



# IDSS COMMENTARIES (60/2005)

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## The 'ASEAN Charter': A Crossroads for the Region?

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THIRTY years after the Philippines first proposed a charter for the Association of Southeast Asian Nations (ASEAN), plans for the creation of a new 'legal charter' were announced at the 37<sup>th</sup> ASEAN Ministerial Meeting in Jakarta in June last year. Should the proposed ASEAN Charter be adopted by the region's leaders, it will radically change not only ASEAN's 'operational norms' but its character as well.

Malaysian Prime Minister Abdullah Badawi correctly asserted that this 'mini-constitution' will provide the grouping with a more institutionalised framework as well as a legal identity in the United Nations. Most importantly however, the proposed ASEAN Charter will provide a 'constitutional framework [for] what [model] the grouping wants to become'. Yet herein lays the problem: can the organisation's members agree to a specific 'institutional model' for ASEAN and, if so, what model should this be? In other words, will ASEAN remain a loose and non-binding association or will it become, or at least move towards becoming, a legally-binding and rule-governed entity similar to the European Union (EU)? It seems that this will not only be the most important aspect of the Charter, but also the most challenging.

### **Divergent views**

One high level source, in an interview with the author, claims that nearly everything, except the 'model' for ASEAN, has already been agreed on in the Charter's draft. He adds that there is much division on this and points out how some of the newer states, like Myanmar, do not want change at all. By contrast, and at the opposite end of the spectrum, one high level representative from the Philippines suggests that ASEAN should be abolished altogether and a new organisation – modelled after a European style 'Union' or 'Security Community' – formed in its place. To this, a Singaporean delegate pertinently responded, "you can't turn a frog into a prince overnight". More pragmatically however, others hope for a model that will provide more political and economic integration than an association but at the same time, less than that of a 'union'.

Given this diversity in opinion, the ability of the ASEAN states to eventually agree on a single model for ASEAN will be dependent on the decision-making process utilised on the issue. In this sense, the next stage in the evolution of ASEAN – that some hope will be fulfilled by the Charter – will, ironically, be dependent on the 'continued' evolution of ASEAN's normative values prior to the Charter's inauguration.

## **Prospects for a Charter**

What is the likelihood that the current goals for the charter – and the associated normative changes necessary for this – will be implemented? How ASEAN handled the Indonesian ‘Draft Plan of Action of the ASEAN Security Community’ (13 February 2004) is instructive. This Plan of Action had 75 concrete steps towards becoming a security community, complete with concrete dates for when each step should be implemented. Nonetheless, consensus could not be reached on these ‘dates’ and, as one policymaker complains in an interview, consensus could not even be attained on ranking these initiatives by order of importance. The language too was greatly watered down because, some members wanted to maintain a rigid adherence to the traditional principles of consensus, non-interference and non-intervention. Yet, and as the spokesperson for ASEAN’s Secretariat, M.C. Abad, pointed out, the purpose of the ASEAN Charter is to provide ‘an opportunity for the organisation to review its decision-making structures and processes to make them in tune with the demands of the times’. In this sense, the challenges that lay ahead of the ASEAN Charter are synonymous with the problems that have plagued, and continue to plague, the ASEAN ‘Security Community’ project. Both initiatives, explicitly or implicitly, seek (or have sought) to influence the operative methods of ASEAN.

Given this recent history, some of the newer states (e.g. Myanmar, Laos and Cambodia) are no more likely to agree to an ASEAN Charter than with Indonesia’s Plan of Action. These states are already anxious about the newfound assertiveness some ASEAN members have displayed with regards to their internal affairs. The statements against Myanmar’s chairmanship by various branches of the governments in the Philippines, Singapore, Indonesia and Malaysia are a case in point. Further, it would appear that the degree to which various governments are prepared to comment on the internal affairs of other states is directly proportional to the period of membership in ASEAN and/or the prevalence of good governance (or, some might add, ‘democracy’) within their respective political institutions.

### **Building a car without wheels?**

Regardless of arguments to the contrary, in practice, intervention in the internal affairs of states is becoming more common in Southeast Asia. This is reflective of a growing fissure in the rules and norms of ASEAN. Of equal significance, most of the elites interviewed throughout the region, both in government and academia, recognised these widening divisions. Based on such normative divisions, should the processes of consensus and gradualism (where progress is no faster than its lower common denominator) be strictly maintained, it will be difficult to imagine how the ASEAN Charter will live up to the stated goal of becoming a ‘rule-governed body’. However, and at the economic level of ASEAN, a two-tiered process has already been utilised to allow the states with lower institutional and economic capacity to fulfil their commitments at a later time. Perhaps a similar approach could be adopted at the political level and in relation to the Charter?

With the formation of a legal Charter, ASEAN is at a crossroads between opting for the next evolutionary phase in its development, or maintaining the status quo, and remaining an ‘association’. While the stated timeframe for the Charter’s final implementation is at least two years away, the ‘eminent persons group’ working on the Charter must present the first draft to the ASEAN leaders this December when they meet for a summit in Kuala Lumpur. However, a draft on what will effectively be the future model of ASEAN, without agreement on what that model should be, would be akin to building a car without wheels – useless.

In as little as four months, two years at most, the time will come for ASEAN to decide which

road to take. The ‘seemingly’ easy road may maintain a shallow and rhetorical level of consensus, but it will likely heighten the sense of disillusionment already existent in the elites of states who want faster integration. By contrast, the ‘difficult’ path may require the more progressive and institutionally developed states to leave some members behind. But for their efforts they will usher in a whole new era of both national and regional consolidation and cooperation.

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