

2023 RULES OF PROCEDURE FOR CONCLUSION OF NON-LEGALLY BINDING AGREEMENTS BY ASEAN

Adopted in Jakarta, Indonesia on 4 September 2023

RULE 1: DEFINITION AND SCOPE

1. This RPCA sets out the procedure for the conclusion of a non-legally binding agreement by ASEAN as an intergovernmental organisation in the conduct of external relations as provided in Article 41(7) of the ASEAN Charter.
2. For the purpose of this RPCA, “agreement” means any non-legally binding agreement, which shall not give rise to any legal rights or obligations under domestic or international laws. For the avoidance of doubt, such a non-legally binding nature shall be expressly reflected in the agreement.
3. This RPCA shall not apply to the procedure for the adoption or endorsement of documents such as statements, declarations, joint communique, plans of action, records, or decisions which are done by ASEAN Organs, including ASEAN Sectoral Ministerial Bodies (ASMB).
4. This RPCA 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: INITIATION AND COMMENCEMENT OF NEGOTIATION

1. A proposal for the conclusion of an agreement may be initiated by either ASEAN or the external parties¹.
2. The commencement of negotiation of the agreement shall be undertaken by ASMB at the senior officials’ level in coordination with the Committee of Permanent Representatives to ASEAN (CPR)
3. The CPR may initiate and commence negotiations of the agreement in consultation with the relevant ASMB at the senior officials’ level on proposed areas or subject-matters covered in the agreement, which fall under the relevant ASMB’s purview.

RULE 3: CONSIDERATION OF THE TEXT OF AGREEMENT

1. The relevant ASMB at the senior officials’ level shall consider the negotiated text of the agreements. If necessary, the ASMB may seek consultation with the CPR in coordinating and developing an ASEAN common position pursuant to Article 41(2) and Article 41(4) of the ASEAN Charter.
2. The relevant ASMB at the senior officials’ level shall endorse the negotiated text of the agreement. The endorsed text shall be submitted to the CPR for consideration and approval.

¹ For the purpose of this RPCA, “External Parties” refer to countries or sub-regional, regional and international organisations and institutions as provided in Article 41(7) of the ASEAN Charter.

RULE 4: APPROVAL OF THE TEXT OF AGREEMENT AND SIGNATURE BY THE SECRETARY GENERAL OF ASEAN

1. Upon submission of the endorsed text to the CPR, the CPR shall consider and approve the text of the agreement. In the course of the consideration of the text of agreement, the CPR may seek clarification or otherwise revert the text of the agreement to the relevant ASMB for further deliberation.
2. Once the text of the agreement is approved by the CPR, the Secretary-General of ASEAN, may proceed to arrange the signing of the agreement on behalf of ASEAN.

RULE 5: AMENDMENT OR TERMINATION OF AGREEMENT

The procedures set forth in this RPCA shall apply, mutatis mutandis, to the amendment or termination of the agreement.

RULE 6: ROLE OF THE ASEAN SECRETARIAT

The relevant Directorates of the ASEAN Secretariat with the support of the Legal Services and Agreement Directorate shall facilitate and assist the relevant ASMB and the CPR throughout the process of the negotiation and conclusion of the agreement.

RULE 7: GENERAL PROVISIONS

1. This RPCA shall become effective on the date of its approval by the ASEAN Coordinating Council (ACC).
2. This RPCA may be amended with the approval of the ACC upon the recommendation of the CPR.