

## CHAPTER 2

### Institutionalization of Regional Order: Between Norms and Balance of Power

Noel M. Morada

#### **Introduction**

Regional order in East Asia is yet to achieve even a modicum degree of institutionalization. At best, one could say that it is still in the nascent stage of evolution where state and non-state actors (particularly think tanks and epistemic communities) are attempting to imagine or construct a common security framework for the region. There are several pathways towards achieving a more institutionalized regional order. This chapter examines the various framework, structures, and approaches towards building a regional security order in East Asia. It also looks into the obstacles, challenges, and prospects for institutionalizing an East Asian regional order.

This chapter argues that community building appears to have been the chosen pathway for many countries in East Asia towards institutionalizing regional order. However, there are a number of realities, obstacles, and challenges that must be considered if one has to believe in the long-term plausibility of such projects. Whether the US remains an important player in East Asia and what role it could play in building an East Asian Community is an important issue to consider even as there appears to be an emerging consensus that an American dominated order that has been in place since the post-war period is no longer viable. Even so, an important pillar in ensuring peace and stability in the region is China-Japan relations. There is no doubt that their historical animosities must be overcome if the regional order based on balance of power and deterrence is to be transformed into a community of responsible stakeholders.

#### **Constructing a Regional Order in East Asia: Frameworks, Structures, and Community Building**

This section of the chapter examines the existing frameworks, structures, and attempts at community building in East Asia. Specifically, it looks into the formation of the ASEAN Regional Forum (ARF), the ASEAN Plus Three (APT), and ASEAN Community, and the East Asian Community.

### **ASEAN Regional Forum**

Since the end of the Cold War, the Association of Southeast Asian Nations (ASEAN) has been at the forefront of constructing and promoting a regional order that is based on its norms, principles, and diplomatic strategies in dealing with peace and security issues beyond Southeast Asia with the formation in 1994 of the ASEAN Regional Forum (ARF). Much of the impetus for setting up the ARF was due to the “uncertainties” of the post-Cold War environment in the region that came in the aftermath of the closure of the American bases in the Philippines in 1992, the collapse of the former Soviet Union and its withdrawal from Vietnam, and the perceived growing military capabilities of China. To some extent, the creation of the ARF also opened opportunities for Northeast Asian countries to engage in security dialogue given that there is no counterpart of ASEAN in that region. Primarily, the ARF served not only as a vehicle for developing confidence building measures but also as a forum where participating countries could discuss their “hopes and fears.”

Until the tragic event of September 11, 2001, much of the preoccupation of the ARF as a regional security forum was on: 1) norms and principles that should guide relations of states in the region; 2) confidence building measures and preventive diplomacy; and 3) residual traditional security issues involving territorial disputes among participating states (e.g., South China Sea), internal conflicts (e.g., East Timor and Myanmar), non-proliferation issues (e.g., Korean peninsula), and major power rivalries. Discussions on these issues were carried out by participating states (which increased to 26 in July 2006 with the inclusion of Bangladesh) through the mechanism of inter-sessional support group (ISG) and inter-sessional meetings (ISM).

After September 11, 2001, transnational security issues, particularly those that are linked to terrorism, became a priority security concern for the ARF. For example, the ARF ministers issued a number of statements related to cooperation among participating states in various areas in response to terrorism and transnational crime, such as: 1) strengthening of transport security against international terrorism (July 2004); 2) cooperative counter-terrorist actions on border security (June 2003); 3) cooperation against piracy and other threats to maritime security (June 2003); 4) measures against terrorist financing (July 2002); and 5) condemnation of terrorist attacks of 11 September 2001 and terrorist bombings in Bali in October 2002, in Madrid in March 2004, and in London and Sharm el-Sheik in July 2005. In May 2004, the ARF welcomed the establishment of the Southeast Asia Regional Center for Counter Terrorism (SEARCCCT) and the Jakarta Center for Law Enforcement Cooperation (JCLEC).

To the extent that the ARF is a useful venue for consultation, dialogue, and confidence building among participating states is not debated. Its effectiveness, however, is very much questioned by some scholars especially in dealing with security issues that

involve territorial conflicts, nuclear proliferation, and remnants of the Cold War period (e.g., the Korean peninsula and cross-Straits relations between China and Taiwan) among others. For some, a major limitation of the ARF is that its agenda is very much controlled by ASEAN, which remains in the driver's seat of the Forum. There have been calls made by some non-ASEAN participants for ASEAN to share the chairmanship in the Forum. However, ASEAN is still unwilling to do so because it fears the possibility of some Western powers to eventually dominate the Forum. China shares this sentiment and certainly supports the continuation of the ASEAN-centered Forum. Even so, some think tank leaders in ASEAN are open to the idea of expanding the role of non-ASEAN participants in the ARF if only to make the Forum more relevant to the Asia Pacific region. Likewise, it has to give more attention to security interests of Northeast Asian countries to ensure their continuing commitment to the ARF process.<sup>1</sup>

### **ASEAN Plus Three Framework**

Following the Asian Financial Crisis in 1997, the ASEAN Plus Three (APT) framework was launched that enabled a more structured engagement between ASEAN members and its Northeast Asian neighbors – China, Japan, and South Korea. Through the APT, a more institutionalized mechanism has evolved for bilateral and regional dialogue between ASEAN and the three Northeast Asian states, which also opened opportunities for tackling mutual security, economic, and social problems that need to be addressed in a comprehensive manner.

#### *ASEAN-China Security Relations*

For the most part, China has effectively used the APT mechanism in improving its relations with ASEAN countries, especially in the area of security. Two important areas of security dialogue and cooperation between ASEAN and China have developed under the APT: the South China Sea and non-traditional security issues.

In the sixth ASEAN-China Summit in November 2002 in Phnom Penh, ASEAN and China signed a joint declaration on “Cooperation in the Field of Non-Traditional Security Issues,” along with the “Declaration on the Conduct of Parties in the South China Sea” and the “Framework Agreement on Comprehensive Economic Cooperation (CEC) between ASEAN and the People's Republic of China”. It is interesting to note, however, that while ASEAN highlighted the signing of the Declaration concerning the South China Sea as the most important achievement in the Phnom Penh Summit, China

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<sup>1</sup> Jusuf Wanandi, “ASEAN-Japan Relations: The Underpinning of East Asian Peace and Stability,” in *ASEAN-Japan Cooperation: A Foundation for East Asian Community* (Tokyo and New York: Japan Center for International Exchange, 2003), pp. 10-11.

played up its CEC initiative and the declaration of cooperation in non-traditional security issues as equally important.

In the seventh ASEAN-China Summit held in Bali in October 2003, a joint declaration was signed by the heads of state/government of ASEAN members and China on strategic partnership for peace and prosperity. The document, among other things, defined security cooperation between ASEAN and China in three ways, namely: 1) to expedite the implementation of the Joint Statement on Cooperation in the Field of Non-Traditional Security Issues and actively expand and deepen cooperation in such areas; 2) to hold, when appropriate, ASEAN-China security-related dialogue to enhance mutual understanding and promote peace and security in the region; and 3) to implement the Declaration on the Conduct of Parties in the South China Sea, discuss and plan the way, areas and projects of follow-up actions.

In their eighth summit Vientiane in November 2004, China and ASEAN agreed to a joint Plan of Action to implement the joint declaration on strategic partnership. In the area of political and security cooperation, the Plan of Action emphasized the importance of: 1) regular high-level contacts, visits, and interactions; 2) mechanisms for dialogue and cooperation; 3) the Treaty of Amity and Cooperation; 4) the Southeast Asian Nuclear Weapons-Free Zone Treaty; 5) the Declaration on the Conduct of Parties in the South China Sea; and 6) cooperation in the field of non-traditional security.<sup>2</sup> In the ninth ASEAN-China Summit in Kuala Lumpur in December 2005, the heads of governments/states recognized significant progress in their political-security cooperation. Specifically, they acknowledged that progress has been made by ASEAN and China towards the full implementation of the Declaration on the Conduct of Parties in the South China Sea (DoC) even as they also looked forward to the eventual conclusion of a regional code of conduct in the South China Sea. As well, the leaders noted that the ASEAN-China Senior Officials' Meeting on the Implementation of the DoC in Kuala Lumpur, Malaysia in December 2004 had established the ASEAN-China Joint Working Group on the Implementation of the DoC (ACJWG) and welcomed the convening of the First ACJWG in August 2005 in Manila, the Philippines and the convening of the Second ACJWG in Sanya, China in February 2006.<sup>3</sup>

In July 2006, Beijing played host to the first regional workshop of defense officials from ASEAN and China where mutual security concerns were discussed, including opportunities for maritime security cooperation and the role of the respective

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<sup>2</sup> Plan of Action to Implement the Joint Declaration of ASEAN China Strategic Partnership for Peace and Prosperity, from <http://www.aseansec.org/16805.htm>, accessed on 15 October 2006.

<sup>3</sup> Chairman's Statement in the Ninth ASEAN-China Summit, Kuala Lumpur, December 2005, from <http://www.aseansec.org/18048.htm>, accessed on 15 October 2006.

militaries in international humanitarian aid, anti-terrorism, and peacekeeping operations.<sup>4</sup>

The impetus for greater cooperation between ASEAN and China, especially in the area of maritime security, comes from the growing dependence of the latter on imported oil and gas that require security of the sea lines of communication. Specifically, oil from the Middle East and natural gas from the Persian Gulf and Oman pass through the narrow Straits of Malacca and Singapore, where an average of about 140 ships pass through everyday. It is expected that traffic in these Straits will increase further with China's growing dependence on imported energy supplies, which are necessary to continue fueling its economic growth.<sup>5</sup>

In order to deal with these concerns, a number of areas for ASEAN-China maritime security cooperation may be pursued. In fact, a Chinese scholar has proposed a number of "flexible and diversified" forms of maritime security engagement between ASEAN and China, to wit: 1) maritime security dialogue through existing mechanisms like the ASEAN Regional Forum and the Western Pacific Naval Symposium; 2) consultation on navigation and shipping safety; 3) maritime anti-terrorism operation; 4) maritime search and rescue; 5) building up maritime military communication channel; 6) marine environment protection; 7) joint law enforcement against transnational crime; 8) joint military exercises; and 9) regional peacekeeping operations and humanitarian assistance.<sup>6</sup>

There is no doubt that China's image in the region has improved significantly because of its willingness to pursue cooperation with ASEAN in the area of non-traditional security. This is more than just a matter of military diplomacy. By focusing on this particular area, many in Southeast Asia see it as very low key and one that would neither attract domestic controversy in ASEAN countries nor invite undue suspicion from sectors that value strong military alliance with traditional partners. More importantly, it may well be in the interest of China to pursue defense cooperation with ASEAN in this area where it could build its own "soft power" capabilities, thereby earning for it the trust and confidence of not just governments but also peoples and communities in the region in the long run.

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<sup>4</sup> "China, ASEAN Hold 1st Regional Security Workshop," Xinhua News Agency, 19 July 2006, from China Through A Lens, <http://www.china.org.cn/english/2006/Jul/175165.htm>, accessed on 15 October 2006.

<sup>5</sup> Michael Richardson, "ASEAN-China Maritime Security Cooperation," in Saw Swee-Hock, Sheng Lijun, Chin Kin-Wah (eds.), *ASEAN-China Relations: Realities and Expectations* (Singapore: Institute of Southeast Asian Studies, 2005), pp. 201-202.

<sup>6</sup> Wang Zhongchun and Li Yaqiang, "China-ASEAN Maritime Security Cooperation Situation and Proposals," in Saw Swee-Hock, Sheng Lijun, Chin Kin-Wah (eds.), *ASEAN-China Relations: Realities and Expectations* (Singapore: Institute of Southeast Asian Studies, 2005), pp. 195-198.

*ASEAN-Japan Security Relations*

Security relations between ASEAN and Japan under the APT have not really built up quite as fast as that between ASEAN and China. To some extent, one could say that Japan is still catching up in this area compared with its much deeper economic relations with ASEAN. For one, Tokyo did not sign the Treaty of Amity and Cooperation (TAC) until June 2004 and has opted to confine its political and security cooperation with ASEAN in the areas of maritime security, counter-terrorism, anti-money laundering, and anti-human trafficking. The focus on non-traditional security issues is a prudent one in that it attempts to avoid arousing suspicions, especially from China, about the motivations of Tokyo in pursuing enhanced security ties ASEAN.

Just like China, Japan has been interested in pursuing maritime security cooperation with ASEAN. During the ASEAN Plus Three Summit in Brunei in November 2001, Japanese Prime Minister Koizumi proposed the creation of a Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP). Essentially a government-to-government agreement, it aims to enhance cooperation among 16 Asian countries composed of the ASEAN members, China, Japan, Korea, Bangladesh, India, and Sri Lanka. In November 2004, the ReCAAP agreement was finalized and parties agreed to set up an Information Sharing Center (ISC) in Singapore when the agreement comes into force. As of 29 June 2006, only 12 of the 16 Asian countries have signed the agreement, with 11 of these ratifying the agreement. The ReCAAP agreement entered into force on 4 September 2006 following India's move to be the tenth signatory to the agreement. Table 1 below indicates the status of the agreement among the signatory countries.

Table 1. Signatories to ReCAAP<sup>7</sup>

Country	Signed	Ratified
Brunei Darussalam	Yes	
Cambodia	Yes	Yes
India	Yes	Yes
Japan	Yes	Yes
Laos	Yes	Yes
Myanmar	Yes	Yes
Philippines	Yes	Yes
Singapore	Yes	Yes
South Korea	Yes	Yes
Sri Lanka	Yes	Yes
Vietnam	Yes	Yes

<sup>7</sup> "Update on the ReCAAP Agreement," ReCAAP Information Sharing Centre, from <http://www.recaap.org/html/RecaapUpdate.htm>, accessed on 08 September 2006.

The specific obligations of the ReCAAP signatory countries are as follows:<sup>8</sup>

“1. Each Contracting Party shall, in accordance with its national laws and regulations and applicable rules of international law, make every effort to take effective measures in respect of the following:

- (a) to prevent and suppress piracy and armed robbery against ships;
- (b) to arrest pirates or persons who have committed armed robbery against ships;
- (c) to seize ships or aircraft used for committing piracy or armed robbery against ships, to seize ships taken by and under the control of pirates or persons who have committed armed robbery against ships, and to seize the property on board such ships; and
- (d) to rescue victim ships and victims of piracy or armed robbery against ships.

2. Nothing in this Article shall prevent each Contracting Party from taking additional measures in respect of subparagraphs (a) to (d) above in its land territory.”

The ISC was commissioned on the day that ReCAAP came into force, and will be operational before the end of 2006. The primary tasks of the ISC are: 1) to collate information and intelligence obtained from participating countries, from affected vessels, or non-government agencies; 2) disseminate these information to alert ships of possible dangers in the Asian region; and 3) conduct research and make recommendations on best practices.<sup>9</sup> The ISC also hopes to provide opportunities for signatory countries to build regional capacity and extend mutual assistance both at the technical and legal aspects.<sup>10</sup>

It is interesting to note that two littoral states in Southeast Asia – Indonesia and Malaysia – have so far not signed the ReCAAP agreement. During a meeting of foreign ministers from Indonesia, Malaysia, and Singapore in Batam in August 2005, Malaysian Foreign Minister Datuk Seri Syed Hamid Albar reportedly expressed unhappiness with the way Japan and Singapore had pushed through with the agreement. Indonesia and Malaysia apparently believe that the ReCAAP is not in accord with the sovereignty of the three littoral states in the Malacca and Singapore Straits. Both countries are also

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<sup>8</sup> ReCAAP Agreement (Regional Cooperation on Combating Piracy and Armed Robbery Against Ships in Asia), from <http://www.recaap.org/html/RecaapAgreement.htm>, accessed on 07 September 2006.

<sup>9</sup> Vijay Sakhuja, “Regional Cooperation Agreement on Anti-Piracy,” ORF Strategic Trends, Vol. IV, Issue 22-23, 10 July 2006, from Observer Research Foundation, <http://www.observerindia.com/strategic/st060710.htm>, accessed on 07 September 2006.

<sup>10</sup> Ibid.

unhappy with the idea of having the ISC based in Singapore. An Indonesian defense official was quoted as saying that Jakarta would only sign the agreement as long as the ReCAPP aims to secure only the Malacca Straits instead of three littoral countries in the area.<sup>11</sup>

China has also not signed the ReCAAP and is apparently reluctant to join a Japanese-initiated maritime security cooperation framework that allows Japanese coast guards extended range into the South China Sea and the Malacca and Singapore Straits. In February 2000, Beijing strongly protested Tokyo's announcement that it was considering deployment of vessels to the Malacca Straits to deal with increased piracy attacks, in joint cooperation with other patrol and navy vessels from other countries including China. This forced Japan to put the idea on hold.<sup>12</sup>

What is clear from the foregoing discussion is that even in a supposed to be less than controversial area of non-traditional security cooperation with ASEAN members, the rivalry between China and Japan inevitably emerges. Their mutual suspicions of each other's motivation somehow constrain the APT as a security framework from transforming itself beyond the essentially *de facto* bilateral ASEAN plus one mechanism. Thus, the prospects for institutionalizing the APT as a complementary security framework for promoting a regional order that is based on ASEAN norms and principles is challenged by rivalry and balance of power realities between China and Japan.

### **ASEAN Community Building**

The idea of an ASEAN Community was launched in October 2003 under the Bali Concorde II, which attempts to promote greater political, economic, and social-cultural cooperation among the ten member states of ASEAN. It is essentially composed of three pillars, namely, the ASEAN Security Community, the ASEAN Economic Community, and the ASEAN Social-Cultural Community. More flesh was given to the ASEAN Community idea in the Vientiane Action Program of 2004, where specific norms, principles, and projects were put forward in order to promote deeper security, economic, and social-cultural interaction among its members. This section of the chapter will focus only on the ASEAN Security Community and the ASEAN Charter as they relate to the building of a regional order in East Asia.

#### *The ASEAN Security Community*

The ASEAN Security Community (ASC) as envisaged in Bali Concord II aims "to bring ASEAN's political and security cooperation to a higher plane to ensure that countries in

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<sup>11</sup> "Indonesia Not Keen on ReCAPP at Present," 2 September 2006, Nam News Network, <http://namnewsnetwork.org/read.php?id=93>, accessed on 07 September 2006.

<sup>12</sup> Vijay Sakhuja, *ibid*.

the region live at peace with one another and with the world at large in a just, democratic and harmonious environment.” Among other things, the ASC contains a number of norms and principles that emphasize the importance of: 1) relying exclusively on peaceful processes in the settlement of intra-regional differences; 2) subscribing to the principle of comprehensive security as having broad political, economic, social and cultural aspects in consonance with the ASEAN Vision 2020 rather than to a defense pact, military alliance or a joint foreign policy; and 3) promoting regional solidarity and cooperation; 4) abiding by the UN Charter and other principles of international law and uphold ASEAN’s principles of non-interference, consensus-based decision-making, national and regional resilience, respect for national sovereignty, the renunciation of the threat or the use of force, and peaceful settlement of differences and disputes.<sup>13</sup>

With regard to approaches and instruments in dealing with specific regional security issues within and beyond Southeast Asia, the ASC stipulates that: 1) “maritime issues and concerns are trans-boundary in nature, and therefore shall be addressed regionally in holistic, integrated and comprehensive manner”; 2) “existing ASEAN political instruments such as the Declaration on ZOPFAN, the TAC, and the SEANWFZ Treaty shall continue to play a pivotal role in the area of confidence building measures, preventive diplomacy and the approaches to conflict resolution”; 3) “the High Council of the TAC shall be the important component in the ASEAN Security Community since it reflects ASEAN’s commitment to resolve all differences, disputes and conflicts peacefully”; and 4) the ASC should “contribute to further promoting peace and security in the wider Asia Pacific region and reflect ASEAN’s determination to move forward at a pace comfortable to all.” The ASC also states: “the ARF shall remain the main forum for regional security dialogue, with ASEAN as the primary driving force.”<sup>14</sup>

The operationalization of the ASC was spelled out in the Vientiane Action Program (VAP) in 2004, where the focus are in the following areas: 1) political development, where ASEAN members’ leaders are expected to promote “shared vision and common values”; 2) shaping and sharing of norms that, among other things, “contribute to the building of a democratic, tolerant, participatory, and transparent Community in Southeast Asia”; 3) conflict prevention through confidence building and preventive diplomacy; 4) conflict resolution through “the use of existing regional dispute settlement mechanisms and processes in the political and security areas”; and 5) post-conflict peace building that include the establishment of appropriate mechanisms

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<sup>13</sup> “Declaration of ASEAN Concord II (Bali Concord II),” from <http://www.aseansec.org/15159.htm>, accessed on 4 November 2006.

<sup>14</sup> Ibid.

and resource mobilization.<sup>15</sup> Appendix 1 at the end of the chapter enumerates the specific activities that have been identified under the ASC Plan of Action.

It is evident that the ASC is part of ASEAN's strategy to bring to a higher level the process of security cooperation not only among its members but also with other non-ASEAN states in the larger East Asian region. To some extent, the ASC idea is also an important step towards strengthening and deepening security cooperation in the region not only based on traditional norms and principles of ASEAN but also through the introduction of new principles that were considered taboo in the past. Specifically, the ASC's political development principles such as strengthening of democratic institutions, political participation, rule of law, good governance, and combating corruption are likely to pose a challenge to member states that do not fair well based in these areas. Yet the importance of promoting political development based on these principles cannot be denied especially if ASEAN as a community has to move in the same direction and the desire for greater economic and social-cultural integration would have to be realized in the long term. Increased level of economic integration, for example, is not likely to take place unless there are mechanisms in place that ensure fair business practices, rule of law, and transparency in government policies across member states. As well, attendant problems related to labor migration in the region have to be dealt with for example through the development of mechanisms for regional human rights protection. In short, ensuring uniform good governance standards will spill over into the economic and social community spheres. In a way, with the increasing and deepening level of political, security, economic, and social integration among ASEAN members, there is a greater need for developing a more institutionalized approach to managing issues and problems that affect relations not only among states but also among peoples in the region.

Apart from political development, the ASC Plan of Action also identified the importance of: 1) implementing agreements on the Declaration of Conduct of Parties in the South China Sea, in particular working towards the adoption of a Code of Conduct; 2) resolving outstanding issues to ensure the early signing of the Southeast Asia Nuclear Weapons-Free Zone (SEANWFZ); 3) strengthening the ARF process in support of the ASC; 4) enhancing cooperation in non-traditional security issues; and 5) strengthening confidence building measures through regional military exchanges, convening of the annual defense ministers meeting, and establishment of an ASEAN arms register, among others.<sup>16</sup> These specific goals clearly indicate that the ASC is not only about promoting intra-ASEAN security cooperation but more importantly the need to push for institutionalization of mechanisms and principles that should govern ASEAN security

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<sup>15</sup> ASEAN Security Community Plan of Action, from <http://www.aseansec.org/16826.htm>, accessed on 4 November 2006.

<sup>16</sup> Ibid.

relations with external actors. In a sense, the ASC casts a wide net over a range of security concerns and beyond Southeast Asia.

### *The ASEAN Charter*

Under the shaping and sharing of norms, the ASC Plan of Action acknowledges the importance of having an ASEAN Charter. It is not only supposed to reaffirm traditional norms and principles in ASEAN but also give substance to the “collective responsibilities” and obligations of members. More than just a collection of documents that contain previous agreements, declarations, norms, and principles since ASEAN’s creation in 1967, the ASEAN Charter is supposed to contain several provisions that govern inter-state relations among members, external relations, and the norms of behavior within states.<sup>17</sup> As well, it ought to include also provisions for new structures and mechanisms that would enhance further the roles and functions of several ASEAN agents and units, along with provisions for strengthening the coordination of decision-making procedures and meetings.

For some sectors in Southeast Asia, the ASEAN Charter must not just be a document that gives legal personality to the organization but, more importantly, one that transforms ASEAN into a more institutionalized community that has dispute settlement mechanisms, spells out obligations and expectations from members, and defines sanctions and appropriate mechanisms for implementing these. Likewise, the Charter should also recognize the importance of several layers of consultative mechanisms across various sectors in the region, including legislators, epistemic communities, civil society organizations, and business groups if ASEAN must be true in its stated goals of becoming relevant to the people and communities in the region.

The Eminent Persons Group (EPG) on ASEAN Charter presented its recommendations to ASEAN Leaders in the 12th Summit in Cebu in the Philippines in January 2007. The most notable of these recommendations include: 1) the active strengthening of democratic values, good governance, rejection of unconstitutional and undemocratic changes in government, and rule of law; 2) creation of three ministerial-level Councils to oversee implementation of the ASEAN Community’s three pillars; 3) creation of dispute settlement mechanisms to monitor compliance in all areas of ASEAN cooperation; 4) expulsion of members in exceptional circumstances as may be decided by the ASEAN Council (which is the new name for the ASEAN Summit that is expected to meet at least twice a year); 5) establishment of permanent representatives or ambassadors from each member state to the ASEAN in Jakarta; 6) majority voting in cases where consensus decision-making cannot be achieved subject to the rules of

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<sup>17</sup> Framing an ASEAN Charter: An ISEAS Perspective (compiled by Rodolfo Severino). Singapore: Institute of Southeast Asian Studies, 2005, pp. 15-18.

procedures to be determined by the ASEAN Council; 7 ) creation of an ASEAN Single Market and expressing the resolve to realize the ASEAN Community and eventually the ASEAN Union; 8) enhancing the role of the ASEAN Secretary general as well as recruitment and development of professional staff to serve the ASEAN Secretariat; 9) conferment on ASEAN a legal personality to enable it to engage in legal proceedings; and 10) cultivating ASEAN as a people-oriented organization that allows for consultation with and participation of different sectors of peoples in the region, including civil society and human rights groups, scholars in academic institutions, parliamentarians, and business groups.

Having an ASEAN Charter no doubt will contribute to institutionalizing mechanisms for managing intra- and extra-ASEAN relations. Much would depend, however, on the political will of leaders to push ASEAN to a higher level of institutionalization where sanctions for non-compliance by members on a number of agreements, goals and objectives, as well as obligations become the norm rather than the exception (or worse, a matter of wishful thinking). The success of ASEAN in having a Charter that is binding on all members coupled with the political will to enforce the rules would certainly advance the ASEAN Community project substantively.

### **East Asia Community Building**

ASEAN has also projected the process of community building into the larger East Asian region through the idea of an East Asian Community (EAC). Much of the push for the EAC<sup>18</sup> came primarily from Malaysia with support from Japan, although they differ on the composition of such community. While Kuala Lumpur would like to restrict the EAC geographically to ASEAN countries plus China, Japan, and South Korea, Tokyo wanted to include Australia and New Zealand as “new peers” in the region.<sup>19</sup> Other ASEAN countries, notably Singapore and Indonesia wanted India to be in the EAC as a counterweight to China.<sup>20</sup>

In his speech in the Second East Asia Forum in Kuala Lumpur in 2004, Prime Minister Badawi stated that “the future East Asian Community should be an integral extension of the ASEAN Community” for which the East Asia Summit (EAS) would be “more than a political symbol of the East Asian Community”. More specifically, Badawi

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<sup>18</sup> For some in ASEAN, it should be EAc with a small letter “c” to signify that the idea should not compete with the ASEAN Plus Three framework. Indonesia, for example, insists that the APT should be the core of the East Asian community.

<sup>19</sup> Rich Bowden, “Battle Looms Over Inaugural East Asia Summit,” Wordpress.org, 11 December 2005, from <http://www.worldpress.org/Asia/2192.cfm>, accessed on 4 November 2006.

<sup>20</sup> Philip Bowring, “An Asian Union? Not yet”, International Herald Tribune, 16 December 2005, from <http://www.iht.com/articles/2005/12/16/opinion/edbowering.php>, accessed on 4 November 2006.

outlined the following as important milestones or markers of building an East Asian Community: 1) East Asia Summit; 2) East Asian Charter; 3) East Asia Free Trade Area; 4) Agreement on East Asian Monetary and Financial Cooperation; 5) East Asia Zone of Amity and Cooperation; 6) East Asia Transportation and Communication Network; and 7) East Asia Declaration on Human Rights and Obligations.<sup>21</sup>

The first East Asian Summit that convened in Kuala Lumpur in December 2005 saw sixteen (16) heads of governments/states meeting for the first time that includes the ten ASEAN members, China, Japan, South Korea, India, Australia, and New Zealand. Russia attended the EAS as observer and expressed its desire to join the Summit in the future. The leaders declared that EAS was created as “a forum for dialogue on broad strategic, political and economic issues of common interest and concern with the aim of promoting peace, stability and economic prosperity in East Asia” and that its efforts “to promote community building in [the] region will be consistent with and reinforce the realization of the ASEAN Community, and will form an integral part of the evolving regional architecture.”<sup>22</sup>

Furthermore, the leaders declared that the EAS will be “an open, inclusive, transparent and outward-looking forum in which [members will] strive to strengthen global norms and universally recognized values with ASEAN as the driving force working in partnership with the other participants of the East Asia Summit.” In more specific terms, the EAS is expected, among other things, to focus on the following: 1) “fostering strategic dialogue and promoting cooperation in political and security issues to ensure that our countries can live at peace with one another and with the world at large in a just, democratic and harmonious environment”; 2) “promoting development, financial stability, energy security, economic integration and growth, eradicating poverty and narrowing the development gap in East Asia, through technology transfer and infrastructure development, capacity building, good governance and humanitarian assistance and promoting financial links, trade and investment expansion and liberalization”; and 3) “promoting deeper cultural understanding, people-to-people contact and enhanced cooperation in uplifting the lives and well-being of [the region’s] peoples in order to foster mutual trust and solidarity as well as promoting fields such as environmental protection, prevention of infectious diseases and natural disaster mitigation.”<sup>23</sup>

With regard to the principles and mechanics of participation in the EAS, the leaders

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<sup>21</sup> “Towards an Integrated East Asia Community,” speech by YAB Dato’ Seri Abdullah HJ Ahmad Badawi, Prime Minister of Malaysia, at the Second East Asia Forum, Kuala Lumpur, 6 December 2004, from <http://www.aseansec.org/16952.htm>, accessed on 4 November 2006.

<sup>22</sup> Kuala Lumpur Declaration on the East Asia Summit, Kuala Lumpur, 14 December 2005, from <http://www.aseansec.org/18098.htm>, accessed on 4 November 2006.

<sup>23</sup> Ibid.

agreed that: 1) “participation in the East Asia Summit will be based on the criteria for participation established by ASEAN”; 2) “the East Asia Summit will be convened regularly”; 3) “the East Asia Summit will be hosted and chaired by an ASEAN Member Country that assumes the ASEAN Chairmanship and held back-to-back with the annual ASEAN Summit”; and 4) “the modalities of the East Asia Summit will be reviewed by ASEAN and all other participating countries of the East Asia Summit.”<sup>24</sup>

In the Second East Asia Summit in Cebu in January 2007, the leaders reaffirmed their stance that the EAS is “an important component of the emerging regional architecture” and confirmed their view that it “complements other existing regional mechanisms” such as the ASEAN dialogue process, ASEAN Plus Three, the ARF, and the APEC in community building efforts. Leaders also expressed their conviction that the EAS must continue to be “outward looking, with ASEAN as the driving force working in close partnership with other participants.”<sup>25</sup>

At this point, it is quite premature to make a judgment about the EAS given that it has existed only for two years. However, based on the Kuala Lumpur Declaration, the East Asian Community envisioned casts a wide net on a range of political, economic, security, and social issues that are very much the concern expressed in the three pillars of the ASEAN Community. At the same time, how different the EAS is from the ASEAN Plus Three framework remains vague and a matter of so much speculation at this point. Even the presence or absence of the United States in the EAS is yet to be resolved categorically. While the Bush Administration has not openly rejected the EAS and the EAC, some questions have been raised about the nature and purpose of these projects. Who controls the agenda of the EAS? What is its relationship to other regional frameworks, such as the ARF, APEC, and ASEAN Plus Three? Will the envisioned EAC adopt certain global norms pertaining to counter-terrorism and non-proliferation, as well as promote free and open markets? These are some of the important questions raised by one American CSCAP member in a workshop meeting held in Tokyo in June 2006 hosted by the Council on East Asian Community.<sup>26</sup> There are also speculations within ASEAN that Tokyo is pouring much of its resources to the EAC and appears to have lost much enthusiasm for the ASEAN Plus Three framework. Meanwhile, China remains committed to the ASEAN Plus Three framework and believes that the ASEAN should remain at the core of the EAC idea.

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<sup>24</sup> Ibid.

<sup>25</sup> Chairman’s Statement of the Second East Asia Summit, Cebu, Philippines, 15 January 2007, from <http://www.aseansec.org/19302.htm>, accessed on 22 January 2007.

<sup>26</sup> Ralph Cossa, “East Asian Community and the United States: U.S. View – One Step Forward, Two Steps Back?” in Report of “An East Asian Community” and New Dynamism of Regional Governance (The 2nd Year, 2005 October – 2006 September), The Council on East Asian Community, Tokyo.

## **Institutionalizing Regional Order: Obstacles, Challenges, and Prospects**

The process of institutionalizing regional order in East Asia is faced with a number of obstacles and challenges. Notwithstanding the frameworks and structures that are already in place, there are still fundamental realities that should be considered even as leaders proposed several pathways towards community building in the region.

### **Balance of Power Relations**

The first reality on the ground is the continuing balance of power relations in Northeast Asia among the three major powers – China, Japan, and the United States. The bilateral security alliance between Tokyo and Washington is perceived by Beijing as principally aimed at constraining, if not preventing, the rise of China. This situation is complicated by mutual suspicions between China and Japan due to unresolved historical issues that continue to create tensions in their bilateral relations. The growing military capabilities of China is seen by Japan as potentially undermining its security interest, especially if the former is able to project its naval power in the East China and South China seas.

A second reality is the cross-Straits relations between China and Taiwan, which also complicate the balance of power situation in Northeast Asia. Any change in the status quo on the Taiwan issue (either because of a declaration of independence by the Taiwanese authorities or a military takeover by China over the island) would likely draw both the United States and Japan into a confrontation with China. This is so because the US remains committed to the defense of Taiwan and the bilateral security alliance between Tokyo and Washington covers the farthest area beyond the southernmost islands of Japan. Ironically, it is the continuing diplomatic isolation of Taiwan brought about by China's policy that has been pushing the ruling party in the island to consider the independence option. At the same time, the unwavering military support by the US has emboldened the Taiwanese authorities to take the risk of antagonizing Beijing on the issue of Taiwan's independence.

### **Towards a Trilateral Strategic Partnership: China-Japan-US**

As long as China remains outside of a strategic partnership between the US and Japan, the balance of power reality will continue to serve as an obstacle to institutionalizing regional order in East Asia. Mutual suspicions and policies of deterrence against China by both Japan and the United States will only undermine the development of multilateralism in the region. What is needed, therefore, is for both Japan and the US to begin engaging China in a strategic trilateral partnership that would encourage it to become a more "responsible stakeholder" in the region as well as in the international stage. As one well-known Japanese scholar has put it:

[In] my view...a high-level trilateral meeting should be institutionalized between Japan, the United States, and China. The three countries should exchange views candidly about the respective strategies regarding key issues in the East Asian region. Included in the agenda should be ways of boosting cooperation on energy problems, confidence-building measures, and preventive diplomacy in the region, as well as common rules of conduct on the East China Sea.

Japan has benefited from the US-led regional order [that] has evolved in East Asia in the postwar era. But economic development in many East Asian countries and China's ascent as an economic powerhouse will transform this regional order.

To ensure the creation of a new order in the region, Japan should join hands not just with the United States but [also] with China and other East Asian nations. The key to addressing this challenge lies in achieving the proper mix of Japan's strategy of engagement and deterrence toward China.<sup>27</sup>

What is clear from the above statement is that the post-war order in East Asia dominated by the US alone may no longer be viable even as China must allowed as an important player and stakeholder to contribute in shaping the region's future, along with other East Asian countries. There is no doubt that, with China's rise as an economic and military power, its influence in the region would also grow. The key issue is whether China would behave as a responsible power and abide by international norms, or whether it would act more unilaterally and become a revisionist power. Certainly, the policy of deterrence against China either by Japan or the United States will not encourage it to be a responsible stakeholder.

China may be open to the idea of a trilateral strategic partnership with Japan and the United States<sup>28</sup> if only because it desires recognition as an important player in the region, which consequently allows it to have a much more stable external environment and enables it to concentrate on domestic priorities such as economic development and modernization. Through this trilateral partnership, China will also be given the

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<sup>27</sup> Takashi Shiraishi, "Questions over China's intentions," CEAC Commentary, 2 August 2006, pp. 3-4.

<sup>28</sup> During the Xiangshan Forum in Beijing on 23-24 October 2006 organized by the China Association for Military Science, one Chinese scholar from Shanghai asked an American participant if there is a possibility of transforming the Japan-US security alliance into a more inclusive strategic partnership that is trilateral in structure involving China. According to him, a trilateral partnership may help overcome mutual suspicions between China and Japan.

opportunity to shape the regional order without having to be seen as undermining it in the long run due to its inevitable rise as a military power. At the same time, however, it cannot simply be assumed that with China's rise, there is a parallel increase in the level of transparency on the part of China about its defense and security posture. Certainly, a lot would depend on whether China's political transformation in the near future moves in the direction of institutionalizing the rule of law, good governance, increased political participation, and greater accountability.

### **Towards Constructing a Regional Identity**

East Asia is composed of countries with a wide range of variation in terms of political systems, level of economic development, and social-cultural norms. These factors may or may not contribute to community building in the region, depending on how national leaders and relevant sectors play up their importance. What is crucial, however, is whether political elites in the region have the will and commitment to build a common regional identity, notwithstanding the reality of existing diversities. The norms and principles already enshrined in several declarations of ASEAN, the ARF, ASEAN Plus Three, and the East Asian Summit are important starting points for building a regional identity, at least among political elites in the region. How these norms and principles are internalized and successfully passed on to the next generation of future leaders in East Asia is something that must be ensured if one must be convinced that indeed the ASEAN Community and East Asian Community project are serious projects.

The transformation of the regional order and the institutionalization of norms, principles, and habits of consultation related to managing that regional order would certainly be a long process. If the political elites of East Asia are serious about taking charge of shaping the region's future, they have to pay attention to building a common regional identity based on developing a set of common values and norms of engagement in dealing with regional issues. Major powers like China and Japan could contribute towards this end by overcoming their historical baggage and start focusing on how to begin writing a common future history for the region.

### **Conclusion**

Community building appears to have been the chosen pathway for many countries in East Asia towards institutionalizing regional order. However, there are a number of realities, obstacles, and challenges that must be considered if one has to believe in the long-term plausibility of such project. Given the diversity of cultures, political systems, and level of economic development of states and societies in the region, the challenge for political elites in East Asia is to rethink the existing order that has long been based

on balance of power relations among the major powers and begin to explore innovative ways to promote a common regional identity from which to build an East Asian Community. A crucial issue for political leaders in the design of an institutionalized regional order is whether American dominance in this part of the world should be allowed to continue and to what extent it would contribute to East Asian community building. It cannot be denied that the United States remains an important strategic ally of some states in the region and, notwithstanding strong criticisms against its hyper power policies on many international issues like terrorism, is still valued as an important trade partner by most countries. Meanwhile, stable Sino-Japanese relations remain crucial in institutionalizing peace and security in the region. Their historical animosities must be overcome if the East Asian regional order based on balance of power is to be transformed into a norm-based community of responsible powers and stakeholders.

## Appendix 1: ASEAN Security Community Plan of Action

### **I. POLITICAL DEVELOPMENT**

1. Promotion of a just, democratic and harmonious environment :
  - a. Strengthening democratic institutions and popular participation;
  - b. Promoting understanding and appreciation of political system, culture and history of ASEAN Member Countries;
  - c. Strengthening the rule of law and judiciary systems, legal infrastructure and capacity building;
  - d. Promoting free flow of information among and within ASEAN Member Countries;
  - e. Enhancing good governance in public and private sectors;
  - f. Strengthening effective and efficient civil services; and
  - g. Preventing and combating corruption.
2. Promotion of human rights and obligations:
  - a. Establishing a network among existing human rights mechanisms;
  - b. Protecting vulnerable groups including women, children, people with disabilities, and migrant workers; and
  - c. Promoting education and public awareness on human rights.
3. Promotion of people-to-people contacts:
  - a. Encouraging the role of ASEAN Inter-Parliamentary Organisation (AIPO) in political and security cooperation;
  - b. Promoting public participation and the contribution of the ASEAN People's Assembly (APA) to the ASEAN community building;
  - c. Strengthening the role of the ASEAN Foundation;
  - d. Encouraging the contribution of ASEAN-ISIS to political development;
  - e. Strengthening the role of the ASEAN Business Advisory Council (ABAC); and
  - f. Supporting the activities of the ASEAN University Network.

### **II. SHAPING AND SHARING OF NORMS**

1. Strengthening the TAC regime:
  - a. Accession to the TAC by non-ASEAN countries; and
  - b. Periodic assessment of the implementation of the TAC and exploration of ways and means for its effective implementation.

2. Working towards development of an ASEAN Charter which will inter alia reaffirm ASEAN's goals and principles in inter-state relations, in particular the collective responsibilities of all ASEAN Member Countries in ensuring non-aggression and respect for each other's sovereignty and territorial integrity; the promotion and protection of human rights; the maintenance of political stability, regional peace and economic progress; and the establishment of effective and efficient institutional framework for ASEAN.
3. Resolving all outstanding issues to ensure early signing of the Nuclear Weapon States to the Protocol to the SEANWFZ Treaty.
4. ASEAN Treaty on Mutual Legal Assistance (MLA) Agreement:
  - a. Compilation of existing bilateral MLA Agreements among ASEAN Member Countries and between ASEAN and other countries;
  - b. Identification of issues relating to the establishment of an ASEAN MLA Agreement; and
  - c. Conclusion of ASEAN MLA Agreement.
5. ASEAN Extradition Treaty as envisaged by the 1976 Declaration of ASEAN Concord:
  - a. Identification of ASEAN political decisions to establish Extradition Treaty and bilateral Extradition Treaties between ASEAN Member Countries; and
  - b. Establishment of a working group on ASEAN Extradition Treaty under the purview of ASEAN Senior Law Officials Meeting (ASLOM).
6. Ensuring the implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC) through, inter alia:
  - a. Establishing an ASEAN-China Working Group on the Implementation of the DOC;
  - b. Establishing a review mechanism on the implementation of the DOC; and
  - c. Working towards the adoption of the Code of Conduct in South China Sea (COC).
7. ASEAN Convention on Counter Terrorism:
  - a. Identification and analysis or assessment of documents and relevant instruments related to counter terrorism;
  - b. Working towards accession to and ratification of the relevant UN conventions on counter terrorism; and
  - c. Preparation, negotiation and conclusion of an ASEAN convention on counter terrorism.

### III. CONFLICT PREVENTION

1. Strengthening Confidence Building Measures:
  - a. Organising and conducting regional military exchanges among high- ranking officials, military academies, and staff colleges of ASEAN Member Countries, apart from increasing bilateral visits and exchanges;
  - b. Periodic publication of strategic assessments on the security environment, defence policies, and other security issues, such as Defence White Papers and equivalent documents;
  - c. Working towards convening of an annual ASEAN Defence Ministers Meeting (ADMM);
  - d. Promoting exchange of observers at military exercises;
  - e. Establishment of an ASEAN Arms Register to be administered by the ASEAN Secretariat, in line with a similar activity being conducted in the ARF;
  - f. Utilising military and civilian personnel in disaster relief operation;
  - g. Promotion of civil-military relations; and
  - h. Exploring joint development and sharing of resources.
2. Strengthening Preventive Measures:
  - a. Publishing an ASEAN Members Annual Security Outlook;
  - b. Voluntary briefing by ASEAN Member Countries on national security issues; and
  - c. Developing an ASEAN early warning system based on existing mechanisms to prevent occurrence/escalation of conflicts.
3. Strengthening the ARF process in support of the ASEAN Security Community:
  - a. ARF Unit within the ASEAN Secretariat;
  - b. Enhanced role of the ARF Chair;
  - c. Strengthening ASEAN's role in addressing the four overlapping issues of CBMs and Preventive Diplomacy (Enhanced role of the ARF Chair, Annual Security Outlook, Register of Experts/Eminent Persons, Voluntary Briefing on Regional Issues); and
  - d. Moving the ARF to the preventive diplomacy stage and beyond (implementation of the Concept Paper on Preventive Diplomacy, establishment of an Intersessional Support Group on Preventive Diplomacy).
4. Enhancing cooperation on non-traditional security issues:
  - a. Combating transnational crimes and other trans-boundary problems, including money laundering, illegal migration, smuggling and illegal trade of natural resources, trafficking in persons, drugs and precursors, as well as communicable diseases;
  - b. Promoting ASEAN maritime security cooperation;
  - c. Strengthening law enforcement cooperation; and
  - d. Promoting cooperation on environmental issues including haze, pollution and floods.

5. Strengthening efforts in maintaining respect for territorial integrity, sovereignty and unity of member countries as stipulated in the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations:
  - a. Strengthening cooperation on the state's obligation not to intervene in the affairs of other neighbouring states, including refraining from the use of military, political, economic or other form of coercion aimed against the political independence or territorial integrity of other neighbouring states;
  - b. Enhancing cooperation among ASEAN Member Countries to prevent the organisation, instigation, assistance and participation in terrorist acts in other neighbouring ASEAN Member Countries;
  - c. Preventing the use of territory of any ASEAN Member Country as base for any activities against security and stability of neighbouring ASEAN Member Countries; and
  - d. Strengthening cooperation to address subversive and insurgency activities aimed at neighbouring ASEAN Member Countries.
6. Strengthening cooperation to address threats and challenges posed by separatism.

#### **IV. CONFLICT RESOLUTION**

1. Strengthening Dispute Settlement Mechanisms:
  - a. The use of existing modes of pacific settlement of disputes such as negotiations and consultations, good offices, conciliation and mediation by all ASEAN Member Countries, or use of the High Council of the TAC as a preferred option; and
  - b. If the High Council so requires, it may establish on an ad hoc basis an Experts Advisory Committee (EAC) or an Eminent Persons Group (EPG), which may extend assistance to the High Council to provide advice or counsel on the settlement of disputes upon request, in accordance with the Rules of Procedure of the High Council of TAC.
2. Developing regional cooperation for maintenance of peace and stability:
  - a. Promoting technical cooperation with the UN and relevant regional organisations in order to benefit from their expertise and experiences;
  - b. Establishing/assigning national focal points for regional cooperation for maintenance of peace and stability;
  - c. Utilisation of national peace keeping centres which currently exist, or are being planned, in some ASEAN Member Countries to establish regional arrangement for the maintenance of peace and stability; and
  - d. Establishing a network among existing ASEAN Member Countries' peace keeping centres to conduct joint planning, training, and sharing of experiences, with a view to establishing an ASEAN arrangement for the maintenance of peace and stability.

3. Developing Supporting Initiatives:

- a. Promoting exchange and cooperation among ASEAN centres of excellence on peace, and conflict management and resolution studies; and
- b. Considering the establishment of an ASEAN Institute for Peace and Reconciliation.

**V. POST-CONFLICT PEACE BUILDING**

1. Strengthening ASEAN humanitarian assistance:

- a. Providing safe havens in conflict areas;
- b. Ensuring the delivery of basic services or assistance to victims of conflict;
- c. Orderly repatriation of refugees/displaced persons and resettlement of internally displaced persons;
- d. Ensuring safety of humanitarian relief assistance workers;
- e. Promoting the role of humanitarian relief assistance organisations;
- f. Considering the establishment of an ASEAN Humanitarian Assistance Centre; and
- g. Intensifying cooperation with the United Nations and other organisations/donor countries.

2. Developing cooperation in post-conflict reconstruction and rehabilitation in affected areas by:

- a. Undertaking human resources development and capacity building;
- b. Assisting in institutional building and promoting popular participation;
- c. Reducing inter-communal tensions through educational exchanges and curriculum reform; and
- d. Increasing cooperation in reconciliation and promotion of a culture of peace.

3. Establishing a mechanism to mobilise necessary resources to facilitate post-conflict peace building (e.g. a Stability Fund), including through cooperation with donor countries and international institutions.