

NPRU NAKHON PATHOM RAJABHAT UNIVERSITY









UNIT 3

ASEAN CHARTER

by Aj. Patcharamon Tosurat



TODAY'S AGENDA

TOPIC OUTLINE

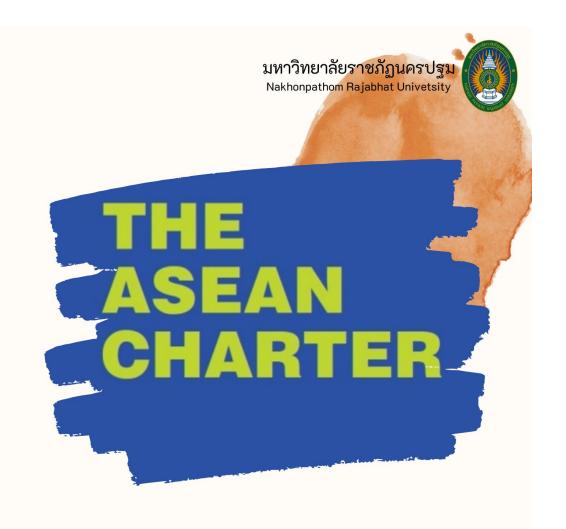
- **01.** What is ASEAN Charter
- **02.** Principles set out in the charter
- **03.** 13 Chapters 55 articles
- **04.** Exercise





WHAT IS ASEAN CHARTER

The ASEAN Charter is a constituent instrument of the Association of Southeast Asian Nations (ASEAN). It was adopted at the 13th ASEAN Summit in November 2007.



PRINCIPLES SET OUT IN THE CHARTER INCLUDE:

- ASEAN leaders signed the ASEAN Charter at the 13th ASEAN Summit on 20 November 2007.
- A legal and institutional framework and the structure for ASEAN3 Objectives:
 - 1) rules-based
 - 2) effective and efficient
 - 3) people-oriented
- The ASEAN Charter became effective on 15 December 2008





13 CHAPTERS 55 ARTICLES

Chapter 1 purpose and principles

Chapter 2 legal personality

Chapter 3 membership

Chapter 4 organs

Chapter 5 entitles associated with ASEAN

Chapter 6 immunities and privileges

Chapter 7 decision-making

Chapter 8 settlement of disputes

Chapter 9 budget and finance

Chapter 10 administration and procedure

Chapter 11 identity and symbols

Chapter 12 external relations

Chapter 13 general and final provisions





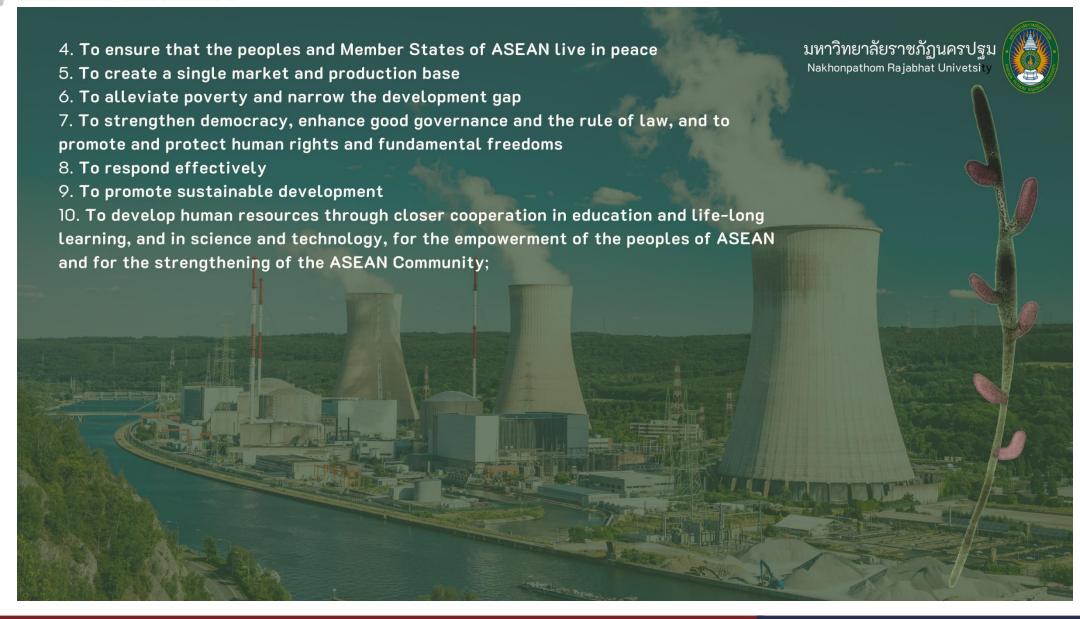
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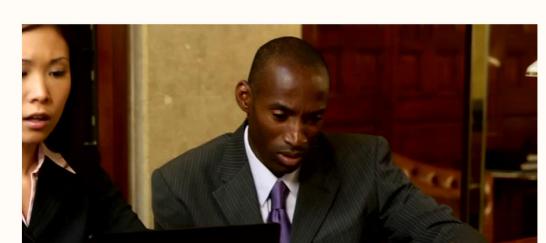
ARTICLE 1 The Purposes of ASEAN are:

- 1. To maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region;
- 2. To enhance regional resilience
- 3. To preserve Southeast Asia as a Nuclear Weapon-Free Zone and free of all other weapons of mass destruction;





- 11. To enhance the well-being and livelihood of the peoples of ASEAN
- 12. To strengthen cooperation in building a safe, secure and drugfree environment for the peoples of ASEAN;
- 13. To promote a people-oriented ASEAN
- 14. To promote an ASEAN identity
- 15. To maintain the centrality and proactive role of ASEAN





CHAPTER II LEGAL PERSONALITY

ARTICLE 3 LEGAL PERSONALITY OF ASEAN

ASEAN, as an inter-governmental organisation, is hereby conferred legal personality.



CHAPTER III MEMBERSHIP

ARTICLE 4 MEMBER STATES

The Member States of ASEAN are Brunei
Darussalam, the Kingdom of Cambodia,
the Republic of Indonesia, the Lao People's
Democratic Republic, Malaysia, the Union of
Myanmar, the Republic of the Philippines,
the Republic of Singapore, the Kingdom of
Thailand and the Socialist Republic of Viet Nam.







ARTICLE 5 RIGHTS AND OBLIGATIONS

- 1. Member States shall have equal rights and obligations under this Charter.
- 2. Member States shall take all necessary measures, including the enactment of appropriate domestic legislation, to effectively implement the provisions of this Charter and to comply with all obligations of membership.
 - 3. In the case of a serious breach of the Charter or noncompliance, the matter shall be referred to Article 20.





ARTICLE 6 ADMISSION OF NEW MEMBERS



1

The procedure for application and admission to ASEAN shall be prescribed by the ASEAN Coordinating Council.



2

Admission shall be based on the following criteria:

- (a) location in the recognised geographical region of Southeast Asia;
- (b) recognition by all ASEAN Member States;
- (c) agreement to be bound and to abide by the Charter; and
- (d) ability and willingness to carry out the obligations of Membership.

3

Admission shall be decided by consensus by the ASEAN Summit, upon the recommendation of the ASEAN Coordinating Council

4

An applicant State shall be admitted to ASEAN upon signing an Instrument of Accession to the Charter.

CHAPTER IV ORGANS

ARTICLE 7 ASEAN SUMMIT

- 1. The ASEAN Summit shall comprise the Heads of State or Government of the Member States.
- 2. The ASEAN Summit shall:
- (a) be the supreme policy-making body of ASEAN;
- (b) deliberate, provide policy guidance and take decisions on key issues pertaining to the realisation of the objectives of ASEAN, important matters of interest to Member States and all issues referred to it by the ASEAN Coordinating Council, the ASEAN Community Councils and ASEAN Sectoral Ministerial Bodies;



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- 2. Admission shall be based on the following criteria:
- (a) location in the recognised geographical region of Southeast Asia;
- (b) recognition by all ASEAN Member States;
- (c) agreement to be bound and to abide by the Charter; and
- (d) ability and willingness to carry out the obligations of Membership.
- 3. Admission shall be decided by consensus by the ASEAN Summit, upon the recommendation of the ASEAN Coordinating Council.
- 4. An applicant State shall be admitted to ASEAN upon signing an Instrument of Accession to the Charter.



ARTICLE 8 ASEAN COORDINATING COUNCIL

ARTICLE 9 ASEAN COMMUNITY COUNCILS

> ARTICLE 10 ASEAN SECTORAL MINISTERIAL BODIES

SECRETARY-GENERAL OF ASEAN AND ASEAN SECRETARIAT

ARTICLE 12 COMMITTEE OF PERMANENT REPRESENTATIVES TO ASEAN



Each ASEAN Member State shall establish an ASEAN National Secretariat which shall:

(a) serve as the national focal point;

(b) be the repository of information on all ASEAN matters at the national level;

(c) coordinate the implementation of ASEAN decisions at the national level;

(d) coordinate and support the national preparations of ASEAN meetings;

(e) promote ASEAN identity and awareness at the national level; and (f) contribute to ASEAN community building.





ARTICLE 14

ASEAN HUMAN RIGHTS BODY

1. IN CONFORMITY WITH THE PURPOSES AND PRINCIPLES OF THE ASEAN CHARTER RELATING TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, ASEAN SHALL ESTABLISH AN ASEAN HUMAN RIGHTS BODY.

2. THIS ASEAN HUMAN RIGHTS BODY SHALL OPERATE IN ACCORDANCE WITH THE TERMS OF REFERENCE TO BE DETERMINED BY THE ASEAN FOREIGN MINISTERS MEETING.

ARTICLE 15 **ASEAN FOUNDATION**



The ASEAN Foundation shall support the Secretary-General of ASEAN and collaborate with the relevant ASEAN bodies to support ASEAN community-building by promoting greater awareness of the ASEAN identity, people-to-people interaction, and close collaboration among the business sector, civil society, academia and other stakeholders in ASEAN.

The ASEAN Foundation shall be accountable to the Secretary General of ASEAN, who shall submit its report to the ASEAN Summit through the ASEAN Coordinating Council.



Executive Director 2020-2023, Dr Yang Mee Eng



CHAPTER V ENTITIES ASSOCIATED WITH ASEAN

ARTICLE 16 ENTITIES ASSOCIATED WITH ASEAN

- 1. ASEAN may engage with entities which support the ASEAN Charter, in particular its purposes and principles. These associated entities are listed in Annex 2.
- 2. Rules of procedure and criteria for engagement shall be prescribed by the Committee of Permanent Representatives upon the recommendation of the Secretary-General of ASEAN.
- 3. Annex 2 may be updated by the Secretary-General of ASEAN upon the recommendation of the Committee of Permanent Representatives without recourse to the provision on Amendments under this Charter.

CHAPTER VI IMMUNITIES AND PRIVILEGES

ARTICLE 17 IMMUNITIES AND PRIVILEGES OF ASEAN

- 1. ASEAN shall enjoy in the territories of the Member States such immunities and privileges as are necessary for the fulfilment of its purposes.
- 2. The immunities and privileges shall be laid down in separate agreements between ASEAN and the host Member State.



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Lim Jock Hoi, Secretary General of the ASEAN
1 January 2018 – present



ARTICLE 18

IMMUNITIES AND PRIVILEGES OF THE SECRETARY-GENERAL OF ASEAN AND STAFF OF THE ASEAN SECRETARIAT

- 1. The Secretary-General of ASEAN and staff of the ASEAN Secretariat participating in official ASEAN activities or representing ASEAN in the Member States shall enjoy such immunities and privileges as are necessary for the independent exercise of their functions.
- 2. The immunities and privileges under this Article shall be laid down in a separate ASEAN agreement.



ARTICLE 19

IMMUNITIES AND PRIVILEGES
OF THE PERMANENT
REPRESENTATIVES AND
OFFICIALS ON ASEAN DUTIES



The Permanent Representatives of the Member States to ASEAN and officials of the Member States participating in official ASEAN activities or representing ASEAN in the Member States shall enjoy such immunities and privileges as are necessary for the exercise of their functions.



The immunities and privileges of the Permanent Representatives and officials on ASEAN duties shall be governed by the 1961 Vienna Convention on Diplomatic Relations or in accordance with the national law of the ASEAN Member State concerned.





CHAPTER VII DECISION-MAKING





ARTICLE 20 CONSULTATION AND CONSENSUS

- 1. As a basic principle, decision-making in ASEAN shall be based on consultation and consensus.
- 2. Where consensus cannot be achieved, the ASEAN Summit may decide how a specific decision can be made.
- 3. Nothing in paragraphs 1 and 2 of this Article shall affect the modes of decision-making as contained in the relevant ASEAN legal instruments.
- 4. In the case of a serious breach of the Charter or noncompliance, the matter shall be referred to the ASEAN Summit for decision.

ARTICLE 21 IMPLEMENTATION AND PROCEDURE

- 1. Each ASEAN Community Council shall prescribe its own rules of procedure.
- 2. In the implementation of economic commitments, a formula for flexible participation, including the ASEAN Minus X formula, may be applied where there is a consensus to do so.

CHAPTER VIII SETTLEMENT OF DISPUTES

ARTICLE 22 GENERAL PRINCIPLES

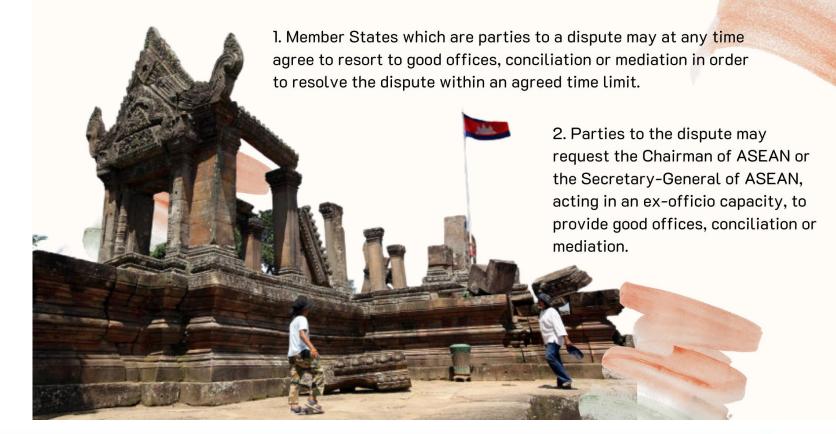
- 1. Member States shall endeavour to resolve peacefully all disputes in a timely manner through dialogue, consultation and negotiation.
- 2. ASEAN shall maintain and establish dispute settlement mechanisms in all fields of ASEAN cooperation.





ARTICLE 23

GOOD OFFICES, CONCILIATION AND MEDIATION



ARTICLE 24

DISPUTE SETTLEMENT
MECHANISMS IN SPECIFIC
INSTRUMENTS





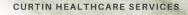
Disputes relating to specific ASEAN instruments shall be settled through the mechanisms and procedures provided for in such instruments.

2

Disputes which do not concern the interpretation or application of any ASEAN instrument shall be resolved peacefully in accordance with the Treaty of Amity and Cooperation in Southeast Asia and its rules of procedure.

3

Where not otherwise specifically provided, disputes which concern the interpretation or application of ASEAN economic agreements shall be settled in accordance with the ASEAN Protocol on Enhanced Dispute Settlement Mechanism



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Where not otherwise specifically provided, appropriate dispute settlement mechanisms, including arbitration, shall be established for disputes which concern the interpretation or application of this Charter and other ASEAN instruments.



When a dispute remains unresolved, after the application of the preceding provisions of this Chapter, this dispute shall be referred to the ASEAN Summit, for its decision.







ARTICLE 27 COMPLIANCE

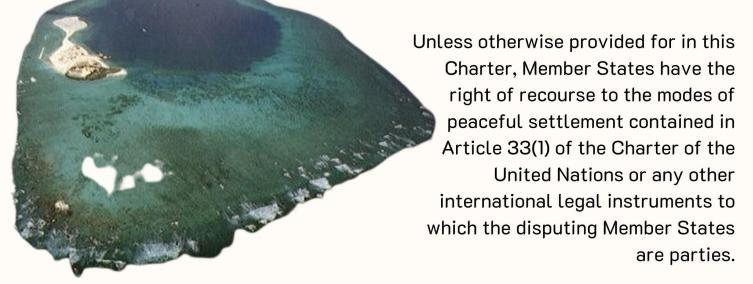
1. The Secretary-General of ASEAN, assisted by the ASEAN Secretariat or any other designated ASEAN body, shall monitor the compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, and submit a report to the ASEAN Summit.



2. Any Member State affected by non-compliance with the findings, recommendations or decisions resulting from an ASEAN dispute settlement mechanism, may refer the matter to the ASEAN Summit for a decision.



ARTICLE 28 UNITED NATIONS CHARTER PROVISIONS AND OTHER RELEVANT INTERNATIONAL PROCEDURES







CHAPTER IX BUDGET AND FINANCE

ARTICLE 29 GENERAL PRINCIPLES

- 1. ASEAN shall establish financial rules and procedures in accordance with international standards.
- 2. ASEAN shall observe sound financial management policies and practices and budgetary discipline.
- 3. Financial accounts shall be subject to internal and external audits.







CHAPTER X



ADMINISTRATION AND PROCEDURE

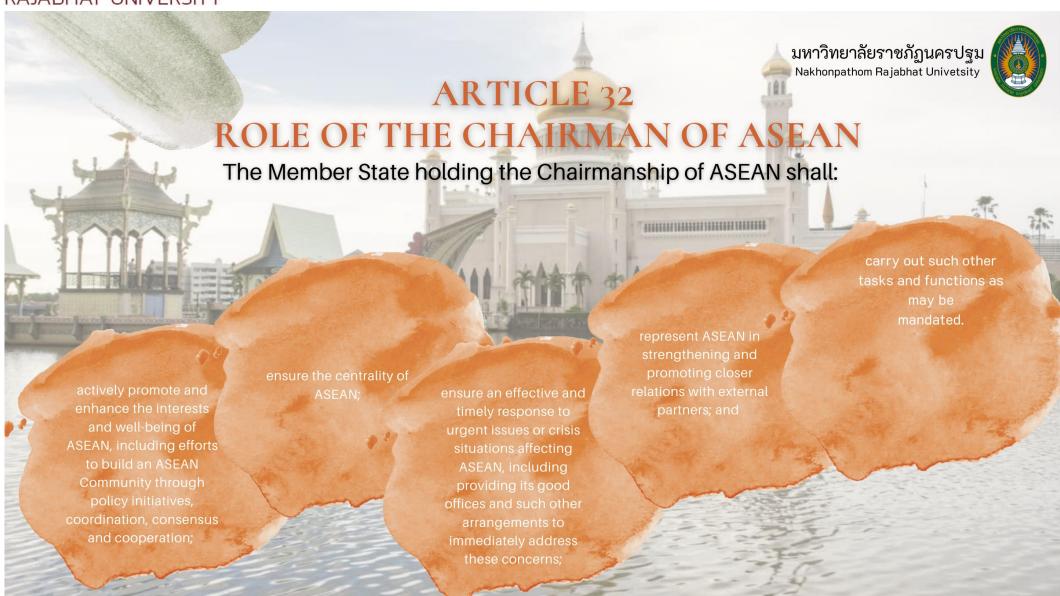
ARTICLE 31

CHAIRMAN OF ASEAN

- 1. The Chairmanship of ASEAN shall rotate annually, based on the alphabetical order of the English names of Member States
- 2. ASEAN shall have, in a calendar year, a single Chairmanship by which the Member State assuming the Chairmanship shall chair:
- (a) the ASEAN Summit and related summits;
- (b) the ASEAN Coordinating Council;
- (c) the three ASEAN Community Councils;
- (d) where appropriate, the relevant ASEAN Sectoral Ministerial Bodies and senior officials; and
- (e) the Committee of Permanent Representatives.









ARTICLE 33 DIPLOMATIC PROTOCOL AND PRACTICES

ASEAN and its Member States shall adhere to existing diplomatic protocol and practices in the conduct of all activities relating to ASEAN. Any changes shall be approved by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.



ARTICLE 34 WORKING LANGUAGE OF ASEAN

The working language of ASEAN shall be English.

CHAPTER XII EXTERNAL RELATIONS

ARTICLE 41 CONDUCT OF EXTERNAL RELATIONS

- 4. In the conduct of external relations of ASEAN, Member States shall, on the basis of unity and solidarity, coordinate and endeavour to develop common positions and pursue joint actions.
- 5. The strategic policy directions of ASEAN's external relations shall be set by the ASEAN Summit upon the recommendation of the ASEAN Foreign Ministers Meeting.
- 6. The ASEAN Foreign Ministers Meeting shall ensure consistency and coherence in the conduct of ASEAN's external relations.
- 7. ASEAN may conclude agreements with countries or subregional, regional and international organisations and institutions. The procedures for concluding such agreements shall be prescribed by the ASEAN Coordinating Council in consultation with the ASEAN Community Councils.



- 1. ASEAN shall develop friendly relations and mutually beneficial dialogue, cooperation and partnerships with countries and subregional, regional and international organisations and institutions.
- 2. The external relations of ASEAN shall adhere to the purposes and principles set forth in this Charter.
- 3. ASEAN shall be the primary driving force in regional arrangements that it initiates and maintain its centrality in regional cooperation and community-building.







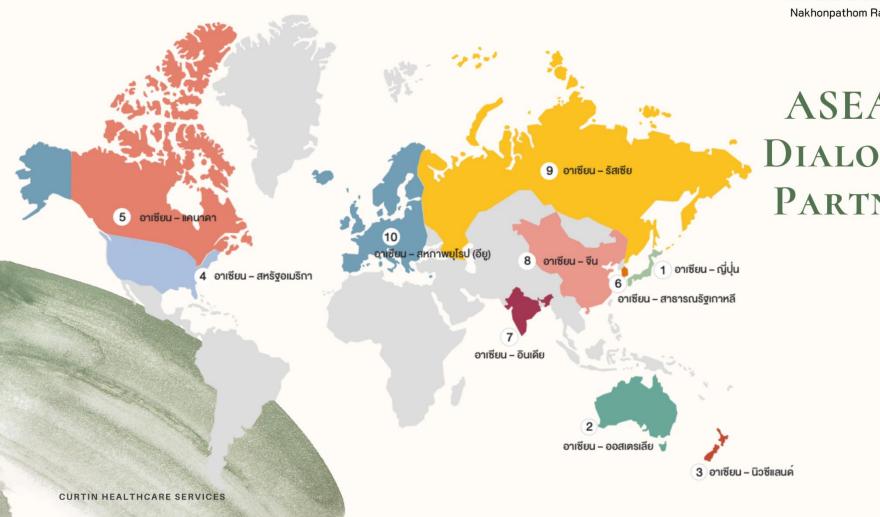
1. Member States, acting as Country Coordinators, shall take turns to take overall responsibility in coordinating and promoting the interests of ASEAN in its relations with the relevant Dialogue Partners, regional and international organisations and institutions.

ARTICLE 42 DIALOGUE COORDINATOR



- 2. In relations with the external partners, the Country Coordinators shall, inter alia:
- (a) represent ASEAN and enhance relations on the basis of mutual respect and equality, in conformity with ASEAN's principles;
- (b) co-chair relevant meetings between ASEAN and external partners; and
- (c) be supported by the relevant ASEAN Committees in Third Countries and International Organisations.

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ASEAN DIALOGUE PARTNER



ARTICLE 44 STATUS OF EXTERNAL PARTIES

- 1. In conducting ASEAN's external relations, the ASEAN Foreign Ministers Meeting may confer on an external party the formal status of Dialogue Partner, Sectoral Dialogue Partner, Development Partner, Special Observer, Guest, or other status that may be established henceforth.
- 2. External parties may be invited to ASEAN meetings or cooperative activities without being conferred any formal status, in accordance with the rules of procedure.



ARTICLE 45 **RELATIONS WITH THE UNITED** NATIONS SYSTEM AND OTHER INTERNATIONAL ORGANISATIONS AND INSTITUTIONS

- 1. ASEAN may seek an appropriate status with the United Nations system as well as with other sub-regional, regional, international organisations and institutions.
- 2. The ASEAN Coordinating Council shall decide on the participation of ASEAN in other sub-regional, regional, international organisations and institutions.



ARTICLE 46 ACCREDITATION OF NON-ASEAN MEMBER STATES TO ASEAN

Non-ASEAN Member States and relevant inter-governmental organisations may appoint and accredit Ambassadors to ASEAN. The ASEAN Foreign **Ministers Meeting** shall decide on such accreditation.



CHAPTER XIII GENERAL AND FINAL PROVISIONS

ARTICLE 47
SIGNATURE,
RATIFICATION,
DEPOSITORY AND
ENTRY INTO FORCE

ARTICLE 48
AMENDMENTS

ARTICLE 49
TERMS OF REFERENCE
AND RULES OF
PROCEDURE

ARTICLE 50 REVIEW

ARTICLE 51
INTERPRETATION OF
THE CHARTER

ARTICLE 52
LEGAL CONTINUITY

ARTICLE 53
ORIGINAL TEXT

ARTICLE 54
REGISTRATION OF THE
ASEAN CHARTER

ARTICLE 55
ASEAN ASSETS











EXCERCISE:

HOW EFFECTIVE IS THE ASEAN CHARTER?

Gouping in 4-5 person and talking about that!