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COOPERATION, HARMONY AND THE ASEAN OUTLOOK ON THE INDO-PACIFIC

Thank you to the University of Macau Faculty of Law and Department of Global Legal Studies, Professor Rostam Neuwirth, and Juris Diversitas for the opportunity to participate in this General Conference, with the theme of "*Convivencia: Comparing Legal Scenarios of a Life Together in Harmony*". It is an honor to deliver a keynote address as part of this event.

I would first observe that we are in Macau, in Asia, and that over the years, the *Juris Diversitas* General Conference has reflected significant regional diversity, with prior events held in, as a few examples, South Africa in 2019, France in 2017, the United States in 2016, and Ireland in 2015.

Recognizing the Conference theme of harmony, and recognizing our location in Asia, with my remarks today I would like to focus on a significant, Asia-based initiative aimed at advancing harmony in the region: the ASEAN Outlook on the Indo-Pacific.

"ASEAN" refers to the Association of Southeast Asian Nations, an organization that has evolved from a five-member¹ informal security alliance in 1967 (with the adoption of the Bangkok Declaration) to a ten-member² inter-governmental organization in 2007 (with the adoption of the ASEAN Charter).

About a decade after the adoption of the ASEAN Charter, ASEAN developed its Outlook on the Indo-Pacific. To understand the ASEAN Outlook on the Indo-Pacific, it is important to first understand two key regional initiatives that were being developed at the time, specifically in 2018 and 2019: first, China's Belt and Road Initiative (which had been launched in 2013), and second, the U.S. "Free and Open Indo-Pacific" policy (which had been launched in 2017).

In the early days of China's Belt and Road Initiative, the geographic scope

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¹ Indonesia, Malaysia, the Philippines, Singapore, Thailand.

² By 1999, Brunei, Cambodia, Laos, Myanmar and Vietnam had become ASEAN Members. Pasha L Hsieh, *New Asian Regionalism in International Economic Law* (Cambridge 2022) 30.

of the project appeared to be somewhat limited, with the “Belt” referring to a “Silk Road Economic Belt” running from China through Central Asia to Europe and the “Road” referring to a “21st Century Maritime Silk Road” running from China through Southeast Asia to East Africa. But the policy soon became global in scale, with assurances of being open to everyone.

The U.S. Free and Open Indo-Pacific Policy, which had been launched in late 2017, could have been seen, to some extent, as one form of response to China’s BRI. One early articulation of the policy was set out in an October 2017 speech by then-Secretary of State Rex Tillerson. In that speech, Secretary Tillerson made the following observations with respect to India, the United States, and the Indo-Pacific region:

[T]he world, and the Indo-Pacific in particular, needs the United States and India to have a strong partnership . . . In particular, the United States and India must foster greater prosperity and security with the aim of a free and open Indo-Pacific. The Indo-Pacific, including the entire Indian Ocean, the Western Pacific and the nations that surround them, will be the most consequential part of the globe in the 21st century.³

Secretary Tillerson also referred to the need to provide countries in the Indo-Pacific with “the right options when it comes to sustainable development,” while criticizing infrastructure “financing mechanisms” used by China as “saddling” countries “with enormous levels of debt.”⁴ Similar comments were made about China’s infrastructure lending practices a few months later, in March 2018, during a tour of five African countries.

Following Secretary Tillerson’s March 2018 comments, China’s then-Ambassador to South Africa, Lin Songtian, responded by stating that the United States wanted to keep Africa “as it was, poor and divided, to be always controlled by others,” and that the United States was in fact worried about “Africa’s realization of economic independence with China’s support.”⁵ It was in this environment - which could be characterized as something other than harmonious - that work on ASEAN’s Outlook on the Indo-Pacific began.

Indonesia’s key role in leading ASEAN discussions on the development of an Outlook on the Indo-Pacific has been widely discussed.⁶ Indeed, as

³ Rex Tillerson, ‘Defining our Relationship with India for the Next Century: An Address by U.S. Secretary of State Rex Tillerson’ (Center for Strategic and International Studies, 18 October 2017) <<https://www.csis.org/analysis/defining-our-relationship-india-next-century-address-us-secretary-state-rex-tillerson>> accessed 16 May 2025 .

⁴ ibid.

⁵ Pengying, ‘Chinese Diplomat Rebukes Tillerson’s Untrue Remarks about China-Africa Relations’ (Xinhuanet, 13 March 2018) <https://big5.news.cn/gate/big5/www.xinhuanet.com/english/2018-03/13/c_137035671.htm> accessed 15 May 2025.

⁶ Indonesia has been driving the AOIP since tabling the initial draft early last year. See Evan A Laksmana, ‘Flawed Assumptions: Why the ASEAN Outlook on the Indo-Pacific is Defective’ (Asia Global Institute, The University of Hong Kong, AsiaGlobal Online, 19 September 2019) <<https://www.asiaglobalonline.hku.hk/flawed-assumptions-why-the-asean-outlook-on-the-indo-pacific-is-defective>> accessed 15 May 2025.

stated by one scholar, ASEAN Leaders adopted the ASEAN Outlook on the Indo-Pacific in June 2019, following “18 months of intensive lobbying by Jakarta.”⁷

Scholars have identified several motivations driving Indonesia’s decision to lead the discussions.

A key motivation identified by one scholar was to respond to “great power politics that is dividing the Indo-Pacific into competing strategic camps”,⁸ or, as characterized by another scholar, to establish, for ASEAN, a “common position *vis-à-vis* the Indo-Pacific discourse.”⁹

A second key motivation was a need to support ASEAN “centrality”.¹⁰ “Centrality” is a foundational principle for ASEAN; as stated in ASEAN’s Charter, one of the “Purposes” of ASEAN is “[t]o 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.”¹¹ One noteworthy point, with respect to ASEAN centrality, is that the “regional architecture” as contemplated by the ASEAN Charter in 2007 likely does not match the “Indo-Pacific” framing of the region that is so common today. That is, while the core concept of ASEAN centrality has remained consistent since the adoption of the ASEAN Charter in 2007, the relevant “region” in which ASEAN aims to be the “primary driving force” has not. As reconfirmed by the ASEAN Outlook on the Indo-Pacific, the relevant region today, for purposes of ASEAN centrality, in fact consists of two regions: “The Asia-Pacific and Indian Ocean regions”.¹² And ASEAN, in its Outlook, expressly identifies ASEAN’s interest in leading the “shaping” of the “economic and security architecture”¹³ in the Asia-Pacific and Indian Ocean regions.

For ASEAN to lead the “shaping” of the “economic and security architecture”¹⁴ in a two-ocean region that includes Japan, Australia, and India is a significant policy goal. Quite notably, when ASEAN announced its Outlook on the Indo-Pacific in 2019, the announcement was welcomed

⁷ Dewi Fortuna Anwar, ‘Indonesia and the ASEAN Outlook on the Indo-Pacific’ (2020) 96 (1) International Affairs 111.

⁸ Laksmana (n 6).

⁹ Anwar (n 7) 111.

¹⁰ Because south-east Asia is located at the geographic midpoint between the Indian and Pacific oceans and all the lands around and within them, ASEAN must, in Jakarta’s view, continue to retain its centrality in the evolving Indo-Pacific construct”. See *ibid*.

¹¹ ASEAN Charter (2007) art 1(15).

¹² ASEAN Outlook on the Indo-Pacific (23 June 2019) para 1.

¹³ *ibid* para 2.

¹⁴ *ibid*.

by both China and the United States. The United States “welcome[d]” the ASEAN Outlook on the Indo-Pacific, and indeed confirmed that the United States “continues to place ASEAN centrality at the heart of our Indo-Pacific strategy.”¹⁵ China has “taken note that ASEAN has independently put forth its own Outlook on the Indo-Pacific, highlighting that it will uphold the concepts such as openness, transparency, inclusivity, equality, mutual respect, mutual trust and mutual benefit, and keep to the important principles of respect for sovereignty and non-intervention.”¹⁶ China further observed that the principles highlighted by ASEAN in its Outlook “align with the thinking behind China’s foreign policy.”¹⁷

And those principles, quite notably for this Conference, also emphasize harmony. In its Outlook on the Indo-Pacific, ASEAN underscored the importance of avoiding “mistrust, miscalculation, and patterns of behavior based on a zero-sum game,”¹⁸ while at the same time calling for “closer cooperation in the Indo-Pacific.”¹⁹ It highlighted the need to regard the Asia-Pacific and Indian Ocean regions as “a closely integrated and interconnected region,”²⁰ and stressed that the Indo-Pacific should be understood as “a region of dialogue and cooperation instead of rivalry.”²¹ Finally, ASEAN emphasized the importance of “promoting amity and cooperation among countries in the Indo-Pacific region.”²²

These key themes—cooperation, interconnectedness, engagement through dialogues, avoiding mistrust and rivalry—have continued to be developed by ASEAN in a series of recent bilateral Joint Statements outlining future cooperation efforts under the ASEAN Outlook on the Indo-Pacific framework.

To date, ASEAN has negotiated these Joint Statements with India, China, Korea, New Zealand and the United States. The Joint Statement with India was issued in 2021, while the other four Joint Statements were

¹⁵ Morgan Ortagus, ‘The United States Welcomes the ASEAN Outlook on the Indo-Pacific’ (U.S. Department of State, 2 July 2019).

¹⁶ Embassy of the People’s Republic of China in the Republic of Indonesia, ‘Wang Yi: The Summit Commemorating the 30th Anniversary of the Establishment of China-ASEAN Dialogue Relations Will Help Strengthen and Upgrade Bilateral Relations’ (Foreign Affairs Headlines, 20 November 2021) <https://id.china-embassy.gov.cn/eng/xwdt/202111/t20211120_10450884.htm> accessed 15 May 2025.

¹⁷ *ibid.*

¹⁸ *ASEAN Outlook* (n 12) para 1.

¹⁹ *ibid* para 3.

²⁰ *ibid* para 6.

²¹ *ibid* para 6.

²² *ibid* para 11.

issued in 2023. These statements “reaffirm”²³ the goals and principles of the ASEAN Outlook on the Indo-Pacific and indeed reinforce priorities that can advance harmony in the region.

The statements also highlight the need to implement the four “priority areas”²⁴ of the ASEAN Outlook on the Indo-Pacific, specifically (i) maritime cooperation, (ii) connectivity, (iii) the Sustainable Development Goals, and (iv) economic and other possible areas of cooperation. Within each of those four priority areas, the Joint Statements reinforce harmony-related principles.

On maritime cooperation, the Joint Statements highlight the need for “policy dialogue”²⁵ “information sharing”²⁶ and promoting cooperation on marine environmental protection and biodiversity conservation.²⁷ Language on connectivity highlights the promotion of “cooperation and partnerships that support digital innovation” as well as “youth and people-to-people exchange”²⁸; the Joint Statements also emphasize cooperation on “smart customs,” “smart borders,”²⁹ and “open, secure and resilient supply chains.”³⁰ Regarding the Sustainable Development Goals, the Joint Statements highlight cooperation opportunities in many areas, including food security, health security, gender equality, human rights, youth empowerment, clean energy, smart and sustainable cities, and environmental conservation.³¹ For economic or other areas of cooperation, the Joint Statements highlight opportunities for cooperation in many areas, including trade facilitation, logistics infrastructure, digital economy, cybersecurity,³² and development of micro, small and medium-sized enterprises (MSMEs).³³ The combination of ASEAN’s issuance of an Outlook on the Indo-Pacific in 2019, together with the subsequent development of a set of Joint Statements reaffirming

²³ *Joint Statement of the 24th ASEAN-Republic of Korea Summit on Cooperation on the ASEAN Outlook on the Indo-Pacific* (6 September 2023) preamble.

²⁴ *ibid* para. 6.

²⁵ *ibid* para. 5.

²⁶ *ASEAN-India Joint Statement on Cooperation on the ASEAN Outlook on the Indo-Pacific for Peace, Stability, and Prosperity in the Region* (8 October 2021) para 4.21.

²⁷ *ASEAN-China Joint Statement on Mutually Beneficial Cooperation on the ASEAN Outlook on the Indo-Pacific* (2023) para 3.

²⁸ *ASEAN-U.S. Leaders’ Statement on Cooperation on the ASEAN Outlook on the Indo-Pacific* (2023) para 5.

²⁹ *ASEAN-China Joint Statement* (n 27) para 4.

³⁰ *Joint Statement of the 24th ASEAN-Republic of Korea Summit* (n 23) para 5.

³¹ *ASEAN-New Zealand Joint Statement on Cooperation on the ASEAN Outlook on the Indo-Pacific: Standing Firm Amidst Swirling Currents* (13 July 2023) para c; *ASEAN-U.S. Leaders’ Statement* (n 28) para 10.

³² *ibid* paras 12–13.

³³ *ASEAN-China Joint Statement* (n 27) para 7.

and, quite notably, beginning to implement, that Outlook, is significant.

ASEAN now represents the fifth largest economy in the world.³⁴ Southeast Asia is situated, as stated in the ASEAN Outlook, “in the center” of the “dynamic” Asia-Pacific and Indian Ocean regions.³⁵ Both China and the United States have elevated their respective relationships with ASEAN. In November 2022, the US and ASEAN elevated their relationship to a “Comprehensive Strategic Partnership”,³⁶ almost exactly one year after China and ASEAN had done the same.³⁷

ASEAN, as a major economic force located in the center of the Indo-Pacific region, has, in its Outlook, expressly prioritized engagement and cooperation and has expressly rejected rivalry and zero-sum approaches to external relations. China and the United States have welcomed ASEAN’s Outlook. Although the US has a close relationship with ASEAN and supports ASEAN’s Outlook on the Indo-Pacific, the US continues to use language with respect to the Indo-Pacific region that could be seen as encouraging rivalry. Such language can be seen as being in tension with the ASEAN Outlook’s understanding of the Indo-Pacific as “a closely integrated and interconnected region.”³⁸

Examples of such US language include references to cooperating with “allies, partners, and friends” in the Indo-Pacific to “build collective capacity.” The United States has also emphasized the need to “protect our shared vision of the world in the face of heightened geopolitical challenges,” while at the same time advancing the “common values and interests” of its partners in the region.³⁹ Such language implies, of course, that some states in the Indo-Pacific region might not be “allies, partners and friends” of the United States, might not share the US vision of the world, and might not

³⁴ HSBC, ‘ASEAN — a region on the rise’ (HSBC Website, 8 July 2024) <<https://www.gbm.hsbc.com/engb/insights/market-and-regulatory-insights/asean-a-region-on-the-rise>> accessed 16 May 2025.

³⁵ ASEAN Outlook (n 12) para 2.

³⁶ The White House, ‘Fact Sheet: President Biden and ASEAN Leaders Launch the U.S.-ASEAN Comprehensive Strategic Partnership’ (U.S. Mission to ASEAN, 12 November 2022) <<https://asean.usmission.gov/fact-sheet-president-biden-and-asean-leaders-launch-the-u-s-asean-comprehensive-strategic-partnership/>> accessed 16 May 2025.

³⁷ Xinhua, ‘China, ASEAN form Comprehensive Strategic Partnership as Xi Chairs Summit’ (The State Council of the People’s Republic of China, 22 November 2021) <https://english.www.gov.cn/news/topnews/202111/22/content_WS619b8df5c6d0df57f98e54c6.html#:~:text=BEIJING%20%E2%80%94%20China%20and%20ASEAN%20on%20Nov%202022,anniversary%20of%20ChinaASEAN%20dialogue%20relations%20via%20video%20link> accessed 16 May 2025.

³⁸ ASEAN Outlook (n 12) para 6.

³⁹ US Department of State, ‘Fact Sheet, The United States’ Enduring Commitment to the Indo-Pacific: Marking Two Years Since the Release of the Administration’s Indo-Pacific Strategy’ (Office of Spokesperson, 9 February 2024) <<https://2021-2025.state.gov/the-united-states-enduring-commitment-to-the-indo-pacific-marking-two-years-since-the-release-of-the-administrations-indo-pacific-strategy/>> accessed 16 May 2025.

share US values and interests.

For the Indo-Pacific region, a key question becomes whether a region can be “integrated” and “interconnected” when the region is divided between states that are “allies, partners and friends” and states that are not. With respect to advancing prospects for harmony in the Indo-Pacific region, ASEAN is playing a particularly constructive role. ASEAN not only has developed its Outlook on the Indo-Pacific, but also has started to implement that Outlook through a series of bilateral Statements outlining next steps for cooperation in four priority areas. These actions demonstrate that ASEAN’s commitment to centrality - that ASEAN should be playing a central and proactive role in shaping the regional architecture of the Indo-Pacific - is firm.

ASEAN’s decision to prioritize engagement and cooperation, and to reject rivalry, should be helpful for encouraging movement in the direction of an integrated, interconnected Indo-Pacific. ASEAN’s express preference for engagement over rivalry is the preference of the fifth largest economy in the world, the preference of an organization that has entered into a “Comprehensive Strategic Partnership” with both China and the United States.

An integrated, interconnected Indo-Pacific region will require the full participation of world’s two largest economies; will require, in a sense, a significant level of harmony. Without a significant level of harmony, the Indo-Pacific region will not be integrated and will not be interconnected. By expressly supporting engagement and rejecting rivalry in its Outlook, and by starting to implement those priorities through a set of bilateral statements on cooperation with key Indo-Pacific economies, ASEAN is advancing the regional goals of integration and interconnectedness—and, for purposes of our discussion today, harmony—in very significant ways.

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