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VOICES

ASEAN AS A “REGIONAL COMMUNITY”

Is It for Real under the ASEAN Charter?

The Association of Southeast Asian Nations (ASEAN) celebrated its 40th anniversary on August 8, 2007. Formed as a political alliance, it now sets goals for economic, legal, and social reforms, as well as fostering a sense of regional unity and identity. This article reviews the issues affecting the creation of the ASEAN Charter such as differing political systems, past hostility, and desire for national sovereignty, in order to assess whether ASEAN will be able to build and formalize a true “regional community.”

Sarinna Areethamsirikul

University of Wisconsin-Madison

The Association of Southeast Asian Nations (ASEAN) was founded by Indonesia, Malaysia, the Philippines, Singapore and Thailand in 1967, and expanded its membership by accepting Brunei in the early 1980s and Cambodia, Laos, Myanmar and Vietnam (CLMV) in the late 1990s. On August 8, 2007, ASEAN celebrated its 40th anniversary, during which an ASEAN Charter was completed and ratified. The Charter aims to reform ASEAN (ie. regarding legal international status, people-oriented organization, market-driven integration, consolidation of democracy, and an established ASEAN identity),¹ and pave the path toward a more integrated regional community.

During the 1960s-70s, the spread of the Communist threat in Southeast Asia motivated ASEAN leaders to emphasize ASEAN as an anti-communist alliance. Political cooperation was ASEAN’s foremost goal. As Michael Leifer points out, ASEAN was initially formed to manage regional order. The demand for regional cooperation

primarily came from the collective interest to reduce the political and military presence of non-regional powers in Southeast Asia such as China, the Soviet Union, and the United States.²

In 2003, the Declaration of ASEAN Concord II, commonly known as the Bali Concord II, addressed a new objective, which was to build an ASEAN Community by deepening regional cooperation in areas of security, economics and socio-culture. A regional community requires members to transfer their national sovereignty to a regional institution and strengthen formal ties under a group charter. The ASEAN partnership, more often called the ‘ASEAN Way’, is known for non-confrontation, consultation, quiet diplomacy, consensus, and avoidance of conflict.³

The question now is what kind of an ASEAN charter will be formed. Due to the historical hostility and distrust among ASEAN members and their demand for preserving national sovereignty in domestic politics, the flexible recommendations of the Eminent Persons Group (EPG) will most

likely result in the establishment of a flexible charter. The first section of this article analyzes the main incentives for establishing a flexible ASEAN Charter. The second section examines the recommendations of the EPG on the Charter.

Why a Flexible Charter?

Hostility and Distrust

ASEAN members have a long history of unfriendly and distrustful relations. In the 1960s-70s, before the formation of ASEAN, the feeling of insecurity from the communist threat encouraged Malaysia, the Philippines, Singapore and Thailand to search for assistance from Western nations. Indonesia, however, where anti-Western sentiment dominated foreign and security policy, cooperated with other developing countries. The five ASEAN founding members thus had irreconcilable foreign and military policies due to different in extra-regional alliances.

There was also a feeling of distrust after the three major bilateral conflicts in the 1960s: (1) the Philippines' claim to the Sabah – formally North Borneo, (2) the separation of Singapore from Malaysia (with the support of Indonesia), and (3) the Indonesian Confrontation policy toward the Malaysian Federation.

Relations between the five founding members of ASEAN (except Indonesia) and CLMV had also been hostile. CLMV were invited to join ASEAN at the time of ASEAN's founding.⁴ However, CLMV declined due to differences in political ideology. The relationship between Vietnam and ASEAN further deteriorated after Vietnam's occupation of Cambodia.

Several contemporary bilateral and multilateral

conflicts have also caused strains in the relations among ASEAN nations, including (1) the unsolved issue of national borders between Thailand and Cambodia, Thailand and Laos, and Cambodia and Vietnam, (2) the issue of the remaining Burmese refugees along Thailand's border, (3) the South China Sea dispute among Vietnam, Malaysia, the Philippines and extra-regional states such as China, and (4) the water supply and land disputes Singapore has with Malaysia and Indonesia. These disputes extensively hindered cooperation and increased distrust among Southeast Asian nations.

Therefore, any kind of ASEAN cooperation, even in economic affairs, has to avoid aggravating the existing political tensions. The policy of non-interference and the preservation of national sovereignty have thus been used by ASEAN members to ensure mutual trust, to prevent future conflicts, and promote economic and political cooperation. The management style of consultation, consensus, informal communication, and non-binding agreements tends to be the most preferable among ASEAN members.

The Desire for National Sovereignty

The diverse political and economic situation of ASEAN and CLMV nations complicate the movement toward a more integrated community. Currently, the political systems of CLMV favor an informal type of institution in order to preserve their national sovereignty in the midst of domestic and international clashes. In Myanmar, for example, the detention of the leader of the National League for Democracy (NLD), Aung San Suu Kyi, has drawn criticism from ASEAN. If the ASEAN community had a reward and sanction system,

ASEAN members could have voted on the issues of Suu Kyi and democratization in Myanmar, and even suspend Myanmar’s membership. Myanmar thus prefers an informal type of regional institution.

In the Cambodia, Laos and Vietnam, recent trade liberalization and globalization have empowered the private sector and weakened the state sector, especially in Vietnam. As people have more freedom to trade, their behavior becomes increasingly determined by the market rather than the socialist state system. Private businesses are starting to replace the inefficient state-owned enterprises. The economic reforms in CLV were intended to restore the political legitimacy of the socialist parties, but instead challenged the governments’ control over their domestic politics, forcing them into political dilemmas. Hun Sen, a central-power regulator and a strongman in Cambodia, faced challenges to his usual methods of control – distributing economic benefits to local authorities, state agencies, and the military, while preventing the influence of the private sector from impinging upon his strongman alliances.⁵ Anti-Hun Sen campaigns have negatively impacted his popularity both domestically and internationally, as can be seen in the last election, where his party lost several seats in the parliament.⁶ In Laos, the socialist government also faces threats to its control from globalization and changes in international politics, especially in its socialist neighbor Vietnam. Vietnamese grassroots democracy campaigns have emerged as a formal representation of local interests and a means of commenting on the state system. Faced with the threat of losing control over their economic and political affairs, CLV are greatly concerned with preserving sovereignty at the

regional level as an assertion of their governments’ capabilities to manage their own affairs and stabilize domestic politics.

Recommendations and Reactions

EPG’s Recommendations

At the 11th ASEAN Summit in Kuala Lumpur in 2005, the ASEAN leaders decided to form the Eminent Persons Group (EPG) to draft the ASEAN Charter. The report of recommendations on the Charter by the EPG was submitted at the 12th ASEAN Summit Meeting in January 2007. The recommendations significantly empower the legal status of ASEAN as a binding institution in terms of the “capacity to own property, enter into contracts, and...to sue and be sued.”⁷ Moreover, the EPG proposed three major changes to the decision-making process.

Firstly, the EPG suggests that the ASEAN summit, where ASEAN leaders meet once a year, should be replaced by an ASEAN Council and held twice a year. The Council will have the right to suspend membership upon the request of member states and become the supreme policy-making organ of ASEAN. However, the proposal of the member states to allow the suspension of rights and privileges will have to be recommended and approved by the ASEAN Foreign Ministers.⁸ This condition implies that the Council does not have real power or supremacy without the support of each country’s foreign ministers. Thus, politics will continue to dominate the structure of the ASEAN institution. Economic affairs that may involve the issue of suspension will also have to receive permission from foreign ministers. As a result, the Council of ASEAN Economic Community, which

is proposed to replace the ASEAN Economic Ministerial (AEM) meeting, will not have supreme control in its own affairs.

Secondly, the EPG recommends a voting method “either on the basis of a simple majority, or on the basis of a 2/3 or 3/4 majority”⁹ in the decision-making process of ASEAN. This method would be applied to issues not sensitive in the fields of security and foreign policy, or when consensus cannot be achieved in other areas.¹⁰ Constituting a voting system will strengthen the ASEAN institution in a way that helps to exercise a dispute settlement mechanism and a reward and sanction system. As a result, ASEAN members will be required to transfer individual sovereignty in order to enhance a sense of community and manage regional issues and policies more effectively. However, according to the report of the EPG, the definition of “sensitive issues” is not specified, which allows for different interpretations that may cause future problems. Moreover, the principle of consensus will remain a primary method of the decision-making process. At this point, the proposed voting method is just an option, and there is no guarantee that the member states will use it to resolve problems. The question of whether this option will be used to manage future problems is hence critical to predicting the actual development of ASEAN after the Charter is ratified.

Thirdly, the EPG recommends that the ASEAN Secretary-General be granted more authority in managing external relations such as signing “non-sensitive agreements on behalf of member states; representing ASEAN at the UN and other international, regional, and sub-regional forums”¹¹; and conducting “discussions and negotiations on

behalf of ASEAN with other international bodies.”¹² In practice, the Secretary-General would also work more closely with the Ministries of Foreign Affairs in administering ASEAN’s international relations. Regarding the intra-regional responsibilities, the ASEAN Secretariat would serve as an administrative body facilitating and coordinating all meetings of the Councils and all Councils of Community (security, economics, socio-culture, and external relations). The EPG suggests that the Secretary-General be given the ability to “harmonize, facilitate and monitor progress in implementation of all approved ASEAN activities and report non-compliance to the Council, initiate plans and programs of activities, bring to the attention of the ASEAN council, councils of community and ASEAN committees.”¹³ These functions are the same as the existing job descriptions of the Secretary-General written in the previous ASEAN agreements. However, the current organizational structure of the Secretariat still does not have an effective political body to perform these functions. The Secretary-General’s authority to monitor and initiate ASEAN projects and policies exists only in writing, since ASEAN members have never allowed the strengthening of the Secretariat in practice.

Reactions to EPG’s Recommendations

In response to the EPG’s recommendations, ASEAN member countries have reacted to the proposed Charter varying degrees of approval. Singapore former Foreign Minister and the current government advisor S. Jayakumar stated that ASEAN has no choice but to change, because if it does not, “ASEAN will become one of those organizations which will slowly fade into the

sunset.”¹⁴ On the contrary, Vietnamese Deputy Prime Minister and Foreign Minister Pham Gia Khiem implicitly expressed his concern about the EPG recommendations regarding the principles of consensus versus voting and the role of the ASEAN Secretary-General at the ASEAN Foreign Ministers Meeting. He reaffirmed that the Charter should stick to the fundamental principle of non-interference and consensus, meaning there should not be “regulations to expel or suspend membership from the group, but warning measures should be made for serious violations of the Association’s principles or agreements.”¹⁵ At the 12th ASEAN Summit in January 2007, after the ASEAN Foreign Ministers agreed to support the EPG recommendations as a blueprint for drafting the Charter, some of the members “were not happy with the host [Philippines]’s idea.”¹⁶ Laos and Myanmar showed their apprehension in the issue of voting system because of their fear of isolation. Nevertheless, ASEAN members ultimately need to find a middle ground, rendering the creation of a strict type of the ASEAN Charter unlikely.

Conclusion

Despite the different responses to the EPG model, the establishment of the Charter will still be expected this year to celebrate ASEAN’s 40th

anniversary. The current ASEAN Secretary-General Ong Keng Yong expressed his concern at the Annual Ministerial Meeting (AMM) in November 2007, stating that “our credibility would be badly affected if we cannot produce a charter.”¹⁷

However, the history of hostility and problems of distrust among ASEAN members as well as the contemporary conflicts have yet to be resolved. It is possible that these disputes will reignite anytime. In domestic politics, CLMV are still struggling through the clashes of domestic and international politics. Giving up more sovereignty to a binding regional institution operated by voting rule, sanction, suspension, and legal binding agreements would be the last thing they want to do. With the pressures from below (changes in domestic politics) and above (globalization and trade liberalization), CLMV are thus likely to reserve their sovereignty at the regional level. As a result, a semi- or flexible Charter can be expected as a compromise between member nations. Even if ASEAN endorses the whole package of the EPG recommendations, there will still be much room left for political intervention regarding “insensitive” issues and a loose option for a voting system. If these issues are not fixed, the ratification of the (flexible) ASEAN Charter in November will not have much practical impact on constructing the real ASEAN community.



ENDNOTES

- 1 ASEAN-Institutes of Strategic and International Studies, “The ASEAN Charter: Memorandum No. 1,” in *ASEAN-ISIS Conference* (Bali: ASEAN-ISIS [Unpublished], 2006).
- 2 Michael Leifer, “Problems and Prospects of Regional Cooperation in Southeast Asia: The Political Dimension,” *The Indonesian Quarterly*, vol. 4, Special Issues (1976), 104.
- 3 See discussions about the ‘ASEAN Way’ in Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order, Politics in Asia Series* (New York: Routledge, 2001), Jürgen Haacke, *ASEAN’s Diplomatic and Security Culture: Origins, Development and Prospects* (New York: RoutledgeCurzon, 2003), Jürgen Haacke, “The Development of ASEAN’s Diplomatic and Security Culture: Not Beyond “Flexible Engagement,” in Bertrand Fort and Douglas Webber, ed., *Regional Integration in East Asia and Europe: Convergence or Divergence?* (New York: Routledge, 2006).

- 4 Ceylon (Sri Lanka) was welcomed to join ASEAN by Tun Razak and Adam Malik, but Tun Razak had reservations over the relationship between India and Pakistan. Ranjit Gill, *ASEAN: Coming of Age* (Singapore: Sterling Corporate Services, 1987), 42.
- 5 Caroline Hughes, *The Political Economy of Cambodia's Transition, 1991-2001* (New York: RoutledgeCurzon, 2003), 44.
- 6 As a result, the government created over 200 ministries to re-magnetize the CPP's loyalty – the network of local officials and military. Melanie Beresford, "Cambodia in 2004: An Artificial Democratization Process," *Asian Survey*, vol. 45, no. 1 (2005), 135.
- 7 *Ibid.*, 44.
- 8 *Ibid.*, 31-32.
- 9 *Ibid.*, 41.
- 10 *Ibid.*
- 11 *Ibid.*, 19.
- 12 *Ibid.*, 36.
- 13 *Ibid.*
- 14 *Channel News Asia* [Singapore], "ASEAN Must Make Tough Decisions to Reinvent Itself: DPM Jayakumar," January 5, 2007.
- 15 *Vietnam Agency News*, "ASEAN Ministers Move Closer to Charter after 2-day Meeting," March 3, 2007.
- 16 Kavi Chongkittavorn, "ASEAN Leaders Set to Endorse 50-page Charter Blueprint," *The Nation*, January 12, 2007.
- 17 *The Associated Press*, "Proposed Sanctions in ASEAN Charter Dropped, Diplomat Says," March 27, 2007.

SARINNA AREETHAMSIRIKUL

Sarinna Areethamsirikul is currently pursuing a PhD in the Development Studies Program at the University of Wisconsin-Madison. She received a BA in Political Science from Chulalongkorn University in Thailand and a subsequent MA in the Graduate School of Public and International Affairs (GSPIA) at the University of Pittsburgh. During the summer of 2006, Sarinna was a visiting fellow at Institute of Defence and Strategic Studies (IDSS) in Singapore and the Centre for Strategic and International Studies (CSIS) in Indonesia. She was awarded the Frank Educational Scholarship (Ashburn Institute) and Scott Kloeck-Jenson International Internship Award in 2007 and 2006 respectively. Her research interests include the effects of ASEAN enlargement, ASEAN regionalism, and regional institution in East Asia.