

CONCLUSION OF INTERNATIONAL AGREEMENTS BY ASEAN

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LEGAL SOURCES

- Art. 3 of the ASEAN Charter :
 - Inter-governmental organisation
 - Legal personality
- Art. 41 of the ASEAN Charter
 - international legal personality
 - ASEAN may conclude agreements with countries or sub-regional, regional and international organisations and institutions
- Rules of Procedures for Conclusion of International Agreements by ASEAN (ROPCIA) was adopted by the ACC in 2012



Overview of ROPCIA

- Application :
 - International agreement by ASEAN
 - It is not applicable to agreements that
 - ✓ is concluded by ASEAN Member States
 - ✓ impose rights and obligations on individual Member States
- Procedures:
 - Commencement of a negotiation: ASEAN Sectoral Ministerial Body in consultation with the CPR
 - The AMM or the CPR decide and appoint representative(s) for negotiation



Overview of ROPCIA

- Procedures:
 - Negotiation is undertaken by the relevant Sectoral Bodies in consultation with the CPR
 - The draft text of agreements shall be endorsed by the relevant ASEAN Sectoral Bodies
- Consent to be bound
 - Signature or an act of formal confirmation
 - The CPR appoint the SG or any other person
- ASEC
 - To assist throughout the process



Issue and Challenge

Legal issues :

➤ Scope

- International agreement or Contract with international character
- Legally binding or Non-binding instrument

➤ Rights and Obligations

- ASEAN Member States, individually or collectively
- ASEAN as an inter-governmental organisation
- Both ASEAN and its Member States



Issue and Challenge

Procedural aspects:

- CPR and ASEAN Sectoral bodies :
 - can the negotiation be commenced without authorisation of the CPR
 - when the CPR shall be involved in the negotiation ?
- Shall individual Member States' internal rules and procedures apply to agreement that is concluded by ASEAN ?





Thank You

