CHAPTER III

CONFLICT MANAGEMENT IN ASEAN: MECHANISMS AND PROCESSES

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 emerged as a *sine qua non* for its very survival not to speak of its success. 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 too great. Therefore, these were considered to be too sensitive to deal with in the ASEAN forum. Thus, the founding fathers of ASEAN were faced with a severe dilemma with regard to the prospective role of the organisation in the management of intra-group conflicts.

Moved by a very high degree of caution, they considered it to be prudent to ensure the survival of ASEAN through isolating it 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 August 08, 1967, did not even mention 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".  

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-operation 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.

Owing to a high degree of caution on the part of its members, conflict management in ASEAN has primarily been focused on avoiding conflict and preventing it from disrupting the process of regional co-operation. The resolution of conflicts has usually been considered to be either premature or unattainable at the present circumstances. While the objectives were set rather conservatively, the ASEAN states, in practice, have 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 have also been 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*." All these have put a considerable restraint on ASEAN members in their dealings with one another. From the very inception, ASEAN states displayed a remarkable degree of self-restraint in dealing with intra-group conflicts, 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 member-states settled disputes amongst themselves bilaterally. The involvement of a third party in the dispute as a mediator could only be at the specific request of the conflicting parties and strictly outside the framework of ASEAN. The situation continued until the First ASEAN Summit (the Bali Summit) held in Bali during February 23-24, 1976. At the Bali Summit, ASEAN formally assumed the responsibility of political co-operation among the member-states as well as the management and resolution of intra-group conflicts. Hence, the management of intra-group conflicts in ASEAN could be divided into two distinct periods: a. The formative years during 1967-76; and b. The period since the Bali Summit of 1976.

3.1 ASEAN Mechanism for the Management of Intragroup Conflicts: The Formative Years (1967-76)

The emergence and functioning of 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" which requires intra-ASEAN conflictual issues not to be discussed either at all or too openly and forthrightly lest they endanger the overall relationship within ASEAN.24 While

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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 regard 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 Foreign Minister of Singapore, Dhanabalan, as follows: "The less we talk (in public) about the problems we discuss, the better."\(^{25}\)

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).\(^{26}\) 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. 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 had been adapted to local traditions.

At the local level, the perspective starts with intensive informal and discreet discussions, which in the end brings out

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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 of the most important characteristics of this process is that the most difficult and important part of the negotiation remains informal and discreet, 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.27

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, 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 no one was humiliated and 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 the good relations between the parties. In practice, by early 1970s, the ASEAN members had begun to develop a practice of close consultation and co-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 deserves the role of Thailand that provided remarkable diplomatic impetus for regional reconciliation. Without any bilateral conflict with its prospective ASEAN partners, except a minor one 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, Thailand was the most prepared to play the role of a regional mediator. Thai government, particularly it's Foreign Minister, Thanat Khoman, had been engaged in mediation between Indonesia and Malaysia as well as Malaysia and the Philippines.\(^{28}\) 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.

While making persistent attempts to prevent the conflicts from doing irreparable 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 as agreed upon between the then Malaysian Deputy Prime Minister Tun Abdul Razak and the Foreign Secretary of the Philippines, Narciso Ramos, at the Second ASEAN Ministerial Meeting held in Jakarta in August 1968, a 'cooling off period',\(^{29}\) so that the feuding parting were 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


\(^{29}\) Roger Irvine, ibid., pp.10-11.
Conflict Management & Sub-Regional Co-operation appeared to be out of reach. It is very important for any regional grouping, because no region can be free from conflicts.

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 that 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.

3.2 ASEAN Mechanism for the Management of Intra-group Conflicts since the Bali Summit

With the first Summit held in Bali, Indonesia, during February 23-24, 1976, the formative period of ASEAN was over. 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 February 24, 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".\(^3^0\) 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 remains two-fold. First, it outlined a set of fundamental principles or ground rules that the 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 discreet.

Based on the foregoing discussion on 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;

3.2.1 A System of Guiding Principles

The emergence of ASEAN itself was the expression of the determination on the part of its members to order 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

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ASEAN solidarity, shall rely exclusively on peaceful processes in the settlement of intra-regional differences". 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:

a. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
b. The right of every state to lead its national existence free from external interference, subversion or coercion;
c. Non-interference in the internal affairs;
d. Settlement of differences or disputes by peaceful means;
e. Renunciation of the threat or use of force;
f. Effective co-operation among themselves.

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”.

3.2.2 A Framework for Consultation

As discussed, the principle of reaching *mufakat* (consensus) through *mushyawarah* (consultation), as evolved over the years, remains at the centre of ASEAN mechanism for the management of intra-group conflicts. Accordingly, a large number contact points or channels of communication, both at the bilateral as well as multilateral levels, was created over the years. By now, a wide-ranging framework for consultation

31. Ibid.
