



## **The ASEAN Charter**

By Tommy Koh, Walter Woon, Andrew Tan, and Chan Sze-Wei

This is a special year for ASEAN. On Aug. 8, 2007, ASEAN celebrated its 40<sup>th</sup> anniversary. In November, the ASEAN Summit will be held in Singapore. One of the key deliverables of the Summit is the adoption by the 10 ASEAN Leaders of the ASEAN Charter. A charter is as important to a regional association as a constitution is to a country. Ideally, the ASEAN Charter should be short, clear and inspiring. It represents the fundamental law of the association and should contain our shared values, ideals and objectives. At the same time, the ASEAN Charter should be a living document and should therefore contain provisions for periodic review and amendments.

The process of drafting the ASEAN Charter was taken in two steps. The first step was the establishment by the ASEAN Summit, in 2005, of a group of eminent persons (EPG), one from each country. The EPG was chaired by Tun Musa of Malaysia and included such luminaries as Fidel Ramos, former president of the Philippines; Ali Alatas, former foreign minister of Indonesia; and Professor S Jayakumar, Singapore's deputy prime minister. The group of elder statesmen was asked to consult widely and to recommend "bold and visionary" ideas for the Charter. The EPG held extensive consultations, with former ASEAN secretaries general, with business leaders, scholars and researchers, and representatives of civil society. The group also made a study trip to Brussels to learn from the EU's successes and failures. The EPG did a very good job and submitted its report to the ASEAN Summit, in Cebu, in January 2007. Although the report was "endorsed" by the Summit, there were differences among the ASEAN Leaders on a number of controversial issues.

At the Cebu Summit, the Leaders established a 10-member drafting committee (known as the High Level Task Force or HLTF) to draft the Charter, taking into account the report of the EPG, the instructions of our leaders and foreign ministers and ASEAN's historic documents. The HLTF has been working very hard, meeting monthly in the different ASEAN countries, and keeping to an agreed time table. The HLTF has worked well as a team and is energised by the historic mission which has been entrusted to it. A first draft of the Charter was submitted to the foreign ministers in July in Manila. A final version of the Charter will be submitted to the foreign ministers in September. This will enable the Charter, after legal scrubbing, to be signed by the Leaders at their Summit in November.

### **What will the Charter do for ASEAN?**

The ASEAN Charter is a piece of paper. Without political will, it will remain only a piece of paper like so many constitutions of countries. However, with political will, the

ASEAN Charter will be a living document. It has the potential to transform ASEAN into a stronger, more united and effective organisation. How will it do so?

First, it will make ASEAN a more rules-based organization. The "ASEAN Way" of relying on networking, consultation, mutual accommodation and consensus will not be done away with. It will be supplemented by a new culture of adherence to rules.

Second, it will strengthen ASEAN's institutions. Compared to other regional organizations, ASEAN has a deficit of strong and effective institutions capable of responding to regional challenges, such as, the financial crisis of 1997, the haze, and Avian flu.

Third, it will grow a culture of taking our obligations seriously. In the past, only about 30 percent of ASEAN's agreements were implemented. We will put in place a system of compliance monitoring and, most importantly, a system of compulsory dispute-settlement for noncompliance that will apply to all ASEAN agreements.

Fourth, it will streamline ASEAN's cumbersome and uncoordinated organisational structure as well as its decision-making process. Each ASEAN country will appoint a Permanent Representative to ASEAN based in Jakarta. The proliferation of sectoral ministerial meetings will be grouped into three clusters, reflecting the three pillars of ASEAN integration: economics, security, and socio-cultural cooperation.

Fifth, the Secretariat will be empowered. The secretary general will be assisted by four deputy secretaries general. In view of the increased workload and responsibility entrusted to the Secretariat, it is imperative to give it the requisite resources to continue to do the outstanding job that the current secretary general, Ong Keng Yong, and his small team, have done.

Sixth, the Charter will both deepen and widen the integration of ASEAN. The stakes facing ASEAN are very high. Faced with the rapid rise of China and India and their growing competitiveness, ASEAN must integrate more rapidly into one economic community of 570 million people so that it could compete more effectively with those two gigantic economies.

Seventh, the Charter will ensure that ASEAN will continue to occupy the driver's seat in regional forums, such as, the ARF, ASEAN+3, and the East Asia Summit.

Eighth, it is the hope of the HLTF that the Charter, its principles and objectives, will resonate with the people of ASEAN, young and old, elite and humble folk, public, private, and civil society. Our dream of making ASEAN a people-centered community can only be achieved if the people of ASEAN embrace that dream.

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