

**2009 TERMS OF REFERENCE OF THE ASEAN INTERGOVERNMENTAL COMMISSION ON  
HUMAN RIGHTS**

*Adopted in Phuket, Thailand, on 20 July 2009*

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## **2009 TERMS OF REFERENCE OF ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS**

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Pursuant to Article 14 of the ASEAN Charter, the ASEAN Intergovernmental Commission on Human Rights (AICHR) shall operate in accordance with the following Terms of Reference (TOR):

### **1. PURPOSES**

The purposes of the AICHR are:

- 1.1 to promote and protect human rights and fundamental freedoms of the peoples of ASEAN;
- 1.2 to uphold the right of the peoples of ASEAN to live in peace, dignity and prosperity;
- 1.3 to contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN Member States, as well as the well-being, livelihood, welfare and participation of ASEAN peoples in the ASEAN Community building process;
- 1.4 to promote human rights within the regional context, bearing in mind national and regional particularities and mutual respect for different historical, cultural and religious backgrounds, and taking into account the balance between rights and responsibilities;
- 1.5 to enhance regional cooperation with a view to complementing national and international efforts on the promotion and protection of human rights; and
- 1.6 to uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties.

### **2. PRINCIPLES**

The AICHR shall be guided by the following principles:

- 1.1 Respect for principles of ASEAN as embodied in Article 2 of the ASEAN Charter, in particular:
  - a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States;
  - b) non-interference in the internal affairs of ASEAN Member States;
  - c) respect for the right of every Member State to lead its national existence free from external interference, subversion and coercion;
  - d) adherence to the rule of law, good governance, the principles of democracy and constitutional government;
  - e) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice;

- f) upholding the Charter of the United Nations and international law, including international humanitarian law, subscribed to by ASEAN Member States; and
  - g) respect for different cultures, languages and religions of the peoples of ASEAN, while emphasising their common values in the spirit of unity in diversity.
- 1.2 Respect for international human rights principles, including universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms, as well as impartiality, objectivity, non-selectivity, non-discrimination, and avoidance of double standards and politicisation;
- 1.3 Recognition that the primary responsibility to promote and protect human rights and fundamental freedoms rests with each Member State;
- 1.4 Pursuance of a constructive and non-confrontational approach and cooperation to enhance promotion and protection of human rights; and
- 1.5 Adoption of an evolutionary approach that would contribute to the development of human rights norms and standards in ASEAN.

### **3. CONSULTATIVE INTER-GOVERNMENTAL BODY**

The AICHR is an inter-governmental body and an integral part of the ASEAN organisational structure. It is a consultative body.

### **4. MANDATE AND FUNCTIONS**

- 4.1 To develop strategies for the promotion and protection of human rights and fundamental freedoms to complement the building of the ASEAN Community;
- 4.2 To develop an ASEAN Human Rights Declaration with a view to establishing a framework for human rights cooperation through various ASEAN conventions and other instruments dealing with human rights;
- 4.3 To enhance public awareness of human rights among the peoples of ASEAN through education, research and dissemination of information;
- 4.4 To promote capacity building for the effective implementation of international human rights treaty obligations undertaken by ASEAN Member States;
- 4.5 To encourage ASEAN Member States to consider acceding to and ratifying international human rights instruments;
- 4.6 To promote the full implementation of ASEAN instruments related to human rights;
- 4.7 To provide advisory services and technical assistance on human rights matters to ASEAN sectoral bodies upon request;
- 4.8 To engage in dialogue and consultation with other ASEAN bodies and entities associated with ASEAN, including civil society organisations and other stakeholders, as provided for in Chapter V of the ASEAN Charter;
- 4.9 To consult, as may be appropriate, with other national, regional and international institutions and entities concerned with the promotion and protection of human rights;

- 4.10 To obtain information from ASEAN Member States on the promotion and protection of human rights;
- 4.11 To develop common approaches and positions on human rights matters of interest to ASEAN;
- 4.12 To prepare studies on thematic issues of human rights in ASEAN;
- 4.13 To submit an annual report on its activities, or other reports if deemed necessary, to the ASEAN Foreign Ministers Meeting; and
- 4.14 To perform any other tasks as may be assigned to it by the ASEAN Foreign Ministers Meeting.

## **5. COMPOSITION**

### **MEMBERSHIP**

- 5.1 The AICHR shall consist of the Member States of ASEAN.
- 5.2 Each ASEAN Member State shall appoint a Representative to the AICHR who shall be accountable to the appointing Government.

### **QUALIFICATIONS**

- 5.3 When appointing their Representatives to the AICHR, Member States shall give due consideration to gender equality, integrity and competence in the field of human rights.
- 5.4 Member States should consult, if required by their respective internal processes, with appropriate stakeholders in the appointment of their Representatives to the AICHR.

### **TERM OF OFFICE**

- 5.5 Each Representative serves a term of three years and may be consecutively re-appointed for only one more term.
- 5.6 Notwithstanding paragraph 5.5, the appointing Government may decide, at its discretion, to replace its Representative.

### **RESPONSIBILITY**

- 5.7 Each Representative, in the discharge of his or her duties, shall act impartially in accordance with the ASEAN Charter and this TOR.
- 5.8 Representatives shall have the obligation to attend AICHR meetings. If a Representative is unable to attend a meeting due to exceptional circumstances, the Government concerned shall formally notify the Chair of the AICHR of the appointment of a temporary representative with a full mandate to represent the Member State concerned.

### **CHAIR OF THE AICHR**

- 5.9 The Chair of the AICHR shall be the Representative of the Member State holding the Chairmanship of ASEAN.
- 5.10 The Chair of the AICHR shall exercise his or her role in accordance with this TOR, which shall include:

- a) leading in the preparation of reports of the AICHR and presenting such reports to the ASEAN Foreign Ministers Meeting;
- b) coordinating with the AICHR's Representatives in between meetings of the AICHR and with the relevant ASEAN bodies;
- c) representing the AICHR at regional and international events pertaining to the promotion and protection of human rights as entrusted by the AICHR; and
- d) undertaking other specific functions entrusted by the AICHR in accordance with this TOR.

### **IMMUNITIES AND PRIVILEGES**

- 5.11 In accordance with Article 19 of the ASEAN Charter, Representatives participating in official activities of the AICHR shall enjoy such immunities and privileges as are necessary for the exercise of their functions.

## **6. MODALITIES**

### **DECISION-MAKING**

- 6.1 Decision-making in the AICHR shall be based on consultation and consensus in accordance with Article 20 of the ASEAN Charter.

### **NUMBER OF MEETINGS**

- 6.2 The AICHR shall convene two regular meetings per year. Each meeting shall normally be not more than five days.
- 6.3 Regular meetings of the AICHR shall be held alternately at the ASEAN Secretariat and the Member State holding the Chair of ASEAN.
- 6.4 As and when appropriate, the AICHR may hold additional meetings at the ASEAN Secretariat or at a venue to be agreed upon by the Representatives.
- 6.5 When necessary, the ASEAN Foreign Ministers may instruct the AICHR to meet.

### **LINE OF REPORTING**

- 6.6 The AICHR shall submit an annual report and other appropriate reports to the ASEAN Foreign Ministers Meeting for its consideration.

### **PUBLIC INFORMATION**

- 6.7 The AICHR shall keep the public periodically informed of its work and activities through appropriate public information materials produced by the AICHR.

## **RELATIONSHIP WITH OTHER HUMAN RIGHTS BODIES WITHIN ASEAN**

- 6.8 The AICHR is the overarching human rights institution in ASEAN with overall responsibility for the promotion and protection of human rights in ASEAN.
- 6.9 The AICHR shall work with all ASEAN sectoral bodies dealing with human rights to expeditiously determine the modalities for their ultimate alignment with the AICHR. To this end, the AICHR shall closely consult, coordinate and collaborate with such bodies in order to promote synergy and coherence in ASEAN's promotion and protection of human rights.

## **7. ROLE OF THE SECRETARY-GENERAL AND ASEAN SECRETARIAT**

- 7.1 The Secretary-General of ASEAN may bring relevant issues to the attention of the AICHR in accordance with Article 11.2 (a) and (b) of the ASEAN Charter. In so doing, the Secretary-General of ASEAN shall concurrently inform the ASEAN Foreign Ministers of these issues.
- 7.2 The ASEAN Secretariat shall provide the necessary secretarial support to the AICHR to ensure its effective performance. To facilitate the Secretariat's support to the AICHR, ASEAN Member States may, with the concurrence of the Secretary-General of ASEAN, second their officials to the ASEAN Secretariat.

## **8. WORK PLAN AND FUNDING**

- 8.1 The AICHR shall prepare and submit a Work Plan of programmes and activities with indicative budget for a cycle of five years to be approved by the ASEAN Foreign Ministers Meeting, upon the recommendation of the Committee of Permanent Representatives to ASEAN.
- 8.2 The AICHR shall also prepare and submit an annual budget to support high priority programmes and activities, which shall be approved by the ASEAN Foreign Ministers Meeting, upon the recommendation of the Committee of Permanent Representatives to ASEAN.
- 8.3 The annual budget shall be funded on equal sharing basis by ASEAN Member States.
- 8.4 The AICHR may also receive resources from any ASEAN Member States for specific extra-budgetary programmes from the Work Plan.
- 8.5 The AICHR shall also establish an endowment fund which consists of voluntary contributions from ASEAN Member States and other sources.
- 8.6 Funding and other resources from non-ASEAN Member States shall be solely for human rights promotion, capacity building and education.
- 8.7 All funds used by the AICHR shall be managed and disbursed in conformity with the general financial rules of ASEAN.
- 8.8 Secretarial support for the AICHR shall be funded by the ASEAN Secretariat's annual operational budget.

## **9. GENERAL AND FINAL PROVISIONS**

9.1 This TOR shall come into force upon the approval of the ASEAN Foreign Ministers Meeting.

### **AMENDMENTS**

9.2 Any Member State may submit a formal request for an amendment of this TOR.

9.3 The request for amendment shall be considered by the Committee of Permanent Representatives to ASEAN in consultation with the AICHR, and presented to the ASEAN Foreign Ministers Meeting for approval.

9.4 Such amendments shall enter into force upon the approval of the ASEAN Foreign Ministers Meeting.

9.5 Such amendments shall not prejudice the rights and obligations arising from or based on this TOR before or up to the date of such amendments.

### **REVIEW**

9.6 This TOR shall be initially reviewed five years after its entry into force. This review and subsequent reviews shall be undertaken by the ASEAN Foreign Ministers Meeting, with a view to further enhancing the promotion and protection of human rights within ASEAN.

9.7 In this connection, the AICHR shall assess its work and submit recommendations for the consideration of the ASEAN Foreign Ministers Meeting on future efforts that could be undertaken in the promotion and protection of human rights within ASEAN consistent with the principles and purposes of the ASEAN Charter and this TOR.

### **INTERPRETATION**

9.8 Any difference concerning the interpretation of this TOR which cannot be resolved shall be referred to the ASEAN Foreign Ministers Meeting for a decision.