

The ASEAN Charter and Regional Economic Cooperation

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The ASEAN Charter and Regional Economic Cooperation*

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Summary

The ASEAN Charter was signed at the 13th ASEAN Summit in November 2007. This was the first time that a Charter was signed by ASEAN members. The ASEAN Charter will play a very significant role in the development of intra-ASEAN economic cooperation and East Asian regional cooperation. This is because ASEAN has been not only the sole organization of intra-regional economic cooperation in East Asia, but is also an important hub in the current East Asian regional cooperation. This paper will evaluate the ASEAN Charter, which was signed at the 13th ASEAN Summit. Section 2 discusses the experiences of intra-ASEAN economic cooperation and points out its characteristics. Section 3 analyzes the achievements of the 13th ASEAN Summit, and examines the contents of the ASEAN Charter. Section 4 evaluates the ASEAN Charter. The concluding section summarizes these analyses, and also presents some important future issues relating to the ASEAN Charter, Intra-ASEAN economic cooperation, and East Asian regional cooperation.

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East Asian Community, Economic Cooperation, Economic Integration, FTA

1. Introduction

The ASEAN Charter was signed at the 13th ASEAN Summit in November 2007. This was the first time that a Charter was signed by ASEAN members. In East Asia, ASEAN has been the sole source of regional cooperation. ASEAN was founded in 1967

* This paper is based on the report by Shimizu, K., "An Assessment of the ASEAN Charter in Relation to ASEAN Regional Economic Cooperation," in the special seminar "Assessing the ASEAN Charter (Reporter: Nakamura, T., Sato, Y., Shimizu, K. and Sekizawa, Y.)" of the Comparative Regionalism Project (CREP) at the Institute of Social Science (ISS) of the University of Tokyo, 17 December, 2007. Refer to Nakamura, T., Sato, Y., Shimizu, K. and Sekizawa, Y., "Assessing the ASEAN Charter," *CREP Discussion Paper Series*, No.23, 2007.

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and has implemented intra-regional economic cooperation since 1976. The ASEAN Free Trade Area (AFTA), which was approved at the 5th ASEAN Summit in 1992, was established by the 6 original member countries in 2003. ASEAN's current new goal is the ASEAN Economic Community (AEC).

ASEAN has grown as an important axis in the regional economic cooperation and the free trade agreement (FTA) in East Asia. With the Asian economic crisis as a turning point, East Asian regional economic cooperation including ASEAN Plus Three (APT: ASEAN Plus Japan, China and Korea) has steadily increased. The East Asian Summit (EAS) has been held yearly since 2005. At the same time, the Free Trade Agreement (FTA) including the ASEAN-China Free Trade Agreement (ACFTA) and ASEAN-Japan Comprehensive Economic Partnership (AJCEP) have also been established. The advancement of East Asian regional economic cooperation and FTA will have a major impact on the East Asian economy as well as the world economy.

The ASEAN Charter will play a very significant role in the development of intra-ASEAN economic cooperation and East Asian regional cooperation. This is because ASEAN has been not only the sole organization of intra-regional economic cooperation in East Asia, but is also an important hub in the current East Asian regional cooperation.

This paper will evaluate the ASEAN Charter, which was signed at the 13th ASEAN Summit. This topic will then be examined from the perspective of ASEAN as a follow up to past intra-ASEAN Economic Cooperation research (Shimizu, 1998a, 1999a, 2002a, 2004a, 2006a and 2008a, etc.).

Section 2 discusses the experiences of intra-ASEAN economic cooperation and points out its characteristics. Section 3 analyzes the achievements of the 13th ASEAN Summit, and examines the contents of the ASEAN Charter. Section 4 evaluates the ASEAN Charter. The concluding section summarizes these analyses, and also presents some important future issues relating to the ASEAN Charter, Intra-ASEAN economic cooperation, and East Asian regional cooperation.

2. Intra-ASEAN Economic Cooperation and Regional Economic Cooperation in East Asia

2-1. Intra-ASEAN Economic Cooperation from 1976 to 2003

ASEAN, which was founded in 1967, began intra-ASEAN economic cooperation at the 1st ASEAN Summit in 1976. This economic cooperation was carried out according to "ASEAN's strategy for Collective Import Substituting Industrialization for Heavy and

Chemical Industries (ASEAN's strategy for CISI)." At the 3rd ASEAN Summit in 1987, this Strategy ("ASEAN's strategy for CISI") was switched to a new strategy "ASEAN's strategy for Collective FDI-dependent and Export-oriented Industrialization (ASEAN's strategy for CFEI)." This was because the former strategy ended in failure and there were some changes in economic conditions both inside and outside the ASEAN region.¹

ASEAN's strategy for CFEI reached a significant turning point and new phase, along with historical structural changes surrounding ASEAN starting in 1991, due to changes in the cold war framework and the rapid economic growth in East Asia. These changes promoted the deepening and the widening of intra-ASEAN cooperation. AFTA, ASEAN Industrial Cooperation (AICO) and ASEAN Investment Area (AIA) were promoted as an extension of ASEAN's strategy for CFEI, and the widening of ASEAN to include Indochina countries.²

With the 1997 Asian economic crisis as a turning point, intra-ASEAN economic cooperation entered a new phase. This was because the structures of the world economy and East Asian economy, surrounding ASEAN, had changed to a great extent. The first change was China's rapid growth and its expansion of influence.³

Some examples of Intra-ASEAN economic cooperation after the Asian economic crisis include the following.⁴ AFTA was almost established by the six ASEAN original member countries in January 1, 2003. AICO was agreed upon at the informal ASEAN Economic Ministers Meeting in April 1996 and came into effect in November 1996. As of February 2003, 101 cases were approved.⁵ At the same time, ASEAN had consistently had success in extra-regional economic cooperation (the External Economic Joint Approach).

2-2. Centrifugal Forces of Intra-ASEAN Economic Cooperation

There were many problems and centrifugal forces for Intra-ASEAN economic cooperation. These hampered the progress of intra-regional economic cooperation. Some of these centrifugal forces have been there since the beginning. For example, first, there remained various factors that could cause conflicts of interest among ASEAN member countries. Second, ASEAN did not have policies or organizations to solve these conflicts among member countries.⁶

¹ Shimizu (1998a: Chapter 1-5, 1998b, 1999b).

² Refer to Shimizu (1998a), Final Chapter.

³ Refer to Shimizu (2004a, 2005b).

⁴ Refer to Shimizu (1998a: Chapter 2, 1999a, 2000b).

⁵ <http://www.aseansec.org/6398.htm>.

⁶ Refer to Shimizu (1998a: Chapter 2, Supplementary Chapter: Deconstruction of

Besides the above centrifugal forces, there were other centrifugal forces related to the structural changes of world economy after the Asian economic crisis.⁷ First, ASEAN widened its members into the Indochina countries. While containing wide income disparities and differences in industrial competitiveness, the widening enhanced the centrifugal force mainly in terms of intra-regional conflicts for interests between developed countries and developing countries. Second, the positions towards intra-regional economic cooperation were unstable among ASEAN member countries. The third centrifugal force was the creation of wider cooperative frameworks such as APT and the evolution of the FTA. ASEAN was led to further deepening of intra-ASEAN economic cooperation in the structural change of the world economy, by resolving these centrifugal forces.

2-3. The “Declaration of ASEAN Concord II” and the ASEAN Economic Community (AEC)

The 9th ASEAN Summit meeting in October 2003 and a series of meetings was a major turning point for intra-ASEAN economic cooperation. The “Declaration of ASEAN Concord II” in the 9th Summit meeting in Bali, Indonesia in October of 2003 presented a plan to realize an ASEAN Community, which consisted of the ASEAN Security Community (ASC), the ASEAN Economic Community (AEC) and the ASEAN Social and Cultural Community (ASCC).⁸

This declaration stated that “The ASEAN Economic Community is the realisation of the end-goal of economic integration as outlined in the ASEAN Vision 2020, to create a stable, prosperous and highly competitive ASEAN economic region in which there is a free flow of goods, services, investment and a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities in year 2020.”⁹

The attraction of FDI remained a very important factor for AEC. That is, the AEC concept had an aspect of “ASEAN’s strategy for CFEL.” For ASEAN member countries, FDI and export were still the keys to development. However, China and India had risen as major competitors. Given these circumstances, ASEAN heads sought the deepening of intra-ASEAN economic cooperation and integration in order to attract further FDI. Thus, Intra-ASEAN economic cooperation entered into a new stage, which had a goal of

Integration Theory).

⁷ Refer to Shimizu (1998a: Chapter 2, 2004a, 2005b) regarding centrifugal forces for Intra-ASEAN economic cooperation.

⁸ “Declaration of ASEAN Concord,” <http://www.aseansec.org/15159.htm>.

⁹ Ibid. Refer to Shimizu (2004a, 2005b) as for the “Declaration of ASEAN Concord II.”

a single market or a common market based on the “Declaration of ASEAN Concord II” in October 2003 as an extension of “ASEAN’s strategy for CFEI.”¹⁰

2-4. The “Vientiane Action Program (VAP)” and Narrowing the Development Gap in ASEAN

At the 10th ASEAN Summit in Vientiane in November of 2004, “the ASEAN Framework Agreement for the Integration of Priority Sectors” was signed and the “Vientiane Action Program (VAP)” was adopted.¹¹

VAP, which was the second action program to realize “the ASEAN Vision 2020,” stated a more concrete goal than the first action program: the Hanoi Plan of Action (HPA). First, VAP stated that ASEAN heads agreed to pursue the comprehensive integration of ASEAN towards the realization of an ASEAN Community by 2020 as envisioned in the “Declaration of ASEAN Concord II.” Second, it addressed the developmental issues and special needs of the less developed ASEAN Member Countries in order to narrow the development gap in ASEAN countries. The narrowing the development gap became the important task for ASEAN. The establishment of these means was an important factor to deepen Intra-ASEAN economic cooperation.

2-5. The Establishment of the ASEAN Charter and the Development of Intra-ASEAN Economic Cooperation

In the 11th ASEAN Summit in December 2005, ASEAN heads signed “the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter.”¹² The 12th ASEAN Summit was postponed from December 2006, and was held in January 2007. At the summit, four declarations including the “Cebu Declaration on the Blueprint of the ASEAN Charter” and the “ASEAN Declaration on the 15-Year Foundation of the ASEAN Community” and “the ASEAN Anti-Terrorism Agreement” were signed.

As for the ASEAN Charter, ASEAN heads signed “the Cebu Declaration on the Blueprint of the ASEAN Charter” to endorse “the Report of the Eminent Persons Group (EPG) on the ASEAN Charter” and they directed the High Level Task Force to complete the drafting of the ASEAN Charter in time for the 13th Summit in Singapore in 2007.¹³

¹⁰ Refer to Shimizu (2004a, 2005b).

¹¹ “Vientiane Action Program,” <http://www.aseansec.org/VAP-10th%20ASEAN%20Summit.pdf>. Refer to Shimizu (2005a), as for the 10th ASEAN Summit and VAP.

¹² “Kuala Lumpur Declaration on the Establishment of the ASEAN Charter Kuala Lumpur, 12 December 2005,” <http://www.aseansec.org/18030.htm>.

¹³ “Chairperson’s Statement of the 12th ASEAN Summit,” <http://www.aseansec.org/19280.htm>.

ASEAN heads affirmed the commitment to accelerate the establishment of an ASEAN Community as envisioned in the “ASEAN Concord II” by five years and agreed on the “Cebu Declaration on the Establishment of the ASEAN Community by 2015.”¹⁴

On the other hand, there were some concrete results of recent Intra-ASEAN Economic Cooperation. As for AFTA, as of August, 2006, 99.77% of the products in the CEPT Inclusion List (IL) of the original ASEAN member countries had been brought down to the 0-5% tariff range. The average tariff for the six ASEAN original member countries under the CEPT Scheme was down to 1.74% from 2.39% in 2003.¹⁵ As for AICO, as of April 2005, 129 cases were approved. Of them, 115 cases were related to automobiles, including 32 cases for Toyota, 38 for Honda, 7 for Denso, 6 for Nissan, and 3 for MMC.¹⁶ As of July 2006, 141 cases were approved and annual trade amounted to 1.7 billion dollars.¹⁷

2-6. Key Characteristics of Intra-ASEAN Economic Cooperation

Some key characteristics of intra-ASEAN economic cooperation were found. These key characteristics included: first, the request for external cooperation from intra-ASEAN economic cooperation, and, second, the request for intra-ASEAN cooperation from extra-regional cooperation¹⁸.

It remains inevitable for ASEAN to secure capital and markets for development, and at the same time, it is also vital to secure financial assistance from external partners for their own cooperation. Thus, it is unavoidable to develop a wider framework including East Asian regional cooperation and FTA. However, establishing a wider cooperative framework may threaten the very existence of ASEAN. Therefore, it is imperative for ASEAN to secure the initiative in East Asian regional cooperation, and to strengthen its own cooperation and integration.

2-7. ASEAN and East Asian Regional Economic Cooperation: The Expansion of Intra-ASEAN Economic Cooperation to East Asian Regional Economic Cooperation

East Asian regional cooperation has been implemented since the APT Summit

¹⁴ <http://www.aseansec.org/19260.htm>.

¹⁵ “Joint Media Statement of the Twentieth Meeting of the ASEAN Free Trade Area (AFTA) Council Kuala Lumpur, 21 August 2006,” <http://www.aseansec.org/18682.htm>.

¹⁶ “Approved AICO Applications as of 21 April 2005,” <http://www.aseansec.org/6398.htm>.

¹⁷ “Media Release: 38th ASEAN Economic Ministers Meeting (AEM) 22-23 August 2006, Kuala Lumpur,” by JETRO Kuala Lumpur Center.

¹⁸ Refer to Shimizu (2006a, 2006b, 2007b, 2008a).

meeting held in December 1997 during the Asian economic crisis. With ASEAN as a crucial axis, East Asian regional cooperation has been implemented in a multilayered fashion. ASEAN has the initiative in ASEAN Plus One FTA as seen in ACFTA, along with APT and EAS. ASEAN is now working to acquire more investment and support. ASEAN has an initiative to apply its rules in the institutionalization of FTA.¹⁹

As mentioned above, ASEAN seeks a wider economic cooperation over an extensive region including East Asia, because of its characteristics of Intra-ASEAN economic cooperation. Furthermore, for ASEAN, intra-regional and extra-regional economic cooperation has been implemented simultaneously. ASEAN had consistently had results in extra-regional economic cooperation (the External Economic Joint Approach), which began in 1972. ASEAN was able to secure export markets and obtain financial assistance.

In recent years, extra-regional economic cooperation achieved important results in East Asian regional economic cooperation. ASEAN is maintaining its important role in the current East Asian regional cooperation. First, ASEAN has provided an arena for negotiations in East-Asia and the Asia-Pacific region, and taking initiatives in these negotiations. This successful extra-regional cooperation, conversely, always requires ASEAN to strengthen intra-regional cooperation.

Lastly, it should be noted that ASEAN's rules (or systems) are extending into East Asian regional cooperation. First, for example, ASP expanded into CMI. Second, the AFTA rule including the rules of origin is also expanding into East Asian FTA including ACFTA, with ASEAN as their axis. It is also possible that the ASEAN Charter may lead the direction of the East Asian Cooperation. Thus, the deepening direction of intra-ASEAN economic cooperation will play a key role in East Asian regional cooperation. The establishment of the ASEAN Charter must lead the direction of East Asian regional economic cooperation.

ASEAN must deepen Intra-Economic Cooperation, not only to secure capital and markets for development but also to secure the initiative in East Asian regional cooperation. ASEAN must organize the institutions and rules, for example, for the settlement of disputes or the clearing the conflict of interest, or to implement economic commitments. The establishment of the ASEAN Charter must be based on this context. On the other hand, the establishment of the ASEAN Charter must lead the direction of the East Asian regional economic cooperation.

¹⁹ Refer to Shimizu (2007b, 2008a) regarding ASEAN and East Asian economic cooperation..

3. The ASEAN Charter and the 13th ASEAN Summit

3-1. The Process of the ASEAN Charter

The main actions to establish the ASEAN Charter by ASEAN were implemented in recent years. ASEAN heads declared that they will actively work toward establishing an ASEAN Charter in VAP at the 10th ASEAN Summit in November 2004. VAP declared “We recognise the need to strengthen ASEAN and shall work toward the development of an ASEAN Charter,” in the “Preamble.”²⁰ This was the first step toward the ASEAN Charter.

In the 11th ASEAN Summit in December 2005, ASEAN heads signed “the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter,” and agreed “to establish an Eminent Persons Group (EPG), comprising highly distinguished and well respected citizens from ASEAN Member Countries, with the mandate to examine and provide practical recommendations on the directions and nature of the ASEAN Charter relevant to the ASEAN Community as envisaged in the Bali Concord II.”²¹

At the 12th ASEAN Summit in January 2007, “The Report of the Eminent Persons Group on the ASEAN Charter (the EPG Report)” was presented to ASEAN heads. This report became the base for the ASEAN Charter.²² At this Summit, ASEAN heads signed “the Cebu Declaration on the Blueprint of the ASEAN Charter” to endorse the EPG Report and they directed the High Level Task Force to complete the drafting of the ASEAN Charter in time for the 13th Summit in Singapore in 2007.²³

HLTF presented to the ASEAN Foreign Ministers regarding the ASEAN Charter on November 19th. At last, ASEAN heads signed “the ASEAN Charter” at the 13th ASEAN Summit in Singapore on November 20th.

3-2. The 13th ASEAN Summit and other related Summits

The 13th ASEAN Summit was held first in a series of ASEAN summits. This section will review the achievements of the 13th ASEAN Summit, and examine the contents of

²⁰ “Vientiane Action Program,”

<http://www.aseansec.org/VAP-10th%20ASEAN%20Summit.pdf>.

²¹ “Kuala Lumpur Declaration on the Establishment of the ASEAN Charter

Kuala Lumpur, 12 December 2005,” <http://www.aseansec.org/18030.htm>.

²² The EPG Report included three parts: part1 Strategic Stock Taking, Part 2 Towards a New ASEAN and Part 3 Recommendation for Inclusion in the ASEAN Charter. Refer to “The Report of the Eminent Persons Group on the ASEAN Charter,”

<http://www.aseansec.org/19247.pdf>.

²³ “Chairperson’s Statement of the 12th ASEAN Summit,”

<http://www.aseansec.org/19280.htm>.

the ASEAN Charter signed at this Summit.

These series of ASEAN summits were held on the following dates:

- November 20, the 13th ASEAN Summit
- November 20, the 11th ASEAN Plus Three (APT) Summit
- November 20, the 11th ASEAN-China Summit
- November 21, the 11th ASEAN- Japan Summit
- November 21, the 11th ASEAN- ASEAN-Republic of Korea Summit
- November 21, the 6th ASEAN-India Summit
- November 21, the 3rd East Asia Summit (EAS)

The following is a review of the achievements of these important ASEAN Summit meetings. The first important meeting was the 13th ASEAN Summit. First, ASEAN heads signed “the ASEAN Charter.”²⁴ This was the first time that ASEAN signed a Charter. All ASEAN heads including Myanmar signed the ASEAN Charter at this Summit, though the Myanmar issue was one of main issues at this Summit.

At the “Opening Plenary Remarks,” the chairman of the 13th ASEAN Summit, the Prime Minister of Singapore, Lee Hsien Loon stated that “to make ASEAN strong and relevant, we must accelerate and deepen regional integration. The ASEAN Charter is a crucial step in this process. The Charter will qualitatively change the way we approach and think about ASEAN. It will make ASEAN into a more effective and cohesive organisation, with a rules-based governing framework, and streamlined decision-making processes. All this will pave the way for closer integration in the years ahead,” and “The Charter also crystallises our aspirations to be a strong and cohesive ASEAN Community, supported by three pillars – economic, social and security.”²⁵

Second, ASEAN leaders announced the “Declaration on the ASEAN Economic Community Blueprint”²⁶ and adopted the “ASEAN Economic Community Blueprint (AEC Blueprint)”²⁷ was adopted. AEC Blueprint was a roadmap in which each ASEAN member country should abide by and implement the AEC by 2015. The “Declaration on the ASEAN Economic Community Blueprint” stated “the AEC Blueprint will transform ASEAN into a single market and production base, a highly competitive economic region,

²⁴ “Charter of the Association of Southeast Asian Nations,” <http://www.aseansec.org/21069.pdf>.

²⁵ “Opening Plenary Remarks by Prime Minister Lee Hsien Loong at the ASEAN Summit Singapore, 20 November 2007,” <http://www.aseansec.org/21063.htm>.

²⁶ “Declaration on the ASEAN Economic Community Blueprint,” <http://www.aseansec.org/21081.htm>.

²⁷ “ASEAN Economic Community Blueprint,” <http://www.aseansec.org/21083.pdf>.

a region of equitable economic development, and a region fully integrated into the global economy.” the AEC Blueprint was the first adopted Blueprint for ASEAN Community including ASC, AEC and ASCC. ASEAN leaders stated that ASC and ASCC would be adopted at the next Summit. This revealed that AEC was the most important and the main program of the three communities.

Third, ASEAN leaders announced the “ASEAN Declaration on Environmental Sustainability”²⁸ and “ASEAN Declaration on the 13th Session of the Conference of Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC) and the 3rd Session of the Conference of the Parties Serving as the Meeting of the Parties (CMP) to the Kyoto Protocol.”²⁹ Environmental sustainability was also one of main issues in these Summits.

The other Summits included The 11th ASEAN Plus Three (APT) Summit, some ASEAN Plus One Summits and the 3rd East Asian Summit. The 11th APT Summit, the core of the present East Asian regional cooperation, was held on November 20. 13 countries participated including 10 ASEAN countries, Japan, China and Korea. The heads of state addressed the “Second Joint Statement on East Asia Cooperation Building on the Foundations of ASEAN Plus Three Cooperation,”³⁰ which would provide strategic and practical guidance for the future development of the APT process.³¹

The 11th ASEAN-China Summit was held on November 20, the 11th ASEAN-Japan Summit, the 11th ASEAN-Republic of Korea Summit and the 6th ASEAN-India Summit were held on November 21. At the 11th ASEAN- Japan Summit, ASEAN and Japanese leaders welcomed the successful conclusion of the negotiations on the ASEAN-Japan Comprehensive Economic Partnership (AJCEP) Agreement.³² AJCEP had been agreed on by economic ministers on November 19.

The 3rd EAS was held on November 21. The “Singapore Declaration on Climate

²⁸ “ASEAN Declaration on Environmental Sustainability,” <http://www.aseansec.org/21060.htm>.

²⁹ “ASEAN Declaration on the 13th Session of the Conference of Parties (COP) to the UN Framework Convention on Climate Change (UNFCCC) and the 3rd Session of the Conference of the Parties Serving as the Meeting of the Parties (CMP) to the Kyoto Protocol,” <http://www.aseansec.org/21078.htm>.

³⁰ “Second Joint Statement on East Asia Cooperation Building on the Foundations of ASEAN Plus Three Cooperation,” <http://www.aseansec.org/21099.htm>.

³¹ “Chairman’s Statement of the 11th ASEAN Plus Three Summit Singapore, 20 November 2007,” <http://www.aseansec.org/21096.htm>.

³² “Chairman’s Statement of the 11th ASEAN-Japan Summit Singapore, 21 November 2007,” <http://www.aseansec.org/21130.htm>.

Change, Energy and the Environment” was announced at this EAS.³³ The heads agreed to the establishment of the Economic Research Institute of ASEAN and East Asia (ERIA).³⁴ EAS was been established as an East Asian Regional Cooperation. East Asian regional cooperation has been implemented in a multilayered fashion.

The ASEAN-EU Commemorative Summit was held on November 21. This Summit was held to commemorate the 30th anniversary of ASEAN-EU relations, the 40th anniversary of the establishment of ASEAN and the 50th anniversary of the signing of the Rome Treaties.³⁵

The Myanmar problem was one of the main issues of these Summits. Singapore invited United Nations special envoy Ibrahim Gambari to meet ASEAN leaders and their counterparts at the 3rd EAS. He was to brief them on his two missions to Myanmar since the junta’s crackdown on pro-democracy protesters. The Myanmar situation was discussed at an informal working dinner meeting that stretched past 11:30 pm on the 19th. But the meeting with Professor Gambari was put off since Myanmar had objected to it.³⁶ Only the Chairman’s statement: “ASEAN Chairman Statement on Myanmar” was stated.³⁷

The Myanmar problem would have an effect on the future of the ASEAN Charter. Philippine President Arroyo warned that her country would be hard-pressed to ratify the ASEAN Charter if Myanmar refused to embrace democracy and free opposition leader Aung San Suu Kyi. In comments to South-east Asian leaders at an informal dinner on the 19th, Mrs Arroyo said that the Nobel peace laureate’s freedom was a “fundamental concern” for the Philippines. “The expectation of the Philippines is that if Myanmar signs the Charter, it is committed to returning to the path of democracy and releasing Aung San Suu Kyi,” she said. “Until the Philippines Congress sees that happen, it would have extreme difficulty in ratifying the ASEAN Charter.”³⁸

3-3. The Contents of the ASEAN Charter

3-3-1. “Purposes”

³³ “Singapore Declaration on Climate Change, Energy and the Environment,” <http://www.aseansec.org/21116.htm>.

³⁴ “Chairman’s Statement of the 3rd East Asia Summit Singapore, 21 November 2007,” <http://www.aseansec.org/21127.htm>.

³⁵ “Joint Declaration of the ASEAN-EU Commemorative Summit Singapore, 22 November 2007,” <http://www.aseansec.org/21120.htm>.

³⁶ “The Straights Times,” 20 November.

³⁷ “ASEAN Chairman Statement on Myanmar,” <http://www.aseansec.org/21057.htm>.

³⁸ “The Straights Times,” 20 November.

The ASEAN Charter includes a “Preamble” and fifty five “Articles.”³⁹ It also include four “Annexes (1. ASEAN Sectoral Ministerial Bodies, 2. Entities Associated ASEAN, 3. ASEAN Flag and 4. ASEAN Emblem).”⁴⁰

“Article 1” of “Chapter I Purposes and Principles” of the ASEAN Charter lifts the “Purposes,” and include 15 purposes. “The Purposes of ASEAN” states “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.” These were declared in previous ASEAN declarations. The fourth purpose is “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”⁴¹

The next two are the economic purposes. The first economic purpose is “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.”⁴² This is the same content of AEC, and reveals the establishing of AEC. The development of Intra-ASEAN economic cooperation is the very important theme in the ASEAN Charter. The establishment of AEC is one of main purposes of the ASEAN Charter. The second economic purpose is “6. to alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation.”⁴³ This is an important theme for ASEAN since VAP.

The next purpose relates to the democracy and human rights, which were connected to the Myanmar problem. This purpose is “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.”⁴⁴

³⁹ “Charter of the Association of Southeast Asian Nations,” <http://www.aseansec.org/21069.pdf>.

⁴⁰ “Annex 1 ASEAN Sectoral Ministerial Bodies (<http://www.aseansec.org/21071.pdf>),” “Annex 2 Entities Associated ASEAN (<http://www.aseansec.org/21072.pdf>),” “Annex 3 ASEAN Flag (<http://www.aseansec.org/21073.pdf>)” and “Annex 4 ASEAN Emblem (<http://www.aseansec.org/21074.pdf>).”

⁴¹ “Charter of the Association of Southeast Asian Nations,” <http://www.aseansec.org/21069.pdf>.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

The 9th purpose is “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.”⁴⁵

Sustainable development was an important theme in this Summit.

The last purpose is related to ASEAN economic cooperation. This is “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.” This states ASEAN should be the primary driving force in a regional architecture including East Asian economic cooperation. This emphasizes ASEAN’s main role in East Asian cooperation.

3-3-2 “Principles” and “Legal Personality”

“Article 2” of Chapter I of the ASEAN Charter is the “Principles,” which includes 14 principles (from (a) to (n)). Article 2 states that “ASEAN and its Member States shall act in accordance with the following Principles: (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.”⁴⁶

Principle (e) states “non-interference in the internal affairs”: “(e) non-interference in the internal affairs of ASEAN Member States.” The next principle is “(f) respect for the right of every Member State to lead its national existence free from external interference, subversion and coercion.”⁴⁷

The last principle is an economic related principle: “(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.”⁴⁸ This states the adherence to ASEAN’s rules-based regimes.

“Chapter II Legal Personality” includes “Article 3 Legal Personality of ASEAN.” This article states “ASEAN, as an inter-governmental organisation, is hereby conferred legal personality.”⁴⁹ This part is short but important for ASEAN with regard to its legal position.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

3-3-3. “Organs”

“Chapter IV Organs” includes 8 articles. These articles explain the ASEAN Summit, ASEAN Coordinating Council, ASEAN Community Council, ASEAN Sectoral Ministerial Bodies, Secretary-General of ASEAN and ASEAN Secretariat, Committee of permanent Representatives to ASEAN, ASEAN National Secretariats, ASEAN Human Rights Body and ASEAN Foundation.

“ASEAN Summit (Article 7)” states that “The ASEAN Summit shall: (a) be the supreme policy-making body of ASEAN; (b) deliberate, provide policy guidance and take decisions on key issues pertaining to the realization of the objectives of ASEAN, important matters of interest to Member States and all issues referred to it by the ASEAN Coordinating Council, the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies.”⁵⁰

Next, this Article states “(g) appoint the Secretary-General of ASEAN, with the rank and status of Minister, who will serve with the confidence and at the pleasure of the Heads of State or Government upon the recommendation of the ASEAN Foreign Ministers Meeting.” “ARTICLE 7” also states that “ASEAN Summit Meetings shall be: (a) held twice annually.”⁵¹ These are new rules for ASEAN Summit.

“ASEAN Coordinating Council (Article 8)” states that “1. The ASEAN Coordinating Council shall comprise the ASEAN Foreign Ministers and meet at least twice a year,” and that “2. The ASEAN Coordinating Council shall: (a) prepare the meetings of the ASEAN Summit; (b) coordinate the implementation of agreements and decisions of the ASEAN Summit; (c) coordinate with the ASEAN Community Councils to enhance policy coherence, efficiency and cooperation among them.”⁵² “ASEAN Coordinating Council” is an extension of the current ASEAN Ministers Meeting (AMM).

“ASEAN Community Councils (Article 9),” which is related to AEC, states that “1. The ASEAN Community Councils shall comprise the ASEAN Political-Security Community Council, ASEAN Economic Community Council, and ASEAN Socio-Cultural Community Council” and “5. Each ASEAN Community Council shall meet at least twice a year.”⁵³

“ASEAN Sectoral Ministerial Bodies (Article 10)” states that “1. ASEAN Sectoral Ministerial Bodies shall: (a) function in accordance with their respective established mandates; (b) implement the agreements and decisions of the ASEAN Summit under

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

their respective purview; (c) strengthen cooperation in their respective fields in support of ASEAN integration and community building.”⁵⁴

“Secretary-General of ASEAN and ASEAN Secretariat (Article11)” states that “1. The Secretary-General of ASEAN shall be appointed by the ASEAN Summit for a non-renewable term of office of five years, selected from among nationals of the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, capability and professional experience, and gender equality.”⁵⁵

Next, this article states that “2. The Secretary-General shall: (a) carry out the duties and responsibilities of this high office in accordance with the provisions of this Charter and relevant ASEAN instruments, protocols and established practices; (b) facilitate and monitor progress in the implementation of ASEAN agreements and decisions, and submit an annual report on the work of ASEAN to the ASEAN Summit; (d) present the views of ASEAN,” “3. The Secretary-General shall also be the Chief Administrative Officer of ASEAN,” and “4. The Secretary-General shall be assisted by four Deputy Secretaries-General with the rank and status of Deputy Ministers.”⁵⁶

“Committee of Permanent Representatives to ASEAN (Article12)” states that “1. Each ASEAN Member State shall appoint a Permanent Representative to ASEAN with the rank of Ambassador based in Jakarta.” Next, “ASEAN National Secretariats (Article13)” states that “Each ASEAN Member State shall establish an ASEAN National Secretariat.”⁵⁷

“ASEAN Human Rights Body (Article 14)” is a new organ, which the EPG Report didn’t recommend but which is introduced in the ASEAN Charter. This Article states that “1. In conformity with the purposes and principles of the ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body,” and “2. This ASEAN human rights body shall operate in accordance with the terms of reference to be determined by the ASEAN Foreign Ministers Meeting.”⁵⁸

3-3-4. “Decision-Making” and “Settlement of Disputes”

“Chapter VII Decision-Making” includes two articles: “Article 20 Consultation and Consensus” and “Article 21 Implementation and Procedure.” “Consultation and Consensus (Article 20)” states that “1. As a basic principle, decision-making in ASEAN

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

shall be based on ‘consultation and consensus.’”⁵⁹ ‘Consultation and consensus’ is the current ASEAN decision making style. However, this article states that “2. Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made,” and “4. In the case of a serious breach of the Charter or noncompliance, the matter shall be referred to the ASEAN Summit for decision.”⁶⁰

“Implementation and Procedure (Article 21)” relates to the rule of Intra-ASEAN economic cooperation. This article states that “2. In the implementation of economic commitments, a formula for flexible participation, including the ASEAN Minus X formula, may be applied where there is a consensus to do so.”⁶¹

“Chapter VIII Settlement of Disputes” includes seven articles. “General Principles (Article 22)” states that “1. Member States shall endeavour to resolve peacefully all disputes in a timely manner through dialogue, consultation and negotiation.” The “Consultation and Consensus” is the principle of the decision-making of this ASEAN Charter. This chapter includes “Unresolved Disputes” and “Compliance.” “Unresolved Disputes” is an important rule for this ASEAN Charter. “Article 26” states that “When a dispute remains unresolved, after the application of the preceding provisions of this Chapter, this dispute shall be referred to the ASEAN Summit, for its decision.”⁶²

“Compliance (Article 27)” addressed the monitoring role of the Secretary-General. This article states that “1. The Secretary-General of ASEAN shall monitor the compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, and submit a report to the ASEAN Summit.”⁶³

3-3-5. “Administration and Procedure,” “Identity and Symbols,” “External Relations” and “General and Final Provisions”

“Chapter X Administration and Procedure” includes “Chairman of ASEAN (Article 31)” and “Working Language of ASEAN (Article 34),” which states that “The working language of ASEAN shall be English.” “Chapter XI Identity and Symbols” includes “ASEAN Identity (Article 35),” “ASEAN Motto (Article 36), ASEAN Flag (Article 37), ASEAN Emblem (Article 38), ASEAN Day (Article 39) and ASEAN Anthem (Article 40). “The ASEAN motto” is stated “*One Vision, One Identity, One Community.*” “ASEAN Day” is stated for “The eighth of August” shall be observed as ASEAN Day.⁶⁴ ASEAN

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

stated that the Working Language, the Motto and the Anthem were three things that ASEAN had outdone the European Union.⁶⁵

“Chapter XII External Relations” includes six Articles. “Conduct of External Relations (Article 41)” states that “3. ASEAN shall be the primary driving force in regional arrangements that it initiates and maintain its centrality in regional cooperation and community building.”⁶⁶ This reveals that ASEAN should take and maintain the initiative in East Asian regional cooperation.

“Chapter XIII General and Final Provisions” includes nine Articles. “Signature, Ratification, Depository and Entry into Force (Article 47)” states that “1. This Charter shall be signed by all ASEAN Member States. 2. This Charter shall be subject to ratification by all ASEAN Member States in accordance with their respective internal procedures,” and “4. This Charter shall enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification with the Secretary-General of ASEAN.”⁶⁷ This ASEAN Charter must be ratified by all member countries.

3-4. The ASEAN Charter and the EPG Report

The contents of the ASEAN Charter and the ERG Report, which was the base of the ASEAN Charter, will be compared. It can be found that the ASEAN Charter is mainly based on the EPG Report. Most parts of the ASEAN Charter are similar to the EPG Report recommended.

However, first, the ASEAN Charter did not include some important EPG recommendations. Second, the ASEAN Charter adopted a new organ, “ASEAN Human Rights Body,” which the EPG Report didn’t recommend.

The ASEAN Charter did not include some important EPG recommendations. First, the EPG Report recommended that “The ASEAN Council may consider taking any measure, including, among others, ‘the suspension of rights and privileges,’ upon the proposal of Member States concerned and the recommendation of the ASEAN Foreign Ministers, for any serious breach by any Member State of the objectives, principles, and commitments as contained in the existing ASEAN declarations, agreements, concords, and treaties as well as the norms and values adhered to by ASEAN.”⁶⁸

⁶⁵ “Media Release ASEAN Leaders Sign ASEAN Charter Singapore, 20 November 2007,” <http://www.aseansec.org/21085.htm>.

⁶⁶ “Charter of the Association of Southeast Asian Nations,” <http://www.aseansec.org/21069.pdf>.

⁶⁷ Ibid.

⁶⁸ “The Report of the Eminent Persons Group on the ASEAN Charter,” <http://www.aseansec.org/19247.pdf>.

But this recommendation was not adopted, though the ASEAN Charter states that “Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made,” and “In the case of a serious breach of the Charter or noncompliance, the matter shall be referred to the ASEAN Summit for decision.”⁶⁹ Furthermore, the ASEAN Charter states “non-interference in the internal affairs of ASEAN Member States” in “Principles,” though the EPG Report did not include this in “Principles.”

Second, the EPG Report recommended that “The decision-making process in ASEAN shall, as a general rule, be based on consultation and consensus, especially on decisions in more sensitive areas of security and foreign policy,” but the EPG Report recommended that “On other areas, if consensus cannot be achieved, decisions may be taken through voting, either on the basis of a simple majority, or on the basis of a 2/3rd or 3/4th majority.”⁷⁰ This voting process was a new Decision-making process for ASEAN.

But this recommendation about the voting process was not adopted. The ASEAN Charter holds the “Decision-Making” by ‘consultation and consensus’ in every area. “Consultation and Consensus” in “Decision-Making” states that “As a basic principle, decision-making in ASEAN shall be based on ‘consultation and consensus,’” though this article states that “Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made.”⁷¹

4. Evaluating the ASEAN Charter

The ASEAN Charter can be evaluated as follows: first, the signing in the ASEAN Charter by all ASEAN Members including Myanmar was an achievement, in this Summit where the Myanmar problem was one of the main issues in a series of these Summits. Second, the signing of the ASEAN Charter was the first step for ASEAN to acquire its legal base by the ASEAN Charter. ASEAN has been based not on a charter and treaty, but on only a declaration (“the ASEAN Declaration: Bangkok Declaration” in 1967). The establishment of the ASEAN Charter will enable ASEAN to have a legal base. Third, it was an achievement to state the purpose, principles and many rules of

⁶⁹ “Charter of the Association of Southeast Asian Nations,” <http://www.aseansec.org/21069.pdf>.

⁷⁰ “The Report of the Eminent Persons Group on the ASEAN Charter,” <http://www.aseansec.org/19247.pdf>.

⁷¹ “Charter of the Association of Southeast Asian Nations,” <http://www.aseansec.org/21069.pdf>.

ASEAN in the law and rules: the ASEAN Charter. Fourth, it was an achievements to state to establish a new organ and to arrange the current organization in the Charter.

By these achievements, first, ASEAN will be forced by principles and rules stated in the ASEAN Charter. Second, compliances and obligations for the commitments will be strengthened. Third, ASEAN will be directed and accelerated for the establishment of the ASEAN Community including AEC.

However, first, the details of contents are not yet determined. Second, ASEAN holds the current main principles including the “non-interference in the internal affairs” and the “Decision-Making” by ‘consultation and consensus.’ Third, the penal provisions are not stated.

The ASEAN Charter must be ratified by all ASEAN member countries. As stated above, Philippine President Arroyo warned that her country would be hard-pressed to ratify the ASEAN Charter if Myanmar refused to embrace democracy and free opposition leader Aung San Suu Kyi. Furthermore, ASEAN must work out the details of the contents. That is, the real achievements will depend on future progress.

From a point of view of Intra-ASEAN economic cooperation, the ASEAN Charter is examined. First, the ASEAN Charter states the establishment of AEC. This is the first purpose of the economic purposes on the ASEAN Charter. The establishment of AEC is one of the main purposes of the ASEAN Charter.

Second, the ASEAN Charter states to alleviate poverty and narrow the development gap within ASEAN in “Purposes.” The second economic purpose is “to alleviate poverty and narrow the development gap within ASEAN through mutual assistance and cooperation.” This has been an important theme for ASEAN especially since VAP.

Third, the ASEAN Charter states ASEAN should be the primary driving force in a regional architecture including East Asian economic cooperation. The last purpose in “Purposes” is “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.”

Fourth, the ASEAN Charter states the adherence to ASEAN’s economic rules-based regimes. The last principle in “Principles” states the economic related principles: “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.”

Fifth, the ASEAN Charter states “a formula for flexible participation, including the

ASEAN Minus X formula may be applied where there is a consensus to do so” in “the implementation of economic commitments.”

From these points, the establishment of the ASEAN Charter will be an important milestone to deepen Intra-ASEAN economic cooperation. First, the establishment of the ASEAN Charter will be an important step for the establishment of AEC. The establishment of the ASEAN Charter itself had the purpose to establishing AEC.

Second, to state the economic purposes in law: the ASEAN Charter will strengthen Intra-ASEAN economic cooperation including the establishment of AEC and narrowing the gap.

Third, the state of many rules and the institutionalization of many organs will assist to deepen Intra-ASEAN economic cooperation, and also assist for ASEAN to hold the initiatives in East Asian economic cooperation. For example, the settlement of disputes or clearing up conflicts of interest will be possible in some cases. Some rules including the compliance article will strengthen pressures to implement economic commitments, and assist to deepen Intra-ASEAN economic cooperation. There were many former cases in Intra-ASEAN economic cooperation in which the economic commitments were not implemented, though these had been agreed. However, the real achievements must depend on future progress.

5. Conclusion

The signing of the ASEAN Charter realized many achievements for ASEAN. The signing itself of the ASEAN Charter by all ASEAN Members was an achievement. The ASEAN Charter had many important contents. The establishment of the ASEAN Charter may have many achievements. But, first, the details of the contents are not yet determined. Second, ASEAN maintains the current main principles. Third, the penal provisions are not stated.

From a point of view of Intra-ASEAN economic cooperation, the ASEAN Charter had many important contents. The establishing of the ASEAN Charter will be an important milestone to deepen Intra-ASEAN economic cooperation. The establishment of the ASEAN Charter will be an important step to establish AEC.

However, the real achievements will depend on future progress. First, the ASEAN Charter must be ratified by all ASEAN member countries. Second, ASEAN must work out the details of the contents.

This first task is the most urgent task for ASEAN. This Charter will enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification

with the Secretary-General of ASEAN. The ASEAN Charter was ratified by six countries: Singapore, Brunei, Laos, Malaysia, Cambodia and Vietnam as at March 2008. The ASEAN Charter must be ratified by the rest of the member countries including Myanmar and the Philippines.

Lastly, future issues regarding the ASEAN Charter and Regional economic cooperation will be presented. Issues about the ASEAN Charter will be first presented. Will the ASEAN Charter be ratified by all members and enter into force? Will ASEAN work out the details of the contents? Will the “Settlement of Disputes” or “ASEAN Human Rights Body” be implemented? Will “Decision-Making” be amended in the future?

Issues about future Intra-ASEAN economic cooperation will be addressed. Will ASEAN deepen the cooperation and integration of its own members, with the turning point being the “ASEAN Concord II” and with the impetus being the establishment of the ASEAN Charter? Will ASEAN implement cooperation and integration over the nation-states system? What role can intra-ASEAN economic cooperation play in the future? What international public goods will it provide? How can it contribute to the management of the world economy? Will ASEAN be able to maintain the initiative in East Asian regional cooperation?

Lastly, issues about the future of East Asian regional cooperation will be presented. First, what role can East Asian regional economic cooperation play in the future? What international public goods will it provide? How can it contribute to the management of the world economy? Second, will some regional cooperation such as ASEAN, APT, EAS, ARF, and APEC continue in a multilayered manner? Will this eventually become a unique characteristic of East Asian regional cooperation? Third, what membership will the East Asian community be composed of? What will it aim to do? That is, “What is East Asia?” and “What is the community?”

We must examine the future development of Intra-ASEAN economic cooperation and East Asian economic cooperation, with the establishment of the ASEAN Charter and AEC.

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Table 1

Main Contents of the ASEAN Charter

CHAPTER I PURPOSES AND PRINCIPLES

ARTICLE 1 PURPOSES

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;
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.

ARTICLE 2 PRINCIPLES

1. In pursuit of the Purposes stated in Article 1, ASEAN and its Member States reaffirm and adhere to the fundamental principles contained in the declarations, agreements, conventions, concords, treaties and other instruments of ASEAN.

2. ASEAN and its Member States shall act in accordance with the following Principles:

- (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;
- (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.

CHAPTER II LEGAL PERSONALITY

ARTICLE 3 LEGAL PERSONALITY OF ASEAN

ASEAN, as an inter-governmental organisation, is hereby conferred legal personality.

CHAPTER III MEMBERSHIP

CHAPTER IV ORGANS

ARTICLE 7 ASEAN SUMMIT

1. The ASEAN Summit shall comprise the Heads of State or Government of the Member States.
2. The ASEAN Summit shall:
 - (a) be the supreme policy-making body of ASEAN;
 - (b) deliberate, provide policy guidance and take decisions on key issues pertaining to the realization of the objectives of ASEAN, important matters of interest to Member States and all issues referred to it by the ASEAN Coordinating Council, the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies;
 - (c) instruct the relevant Ministers in each of the Councils concerned to hold ad hoc inter-Ministerial meetings, and address important issues concerning ASEAN that cut across the Community Councils. Rules of procedure for such meetings shall be adopted by the ASEAN Coordinating Council;
 - (d) address emergency situations affecting ASEAN by taking appropriate actions;
 - (e) decide on matters referred to it under Chapters VII and VIII;
 - (f) authorise the establishment and the dissolution of Sectoral Ministerial Bodies and other ASEAN institutions; and
 - (g) appoint the Secretary-General of ASEAN, with the rank and status of Minister, who will serve with the confidence and at the pleasure of the Heads of State or Government upon the recommendation of the ASEAN Foreign Ministers Meeting.
3. ASEAN Summit Meetings shall be:
 - (a) held twice annually, and be hosted by the Member State holding the ASEAN Chairmanship; and
 - (b) convened, whenever necessary, as special or ad hoc meetings to be chaired by the Member State holding the ASEAN Chairmanship, at venues to be agreed upon by ASEAN Member States.

ARTICLE 8 ASEAN COORDINATING COUNCIL

1. The ASEAN Coordinating Council shall comprise the ASEAN Foreign Ministers and meet at least twice a year.

2. The ASEAN Coordinating Council shall:
 - (a) prepare the meetings of the ASEAN Summit;
 - (b) coordinate the implementation of agreements and decisions of the ASEAN Summit;
 - (c) coordinate with the ASEAN Community Councils to enhance policy coherence, efficiency and cooperation among them;
 - (d) coordinate the reports of the ASEAN Community Councils to the ASEAN Summit;
 - (e) consider the annual report of the Secretary-General on the work of ASEAN;
 - (f) consider the report of the Secretary-General on the functions and operations of the ASEAN Secretariat and other relevant bodies;
 - (g) approve the appointment and termination of the Deputy Secretaries-General upon the recommendation of the Secretary-General; and
 - (h) undertake other tasks provided for in this Charter or such other functions as may be assigned by the ASEAN Summit.

ARTICLE 9 ASEAN COMMUNITY COUNCILS

1. The ASEAN Community Councils shall comprise the ASEAN Political-Security Community Council, ASEAN Economic Community Council, and ASEAN Socio-Cultural Community Council.
2. Each ASEAN Community Council shall have under its purview the relevant ASEAN Sectoral Ministerial Bodies.
3. Each Member State shall designate its national representation for each ASEAN Community Council meeting.
4. In order to realise the objectives of each of the three pillars of the ASEAN Community, each ASEAN Community Council shall:
 - (a) ensure the implementation of the relevant decisions of the ASEAN Summit;
 - (b) coordinate the work of the different sectors under its purview, and on issues which cut across the other Community Councils; and
 - (c) submit reports and recommendations to the ASEAN Summit on matters under its purview.
5. Each ASEAN Community Council shall meet at least twice a year and shall be chaired by the appropriate Minister from the Member State holding the ASEAN Chairmanship.

ARTICLE 10 ASEAN SECTORAL MINISTERIAL BODIES

1. ASEAN Sectoral Ministerial Bodies shall:
 - (a) function in accordance with their respective established mandates;
 - (b) implement the agreements and decisions of the ASEAN Summit under their respective purview;
 - (c) strengthen cooperation in their respective fields in support of ASEAN integration and community building; and
 - (d) submit reports and recommendations to their respective Community Councils.

ARTICLE 11 SECRETARY-GENERAL OF ASEAN AND ASEAN SECRETARIAT

1. The Secretary-General of ASEAN shall be appointed by the ASEAN Summit for a non-renewable term of office of five years, selected from among nationals of the ASEAN Member States based on alphabetical rotation, with due consideration to integrity, capability and professional experience, and gender equality.
2. The Secretary-General shall:
 - (a) carry out the duties and responsibilities of this high office in accordance with the provisions of this Charter and relevant ASEAN instruments, protocols and established practices;
 - (b) facilitate and monitor progress in the implementation of ASEAN agreements and decisions, and submit an annual report on the work of ASEAN to the ASEAN Summit;
 - (c) participate in meetings of the ASEAN Summit, the ASEAN Community Councils, the ASEAN Coordinating Council, and ASEAN Sectoral Ministerial Bodies and other relevant ASEAN meetings;
 - (d) present the views of ASEAN and participate in meetings with external parties in accordance with approved policy guidelines and mandate given to the Secretary-General; and
 - (e) recommend the appointment and termination of the Deputy Secretaries-General to the ASEAN Coordinating Council for approval.
3. The Secretary-General shall also be the Chief Administrative Officer of ASEAN.
4. The Secretary-General shall be assisted by four Deputy Secretaries-General with the rank and status of Deputy Ministers.

ARTICLE 12 COMMITTEE OF PERMANENT REPRESENTATIVES TO ASEAN

1. Each ASEAN Member State shall appoint a Permanent Representative to ASEAN with the rank of Ambassador based in Jakarta.
2. The Permanent Representatives collectively constitute a Committee of Permanent Representatives, which shall: (a) support the work of the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies.

ARTICLE 13 ASEAN NATIONAL SECRETARIATS

Each ASEAN Member State shall establish an ASEAN National Secretariat which shall: (a) serve as the national focal point.

ARTICLE 14 ASEAN HUMAN RIGHTS BODY

1. In conformity with the purposes and principles of the ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body.
2. This ASEAN human rights body shall operate in accordance with the terms of reference to be determined by the ASEAN Foreign Ministers Meeting.

ARTICLE 15 ASEAN FOUNDATION

1. The ASEAN Foundation shall support the Secretary-General of ASEAN and collaborate with the relevant ASEAN bodies to support ASEAN community building by promoting greater awareness of the ASEAN identity, people-to-people interaction, and close collaboration among the business sector, civil society, academia and other stakeholders in ASEAN.

CHAPTER V ENTITIES ASSOCIATED WITH ASEAN

CHAPTER VI IMMUNITIES AND PRIVILEGES

CHAPTER VII DECISION-MAKING

ARTICLE 20 CONSULTATION AND CONSENSUS

1. As a basic principle, decision-making in ASEAN shall be based on consultation and consensus.
2. Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made.
3. Nothing in paragraphs 1 and 2 of this Article shall affect the modes of decision-making as contained in the relevant ASEAN legal instruments.
4. In the case of a serious breach of the Charter or noncompliance, the matter shall be referred to the ASEAN Summit for decision.

ARTICLE 21 IMPLEMENTATION AND PROCEDURE

1. Each ASEAN Community Council shall prescribe its own rules of procedure.
2. In the implementation of economic commitments, a formula for flexible participation, including the ASEAN Minus X formula, may be applied where there is a consensus to do so.

CHAPTER VIII SETTLEMENT OF DISPUTES

ARTICLE 22 GENERAL PRINCIPLES

1. Member States shall endeavour to resolve peacefully all disputes in a timely manner through dialogue, consultation and negotiation.
2. ASEAN shall maintain and establish dispute settlement mechanisms in all fields of ASEAN cooperation.

ARTICLE 24 DISPUTE SETTLEMENT MECHANISMS IN SPECIFIC INSTRUMENTS

1. Disputes relating to specific ASEAN instruments shall be settled through the mechanisms and procedures provided for in such instruments.
2. Disputes which do not concern the interpretation or application of any ASEAN instrument shall be resolved peacefully in accordance with the Treaty of Amity and Cooperation in Southeast Asia and its rules of procedure.

3. Where not otherwise specifically provided, disputes which concern the interpretation or application of ASEAN economic agreements shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism.

ARTICLE 25 ESTABLISHMENT OF DISPUTE SETTLEMENT MECHANISMS

Where not otherwise specifically provided, appropriate dispute settlement mechanisms, including arbitration, shall be established for disputes which concern the interpretation or application of this Charter and other ASEAN instruments.

ARTICLE 26 UNRESOLVED DISPUTES

When a dispute remains unresolved, after the application of the preceding provisions of this Chapter, this dispute shall be referred to the ASEAN Summit, for its decision.

ARTICLE 27 COMPLIANCE

1. The Secretary-General of ASEAN, assisted by the ASEAN Secretariat or any other designated ASEAN body, shall monitor the compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, and submit a report to the ASEAN Summit.
2. Any Member State affected by non-compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, may refer the matter to the ASEAN Summit for a decision.

CHAPTER IX BUDGET AND FINANCE

CHAPTER X ADMINISTRATION AND PROCEDURE

ARTICLE 31 CHAIRMAN OF ASEAN

1. The Chairmanship of ASEAN shall rotate annually, based on the alphabetical order of the English names of Member States.
2. ASEAN shall have, in a calendar year, a single Chairmanship by which the Member State assuming the Chairmanship shall chair: (a) the ASEAN Summit and related summits.

ARTICLE 34 WORKING LANGUAGE OF ASEAN

The working language of ASEAN shall be English.

CHAPTER XI IDENTITY AND SYMBOLS

ARTICLE 35 ASEAN IDENTITY

ASEAN shall promote its common ASEAN identity and a sense of belonging among its peoples in order to achieve its shared destiny, goals and values.

ARTICLE 36 ASEAN MOTTO

The ASEAN motto shall be: "*One Vision, One Identity, One Community*"

ARTICLE 37 ASEAN FLAG

ARTICLE 38 ASEAN EMBLEM

ARTICLE 39 ASEAN DAY

The eighth of August shall be observed as ASEAN Day.

ARTICLE 40 ASEAN ANTHEM

CHAPTER XII EXTERNAL RELATIONS

ARTICLE 41 CONDUCT OF EXTERNAL RELATIONS

3. ASEAN shall be the primary driving force in regional arrangements that it initiates and maintain its centrality in regional cooperation and community building.

CHAPTER XIII GENERAL AND FINAL PROVISIONS

ARTICLE 47 SIGNATURE, RATIFICATION, DEPOSITORY AND ENTRY INTO FORCE

1. This Charter shall be signed by all ASEAN Member States.
2. This Charter shall be subject to ratification by all ASEAN Member States in accordance with their respective internal procedures.
4. This Charter shall enter into force on the thirtieth day following the date of deposit of the tenth instrument of ratification with the Secretary-General of ASEAN.

Source: Based on the “Charter of the Association of Southeast Asian Nations,”
<http://www.aseansec.org/21069.pdf>.