

## APPENDIX XXVII

### REPORT OF THE EMINENT PERSONS GROUP (EPG) ON THE ASEAN CHARTER<sup>1</sup>

December 2006

#### EXECUTIVE SUMMARY

1. ASEAN Leaders mandated us, the Eminent Persons Group (EPG) on the ASEAN Charter to consider bold and visionary ideas to strengthen ASEAN. We highlight below some of our key recommendations which are more fully elaborated in our Report of the EPG to ASEAN Leaders, which contains our Recommendations for Inclusion in the ASEAN Charter.
2. After 40 years ASEAN is now at a critical turning point. Although ASEAN is one of the most successful regional organisations today, there is no guarantee that it will continue to be relevant in the coming decades and remain the driving force in regional cooperation. While the ASEAN Charter will bring about a long overdue legal framework, ASEAN must reposition itself. It must address the growing challenges and opportunities of regional integration, the major shifts in the Asian landscape brought about by the rise of China and India and Asia's widening links with the rest of the world.

#### *Fundamental Principles and Objectives*

3. The principles and objectives enshrined at ASEAN's founding have served us well and are integral to ASEAN's future success. At the same time, the harter should update ASEAN's principles and objectives in line with the new realities confronting ASEAN, and to strengthen regional solidarity and resilience. The EPG recommends that these principles and objectives be reflected in the Charter which broadly cover the following areas:
  - Promotion of ASEAN's peace and stability through the active strengthening of democratic values, good governance, rejection of unconstitutional and undemocratic changes of government, the rule of law including international humanitarian law, and respect for human rights and fundamental freedoms.
  - Promotion of ASEAN's prosperity and resilience through closer cooperation and integration namely the ASEAN Economic Community, Single Market, greater economic linkages, regional connectivity and narrowing the development gap.
  - Promotion of ASEAN's timely and effective responses to non-traditional and transboundary challenges and crises through mutual assistance or regional and international cooperation. ASEAN may need to calibrate the 3 traditional policy of non-intervention in areas where the common interest dictates closer cooperation.
  - Promotion of an ASEAN identity through greater awareness of ASEAN's cultural heritage, investment in learning, empowering the lives of the people and communities and engagement with civil society.

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<sup>1</sup> <http://www.aseansec.org/19247.pdf>.

- Expressing the resolve to realise an ASEAN Community and ultimately an ASEAN Union.

#### **Towards an ASEAN Community**

4. Regional integration in ASEAN is accelerating and expanding far beyond that envisaged in the ASEAN Declaration of 1967. ASEAN economies are growing and are now more inter-linked. This broader scope of cooperation entails the need for greater political commitment to realise the vision of an ASEAN Community. The EPG recommends that:
  - ASEAN Leaders should meet more often to give greater political impetus to ASEAN's community building. The ASEAN Summit should also be renamed the ASEAN Council with provisions for Leaders to meet at least twice a year.
  - Formation of three Ministerial-level Councils reporting to ASEAN Leaders to oversee the three key aspects of building an ASEAN Community (political-security, economic, and socio-cultural) and resolve many of the issues requiring inter-sectoral coordination.
  - Creation of a Single Market with free movement of goods, ideas and skilled talent along with efforts to harmonise regional economic policies and strengthen regional linkages and connectivity.

#### **Resource Mobilisation and Narrowing the Development Gap**

5. The key to ASEAN's future is being competitive, growing the overall size of the economic pie and leveraging on various opportunities for win-win cooperation with ASEAN's Dialogue Partners and friends. To ensure that ASEAN can grow collectively, the development gap must not be left unaddressed, as this could adversely affect ASEAN's ability to achieve its goals. To do all this and to build an ASEAN Community requires substantial resources. While ASEAN faces certain resource constraints, it will be necessary to review ASEAN's budget to see how best it can support the new demands. In this regard, the EPG recommends that:
  - ASEAN shall continue to uphold the principle of equal contribution in line with the equal treatment accorded to all Member States.
  - A Special Fund for narrowing the development gap shall be established with voluntary contributions from Member States.
  - Other creative and sustainable ways of raising funds should also be explored and put in place, so that ASEAN can rely more on its own income to carry out cooperation activities.
  - Mobilise funds and support from private business sector.

#### **Taking Obligations Seriously**

6. ASEAN's problem is not one of lack of vision, ideas, or action plans. The problem is one of ensuring compliance and effective implementation. ASEAN must have a culture of commitment to honour and implement decisions, agreements and timelines. The EPG recommends:
  - Dispute Settlement Mechanisms (DSM) be established in all fields of ASEAN cooperation which should include compliance monitoring, advisory, consultation as well as enforcement mechanisms.

- The ASEAN Secretariat be entrusted with monitoring compliance with ASEAN agreements and action plans, with the Secretary-General of ASEAN reporting its findings to the ASEAN Council and the Community Councils on regular basis.
- ASEAN should have the power to take measures to redress cases of serious breach of ASEAN's objectives, major principles, and commitments to important agreements. Failure to comply with decisions of the dispute settlement mechanisms should be referred to the ASEAN Council. Such measures may include suspension of any of the rights and privileges of membership. Unless otherwise decided by the ASEAN Council in exceptional circumstances, there shall be no recourse to expulsion of membership.

### **Strengthening Organisational Effectiveness**

7. The Secretary-General and the ASEAN Secretariat play a pivotal role in carrying out the goals of the ASEAN Community. The ASEAN Secretariat was last restructured in the early 1990s. However, ASEAN's scope of activities has increased tremendously. It is essential to strengthen the ASEAN Secretariat and enhance its policy analysis and planning, administrative, and monitoring capabilities. The EPG recommends:
  - The Secretary-General be empowered to take on a greater role to meet the growing expectations of Member States as ASEAN steps up its regional integration and international cooperation efforts.
  - The Secretary-General be supported by four instead of the current two Deputy Secretaries-General (DSG). They will assist the Secretary-General in overseeing political-security, economic, socio-cultural cooperation as well as external relations, and administrative and budgetary affairs.
  - Establishment of full time Permanent Representatives of Member States to ASEAN, based in Jakarta.
  - ASEAN's Dialogue Partners can also accredit Ambassadors to ASEAN.
  - Recruitment and development of a body of dedicated professional staff to serve in the ASEAN Secretariat.
  - Step up efforts to streamline ASEAN, in particular to improve the efficiency of ASEAN meetings.
  - ASEAN to be conferred legal personality and be able to engage in legal proceeding.
  - Invigorate the ASEAN Foundation to play a more active role in promoting public awareness of ASEAN.
  - Establishment of an ASEAN Institute to support the Secretary-General in research, policy analysis, strategic planning, and outreach programmes as well as collaboration with the Track II.

### **More Effective Decision-making**

8. ASEAN's consensus style of decision making has served ASEAN well and should be preserved as the guiding principle. Consensus should aid, but not impede, ASEAN's cohesion and effectiveness. As the range of activities within ASEAN increases, ASEAN should consider alternative and flexible decision-making mechanisms. In this connection, the EPG recommends:

- Decision-making by consultation and consensus should be retained for all sensitive important decisions. However, if consensus cannot be achieved, decisions may be taken through voting, subject to rules of procedure determined by the ASEAN Council.
- The flexible application of “ASEAN minus X” or “2 plus X” formula may be applied, subject to the discretion of the relevant ASEAN Community Councils.

### **Towards A People-Oriented ASEAN**

9. ASEAN needs to shed its image of being an elitist organisation comprising exclusively diplomats and government officials. More should be done to strengthen people-to-people ties among ASEAN Member States, and to develop channels to consult ASEAN institutions, Parliamentarians in ASEAN Member States (AIPA) and the people of ASEAN in all sectors of society. Their inputs can help strengthen cultural awareness, forge closer common ASEAN identity, and improve human social development in ASEAN. The EPG recommends:
  - Cultivate ASEAN as a people-centred organisation and to strengthen the sense of ownership and belonging among its people, including enhancing the participation of and interaction among Parliamentarians in ASEAN Member States (AIPA), representatives of the civil society organisations, the private business sector, human rights groups, academic institutions and other stakeholders in ASEAN.
  - The Principal Organs of ASEAN shall undertake regular consultations with all of the parties mentioned above through appropriate channels.
10. Strong political will is necessary if we are to succeed. ASEAN Member States must make conscious efforts to promote the benefits of closer regional integration as well as accord higher national priority to ASEAN in their domestic agendas.