

UNIT 3 Asean charter

ASEAN Studies Subjects

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ASEAN STUDIES

subject



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.

**THE
ASEAN
CHARTER**

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



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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





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;

4. To ensure that the peoples and Member States of ASEAN live in peace
5. To create a single market and production base
6. To alleviate poverty and narrow the development gap
7. To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms
8. To respond effectively
9. To promote sustainable development
10. To develop human resources through closer cooperation in education and life-long learning, and in science and technology, for the empowerment of the peoples of ASEAN and for the strengthening of the ASEAN Community;

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- 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

ARTICLE 11
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



Executive Director 2020-2023, Dr Yang Mee Eng

1

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.

2

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.

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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.





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

1

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.

2

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

1. Member States which are parties to a dispute may at any time agree to resort to good offices, conciliation or mediation in order to resolve the dispute within an agreed time limit.

2. Parties to the dispute may request the Chairman of ASEAN or the Secretary-General of ASEAN, acting in an ex-officio capacity, to provide good offices, conciliation or mediation.



ARTICLE 24

DISPUTE SETTLEMENT MECHANISMS IN SPECIFIC INSTRUMENTS

CURTIN HEALTHCARE SERVICES

1

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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ARTICLE 25 ESTABLISHMENT OF DISPUTE SETTLEMENT MECHANISMS

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.



ARTICLE 26 UNRESOLVED DISPUTES



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.

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ARTICLE 28 UNITED NATIONS CHARTER PROVISIONS AND OTHER RELEVANT INTERNATIONAL PROCEDURES



Unless otherwise provided for in this Charter, Member States have the right of recourse to the modes of peaceful settlement contained in Article 33(1) of the Charter of the United Nations or any other international legal instruments to which the disputing Member States are parties.





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.



ARTICLE 30 OPERATIONAL BUDGET AND FINANCES OF THE ASEAN SECRETARIAT

1

The ASEAN Secretariat shall be provided with the necessary financial resources to perform its functions effectively.

2

The operational budget of the ASEAN Secretariat shall be met by ASEAN Member States through equal annual contributions which shall be remitted in a timely manner.





ARTICLE 30 OPERATIONAL BUDGET AND FINANCES OF THE ASEAN SECRETARIAT

3

The Secretary-General shall prepare the annual operational budget of the ASEAN Secretariat for approval by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.

4

The ASEAN Secretariat shall operate in accordance with the financial rules and procedures determined by the ASEAN Coordinating Council upon the recommendation of the Committee of Permanent Representatives.





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 32 ROLE OF THE CHAIRMAN OF ASEAN

The Member State holding the Chairmanship of ASEAN shall:

actively promote and enhance the interests and well-being of ASEAN, including efforts to build an ASEAN Community through policy initiatives, coordination, consensus and cooperation;

ensure the centrality of ASEAN;

ensure an effective and timely response to urgent issues or crisis situations affecting ASEAN, including providing its good offices and such other arrangements to immediately address these concerns;

represent ASEAN in strengthening and promoting closer relations with external partners; and

carry out such other tasks and functions as may be mandated.



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.

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**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.

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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.



ARTICLE 42 DIALOGUE COORDINATOR

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.

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.



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

THANK YOU
FOR WATCHING

Source : ASEAN Charter by ASEAN Secretariat





EXCERCISE :

HOW EFFECTIVE IS THE ASEAN CHARTER?

Gouping in 4-5 person
and talking about that !