inter-governmental organisation, ASEAN has responded to challenges by taking on ever more ambitious goals and programmes, ones that critics argue disguise the true intent and commitment of member states. In order to preserve its political position in the wake of internal weaknesses and competing regional proposals, members have constantly sought to convince its dialogue partners and world at large that it is an entity to be taken seriously. Nowhere is this more apparent than in its declared effort to construct an ASEAN Community, comprising political-security, economic and socio-cultural pillars, by 2015.

The central question now being asked is whether a ASEAN Community can in fact be declared by 2015 (or, indeed, whatever year). Has ASEAN over-reached itself by not being able to deliver the substance to match the overt symbolism? All efforts at regionalisation are, to a greater or lesser degree, works-in-progress, even the highly advanced European Union. And just as in state making, symbols, along with myths, are an important means to impart regional identity and unity of purpose. But form and substance have to move in more or less lockstep or else the symbols, and ASEAN itself, risk losing credibility and meaning not least by external stakeholders.

High-minded declarations, agreements and statements are a natural part of any regional body's diplomatic arsenal. It is squarely within the realm of action and inaction, however, that ASEAN establishes its relevance and legitimacy and which countries use to reach their conclusions. As in most things, perfection is not the measuring rod. Rather, it is whether member states have done, and are seen to have done, enough to demonstrate their commitment to the ASEAN Community. This is probably the most important challenge that ASEAN, as a collective enterprise, faces today. This aspect is very likely to determine how ASEAN is regarded and whether countries will continue investing diplomatic capital in it.

The choice, of course, is not entirely a binary one. Even strident critics of ASEAN would be hard put to argue that ASEAN is not a useful -- even a very useful -- organisation. The fact that it has survived and exists to build regional confidence and manage tensions, and with no better institutional alternatives in sight, means that ASEAN has to be taken seriously. ASEAN's broad reach into the political, security, economic and social spheres, built up over almost five decades, is something that is difficult to replicate in this day and age.

The danger is that given its limited internal capacities, of which the inability to take common positions on a host of issues is no doubt among the top, will continue to lead stakeholders to either put pressures on it to perform or else design complementary ancillary arrangements that will ultimately take the final decision making (such as it is) largely out of its hands. At the end of the day, this is what is the real meaning of ASEAN centrality. Ex-Australian Prime Minister Kevin Rudd's proposal for an Asia-Pacific Security Community had clearly this intention. So too, it may be argued, are present attempts to create a separate secretariat for the East Asia Summit (EAS).

Whether an ASEAN Community is taken as a significant reality can be argued to have more to do with the political-security pillar than any other. The ASEAN Economic Community (AEC) is certainly very important. In the larger scheme of things, however, it can be argued to be less critically time sensitive than addressing the growing sense of insecurity, one that ASEAN is not doing enough to address. The ASEAN Defense Ministers' Meeting (ADMM) and ADMM Plus are certainly very much needed additions to the regional architecture. In many senses, however, they suffer the same constraints that ASEAN itself faces, namely, the divergent interests of member states.

Without starting to address the sources of underlying regional insecurities, the ASEAN Community project is unlikely to be seen as having the relevance and significance that will keep dialogue partners interested and engaged. A growing sense of frustration will continue to drive efforts to create larger extra-regional dialogues, ones that are free(r) from the constraints of ASEAN sensitivities and hesitations, as will bilateral and plurilateral engagements with dialogue partners. These have the capacity to continue drawing attention away from ASEAN and further dilute the stabilising role that it plays in the region.

For the ASEAN Community to be taken seriously a great deal more work needs to be done to give substance to the political-security pillar. Solely maintenance work at this stage is unlikely to make it credible and deflect

criticism. Even good progress at implementing the ASEAN Political-Security Community (APSC) Blueprint, currently elusive, may not be enough. This is especially so in the light of growing assertiveness by some claimant states in the South China Sea, rising military expenditures of member states and increasing activity by state and non-state actors both within and across borders. The ASEAN Code of Conduct (CoC) on the South China Sea is much more important but after having agreed to begin negotiations, China appears now to be engaged in foot-dragging and will probably make it a long drawn-out affair.

With barely 22 months to go to the end of 2015, ASEAN has its work cut out for it. As the ASEAN Chair, Myanmar is proceeding with its agenda and is unlikely to change its trajectory. As the 2015 Chair, however, Malaysia would seem to have the standing and wherewithal to focus more on strengthening the security elements of the ASEAN Community. In this, it cannot afford to dwell exclusively on the same type of 'obligation-light' projects and programmes of the past and that are contained in the APSC Blueprint. If ASEAN wants dialogue partners to take it seriously, it will have to be a lot more serious in ensuring that there are the type of initiatives that will ensure the Community one with form and substance.

## Myanmar's Modest ASEAN Ambitions

*Bridget Welsh*

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As Myanmar has assumed the chairmanship of ASEAN expectations are low. Few believe the first chairmanship's tenure of the region's 'isolated' country will yield meaningful outcomes. In part this view is caused by problems within ASEAN itself – the lack of leadership, a focus on domestic affairs and tensions over territorial issues and the role of China in the region, especially over the South China Sea – as well as the lackluster management of recent chairs. In part this view is also garnered from perspectives of Myanmar itself – where the country has traditionally been seen to be the 'problem' for ASEAN, disengaged in international affairs and concentrating on its ongoing economic and political reforms.

For those engaged on ASEAN in Myanmar itself, however, this minimalist view is not held. There are clear plans and goals that offer potential modest outcomes. Myanmar has ASEAN ambitions. These aims promise to build traction for ASEAN, an organization beleaguered by demands and bureaucracy with little concrete outcomes, and bring Myanmar further forward onto the international stage.

To appreciate Myanmar's ASEAN plans for its chairmanship, one has to start with debunking the view that its diplomats and officials are not equipped to manage the demands of the regional organization. MOFA, Myanmar's foreign ministry, has a coterie of skilled diplomats who have been part of ASEAN for over 15 years. These well-trained civilian and exposed military diplomats understand regional dynamics and have established networks across countries. For over two decades, Myanmar officials have traveled extensively throughout Asia, and in many of the ASEAN countries there are large diaspora communities of Myanmar citizens who strengthen regional knowledge. In fact, arguably as a result of Myanmar's 'problem' status, many of the personal ties between MOFA and its ASEAN partners are strong. For over a decade Myanmar has had to rely on its personal relationships to clarify issues and maintain its alliances in ASEAN. This hard and difficult work of building trust and understanding now offers Myanmar officials benefits for their chairmanship year.

Another misperception is that Myanmar does not have its own vision for ASEAN. While a late entrant, its presence in the regional organization since 1997 has shaped its understanding of how the organization should evolve and how that evolution is in its own interest. Central in the vision proposed for Myanmar's chairmanship is unity. The theme they have identified is: "Moving forward in Unity to a Peaceful and Prosperous Community." In laying out the 2014 theme, they envision ASEAN as 'outward looking, a responsible and engaged player in international affairs, economically dynamic, resilient and stable.' Not only do these characteristics reflect how they see the regional body should act, they mirror many of the key elements of Myanmar's current foreign policy. There is a striking parallel between Myanmar's ideals for ASEAN and their own country.

The impact of this synergy will reinforce Myanmar's efforts to achieve these principles. Concerted efforts have begun to reduce open conflict on issues, either through relegating sensitive issues such as the treatment of the Rohingyas to bilateral relations or to work behind the scenes to dampen tensions over the South China Sea. While Myanmar diplomats are savvy and know that conflict is inevitable, the focus will be on areas of common ground and strengthening ties rather than differences. In this regard, Myanmar has placed the public good issue of the environment, notably climate change, high on the organization's agenda. In the chosen logo of Kha Yay, or the Shan star flower, there is a green backdrop, highlighting the focus on environmental issues. This is being backed up by meetings on climate change and environmental management. One of the deliverables of the chairmanship aims to be a shared activity on disaster relief. This taps into the environmental focus, and simultaneously builds on one of ASEAN's successes – collaboration to foster humanitarian relief in the wake of Cyclone Nargis in 2008.

The aim to build common ground extends into the proposed review and discussion of ASEAN Woman and Children's Rights, arguably the area of human rights in the region that is the least contentious. Attention to rights has come on the organization's agenda with the ASEAN Charter, and Myanmar hopes to shape this process. This is why another key element to be encouraged is a discussion of the ASEAN Convention on Migrant-Workers. While likely to be difficult, especially given the different interests of countries as providers and recipients of migrant workers, Myanmar is not shying away from putting this issue on the agenda as it involves millions of its own citizens. The likely product will be ongoing discussions based on a minimalist document (a pattern set in the ASEAN Charter), but Myanmar's proactive move on migrant labor offers a

potential bridge from the more contentious positions that may be taken from countries that have more civil society mobilization over this issue and larger migrant populations, namely Indonesia and the Philippines. Even in its recognition of difference, there is the core effort to build unity.

Reaching for the common ground extends to the activities organized around the meeting, as Myanmar has moved forward towards holding an ASEAN youth parliament and engaging civil society organizations – who have on many levels been surprised by the degree of openness and frankness in discussions and engagement. Myanmar diplomats understand that outreach is essential for the ongoing reform process within the country and for a more prominent international role.

The tasks ahead for the year are daunting – from a review of the Asia Regional Forum to the Migrant Convention. Myanmar is well aware of what needs to be done and how they would like to do it. The hope that this emphasis on building bridges will allow for concrete deliverables, including potentially the inclusion of Timor L'este in ASEAN (who has been lobbying Myanmar for the past few years). While these plans will be challenged by developments outside of ASEAN, the dominance of Great Power contestation between the US and China and ongoing issues within countries, Myanmar's preparation for its chairmanship should not be underestimated and dismissed. There is a rationale and clear priorities, which even if modestly achieved, offer the promise of a stronger ASEAN – and Myanmar.

## Is ASEAN the next big thing?

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The headline reads: ASEAN-5 overtakes China in Foreign Direct Investments in the year 2013. Does this make sense, especially when two countries among the ASEAN-5 (Malaysia and Thailand) were politically insecure and China was performing business-as-usual?

According to Bank of America Merrill Lynch (BoA)'s report on FDI, the ASEAN-5 (Singapore, Indonesia, Thailand, Philippines and Malaysia) together received more in FDI last year than China. At \$128.4 billion, the ASEAN-5 enjoyed a 7 per cent year-on-year bump in investment, compared to a 2.9 per cent dip in China's inflow of FDI to \$117.6 billion. It is important to recognize that ASEAN has benefited from investment liberalisations, reduction of duties and trade facilitation. In fact, ASEAN enthusiast would further highlight that figures point towards a longer-term trend in ASEAN attracting greater inflows of FDI, especially with the anticipation of even fuller ASEAN integration through the removal of Non-Tariff Barriers, and ensuring smooth functioning of the Dispute Settlement Mechanism.

Among the ASEAN-5, Philippines once again experienced incredible surges in FDI with a 188 per cent increase in the first three quarters of 2013 although typhoon Haiyan may have hurt FDI in the fourth quarter. This success is a follow up from the 185 per cent increase in FDI by Philippines between 2011 and 2012. FDI jumped from \$981 million in 2011 to \$2.8 billion in 2012. With President Benigno Aquino's emphasis on good governance and maintaining political stability, Philippines is expected to attract more foreign businesses in coming years.

Although these headline figures are grabbing, they are not as significant as some might hope. In BoA's report, it points to an ageing China due to its one-child policy, rising wage differences and a fast growing ASEAN-5 market as factors behind this shift. Foreign investment into China peaked in 2011 at \$124 billion and has been declining since, according to Merrill Lynch. On top of which, China's FDI statistics are at times misleading due to 'hot money' inflows packaged as investment or trade. Also, ASEAN-5 has topped China in FDI inflows in 2007 and in 1997, making this not the first occurrence.

Even though China's government is restructuring its economy away from investment and manufacturing-led expansion, a drop in China's working-age population has affected its engine of growth. Whereas for ASEAN's core developing nations, they are seeing a rising number of youth employment. Thus, luring companies to seek for cheap labour force and new domestic markets in ASEAN.

The main beneficiary of higher wage growth in China compounded by a stronger Renminbi and stronger GDP growth is Indonesia. Even though Indonesia's weak current account, a Japan Bank for International Cooperation survey further stated that Indonesia has overtaken China and India as the most promising country for Japanese companies for business development due to a very large domestic market, lower wages despite an increase in minimum wages and a weak rupiah attracting foreign investment.

A large part of ASEAN-5's success in attracting foreign capital is due to Singapore's ability to market itself as a business friendly country to bring in strong inflows of investment. In the Global Competitiveness Report, Singapore has been ranked second as the best place to do business for the past three years. This in itself is an interesting issue, as it is not quite the same as building factories in Java or power stations in Manila. To further support this case, in 2012, the 4th largest FDI source into Singapore was the British Virgin Islands. The reason behind Singapore's success is its business efficiency and productivity. Having strong institutions, governance and investor protection help mitigate the cost of business in Singapore, a tested model other ASEAN countries can learn from.

With this latest report on FDI flows around the region, it is clear that ASEAN will benefit greatly from China and Japan's influence. With China developing a saving and investing culture, it looks to increase its own outflow of capital to ASEAN-5. And as geopolitical tensions between Japan and China shore up, especially since Prime Minister Shinzo Abe alleging an international campaign to taint Japan's image by focusing on past militarism rather than decades of peace since World War II, Japan has since shifted its FDI outflows to the ASEAN-5.