

# 2001 RULES OF PROCEDURE OF THE HIGH COUNCIL OF THE TREATY OF AMITY AND COOPERATION IN SOUTHEAST ASIA

*Adopted in Hanoi, Vietnam on 23 July 2001*

PART I. PURPOSE .....	3
Rule 1 .....	3
PART II. DEFINITIONS.....	3
Rule 2.....	3
PART III. COMPOSITION.....	3
Rule 3.....	3
Rule 4.....	4
Rule 5.....	4
PART IV. INITIATION OF DISPUTE SETTLEMENT PROCEDURE.....	4
Rule 6.....	4
Rule 7.....	4
Rule 8.....	5
Rule 9.....	5
PART V. CONVENING OF MEETINGS .....	5
Rule 10.....	5
Rule 11.....	5
PART VI. PROCEEDINGS AT A MEETING - GENERAL PROVISIONS.....	5
Rule 12.....	5
Rule 13.....	5
Rule 14.....	6
Rule 15.....	6
Rule 16.....	6
Rule 17.....	6

Rule 18 .....	6
PART VII. DECISION - MAKING .....	6
Rule 19 .....	6
Rule 20 .....	6
PART VIII. PROCEEDINGS AT THE MEETING – PRELIMINARY ISSUES .....	6
Rule 21 .....	6
Rule 22 .....	7
PART IX. INCIDENTAL POWERS.....	7
Rule 23 .....	7
Rule 24 .....	7
PART X. AMENDMENT .....	7
Rule 25 .....	7

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*Adopted in Hanoi, Vietnam on 23 July 2001*

The High Contracting Parties, at their meeting held on 23 July 2001 in Hanoi, hereby adopt the Rules of Procedure of the High Council in pursuance of Article 14 of the Treaty of Amity and Cooperation in Southeast Asia signed on 24 February 1976.

## PART I. PURPOSE

### RULE 1

Subject to the provisions of the Treaty of Amity and Cooperation in Southeast Asia, these Rules of Procedure shall apply to the High Council of the Treaty of Amity and Cooperation in Southeast Asia and shall apply mutatis mutandis to any of its working groups. In the event of any conflict between any provisions of these rules and any provision of the Treaty, the Treaty shall prevail.

## PART II. DEFINITIONS

### RULE 2

For the purposes of these Rules: "Treaty" means the Treaty of Amity and Cooperation in Southeast Asia, as amended by its Protocols;

- a. "High Council" means the High Council referred to in Chapter IV of the Treaty;
- b. "Chairperson" means the Chairperson of the High Council appointed in accordance with these Rules; and
- c. "High Contracting Party" means a High Contracting Party to the Treaty.

## PART III. COMPOSITION

### RULE 3

The High Council shall comprise:

- a. One Representative at ministerial level from each of the High Contracting Parties which are States in Southeast Asia, namely 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 Vietnam; and
- b. One Representative at ministerial level from each of the High Contracting Parties which are States outside Southeast Asia and are directly involved in the dispute which the High Council takes cognisance of pursuant to the Treaty and these Rules.

#### **RULE 4**

Each High Contracting Party shall communicate to the other High Contracting parties, through diplomatic channels, the appointment and any changes in the appointment of;

- a. its Representative in the case of a High Contracting Party referred to in Rule 3a; and
- b. in the case of a High Contracting Party referred to in Rule 3b, the person who would be its Representative if a dispute which the High Council takes cognisance of is one in which it is directly involved.

#### **RULE 5**

There shall be a Chairperson of the High Council. Subject to Rule 21, the Chairperson shall be:

- a. The Representative of the High Contracting Party which, for the time being, holds the Chair of the Standing Committee of the Association of Southeast Asian Nations (ASEAN); or
- b. Such other Representative of a High Contracting Party which is a state in Southeast Asia as may be decided on by the High Council in accordance with these Rules.

### **PART IV. INITIATION OF DISPUTE SETTLEMENT PROCEDURE**

#### **RULE 6**

1. The High Council may take cognisance over a dispute or a situation as provided for in Articles 14 to 16 of the Treaty.
2. The dispute settlement procedure of the High Council shall be invoked only by a High Contracting Party which is directly involved in the dispute in question.

#### **RULE 7**

1. A High Contracting Party seeking to invoke the dispute settlement procedure of the High Council shall do so by written communication, through diplomatic channels, to the Chairperson and to the other High Contracting Parties. The written communication shall contain a detailed statement of:
  - a. the nature of the dispute or situation referred to the High Council;
  - b. the parties to the dispute and their respective claims; and
  - c. the basis upon which the High Council shall take cognisance of the dispute or situation pursuant to the Treaty.
2. A High Contracting Party shall, at least 14 days prior to giving written communication in accordance with paragraph 1 above, give written notice, through diplomatic channels, of its intention to do so to the other High Contracting Parties which are parties to the dispute.

### **RULE 8**

1. On receipt of the written communication referred to in Rule 7, the Chairperson shall seek written confirmation from all the parties to the dispute, referred to in Rule 7b, that they agree to the application of the High Council's procedure as provided for in Article 16 of the Treaty.

2. In submitting their written confirmation, the other High Contracting Parties to the dispute may, aside from their written confirmation also provide detailed statements of the following:

- a. the nature of the dispute or situation referred to the High Council;
- b. the parties to the dispute and their respective claims; and
- c. the basis upon which the High Council shall take cognisance of the dispute or situation pursuant to the Treaty.

### **RULE 9**

Unless written confirmation has been received from all parties to the dispute in accordance with Rule 8, the High Council may not proceed any further on the matter.

## **PART V. CONVENING OF MEETINGS**

### **RULE 10**

On receipt of the written confirmations referred to in Rule 9, the Chairperson shall:

- a. Convene a meeting of the High Council within six weeks; and
- b. Notify all Representatives and persons referred to in Rule 4 of the meeting at least 3 weeks prior to the meeting. Such notification shall be accompanied by copies of the written communication and the written confirmations in question.

### **RULE 11**

Meetings of the High Council shall take place in the High Contracting Party of the Chairperson or at such other location as may be decided on by the High Council.

## **PART VI. PROCEEDINGS AT A MEETING - GENERAL PROVISIONS**

### **RULE 12**

The quorum for meetings of the High Council shall consist of all the Representatives of the High Council.

### **RULE 13**

A Representative may be represented by a duly authorized proxy at a meeting and may be accompanied by alternates and advisers.

#### **RULE 14**

High Contracting Parties which are States outside Southeast Asia and which are not directly involved in the dispute may, upon written request to the Chairperson be represented by observers at a meeting of the High Council, subject to the High Council deciding otherwise. An observer may speak at a meeting only if the High Council decides to accord that person this right.

#### **RULE 15**

Unless the High Council decides otherwise, the secretariat of each meeting shall be provided by the High Contracting Party in which the meeting takes place. The High Contracting Party may, for this purpose, seek the assistance of the ASEAN Secretariat.

#### **RULE 16**

Unless the High Council decides otherwise, the expenses of organizing each meeting shall be borne by the High Contracting Party in which the meeting takes place.

#### **RULE 17**

English shall be the working language of the High Council.

#### **RULE 18**

A written record of the proceedings at each meeting shall be prepared and adopted by the High Council.

### **PART VII. DECISION - MAKING**

#### **RULE 19**

All decisions of the High Council shall be taken by consensus at a duly convened meeting.

#### **RULE 20**

Where a question arises as to whether a person referred to in Rule 4b is a Representative pursuant to Rule 3b, that person shall not be considered as a Representative for the purposes of determining the quorum for and taking the decision on this question. The person shall, however, be given the opportunity to be heard before the decision is taken.

### **PART VIII. PROCEEDINGS AT THE MEETING – PRELIMINARY ISSUES**

#### **RULE 21**

If the Chairperson is the Representative of a High Contracting Party which is directly involved in the dispute referred to the High Council pursuant to Rule 7, he or she shall, at the start of the meeting convened pursuant to the referral, stand down as Chairperson in favour of such other Representative of a High Contracting Party which is a state in Southeast Asia as may be decided on by the High Council.

#### **RULE 22**

Before taking decisions on recommendations and other actions provided for under the Treaty, the High Council shall satisfy itself that:

- a. the dispute or situation is one which it has cognisance of pursuant to the Treaty; and
- b. the conditions stipulated by the Treaty for the proposed action have been met.

### **PART IX. INCIDENTAL POWERS**

#### **RULE 23**

Subject to the provisions of the Treaty and these Rules, the High Council may decide on and adopt other rules of procedure for its meetings.

#### **RULE 24**

The High Council may establish working groups on an ad hoc basis as are necessary to assist it in the discharge of its functions and responsibilities.

### **PART X. AMENDMENT**

#### **RULE 25**

These Rules may be amended by the unanimous agreement in writing of the High Contracting Parties.