



## ASEAN Charter and Law Education in Universities

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ASEAN Charter<sup>1</sup> is a legal document signed among national members of the Association aiming at establishment of ASEAN institutional and legal framework.<sup>2</sup> Generally speaking, this legal document can be considered as a “constitution” of the Association of South East Asian Nations. Thanks to the Charter, ASEAN officially has legal status after 40 years of existence and development (before the Association was established basing on a political declaration, but not a legal document). The Charter reflects the will of ASEAN countries to build a tighter and stronger ASEAN.

Together with the foreword, the ASEAN Charter contains 13 chapters with 55 articles.<sup>3</sup> Basically, these articles summarise and systemise the existent objectives, principles and agreements of ASEAN.

At the first glance, people may think that the conclusion and ratification of ASEAN Charter does not directly affect or relate to law education in universities. There are very few items in the Charter mention to the term “education”.<sup>4</sup> The relation between the Charter and law education is much farer. However, considering more carefully, we can realise that Vietnam as well as the other members should invest in education of human resources in order to implement legal commitments within the Charter framework and actively participate in the cooperation process in the Association (1) as well. In fact, we can see that, several mechanisms of co-operation have been operating to improve law education in the South East Asia (2).

### 1) *The ASEAN Charter and Law Education in Universities*

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<sup>1</sup> The Charter was adopted at the 13<sup>th</sup> ASEAN Summit on 20<sup>th</sup> November 2007. All ASEAN Members ratified it. Vietnam ratified on 14<sup>th</sup> April 2008.

<sup>2</sup> See the foreword of the Charter: “*Hereby decide to establish, through this Charter, the legal and institutional framework for ASEAN*”.

<sup>3</sup> These Chapters provides for the purposes and principles, legal status, membership regulations, organizational structure, ASEAN-related institutions, privileges and immunities, decision making, dispute resolving, finance, budgets, administrative procedures, character and symbol of ASEAN, external relations, and general and final articles ,

<sup>4</sup> A rare example is the Article1.10: “To develop human resources through closer cooperation in education and life-long learning, and in science and technology, for empowerment of the people of the ASEAN and for the strengthen of the ASEAN Community”



*Firstly*, which we can immediately realise is the impact of the establishment of the ASEAN Charter as well as of a number of contents of this legal document on teaching of some branches of law.

First of all, from the aspect of International Public Law's Subjects, the ASEAN Charter and its provisions relating to the principles, structure and decision making procedures within the ASEAN framework can be the themes of teaching and studying of International Organization topic. The ASEAN Charter can be cited as an example in teaching the basic principles of International Public Law such as renunciation of use or threat of use of force,<sup>5</sup> respect for national sovereignty.<sup>6</sup>

The conclusion and ratification of the Charter also directly are relevant to the International Trade Law Branch. When signing and ratifying the Charter, the ASEAN Members are bound by the obligation "*adherence to multilateral trade rules and ASEAN's rules-based regimes for effective implementation of economic commitments and progressive reduction towards elimination of all barriers to the regional economic integration, in a market-driven economy*".<sup>7</sup> What are multilateral trade rules? How can all barriers to the regional economic integration be eliminated? What are contents of multilateral and regional economic commitments? How to effectively implement multilateral and regional economic commitments? These issues should be introduced, analysed and resolved when teaching in law universities.

*Secondly*, it is hard to negate that the effects of the conclusion and ratification of the ASEAN Charter in particular and of the integration into ASEAN to law education strategies are similar to the effects of conclusion and ratification of the Protocol of Accession to WTO to law education, although the extent of these effects may be different. They are different levels of integration into the process of trade liberalization. It arise of pressing needs of education of human resources having thorough grasp of knowledge, skills related to law, especially international law, international trade law, and foreign languages. Only by that

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<sup>5</sup> The Article 2.2.c) of the Charter: «ASEAN and its Member States shall act in accordance with the following principles:  
(...) renunciation of aggression and of the threat and use of force or other actions in any manner inconsistency with international law".

<sup>6</sup> The Article 2.2.k) of the Charter: «ASEAN and its Member States shall act in accordance with the following principles :  
(...) abstention from participate in any policy or action, including the use of its territory, pursued to any ASEAN Member State or non-ASEAN state or non-ASEAN actor, which threaten the sovereignty, territorial integrity or the political and economic stability of ASEAN Member states"

<sup>7</sup> The Article 2.2.n) of the Charter.



can the integration to trade liberalization process be implemented actively, effectively at either regional or global level.

*Thirdly*, the associating process within the ASEAN framework becomes a crucial important factor that need to be considered when building law education program of the countries in the region. It is undoubted that the integration to ASEAN in general and the ratification of the ASEAN Charter in particular has arisen of the urgent needs of study, research and teaching ASEAN law. On one side, lawyers should thoughtfully understand the law of the Association (ASEAN), especially the commitments under the frames of AFTA, AFAS, AIA, and AEC... related to trade liberalization, so as to implement, obey, and utilise best these regulations of the organization. On the other side, it is necessary to understand the law of ASEAN Member states in order to cooperate and work more favorably with partners from these countries. The practical experience shows that many enterprises have not been able to exploit the benefits from the reduction of trade barriers in the region due to not grasp the law of the Association and the law of the member countries.

To meet these needs, the Law University of Ho Chi Minh City has actively participated in the project "*Bringing the law of the ASEAN countries into education programme of law education institutions*". According to the project, it is necessary to teach learners three subjects: ASEAN community law, Comparison law of ASEAN countries and legal system of each ASEAN country. To achieve the goals of the project, we have mobilised specialist lecturers in International public law, Comparison law, and International trade law; combined long-term education with short-term training in order to not only provide education for bachelor and master's degree but also to serve promptly and directly the needs of enterprises.

Implementation of such a project is new in Vietnam and even in South East Asia as well (surveys show that recently ASEAN law has only been taught methodically at Nanyang University in Singapore). However, looking out over the world, it can be seen that in the countries of European Union, the Community Law has been a very important subject in law universities for a long time. It is hard to deny that methodologically teaching of the Community law is vitally important to educate a generation of European lawyers who have sufficient knowledge of European Union's identity and ability to work not only in one country of the Union.

*Fourthly*, the conclusion and ratification of the ASEAN Charter results in requirement of stronger promotion of cooperation in education and law education as well. The Article 1.10 of the ASEAN Charter emphasises that one of the purposes of the Association is to



“develop of human resources through closer cooperation in education and long-life learning, and in science and technology, for empowerment of the people of the ASEAN and for strengthen of the ASEAN Community”. It requires many factors which include the cooperation of education institutions and administrative competent authorities. We are going to discuss this in the part (2).

*2) The regimes of cooperation in education and legal areas in ASEAN region*

The ASEAN members have carried out activities to boost regional cooperation in education for a long time before the establishment of ASEAN Charter. Since 1965, SEAMEO (the Organization of Education Ministers of ASEAN) has been established and played an important role in promoting cooperation in education in the region. From 2005, the ASEAN countries have agreed to organize Meeting of Education Ministers of ASEAN annually. The Education Ministers of ASEAN have set out four priority targets for education cooperation in the region. These are:

- Encouragement of ASEAN identity to citizens in the region, especially to young citizens;
- Promotion ASEAN identity through education;
- Creation of ASEAN human resources in education area; and
- Enhancement of the ASEAN universities network.

The programs and activities related to cooperation of education are implemented by SOM-ED – ASEAN Senior officials on education, this organ reports to SEAMEO. SOM-ED and the ASEAN University Network (AUN) co-ordinate higher education activities. The ASEAN universities network is established to aim at:

- Encouragement of the cooperation among lecturers, researchers in the region;
- Development of human resources in researching and practicing areas in the region;
- Encouragement of information exchange among research circles in the region;
- Enhancement of awareness of regional identity between the members.

Under the programme of network of ASEAN universities, the ASEAN members exchange students, but with a small number.

In addition, in cooperation of law sphere, we can list some non-governmental organizations which have been established in the region such as: ALA (ASEAN Law



Association)<sup>8</sup> set up in 1979 involving judges, lecturers in law, and lawyers of ASEAN, aiming at promotion of cooperation and mutual understanding among lawyers in the region; and ALSA (ASEAN Law Students Association) that has a growing role including law students of China, Hong Kong, Indonesia, Japan, Korea, the Philippines, Taiwan, Thailand, and Malaysia.<sup>9</sup>

In comparison with other countries in the world, it can be seen that one of the big achievements of European Union is the establishment and development of the Erasmus programme, a programme of student exchange. Started in 1987 with more than 3000 students, up to now Erasmus has opened the road to exchange of over 1,5 million students in the whole Europe (recently the programme has also been opened for students from countries outside Europe) in various fields of education including law education. For example, for law students, who participated in the Erasmus programme, normally have to finish the third year. They can come to other countries in the programme to study law in one year in average. The establishment and implementation of the Erasmus programme in legal field have created many significant benefits. We can list some examples of these benefits such as: (1) contribution to standardisation and harmonisation of law education programme of member countries; to make universities to apply credit-education policy and similar training methods and stages among member countries;<sup>10</sup> (2) Helping in education a new generation that knows many foreign languages and culture of other countries in the Union (because a student can come to two or even three countries to implement the exchange programme); (3) Helping in creation of a generation of “European citizens” having complete awareness of “European identity”, and having abilities to live, study and work in anywhere in Europe as in their own country, many students, who have participated in the programme once commented; (4) Facilitation for building and implementing of law of European Union, hence helping the Union to develop more widely and deeply; (5) Helping in education of a generation of European lawyers having abilities to practice in many European and other countries; (6) Education of strong “European Lawyers” generation to protect interests of European Union member countries. It is not necessary to repeat that one of the European Union’s strength, under the framework of WTO, is not the lawyers of

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<sup>8</sup> Website: <http://www.aseanlawassociation.org/index.html>. From 14th to 18th October 2009, ALA will organize the 10<sup>th</sup> Plenary Meeting in Hanoi.

<sup>9</sup> Website: <http://www.alsa-intl.net/>

<sup>10</sup> For example, one of the reasons that made the Republic of France to change its education programme from L-M-D-D Model (Licence – Master I – DEA or DESS – Docteur) to L-M-D (Licence – Master – Docteur) is to be in harmony with education model of other countries in the Union.



France, Belgium or Italia but the lawyers of the Union who have greatly contributed to protect interests of European Union member countries in many disputes.

We must firstly answer the following questions: Should we pay special attention to educate ASEAN law in order to be suitable for current regionalised trend? Should we be more ambitious and active in cooperating with other education institutions in the region so as to educate an “ASEAN lawyers” generation?

The conclusion and ratification of ASEAN Charter, with the goal of establishment an Association with “*One vision, one identity, and one community*” help us to answer the above-mentioned questions. The next question is that: how can we effectively obtain our goal?