

## SPECIAL NOTE

---

# The Roadmap toward the Creation of ASEAN Security Community in 2015: Legal Perspectives

---

I.B.R. Supancana\*

### 1. Introduction

The first idea of establishing ASEAN Security Community was first raised by Indonesia in mid of 2003 in a seminar in New York sponsored by the Ministry of Foreign Affairs of the Republic of Indonesia.<sup>1</sup> During the 9th ASEAN Summit in Bali IN 2003, the ASEAN Concord II was declared in which member states form consensuses that future ASEAN cooperation in the realm of security relies “exclusively on peaceful processes in the settlement of intra regional differences”, that their security is “fundamentally linked to one another and bound by geographic location, common vision and objectives...”<sup>2</sup> Since then the idea has been exercised to materialize ASC. ASC is designed as one of the three pillars of ASEAN Community, together with ASEAN Economic Community (AEC) and ASEAN Social-Cultural Community (ASCC). The idea of ASC also reflects paradigmatic changes in the organization of ASEAN, from bureaucratic approach to people’s approach.

\* Chairman/Founder of Center for Regulatory Research Jakarta-Indonesia. Ph. D. (Leiden)

<sup>1</sup> For further detail see Rizal Sukma, *The Future of ASEAN: Toward a Security Community, Paper presented at a Seminar on ASEAN Cooperation: Challenges and Prospects in the Current International Situation*, NEW YORK TIMES, Jun. 3, 2003. Compare the concept of Security Community with other concepts such as: Defense Pact, Military Alliance, and Security Regime. The Idea of ASC was also reflected in another presentation made by former Minister of Foreign Affairs of Republic of Indonesia with the title US-Indonesian Relations: Toward a New Era of Partnership, USINDO Tenth Lecture Series, Washington, D.C, March 23, 2004.

<sup>2</sup> For further detail, see Kwei-Bo Huang, *Managing Southeast Asian Security: The ASEAN Security Community and Institutional Change in ASEAN*, Paper presented at the 46th Annual Convention of the International Studies Association, Honolulu-Hawaii, USA, 4, March 1-5, 2005.

In addition to the many approaches from perspectives of international politics/relations, it is important to see the issue of ASC formation from legal perspectives, particularly in the framework international law. It is understood that legal approach would be a very important approach to secure that once it is established ASC would be effective and have strong legal basis for its implementations. This paper is aimed at exploring some legal aspects of ASC, like it legal basis; basic principles; and the relation between national law of individual member countries and ASEAN Law.

## 2. The Concept, Aim and Components of ASEAN Security Community

The concept of Security Community is often defined as a group of states that has achieved a condition, as a result of flow of communication and the habit of cooperation, where members share “expectations of peaceful change” and rule out “the use of force as a means of problem solving.” State that belong to a Security Community come to see their security as fundamentally linked to other states and then destiny bound by common norms, history, political experience, and regional location. A Security Community exists when states reach the level of confidence that security can only be attained if they cooperate with each other.<sup>3</sup>

Almost five decades ago Karl Deutsch defined a Security Community as a group that has “become integrated,” where integration is defined as the attainment of a sense of community, accompanied by formal or informal institutions or practices, sufficiently strong and widespread to assure peaceful change among members of a group with “reasonable” certainty over along period of time.” Such communities could either be “amalgamated” through the formal political merger of the participating units, or remain “pluralistic,” in which case the members retain their independence and sovereignty.<sup>4</sup> A Security Community is also characterized by:<sup>5</sup>

- (a) The absence of a competitive military build-up among the regional

<sup>3</sup> *Id.* at 2.

<sup>4</sup> Karl W Deutsch, *Security Communities*, in JAMES ROSENAU (ed.), *INTERNATIONAL POLITICS AND FOREIGN POLICY*, (Free Press 1969) as cited by ACHARYA AMITAV, *CONSTRUCTING A SECURITY COMMUNITY IN SOUTHEAST ASIA: ASEAN AND THE PROBLEM OF REGIONAL ORDER* (Routledge 2001) as further cited by DONALD K EMMERSON, *WILL THE REAL ASEAN PLEASE STAND UP? SECURITY, COMMUNITY, AND DEMOCRACY IN SOUTHEAST ASIA*, Southeast Asia Forum, Stanford University, Mar. 2005.

<sup>5</sup> *Supra* note 1.