

# 2011 RULES OF PROCEDURE FOR CONCLUSION OF INTERNATIONAL AGREEMENTS BY ASEAN

*Adopted in Bali, Indonesia on 17 November 2011*

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## **2011 RULES OF PROCEDURE FOR CONCLUSION OF INTERNATIONAL AGREEMENTS BY ASEAN**

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### **RULE 1. SCOPE OF APPLICATION**

1. These Rules specify the procedure for the conclusion of international agreements by ASEAN as an intergovernmental organisation in the conduct of external relations as provided in Article 41(7) of the ASEAN Charter.
2. These Rules shall not apply to the conclusion of international agreements concluded by all ASEAN Member States collectively and which create obligations upon individual ASEAN Member States.

### **RULE 2. DEFINITION**

For the purpose of these Rules, “international agreement by ASEAN” (hereinafter referred to as “international agreement”) means any written agreement, regardless of its particular designation, governed by international law which creates rights and obligations for ASEAN as a distinct entity from its Member States.

### **RULE 3. AUTHORISATION OF THE COMMENCEMENT OF NEGOTIATION AND APPOINTMENT OF REPRESENTATIVE(S)**

The proposal to commence a negotiation of an international agreement shall be coordinated with the Committee of Permanent Representatives to ASEAN by the relevant ASEAN Sectoral Ministerial Bodies at the senior officials level. The ASEAN Foreign Ministers Meeting, on its own or through the Committee of Permanent Representatives to ASEAN, shall decide on the proposal and shall appoint the appropriate representative(s) to commence the negotiation on behalf of ASEAN.

### **RULE 4. ASEAN COMMON POSITION**

1. ASEAN Member States shall coordinate and develop an ASEAN common position pursuant to Article 41(4) of the ASEAN Charter.
2. Such ASEAN common position shall be formulated by the relevant ASEAN Sectoral Ministerial Bodies at the senior officials level in coordination with the Committee of Permanent Representatives to ASEAN. In the formulation of an ASEAN common position, the ASEAN Foreign Ministers Meeting may be consulted if and when necessary.
3. The representative(s) as referred to in Rule 3 shall adhere to an ASEAN common position which serves as a basis for negotiation.

## **RULE 5. OBLIGATION OF INFORMATION AND CONSULTATION**

1. The representative(s) shall ensure that the relevant ASEAN Sectoral Ministerial Bodies at the senior officials level and the Committee of Permanent Representatives to ASEAN are consulted and kept informed of the progress of negotiation.
2. The relevant ASEAN Sectoral Ministerial Bodies at the senior officials level or the Committee of Permanent Representatives to ASEAN may, at any time, request to be consulted or informed of the progress of negotiation from the representative(s).
3. The relevant ASEAN Sectoral Ministerial Bodies at the senior officials level in coordination with the Committee of Permanent Representatives to ASEAN may, at any time, give further instruction to the representative(s).
4. The representative(s) may seek further instruction from the relevant ASEAN Sectoral Ministerial Bodies at the senior officials level.

## **RULE 6. INITIALLING OF THE DRAFT TEXT OF THE INTERNATIONAL AGREEMENT**

When negotiation is completed, the representative(s) may initial the draft text of the international agreement solely for ascertaining the form and content of the negotiated text of such agreement. For the purpose of this Rule, the initialed draft text shall not be deemed as the final text and shall be subject to endorsement pursuant to Rule 7.

## **RULE 7. ENDORSEMENT OF THE DRAFT TEXT OF THE INTERNATIONAL AGREEMENT**

1. The representative(s) shall submit the draft text of the international agreement to the relevant ASEAN Sectoral Ministerial Bodies at the senior officials level for endorsement. Such endorsement shall be made in consultation with the Committee of Permanent Representatives to ASEAN.
2. The Committee of Permanent Representatives to ASEAN shall submit the endorsed text to the ASEAN Foreign Ministers Meeting for its consideration pursuant to Rule 8. This paragraph shall not apply where the ASEAN Foreign Ministers Meeting acts through the Committee of Permanent Representatives to ASEAN pursuant to Rule 8, paragraph 4.

## **RULE 8. SIGNATURE AND ACT OF FORMAL CONFIRMATION**

1. The consent of ASEAN to be bound by an international agreement shall be expressed by signature or an act of formal confirmation.
2. The consent of ASEAN to be bound may be expressed by signature of the person appointed pursuant to paragraph 5 of this Rule when:

- a. the international agreement provides that signature shall have that effect; or
  - b. the intention of ASEAN to give that effect to the signature appears from the full powers issued pursuant to Rule 9, or was expressed during the negotiation.
3. The consent of ASEAN to be bound may be expressed by an act of formal confirmation when:
- a. the international agreement provides for such consent to be expressed by an act of formal confirmation;
  - b. the intention of ASEAN to sign the international agreement subject to an act of formal confirmation appears from the full powers issued pursuant to Rule 9, or was expressed during the negotiation; or
  - c. the person appointed pursuant to paragraph 5 of this Rule has signed the international agreement subject to an act of formal confirmation.
4. The ASEAN Foreign Ministers Meeting, on its own or through the Committee of Permanent Representatives to ASEAN, may decide on the signing of, and/or an act of formal confirmation of an international agreement.
5. The ASEAN Foreign Ministers Meeting, on its own or through the Committee of Permanent Representatives to ASEAN, may appoint the Secretary-General of ASEAN or any other person to sign the international agreement on behalf of ASEAN.
6. Where a decision on formal confirmation has been taken pursuant to paragraph 4 of this Rule, the instrument of formal confirmation shall be issued by the Secretary-General of ASEAN.

## **RULE 9. FULL POWERS**

Where full powers is required, the Secretary-General of ASEAN shall, upon instruction of the ASEAN Foreign Ministers Meeting on its own or through the Committee of Permanent Representatives to ASEAN, issue full powers for negotiating and/or signing an international agreement.

## **RULE 10. PROCEDURE FOR AMENDMENT, SUSPENSION AND TERMINATION**

The procedure set forth in these Rules shall apply, *mutatis mutandis*, to the amendment, suspension and termination of international agreements to which ASEAN is a party.

## **RULE 11. ROLE OF THE ASEAN SECRETARIAT**

The ASEAN Secretariat shall assist the representative(s) and relevant ASEAN organs throughout the process of conclusion of international agreements.