



# ASEAN LAW ASSOCIATION

# NEWSLETTER

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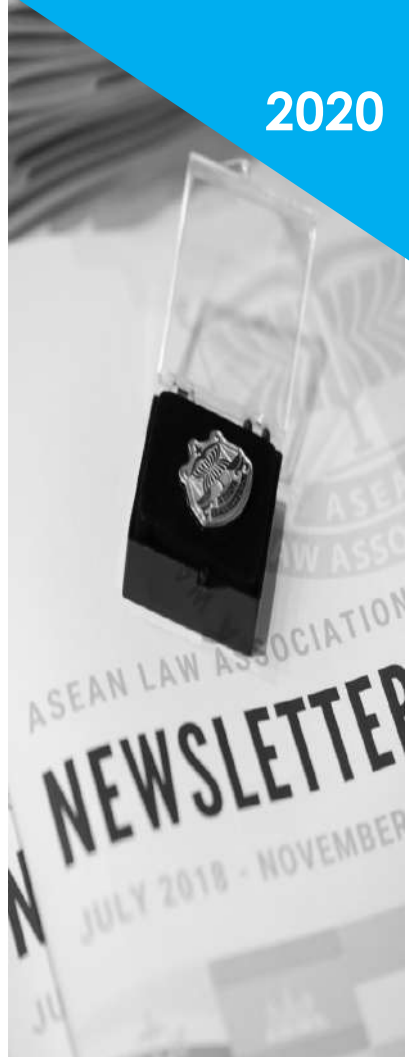
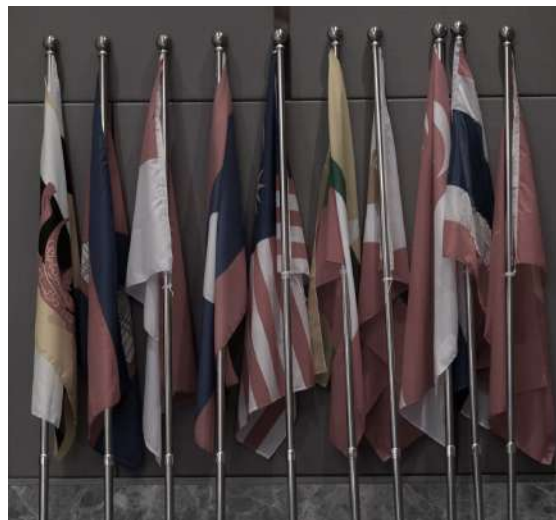


## 2020

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# MESSAGE

## ALA PRESIDENT

This year has been particularly challenging for all of us. We could never have imagined the cataclysmic events that would quickly unfold, while we were on the sunny shores of Phuket in November 2019, revelling in a most successful 41<sup>st</sup> Governing Council Meeting that was superbly organised by ALA Thailand. Quite frankly, nothing could have prepared us for what was to come but amidst the worst that the pandemic has unleashed on us, our Association responded by giving its absolute best - showing tremendous fortitude in the way it continued to go about its work, rallying strongly behind our afflicted ALA family members and refusing to let the effects of the pandemic defeat us. Whilst I had the daunting task of steering our Association in uncharted waters, I stood in awe of and felt deeply inspired by the resolute manner in which it continued to conduct its business as best as it could.

Although we collectively took the painful but necessary decision to hold over this year's Governing Council Meeting to next year and next year's General Assembly to 2022, the Association did not stand still. This year saw the continual renewal of ALA's leadership. As we bade farewell to Chief Justice Slaikate Wattanapan who chaired ALA Thailand, we welcomed Chief Justice Metinee Chalodhorn, the new President of the Supreme



Court of Thailand and incoming Chair of ALA Thailand. We also welcomed Attorney Ly Chantola, the newly appointed President of the Bar Association of Cambodia and new Chair of ALA Cambodia, as we acknowledged the contributions of outgoing Chair Attorney Soun Visal. Under the stewardship of Attorney Avelino Cruz and Justice Lee Seiu Kin, the ASEAN Law Institute also held its 3<sup>rd</sup> Governing Board Meeting remotely in July 2020 and submitted its annual report for 2020 and its proposed workplan for 2021 to the Governing Council. Pursuant to this workplan, ALA Philippines kickstarted the first virtual Roundtable discussions on the ASEAN Comprehensive Investment Agreement, the first focus area of the ASEAN Law Monitor, in August 2020 with the second virtual Roundtable to be organised by ALA Singapore in 2021. Another notable activity is ALA's presentation at the 9<sup>th</sup> Working Group of the ASEAN Senior Law Officials Meeting (ASLOM) in October 2021. Led by Vice-Chair of ALA Singapore Justice Pang Khang Chau, a delegation from ALA Singapore represented ALA to table our proposed Guidelines for the Enforcement of Arbitral Awards within ASEAN, with a view to presenting a case for the Working Group to consider recommending the adoption of the Guidelines by ASLOM. These painstaking efforts are further detailed in this newsletter.

As the General Assembly has been held over to 2022, my term as President has consequently been extended beyond the usual 3-year term. It is said that it is always darkest before the dawn but I think there is much to be hopeful for as we begin to see the first sliver of light. I know we will continue to rally behind one another in this close-knit ALA family and that the Governing Council can count on your support to steer the Association in these unprecedented times. I very much look forward to the day when we can all be reunited in one another's company once more but till then, please take good care of yourselves, your family and your loved ones. Season's greetings, happy holidays and on behalf of the Association, I extend my very best wishes to you for a brighter new year.



41<sup>st</sup>

# GOVERNING COUNCIL MEETING

THE 41<sup>ST</sup> ASEAN LAW ASSOCIATION  
GOVERNING COUNCIL MEETING

NOVEMBER 2019



## Reported by ALA Thailand

On 21 November 2019, the National Committee of ALA Thailand, headed by Hon. Chief Justice Slaikate Wattanapan, President of the Supreme Court of Thailand and Chairman of the National Committee of ALA Thailand hosted the 41st ALA Governing Council Meeting at Phuket Marriott Resort & Spa, Merlin Beach, Phuket, Thailand. Over 185 participants representing all ALA National Committees were in attendance.

The Meeting was chaired and opened by an address of the ALA President Chief Justice Sundaresh Menon. Chief Justice Wattanapan delivered welcoming remarks, extending a warm welcome to all the delegates. In his remarks, he emphasized that today ALA not only aims to promote cooperation and mutual understanding amongst lawyers, judges and legal practitioners in the ASEAN countries, but also intends to expand the cooperation with international, regional and national organizations with the aim to achieve its objectives.

One of the keynote addresses was delivered by H.E. Robert Matheus Michael Tene, Deputy Secretary-General of ASEAN for Community and Corporate Affairs, who expressed his sincere appreciation to ALA on behalf of the ASEAN Secretariat for the invitation to join this meeting. He also shared some key developments in ASEAN, especially its community and integration efforts in the area of law and legal cooperation, and expressed that close collaboration and cooperation between ASEAN and ALA will certainly benefit both organizations.

In addition to the addresses, Mr. Frank Poon, Representative, Regional Office for Asia and the Pacific, Hague Convention on Private International Law (HCCH), delivered his presentation entitled "The HCCH: Its Work/Methods and the HCCH Apostille Convention". The presentation recommended ASEAN Member States to consider adopting the Hague Convention as the basis for a harmonized legal framework.



Mr. Paul Quan, ALA Secretary-General, gave a report on the work of the Secretary-General in three board areas, namely official trips, engagements and projects and portfolios as well as updates on the Chartered Institute of Arbitrators' proposal and the Virtual Marketplace. This was followed by a presentation by ASEAN Law Institute Executive Director Andre Palacios.

The Governing Council also discussed the concept papers on ALA's role in providing assistance and support to ASEAN Secretariat, the proposal for an ASEAN protocol for communication with non-disputing states on treaty interpretation, the "Guidelines on Best Practices on the Enforcement of Arbitral Awards within ASEAN", and the proposal for "The ASEAN Moot".

The Meeting concluded with Cambodia's agreement to host the 42<sup>nd</sup> Governing Council Meeting in 2020.



# 17<sup>th</sup> ALA Championship Golf Tournament

Reported by ALA Thailand

The 17<sup>th</sup> ALA Championship Golf Tournament was held on 20 November 2019 at the world-class Red Mountain Golf Club, Phuket, Thailand. This Golf Chapter was an integral part of the Meeting and originated from a “non-trophy competing” purpose to promote fellowship and to foster interaction and mutual cooperation among the participants of the ALA Meeting. This time the tournament was joined by up to 80 golfers from 6 ASEAN countries, including Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam. These energetic golfers enjoyed the memorable ambiance of the golf course which is located amidst the scenic tropical nature of this beautiful island, along with warm hospitality extended by host Thailand. The tournament was also used as a great opportunity for them to reconnect with their old career network and to discuss some issues for the upcoming ALA events.

Upon completion of the game, the team championship was won by Malaysia with a score of 189 points. Indonesia won the 1st runner-up with a score of 183 points. Atty. Jeremy Achilles Zapanta Parulan from Philippines won the Challenge Trophy.



# ASEAN LAW MONITOR ROUND- TABLE



## Reported by ASEAN Law Institute

The ASEAN Law Association held an online round table discussion on whether Philippine foreign investment rules are harmonized with the ASEAN Comprehensive Investment Agreement.

Over one hundred participants attended the event that was held on 24 August 2020. The event was organized by the ALA Philippine National Committee in collaboration with the ASEAN Law Institute and the Asian Institute of Management.

The Philippine round table discussion is part of a 3-stage ALA process of examining whether ASEAN national rules are harmonized with ASEAN regional rules: first, a national law expert will prepare a country report; second, the country report will be presented at a round table discussion; and third, the country reports and discussion results will be published in an ALA publication named "ASEAN Law Monitor." In the future, a stakeholder survey may be conducted prior to preparing the country reports.

The ASEAN Law Monitor aims to monitor the national implementation of ASEAN agreements in order to support ALA's objective of promoting ASEAN legal harmonization and facilitating ASEAN integration. The first issue of the publication will examine whether foreign investment rules of ASEAN Member States are harmonized with the ASEAN investment treaty.

During the Philippine event, Retired Chief Justice Artemio Panganiban, Chairman of the ALA Philippine National Committee, underscored the importance of ALA's work in preparing for economic recovery after the current COVID-19 pandemic. Dr. Jikyeong Kang, President and Dean of the Asian Institute of Management (AIM), discussed the possibility of interdisciplinary collaboration between AIM and ALA. Atty. Avelino Cruz, past ALA President and current Chairman of the ASEAN Law Institute, highlighted the importance of harmonizing ASEAN national laws to promote ASEAN integration.

Chief Justice  
Artemio V. Panganiban (Ret.)

Chairman  
Philippine National Committee  
ASEAN Law Association



The main speaker at the event was Atty. Patricia-Ann Prodigalidad, ACCRALAW senior partner and Philippine Country Monitor for the ASEAN Law Monitor. She presented the Philippine country report on whether Philippine statutes, executive regulations, and judicial decisions on foreign investments by ASEAN investors are harmonized with the national commitments, also known as treaty obligations, made by the Philippines under the ASEAN Comprehensive Investment Agreement.

Jikyeong Kang, PhD

President and Dean  
MVP Chair in Marketing  
Asian Institute of Management



The legal context in which ASEAN regional and national rules operate was presented by University of the Philippines Assistant Professor Andre Palacios, Executive Director of the ASEAN Law Institute and Chief Editor of the ASEAN Law Monitor. He discussed how ASEAN legal harmonization can hasten ASEAN integration and presented the two ways of harmonizing ASEAN national rules (horizontal and vertical harmonization).

Hon. Avelino V. Cruz

Founding Partner, ACCRALAW  
President's Special Envoy to the EU  
Chairman, ASEAN Law Institute



The economic and business context was presented by AIM Adjunct Professor Dr. Federico Macaranas. He discussed the ASEAN investment situation amidst the ongoing COVID-19 pandemic.

Asst. Prof. Andre Palacios

University of the Philippines – College of Law  
Executive Director, ASEAN Law Institute



*ASEAN integration and  
harmonization of national rules  
with ASEAN agreements*

Dr. Federico Macaranas

Adjunct Professor  
Asian Institute of Management



*ASEAN investment  
in the pandemic*

Atty. Patricia-Ann Prodigalidad

Senior Partner, ACCRALAW  
Country Monitor, Philippines



*Philippine national rules and  
national commitments under ACIA*



# News from National Committees

## ALA Cambodia

During the 25<sup>th</sup> General Assembly of the Bar Association of Cambodia, Attorney Ly Chantola was elected as the new President of the Bar Association of Cambodia and by virtue of that election, also appointed the new Chair of ALA Cambodia for 2 years from 16 October 2020.

## ALA Indonesia

Retired Chief Justice Hatta Ali, Chair of ALA Indonesia, was conferred the Bintang Mahaputra Utama, one of the highest civilian awards in Indonesia, for his extraordinary contribution in the field of laws for the advancement of the country.

## ALA Malaysia

The Right Honourable Tun Tengku Maimum binti Tuan Mat, Chief Justice of Malaysia and Chair of ALA Malaysia, was conferred the Darjah Seri Setia Mahkota award, which is the highest civilian honour in Malaysia.

The Honorable Dato' Mary Lim Thiam Suan was appointed as Judge of the Federal Court on 25 March 2020. Justice Dato' Mary Lim served as Judge of the High Court (at the then-new Commercial Court and Construction Court Kuala Lumpur) and as a Judge of the Court of Appeal. Prior to her elevation to the Bench, Justice Dato' Mary Lim had served with the Attorney General's Chambers as Senior Federal Counsel,



Commissioner for Law Revision and Law Reform, State Legal Adviser and Deputy Public Prosecutor.

## ALA Singapore

A six-member delegation from ALA Singapore represented ALA at the 9<sup>th</sup> Working Group of the ASEAN Senior Law Officials Meeting (ASLOM) on Examining Modalities for Harmonisation of ASEAN Trade Laws. Led by Vice-Chair of ALA Singapore Justice Pang Khang Chau, ALA Singapore presented ALA's proposed Guidelines on Best Practices on the Enforcement of Arbitral Awards within ASEAN. The presentation was well-received with the delegation fielding numerous questions from the Working Group members. Through this introductory presentation, ALA hopes to continue to engage with ASLOM on ASEAN-related matters with the objective of establishing a working relationship with ASLOM where ALA proposals may be tabled before them on a long-term basis.

Professor Locknie Hsu, who chairs and coordinates the ALA Trade and Investment Group, has been appointed to a pool of 10 appeal arbitrators for the purposes of the Multi-Party Interim Arbitration Arrangement, which enables World Trade Organisation (WTO) disputes to have continued access to an appellate mechanism while the WTO's Appellate Body remained unavailable.



## ALA Thailand

Chief Justice Metinee Chalodhorn has been appointed the new Chair of ALA Thailand and Thailand's 46<sup>th</sup> President of the Supreme Court, making her the country's first woman to hold the top post. Chief Justice Chalodhorn earned her Bachelor's degree in business law from Thammasat University in 1976. She also holds a Master of Arts in justice administration from Thammasat University.

Prior to her appointment as Chair and President, Chief Justice Chalodhorn previously served as Vice-President of the Supreme Court from October 2019 until September 2020 and was previously appointed as Vice-Chair of ALA National Committee of Thailand on 25 November 2017.

Chief Justice Chalodhorn commenced her judiciary career as a judge-trainee in 1981. In the course of her distinguished career, she held numerous prominent positions in the Judiciary of Thailand including Chief Judge of the Ministry of Justice, Chief Judge of the Phu Khiao Provincial Court, Chief Judge of the Nonthaburi Provincial Court, President of the Bankruptcy Case Division of the Court of Appeal, President of the Consumer Case Division of the Court of Appeal, President of the Court of Appeal for Specialized Cases and President of the Consumer Case Division of the Supreme Court.

Presently, Chief Justice Chalodhorn also serves as Chairman of the Judicial Commission, Chairman of the Judicial Administration Commission and President of the Thai Bar under the Royal Patronage.

