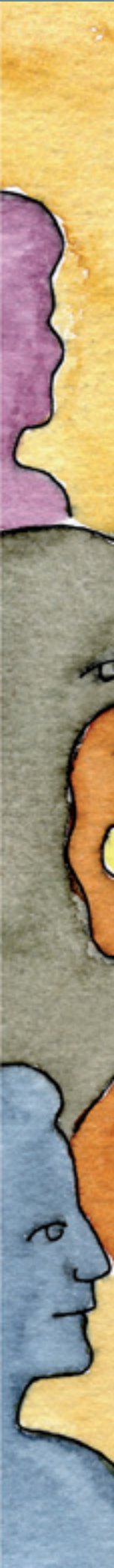




# Potential Avenues for Democracy Building in ASEAN–EU Cooperation

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# Potential Avenues for Democracy Building in ASEAN–EU Cooperation

## Abstract

The European Union (EU) has the potential to contribute to democracy building in Southeast Asia. Until now its actions have been largely economic. However, since the new millennium, support for democracy, human rights and good governance has been increasingly emphasized in the EU's vision for its relations with other countries and regions. The Charter of the Association of Southeast Asian Nations (ASEAN), signed in late 2007, also enshrines support for these values. The EU and ASEAN have committed to deeper cooperation on a wide variety of issues including politics, economics, security, science, culture, health and education. In these formal commitments, democratic principles have played a small but gradually increasing role. ASEAN's structure is different from that of the EU, and its commitment to democratic principles is more complex, given the variety of political systems of its member states. Thus it is likely to experience many challenges on the road to democratization, human rights, good governance and closer regional cooperation. The EU can serve as a model for ASEAN as it progresses towards these goals. ASEAN's solutions must also take into account its unique needs and priorities and draw on existing successes, for example in the economic realm. The two regions need to honour the admirable goals they have already established, both separately and together, and continue to seek creative ways to take them further.

## 1. Introduction

The prevailing perception of the European Union (EU) in Asia is that it is an economic powerhouse and an important trading partner and investor in the region. Its currency, the euro, is the most tangible manifestation of its economic power. The EU's experience with economic integration is also admired and a source of inspiration in the region.

Cooperation between the Association of Southeast Asian Nations (ASEAN) and the EU has been largely economic, focussing mainly on trade and investments. This view was reinforced by the launch of negotiations for an ASEAN-EU Free Trade Agreement in 2007 – a development that has not only caught the imagination of the private sector

but also become a focus of concern for various lobbying groups, which have cited the lack of safety nets for vulnerable sectors.<sup>1</sup>

The EU has also committed to ensuring that ‘human rights, democratic principles and good governance should be promoted in all aspects of European Commission policy dialogue and development cooperation, through building constructive partnerships with ASEAN and national governments based on dialogue, encouragement and effective support’.<sup>2</sup> In this regard, there is an expectation that its actions in the region should not be limited to the economic field but should also include concrete measures to promote human rights, democratic principles and good governance.

At the same time, the ASEAN Charter, which was signed on 20 November 2007 in Singapore, states that one of the purposes of ASEAN is ‘to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN’.<sup>3</sup> Towards this end, ASEAN and its member states

commit to ‘adherence to the rule of law, good governance, the principles of democracy and constitutional government’.<sup>4</sup> These provisions not only formally put political development on the agenda of ASEAN but could also pave the way for cooperative activities in this area, which the EU as a dialogue partner could work with ASEAN on.

**Currently, there is a mismatch between the areas of cooperation between ASEAN and the EU and the commitment of the EU to promote human rights, democratic principles and good governance.**

Currently, there is a mismatch between the areas of cooperation between ASEAN and the EU and the commitment of the EU to promote human rights, democratic principles and good governance. In this light, and given the prevailing perception of the EU, one could then ask: Are there potential avenues for democracy building in ASEAN-EU cooperation?

This paper argues in the affirmative and seeks to support this view by examining key developments in ASEAN and the EU. It is organized as follows. Part 2 reviews the current state of ASEAN-EU relations. Part 3 focuses on political development in ASEAN via the ASEAN Charter and the ASEAN Political Security Community (APSC) Blueprint. Part 4 looks at how the EU could be a partner to ASEAN in democracy building. Part 5 identifies possible avenues for democracy building in ASEAN-EU cooperation.

## 2. The State of ASEAN–EU Relations

The current master plan for enhancing ASEAN-EU relations and cooperation in the medium term (2007–2012) is the Plan of Action (POA) to Implement the Nuremberg Declaration on an EU-ASEAN Enhanced Partnership. This was adopted during the ASEAN-EU Commemorative Summit in Singapore on 22 November 2007. The POA is meant to ‘support ASEAN integration, through helping to realise the end goal of the establishment of the ASEAN Community by 2015, consisting of three pillars,

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<sup>1</sup> See Alfredo C. Robles Jr., *The False Promises of an ASEAN-EU FTA*, 2007.

<sup>2</sup> European Commission, *Communication from the Commission: A New Partnership with Southeast Asia*, 2003, page 3.

<sup>3</sup> Association of Southeast Asian Nations, *Charter*, 2008, paragraph 7, Article 1.

<sup>4</sup> Association of Southeast Asian Nations, *Charter*, 2008, paragraph 2 (h), Article 2.

namely ASEAN Security Community, ASEAN Economic Community and ASEAN Socio-Cultural Community.’ It enjoins ASEAN and the EU to pursue ‘joint activities and measures, in accordance with the laws, regulations and national policies of the respective ASEAN Member Countries and those of the EU’.<sup>5</sup> These are categorized as follows:

1. Political and security cooperation
  - (a) Deepen political dialogue and enhance regional cooperation.
  - (b) Deepen security cooperation (including crisis management and conflict prevention, as well as capacity building).
  - (c) Address traditional and non-traditional security issues.
2. Economic cooperation (trade, investment and transport)
3. Cooperation in the fields of energy security, climate change, environment and minerals
4. Socio-cultural cooperation (education and people-to-people contacts, public health, women, disaster management and emergency response, and science and technology)
5. Development cooperation

In the section on political cooperation, the only measure that relates to human rights, democratic principles and good governance is the following:

Encourage co-hosting seminars on human rights issues, along the lines of the established ASEM [Asia-Europe Meeting] seminars on human rights. Encourage other initiatives aimed at jointly exploring ways of strengthening exchanges, dialogue and capacity building related to the protection of human rights from a regional perspective.<sup>6</sup>

This is, however, not mentioned in the annex, which provides the Indicative List of Activities for the First Two Years of the Implementation of the POA. In the section on political and security cooperation, almost all of the activities focus on security, specifically through the ASEAN Regional Forum.<sup>7</sup>

At the 17th ASEAN–EU Ministerial Meeting, held from 27–28 May 2009 in Phnom Penh, Cambodia, the ministers reviewed the progress of ASEAN-EU cooperation and expressed satisfaction with regard to the implementation of activities under the

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<sup>5</sup> Association of Southeast Asian Nations and European Union, *Plan of Action to Implement the Nuremberg Declaration*, 2007, page 1.

<sup>6</sup> Association of Southeast Asian Nations and European Union, *Plan of Action to Implement the Nuremberg Declaration*, 2007, paragraph 1.2.6.

<sup>7</sup> The ASEAN Regional Forum, which was established in 1993 at the 26th ASEAN Ministerial Meeting, is one of the principal forums for security dialogue in Asia. Its objectives are to foster constructive dialogue and consultation on political and security issues of common interest and concern and to make significant contributions to efforts towards confidence-building and preventive diplomacy in the Asia-Pacific region. It draws together 27 participants, including the individual ASEAN member states and the EU.

Indicative List, which exceeded those that were put forward in the annex to the POA. Notably, out of the 111 activities listed, about 78 were in the category of economic cooperation. None related to human rights, democratic principles or good governance.

However, in the Joint Co-Chairmen's Statement of the Meeting, the ministers 'agreed to strengthen mutual cooperation in promoting and protecting human rights'.<sup>8</sup> They thereby welcomed internal developments in ASEAN to follow up on the ASEAN Charter at that time. In the same statement, they also noted the briefing of Myanmar on its internal developments and how it will continue towards democracy in accordance with its seven-step road map.<sup>9</sup> Whilst affirming the sovereignty and territorial integrity of Myanmar, the Ministers encouraged the Myanmar government to engage all stakeholders in an inclusive political process, as well as prepare and conduct the multi-party general election planned for 2010 in a free and fair manner.

The Phnom Penh Agenda for the Implementation of the ASEAN–EU Plan of Action (2009–2010) identified the activities that would be pursued. Out of the 41 activities identified, there were 15 activities each in the categories of political and security cooperation and economic cooperation. Two activities were aimed at human rights, democratic principles and good governance:

Promote dialogue and partnership among private sector, civil society organizations and other relevant institutions as a means to share ideas, concepts and methods on ways to enhance transparency, accountability, participation and good government.

Intensify dialogue between the EU and ASEAN through exchanges amongst officials, think-tanks and relevant stakeholders with the aim to promoting and protecting human rights, rule of law and democracy including through the ASEAN human rights body in accordance with its terms of reference (once established). Explore cooperation, for example co-hosting workshops and seminars on human rights education and sharing experience on promotion and protection of human rights through national and/or international mechanisms.<sup>10</sup>

The Phnom Penh Agenda also includes a list of activities to be considered in the 2011–2012 period, but none of these relate to human rights, democratic principles or good governance.

The ministers also agreed to hold the 18th ASEAN–EU Ministerial Meeting in Spain. This will be the next opportunity for ministers to meet to take stock of the activities

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<sup>8</sup> Association of Southeast Asian Nations and European Union, *Joint Co-Chairmen's Statement of the 17th ASEAN–EU Ministerial Meeting*, 2009, paragraph 24, page 4.

<sup>9</sup> Myanmar's seven-step road map to disciplined democracy was announced on 30 August 2003 by General Khin Nyunt, who was prime minister of Myanmar at that time. The steps are: (1) reconvening of the National Convention, which has been adjourned since 1996; (2) step-by-step implementation of the process necessary for the emergence of a genuine and disciplined democratic system; (3) drafting of a new constitution in accordance with detailed basic principles laid down by the National Convention; (4) adoption of the constitution through a national referendum; (5) holding of free and fair elections by the Pyithu Hluttaw (legislature) according to the new constitution; (6) convening of the Hluttaw in accordance with the new constitution; and (7) building a modern, developed and democratic nation by the state leaders elected by the Hluttaw, with the government and other central organs formed by the Hluttaw.

<sup>10</sup> Association of Southeast Asian Nations and European Union, *Phnom Penh Agenda*, paragraphs 6 and 7.

that were implemented and set the next priorities. This is scheduled for 26–27 May 2010 in Madrid.

Whilst there has been a gradually increasing focus on topics related to human rights, democratic principles and good governance in the cooperation between ASEAN and the EU, the relationship remains largely economic. In this regard, it will be interesting to see if the 18th ASEAN-EU Ministerial Meeting reports implementation of paragraphs 6 and 7 of the Phnom Penh Agenda and if any activities are identified in the priority list for 2011–2012 that relate to human rights, democratic principles and good governance.

One could conjecture that the progressive inclusion of human rights, democratic principles and good governance is closely linked to the progress of ASEAN's own internal developments on these issues. Thus, it is worthwhile to take a closer look at this progress.

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### 3. The ASEAN Charter and the APSC Blueprint

One cannot overemphasize the importance of the ASEAN Charter in placing good governance, the principles of democracy and the promotion and protection of human rights on the agenda of ASEAN. Other than recognizing that one of the purposes of ASEAN is 'to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN'<sup>11</sup> and stating that ASEAN and its member states commit to 'adherence to the rule of law, good governance, the principles of democracy and constitutional government',<sup>12</sup> Article 14 of the ASEAN Charter establishes an ASEAN human rights body. Annex 2 of the Charter also recognizes the Working Group for an ASEAN Human Rights Mechanism, a long-time lobbying group for human rights in the region, as an entity associated with ASEAN. In essence, these provisions now sanction discussions on human rights, democratic principles and good governance, which were not openly discussed before in ASEAN.

The APSC Blueprint, which is one of the roadmaps for the realisation of the ASEAN Community by 2015,<sup>13</sup> covers these values in the section on cooperation in political development. This is deemed to 'bring to maturity the political elements and institutions in ASEAN, towards which the sense of inter-state solidarity on political systems, culture and history will be better fostered'.<sup>14</sup> The APSC Blueprint identifies the following goals:

A.1.1. Promote understanding and appreciation of the political systems, culture and history of ASEAN member states: hold seminars/workshops to share experiences on democratic institutions, gender mainstreaming, and popular

<sup>11</sup> Association of Southeast Asian Nations, *Charter*, 2008, paragraph 7, Article 1.

<sup>12</sup> Association of Southeast Asian Nations, *Charter*, 2008, paragraph 2 (h), Article 2.

<sup>13</sup> The ASEAN Community has three pillars: the Political Security Community, the Economic Community and the Socio-Cultural Community. Each of these has a corresponding blueprint, which identifies measures and actions that will be implemented to realize the ASEAN Community by 2015.

<sup>14</sup> Association of Southeast Asian Nations, *ASEAN Political-Security Community Blueprint*, 2009, paragraph 13.

participation and endeavour to compile best practices of voluntary electoral observations. ...

A.1.4. Promote good governance: promote sharing of experiences and best practices through workshops and seminars on leadership concepts and principles with emphasis on good governance, and on developing norms on good governance.

A.1.5. Promote and protect human rights: establish an ASEAN human rights body through the completion of its Terms of Reference (ToR) by 2009 and encourage cooperation between it and existing human rights mechanisms, as well as with other relevant international organizations and enhance/conduct exchange of information in the field of human rights among ASEAN countries in order to promote and protect human rights and fundamental freedoms of peoples in accordance with the ASEAN Charter and the Charter of the United Nations, and the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action. ...

A.1.8. Promote principles of democracy: convene seminars, training programmes and other capacity building activities for government officials, think-tanks and relevant civil society organizations to exchange views, sharing experiences and promote democracy and democratic institutions and conduct annual research on experiences and lessons-learned of democracy aimed at enhancing the adherence to the principles of democracy.

At the very least, these measures and activities indicate a clear intent on ASEAN's part to work on these issues in order to realize the ASEAN Political Security Community. The political will is expressed in the Chairman's Statement of the 14th ASEAN Summit, which 'called for full implementation of the APSC Blueprint in order to help promote peace, stability and prosperity in our region and to protect the interests and welfare of peoples of ASEAN'.<sup>15</sup> As to resources, the APSC Blueprint provides that 'financial resources to implement the Blueprint will be mobilized by ASEAN Member States, as well as from various facilities including international agencies, the private sector, and non-governmental organisations'.<sup>16</sup>

**Unlike the European Commission, which has been given a right of initiative, the ASEAN Secretariat cannot be the lead implementer.**

The challenge now is the mechanics of implementation of these well-intended measures and activities, including who will take the lead. Unlike the European Commission, which has been given a right of initiative, which empowers and

requires it to make proposals on matters contained in the Lisbon Treaty, the ASEAN Secretariat cannot be the lead implementer. There is no language in the APSC Blueprint that gives it that mandate.

As in the case of the EU, issues relating to political and security cooperation remain very much in the hands of ASEAN member states, specifically the ASEAN Senior Officials Meeting, which is in charge of political development. Clearly, this is something that ASEAN needs to decide. In the context of ASEAN–EU cooperation, the EU will only be able to act once ASEAN moves on these.

<sup>15</sup> Association of Southeast Asian Nations, *Chairman's Statement for the 14th ASEAN Summit*, 2009, paragraph 22.

<sup>16</sup> Association of Southeast Asian Nations, *ASEAN Political-Security Community Blueprint*, 2009, paragraph 33.



## 4. The EU as an Inspiration to ASEAN

The EU is considered one of ASEAN's important dialogue partners, particularly in trade, investment and development aid. It is also the only dialogue partner that, like ASEAN, is undergoing an ambitious integration process. This makes the EU an admired region – a source of inspiration, experiences and lessons, particularly on economic integration. Obviously, however, the end goals of both regions are different, and the political systems and levels of economic development vary.

The EU's economic integration experience has served as a reference for ASEAN as well as other regions' integration initiatives. The ASEAN Consultation to Solve Trade and Investment Issues, for example, draws from the experience of the European Commission's SOLVIT, an online network in which EU member states work together to solve, without legal proceedings, problems caused by misapplication of internal market<sup>17</sup> law by public authorities.

The ASEAN-EU Programme for Regional Integration Support is facilitating the sharing of EU experience through trade-related technical assistance to ASEAN. Currently, they are working on programmes aimed at trade facilitation, such as customs and standards and conformance. Clearly, there is already recognition in ASEAN that EU experiences in economic integration are useful and could be emulated.

In the political sphere, when the ASEAN Charter was being drafted, the Eminent Persons Group travelled to Brussels to learn from the EU. The current structure of ASEAN (the Councils and the ASEAN Committee of Permanent Representatives) drew inspiration from the Council of the European Union, as well as the EU's Permanent Representatives Committee (COREPER).<sup>18</sup> The ASEAN Committee on Permanent Representatives, at the initial suggestion of former European Commissioner for External Relations Benita Ferrero-Waldner, travelled to Europe and met with COREPER, as well as representatives of the General Secretariat of the Council of the European Union and the European Commission, to promote closer cooperation.<sup>19</sup>

Thus, there is space for the EU to share its experiences in democracy building. But to do so, it would face two challenges. First, there is no equivalent to the EU Copenhagen Criteria in ASEAN. Whilst ASEAN and its member states must act in 'adherence to the rule of law, good governance, the principles of democracy and constitutional government',<sup>20</sup> it is still an organisation of states that have different political systems.

Second, there is no direct corresponding experience in the EU for what ASEAN is undertaking under the APSC Blueprint. The Copenhagen Criteria have ensured that

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<sup>17</sup> The internal market of the European Union is a single market in which the free movement of goods, services, capital and persons is ensured and in which European citizens are free to live, work, study and do business.

<sup>18</sup> European Union, *Treaty Establishing the European Community*, 2006, Article 207.

<sup>19</sup> Association of Southeast Asian Nations, 'Committee of Permanent Representatives', 2010.

<sup>20</sup> Association of Southeast Asian Nations, *Charter*, 2008, paragraph 2 (h), Article 2.

for a state to accede to the EU, it must meet the criteria of ‘stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities’.<sup>21</sup> This made the EU’s enlargement policy the most successful democratisation policy the world has ever seen. Within the EU, however, prevailing internal discussions of and legal references to democracy pertain to EU’s external relations.<sup>22</sup> This is different from ASEAN, where the task at hand is to promote adherence to democratic principles by member states, which have different political systems.

On the other hand, the experiences of individual EU member states, particularly the new members, on democratization, human rights, good governance and human rights are more relevant to the needs of ASEAN Member States as reflected in the APSC Blueprint. Does the EU share these experiences with other countries? Will an ASEAN Secretariat officer, for example, be able to find reports about them on the EU web site? Will there be a corresponding agency to talk to in the European Commission about them?

Unfortunately, the answer is no. Such reports may only be obtained from some EU member states, and then only pertaining to their national experiences. The European Commission, in itself, has various instruments at hand. These include human rights and democracy clauses in cooperation agreements with third countries,<sup>23</sup> political and human rights dialogues, the European Instrument on Democracy and Human Rights and support to elections and electoral observation missions.<sup>24</sup> These instruments mostly relate to human rights rather than democracy building.

On a positive note, in the Council Conclusions on Democracy Support in the EU’s External Relations of 17 November 2009, the Council of the European Union also adopted an EU Agenda for Action on Democracy Support in EU External Relations, which identified the following areas for further action:<sup>25</sup>

1. A country-specific approach: ‘Democracy building processes take place in a variety of contexts. ... the type and level of EU engagement as well as the best mix of instruments to be used will be determined by the context of each country’.
2. Dialogue and partnership: ‘Building true partnerships based on dialogue and consultation enhances ownership of democracy building processes and elements of democratic governance’.
3. EU coherence and coordination: ‘The EU is committed to increasing the coherence, effectiveness and development impact of both EU internal and external policies’.

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<sup>20</sup> Association of Southeast Asian Nations, *Charter*, 2008, paragraph 2 (h), Article 2.

<sup>21</sup> European Council in Copenhagen, *Conclusions of the Presidency*, 1993, heading 7.A.3.

<sup>22</sup> Article 2 of the Treaty of Lisbon amending the *Treaty of European Union and the Treaty Establishing the European Community* (2007) states that democracy is one of the values underpinning EU external policy.

<sup>23</sup> Third countries are all countries outside the EU.

<sup>24</sup> See European Commission, *Joint Paper Commission/Council General Secretariat on Democracy Building in EU External Relations*, 2009.

<sup>25</sup> Annex to the Council of the European Union, *Council Conclusions on Democracy Support in the EU’s External Relations*, 2009.

4. International cooperation: ‘The EU should explore possibilities to further strengthen its dialogue and support to regional and sub-regional organizations’ work on democracy support’.

The above initiatives would enable the EU to be a better partner in democracy building. In the context of ASEAN-EU cooperation, these initiatives, if matched with ASEAN’s internal political development, would certainly take discussions to a higher level. Thus, the challenge for the EU, as an inspiration to other regional organisations like ASEAN, is to implement the above areas as identified.

## 5. Conclusion and Recommendations

There are several potential avenues for democracy building in ASEAN-EU cooperation. They are contingent on implementation by ASEAN and its member states, the EU and its member states, or both. They can be brought to light by an examination of key developments in ASEAN and the EU.

Currently, EU-ASEAN cooperation is predominantly economic, although there has been a gradual inclusion of measures that relate to good governance, democratic principles and human rights. Movement on this seems to be dependent on internal political developments in ASEAN.

The ASEAN Charter has opened the way for discussions on democracy and human rights in ASEAN. This is concretized in the ASEAN Political Security Community Blueprint, which identifies measures for ASEAN and its member states to undertake, including measures that promote democracy. ASEAN member states, however, need to decide on the mechanics of its implementation, including who will take the lead.

ASEAN admires the EU and recognizes it as a source of inspiration, even if the end goals for integration are different in each region. There is also recognition in ASEAN that EU experiences in integration could serve as a useful model. There is, however, no direct corresponding experience in the EU for what ASEAN is undertaking under the APSC Blueprint. In this regard, identified areas in the EU Agenda for Action on Democracy Support in EU External Relations could help the EU to be an inspiration for ASEAN in political development.

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In the interest of advancing democracy building in ASEAN–EU cooperation, the following recommendations are put forward:

1. In the context of ASEAN-EU cooperation, implementation of measures that relate to human rights, democratic principles and good governance should be pursued. In particular, both ASEAN and EU should implement paragraphs 6 and 7 of the Phnom Penh Agenda for Action. If these are not undertaken earlier, they should be included in the next agenda for action that is expected to be launched at the 18th ASEAN-EU Ministerial Meeting on 26–27 May 2010 in Madrid. Moreover, new activities that take into consideration key political developments in ASEAN, such as the establishment of the ASEAN Inter-Governmental Commission in Human Rights and the ASEAN Commission

on the Promotion and Protection of the Rights of Women and Children, should be recognised and, where applicable, considered as partners. Both the EU and ASEAN must be proactive in order to make cooperation more than just a listing of activities to pursue. The impending conclusion of the POA in 2012 is an opportunity for both sides to take cooperation to a higher plane.

2. ASEAN needs to decide on an effective mechanism for the implementation of the political development section of the Blueprint. Towards this end, the ASEAN Senior Officials Meeting may wish to draw upon the experience of the priority integration sectors of ASEAN, where lead countries were identified to spearhead implementation.<sup>26</sup> They became ‘country co-ordinators’ of the measures pertaining to a priority sector; they lead the monitoring of the various activities, which are reported regularly to senior officials. This not only facilitated the implementation of these measures but also encouraged participation by stakeholders in the respective ASEAN member states. The ASEAN Senior Officials Meeting may consider designating ASEAN member states to function in a similar role to facilitate implementation of the political development section of the APSC Blueprint.
3. The EU should follow up on the Council Conclusions on Democracy Support in the EU’s External Relations of 17 November 2009, and it should implement the EU Agenda for Action on Democracy Support in EU External Relations. With the establishment of the European External Action Service, there is a possibility that the Conclusions and the Agenda for Action may be sidelined. In this regard, the EU member states – particularly Sweden, which pursued this during its presidency – should monitor its progress. Moreover, extragovernmental bodies and other democracy organisations, including International IDEA, should continue to advocate for democracy building in the EU and its member states.

The advancement of democracy building in ASEAN-EU cooperation is contingent on the actions of key actors in both regions. Democracy building takes time and resources. In the context of ASEAN-EU cooperation, one could therefore draw optimism from the fact that these avenues are already in place. Now, it is only a matter of both sides taking up the challenge to carry them forward.

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