

**ADDRESS BY HON. ASEAN SECRETARY-GENERAL DR. SURIN PITSUWAN
ON “POSSIBLE COOPERATION BETWEEN ASEAN AND ALA”**

**10th ASEAN Law Association (ALA) General Assembly
Hanoi, Vietnam**

15th October 2009

Hon. Nguyen Minh Triet, President of the Socialist Republic of Viet Nam,
Hon. Atthaniti Disatha-Amnarj, President of the ASEAN Law Association,
Hon. Justice Vichai Ariyanuntaka, Secretary-General of the ASEAN Law Association,
Distinguished Chairpersons of the ALA National Committee
Ladies and gentlemen,

- First of all, let me express my sincere appreciation to the President of the ASEAN Law Association (ALA) for inviting me to the 10th General Assembly of ALA and giving me the opportunity to share with you my views on possible cooperation between ASEAN and ALA. Let me also thank the organizer of this important event for the gracious hospitality accorded to me.
- I would like to highlight key developments in ASEAN, in particular in the areas of legal and Law enforcement cooperation which I deem as most relevant to all of you in the efforts to contribute to the development and prosperity of the peoples of ASEAN. I would also like to elaborate on several key initiatives to engage the ALA.

I. Legal Cooperation

- It is almost a year since the coming into force of the ASEAN Charter. You might be aware that on 15 December 2008, a year after the conclusion of the ASEAN Charter, a gathering of the ASEAN Foreign Ministers was held at the ASEAN Secretariat in Jakarta to mark this very historic occasion of the entry into force of the ASEAN Charter.
- The ASEAN Charter has transformed ASEAN into a more rules-based, and people-oriented organization. It also provides ASEAN with institutional framework necessary to facilitate the implementation of various strategies and policies in realizing the ASEAN Community by 2015.

- Towards this effort, a Roadmap for an ASEAN Community (2009-2015) has been signed off by the ASEAN Leaders. The Roadmap constitutes the Blueprints for the ASEAN Political-Security Community, the ASEAN Economic Community, the ASEAN Socio-Cultural Community and the Initiative for ASEAN Integration (IAI) Work Plan 2. We strongly believe that ASEAN is in the right track in its integration and community building efforts.
- Another milestone development in ASEAN is the adoption of the Terms of Reference (TOR) for the ASEAN human rights body. The official name of the body is the ASEAN Inter-Governmental Commission on Human Rights. This decision will significantly contribute towards strengthening the democracy and human rights which are two basic principles enshrined in the Charter. ASEAN is committed to take steps towards the fulfillment of these principles for its peoples.
- Today, ASEAN is at the turning point on its legal status and legal cooperation. The 1967 Bangkok Declaration, which is not a legal binding instrument, does not provide ASEAN with legal personality. Up to the entry into force of the ASEAN Charter, ASEAN was not recognized in the legal systems of its Member States. The ASEAN Charter has given new life and a real identity to ASEAN.
- The ASEAN Charter provides ASEAN with legal personality and various legal and institutional frameworks as an international organization to act on its own. Following the adoption of the ASEAN Charter, the ASEAN High Level Legal Experts' Group (HLEG) was established to look into necessary legal instruments to address legal issues arising from the ASEAN Charter, including legal personality of ASEAN and Dispute Settlement Mechanisms (DSM).
- The HLEG had held a number of meetings to discuss and elaborate various legal instruments under its purview. The Agreement on Privileges and Immunities of ASEAN has just been completed and are expected to be signed on the sidelines of the upcoming ASEAN Summit in October 2009. Upon the entry into force, this Agreement will operationalise two important aspects of the ASEAN Charter. First, pursuant to Article 3 of the ASEAN Charter, ASEAN will have relevant legal capacities under both domestic laws of respective ASEAN Member States and international law. Second, the Agreement will lay down the minimum harmonized standard on the privileges and immunities to be conferred to ASEAN and the different categories of persons mentioned in Articles 17, 18 and 19 of the ASEAN Charter.

- The HLEG is currently working on the draft Protocol on Dispute Settlement Mechanism (DSM). Significant progress is being made on the draft Protocol which would establish appropriate mechanism for ASEAN Member States to effectively resolve their dispute. It is expected that the HLEG would be able to finalise the draft Protocol in time for consideration of the ASEAN Foreign Ministers at the sidelines of the upcoming ASEAN Summit.
- In addition, the HELG also aims to work on other instruments such as procedures for ASEAN to conclude agreements with external parties, rules of procedure for referring the unresolved dispute to the ASEAN Summit, rules of mediation and good offices and other instruments which are necessary for the effective implementation of the ASEAN Charter.
- ASEAN also recognizes the importance of providing necessary legal framework to facilitate and promote economic and trade cooperation between and among Member States. The ASEAN Protocol on Dispute Settlement Mechanism (DSM) was concluded to enable Member States to resolve their dispute arising from the economic agreements. ASEAN is currently looking into possible ways and means to further improve the Protocol. The Task Force of DSM was formed to take charge on this issue.
- At the same time, I should not fail to also applaud the important contribution of the ASEAN Law Ministers' Meeting (ALAWMM) and the ASEAN Senior Law Officials' Meeting (ASLOM) in the development of legal field in ASEAN. Over the years, they have played a significant role in strengthening rule of law, legal infrastructure and promoting legal cooperation among ASEAN Member States.
- In moving toward a rule-based organisation, ASEAN has been working on binding legal instruments. In this regard, the Treaty on Mutual Legal Assistance in Criminal Matters (MLAT) signed by all ten ASEAN Member States on 19 January 2006 (8 AMS signed in December 2004 and Myanmar and Thailand signed in January 2006), paved way for its elevation into the ASEAN Treaty on MLA pending ratification of all AMS. The Treaty, which is now ratified by Member States, is a key legal instrument in enhancing regional cooperation to combat transnational crime, as it facilitates apprehension, investigation and prosecution, exchange of witnesses, sharing of evidence, enquiry, seizure and forfeiture of proceeds of the crime
- The ASEAN Convention on Counter Terrorism (ACCT) will come into force following the date of the deposit of the sixth instrument of ratification to the Secretary-General of ASEAN. To date, Republic of Singapore and Thailand have deposited their

instruments of ratification with the Secretary-General of ASEAN on 1 November 2007 and 14 March 2008, respectively.

- Up today, ASEAN is currently working on two more important key legal instrument, namely the ASEAN Extradition Treaty and the ASEAN Convention on Trafficking in Persons.

II. Law Enforcement Cooperation

- On the other hand, the Law enforcement cooperation in ASEAN is defined through the common transnational crimes affecting the region. In a bit to ensure safe and sound development in ASEAN, the ASEAN Leaders signed the ASEAN Declaration on Transnational Crime in 1997 in Manila, followed by the adoption of the ASEAN Plan of Action to Combat Transnational Crime in 1999 by the ASEAN Ministers in charge of transnational crime (AMMTC). The ASEAN Foreign Ministers advanced their vision on a “Drug Free ASEAN by 2015” in 2000 in Bangkok and, in 2004 in Kuala Lumpur, signed the ASEAN Declaration against Trafficking in Persons, especially Women and Children.
- In order to realize the goal of “Drug Free ASEAN by 2015”, the ASEAN Senior Officials on Drug Matters adopted an ASEAN Work Plan on Combating Illicit Drug Production, Trafficking and Use (2009 – 2015) in Phnom Penh in 2009.
- Relevant sectoral bodies from Senior Officials Meeting on Transnational Crime (SOMTC), ASEAN Senior Officials on Drug Matters (ASOD), Immigration and Consular Affairs (DGICM), Senior Law Officials (ASLOM), as well as Customs and Financial Intelligence Units (FIUs) are cognizant and in full coordination to the above mentioned Declarations and Plans of Action, which corresponds to the relevant provisions of the APSC Blueprint.
- The 6th Senior Officials Meeting on Transnational Crime (SOMTC) held in Bali in June 2006 has offered the scope of regional cooperation to focus on 8 areas of transnational crime so that regional efforts to combat transnational crime can be optimized. These areas include terrorism, trafficking in persons, illicit drug trafficking, arms smuggling, money-laundering, sea piracy, international economic crime, and cyber crime.
- In an effort on criminal justice responses to trafficking in persons, the 7th SOMTC endorsed the “ASEAN Practitioners’ Guidelines” in June 2007 in Vientiane. The Guidelines has been translated into national languages of ASEAN Member States for the use of their law enforcement officials. In addition to this, the 8th SOMTC held in June 2008 in Kuala Lumpur adopted the Training Curriculum for Front Line Officers for incorporation into all training curricular of the law enforcement training

centres of Member States. Member States, with the assistance from an AusAID funded Project named Asia Regional Trafficking in Persons (ARTIP), has facilitated many capacity buildings including training the trainers, training judges and prosecutors for trafficking in persons cases, and establishment of hotline mechanism among the ASEAN Heads of Specialist Investigation Units (HSU).

- On counter-terrorism, ASEAN has concluded Joint Declarations to Combat International Terrorism with all its Dialogue Partners and Sectoral Partner. It also established joint consultative mechanisms with the Dialogue Partners to implement the Joint Declarations, such as ASEAN – Russia Working Group on Counter Terrorism, ASEAN – Japan Dialogue on Counter Terrorism, etc.
- Based on these Joint Declarations, law enforcement of ASEAN, in close cooperation with its counter parts in the Dialogue Partners, has been implementing many activities such as the ASEAN – EU Border Management Programme (Euro 5.3 Million for 3 years), the implementation of ASEAN – China annual Work Plan to implement the ASEAN China MoU on Cooperation to Combat Non-Traditional Security Issues, and the ASEAN – ROK Knowledge Transfer on Narcotic Crime (US\$1million for 3 year), ASEAN-ROK Project on SOP for Reintegration of TIP Victims, etc.

III. Conclusion

**Honourable Chairman,
Distinguished Head of Delegations,
Ladies and gentlemen,**

- Before I conclude, I wish to also inform you that the ALAWMM, under the Blueprint of the ASEAN Political-Security Community (APSC) which is adopted by the ASEAN Leaders, is entrusted to work with ALA and other Track II organizations to further promote legal cooperation in ASEAN. Under the ASEAN Charter, ALA is also officially recognized as an entity associated with ASEAN. It is time that engagement of ALA in contributing to ASEAN integration and community building efforts shall be looked at seriously.
- Other area which ALA in general could engage is to conduct research and studies on various aspect of legal cooperation within ASEAN to ensure that ASEAN would successfully transform into a rules-based organization as characterized in the ASEAN Charter. The rules-base ASEAN would require a strong ASEAN Secretariat to exercise its expanded function and mandate entrusted to it by the ASEAN Charter. The ASEAN Secretariat is given the role of undertaking the interpretation of

the ASEAN Charter, monitoring the implementation and the compliance of ASEAN instruments, and providing good offices, conciliation and mediation. The ASEAN Secretariat is also expected to provide support to the work of the ASEAN Dispute Settlement Mechanisms. These are areas where expertise and support of ALA are important in capacity building efforts of the ASEAN Secretariat to become a nerve centre of ASEAN.

- In short, we strongly believe that we are moving in the right direction towards the realization of the ASEAN Community. A strong partnership between the ASEAN government machinery, the ASEAN Secretariat and of course, with you, civil society representing our peoples, and other stakeholders is indeed important in this endeavour.
- We look forward to having a continuous exchange and productive relations with ALA in future.

Thank you.
