

## **THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN) AND VIETNAM'S ROLE**

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### **ABSTRACT**

In this article, the author focuses on analyzing two main contents: The first one is an overview of the Association of Southeast Asian Nations (ASEAN). The second one is the role of Vietnam in ASEAN for the objective of legal cooperation, harmonization and unification. In the first part, the author analyzes issues such as: an overview of the history of formation and development of the Association of Southeast Asian Nations (ASEAN), the organizational structure of ASEAN, and the current principles of ASEAN. In the second part, the author clarifies the role of Vietnam in ASEAN. In this part, the author analyzes and clarifies Vietnam's integration and contribution to ASEAN. At the end of this paper, he also points out some challenges and prospects of Vietnam in this process.

### **1. Overview of the formation and development history of the Association of Southeast Asian Nations (ASEAN)**

#### ***1.1. The first decade 1967-1976***

In early August 1967, the foreign ministers of Indonesia, Malaysia, the Philippines, Thailand and Singapore signed the ASEAN Declaration (also known as the Bangkok Declaration).<sup>1</sup>The five foreign ministers, who signed the document are Adam Malik of Indonesia, Narciso R. Ramos of the Philippines, Tun Abdul Razak of Malaysia, S. Rajaratnam of Singapore, and Dr. ThanatKhoman of Thailand. The five foreign ministers and senior government officials are considered the founding fathers of ASEAN. Southeast Asia is divided into two main geographical regions. The first geographical area is the peninsula and mainland including: Myanmar, Cambodia, Laos, Thailand and Vietnam. The second geographical area is the island

<sup>1</sup>ASEAN Declaration (also known as the Bangkok Declaration) <https://agreement.asean.org/media/download/20140117154159.pdf> accessed 20 October 2022.

area and the islands include: Brunei, East Timor, Indonesia, Philippines and Singapore.<sup>2</sup>They desire to establish a firm foundation for common action to promote regional cooperation in South-East Asia in the spirit of equality and partnership and thereby contribute towards peace, progress and prosperity in the region.

The Bangkok Declaration is a simple document, which was divided into five sections. The main part of this Declaration affirms that the Association represent the collective will of the nations of South East Asia to bind themselves together in friendship and cooperation and, through joint efforts and sacrifices, secure for their peoples and for posterity the blessings of peace, freedom and prosperity.<sup>3</sup>

This Bangkok Declaration also sets out seven objectives: 1) To accelerate the economic growth, social progress and cultural development in the region through joint endeavours in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian Nations; 2) 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; 3) To promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields; 4) To provide assistance to each other in the form of training and research facilities in the educational, professional, technical and administrative spheres; 5) To collaborate more effectively for the greater utilization of their agriculture and industries, the expansion of their trade, including the study of the problems of international commodity trade, the improvement of their transportation and communication facilities and the raising of the living standards of their peoples; 6) To promote South-East Asian studies; 7) To maintain close and beneficial cooperation with existing international and regional organizations with similar aims and purposes, and explore all avenues for even closer cooperation among themselves.<sup>4</sup>

On November 27, 1971, in Kuala Lumpur, Malaysia, ASEAN adopted the "Declaration on the Zone of Peace, Freedom and Neutrality" (ZOPFAN), emphasizing that countries must be free from outside interference. South East Asian countries should make concerted efforts to broaden the areas of cooperation which would contribute to their strength, solidarity and closer relationship. With the withdrawal of British and American troops in the late 1960s, and the victory and independence of Vietnam, Laos, and Cambodia, ASEAN became an organization

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<sup>2</sup> Ministry of Foreign Affairs, *Association of Southeast Asian Nations (ASEAN)*, National Political Publishing House, Hanoi, 1998, p. 18.

<sup>3</sup> Ministry of Foreign Affairs, *ibid*, pp. 18-19.

<sup>4</sup> Ministry of Foreign Affairs, *ibid*, pp.19.

with the goals of peace, harmony, and an end to conflict. An important part of ZOPFAN is the regional nuclear weapons-free zone treaty, in which member states are responsible for not developing, producing or consuming or using nuclear weapons. Through this treaty, Southeast Asia prevented nuclear weapons in the region.<sup>5</sup>

In conclusion, this first decade of ASEAN cooperation is mainly relating to ASEAN foreign ministers' meetings. ASEAN did not have a common Secretariat until 1976. During this period, the content of cooperation was mainly on political issues. One of the most obvious success is the adoption of the Declaration on the Zone of Peace, Freedom and Neutrality (ZOPFAN).

## **2. The Second decade (1976-1987)**

After nine years of cooperation, the founding countries of ASEAN took an important step forward in organizing the first Summit in February 1976 in Bali. The results of this Conference are "The Declaration of ASEAN Concord"<sup>6</sup> and "Treaty of Amity and Cooperation in Southeast Asia"<sup>7</sup>. It is regarded as the beginning of regional cooperation. During this meeting, the ASEAN leaders passed the following principles: "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 of one another; d. Settlement of differences or disputes by peaceful means; e. Renunciation of the threat or use of force; f. Effective cooperation among themselves."<sup>8</sup>

ASEAN was formed to ensure that any disputes arising between member states would be resolved by peaceful means. This organization creates a development environment for countries in the region. ASEAN members jointly guarantee that they will not interfere in each other's internal affairs or threaten or use force in the settlement of disputes. Many authors argue that the success of ASEAN in the field of political security is more prominent than in all other areas, because ASEAN countries see the need to cooperate themselves in a regional organization to

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<sup>5</sup>Vietnam National University in Hanoi, University of Social Sciences and Humanities, *ASEAN: 40 years in retrospect and towards*, Hanoi National University Press, 2007, p. 38.

<sup>6</sup>The Declaration of ASEAN Concord, available at:<https://cil.nus.edu.sg/wp-content/uploads/2017/07/1976-Declaration-of-ASEAN-Concord.pdf> accessed 20 October 2022.

<sup>7</sup>Treaty of Amity and Cooperation in Southeast Asia, available at:<https://asean-aipr.org/wp-content/uploads/2018/07/Treaty-of-Amity-and-Cooperation-in-Southeast-Asia-1976-TAC.pdf> accessed 20 October 2022.

<sup>8</sup>Vietnam National University in Hanoi, University of Social Sciences and Humanities, *ibid*, p. 3.

deal with the threat of political security from the outside, to resolve inside conflicts and to maintain political-security stability as well as to create a basis for development.<sup>9</sup>

Although this decade has not achieved significant progress in terms of economic cooperation, the meetings have made the relationship between ASEAN countries more cohesive.

### **3. The Third decade(1988-1997)**

Since 1988, the economies of ASEAN countries have prospered with an average growth rate of 6-8% annually. This has made ASEAN attractive economic and political partners of Australia, New Zealand, Japan, the US and Western Europe.<sup>10</sup>

In 1992, according to the initiative of Thailand, the ASEAN Summit held in Singapore decided to establish a Free Trade Area called AFTA (ASEAN Free Trade Area).<sup>11</sup>This is a multilateral free trade agreement between ASEAN countries. The main content of this Agreement is the implementation of a process of gradually reducing tariffs to 0-5%, gradually eliminating tariff barriers for most groups of goods and harmonizing customs procedures between countries. Initially there were only six countries including Brunei, Indonesia, Malaysia, Philippines, Singapore and Thailand. Cambodia, Laos, Myanmar and Vietnam have joined AFTA after being officially admitted.<sup>12</sup>

AFTA marks an important development in ASEAN's economic development. The Singapore Summit is the foundation for the birth of the ASEAN Regional Forum (ARF) – a forum for ASEAN political and security issues with interlocutors including the United States, Japan, Australia, and the United States. Canada, New Zealand, Korea, EU, China, Russia, India.

	<b>Members</b>	<b>Year of joining</b>
1.	Singapore	1967
2.	The Philippines	1967
3.	Thailand	1967
4.	Indonesia	1967
5.	Malaysia	1967
6.	Brunei	1984

<sup>9</sup>Vietnam National University in Hanoi, University of Social Sciences and Humanities,*ibid*, p. 3.

<sup>10</sup>Vietnam National University in Hanoi, University of Social Sciences and Humanities,*ibid*, p. 202..

<sup>11</sup>ASEAN Free Trade Area, available at: <https://asean.org/wp-content/uploads/images/archive/pdf/AFTA.pdf> accessed 20 October 2022.

<sup>12</sup> The Institute of Southeast Asian Studies, AFTA in the changing international economy, Singapore, 1996, p. 1.

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7.	Vietnam	1995
8.	Laos	1997
9.	Myanmar/Burma	1997
10.	Cambodia	1999

After a short time as an observer, Vietnam joined ASEAN on July 28, 1995. Laos and Myanmar joined later on July 23, 1997. Cambodia was officially joined on April 3, 1999. It means all Southeast Asian nations joined ASEAN and from that time on there is no division between ASEAN and non-ASEAN countries. It could be said that Vietnam's accession to ASEAN in 1995 was an important event ending the period of tension and confrontation, opening a period of integration and development. Author Vu Duong Ninh said that "what is new here is that the first time an organization of non-socialist countries has admitted to a socialist country, admitting a member that was previously considered a formidable opponent."<sup>13</sup>

#### **4. The fourth decade 1997-2007**

The 1997 Asian financial crisis was an economic shock worldwide. This crisis started in Thailand when the Government allowed its currency to change in value according to the free market. After a few weeks, the Thai currency lost half its value. Soon the crisis spread to other Asian countries including South Korea, Indonesia, the Philippines, Malaysia and Laos.

In the world's most important free trade area, Southeast Asia is an important part of the world economy. ASEAN ranks second in terms of population, fourth in number of member states, and fifth in total GDP, in comparison to other regional groups, such as the European Union (EU) and NAFTA.

In December 1997, the leaders of ASEAN countries approved the important document "ASEAN Vision 2020" with the goal of turning the Association into a harmonious group of Southeast Asian peoples, attached to a community of ASEAN countries. ASEAN cooperation in the period 1997 - 1998 mainly focused on restoring and promoting economic growth in the region as well as overcoming the social consequences of the crisis for member countries.<sup>14</sup> A valuable lesson for future development from this period is that ASEAN countries need to get closer together, build a stronger banking and financial system with reasonable regulations and close supervision.

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<sup>13</sup>Vietnam National University in Hanoi, University of Social Sciences and Humanities, *ibid*, p. 40.

<sup>14</sup> To Van Hoa, *Constitution of ASEAN countries, history of formation and development*, Hong Duc Publishing House, Hanoi, 2013, p. 431.

On December 15, 1997, in Kuala Lumpur, Malaysia, for the first time in history, ASEAN leaders had a joint meeting with three leaders from East Asia, including China, Japan and South Korea. The results of the above meeting led to the birth of the ASEAN + 3 cooperation process. This is the first regional cooperation mechanism built in East Asia to maintain peace and promote cooperation among countries.<sup>15</sup> However, the cooperation goal of ASEAN + 3 is still not really clear.<sup>16</sup>

After the terrorist attacks in the United States on September 11, 2001 and subsequent terrorist acts in several other places, including several ASEAN countries, ASEAN has increased cooperation against terrorism. Thanks to the coordination between ASEAN law enforcement agencies many terrorists have been arrested and a lot of terrorist plots were also prevented. At the summit in January 2007, ASEAN leaders signed the ASEAN convention on countering terrorism. The convention clarifies the country's jurisdiction on counter-terrorism, outlining the areas in which ASEAN will cooperate in the fight against terrorism.

In October 2003 the leaders of ASEAN countries signed the Declaration of ASEAN Concord II (also known as the Bali Declaration II) with the goal of forming an ASEAN Community consisting of three main pillars: the Political and Security Community (APSC), Economic Community (AEC) and Socio-Cultural Community (ASCC).

Since January 1, 2003, many taxes have been removed for ASEAN to become a free trade area, becoming a fully free trade area by 2010. Since 2018, the import tax rate in the ASEAN region is 0%, goods of ASEAN countries can freely trade in each other's markets without paying any tax.<sup>17</sup>

At the 11th ASEAN Summit in 2005, the leaders of ASEAN countries issued the Kuala Lumpur Declaration on the formulation of the ASEAN Charter and assigned a group of prominent figures with high responsibility in the region to study and propose Specific plans submitted to ASEAN countries for consideration and decision.

### ***5. The fifth period of time: From 2007 to present***

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<sup>15</sup>Nguyen Thu My, *The role of ASEAN in the development of ASEAN + 3 cooperation*, printed in the book: *Vietnam National University, Hanoi, University of Social Sciences and Humanities, ASEAN: 40 years looking back and looking forward*, Hanoi National University Press, 2007, p. 212.

<sup>16</sup>Nguyen Thu My (Chief Editor), *Some basic issues of ASEAN+3 cooperation*, Social Science Publishing House, Hanoi, 2008, p. 255.

<sup>17</sup> Vietnam News Agency, *Vietnam's Role in ASEAN*, News Publishing House, Hanoi, 2007, p. 48.

After nearly a year of urgent implementation, the ASEAN senior expert group submitted the draft Charter to the 13th ASEAN Leaders Summit in November 2007. On December 15, 2008, ASEAN member countries completed the ratification and the ASEAN charter officially came into force.<sup>18</sup>

The ratification of the ASEAN Charter and its entry into force on December 15, 2008 marked an important turning point reflecting the maturity of ASEAN.

The ASEAN Charter is the most important legal document of ASEAN. The Charter consists of a Preamble, 13 chapters and 55 articles.<sup>19</sup> The content of this Charter includes: Purposes and principles; Legal personality; Membership; Organs; Entities associated with ASEAN; Immunities and privileges; Decision-making; Settlement of disputes; Budget and finance; Administration and procedure; Identity and symbols; External relations; General and final provisions. ASEAN Charter is an important milestone for the regional group as the Charter will make ASEAN stronger, more united and more effective.<sup>20</sup>

According to Art. 1 of this Charter, the Purposes of ASEAN are:

- “1. To maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region;
2. To enhance regional resilience by promoting greater political, security, economic and socio-cultural cooperation
3. To preserve Southeast Asia as a Nuclear Weapon-Free Zone and free of all other weapons of mass destruction;
4. To ensure that the peoples and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment;
5. To create a single market and production base which is stable, prosperous, highly competitive and economically integrated with effective facilitation for trade and investment in which there is free flow of goods, services and investment; facilitated movement of business persons, professionals, talents and labour; and freer flow of capital;

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<sup>18</sup> Nguyen Thanh Tri, *ASEAN Economic Community Institutions and Dispute Resolution Mechanism*, Judicial Publishing House, Hanoi, 2010, p. 15.

<sup>19</sup> Available at <https://asean.org/wp-content/uploads/images/archive/publications/ASEAN-Charter.pdf> accessed 20 October 2022.

<sup>20</sup> See: Tommy Koh, *The Making Of the Asean Charter*, World Scientific Publishing Company, 2009.

6. To alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation;
7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN;
8. To respond effectively, in accordance with the principle of comprehensive security, to all forms of threats, transnational crimes and transboundary challenges;
9. To promote sustainable development so as to ensure the protection of the region's environment, the sustainability of its natural resources, the preservation of its cultural heritage and the high quality of life of its peoples;
10. To develop human resources through closer cooperation in education and life-long learning, and in science and technology, for the empowerment of the peoples of ASEAN and for the strengthening of the ASEAN Community;
11. To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice;
12. To strengthen cooperation in building a safe, secure and drug-free environment for the peoples of ASEAN;
13. To promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, and benefit from, the process of ASEAN integration and community building;
14. To promote an ASEAN identity through the fostering of greater awareness of the diverse culture and heritage of the region; and
15. To maintain the centrality and proactive role of ASEAN as the primary driving force in its relations and cooperation with its external partners in a regional architecture that is open, transparent and inclusive.”

In February 2009, the 14th ASEAN Summit approved the roadmap for building the ASEAN Community.<sup>21</sup>The ASEAN Community is not a supranational organization. It comprises three pillars: the Political-Security Community (APSC), the Economic Community (AEC) and the Socio-Cultural Community (ASCC).

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<sup>21</sup> To Van Hoa, *ibid*, p. 433.

+ *The ASEAN Political-Security Community (APSC)* has the goal of creating a peaceful and secure environment for development in Southeast Asia, with the participation and contribution of external partners.

+ *The ASEAN Economic Community (AEC)* has the goal of creating a common market, in which there is free movement of goods, services, investment, capital and labor for the prosperity of the region.

+ *The Socio-Cultural Community (ASCC)* has the goal of serving and improving the quality of life of the people of ASEAN, focusing on handling issues relating to equality and social justice, cultural identity, the environment, the impact of globalization and the scientific and technological revolution.

Thus, after a long time of existence and development, up to now, ASEAN has become an intergovernmental regional cooperation organization including 10 Southeast Asian countries. This is an important political-economic organisation in the Asia-Pacific and is an indispensable partner in the regional policies of major countries in the world. ASEAN is now an inter-governmental organisation and is conferred legal personality according to Art. 3 ASEAN Charter 2008.

<i>Major initiatives</i>	<i>Time</i>
<ul style="list-style-type: none"><li>• ASEAN Declaration in Bangkok</li></ul>	August 8, 1967
<ul style="list-style-type: none"><li>• Zone of Peace, Freedom and Neutrality Declaration in Kuala Lumpur</li></ul>	November 27, 1971
<ul style="list-style-type: none"><li>• Declaration of ASEAN Concord in Bali</li></ul>	February 24, 1976
<ul style="list-style-type: none"><li>• Treaty of Amity and Cooperation in Southeast Asia in Bali</li></ul>	February 24, 1976
<ul style="list-style-type: none"><li>• ASEAN Declaration on the South China Sea, Manila</li></ul>	July 22, 1992
<ul style="list-style-type: none"><li>• Treaty on the Southeast Asia Nuclear Weapon-Free Zone in Bangkok</li></ul>	December 15, 1997
<ul style="list-style-type: none"><li>• ASEAN Vision 2020 in Kuala Lumpur</li></ul>	December 15, 1997
<ul style="list-style-type: none"><li>• Declaration of Asean Concord II in Bali</li></ul>	October 7, 2003
<ul style="list-style-type: none"><li>• ASEAN member countries completed the ratification and the ASEAN charter officially came into force</li></ul>	December 15, 2008
<ul style="list-style-type: none"><li>• The 14th ASEAN Summit approved the roadmap for building the ASEAN Community</li></ul>	February 2009

In conclusion, in 1976, ASEAN made security by Treaty of Amity and Cooperation in Southeast Asia in Bali; in 1992, it refocused on economic integration by establishing a Free Trade Area called AFTA (ASEAN Free Trade Area); in 2007, it adopted the ASEAN Charter, which was the legal basis for the establishment of the ASEAN Community in 2015.

ASEAN was created to help Southeast Asian countries determine their own future and to create policies without outside interference. Anything that ASEAN does or becomes is the result of negotiations and common decisions by the member states. Although the charter is meant to give ASEAN a legal personality, ASEAN does not have an existence separate from that of its member states. ASEAN has recognized the necessity of cooperating in dealing with the complexity of regional problems and has so far succeeded in fostering peace and stability in Southeast Asia and thus to global peace.<sup>22</sup>

In the process of existence and development, ASEAN has always had two sides to coexist with both success and limitations, both opportunities and challenges. The biggest success is the formation of an ASEAN consisting of all 10 Southeast Asian countries, establishing dialogue relations with many important partners in the world. However, the level of regional connectivity is still limited. The member countries are so different in the level of development, especially in the economical aspect.<sup>23</sup> ASEAN's greatest contemporary political challenge is in adapting to the regional impact of the US–China rivalry, particularly over South China Sea issues. The apparatus of ASEAN is still cumbersome, the institutions are not really tight, and the operation is not really effective.<sup>24</sup> In general, up to now, ASEAN has been gradually overcoming these limitations. It has turned Southeast Asia into a region of peace, freedom, neutrality, no nuclear weapons.

## **II. Organizational structure of ASEAN**

The organizational structure of ASEAN has changed over time. Based on the main events, we can divide it into 4 different periods: that is the period of the establishment of ASEAN according to the ASEAN Declaration in 1967, the period after the Bali Summit in 1976, the period after the ASEAN Singapore summit in 1992 and the period after the ASEAN Charter came into force in 2008 to present.

### ***1. Organizational structure of ASEAN in the newly established period according to the ASEAN Declaration of 1967***

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<sup>22</sup> Rodolfo C. Severino, *ASEAN*, Institute of Southeast Asian Studies, 2008, p. 110.

<sup>23</sup> Vietnam National University in Hanoi, University of Social Sciences and Humanities, *ibid*, p. 7.

<sup>24</sup> Vietnam National University in Hanoi, University of Social Sciences and Humanities, *ibid*, p. 8.

In the early days, the organizational structure of ASEAN was quite simple. The original organizational structure of ASEAN as outlined in the 1967 ASEAN Declaration included:

- 1) *The Ministerial Conference* (AMM) is considered the highest policy-making body of the Association, consisting of the foreign ministers of the 5 member countries, meeting once a year.
- 2) *Standing Committee* monitors the implementation of AMM's policy decisions and is responsible for running ASEAN activities between AMM meetings.
- 3) *National ASEAN Secretariat* was established in each member country, responsible for coordinating ASEAN affairs within the country and ensuring the implementation of decisions of the AMM.
- 4) *Standing committees, special or ad hoc committees on specific areas or issues of cooperation:* by early 1976 there were 11 standing committees and 9 ad hoc committees.

## **2. Organizational structure of ASEAN after the Bali Summit in 1976**

After the Bali Summit in 1976, the organizational structure of ASEAN has undergone major changes. Although the AMM (the Foreign Ministers' Meeting) is still the highest policy-making body of ASEAN, five other Ministerial Meetings were also established, including: Economic Ministers Meeting; Labor Ministerial Conference; Conference of Ministers in charge of social welfare; Conference of Education Ministers; Information Ministers Conference. Among the above conferences, the *Economic Ministers' Meeting* (AEM) is of special importance.

Also after this Conference, the standing committees and ad hoc committees (Case Committees) were also reorganized into 9 committees including: Committee on Industry, Minerals and Energy; Committee on Trade and Tourism; Committee on Food, Agriculture and Forestry; Banking and Finance Committee; Committee on Transport and Communications; Budget Committee; Committee on Social Development; Committee on Culture and Information; Committee on Science and Technology. From this point on, ASEAN decided to establish an ASEAN Secretariat headed by a Secretary-General. The Secretary-General is appointed by the ASEAN Foreign Ministers for a two-year term on a rotating basis according to the alphabetical order of the country's name.

## **3. Organizational structure of ASEAN in the period after the 1992 Singapore Summit and before 2008**

Since 1992, there has been an important change in the organization of the ASEAN apparatus. The ASEAN organization is divided into 4 main groups including: Group of policy-making

bodies; Group of Committees of ASEAN; ASEAN Secretariats and Cooperation Mechanisms with Third Countries.

#### ***4. Organizational structure of ASEAN from the time the ASEAN Charter came into force in 2008 until now***

The current organizational structure of ASEAN includes the following components:

**4.1. ASEAN Summit:** Article 7 of the ASEAN Charter stipulates: “The ASEAN Summit consists of the Heads of State or Government of the Member States”. It is the supreme planning body of ASEAN. The ASEAN Summit will be held twice a year and hosted by a Member State holding the ASEAN Chair. Such meetings are also convened as necessary as special or extraordinary meetings chaired by the Member State holding the ASEAN Chair at a venue agreed upon by the ASEAN Member States.

**4.2. ASEAN Coordinating Council (ACC for short):** This Council is composed of “ASEAN Foreign Ministers, meeting at least twice a year” (Article 8 of the ASEAN Charter). The mission of the ACC is to coordinate ASEAN cooperation activities in general and to prepare for the ASEAN Summits, coordinate the implementation of the agreements and decisions of the ASEAN Summit, coordinate with the Community Councils. ASEAN aims to enhance policy consistency, efficiency and cooperation among these agencies and other mandates (See Clause 2, Article 8 of the ASEAN Charter).

**4.3. ASEAN Community Councils:** The ASEAN Community Councils include the ASEAN Political-Security Community Council (APSCC), the ASEAN Economic Community Council (AECC), and the Socio-Cultural Community Council. ASEAN (ASCCC) (See Article 9 of the ASEAN Charter). Under each ASEAN Community Council, there will be specialized ministerial-level agencies. Each ASEAN Community Council shall meet at least twice a year and shall be chaired by the relevant Minister of the Member State serving as the ASEAN Chair. Member States will send national representatives to the meetings of the ASEAN Community Council.

**4.4. ASEAN ministerial-level specialized agencies:** ASEAN ministerial-level specialized agencies, operating according to their defined functions and powers, are the bodies that implement agreements and decisions of the ASEAN Summit within the scope of the ASEAN Summit (Article 10 of the ASEAN Charter).

**4.5. The Secretary-General of ASEAN and the ASEAN Secretariat:** The Secretary-General of ASEAN shall be appointed by the ASEAN Summit for a non-renewable term of five years, selected from among the nationals of the ASEAN Member States, alternately in order of name

the country in English letters, taking into account integrity, competence, professional experience and gender equality (Article 11 of the ASEAN Charter).

Secretary-General is ASEAN's highest-ranking administrative title. The Secretary-General of ASEAN shall represent the views of ASEAN and participate in meetings with external partners in accordance with the adopted policy lines and in accordance with the powers of the Secretary-General. The Secretariat shall include the Secretary-General and other staff as required. The Secretary General is assisted by four Deputy Secretary Generals. These Deputy Secretaries-General are accountable to the Secretary-General for the discharge of their responsibilities.

**4.6. Committee of Permanent Representatives to ASEAN (CPR):** Member States shall appoint a permanent representative with the rank of Ambassador to ASEAN located in Jakarta (Article 12 of the ASEAN Charter). The Permanent Representatives constitute the Committee of Permanent Representatives. This Committee will support the work of the ASEAN Community Councils and ASEAN ministerial-level specialized agencies, in collaboration with the National ASEAN Secretariat and other ASEAN ministerial-level agencies.

**4.7. National ASEAN Secretariat:** Each ASEAN Member State shall establish its own National ASEAN Secretariat with the task of acting as the national focal point, where information is kept on all matters related to ASEAN. related to ASEAN at the national level, coordinate the implementation of ASEAN regulations at the national level, coordinate and support national preparations for ASEAN meetings, promote identity building and raise awareness of ASEAN at the national level and contribute to the building of the ASEAN Community. The national ASEAN secretariat is within the foreign ministries of the member countries, responsible for monitoring and coordinating ASEAN cooperation activities at the national level.

**4.8. ASEAN Human Rights Body:** The ASEAN human rights body operates under the Regulations decided by the ASEAN Foreign Ministers' Meeting, consistent with the objectives and principles of the ASEAN Charter on the promotion and protection of human rights and fundamental freedoms. This body will operate in accordance with the Regulations decided by the ASEAN Foreign Ministers Meeting (Article 14 of the ASEAN Charter).

**4.9. ASEAN Fund:** The ASEAN Fund supports the Secretary-General of ASEAN and cooperates with relevant ASEAN agencies to serve the building of the ASEAN Community. The ASEAN Foundation shall be accountable to the Secretary-General of ASEAN and the Secretary-General of ASEAN shall submit a report on the Fund to the ASEAN Summit through the ASEAN Coordinating Council (Article 15 of the ASEAN Charter).

**4.10.ASEAN Chair:** The ASEAN Chair is not an ASEAN body or institution in the organizational structure. These are "titles" that are rotated annually in the English alphabetical

order of the member country. The Member State holding this title shall chair the ASEAN Summit and Related Summits, the meetings of the ASEAN Coordinating Council, and the three ASEAN Community Councils. Where appropriate, meetings of the Sectoral Body of Ministers and senior officials; and the Committee of Permanent Representatives of ASEAN (Article 31 of the ASEAN Charter).

ASEAN's organizational system consists of agencies with the participation of each member country representing its own interests. The nature of the ASEAN system as a whole is fundamentally different when compared with the organizational system of the European Union (EU). The EU's organizational system is designed and adheres to the principle of separation of powers similar to the model of a supranational state, including the European Council, the Council of Ministers, the European Commission, and the European Parliament. , European Court, European Court of Auditors. Representatives of the members of the EU's organizational structure not only have common interests, but also act as a member of an increasingly supranational institution. The weakest point in the current ASEAN organizational structure is the lack of close association, the lack of strong legal imprints, and the unclear regulations, which are mainly guaranteed according to the principles of law like consensus and self-determination of member countries.

### **III. Principles of ASEAN**

#### ***1. ASEAN principles in the 1976 Bali Treaty***

In the Treaty of Amity and Cooperation in Southeast Asia, also known as the Bali Treaty signed at the first ASEAN Summit in Bali in 1976, six general principles were stated. The principles underpinning ASEAN's activities among member countries and with outsiders include the following six main principles:

- “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 of one another,
- d. settlement of differences or disputes by peaceful means,
- e. renunciation of the threat or use of force, and

f. effective co-operation among themselves.”<sup>25</sup>

## ***2. ASEAN's principles in the 2008 ASEAN Charter***

Compared with the operating principles of ASEAN in the Bali Treaty of 1976, the principles stipulated in the ASEAN Charter in 2008 have been supplemented and adjusted in a fundamental way. In Article 2 of the 2008 ASEAN Charter, the following fourteen principles were set forth:

“(a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States;

(b) shared commitment and collective responsibility in enhancing regional peace, security and prosperity;

(c) renunciation of aggression and of the threat or use of force or other actions in any manner inconsistent with international law;

(d) reliance on peaceful settlement of disputes;

(e) non-interference in the internal affairs of ASEAN Member States;

(f) respect for the right of every Member State to lead its national existence free from external interference, subversion and coercion;

(g) enhanced consultations on matters seriously affecting the common interest of ASEAN;

(h) adherence to the rule of law, good governance, the principles of democracy and constitutional government;

(i) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;

(j) upholding the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States;

(k) abstention from participation in any policy or activity, including the use of its territory, pursued by any ASEAN Member State or non-ASEAN State or any non-State actor, which threatens the sovereignty, territorial integrity or political and economic stability of ASEAN Member States;

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<sup>25</sup>Treaty of Amity and Cooperation in Southeast Asia <https://www.mofa.go.jp/region/asia-paci/asean/treaty.html> accessed 20 October 2022.

(l) respect for the different cultures, languages and religions of the peoples of ASEAN, while emphasising their common values in the spirit of unity in diversity;

(m) the centrality of ASEAN in external political, economic, social and cultural relations while remaining actively engaged, outward-looking, inclusive and non-discriminatory; and

(n) adherence to multilateral trade rules and ASEAN's rules-based regimes for effective implementation of economic commitments and progressive reduction towards elimination of all barriers to regional economic integration, in a market-driven economy. “

### ***3. Other principles in ASEAN's dispute settlement and coordination activities***

In the coordination activities of the Association, the countries work on the principle of consensus (Consensus), that is, all decisions on important issues are considered to be ASEAN's only when they are unanimously approved by all member countries. via. Article 20 of the ASEAN Charter stipulates: “Decision-making based on consultation and consensus is a fundamental principle of ASEAN”. This principle applies at meetings at all levels and on all issues of ASEAN. This principle requires a long negotiation process, but ensures the national interests of all member countries.<sup>26</sup>

In addition to the principle of unanimity, the principle of equality is also consistently implemented in all meetings and issues, according to which all member countries, regardless of whether they are large or small, rich or poor, are equal. with each other in the obligation to contribute as well as share benefits. Equality is also reflected in the rotation between member countries according to the letters A, B, C of English from the meeting venue, meeting chair, etc. Article 22 of the ASEAN Charter stipulates: “The Member States shall endeavor to peacefully and promptly resolve all disputes through dialogue, consultation and negotiation. ASEAN will maintain and establish dispute settlement mechanisms in all areas of ASEAN cooperation.”

Member States with a dispute at any time may use methods such as third party, conciliation or mediation to resolve the dispute within an agreed period of time. The disputing parties may request the Chairman of ASEAN or the Secretary-General of ASEAN to act as a third party, conciliator or mediator in his or her discretion.

Particularly in the field of economic cooperation, the Framework Agreement on the Growth of Economic Cooperation at the 4th ASEAN Summit in Singapore in February 1992 clearly states that ASEAN countries have agreed on the 6-X principle, under which two or some ASEAN member countries can expedite the implementation of ASEAN projects in advance if the

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<sup>26</sup> Vietnam News Agency, *Vietnam's Role in ASEAN*, News Publishing House, Hanoi, 2007, p.30.

remaining countries are not ready to participate, there is no need to wait for all to implement together.

In the relations between ASEAN countries, there are also other unwritten principles such as the principle of reciprocity, non-confrontation, friendliness, not propagating and denouncing each other through the press, preserving ASEAN solidarity and preserving ASEAN's solidarity. common identity of the Association.

#### **IV. Vietnam's role in ASEAN**

##### ***1. Vietnam's active integration and contribution to ASEAN***

Vietnam is not a founding member state, but Vietnam has actively participated in the process of development of ASEAN. Vietnam is really active, responsible and has made many important contributions to ASEAN, which is recognized by other member countries. Vietnam's accession to ASEAN and ASEAN's admission of Vietnam demonstrates the political determination of both sides regardless of socio-political regimes, integrating on the basis of the goal of independence, self-reliance, peace and stability.<sup>27</sup>Vietnam, with its goodwill, has integrated and made specific contributions to ASEAN's activities. It has been an important factor in ASEAN for peace, stability and cooperation.<sup>28</sup>

With the introduction of Doi Moi in 1986, Vietnam has made impressive economic gains and opened its economy to trade with much of the world. In 1995 Vietnam normalized relations with the United States and became a member of ASEAN in 1997, a member of the Asia-Pacific Economic Cooperation forum (APEC) in 1998, and a member of the World Trade Organization in 2007.<sup>29</sup>

On October 10, 1995, the Prime Minister of Vietnam signed Decision No. 651/TTg on the establishment of a National Committee to coordinate Vietnam's activities in ASEAN to fulfill the obligations of member countries and participate effectively in activities, cooperation projects of ASEAN. The National Committee for Coordination of Vietnam's activities in ASEAN has the task of assisting the Prime Minister in directing relations with ASEAN in terms of security, politics, economy, culture, society, science and technology.

On November 6, 1995, the Government issued Resolution No. 6358-V PUB on the assignment of organisations to participate in activities in ASEAN. According to this Resolution, the Prime

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<sup>27</sup> Pham Duc Thanh, Tran Khanh (Co-Editors), *Vietnam in ASEAN Looking Back and Looking Forward*, Social Science Publishing House, Hanoi, 2006, p. 113.

<sup>28</sup> Vietnam National University in Hanoi, University of Social Sciences and Humanities, *ibid*, p.45.

<sup>29</sup> Gerald W. Fry - The Association of Southeast Asian Nations (Global Organizations)-Chelsea House Publications (2008), p. 119.

Minister assigns agencies to act as focal points to participate in Vietnam's activities in ASEAN in each field, such as the Ministry of Foreign Affairs and the Ministry of Interior as the focal point on security and politics; The economic focal point is the Ministry of Finance; Ministry of Planning and Investment; Ministry of Agriculture and Rural Development, etc.; The focal point for specialized fields is the Ministry of Labor, Invalids and Social Affairs, the Ministry of Education and Training, etc.

On February 8, 1996, the Prime Minister issued Decision No. 96/TTg regulating the organization and operation of the National Committee to coordinate activities of Vietnam in ASEAN (hereinafter referred to as the Committee for short). countries on ASEAN). Regarding competence, Article 3 of this Regulation stipulates: The National Committee on ASEAN has the right to request agencies to provide data and report on issues related to ASEAN and activities in ASEAN, has the right to control inspect the performance of obligations, programs and projects of cooperation with ASEAN by agencies, have the right to direct the management and use of grants from foreign governments and international organizations for activities. of Vietnam in ASEAN.

Vietnam has successfully organized the VI Summit (1998) and has well performed the function of Chair of the ASC and ARF as well as many other political-security cooperation mechanisms in ASEAN. The 1997 Hanoi Summit with the adoption of the Hanoi Action Plan was an important milestone contributing to strengthening solidarity, cooperation and determining the upward direction of ASEAN. Vietnam has also actively worked with other ASEAN countries to complete the Action Program to establish the ASEAN Security Community and the ASEAN Socio-Cultural Community.<sup>30</sup>

Since implementing the Doi Moi policy in 1986, Vietnam has always maintained an open foreign policy with all countries on all continents, especially relations with major countries and political centers. leading economy in the world. As a member actively participating in the activities of ASEAN and many major international organizations, international opinion and official domestic assessments have considered Vietnam's achievements in the field of foreign affairs as a of the three greatest achievements of the doimoi period.<sup>31</sup>

Vietnam's accession opens a new era for ASEAN, ending division and tension in the region. ASEAN has not only grown in numbers, but also in the will and determination to integrate all ASEAN members.

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<sup>30</sup>Vietnam National University in Hanoi, University of Social Sciences and Humanities, *ibid*, p. 100-101.

<sup>31</sup> Nguyen Xuan Son, Thai Van Long (Editor), *External Relations of ASEAN Countries*, National Political Publishing House, Hanoi, 1997, p. 135.

Vietnam has always paid attention to strengthening its comprehensive cooperation relationship, especially in the economic field, with ASEAN and ASEAN+3 member countries (ASEAN and 3 Northeast Asian countries including Japan, Korea, China, etc.). ). It fully and continuously participates in ASEAN activities in all forms from conferences, seminars, research, policy coordination to implementing specific cooperation activities.

In December 1998 Vietnam successfully hosted the 6th ASEAN Summit in Hanoi with an approved Hanoi Action Plan, the foundation for the establishment of the ASEAN Community. Vietnam also has initiatives in generating ideas and building the ASEAN Community, in which the Socio-Cultural Community is proposed by Vietnam.<sup>32</sup>

In 1996 Vietnam became a founding member of ASEM, and then an official member of APEC in 1998, expanding cooperation space with East Asian countries through the ASEAN+1 and ASEAN+3 mechanisms. During the operation of ASEAN+3 in 2000, Vietnam served as the Chairman of the ASEAN Standing Committee and contributed to the consolidation of ASEAN+3. The development of relations with Northeast Asian countries contributes to increase the connection between Northeast Asia and Southeast Asia. Vietnam is also committed to the guidelines and initiatives in ASEAN + 3 from the organization of the East Asia Summit to the formation of FTAs in the region, from institutionalization initiatives to cooperation programs. Specifically, this commitment contributes to the creation of a cooperative atmosphere and a spirit of patriotism in regional cooperation.

Vietnam is also active in inter-regional cooperation, specifically ASEM and APEC, regional institutions in which ASEAN+3 members participate. Vietnam hosted the 2004 ASEM Summit and the 2006 APEC Summit. The ASEM 5 in Hanoi contributed to improving the image and solidarity of ASEAN. Vietnam has persuaded EU partners to accept the admission of Myanmar, one of the three new members of ASEAN to ASEM. This contributes to maintaining unity and harmony in ASEAN.<sup>33</sup>

Trade growth between Vietnam and ASEAN has made encouraging developments. After the first 10 years of joining ASEAN, foreign direct investment (FDI) from ASEAN increased from 2 billion USD to nearly 11 billion USD. By 2006, Vietnam had eliminated non-tariff barriers and cut tariffs to 0-5% along with other ASEAN members. In addition, Vietnam also actively

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<sup>32</sup> Nguyen Xuan Thang, *Vietnam – ASEAN: Further Integrations*, Journal of Social Sciences, No. 2 (9), 2005, p. 11-20.

<sup>33</sup> Pham Duc Thanh, Tran Khanh (Co-Editors), *ibid*, p. 17.

participates in cultural activities, education, tourism, sports, environment, science and technology, etc.<sup>34</sup>

## ***2. Some challenges and prospects of Vietnam as a member of ASEAN***

The biggest challenge in ASEAN is the huge income gap between countries. Singapore and Brunei are high-income countries, the rest are middle- and low-income countries, including Vietnam. The goal of ASEAN to become an organization of nations with “peace, freedom, neutrality and prosperity” remains a huge challenge. People living in ASEAN countries still think of themselves as belonging to countries rather than the ASEAN region. An ASEAN charter is critically important to create a legal entity with real power that can force member states to follow agreement.<sup>35</sup> ASEAN has shown little ability to overcome national interests and develop a genuinely regional perspective on general development questions.<sup>36</sup>

Vietnam is now a democratic country with freely elected members of National Assembly. The role of the National Assembly has been strengthened. Some of the notable examples are fights against corruption. State agencies are now more interested in feedback information from the business community, and more ready to have dialogues with the people.<sup>37</sup>

Although the adoption of market reforms has been a key factor leading to Vietnam’s recent economic growth, Vietnam continues to be governed by a communist party and has a socialist-influenced legal system. Economic governance by the party-state in Vietnam under the socialist market economy has been characterised as uneven, exceptional, novel and problematic.<sup>38</sup> Vietnam is now in search of new forms of economic governance, which aims to strengthen and revitalise the role of the single party state.<sup>39</sup> Vietnam is now not the sort of Communist systems associated with the Soviet Communism. Different policies are debated at the Vietnam National Assembly. Vietnam is in the process of transition, the system of market economic institutions has not developed synchronously, the legal system still has many shortcomings and limitations, so

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<sup>34</sup> Pham Duc Thanh, Tran Khanh (Co-Editors), *ibid*, pp.17-18.

<sup>35</sup> Gerald W. Fry, *The Association of Southeast Asian Nations (Global Organizations)*, Chelsea House Publications (2008), p. 119.

<sup>36</sup> Mark Beeson, *Institutions of the Asia Pacific - ASEAN, APEC and beyond*, Routledge Global Institutions, 2008, p. 36.

<sup>37</sup> Tran Van Hoa (eds.), *Economic Development and Prospects in the ASEAN\_ Foreign Investment and Growth in Vietnam, Thailand, Indonesia and Malaysia*, Palgrave Macmillan UK, 1997, p. 20.

<sup>38</sup> Arve Hansen, Jo Inge Bekkevold, Kristen Nordhaug, *The Socialist Market Economy in Asia - Development in China, Vietnam and Laos*, Springer Singapore, Palgrave Macmillan, 2020, p. 136.

<sup>39</sup> Tran Thi Anh Dao, *Rethinking Asian Capitalism - The Achievements and Challenges of Vietnam Under Doi Moi*, Palgrave Macmillan, 2022.

the big challenge when integrating is that Vietnam must proactively change thinking, change management, proactively innovate and create to adapt to the times.<sup>40</sup>

In the past, when participating in AFTA, Vietnam also had to accept the common rules of the game. The direct damage to the state's benefits is in taxes, import and export tax revenue will be reduced, and consumers are the owners. can benefit from lower prices and a wider range of goods.<sup>41</sup> Competition can promote production development, but at the same time it can bankrupt many enterprises or change the economic structure. In the future this problem of competition may be even more severe.<sup>42</sup>

Although the current trend of peace has reduced armed military antagonism, conflicts and terrorism will still take place in many parts of the world, including Southeast Asia. Therefore, in the coming time, the factors of instability in security - society still exist.

The ASEAN Economic Community (AEC) promises to turn ASEAN into a market with solid connectivity, a single market with a unified production base, free circulation of goods and services. It will promote the national legal and administrative system in the country.

The establishment of the ASEAN Security Community (ASC) will also increase the level of trust and sense of community in ASEAN, promote political-security cooperation and create a balance in regional cooperation, suitable to Vietnam's immediate and long-term interests.<sup>43</sup> In addition, Vietnam is a country having a strategic position in East Asia, therefore it always attracts the attention of major countries, so enhancing its position in ASEAN will also increase cooperation opportunities with major countries in the world.

Apart from the ASEAN framework, Vietnam has also signed bilateral FTAs with Japan, South Korea, Chile and multilateral FTAs with European Union. These agreements are expected to have strong impacts on Vietnam's trade, production and foreign investment in the coming time.

To conclude, I would like to summarize the main findings of this paper as below:

1. ASEAN was established in 1967 by the foreign ministers of Indonesia, Malaysia, the Philippines, Thailand and Singapore. One of the most important purposes of this

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<sup>40</sup> Tran Thi Anh Dao, *Rethinking Asian Capitalism - The Achievements and Challenges of Vietnam Under Doi Moi*, Palgrave Macmillan, 2022.

<sup>41</sup> Nguyen Dinh Huong, Vu Dinh Bach (Co-editors), *Vietnam - ASEAN trade relations and Vietnam's import - export policy*, National Political Publishing House, Hanoi, 1999, p. 171.

<sup>42</sup> Le Hong Hiep (editor) & Anton Tsvetov (editor), *Vietnam's Foreign Policy under Doi Moi*, ISEAS Publishing, 2018.

<sup>43</sup> Phạm Đức Thành, Trần Khánh (Đồng chủ biên), *Việt Nam trong ASEAN nhìn lại và hướng tới*, Nhà xuất bản Khoa học xã hội, Hà nội, 2006, tr. 25.

Association is to accelerate the economic growth, social progress and regional peace. Now ASEAN is considered as the most successful organization in Asia, especially in maintaining the regional security and peace.

2. After a short time as an observer, Vietnam joined ASEAN in 1995. But Why until 1995? Because of the collapse of Soviet Union, the 13<sup>th</sup> National Congress of the Communist Party of Vietnam passed a new policy 'more friends and fewer enemies'. So I think it was not surprising when Vietnam expressed interest in 1992, and joined in ASEAN in 1995. It could be said that Vietnam's accession to ASEAN in 1995 was an important event ending the period of tension and confrontation. This is the first time an organization of non-socialist countries has admitted to a socialist country, like Vietnam.
3. The ASEAN Charter 2008 is the most important legal normative document. It consists of 13 chapters with 55 articles. ASEAN was created to help Southeast Asian countries decide their own future without interference from the outside. The ASEAN Community now consists of three pillars, namely the Political- Security, Economic and Socio-Cultural Communities.
4. ASEAN has always had two sides, both strength and weaknesses. In my opinion, the biggest success is the formation of an organisation, including all 10 Southeast Asian countries. However the member countries are so different in the level of development, especially in income, human capital, institutions, and infrastructure. ASEAN has now 4 major weaknesses: 1) the priority of national over regional interests, 2) the weak leadership, 3) the ineffective structure and 4) the copy model of the Western approach.
5. Vietnam is not a founding member state, but Vietnam has participated actively in the process of development of ASEAN. One year after joining ASEAN, Vietnam established a *National ASEAN Committee*, to be headed by the deputy prime minister. This body is responsible for coordinating all the institutions that interact with ASEAN. Vietnam also supported the Establishment of ASEAN Community. The Socio-Cultural Community is proposed by Vietnam. Vietnam has persuaded EU partners to accept the admission of Myanmar, one of the three new members of ASEAN to ASEM etc... Vietnam is a country having an important position in East Asia, therefore it always attracts the attention of major countries. Our country has made constant efforts to ensure that the conflict in the East Sea is dealt with in a constructive way. Vietnam calls for the settlement of disputes by peaceful means on the basis of international law.

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