# ĐIỀU ƯỚC QUỐC TẾ

**BỘ NGOẠI GIAO**

Số: 51/2017/TB-LPQT

**CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM**
**Độc lập - Tự do - Hạnh phúc**

*Hà Nội, ngày 26 tháng 12 năm 2017*

## THÔNG BÁO
## Về việc điều ước quốc tế có hiệu lực

Thực hiện quy định tại Điều 56 của Luật Điều ước quốc tế năm 2016, Bộ Ngoại giao trân trọng thông báo:

*Nghị định thư thực hiện Hiến chương ASEAN về cơ chế giải quyết tranh chấp (Protocol to the ASEAN Charter on Dispute Settlement Mechanisms)* được ký ngày 08 tháng 4 năm 2010 tại Hà Nội, có hiệu lực đối với Việt Nam từ ngày 28 tháng 7 năm 2017.

**TL. BỘ TRƯỞNG**
**KT. VỤ TRƯỞNG**
**VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ**
**PHÓ VỤ TRƯỞNG**

**Lê Hải Triều**

# PROTOCOL TO THE ASEAN CHARTER ON DISPUTE SETTLEMENT MECHANISMS

The Governments of 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 Viet Nam, Member States of the Association of Southeast Asian Nations (ASEAN), hereinafter collectively referred to as "Member States" or individually as "Member State";

**MINDFUL** of the desire of ASEAN Leaders in transforming ASEAN into a rules-based organisation with practical, efficient and credible mechanisms in place to resolve disputes in an effective and timely manner;

**RECALLING** Paragraph 2(d) of Article 2 of the ASEAN Charter that ASEAN and its Member States shall act in accordance with the principle of reliance on peaceful settlement of disputes;

**FURTHER RECALLING** Paragraph 2 of Article 22 of the ASEAN Charter requiring ASEAN to maintain and establish dispute settlement mechanisms in all fields of ASEAN cooperation;

**RECOGNISING** that in accordance with Article 25 of the ASEAN Charter, where not otherwise specifically provided, appropriate dispute settlement mechanisms shall be established for disputes which concern the interpretation or application of the ASEAN Charter and other ASEAN instruments; and

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**CONVINCED** that having credible dispute settlement mechanisms would help ASEAN prevent festering conflicts and confrontation among the Member States, preserving the cooperative atmosphere for concerted efforts towards building a peaceful and prosperous ASEAN Community;

**HAVE AGREED AS FOLLOWS:**

## ARTICLE 1
## Definitions

For the purpose of this Protocol:

(a) **ASEAN instrument** means any instrument which is concluded by Member States, as ASEAN Member States, in written form, that gives rise to their respective rights and obligations in accordance with international law;

(b) **Complaining Party** means any Member State which requests consultation under Article 5 of this Protocol;

(c) **Responding Party** means any Member State to which the request for consultation is made under Article 5 of this Protocol;

(d) **Parties to the dispute** means the Complaining Party and the Responding Party; and

(e) **Unresolved dispute** means a dispute over the interpretation or application of the ASEAN Charter or other ASEAN instruments which has failed to be resolved by mutual agreement, and after the application and implementation of Article 9 of this Protocol.

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## ARTICLE 2
## Scope and Application

1. This Protocol shall apply to disputes which concern the interpretation or application of:

(a) the ASEAN Charter;

(b) other ASEAN instruments unless specific means of settling such disputes have already been provided for; or

(c) other ASEAN instruments which expressly provide that this Protocol or part of this Protocol shall apply.

2. Paragraph 1(b) of this Article shall be without prejudice to the right of the Parties to such disputes to mutually agree that this Protocol shall apply.

## ARTICLE 3
## General Provisions

1. This Protocol shall be interpreted in accordance with the customary rules of treaty interpretation of public international law.

2. The Parties to the dispute are encouraged at every stage of a dispute to make every effort to reach a mutually agreed solution to the dispute. Where a mutually agreed solution is reached, it shall be notified to the Secretary-General of ASEAN and other Member States.

## ARTICLE 4
## Communication and Time Periods

1. All communications including notifications, requests, replies and referrals made pursuant to this Protocol shall be

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in writing and are deemed to have been received if they are physically delivered to the addressed Party through diplomatic channels.

2. Unless otherwise specified, any time period provided for in this Protocol shall not be modified by mutual agreement of the Parties to the dispute.

**ARTICLE 5**
**Consultation**

1. A Complaining Party may request consultation with a Responding Party with respect to any dispute concerning the interpretation or application of the ASEAN Charter or other ASEAN instruments. The Responding Party shall accord due consideration to a request for consultation made by the Complaining Party and shall accord adequate opportunity for such consultation.

2. The request for consultation shall state the reason for the request, including identification of the matters giving rise to the dispute and an indication of the legal basis for the complaint. A copy of such request shall be simultaneously provided to the Secretary-General of ASEAN who shall notify all other Member States of such request.

3. If a request for consultation is made, the Responding Party shall reply to the request within thirty (30) days from the date of its receipt and shall enter into consultation within sixty (60) days from the date of receipt of the request for consultation, with a view to reaching a mutually agreed solution. The consultation shall be completed within ninety (90) days, or any other period mutually agreed by the Parties to the dispute, from the date of receipt of the request for consultation.

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## ARTICLE 6
## Good Offices, Mediation and Conciliation

1. The Parties to the dispute may at any time agree to good offices, mediation or conciliation. Proceedings for good offices, mediation or conciliation may begin and be terminated at any time.

2. The Parties to the dispute may request the Chairman of ASEAN or the Secretary-General of ASEAN, acting in an *ex officio* capacity, to provide good offices, mediation or conciliation.

3. Proceedings involving good offices, mediation or conciliation, and positions taken by any of the Parties to the dispute during these proceedings, shall be without prejudice to the rights of any of the Parties to the dispute in any further or other proceedings.

4. (a) Good offices, mediation or conciliation directed by the ASEAN Coordinating Council to the Parties to the dispute pursuant to Article 9 of this Protocol shall be in accordance with this Protocol, and the Rules of Good Offices, Rules of Mediation or Rules of Conciliation annexed to this Protocol.

   (b) Procedures of good offices, mediation or conciliation directed by the ASEAN Coordinating Council pursuant to Article 9 of this Protocol shall be in accordance with the Rules of Good Offices, Rules of Mediation or Rules of Conciliation, subject to such modifications as the Parties to the dispute may agree in writing.

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## ARTICLE 7
## Functions of Good Offices, Mediation and Conciliation

1. The persons providing good offices, mediation or conciliation shall assist and facilitate the Parties to the dispute to achieve an amicable settlement of the dispute between them in the light of the relevant provisions of the ASEAN Charter and/or any ASEAN instruments.

2. Where the Parties to the dispute reach an amicable settlement of the dispute, they shall draw up and sign a written settlement agreement.

3. By signing the settlement agreement, the Parties to the dispute put an end to the dispute and are bound by the agreement.

4. The settlement agreement shall then be notified by the Parties to the dispute to the Secretary-General of ASEAN, other Member States, and the ASEAN Coordinating Council where good offices, mediation or conciliation is directed by it.

## ARTICLE 8
## Request for Arbitration

1. The Complaining Party may, by notice in writing addressed to the Responding Party, request for the establishment of an arbitral tribunal to resolve the dispute, if:

(a) the Responding Party does not reply within thirty (30) days from the date of receipt of the request for consultation;

(b) the Responding Party does not enter into consultation within sixty (60) days from the date of receipt of the request for consultation; or

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(c) the consultation fails to settle the dispute within ninety (90) days, or any other period mutually agreed by the Parties to the dispute, from the date of receipt of the request for consultation.

2. A copy of the notice shall be provided to the Secretary-General of ASEAN who shall notify all other Member States of such request. The notice shall state a summary of the factual and legal basis of the request sufficient to present the problem clearly, including the provisions of the ASEAN Charter or ASEAN instrument to be addressed by the arbitral tribunal.

3. The Responding Party shall express its consent to the establishment of an arbitral tribunal within fifteen (15) days from the date of receipt of the notice from the Complaining Party. The Parties to the dispute may agree to extend the period for the Responding Party to express its consent for a period of up to thirty (30) days from the date of receipt of the notice from the Complaining Party. The copy of the reply sent shall be provided to the Secretary-General of ASEAN who shall notify all other Member States of such reply.

4. Where the Responding Party does not agree to the request for the establishment of an arbitral tribunal, or fails to respond within the period specified in Paragraph 3 of this Article, the Complaining Party may refer the dispute to the ASEAN Coordinating Council.

## ARTICLE 9
## Reference to the ASEAN Coordinating Council

1. Where a dispute is referred to the ASEAN Coordinating Council pursuant to Paragraph 4 of Article 8, the ASEAN Coordinating Council may direct the Parties to the dispute to resolve their dispute through good offices, mediation, conciliation or arbitration.

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2. The ASEAN Coordinating Council shall notify its decision to the Parties to the dispute within forty-five (45) days from the date the dispute was referred to it. The Chairman of the ASEAN Coordinating Council shall determine the processes by which the ASEAN Coordinating Council shall come to its decision. Such processes may include consultations through correspondence, emails, video-conferencing, or other means. The ASEAN Coordinating Council can, in exceptional circumstances, decide to convene an urgent special meeting of the ASEAN Coordinating Council to decide on the dispute.

3. Where the ASEAN Coordinating Council is of the view that it is unable to come to a decision on the dispute within the period specified in Paragraph 2 of this Article to notify the Parties to the dispute of its decision, it may decide to extend this time by a period of not more than thirty (30) days and shall inform the Parties to the dispute accordingly.

4. Where the ASEAN Coordinating Council is unable to reach a decision on how the dispute is to be resolved within the period specified in Paragraph 2 of this Article to notify the Parties to the dispute, or any extended period, any Party to the dispute may refer the dispute to the ASEAN Summit as an unresolved dispute under Article 26 of the ASEAN Charter.

## ARTICLE 10
## Arbitration

1. Arbitration, arising from mutual consent of the Parties to the dispute or a direction of the ASEAN Coordinating Council, shall be in accordance with this Protocol and the Rules of Arbitration annexed to this Protocol.

2. Procedures of arbitration shall be in accordance with the Rules of Arbitration annexed to this Protocol, subject to

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such modifications as the Parties to the dispute may agree in writing.

## ARTICLE 11
## Arbitrators

1. The number of arbitrators and the manner in which they are appointed or replaced shall be prescribed in the Rules of Arbitration annexed to the Protocol.

2. All arbitrators shall:

(a) have expertise or experience in law, other matters covered by the ASEAN Charter or the relevant ASEAN instrument, or the resolution of disputes arising under international agreements;

(b) be chosen strictly on the basis of objectivity, reliability, and sound judgment;

(c) be independent of, and not be affiliated with or take instructions from, any Party to the dispute;

(d) not have dealt with the matter in any capacity; and

(e) disclose, to the Parties to the dispute, information which may give rise to justifiable doubts as to their independence or impartiality.

3. The Chair of the arbitral tribunal shall not be a national of any Party to the dispute, and shall preferably be a national of a Member State.

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## ARTICLE 12
## Functions of Arbitral Tribunal

An arbitral tribunal shall make an examination of the facts of the case before it, and decide the case in the light of the relevant provisions of the ASEAN Charter and/or the ASEAN instrument cited by the Parties to the dispute to resolve the dispute between them, and shall provide reasons for its rulings.

## ARTICLE 13
## Third Party

1. Any Member State which has notified its substantial interests in a matter in dispute within thirty (30) days from the notification of the reply of the Responding Party consenting to the request for the establishment of the arbitral tribunal pursuant to Paragraph 3 of Article 8 or the notification of the decision of the ASEAN Coordination Council directing the Parties to the dispute to resolve their dispute through arbitration pursuant to Article 9, shall have rights and obligations of a Third Party.

2. The Third Party shall have an opportunity to be heard by the arbitral tribunal and to make submissions to the arbitral tribunal. These submissions shall also be given to the Parties to the dispute and shall be reflected in the award of the arbitral tribunal.

3. The Third Party shall receive from the Parties to the dispute their submissions to the first substantive meeting of the arbitral tribunal.

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## ARTICLE 14
## Applicable Law

1. The arbitral tribunal shall apply the provisions of the ASEAN Charter and other ASEAN instruments, as well as applicable rules of public international law.

2. The arbitral tribunal shall apply other rules of law applicable to the substantive questions of the dispute or to decide a case *ex aequo et bono*, if so agreed by the Parties to the dispute.

## ARTICLE 15
## Arbitral Award

1. The award of the arbitral tribunal shall be final and binding on the Parties to the dispute. It shall be fully complied with by the Parties to the dispute.

2. The award of the arbitral tribunal shall not add to or diminish the rights and obligations provided in the ASEAN Charter or any other relevant ASEAN instrument.

## ARTICLE 16
## Compliance with Arbitral Award and Settlement Agreement

1. Parties to the dispute shall comply with the arbitral awards and settlement agreements resulting from good offices, mediation and conciliation.

2. Any Party to the dispute required to comply with an arbitral award or settlement agreement shall provide the Secretary-General of ASEAN with a status report in writing stating the extent of its compliance with the arbitral award or settlement agreement.

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## ARTICLE 17
## Costs

1. The costs of arbitration under this Protocol shall be borne by the Parties to the dispute in accordance with the Rules of Arbitration annexed to this Protocol.

2. The costs of good offices, mediation and conciliation shall be determined by the persons providing good offices, mediation and conciliation in consultation with and agreement of the Parties to the dispute, and shall be borne equally by the Parties to the dispute. All other expenses incurred by a Party to the dispute shall be borne by that Party.

## ARTICLE 18
## Functions of the ASEAN Secretariat

1. The ASEAN Secretariat shall have the responsibility of assisting the arbitral tribunals and persons providing good offices, mediation and conciliation, especially on the legal, historical and the procedural aspects of the matters dealt with, and of providing secretarial and technical support.

2. The expenses of the ASEAN Secretariat's support shall be borne by the Parties to the dispute.

## ARTICLE 19
## Final Provisions

1. This Protocol shall be signed by all Member States.

2. This Protocol shall be subject to ratification by all Member States in accordance with their respective internal procedures.

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3. Instruments of ratification shall be deposited with the Secretary-General of ASEAN who shall promptly notify all Member States of each deposit.

4. This Protocol shall enter into force on the day following the date of deposit of the tenth instrument of ratification with the Secretary-General of ASEAN.

5. This Protocol shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member State.

## ARTICLE 20
## Annexes

1. All of the Annexes to this Protocol shall form integral parts of this Protocol.

2. In the event of a conflict between this Protocol and any of the Annexes thereto, this Protocol shall prevail.

## ARTICLE 21
## Amendments

1. Any Member State may propose amendments to this Protocol and/or any of the Annexes to the Committee of Permanent Representatives to ASEAN.

2. Proposed amendments to this Protocol and/or any of the Annexes shall, by consensus, be submitted by the Committee of Permanent Representatives to ASEAN to the ASEAN Coordinating Council.

3. Amendments to this Protocol and/or any of the Annexes adopted by consensus of the ASEAN Coordinating Council shall be ratified by all Member States in accordance with their respective internal procedures.

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4. An amendment shall enter into force on the thirtieth day following the date of the deposit of the tenth instrument of ratification with the Secretary-General of ASEAN.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised thereto by their respective Governments, have signed the Protocol to the ASEAN Charter on Dispute Settlement Mechanisms.

**DONE** at Ha Noi, Viet Nam, on the Eighth Day of April in the Year Two Thousand and Ten, in a single copy in the English language.

For the Government of Brunei Darussalam:

**MOHAMED BOLKIAH**
Minister of Foreign Affairs and Trade

For the Government of the Kingdom of Cambodia:

**HOR NAM HONG**
Deputy Prime Minister and
Minister of Foreign Affairs and International Cooperation

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For the Government of the Republic of Indonesia:

**DR. R.M. MARTY M. NATALEGAWA**
Minister for Foreign Affairs

For the Government of the Lao People's Democratic Republic:

**DR. THONGLOUN SISOULITH**
Deputy Prime Minister and Minister of Foreign Affairs

For the Government of Malaysia:

**TAN SRI RASTAM MOHD ISA**
Secretary General
Ministry of Foreign Affairs of Malaysia

For the Government of the Union of Myanmar:

**NYAN WIN**
Minister for Foreign Affairs

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For the Government of the Republic of the Philippines:

**ERLINDA F. BASILIO**
Undersecretary, Department of Foreign Affairs

For the Government of the Republic of Singapore:

**GEORGE YONG-BOON YEO**
Minister for Foreign Affairs

For the Government of the Kingdom of Thailand:

**KASIT PIROMYA**
Minister of Foreign Affairs

For the Government of the Socialist Republic of Viet Nam:

**DR. PHAM GIA KHIEM**
Deputy Prime Minister and Minister for Foreign Affairs

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## ANNEX 1

### Rules of Good Offices

**Rule 1: Commencement**

1. Where the ASEAN Coordinating Council directs that the dispute be resolved through good offices, it shall request the Chairman of ASEAN or the Secretary-General of ASEAN, acting in an *ex officio* capacity, or a suitable person to provide good offices. References in these Rules to "person providing good offices" shall be construed to include "persons providing good offices" where more than one person provides good offices.

2. The person providing good offices shall communicate directly with the Parties to the dispute who shall render to him or her all necessary assistance to enable him or her to carry out his or her responsibilities.

**Rule 2: Role of person providing good offices**

The person providing good offices shall assist the Parties to the dispute in an independent, neutral and impartial manner in order to resolve the dispute.

**Rule 3: Conduct of person providing good offices**

The person providing good offices may proceed in such a manner as he or she considers appropriate, taking into account the circumstances of the case and the wishes that the Parties to the dispute may express.

**Rule 4: Confidentiality**

Unless the Parties to the dispute agree otherwise, the person providing good offices and the Parties to the dispute shall keep confidential the matters relating to the good offices proceedings.

**Rule 5: Cessation**

1. Good offices shall cease:

(a) on the date of a written communication by the Parties to the dispute addressed to the ASEAN Coordinating Council that the dispute has been resolved;

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(b) on the date of a written communication by the person providing good offices, after consultation with the Parties to the dispute, addressed to the ASEAN Coordinating Council, that further conduct of good offices is no longer necessary or justified;

(c) on the date of a written communication by the Parties to the dispute addressed to the person providing good offices and the ASEAN Coordinating Council, that the conduct of good offices should cease; or

(d) on the date of a written communication by a Party to the dispute addressed to the other Party to the dispute, the person providing good offices, and the ASEAN Coordinating Council, that the conduct of good offices should cease.

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## ANNEX 2

### Rules of Mediation

**Rule 1: Appointment of mediator**

There shall be one mediator. The Parties to the dispute shall agree on the name of the mediator. The Parties to the dispute shall appoint the mediator within forty-five (45) days from the date of receipt of the notification from the ASEAN Coordinating Council of its decision to direct the Parties to the dispute to resolve the dispute through mediation, and shall notify the ASEAN Coordinating Council accordingly. The Parties to the dispute may choose from the list drawn up and maintained by the Secretary-General of ASEAN under Rule 5 of the Rules of Arbitration.

**Rule 2: Role of mediator**

A mediator shall help to facilitate communication and negotiation between the Parties to the dispute and assist them in an independent, neutral and impartial manner in order to resolve the dispute.

**Rule 3: Representation and assistance**

The Parties to the dispute may be represented or assisted by persons of their choice. The names and addresses of such persons are to be communicated to the other Party to the dispute and to the mediator. Such communication is to specify whether the appointment is made for purposes of representation or of assistance.

**Rule 4: Communication between mediator and Parties to the dispute**

The mediator may invite the Parties to the dispute to meet with him or her or may communicate with them orally or in writing. He or she may meet or communicate with the Parties to the dispute together or with each of them separately.

**Rule 5: Conduct of mediation**

The mediation shall be conducted in the manner agreed by the Parties to the dispute. If, and to the extent that, the Parties to the dispute have not made such agreement, the mediator shall, in accordance with this Protocol and these Rules, determine the manner in which the mediation shall be conducted.

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**Rule 6: Disclosure of information**

When the mediator receives factual information concerning the dispute from a Party to the dispute, he or she may disclose the substance of that information to the other Party to the dispute in order that such Party may have the opportunity to respond. However, when a Party to the dispute gives any information to the mediator subject to a specific condition that it be kept confidential, the mediator shall not disclose that information to the other Party to the dispute.

**Rule 7: Confidentiality**

Unless the Parties to the dispute agree otherwise, the mediator and the Parties to the dispute shall keep confidential all matters relating to the mediation proceedings.

**Rule 8: Termination of mediation proceedings**

1. The mediation proceedings shall be terminated:

(a) on the date of the signing of the settlement agreement by the Parties to the dispute;

(b) on the date of a written communication by the mediator, after consultation with the Parties to the dispute, addressed to the ASEAN Coordinating Council, to the effect that further efforts at mediation are no longer necessary or justified;

(c) on the date of a written communication by the Parties to the dispute addressed to the mediator and to the ASEAN Coordinating Council to the effect that the mediation proceedings are terminated; or

(d) on the date of a written communication by a Party to the dispute to the other Party to the dispute, the mediator, if appointed, and the ASEAN Coordinating Council to the effect that the mediation proceedings are terminated.

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## ANNEX 3

### Rules of Conciliation

**Rule 1: Appointment of conciliators**

1. There shall be one conciliator unless the Parties to the dispute agree that there shall be two or three conciliators. The Parties to the dispute shall appoint the conciliator within forty-five (45) days from the date of receipt of the notification from the ASEAN Coordinating Council of its decision to direct the Parties to the dispute to resolve the dispute through conciliation, and shall notify the ASEAN Coordinating Council accordingly. The Parties to the dispute may choose from the list drawn up and maintained by the Secretary-General of ASEAN under Rule 5 of the Rules of Arbitration.

2. Where there is more than one conciliator, they ought, as a general rule, to act jointly. References in these Rules to "conciliator" shall be construed to include "conciliators" where the Parties to the dispute have agreed that there shall be two or three conciliators.

3. (a) In conciliation proceedings with one conciliator, the Parties to the dispute shall endeavour to reach agreement on the name of the sole conciliator;

(b) In conciliation proceedings with two conciliators, each Party to the dispute shall appoint one conciliator;

(c) In conciliation proceedings with three conciliators, each Party to the dispute shall appoint one conciliator. The Parties to the dispute shall endeavour to reach agreement on the name of the third conciliator.

**Rule 2: Submission of statements to conciliator**

1. The conciliator, upon his or her appointment, shall request each Party to the dispute to submit to him or her a brief written statement describing the general nature of the dispute and the points at issue. Each Party to the dispute shall send a copy of its statement to the other Party to the dispute.

2. The conciliator may request each Party to the dispute to submit to him or her a further written statement of its position and the facts and grounds in support thereof, supplemented by any documents and other evidence that it deems appropriate. The Party

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to the dispute shall send a copy of its statement to the other Party to the dispute.

3. At any stage of the conciliation proceedings, the conciliator may request any Party to the dispute to submit to him or her such additional information as he or she deems appropriate.

**Rule 3: Representation and assistance**

The Parties to the dispute may be represented or assisted by persons of their choice. The names and addresses of such persons shall be communicated to the other Party to the dispute and to the conciliator. Such communication shall specify whether the appointment is made for purposes of representation or of assistance.

**Rule 4: Role of conciliator**

1. The conciliator shall assist the Parties to the dispute in an independent, neutral and impartial manner in order to resolve the dispute.

2. The conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the Parties to the dispute and the circumstances surrounding the dispute, including any previous practices between the Parties to the dispute.

3. The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.

**Rule 5: Communication between conciliator and Parties to the dispute**

The conciliator may invite the Parties to the dispute to meet with him or her or may communicate with them orally or in writing. He or she may meet or communicate with the Parties to the dispute together or with each of them separately.

**Rule 6: Conduct of conciliation**

The conciliator may conduct the conciliation proceedings in such a manner as he or she considers appropriate, taking into account the circumstances of the case, the wishes the Parties to the dispute

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may express, including any request by a Party to the dispute that the conciliator hear oral statements, and any special need for a speedy settlement of the dispute, as well as the provisions of this Protocol and these Rules.

**Rule 7: Disclosure of information**

When the conciliator receives factual information concerning the dispute from a Party to the dispute, he or she may disclose the substance of that information to the other Party to the dispute in order that such Party may have the opportunity to respond. However, when a Party to the dispute gives any information to the conciliator subject to a specific condition that it be kept confidential, the conciliator shall not disclose that information to the other Party to the dispute.

**Rule 8: Cooperation of Parties to the dispute with conciliator**

The Parties to the dispute shall in good faith cooperate with the conciliator and, in particular, shall endeavour to comply with requests by the conciliator to submit written materials, provide evidence and attend meetings.

**Rule 9: Suggestions by Parties to the dispute for settlement of dispute**

A Party to the dispute may, on its own initiative or at the invitation of the conciliator, submit to the conciliator suggestions for the settlement of the dispute.

**Rule 10: Settlement agreement**

1. When it appears to the conciliator that there exist elements of a settlement which would be acceptable to the Parties to the dispute, he or she shall formulate the terms of a possible settlement and submit them to the Parties to the dispute for their observations. After receiving the observations of the Parties to the dispute, the conciliator may reformulate the terms of a possible settlement in light of such observations.

2. If the Parties to the dispute reach agreement on a settlement of the dispute, they shall draw up and sign a written settlement agreement. If requested by the Parties to the dispute, the conciliator shall draw up or assist the Parties to the dispute in drawing up the settlement agreement.

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**Rule 11: Confidentiality**

Unless the Parties to the dispute agree otherwise, the conciliator and the Parties to the dispute shall keep confidential all matters relating to the conciliation proceedings.

**Rule 12: Termination of conciliation proceedings**

The conciliation proceedings shall be terminated:

(a) on the date of the signing of the settlement agreement by the Parties to the dispute;

(b) on the date of a written communication by the conciliator, after consultation with the Parties to the dispute, addressed to the ASEAN Coordinating Council, to the effect that further efforts at conciliation are no longer necessary or justified;

(c) on the date of a written communication by the Parties to the dispute addressed to the conciliator and to the ASEAN Coordinating Council to the effect that the conciliation proceedings are terminated; or

(d) on the date of a written communication by a Party to the dispute to the other Party to the dispute, the conciliator, if appointed, and the ASEAN Coordinating Council to the effect that the conciliation proceedings are terminated.

**Rule 13: Role of conciliator in other proceedings**

The Parties to the dispute and the conciliator undertake that, unless the Parties to the dispute agree otherwise, the conciliator shall not act as an arbitrator or as a representative or counsel of a Party to the dispute in any arbitral or judicial proceedings in respect of a dispute that is the subject of the conciliation proceedings. The Parties to the dispute also undertake that they shall not present the conciliator as a witness in any such proceedings.

**Rule 14: Admissibility of evidence in other proceedings**

The Parties to the dispute undertake not to rely on or introduce as evidence in any arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings:

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(a) views expressed or suggestions made by the other Party to the dispute in respect of a possible settlement of the dispute;

(b) admissions made by the other Party to the dispute in the course of the conciliation proceedings;

(c) proposals made by the conciliator;

(d) the fact that the other Party to the dispute had indicated its willingness to accept a proposal for settlement made by the conciliator.

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## ANNEX 4

### Rules of Arbitration

**Rule 1: Appointment of arbitrators**

1. The arbitral tribunal shall consist of three arbitrators.

2. Each Party to the dispute shall appoint one arbitrator and notify the other Party to the dispute within thirty (30) days from the date of receipt of the reply of the Responding Party consenting to the request for arbitration or forty-five (45) days from the date of receipt of the notification from the ASEAN Coordinating Council of its decision to direct the Parties to the dispute to resolve the dispute through arbitration.

3. If any Party to the dispute fails to appoint an arbitrator within the period referred to in Paragraph 2 of this Rule, the other Party to the dispute which has appointed an arbitrator may, within fifteen (15) days from the expiration of that period, request the Secretary-General of ASEAN to appoint the second arbitrator. The Secretary-General of ASEAN shall, within fifteen (15) days from the date of receipt of such request, in consultation with the Party to the dispute which has failed to appoint an arbitrator, appoint the second arbitrator and notify the Parties to the dispute of the appointment. In that event, the arbitrator shall preferably be drawn from the list to be maintained in accordance with Rule 5.

4. (a) The Parties to the dispute shall agree on the appointment of the third arbitrator within thirty (30) days from the date of receipt of notification of the appointment of the second arbitrator, and promptly notify the Secretary-General of ASEAN of such appointment.

(b) If the Parties to the dispute fail to do so, any Party to the dispute may request the Chairman of the ASEAN Coordinating Council to appoint the third arbitrator. Within fifteen (15) days from the date of receipt of such request, the Chairman of the ASEAN Coordinating Council shall appoint the third arbitrator, on the recommendation of the Secretary-General of ASEAN after consulting the Committee of Permanent Representatives to ASEAN, and promptly notify the Secretary-General of ASEAN and the Parties to the dispute of the appointment.

(c) The third arbitrator shall chair the arbitral tribunal.

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(d) In making an appointment under Paragraph 4(b) of this Rule, the Chairman of the ASEAN Coordinating Council shall appoint a national of an ASEAN Member State, who may be in the list to be maintained in accordance with Rule 5, unless he concludes that exceptional circumstances call for otherwise.

(e) If the Chairman of the ASEAN Coordinating Council is a national of one of the Parties to the dispute, the appointment of the third arbitrator shall be made by the next Chairman of the ASEAN Coordinating Council who is not a national of one of the Parties to the dispute.

5. The date of establishment of the arbitral tribunal shall be the date on which the third arbitrator is appointed. The Secretary-General of ASEAN shall promptly notify all Member States of such date.

6. A substitute arbitrator shall be appointed in the same manner as prescribed for the appointment of the original arbitrator and shall have the same powers and duties as the original arbitrator. The work of the arbitral tribunal shall be suspended until that substitute arbitrator is appointed.

**Rule 2: Challenge of an arbitrator**

1. A prospective arbitrator shall disclose to those who approach him or her in connection with the possible appointment any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. An arbitrator, once appointed, shall disclose such circumstances to the Parties to the dispute unless they have already been informed by him or her of these circumstances.

2. Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence.

3. A Party to the dispute may challenge the arbitrator appointed by that Party only for reasons of which it becomes aware after the appointment has been made.

4. A Party to the dispute which intends to challenge an arbitrator shall send notice of its challenge within thirty (30) days from the date of receipt of notification of the appointment of the challenged arbitrator or within thirty (30) days after the circumstances referred to in Paragraphs 1 to 3 of this Rule became known to that Party to the dispute.

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5. The challenge shall be notified to the other Party to the dispute, the arbitrator who is challenged and the other members of the arbitral tribunal. The notification shall state the reasons for the challenge.

6. When an arbitrator has been challenged by a Party to the dispute, the other Party to the dispute may agree to the challenge. The arbitrator may also, after the challenge, withdraw from serving in the arbitral tribunal. In neither case does this imply acceptance of the validity of the grounds for the challenge. In both cases, the procedure provided for in Rule 1 shall be used in full for the appointment of the substitute arbitrator even if during the process of appointing the challenged arbitrator, a Party to the dispute had failed to exercise its right to appoint or to participate in the appointment.

7. If the other Party to the dispute does not agree to the challenge and the challenged arbitrator does not withdraw, the decision on the challenge shall be made by:

(a) the Secretary-General of ASEAN in consultation with the Committee of Permanent Representatives to ASEAN, when the appointment was made in accordance with Paragraphs (2) and (3) of Rule 1; or

(b) the Chairman of the ASEAN Coordinating Council, on the recommendation of the Secretary-General of ASEAN after consulting the Committee of Permanent Representatives to ASEAN, when the appointment was made in accordance with Paragraph (4) of Rule 1.

8. If the challenge is sustained, a substitute arbitrator shall be appointed pursuant to the procedures applicable to the appointment of an arbitrator as provided for in Rule 1.

**Rule 3: Replacement of an arbitrator**

1. In the event of the death or resignation of an arbitrator during the course of the arbitral proceedings, a substitute arbitrator shall be appointed in accordance with the procedure in Rule 1 that is applicable to the appointment of the arbitrator being replaced. Resignation by an arbitrator shall be addressed to the arbitral tribunal and notified to the Secretary-General of ASEAN and the Parties to the dispute, and shall not be effective unless the arbitral tribunal determines that there are sufficient reasons to accept the resignation. If the arbitral tribunal so determines, the resignation shall become effective on the date designated by the arbitral tribunal. In the event that an arbitrator whose resignation is not accepted by the tribunal nevertheless fails to participate in the arbitration, Paragraph 3 of this Rule shall apply.



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2. In the event that an arbitrator fails to act or in the event of the *de jure* or *de facto* impossibility to perform his or her functions, the procedure in respect of the challenge and replacement of an arbitrator as provided in Rule 2 and Paragraph 1 of this Rule shall apply, subject to Paragraph 3 of this Rule.

3. If an arbitrator fails to participate in the arbitration, the other arbitrators shall, unless the Parties to the dispute agree otherwise, have the power in their sole discretion to continue the arbitration and to make any decision, ruling or award, notwithstanding the failure of one arbitrator to participate. In determining whether to continue the arbitration or to render any decision, ruling, or award without the participation of an arbitrator, the other arbitrators shall take into account the stage of the arbitration, the reason, if any, expressed by the arbitrator for such non-participation, and such other matters as they consider appropriate in the circumstances of the case. In the event that the other arbitrators determine not to continue the arbitration without the non-participating arbitrator, the arbitral tribunal shall declare the office vacant, and a substitute arbitrator shall be appointed pursuant to the procedures applicable to the appointment of an arbitrator as provided for in Rule 1.

**Rule 4: Repetition of hearings**

If under Rule 2 or 3, the Chair of the arbitral tribunal is replaced, all hearings held previously shall be repeated. If any other arbitrator is replaced, the hearings held previously may be repeated at the discretion of the arbitral tribunal.

**Rule 5: List of individuals who may serve as arbitrators**

1. A list of individuals having the qualifications under Paragraphs 2 and 3 of Article 11 of this Protocol, from which arbitrators may be appointed, as appropriate, shall be drawn up and maintained by the Secretary-General of ASEAN who shall keep the Member States updated of any change to the list. Every Member State shall be entitled to make ten nominations.

2. A Member State may withdraw any of its nominations from the list. Such withdrawal shall not affect any appointment already made.

3. If at any time the individuals nominated by a Member State in the list are fewer than ten, that Member State shall be entitled to make further nominations as necessary.

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**Rule 6: Procedures for cases involving more than two Member States**

1. Where more than two Member States are involved in a dispute related to the same matter, a single arbitral tribunal of which the number of arbitrators shall be subject to an *ad hoc* agreement of all Member States involved in the dispute may be established to examine these complaints. In that case, the procedures provided for under these Rules shall be applied to the greatest extent possible.

2. The single arbitral tribunal shall organise its examination and make its award in such a manner that the rights which the Parties to the dispute would have enjoyed had the separate arbitral tribunals examined the complaints are in no way impaired.

**Rule 7: Third Party**

The Parties to the dispute may agree to provide additional rights to those provided for in Article 13 of this Protocol, to a Third Party regarding participation in arbitral proceedings. In providing additional rights, the Parties to the dispute may impose conditions. Unless the Parties to the dispute agree otherwise, the arbitral tribunal shall not grant any additional rights to any Third Party regarding participation in arbitral proceedings.

**Rule 8: Arbitral procedures**

1. The arbitral tribunal shall apply the procedures provided for in these Rules. The arbitral tribunal may adopt additional procedures which do not conflict with this Protocol or these Rules.

2. The arbitral tribunal shall, as soon as practicable within fifteen (15) days from the date of its establishment, fix the timetable for the arbitral proceedings. The arbitral proceedings, from the date of the establishment of the arbitral tribunal until the date of the final award, shall not exceed the period of six months, unless the Parties to the dispute agree otherwise.

3. Each Party to the dispute shall have an opportunity to set out in writing the facts of its case, its arguments and counter-arguments. The timetable fixed by the arbitral tribunal shall include deadlines for submissions by the Parties to the dispute and Third Parties.

4. The timetable fixed by the arbitral tribunal shall provide for at least one hearing for the Parties to the dispute to present their case to the arbitral tribunal.

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5. The arbitral tribunal shall regularly consult the Parties to the dispute and provide adequate opportunities for the development of a mutually agreed solution to the dispute.

**Rule 9: Suspension of proceedings**

The Parties to the dispute may agree that the arbitral tribunal suspend its work at any time for a period not exceeding twelve (12) months from the date of such agreement. Within this period, the suspended arbitral proceedings shall be resumed upon the request of any Party to the dispute. If the work of the arbitral tribunal has been continuously suspended for more than twelve (12) months, the arbitral tribunal shall cease to function unless the Parties to the dispute agree otherwise.

**Rule 10: Settlement or other grounds for termination**

1. If, before the award is made, the Parties to the dispute agree on a settlement of the dispute, the arbitral tribunal shall either issue an order for the termination of the arbitral proceedings or, if requested by the Parties to the dispute and accepted by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms. The arbitral tribunal is not obliged to give reasons for such an award.

2. If, before the award is made, the continuation of the arbitral proceedings becomes unnecessary or impossible for any reason not mentioned in Paragraph 1 of this Rule, the arbitral tribunal shall inform the Parties to the dispute of its intention to issue an order for the termination of the arbitral proceedings. The arbitral tribunal shall have the power to issue such an order unless a Party to the dispute raises justifiable grounds for objection.

3. Copies of the order for termination of the arbitral proceedings or of the arbitral award on agreed terms, signed by the arbitrators, shall be communicated by the arbitral tribunal to the Parties to the dispute, the Secretary-General of ASEAN, the Third Parties, if any, and the ASEAN Coordinating Council, where the arbitration is directed by the ASEAN Coordinating Council.

**Rule 11: Costs**

1. Each Party to the dispute shall bear the costs of the arbitrator appointed by it pursuant to Paragraph 2 of Rule 1 or by the Secretary-General of ASEAN pursuant to Paragraph 3 of Rule 1, and its own expenses and legal costs.

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2. The costs of the Chair of the arbitral tribunal and other expenses associated with the conduct of the arbitral proceedings shall be borne in equal parts by the Parties to the dispute.

**Rule 12: Place of arbitration**

1. Unless the Parties to the dispute agree otherwise, the place of arbitration shall be the ASEAN Secretariat, Jakarta, the Republic of Indonesia.

2. The arbitral tribunal may hold meetings for consultation among its members either at the place of arbitration, or at any other place where this would mitigate the cost of such meetings.

3. The award shall be made at the place of arbitration.

**Rule 13: Language**

1. The language of arbitration shall be English.

2. The arbitral tribunal may order that any documents submitted in the course of the arbitral proceedings, delivered in their original language, be accompanied by a translation into English.

**Rule 14: Decisions**

The decisions of the arbitral tribunal shall be taken by a majority vote of its arbitrators. Where there is no majority, the Chair of the arbitral tribunal shall have a casting vote.

**Rule 15: Default of appearance**

If any Party to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other Party to the dispute may request the arbitral tribunal to continue the arbitral proceedings and to make its award. Absence of the Party to the dispute or failure of the Party to the dispute to defend its case shall not constitute a bar to the arbitral proceedings.

**Rule 16: Pleas as to the jurisdiction of the arbitral tribunal**

1. The arbitral tribunal shall have the power to rule on objections that it has no jurisdiction.

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2. A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the date of the first hearing of the arbitral tribunal.

3. In general, the arbitral tribunal should rule on a plea concerning its jurisdiction as a preliminary question. However, the arbitral tribunal may proceed with the arbitration and rule on such a plea in its final award.

**Rule 17: Award**

1. The award of the arbitral tribunal shall be made in writing and confined to the subject-matter of the dispute. The arbitral tribunal shall set out in its award: (a) a descriptive section summarising the facts of the case and the arguments of the Parties to the dispute and Third Parties, if any; and (b) its rulings on the interpretation or application of the ASEAN Charter or any ASEAN instruments cited by the Parties to the dispute, and the reasons for such rulings.

2. Any member of the arbitral tribunal may attach a separate or dissenting opinion to the award.

3. The award shall be signed by the arbitrators and shall contain the date on which and the place where the award was made. The award shall state the reason for the absence of the signature of any arbitrator.

4. Copies of the award signed by the arbitrators shall be communicated by the arbitral tribunal to the Parties to the dispute and to the Secretary-General of ASEAN.

5. Where arbitration is directed by the decision of the ASEAN Coordinating Council pursuant to Article 9 of this Protocol, the arbitral tribunal shall notify the ASEAN Coordinating Council of its award.

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## ANNEX 6
## Rules for Reference of Non-Compliance to the ASEAN Summit

These Rules have been made for the purpose of the Protocol to the ASEAN Charter on Dispute Settlement Mechanisms signed on 8 April 2010 in Ha Noi ("the Protocol") and pursuant to Paragraph 2 of Article 27 of the ASEAN Charter and are annexed to the Protocol.

### Rule 1

(a) For the purpose of these Rules, "any Member State affected by non-compliance" shall mean any ASEAN Member State that is a Party to the dispute to which the instance of non-compliance relates.

(b) Any Member State affected by non-compliance with an arbitral award or settlement agreement resulting from good offices, mediation or conciliation under the Protocol, may refer the matter to the ASEAN Summit for a decision, through notification to the ASEAN Coordinating Council.

### Rule 2

Upon receipt of the notification of non-compliance pursuant to Rule 1, the ASEAN Coordinating Council shall inform all other Member States that are Parties to the dispute to which the instance of non-compliance relates of such notification.

### Rule 3

(a) Before a non-compliance is submitted to the ASEAN Summit, the ASEAN Coordinating Council shall attempt to facilitate consultations amongst the Member States that are Parties to the dispute to which the instance of non-compliance relates with a view to facilitating compliance with the arbitral award or settlement agreement without reference to the ASEAN Summit. Where such Member States have consulted amongst themselves they shall report the outcome of the consultation to the ASEAN Coordinating Council.

(b) The ASEAN Coordinating Council may authorise the Chair of the ASEAN Coordinating Council, or some other person, to facilitate the

consultations under Paragraph (a) of this Rule, and report to it the outcome of the consultations.

**Rule 4**

Any Member State affected by non-compliance may, at any time, withdraw its referral of non-compliance to the ASEAN Summit made under Paragraph (a) of Rule 1, including when that Member State is satisfied with the outcome of the consultations under Rule 3. Such withdrawal shall be made in writing.

**Rule 5**

(a) The ASEAN Coordinating Council shall refer the non-compliance to the ASEAN Summit within 90 days of the receipt of the notification pursuant to Rule 1 or within any other timeframe agreed by the Member States that are Parties to the dispute to which the instance of non-compliance relates.

(b) The referral by the ASEAN Coordinating Council to the ASEAN Summit of an instance of non-compliance shall be accompanied by a report of the ASEAN Coordinating Council setting out the following:

(i) the arbitral award or settlement agreement in question;
(ii) information provided by the relevant Parties to the dispute to which the instance of non-compliance relates, on actions taken to ensure compliance with the arbitral award or settlement agreement in question;
(iii) actions taken by the ASEAN Coordinating Council to facilitate consultations;
(iv) reference to the report of the Secretary-General of ASEAN submitted to the ASEAN Summit pursuant to Paragraph 1 of Article 27 of the ASEAN Charter, if any; and
(v) recommendations of the ASEAN Coordinating Council, if any.

**INSTRUMENT OF INCORPORATION OF THE RULES FOR REFERENCE OF NON-COMPLIANCE TO THE ASEAN SUMMIT TO THE PROTOCOL TO THE ASEAN CHARTER ON DISPUTE SETTLEMENT MECHANISMS**

The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations (ASEAN), hereinafter collectively referred to as "Member States" or individually as "Member State";

**RECALLING** that the Protocol to the ASEAN Charter on Dispute Settlement Mechanisms, hereinafter referred to as "the Protocol", was signed on 8 April 2010;

**BEARING IN MIND** that the Protocol has not entered into force;

**RECALLING ALSO** that the Rules for Reference of Non-Compliance to the ASEAN Summit was adopted by the ASEAN Foreign Ministers on 2 April 2012 in Phnom Penh, Cambodia;

**HAVE AGREED AS FOLLOWS:**

**ARTICLE 1**

The Annex of this Instrument, which is titled **"Rules for Reference of Non-Compliance to the ASEAN Summit"**, shall be incorporated as Annex 6 to the Protocol and constitute an annex under Article 20 thereof.

**ARTICLE 2**

1. This Instrument shall enter into force upon signature.

2. Annex 6 to the Protocol shall be applicable upon the entry into force of the Protocol.

3. The Instrument of Ratification of the Protocol by any Member State shall also represent its consent to be bound by Annex 6 to the Protocol.

4. This Instrument shall be deposited with the Secretary-General of ASEAN, who shall promptly furnish a certified copy thereof to each Member State.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised thereto by their respective Governments, have signed this Instrument of Incorporation of the Rules for Reference of Non-Compliance to the ASEAN Summit to the Protocol to the ASEAN Charter on Dispute Settlement Mechanisms.

**DONE** at Phnom Penh, the Kingdom of Cambodia, on the Second Day of April in the Year Two Thousand and Twelve, in a single copy in the English language.

For Brunei Darussalam:

**PEHIN DATO LIM JOCK SENG**
Minister of Foreign Affairs and Trade II

For the Kingdom of Cambodia:

**HOR NAMHONG**
Deputy Prime Minister and
Minister of Foreign Affairs and International Cooperation

For the Republic of Indonesia:

**DR. R.M. MARTY M. NATALEGAWA**
Minister for Foreign Affairs



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For the Lao People's Democratic Republic:

**DR. THONGLOUN SISOULITH**
Deputy Prime Minister, Minister of Foreign Affairs

For Malaysia:

**DATO' SRI ANIFAH BIN HAJI AMAN**
Minister of Foreign Affairs

For the Republic of the Union of Myanmar:

**WUNNA MAUNG LWIN**
Minister for Foreign Affairs

For the Republic of the Philippines:

**ALBERT F. DEL ROSARIO**
Secretary of Foreign Affairs



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For the Republic of Singapore:

**K. SHANMUGAM**
Minister for Foreign Affairs and Minister for Law

For the Kingdom of Thailand:

**SURAPONG TOVICHAKCHAIKUL**
Minister of Foreign Affairs

For the Socialist Republic of Viet Nam:

**PHAM BINH MINH**
Minister for Foreign Affairs



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No.: 102/2017

The ASEAN Secretariat presents its compliments to the Permanent Missions of ASEAN Member States, and has the honour to refer to the Protocol to the ASEAN Charter on Dispute Settlement Mechanisms, signed on 8 April 2010 in Ha Noi, Viet Nam.

The ASEAN Secretariat would like to inform the Permanent Missions that the Government of the Republic of the Singapore has deposited its Instrument of Ratification for the said Protocol in accordance with paragraph 3 of Article 19 of the Protocol. The Instrument of Ratification is attached herewith for your information and reference.

The ASEAN Secretariat would like to further inform the Permanent Missions that pursuant to its paragraph 4 of Article 19, the said Protocol shall enter into force on 28 July 2017, the day following the date of deposit of Singapore's Instrument of Ratification as the tenth Member State, with the Secretary-General of ASEAN. The legal status of the Protocol can be accessed at: http://agreement.asean.org/agreement/detail/42.html.

The ASEAN Secretariat would appreciate it if the above-mentioned information, including the Instrument of Ratification, could be forwarded to the appropriate authority/destination.

The ASEAN Secretariat avails itself of this opportunity to renew to the Permanent Missions of ASEAN Member States the assurances of its highest consideration.

Jakarta, 27 July 2017

ASSOCIATION OF SOUTHEAST ASIAN NATIONS
ASEAN SECRETARIAT
JAKARTA

The Permanent Missions of ASEAN Member States

Jakarta

Note No. PR/ASEAN/058/2017

The Permanent Mission of the Republic of Singapore to the Association of Southeast Asian Nations ("ASEAN") presents its compliments to the ASEAN Secretariat and has the honour to refer to the Protocol to the ASEAN Charter on Dispute Settlement Mechanisms ("the Protocol") signed at Hanoi, Vietnam on 8 April 2010.

The Permanent Mission of the Republic of Singapore to ASEAN has the further honour to deposit Singapore's Instrument of Ratification for the Protocol with the Secretary-General of ASEAN, in accordance with Article 19(3) of the Protocol.

The Permanent Mission of the Republic of Singapore to ASEAN avails itself of this opportunity to renew to the ASEAN Secretariat the assurances of its highest consideration.

JAKARTA
27 July 2017

PERMANENT MISSION OF SINGAPORE ASEAN

ASEAN Secretariat
JAKARTA

RECEIVED
27 JUL 2017
THE ASEAN SECRETARIAT
LEGAL SERVICES AND AGREEMENTS
DIRECTORATE

**INSTRUMENT OF RATIFICATION**

**WHEREAS** the Protocol to the ASEAN Charter on Dispute Settlement Mechanisms ("the Protocol") was opened for signature at Hanoi, Vietnam on 8 April 2010,

**AND WHEREAS** the Protocol was signed on behalf of the Republic of Singapore on 8 April 2010,

**AND WHEREAS** Article 19, Paragraph 2 of the Protocol provides that the Protocol shall be subject to ratification by all ASEAN Member States in accordance with their respective internal procedures,

**AND WHEREAS** Article 19, Paragraph 4 of the Protocol provides that the Protocol shall enter into force on the day following the deposit of the tenth instrument of ratification with the Secretary-General of ASEAN,

**NOW THEREFORE I**, Dr Vivian Balakrishnan, Minister for Foreign Affairs, declare that the Government of the Republic of Singapore, having considered the above-mentioned Protocol, ratifies the same and undertakes faithfully to perform and carry out the stipulations therein contained.

**IN WITNESS WHEREOF**, I have signed this Instrument of Ratification on behalf of the Republic of Singapore.

Done at Singapore, on 21 July 2017.

DR VIVIAN BALAKRISHNAN
MINISTER FOR FOREIGN AFFAIRS
REPUBLIC OF SINGAPORE