

ASEAN at Fifty: Retrospectives and Perspectives on the Working, Substance and Future of ASEAN

Sompong Sucharitkul

Faculty of Law, Rangsit University, Pathumthani 12000 Thailand
E-mail: sompong@rsu.ac.th

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1. Preliminary Observations

This brief note is intended to acquaint readers with some of the salient elements inherent in the formative process of the ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN). It will follow in essential detail the chronology of events and occurrences, leading to the founding of the Association, the birth and growth of ASEAN and the progressive developments of this collectivity of national societies, composing the ultimate regional community. Efforts will be made to pursue each significant step of the Association from infancy to maturity, and eventually to the up-coming celebration of ASEAN's 50th Anniversary on the 8th August 2017. As a prelude to the wider appreciation of the substantive importance of ASEAN, the picture of the pre-dawn of ASEAN will be given to Southeast Asia as a region or sub-region of turmoil and confusion amidst the withdrawal of Western Colonial Powers and severe competition among the outsiders to gain control over the disorder flowing from the struggles by the indigenous population, labouring their utmost to recover and retrieve their sovereign independence and to regain and retain their dignity in the Era of Decolonization, to ward off the danger and to prevent any possible return of further encroachment by any form of neo-colonialism, whether by way of capitalistic or socialistic take-over. It has not been easy for native South-East Asian nations to recover and steadfastly to maintain intact their own national sovereign independence, to survive as free societies, free from external interference and safe and secure without foreign or outside intervention.

2. Pre-Dawn of ASEAN

"ASEAN" as an intergovernmental organization of Southeast Asia appears to have been one of the positive results of several exploratory endeavours on the part of Thailand, as its original founding father, to conceive, sustain and deliver the fruit of Thailand's labour. Thailand also undertook the role of mothering the regional organization, not only by giving utmost pre-natal care, but also after birth by mothering and ensuring the safety and security of the regional association, and by providing health care and comfortable workplace for the Working Group and the Drafting Committee in the preparation of the constituent instrument to serve as historic document in the regional effort to establish ASEAN as a living and growing regional legal entity, with an international legal personality, deserving recognition by non-member States of ASEAN and similar organizations constituted in other regions of the world, in particular, the European Economic Community or the European Common Market, which came to life in 1970, after twelve years since the Treaty of Rome (1958). It was widely understood that ASEAN would require longer time to achieve such economic integration, having regard to the variation in the social and cultural environments and background of each of the five founding members, namely, Thailand, Indonesia, Malaysia, the Philippines and Singapore.¹ It is a noteworthy coincidence that from the very beginning, all negotiations, discussions and consultations within ASEAN took place in English. Thus the use of English was adopted as the only official working language of ASEAN from the very start.

¹ As will be seen in the photograph of ASEAN Ministers of Foreign Affairs, signing the ASEAN Joint Communiqué at Saranrom Palace, in the Thai Ministry of Foreign Affairs, on 8th August 1967, seated at the centre H.E. Dr. Thanat Khoman, on his right, H.E. Dr. Adam Malik, on his left, H.E. Tun Abdul Razak, on his extreme right, H.E. Narciso Ramos, and extreme left, H.E. Dr. Rajaratnam.

As recently portrayed in an article published in June 2015,² the birth of ASEAN as a regional association for closer economic and social cooperation, approaching integration by voluntary, gradual and progressive developments was proclaimed by the Bangkok Declaration on 8th August, 1967,³ after several working sessions at Laemtaen, an official sea-side resort near Bangsaen, Choburi Province, Thailand. It is interesting to add that prior to the birth of ASEAN, Thailand had been engaged in the formation of a number of regional organizations with overlapping membership, such as ASPAC or the Asian-Pacific Council or currently APEC, Asia-Pacific Economic Cooperation, and ASA or the Association of South-East Asia. Indeed, for decades preceding the advent of ASEAN, Thailand had been occupied with the drafting and negotiations of the constituent instrument in the form of joint-communiqué to serve at that time as the 'Charter' or 'statute' or 'constituent instrument' of a regional organization or association, such as ASPAC in Seoul, Republic of Korea, only one year earlier in 1966, following the visit of President Park Chung Hee to Thailand in 1965. Preceding examples of such organization include ASA, the Association of Southeast Asia, and also the Manila Pact or SEATO, the Southeast Asia Treaty Organization for collective self-defence under Article 52 of the Charter.

As such, Thailand had long been preoccupied with the search for ways and means to preserve and maintain the sovereignty, independence and statehood, primarily of the Thai nation, and consequently, inevitably, also of all countries of Thailand's immediate South-East Asian neighbours, namely, Malaysia, Singapore, Indonesia and the Philippines, and eventually also additional members of ASEAN, namely, Unified Vietnam, Laos, Myanmar and Cambodia or Kampuchea. It should be noted that at the time of the formation of ASEAN, Sri Lanka also sent two senior officials of Ministerial rank to seek admission to the Meetings at Laemtaen during pre-ASEAN sessions of the Working Group and the Drafting Committee. However, H.E. Dr. Rajaratnam, the Foreign Minister of Singapore, himself a Sri Lankan, well versed in his Sri Lankan national affairs, advised the ASEAN Ministers and the Working Group at that time not to admit to the meetings the two senior officials from Sri Lanka, which otherwise appeared geographically remote from the core Member States of South-East Asia. Following the Declaration of Bandung in 1955, generally known as Declaration of Independence and Sovereignty of all nations of Asia and Africa, most of which had only just been decolonized, it should be recalled that the Bandung Declaration was attributable to President Sukarno of Indonesia. In actual fact, H.R.H. Prince Wan Waithayakorn or Krommun Narathip Bhongsraphan, the Foreign Minister of Thailand did have a strong hand in the first and final draft of that historic instrument, representing a Charter for peace-loving people of Asia and Africa to respect and preserve their national political independence and territorial integrity and to help each other as mutual assistance in all political, economic and social matters, otherwise often referred to as the 'principles of peaceful co-existence'.

3. The Birth of ASEAN

At the invitation of H. E. Dr. Thanat Khoman, Thailand's Minister of Foreign Affairs, Malaysia, Singapore, Indonesia and the Philippines sent their respective Foreign Ministers and senior officials to attend the meetings at Laemtaen, Thailand, on 6th August 1967 to discuss the draft document prepared by Thailand, which was earlier submitted to them by Minister Thanat Khoman himself on his visits to their capitals preceding the final working sessions in Thailand and the formal adoption at Saramrom Palace, Ministry of Foreign Affairs of Thailand in Bangkok on 8th August 1967. It is to be noted that this draft also included an additional preambular paragraph, suggested by H.E. Dr. Adam Malik of Indonesia, as well as the appellation 'ASEAN' as acronym for the Association of Southeast Asian Nations.⁴ Prior to the inaugural session in Bangkok, the Ministers met at Laemtaen, a sea-side resort at Bangsaen reserved by the Royal Thai Government for invited official foreign guests, equipped with necessary facilities such as guest houses and the beach as well as a pleasant golf course for the Ministers and senior officials to relax and

² See "THAILAND AND ASEAN" by Sompong Sucharitkul, in Rangsit Journal of Social Sciences and Humanities, 2 (1), January-June 2015, pp. 1-8.

³ 1931 UN Treaty Series, 236, the signing took place at Saramrom Palace, at 10.50 hrs. (Bangkok time).

⁴ In a way not dissimilar from the attribution of 'ASEAN' to Bepah Adam Malik in the preceding year at Seoul, Republic of Korea, the Asia-Pacific Council was born under the name ASPAC, of which the acronym was attributable to Foreign Minister Narsico Ramos of the Philippines

discuss the formation of ASEAN and its future role and activities to promote unity among the nations and peoples of ASEAN on the basis of consensus to be achieved by governments, or MUSHAWARAH, or the 'ASEAN way' of proceeding, along with any and every ASEAN project if and when practicable for each and all of ASEAN members. The search for a common destiny led to the adoption of a final draft document to be further discussed and approved ultimately by the Ministers. The meetings at Laemtaen, Bangsaen, finally reached an agreement, known as the 'Spirit of Bangsaen' which led to the ASEAN Declaration or BANGKOK Declaration of 8th August 1967, announcing the BIRTH OF ASEAN.

Thus ASEAN was conceived, conserved and delivered as an infant organization, and thence began to grow from strength to strength, being nurtured by Thailand as its leading founding member together with Malaysia, Singapore, Indonesia and the Philippines from the birth and during infancy, awaiting opportunities to grow and gradually to expand with the entry of its new members at each appropriate juncture.

4. The First Decade of ASEAN (1967-1977)

4.1 "ASEAN Projects"

As approved from the Birth of ASEAN through its infancy and early childhood, ASEAN advanced steadily at a flexible pace, no great haste but without hesitation. The prevailing practice appeared to be that any project that would be attractive to one or two members of ASEAN could be started on trial, and the experiment could attract further participants on purely voluntary and exploratory basis. Any project of economic, social and cultural nature could start with any one or two members without having to wait for the approval or participation of the majority or of each and every one of ASEAN members, to be permitted to use the label of 'ASEAN'. This practice proved to be very liberal and practical without any need or necessity to wait for fuller participation. It was characterized by simplicity and liberality, worthy of the phrase "the ASEAN way", by way of consensus or absence of opposition or objection. Any project could be labeled 'ASEAN' even if started only by one or two of ASEAN member States and subsequently followed by the remaining members at later intervals without distracting from the label 'ASEAN'. Thus several projects were initiated as ASEAN by only two members at the outset and could end up with the rest of ASEAN members, who felt prepared and were willing to embark on the experiment at any subsequent time.

During the first decade of ASEAN existence, the annual sessions of ASEAN Ministerial Meetings would rotate from one capital city to another. Thus since its inauguration in Bangkok in 1967, the following Annual Ministerial Meetings were held in Jakarta (Indonesia), Kuala Lumpur (Malaysia), Manila, (The Philippines), and Singapore respectively with each country maintaining its national secretariat with national ASEAN Secretary-General, who in turn would hold Secretary-Generals Meetings by rotating from one ASEAN capital to another. The rotation of Annual Ministerial Sessions continued for ten years covering two rounds of complete rotation until it became reasonably clear and reaching adequate maturity to move to a permanent regional secretariat with one Secretary-General as a whole to head the permanent ASEAN Secretariat in Indonesia. The post of ASEAN Secretary-General could be filled by a national of any ASEAN member nation for a term of four years, renewable and also to be replaced by another succeeding Secretary-General to be appointed by the Ministerial Council of ASEAN as a whole.

As such, a general pattern of ASEAN evolution began gradually to emerge in clearer shape and form without any predilection or predetermination but by gradual and progressive development of practical feasible measures adopted the ASEAN way with clarity, assurance and apparent ascertainability.

4.2 ASEAN Partners

ASEAN began in earnest to improve and intensify its economic developments in terms of agricultural products and mining. ASEAN did so by accelerating closer cooperation in intra-ASEAN and bilateral inter-ASEAN relations with active mutual assistance and reciprocal exchanges in terms of investments and technologies, such as in the cultivation of rice and corn as well as in the production and refinement of mineral resources, such as tin, copper and oil as well as other forms of energy from gas and other natural resources.

ASEAN as an association for economic cooperation and eventual integration also began to gather its strength and accelerate its collective growth with the result that it provided an attractive market for outsiders and non-ASEAN members as well as European and other Western Powers, including the United States of America, Japan, Korea, Australia, New Zealand and other countries in Asia, Africa and also Latin America. A number of Asian neighbours stood out such as Japan, People's Republic of China, Korea and India, Bangladesh, Pakistan (East and West), Algeria and Nigeria.

These closer economic relations between ASEAN and Non-ASEAN countries became crystallized and could be studied in terms of ASEAN Plus, such as ASEAN + China, ASEAN + Japan, ASEAN + Korea, ASEAN + India, for instance. Many nationals from China and India may be seen as minorities in each of ASEAN countries. Thus, in Thailand, Malaysia, Singapore and Indonesia, there are generally Chinese natives or natives of Chinese descent, living and otherwise working on ASEAN soils without distinction or discrimination of any kind.

There are many types of ASEAN Plus, namely, ASEAN Plus One, such as ASEAN-China and ASEAN-India; or ASEAN Plus Two, such as ASEAN Plus Japan and Korea or ASEAN Plus Australia and New Zealand. This pattern of variation of relations with different groupings within the region of various sizes served to reassure inter-locking relations and closer cooperation to satisfy the particular needs of each appropriate grouping at the choice of ASEAN and ASEAN Members depending on the size, location requirements and availability of each of ASEAN partners. This variety of ASEAN Pluses served to provide a comprehensive picture of intensive cooperation between ASEAN and each of its able and willing partners within the region or a particular sub-region.

5. ASEAN Attaining Full-Fledged Maturity

After the first decade, ASEAN of five seemed to have gained self-assurance and was better prepared to accept new members of like-minded nations, in spite of differences in size and degrees of economic development, such as Brunei Darussalam in 1984, Vietnam in 1995, Laos in 1997, Myanmar in 1997 and Cambodia in 1999. Each in turn was considered and duly admitted as a new Member of ASEAN, with progressive involvement in the process of economic integration, bearing in mind the closeness in their cultural background, in the existing surrounding circumstances and natural environments. By then ASEAN emerged as a full-pledged inter-governmental organization complete with mature international legal personality, fully prepared to join the rank and file of legal entities under international law.

As distinctly proclaimed in the ASEAN Declaration of the first ASEAN Ministerial Meeting on 8th August 1967 in Bangkok, Thailand, the five Ministers of Foreign Affairs of the founding member countries of ASEAN, a new group of States was established as an Association for Regional Cooperation among the countries of Southeast Asia to be known as the Association of Southeast Asian Nations (ASEAN), complete with a full legal personality under international law. This acclamation is verified by ASEAN's entry into international agreements in its own name with other States and international organizations. An early instance of such transactions was the valuable assistance, financial and technical, given by the Government of the Kingdom of the Belgians in the name of the King, through the European Economic Community (EEC) for the restoration of Borombudur as the World Common Heritage of the Buddhist Monuments in the form of Chedi or Buddhist Pagoda and Stone Image of the Great Lord Buddha sitting in Prayer near Bandung in Indonesia. It, as a token of friendship between the European Union and ASEAN through Belgium and Indonesia, representing an act of explicit mutual recognition by the European Community and ASEAN. Neither Belgium nor Indonesia could be considered preponderantly Buddhist, Belgium being Catholic and Christian and Indonesia Islamic or Muslim by majority.

The ASEAN Declaration of 1967 also set out the aims and purposes of the association as follows:

- 1) To accelerate the economic growth, social progress and cultural development of the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for prosperous and peaceful community of South-East Asian Nations;
- 2) To promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter;

- 3) To promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields;
- 4) To provide assistance to each other in the form of training and research facilities in the educational, professional, technical and administrative spheres;
- 5) To collaborate more effectively for the greater utilization of their agriculture and industries, the expansion of their trade, including the study of the problems of international commodity trade, the improvement of their transportation and communication facilities and the raising of the living standards of the people;
- 6) To promote Southeast Asian studies;
- 7) To maintain close and beneficial cooperation with existing international and regional organizations with similar aims and purposes, and explore all avenues for even closer cooperation among Members.

The ASEAN Declaration further identified the machinery to be established to carry out the seven aims and purposes of ASEAN as follows:

- a) Annual Meeting by Foreign Ministers, which shall be by rotation and referred to as ASEAN Ministerial Meetings and Special Meetings of Foreign Ministers may be convened as desired;
- b) A Standing Committee, under the chairmanship of the Foreign Minister of the host country or the representative and having as its members the accredited Ambassadors of the other member countries, to carry on the work of the Association between Meetings of Foreign Ministers;
- c) Ad-Hoc Committees, and Permanent Committees of Specialists and Officials on specific subjects;
- d) A National Secretariat in each member country to carry out the work of the Association on behalf of that country and service the Annual and Special Meetings of Foreign Ministers, the Standing Committee and such other committees as may hereafter be established.

It was further declared that “The Association is open for participation to all States in the Southeast Asian Region subscribing to the aforementioned aims, principles and purposes.” Finally it also proclaimed that “the Association represents the collective will of the Nations of South-East Asia to bind themselves together in friendship and cooperation and, through joint efforts and sacrifices for their peoples and for posterity the blessing of peace, freedom and prosperity.”

Thus ASEAN came into being, completely with its own constituent instrument, known as the ASEAN or Bangkok Declaration, the simple and least formal agreement form, but was nevertheless clear and unmistakable. This constituent instrument continued to apply for several decades until subsequently replaced by another more formal instrument in the name of ASEAN Charter, which merely confirmed the continued existence and legal personality of the Association without in fact creating a new legal entity where none had previously existed, as was sometimes inaccurately portrayed. The ASEAN Charter adopted forty years or so later in December 2008 and did not purport to create a new organization, but merely to update and reconfirm or strengthen the working of an organization already well-known to be in existence and still functioning in good conditions.

In other words, the ASEAN Charter did nothing to discredit the past deeds and excellent performances of ASEAN, as established by the Bangkok Declaration of 1967. To suggest that the Charter provided a new or different legal personality for ASEAN would be to overlook ASEAN’s earlier existence and such negative implication should be avoided at all costs. The Charter was intended to serve as a reconfirmation or re-awakening of the existing Association of Southeast Asian Nations, in a way not dissimilar from what Thailand needs to do to remind Thai nationals of the necessity to recover Thailand’s distinctive leadership in the ASEAN world and within the community of nations worldwide, in the context of the United Nations Organization, in regional organizations in Asia, Africa, Europe and Latin America, as well as in the United States of America and the British Commonwealth of Nations.

6. ASEAN Activities and Achievements

6.1 English as Official Common Language of ASEAN

It is very difficult to present a clear and vivid picture of all the activities and achievements of ASEAN as a regional association for economic, social and cultural cooperation and eventual integration. If the Treaty of Rome of 1958 took twelve years to achieve “European Single Common Market,” it had taken ASEAN much longer time to assimilate and unify the thinking and working habits of ASEAN nationals, who were vastly diversified. One positive factor of the distinctive use or employment of English as the medium of ASEAN internal communication from the very outset began with the ASEAN Declaration of 8th August 1967, until today, approaching half a century of ASEAN life in international society with full awareness and complete recognition by outsiders or non-ASEAN nations doing business with or within any of the members of ASEAN community. It is to be noted that even from the very beginning until today, English has been the official working language of the organization, although nationally it is the official working language of only a few, namely, Malaysia, Singapore and the Philippines, and not Thailand or Indonesia, and for that matter not otherwise for other later Members of ASEAN such as Laos, Vietnam and Cambodia, more conversant with French in the Lower Mekong Basin, although better known in Myanmar and possibly Brunei Darussalam and East Timor now awaiting to be admitted as the 11th Member of ASEAN.

The actual adoption of English as a common language of ASEAN could be counted as an achievement, conscious or otherwise automatically practised by ASEAN as a whole, and treated by every member government of ASEAN as an official language for intra-ASEAN communication, within and among the peoples of ASEAN nations. Linguistic unity is a giant step in the progressive development of intra-ASEAN understanding. This significant achievement will certainly facilitate further steps in the move forward towards closer integration in the social and cultural relations, thereby paving a clearer path towards complete unification and integration, in spite of pre-existing diversities in the background of ASEAN population. Accelerated assimilation will gradually become the order of the day. As a matter of fact, today everywhere in ASEAN, nationals of ASEAN countries consider themselves ASEAN over and above being also Malays, Singaporeans, Indonesians, Philipinos, Thais, Vietnamese, Laotians, Myanmars, Kamphuchians, or Brunei Darussalam and also Timoreans. English as a spoken and official language of ASEAN seems tolerable if not completely or comprehensively understood and commonly used on every occasion by different nations of ASEAN. At any rate, English does not sound linguistically foreign or alien to an ASEAN individual.

Having adopted the use of English in ASEAN popular parlance, other achievements appear to follow suite. Attractive ASEAN projects once adopted by one ASEAN member country could be followed by others respectively. Common ASEAN projects which yielded good results could be pursued by all other member countries, leading to rapid advancements in every field of regional and national economic, social and cultural developments. To provide an example, every ASEAN member could specify the areas in which investment would be encouraged, whether foreign or intra-ASEAN investment areas. This is known as AIA or ASEAN Investment Areas, not only in agriculture but also in the exploration and exploitation of natural resources and sources of energy and power, such as petroleum and natural gas.

It is not surprising that in less than fifty years, ASEAN as an association has become stronger, reinforced by heart-felt unity of thought, closer mutual understanding and sympathy, and a genuine common desire to assist and mutually to support each other within the community of ASEAN nations. There exists a bond that unites each and every one of ASEAN nationals, who are fully prepared to face the outside world with the feeling of comfort and the warmth of growing ASEAN ties.

ASEAN activities are countless and extensive in all domains, currently often followed by ASEAN achievements in every walk of human life that would appear too numerous to enumerate at this point. Suffice it to ascertain that ASEAN has not ceased to operate, nor to initiate new projects for future developments, which will entail further achievements in each and every field, where there is an “ASEAN Will”, there is an “ASEAN WAY”.

6.2 ASEAN Mechanisms to Reduce and Resolve Inter-ASEAN Conflicts

Another achievement of ASEAN deserving mention at this point lies in the field of Alternative Dispute Resolution or ADR. ASEAN approach to ADR starts from avoidance or discouragement of conflict or dispute prevention, designed above all to pre-empt the occurrence of any conflict or foreclose the occurrence of any dispute in the first place. This could be achieved principally by promoting mutual understanding and reciprocal assistance, thereby avoiding the possibility of a conflict or dispute from ever arising. Once any conflict or dispute has arisen between any two or more ASEAN Members, there are ways and means available within ASEAN to resolve it. It is in the interest of ASEAN Members to resolve and settle any such conflict or dispute, which may slow down or delay the progressive process of integration within the Association. Thus, it is in the common interest of ASEAN as a whole to eliminate and settle any dispute or conflict that may arise between any two or more of its Member Nations.

To this end, every means and method of dispute resolution available under the United Nations Charter, especially Article 33 of the UN Charter may be used. In addition, ASEAN will provide further assistance within the Association to provide good offices and to serve as Third-Party to provide good offices, enquiry, mediation, conciliation or arbitration without having to resort to the compulsory jurisdiction of the International Court of Justice at The Hague, if available. Thus, under the ASEAN International Agreement of 1987, as subsequently amended, an investment dispute between an ASEAN national or company with ASEAN State Member for instance could be settled by an AD Hoc ASEAN Arbitral Tribunal to be appointed in the final resort by the President of the International Court of Justice. The first such AD Hoc Tribunal was appointed in the case of *Yaung Chi Oo Trading Pte. Ltd. v. Government of the Union of Myanmar*⁵ in 2003. This example clearly illustrated the way which ASEAN has worked out to resolve by peaceful means dispute of various kind, in particular investment dispute within an ASEAN Investment Area by an ASEAN national or company and the ASEAN host country, in the case under reference *Yaung Chi Oo*, a Singaporean investor company and the Government of Myanmar. This intriguing question requires a separate treatment in great detail and constitutes another topic of vital importance that requires a separate in-depth treatment and detailed discussion, specifically devoted to ASEAN methods of Dispute Settlement, comparable to those in existence under ICSID, WTO, UNCTAD, and ICC or International Chamber of Commerce in Paris.

7. ASEAN to Be Fifty

As ASEAN approaches the 50th Anniversary on 8th August 2017, it is apparent that ASEAN member countries are prepared to greet each other and each and every citizen of ASEAN nationality with warm wishes for this half century mark, and to look back in retrospect and evaluate the fruit of ASEAN labour in each of ASEAN activities, as well as the achievements to be remembered without forgetting the toil and labour invested in the collective task of ASEAN. It is worth remembering that the wealth and happiness accrued today have been the products of ASEAN preceding generations.

For the Thais in particular, it should not be forgotten that ASEAN was conceived and achieved by THAI initiatives and constructive effort. Every Thai compatriot should be reminded of the patience and sacrifices contributed by their elders to ensure and reinforce the meaningful future of ASEAN. As a Thai, this is a clear reminder of the leading role Thailand had played in the formation and fortification of the ASEAN hub, and that to look back in retrospect Thailand could not deny or forsake Thailand's part in upholding ASEAN, and to this end Thailand must utilize all available energy and every imaginable endeavour to recover its principal role as a full and primary initiating partner of the ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN). This is the prospect of the resumption of Thailand's leading part in clear and illuminated perspectives.

⁵ See ASEAN Arbitral Tribunal, *Yaung Chi Oo Trading Pte. Ltd. V. Government of the Union of Myanmar* (Award) in International Legal Materials ILM, 42, pp. 540-558, May 2003. The American Society of International Law.