

# The ASEAN Charter: Milestone or Illusion?

*Presentation by Rodolfo C. Severino,  
Institute of Southeast Asian Studies,  
at Singapore Perspectives 2007  
11 January 2007*

# Why Charter?

- Most basic: legal personality
- Clear objectives – where is ASEAN headed? E. g., customs union, single market?
- Principles and norms
- Procedures: decision-making
- Institutions and their relationships
- State-people relations?

# EPG report

- Principles and objectives:
  - Democratic values, good governance, rejection of unconstitutional and undemocratic changes of government, rule of law, human rights and fundamental freedoms;
  - Close economic cooperation and integration; single market; narrowing development gap;
  - Response to “non-traditional” transboundary challenges and crises;
  - “Calibration” of non-intervention policy;
  - ASEAN identity;
  - ASEAN Community, ASEAN Union.

# Top structure

- ASEAN Council (from ASEAN Summit) to meet at least twice a year;
- Three ministerial councils (political-security, economic, socio-cultural)
- Single market.

# Resource mobilisation

- Equal contribution
- Voluntary contributions to narrow development gap
- Creative ways of raising funds
- Support from private sector

# Compliance with obligations

- Dispute settlement mechanism
- Enforcement mechanisms
- Compliance monitoring, reporting
- Redress, including suspension of rights and privileges

# Organisational effectiveness

- Four DSGs
- Permanent representatives to ASEAN
- Professionalisation of staff
- Improvement in efficiency of meetings
- Legal personality
- Invigoration of ASEAN Foundation
- ASEAN Institute

# Core of recommendations

- Peer pressure for non-compliance with norms and commitments
- Possible sanctions
- Legally binding



# Red flags

- Norms and commitments must be clear and specific; otherwise, sanctions cannot be applied
- Charter legally binding, but weakness of international law: no supranational authority to enforce compliance other than withdrawal of benefits and concessions by treaty partners

- Many recommendations already in ASEAN books, agreements, declarations, other commitments
- Not implemented for national-interest reasons
- E.g., economic agreements, Sec. Gen.'s ability to report non-compliance
- E.g., nothing to prevent professionalisation of Secretariat except will of member-states
- E.g., ASEAN Foundation meant to raise funds from outside government and be independent of governments

- Funding:
  - Strengthened Secretariat
  - Four DSGs
  - ASEAN Institute
  - Transfer of resources to less-advanced members
  - Dispute-settlement, compliance mechanisms

- Organisation:
  - Permanent Representatives
    - Value added?
    - Tendency to accredit ambassadors to Indonesia concurrently
  - Councils
    - Who does finance?
    - Who does socio-cultural?
    - Place of defence ministers?

- Political will:
  - Most recommendations can be carried out without charter
  - Charter would make them more legally binding, strengthen sense of obligation
  - But nothing can force compliance; members unlikely to impose sanctions
  - Provision for voting, but not likely to be used
- Must have culture of honouring and implementing decisions, agreements, timelines

# Challenge to task force

- ASEAN Way adopted for good reason and has served Southeast Asia and the larger region well.
- But it may no longer do under current global and regional conditions; hence, the proposal for a Charter.
- Must make sure changing ASEAN Way will be for the better.

# Possibilities

- Weak, wishy-washy charter;
- Great charter and complied with; or
- Great charter and ignored.