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MANAGEMENT OF INTRA-GROUP CONFLICTS IN ASEAN: MECHANISMS AND PROCESSES

INTRODUCTION

Intra-group tensions and conflicts are inevitable experiences in regional groupings, especially those in the Third World regions. The survival and growth of the grouping depend much on how the conflicts are dealt with. While the Association of Southeast Asian Nations (ASEAN) remains a forerunner among the successful regional groupings in terms of forging a regional identity and achieving progress in co-operative endeavours, its methods of dealing with regional tensions and conflicts side by side with co-operation process remain a less researched area, especially for scholars coming from relatively new and less successful groupings like the South Asian Association for Regional Co-operation (SAARC).

Following a number of unsuccessful and short-lived experiments with regionalism, the ASEAN was launched in 1967 amidst deep-seated mistrust and numerous conflicts among the member-states. Moreover, avenues for conflict management and co-operation had virtually collapsed in the preceding years under

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the weight of, among others, the Indonesian policy of *konfrontasi* towards Malaysia (1963-66), the Philippines claim on Sabah and the acrimonious separation of Singapore from Malaysia, and its aftermath. Therefore, the management and resolution of intra-group conflicts emerged as a *sine qua non* for the very survival of ASEAN, not to speak of its success. This compelled ASEAN to concentrate considerable efforts on the reduction of tension and suspicion as well as promotion of reconciliation among the member-states with a view to facilitating the main purpose of the grouping, viz. mutually beneficial regional co-operation. In this regard, its achievements are remarkable. These include: improvement in Malaysia-Indonesia and Malaysia-Singapore relations; the resuscitation of diplomatic relations between Malaysia and the Philippines in 1969; the rapid improvement in Brunei-Indonesia and Brunei-Malaysia relations since 1981; and containment of friction between Malaysia and Thailand.

Over the years, ASEAN has developed a set of mechanisms and processes for the management of intra-group conflicts. These mechanisms and processes are rather disparate and they operate through a complex interactive process. By way of tentative typology, these may be described as *consultation* (formal or informal, bilateral or multilateral), *negotiation/mediation* (bilateral or multilateral), third-party mediation and arbitration.

These mechanisms and processes have successfully facilitated the management of intra-ASEAN disputes through bilateral and/or multilateral dialogues, and thus, enabling ASEAN to neutralise the damaging impact of bilateral disputes on the process of regional co-operation to the extent that from its modest beginning in 1967, ASEAN emerged as the most successful experiment in regional co-operation in the developing world. An insight into the varieties of these mechanisms and the process of their working is of immense academic as well as practical importance.

The present study aims at examining the mechanisms and processes as well as the techniques for the management and resolution of intra-group conflicts as evolved and applied by the ASEAN countries over the years. More specifically, attempts would be made to probe into the emergence and development of these mechanisms and processes and typify them with a view to gaining deeper insights into their functioning. In this regard, the guiding principles, legal and institutional framework, and concrete procedures of these mechanisms and processes would be analysed closely.

The paper begins with a brief discussion on the cautious course towards the management of intra-group conflicts that was initiated with the emergence of ASEAN. The focal point of the paper remains the detailed discussions on the mechanisms and processes for the management of intra-group conflicts that prevail in ASEAN. These discussions are divided into two sections covering the two distinct periods: the formative years during 1967-76; and the period since the Bali Summit of 1976. Finally, an attempt would be made to assess the functioning of these mechanisms and processes and their effectiveness in managing intra-group conflicts in ASEAN.

I. ASEAN: A CAUTIOUS COURSE TOWARDS THE MANAGEMENT OF INTRA-GROUP CONFLICTS

In view of deep-seated mistrust and numerous conflicts among the member-states at the time of the formation of ASEAN, the management and resolution of intra-group conflicts was of paramount importance for its very survival. It is particularly important in view of the fact that two earlier attempts at regional co-operation, the Association for Southeast Asia (ASA) created in 1961 by Malaya, the Philippines and Thailand, and MAPHILINDO created in 1963 by Malaya, the Philippines and Indonesia could not survive due to intra-group conflicts. The first

one fell victim to the dispute over Sabah between the Philippines and Malaya, and the second to the *Konfrontasi*. However, contentious issues in the region were too numerous and the differences on these issues among the regional countries are too great. Confronting these issues within the ASEAN forum appeared to have the potential of jeopardising the organisational process in its formative stage. Thus, the founding fathers of ASEAN were faced with a dilemma with regard to the prospective role of the organisation in the management of intra-group conflicts.

Guided by a high degree of caution and prudence, they approached the co-operation process functionally and made it a point to isolate the process from the mistrust, conflicts and occasional crises that the inter-state relations in the region were witnessing. Thus, the founding document of the organisation, the ASEAN Declaration (Bangkok Declaration) of 8 August, 1967, did not explicitly aim at conflict management or any kind of political co-operation. The Declaration only tangentially mentioned that one of its aims and purposes would be "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".¹ Thus, conflict management was ostensibly excluded from the agenda of ASEAN. Instead, its focus was the promotion of economic, social and cultural co-operation among the member-states.

This, however, did not resolve the dilemma. ASEAN was the outcome of a process of reconciliation among its founding members and their determination to live in harmony and co-operate with one another. In this regard, the full restoration and expansion of bilateral avenues for conflict management and co-

1. "The ASEAN Declaration", in R. Nagi, *ASEAN - 20 Years*, (New Delhi: Lancers Books, 1989), p. 24.

operation which collapsed under the weight of *Konfrontasi*, the Philippines' claim on Sabah, and the separation of Singapore from Malaysia became a prime concern. The dilemma faced by the ASEAN leaders in the changed circumstances was how to ensure the success of ASEAN through effective measures of conflict management without using the nascent organisation for this purpose. This has determined the very process of conflict management that was to emerge, its tasks, techniques and mechanisms.

Conflict management in ASEAN has primarily been focused on avoiding conflict and preventing it from disrupting the process of regional co-operation within its framework. The resolution of conflicts has usually been considered to be either premature or unattainable under the existing circumstances. While the objectives were set rather conservatively, the ASEAN states, in practice, demonstrated considerable determination to achieve what they considered to be minimum. With the memories of the failure of ASA and MAPHILINDO still vivid in their minds, ASEAN leaders were also determined not to repeat the painful mistakes of the early-1960s. One of its founding fathers, Tan Sri Ghazali Shafie, former Foreign Minister of Malaysia, even regarded ASEAN as "a development out of the pains of *Konfrontasi*."² All these put a considerable restraint on ASEAN members in their dealings with one another, so that none of their actions could jeopardise the organisation, while the organisation itself was purposefully kept above all sorts of controversy.

In the absence of any ASEAN mechanism for settling disputes amongst the member-states, this was done through informal channels purposefully keeping the Association aside. Often, the

2. Quoted in, Michael Leifer, *ASEAN and the Security of Southeast Asia*, (Routledge, London, 1989), p.2.

member-states settled disputes amongst themselves bilaterally. A third party as a mediator could only be involved in the dispute at the specific request of the conflicting parties and strictly outside the framework of ASEAN. Only after a considerable time of maturation, that is, at the Bali Summit during February 23-24, 1976, did ASEAN formally assume the responsibility of political co-operation among the member-states as well as the management and resolution of intra-group conflicts. These two distinct periods of the management of intra-group conflicts in ASEAN, that is, (a) the formative years during 1967-76; and (b) the period since the Bali Summit of 1976, need some elaboration.

II. ASEAN MECHANISM FOR THE MANAGEMENT OF CONFLICT: THE FORMATIVE YEARS (1967-76)

The emergence and functioning of the ASEAN has greatly contributed to the increased acquaintance and closer understanding among officials of its member-states. As the proposed projects under ASEAN were organised and monitored by the national secretariats in each country, it has attracted wider participation in the day-to-day running of the organisation. This, in course of time, has contributed to the creation of a vast number of contact points leading to the greatly increased interaction among the officials at all levels among the member-states. The net effect of this has been a greater understanding of each other's problems, peculiarities and sensitivities, and a greater degree of tolerance for each other's predicaments.

This, in turn, has given rise to the ASEAN "indirect style of diplomacy"³ which requires intra-ASEAN conflictual issues

3. Arnfinn Jorgensen-Dahl, "Regional Organisation and Stability in ASEAN Region", in Kusuma Snitwongse and Sukhumband Paribatra (eds.), *Durable Stability in Southeast Asia*, (Singapore : Institute of Southeast Asian Studies, 1987), pp.66-67.

not to be discussed either at all or too openly and forthrightly lest they endanger the overall relationship within ASEAN. While serving successfully (not without some setbacks) as a deterrent against open outburst of apathetic feelings between each other, this has also allowed the conduct of 'quite diplomacy' with a view to resolving and/or managing some of the most outstanding intra-group conflicts within ASEAN. It is worth mentioning in this context that Government leaders in ASEAN very rarely discuss their mutual grievances publicly, a practice that is largely followed by the regional media and also academia. Quite diplomacy was rationalised by the former Foreign Minister of Singapore, Dhanabalan, as follows: "The less we talk (in public) about the problems we discuss, the better."⁴

The conduct of 'quite diplomacy' designed to manage intra-group conflicts in ASEAN during its formative years was largely facilitated through an indigenous mechanism or rather an informal process of negotiation called *musyawarah* (consultation) and *mufakat* (consensus).⁵ The term *musyawarah* means making decision through a process of discussion and consultation. *Mufakat* means the unanimous decision (consensus) that is arrived at through the process of *musyawarah*. Together, these two terms constitute the consensual decision-making process of ASEAN and express the ASEAN art of accommodation. This kind of decision-making originated in the village-level political culture of Indonesia, and to a lesser degree, Malaysia and the Philippines.

4. Quoted in, Michael Antolik, *ASEAN and the Diplomacy of Accommodation*, (New York: M. E. Sharpe, 1990), p.100.

5. A more detailed discussion on *musyawarah* and *mufakat* is done in Kamarulzaman Askandar, "ASEAN and Conflict Management: The Formative Years 1967-1976", *Pacifica Review*, Vol.6, No.2, 1994, pp.64-66; and Murugesu Pathmanathan, "The Pacific Settlement of Disputes in Regional Organisations: A Comparative Perspective of the OAS, OAU and ASEAN", seminar paper presented at the Centre for Research in International Law and International Relations, the Hague Academy of International Law, the Netherlands, September, 1976, p.20.

The practice, however, may not be entirely indigenous, as the words are Arabic in origin and could have come to the area with Islam and adapted to local situations.

At the local level, the process starts with intensive informal and discrete discussions, which in the end brings out the general consensus of the community. Later, at a more formal meeting, this general consensus becomes the starting point of discussions which usually end in an acceptance of a unanimous decision. One notable characteristics of this process is that the most difficult and important part of the negotiation remains informal and discrete, and commences long before the formal negotiations take place. Another important characteristic is the role of the leader or leaders in leading the discussions who must ensure that the decisions were unanimous and controversy in public was avoided, and that no one were shamed by the decisions accepted.⁶

In the context of inter-state relations within ASEAN, such a process of negotiation envisaging consensus through consultation implied that the whole process would be conducted in such a way so as to ensure that the positions and/or grievances of the parties concerned were expressed candidly, and new initiatives, proposals or creative solutions were floated for extensive consultation in informal meetings. In the process, attempts would be made to adjust diverse or conflicting positions of the concerned parties so as to reach a consensus on the issue. In reaching a final decision, special care would be taken so that the solution offered served as a face-saving devise for the parties concerned. In case of severe disagreement between the parties, usually the issue would be dropped from the agenda. Finally, the whole exercise would be aimed at maintaining and strengthening good relations between the parties. In practice, by early 1970s, the ASEAN members had begun to develop a practice of close consultation and co-

6. Kamarulzaman Askandar, *op. cit.*, pp. 64-66.

operation among their ministers and officials. This has conspicuously avoided formal multilateralism in favour of informal bilateral arrangements to address particular tensions between the member-states. Thus, in course of time, a distinctive culture of conflict avoidance and conflict management took shape.

While intra-group conflict management in ASEAN during its formative years has been a bilateral undertaking, third-party mediation as a form of conflict management was also used. In fact, the process of accommodation and reconciliation between the prospective members of ASEAN that preceded the formation of the organisation involved considerable third-party mediation. In this regard, particular mention may be made of the role of Thailand that provided remarkable diplomatic impetus for regional reconciliation. Thailand was the most prepared to play the role of a regional mediator. It did not have any bilateral conflict with its prospective ASEAN partners, except for a minor dispute with Malaysia over Kuala Lumpur's approach towards Thailand's Malay-Muslim dominated southern provinces and Bangkok's policy towards Malayan Communist Party that was operating from Thai-Malaysian border. Thai government, particularly its Foreign Minister, Thanat Khoman, had been engaged in mediation between Indonesia and Malaysia as well as Malaysia and the Philippines.⁷ It is the role of Thailand in bringing the regional states together to form ASEAN that made Bangkok the birthplace of the organisation. Following the creation of ASEAN, however, Indonesia emerged as the principle mediator which, in particular, played a crucial role in mediating the dispute between Malaysia and the Philippines over the Sabah territory.

7. Roger Irvine, "The Formative Years of ASEAN 1967-1975", in Alison Broinowski (ed.), *Understanding ASEAN*, (London: Macmillan, 1982), pp.10-11; and Michael Leifer, *ASEAN and the Security of Southeast Asia*, (London: Routledge, 1989), p.17-18.

While making every attempt to prevent the conflicts from doing significant damage to the ongoing process of regional co-operation, ASEAN countries also clearly realised that they could not do away with bilateral conflicts easily or within a short time. So, it was decided to allow a preparatory time, or a 'cooling off period',⁸ as agreed upon between the then Malaysian Deputy Prime Minister Tun Abdul Razak and the Foreign Minister of the Philippines, Narciso Ramos, at the Second ASEAN Ministerial Meeting held in Jakarta in August 1968. The feuding parties were, thus, able to trust each other before striking a deal. In this regard, they were motivated by the traditional wisdom that time itself would heal many of the wounds in their bilateral relations. One of the most important outcomes of the use of this technique by the ASEAN countries in dealing with their intra-group conflicts was that they gradually learned to live with the conflicts when solution appeared to be out of reach. It is very important for any regional grouping, because no region can be free from conflicts.

The formation of ASEAN was followed by the re-emergence of acute tensions among the member-states which dramatically changed the restored relationship for the worse to the extent that the viability of the Association appeared to be at risk. In this regard, two crises in inter-state relations involving four of ASEAN's five founding members deserve particular attention. These are: one between Malaysia and the Philippines and the other between Indonesia and Singapore.

The formation of ASEAN was preceded by the normalisation of relations between Malaysia and the Philippines culminating in the restoration of diplomatic relations and the exchange of ambassadors in June 1966. It is worth mentioning that during his visit to the Philippines on

8. Roger Irvine, *Ibid.*, pp.10-11.

December 16-20, 1967, Malaysian Deputy Prime Minister, Tun Abdul Razak asked President Marcos to postpone the discussions on the long-standing conflict between the countries over the Sabah territory to which the latter agreed.⁹ But the trend was dramatically reversed with the revelation of what came to be known as the 'Corregidor Affair'. In March 1968, Malaysia discovered that a special force of Muslim recruits was being trained in a secret military camp on the Island of Corregidor for infiltration into Sabah. This was leaked by a recruit who deserted and escaped from the camp. The 'Corregidor Affair' led to sustained mutual recriminations between the governments of Malaysia and the Philippines. Kuala Lumpur sent a formal note of protest to Manila on 23 March complaining about Corregidor. The Philippine government retaliated by sending a protest to Kuala Lumpur that the Malaysian and the British navies violated Philippine territory.¹⁰ In a subsequent move, Malaysia also reported the matter to the UN Secretary General U Thant.¹¹ To cover up its severe embarrassment at home and abroad caused by the 'Corregidor Affair', the Philippine government decided to revive the Sabah claim, and thus, further complicated the matter.

While formally the ASEAN was kept out of the crisis in Malaysia-Philippine relations, eventually it became involved in managing the crisis, though unofficially. During the second meeting of ASEAN foreign ministers held in Jakarta, Adam Malik, Indonesian Foreign Minister and the Chairman of ASEAN's Standing Committee, seized the opportunity to play a mediatory role in arranging bilateral talks between the two

9. Estrella D. Solidum, *Bilateral Summitry in ASEAN*, (Manila : Foreign Service Institute, 1982), p.20.

10. Dewi Fortuna Anwar, *Indonesia in ASEAN: Foreign Policy and Regionalism*, (Singapore: Institute of Southeast Asian Studies, 1994), p.168.

11. Michael Leifer, *ASEAN and The Security of Southeast Asia*, (London: Routledge, 1989), p.32.

feuding parties. Thus, Tun Abdul Razak, Malaysian Deputy Prime Minister, met privately with the Philippine Foreign Minister, Narciso Ramos. The parley produced an agreement to have a 'cooling-off' period in the dispute between the two countries.¹²

This success of ASEAN in defusing the crisis was very short lived as both the governments had more important stakes at home than in the development of ASEAN. With the parliamentary elections in Malaysia due in May 1969 and the presidential elections in the Philippines due in November the same year, both the governments were far from being ready to make any compromise. Just a month later, the Philippines made a mockery of the idea of a 'cooling-off' period when the Philippine Congress adopted a legislation which in effect included the Sabah territory as part of the Philippines. An Act to this effect was also signed by President Marcos in September 1968. Furthermore, the Philippines adopted a policy of questioning the competence of Malaysia to represent Sabah in international forums including the ASEAN. To avoid such embarrassing encounters Malaysia refrained from sending its representatives to ASEAN meetings until the end of the crisis.¹³ Thus, while contributing very little to its resolution, ASEAN became a victim of the crisis. At the end of 1968, Malaysia and the Philippines broke off diplomatic relations with each other. An initiative taken at the *ad hoc* meeting of ASEAN foreign ministers held in Bangkok in December 1968 also failed to find an acceptable formula for the Philippine recognition of Malaysian sovereignty over Sabah. The ASEAN appeared to be in a condition of political disarray.

Meanwhile the ASEAN member-states were faced with a set of compelling reasons to see an end to the crisis. The

12. *Ibid.*, p. 33.

13. *Ibid.*, pp.33-34.

success of the Tet Offensive in South Vietnam, the US decision to enter into negotiations with the Vietnamese communists, British decision to withdraw from the east of Suez, the Soviet deployment of a naval squadron, for the first time, into the Indian Ocean, and finally, President Nixon's Guam Doctrine generated a high degree of anxiety among the ASEAN countries. All these in the backdrop of domestic political turmoil and economic underdevelopment underscored the indispensability of ASEAN cohesion to face the challenges of time. President Marcos was not far from realising his country's and, no less important, his regime's stake in the success of ASEAN. Following his re-election, he appeared to assume a considerably reconciliatory stance. With instructions from President Marcos, his new Foreign Minister, Carlos Romulo, met privately with the Malaysian Prime Minister, Tunku Abdul Rahman, in the evening before the third ASEAN ministerial meeting held in Cameron Highland, Malaysia, in mid-December 1969. This was preceded by diplomatic overtures which paved the way for Romulo's visit to Malaysia. The very next morning at the opening session of the ASEAN ministerial meeting, Tunku Abdul Rahman announced that Malaysia and the Philippines had agreed to restore diplomatic relations out of consideration for the need for regional co-operation. This was recorded in the joint communiqué issued by the ministerial meeting with satisfaction and praise for both the countries.¹⁴ Thus, the worst ever public squabble between two ASEAN countries came to an end, while the Sabah issue continued to cast a shadow over the relations between Malaysia and the Philippines as well as the corporate life of ASEAN for a long time to come.

Second crisis that the ASEAN countries had to deal with was precipitated by the decision of Singapore taken in 1968 to execute

14. *Ibid.*, p.35.

two Indonesian marines held for espionage in 1965 at the height of *Konfrontasi*. Singapore's siege mentality coupled with its innate limitations in defence capability made the country hypersensitive to any real or perceived threat to its security. This, resulted in a rather abrasive regional posture which was designed to "convince potential predators of Singapore's indigestible qualities".¹⁵ The formation of ASEAN did not induce any considerable sense of security in Singapore *vis-à-vis* its great Malay neighbours. Moreover, highly publicised termination of *Konfrontasi* and the public rhetoric of Malay blood-brotherhood that followed it further aggravated Singapore's sense of insecurity. Thus, as seen through the eyes of Singapore, the decision reflected its survival imperatives.

The execution brought the relations between the two countries to a nadir further fomenting anti-Singaporean and anti-Chinese feelings in Indonesia and also in Malaysia. The crisis deteriorated people-to-people relations to the extent that anti-Chinese riots took place in both the countries.¹⁶ There were even popular pressure on Indonesian government to retaliate against Singapore militarily.¹⁷ While the incident was highly humiliating for Indonesia, it did not encroach upon the country's broader security interests. Being in a highly secured position *vis-à-vis* Singapore, Indonesia could afford to display restraint and magnanimity without which the survival of ASEAN could be put into danger. More important consideration, the episode offered Indonesia a tremendous opportunity to recreate its international image severely tarnished due to an abrasive foreign policy pursued during the era of *Konfrontasi*. In the circumstances, Suharto judged it to be prudent

15. *Ibid.*, p.38.

16. Mark B. M. Suh, "Political Co-operation among ASEAN Countries" in Warner Pfenning and Mark B. M. Suh (eds.), *Aspects of ASEAN*, (Koln: Weltforum Verlag, 1984), p.59.

17. Dewi Fortuna Anwar, *Indonesia in ASEAN: Foreign Policy and Regionalism*, (Singapore: Institute of Southeast Asian Studies, 1994), p.168.

to conceal the deeply felt sense of slight, both national and personal, and display a high degree of restraint. His government resisted popular clamour to retaliate against Singapore militarily or even politically. Economic measures taken against Singapore were more symbolic than substantive.¹⁸ It is only thanks to caution, restraint and political wisdom as displayed by Indonesia that the episode did not stand in the way of a progressive normalisation of relations between the two countries.

Described above in brief were the first and the most severe tests that the ASEAN survived in the way of its development. True to ASEAN principles, both the crises were ultimately resolved through bilateral mechanism. In case of the crisis in Indonesia-Singapore relations the Association was not even called to play any role in the termination of the crisis. In case of the crisis over the Sabah issue, the Philippines attempt to include the issue in the ASEAN agenda was successfully thwarted by Malaysian refusal. Even when the ASEAN became involved, unofficially and indirectly, in defusing the crisis, great caution was taken so as to keep the organisation above controversy. To ensure this, not the ASEAN as an organisation but its individual members like Thailand, and more importantly, Indonesia, played the role of mediators. Similarly, ASEAN forums were being used as occasions for arranging 'private meetings' between Malaysia and the Philippines without linking them to formal ASEAN meetings. In the process, however, owing to the caution, sagacity and statesmanship as displayed by ASEAN leaders, the organisation could successfully serve as an alternative channel for communication when official bilateral relations have been strained, at times, almost to the point of complete rupture. Further cultivation of these role of ASEAN allowed the organisation to serve as a catalyst for conflict management

18. *Ibid.*, p.168.

during the subsequent period without involving itself in the process directly.

While the contribution of ASEAN in the termination of the crises was 'unofficial' and/or 'indirect', this was also crucial. As a matter of fact, the existence of ASEAN and the member-states' stake in its development created almost irresistible pressure on them to concede to each other in the conflict. In this regard, the fate of ASA and MAPHILINDO served as a painful reminder of what could happen otherwise.

In the subsequent period, ASEAN has never seen such severe crises and public squabbles involving any two of its member-states. Numerous intra-group conflicts among ASEAN countries were managed through effective measures of crisis prevention and conflict management.

As indicated, while regional co-operation within the framework of ASEAN was initiated in order to transform contention among the member countries into partnership, institutional form or formal mechanism was neither considered viable nor necessary for conflict management. As a consequence, the whole mechanism for conflict management that was operative during the formative years of ASEAN was basically informal and oriented towards specific contentious issues which were than bedevilling the inter-state relations among its member-states. This may led an analyst to find little substance in the ASEAN mechanism for the management of intra-group conflict. Nonetheless, the mechanism not only survived the test of time, but also successfully dealt with numerous intra-group conflicts and contributed to the building of mutual confidence and trust among the ASEAN countries to the extent that the organisation became confident enough to undertake the formal responsibility of managing intra-group conflicts in the subsequent period.

III. ASEAN MECHANISM FOR THE MANAGEMENT OF CONFLICT SINCE THE BALI SUMMIT

With the First Summit held in Bali, Indonesia, during 23-24 February 1976, the formative period of ASEAN was concluded. The Summit reflected the mutual understanding, good neighbourly relations and mutually beneficial co-operation among ASEAN countries developed over the preceding decade since the establishment of the organisation. On 24 February, the Summit adopted two important documents: The Declaration of ASEAN Concord; and The Treaty of Amity and Co-operation in Southeast Asia (TAC). These two documents synthesised the achievements of the preceding decade, and devised an elaborate programme and a host of modalities for strengthening the process of regional co-operation within the framework of ASEAN. The Declaration of ASEAN Concord and The Treaty of Amity and Co-operation in Southeast Asia remain as the most important mile-stone in the process of the development of a mechanism for the management of intra-group conflicts in ASEAN. These documents, for the first time since the creation of ASEAN, formally adopted political co-operation, including the management of intra-group conflicts, as part of regular ASEAN activities.

The programme of action for political co-operation as outlined in the Declaration of ASEAN Concord included provisions for the "Settlement of intra-regional disputes by peaceful means as soon as possible" and the "Signing of The Treaty of Amity and Co-operation (TAC) in Southeast Asia".¹⁹ The TAC was the first treaty among the member-states within the ASEAN framework. Its contribution to the development of the ASEAN mechanism for the settlement of intra-group conflicts remain two-fold. First, it outlined a set of fundamental principles or ground rules that the

19. "The Declaration of ASEAN Concord" in Alison Broinowski (ed.), *op. cit.*, Appendix C, p.279.

ASEAN countries would be guided by in their mutual relationship. Second, it provided for a more formal mechanism for the management of intra-group conflicts through arbitration in case all other means are exhausted. Thus, with the Bali Summit, ASEAN mechanism for the management of intra-group conflicts took an institutionalised form. In practice, however, the venture of conflict management in ASEAN continued to remain largely informal and highly discrete.

Based on the examination of the emergence and the evolution of the ASEAN mechanism for the management of intra-group conflicts, it is possible, though tentatively, to summarise its main elements. These are: (a) a system of guiding principles; (b) a framework for consultation/negotiation; (c) third party mediation; and (d) arbitration. An exposition of these elements are in order.

a. A System of Guiding Principles

The emergence of ASEAN itself was the expression of the determination on the part of its members to streamline their relations in accordance with universally accepted principles. While this was mentioned in the Bangkok Declaration, such a formal arrangement was concluded in the Bali Summit with the adoption of The Declaration of ASEAN Concord and The Treaty of Amity and Co-operation in Southeast Asia. The ASEAN Concord expressed resolve that "Member states, in the spirit of ASEAN solidarity, shall rely exclusively on peaceful processes in the settlement of intra-regional differences".²⁰ However, a system of guiding principles to this effect was articulated in the Treaty of Amity and Co-operation in Southeast Asia. The TAC obligates ASEAN members to be guided by six fundamental principles in their relations with one another. These are:

20. *Ibid.*

- i. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- ii. The right of every state to lead its national existence free from external interference, subversion or coercion;
- iii. Non-interference in the internal affairs of one another;
- vi. Settlement of differences or disputes by peaceful means;
- v. Renunciation of the threat or use of force;
- vi. Effective co-operation among themselves.²¹

While formulating such strict principles that the ASEAN states would be abided by in their relations with one another, the TAC, also expressed conviction that, the settlement of differences or disputes between the signatories "should be regulated by rational, effective and sufficiently flexible procedures, avoiding negative attitudes which might endanger or hinder co-operation".²²

b. A Framework for Consultation

The principle of reaching *mufakat* (consensus) through *musyawarah* (consultation), as evolved over the years, remains at the centre of the ASEAN mechanism for the management of intra-group conflicts. Accordingly, a large number of contact points or channels of communication, both at the bilateral as well as multilateral levels, were created over the years. By now, a wide-ranging framework for consultation designed to foster the process of co-operation on the one hand, and to deal with the emergence or exacerbation of bilateral disputes on the other, is effectively operative.

At the ASEAN (multi-lateral) level, this framework includes periodic meetings among heads of governments (at least once in

21. "The Treaty of Amity and Co-operation in Southeast Asia", in *Ibid.*, Appendix B, p.274.

22. *Ibid.*, p.273.

three years beginning with the January 1992 Summit), annual and *ad hoc* meetings among foreign ministers, meetings among economic and other ministers, annual and *ad hoc* meetings between senior officials, and the establishment of a Standing Committee and numerous other *ad hoc* committees.²³ This framework, facilitates an increasing number of meetings and discussions among ASEAN officials at various levels. The number of such interactions is currently estimated to be up to 230 every year.²⁴ These meetings play a crucial role in learning about each other's interests and sensitivities, creating mutual understanding and ameliorating differences.

While multilateral framework for consultation is significantly active these days, most of the intra-group disputes and conflicts in ASEAN are primarily dealt with at the bilateral level. This is facilitated by a wide-ranging framework for consultation/negotiation at the bilateral level. Bilateral mechanism for conflict management takes various forms. One is *ad hoc* political and diplomatic dialogues which may culminate at the level of heads of governments. Another is the co-operation between the defence establishments in the form of periodic and *ad hoc* meetings, exchange of ideas and information (including intelligence information), mutual exchange of defence personnel and others. This is important for confidence-building, transparency and mutual appreciation of threat perception.

Particular attention should also be given to the long-established General Border Committees (GBC) between Malaysia and Thailand, as well as Malaysia and Indonesia. The

23. Mohammed Jawhar, "Managing Security in Southeast Asia: Existing Mechanisms and Processes To Address Regional Conflicts". *Australian Journal of International Affairs*, (Vol.47, No.2, 19), p.213.
24. Hoang Anh Tuan, "ASEAN Dispute Management: Implications for Vietnam and Expanded ASEAN", *Contemporary Southeast Asia*, (Vol.18, No.1, June 1996), p.67

Joint Commissions between Malaysia and Thailand established in 1987, and that between Malaysia and Indonesia established in 1991 to manage issues other than those falling within the purview of the GBC are also devices to reduce conflicts and manage issues among the countries concerned. A similar Commission may also be established between Malaysia and the Philippines. They have proved to be quite effective devices for managing issues such as conflict over fisheries and boundaries.²⁵

'Mixed' or Unofficial processes for bilateral consultation and for frank exchange of views and suggestions regarding prevailing issues also exist between most of ASEAN countries, such as, Malaysia and Indonesia, Malaysia and Thailand, Malaysia and Singapore, and Singapore and Indonesia. Organised and, often, led as well by their ASEAN-recognised Institutes of Strategic and International Studies and comprising ministers, civil and military officials (participating in their personal capacity) as well as representatives from the academia, media, business community and other concerned professionals, such frank exchange of views and suggestions proved to be highly useful in discussing 'sensitive' bilateral issues with less restraint and more candour.²⁶

c. Third-Party Mediation

During the formative period of ASEAN, instances of rather well-publicised mediation to defuse recurrent crises in relations between Malaysia and the Philippines have drawn considerable attention on the part of media and academia. So is Thailand's role in bringing the regional countries together to form ASEAN. At the moment, with the development of so many bilateral mechanisms for conflict management and the institutionalisation of a so well-defined mediatory role for the High Council, the scope for a third

25. Mohammed Jawhar, *op. cit.*, pp.211-212.

26. *Ibid.*, p.212.

ASEAN country to mediate disputes between two of its partners in co-operation is significantly reduced. However, in case when the situation demands, third-party mediation continues to remain as an option for managing intra-group conflicts in ASEAN.

d. *Arbitration*

The Treaty of Amity and Co-operation in Southeast Asia included a provision titled 'Pacific Settlement of Disputes' (Articles 13-17),²⁷ which established a specific mechanism (High Council) and concrete procedures for the settlement of disputes. This, in effect, is the institutionalisation of arbitration as a mechanism for the settlement of disputes. As stipulated in the 'Pacific Settlement of Disputes', in the event of a dispute, a High Council comprising of a representative at ministerial level from each ASEAN state would be set up to take cognizance of the existence of the dispute. In the event, no solution is reached through direct negotiations, the High Council shall recommend 'appropriate means of settlement of such as good offices, mediation, inquiry or conciliation'. With the agreement of both the parties, the High Council act as a mediator. However, this should not preclude the other countries not party to the dispute from offering all possible assistance to settle the dispute. "Parties to the disputes should be well disposed towards such offers of assistance". This has made the High Council look more like a mechanism for arbitration than that for third-party mediation. Since 1976, the High Council has never been called into existence.

As it appears, the High Council is of no practical use in the present context. First of all, while assuming the task of a virtual arbitrator, it remains an exclusively political body, not a judicial one. This undermines its ability to conduct arbitration. More important, the pattern of behaviour as displayed by ASEAN

27. "The Treaty of Amity and Co-operation in Southeast Asia", in Alison Broinowski (ed.), *op. cit.*, Appendix B, pp.275-76.

countries suggests that they even do not consider the High Council to be of a politically feasible option for dealing with intra-group conflicts. Malaysia, being involved in disputes with almost all of its neighbours, could very well harbour suspicion that in case all these disputes are considered by the High council, its neighbours may gang-up and reach a decision at the expense of Kuala Lumpur. On the other hand, all the ASEAN countries continue to display a distinct unwillingness to be involved in the disputes between their neighbours even as a mediator, not to speak of an arbitrator. In the circumstances, it is highly unlikely that the ASEAN countries would resort to the High Council for the settlement of intra-group disputes. Such an impression is further reinforced by the fact that recently, two disputes - one between Malaysia and Singapore over the Pulau Batu Putih (Pedra Branca) island and the other between Indonesia and Malaysia over the Sipadan and Litigan islands - were referred by the disputants to the International Court of Justice. This clearly indicates that the ASEAN countries are yet to gain mutual confidence enough to resort to the High Council for the settlement of disputes.

Thus, even with the Bali summit and everything that goes with it, the mechanism for the management of intra-group conflicts that came to prevail in the ASEAN remained, by and large, informal and discreet.

CONCLUDING OBSERVATION

The ASEAN mechanism for the management of intra-group conflicts were developed over the years in response to specific conflicts and crises that ASEAN countries faced in the way of their co-operative endeavours. It was developed almost exclusively by the practitioners with the least involvement of the political pundits dealing with conflict management. This poses considerable difficulty for the researchers to analyse the mechanism or categorise it against the backdrop of prevailing

theories on the subject, particularly those in the West. Such an ambiguity is even further reinforced by the fact that ASEAN leaders or diplomats hardly discuss the way they are managing conflicts among the member-states. Even the media and academia are not much different. As a consequence, considerable ambiguity came to persist around not only the ASEAN mechanism for the management of intra-group conflicts, but also the nature and content of the overall strategic arrangement reached among the ASEAN member-states. Even a researcher from the ASEAN region referred to ASEAN as an acronym for “*Ad hoc Strategic Entity of Ambiguous Nature*”.²⁸ However, as the ASEAN practices amply demonstrate, such an ambiguity served as a source of strength, not weakness, allowing the Association to display in practice flexibility and pragmatism *par excellence*.

In the process of its development, ASEAN had to deal with a number of crises and numerous conflicts which, at times, even threatened to shatter the very foundation of the Association. The organisation even now continues to witness occasional turbulence in inter-state relations among its members. However, flexibility and pragmatism have allowed the ASEAN countries to cultivate a habit of harmony within the extended set of multilateral relationships. As a consequence, while most of the issues which plagued the relations between or among the members at the time of ASEAN's birth are still around, they are nowhere as prominent now as they had been in those days. The most remarkable achievement, in this regard, is that the ASEAN countries were successful in preventing the intra-group conflicts, which are not resolvable, from adversely affecting the process of regional co-operation.

By now, the forces and factors that used to breed suspicion and conflict among them have lost most of their relevance. The

28. See, Mohammed Ariff bin Abdul Karim, *AFTA= Another Futile Trade Area?*, (Kuala Lumpur: Syarahan Pedran, University Malaya, 1994), p.12.

process of regional co-operation within the framework of ASEAN has already generated a dynamism of its own which can hardly be reversed by the intra-group conflicts that are mostly inherited from the past. In the changed politico-security matrix, while some of the intra-group conflicts continue to cast a shadow on their relationship, their impact on the corporate life of ASEAN remains sufficiently contained within the framework of regionally accepted norms and constraints.

The rich experiences of ASEAN in the successful management of intra-group conflicts, particularly an effective mechanism of conflict management and discreet, but highly skilful, diplomatic practices prevailing in the region, serve as a source of inspiration as well as learning for the SAARC in its efforts to manage conflicts among the member-states. However, this must be weighed against the backdrop of the fact that while there are some similarities in the historical experiences, socio-economic and politico-cultural life of the two regions, the differences between them in terms of political culture, diplomatic practices, socio-economic life, moral-cultural values, convictions and prejudices are also considerably great. Therefore, while the experiences of ASEAN deserve serious consideration, the SAARC countries will have to evolve a workable mechanism for the management of intra-group conflicts and devise appropriate diplomatic practices through their collective efforts taking into account the prevailing socio-economic, politico-cultural and geo-strategic reality in the region as well as the interaction of the region in all these respects with the outside world. This remains a highly difficult undertaking. Its success would require, on the part of the countries concerned, to employ inexhaustible efforts and display enormous patience, a very high degree of creativity and innovation, and above all, sincerity and goodwill. In this regard, the role of the leadership of the region, particularly its ability to project a wide vision for the future and display wisdom, sagacity and political acumen, would be of crucial importance in any possible transition of South Asia from conflict to a course of co-operation through effective measures of conflict management.