

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION 2012/308/CFSP

of 26 April 2012

on the accession of the European Union to the Treaty of Amity and Cooperation in Southeast Asia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 37 in conjunction with Article 31(1) thereof,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 209 and 212 in conjunction with Article 218(6)(a) and Article 218(8), second subparagraph, thereof,

Having regard to the joint proposal of the High Representative of the Union for Foreign Affairs and Security Policy and of the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) The Treaty of Amity and Cooperation in Southeast Asia ('the Treaty') was signed on 24 February 1976 by the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand. Since the date of signature, the following countries have also become signatories of the Treaty: Brunei Darussalam, the Kingdom of Cambodia, the Lao People's Democratic Republic, Burma/Myanmar, the Socialist Republic of Vietnam, the Independent State of Papua New Guinea, the People's Republic of China, the Republic of India, Japan, the Islamic Republic of Pakistan, the Republic of Korea, the Russian Federation, New Zealand, Mongolia, the Commonwealth of Australia, the French Republic, the Democratic Republic of East Timor, the People's Republic of Bangladesh, the Democratic Socialist Republic of Sri Lanka, the Democratic People's Republic of Korea, the United States of America, the Republic of Turkey and Canada.

(2) The Treaty aims to promote peace, stability and cooperation in the region. To this end, it calls for the settlement of disputes by peaceful means, the preservation of peace, the prevention of conflicts and the strengthening of security in Southeast Asia. Hence, the rules and principles set out in the Treaty correspond to the objectives of the Union's common foreign and security policy.

(3) Furthermore, the Treaty provides for enhancing cooperation in economic, trade, social, technical and scientific fields as well as for the acceleration of economic growth in the region by promoting a greater utilisation of the agriculture and industries of the nations in Southeast Asia, the expansion of their trade and the improvement of their economic infrastructure. Therefore, the Treaty promotes cooperation with the developing countries of that region as well as economic, financial and technical cooperation with countries other than developing countries.

(4) The Council, at its meeting of 4-5 December 2006, authorised the Presidency and the Commission to negotiate the Union's and the European Community's accession to the Treaty.

(5) By letter dated 7 December 2006, the Union and the European Community informed Cambodia, in its capacity of ASEAN Coordinator for relations with the Union, of its decision to apply for accession to the Treaty subject to the understandings expressed in the letter.

(6) On 28 May 2009, Thailand, then Chair of ASEAN, declared the consent of all the States in Southeast Asia to the accession to the Treaty by the Union and the European Community, subject to the entry into force of the Third Protocol to the Treaty.

(7) The Third Protocol to the Treaty, signed on 23 July 2010, provides for the accession of regional organisations to the Treaty.

(8) The Union should therefore accede to the Treaty following the entry into force of the Third Protocol to the Treaty,

HAS ADOPTED THIS DECISION:

Article 1

The accession of the Union to the Treaty of Amity and Cooperation in Southeast Asia is hereby approved on behalf of the Union.

The texts of the Treaty and its three amending Protocols, as well as the Instrument of Accession to the Treaty by the Union, are attached to this Decision.

Article 2

The Council hereby authorises the High Representative of the Union for Foreign Affairs and Security Policy to sign and deposit the Instrument of Accession to the Treaty on behalf of the Union.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Luxembourg, 26 April 2012.

For the Council
The President
M. BØDSKOV

Treaty of Amity and Cooperation in Southeast Asia**Indonesia, 24 February 1976**

The High Contracting Parties:

CONSCIOUS of the existing ties of history, geography and culture, which have bound their peoples together;

ANXIOUS to promote regional peace and stability through abiding respect for justice and the rule of law and enhancing regional resilience in their relations;

DESIRING to enhance peace, friendship and mutual cooperation on matters affecting Southeast Asia consistent with the spirit and principles of the Charter of the United Nations, the Ten Principles adopted by the Asian-African Conference in Bandung on 25 April 1955, the Declaration of the Association of Southeast Asian Nations signed in Bangkok on 8 August 1967, and the Declaration signed in Kuala Lumpur on 27 November 1971;

CONVINCED that the settlement of differences or disputes between their countries should be regulated by rational, effective and sufficiently flexible procedures, avoiding negative attitudes which might endanger or hinder cooperation;

BELIEVING in the need for cooperation with all peace-loving nations, both within and outside Southeast Asia, in the furtherance of world peace, stability and harmony;

SOLEMNLY AGREE to enter into a Treaty of Amity and Cooperation as follows:

1.1.1.1. CHAPTER I: PURPOSE AND PRINCIPLES*Article 1*

The purpose of this Treaty is to promote perpetual peace, everlasting amity and cooperation among their peoples which would contribute to their strength, solidarity and closer relationship,

Article 2

In their relations with one another, the High Contracting Parties shall be guided by the following fundamental principles:

- (a) Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- (b) The right of every State to lead its national existence free from external interference, subversion or coercion;
- (c) Non-interference in the internal affairs of one another;
- (d) Settlement of differences or disputes by peaceful means;
- (e) Renunciation of the threat or use of force;
- (f) Effective cooperation among themselves.

1.1.1.2. CHAPTER II: AMITY*Article 3*

In pursuance of the purpose of this Treaty the High Contracting Parties shall endeavour to develop and strengthen the traditional, cultural and historical ties of friendship, good neighbourliness and cooperation which bind them together and shall fulfil in good faith the obligations assumed under this Treaty. In order to promote closer understanding among them, the High Contracting Parties shall encourage and facilitate contact and intercourse among their peoples.

1.1.1.3. CHAPTER III: COOPERATION

Article 4

The High Contracting Parties shall promote active cooperation in the economic, social, technical, scientific and administrative fields as well as in matters of common ideals and aspirations of international peace and stability in the region and all other matters of common interest.

Article 5

Pursuant to Article 4 the High Contracting Parties shall exert their maximum efforts multilaterally as well as bilaterally on the basis of equality, non-discrimination and mutual benefit.

Article 6

The High Contracting Parties shall collaborate for the acceleration of the economic growth in the region in order to strengthen the foundation for a prosperous and peaceful community of nations in Southeast Asia. To this end, they shall promote the greater utilisation of their agriculture and industries, the expansion of their trade and the improvement of their economic infrastructure for the mutual benefit of their peoples. In this regard, they shall continue to explore all avenues for close and beneficial cooperation with other States as well as international and regional organisations outside the region.

Article 7

The High Contracting Parties, in order to achieve social justice and to raise the standards of living of the peoples of the region, shall intensify economic cooperation. For this purpose, they shall adopt appropriate regional strategies for economic development and mutual assistance.

Article 8

The High Contracting Parties shall strive to achieve the closest cooperation on the widest scale and shall seek to provide assistance to one another in the form of training and research facilities in the social, cultural, technical, scientific and administrative fields.

Article 9

The High Contracting Parties shall endeavour to foster cooperation in the furtherance of the cause of peace, harmony, and stability in the region. To this end, the High Contracting Parties shall maintain regular contacts and consultations with one another on international and regional matters with a view to coordinating their views actions and policies.

Article 10

Each High Contracting Party shall not in any manner or form participate in any activity which shall constitute a threat to the political and economic stability, sovereignty, or territorial integrity of another High Contracting Party.

Article 11

The High Contracting Parties shall endeavour to strengthen their respective national resilience in their political, economic, socio-cultural as well as security fields in conformity with their respective ideals and aspirations, free from external interference as well as internal subversive activities in order to preserve their respective national identities.

Article 12

The High Contracting Parties in their efforts to achieve regional prosperity and security, shall endeavour to cooperate in all fields for the promotion of regional resilience, based on the principles of self-confidence, self-reliance, mutual respect, cooperation and solidarity which will constitute the foundation for a strong and viable community of nations in Southeast Asia.

1.1.1.4. CHAPTER IV: PACIFIC SETTLEMENT OF DISPUTES

Article 13

The High Contracting Parties shall have the determination and good faith to prevent disputes from arising. In case disputes on matters directly affecting them should arise, especially disputes likely to disturb regional peace and harmony, they shall refrain from the threat or use of force and shall at all times settle such disputes among themselves through friendly negotiations.

Article 14

To settle disputes through regional processes, the High Contracting Parties shall constitute, as a continuing body, a High Council comprising a Representative at ministerial level from each of the High Contracting Parties to take cognisance of the existence of disputes or situations likely to disturb regional peace and harmony.

Article 15

In the event no solution is reached through direct negotiations, the High Council shall take cognisance of the dispute or the situation and shall recommend to the parties in dispute appropriate means of settlement such as good offices, mediation, inquiry or conciliation. The High Council may however offer its good offices, or upon agreement of the parties in dispute, constitute itself into a committee of mediation, inquiry or conciliation. When deemed necessary, the High Council shall recommend appropriate measures for the prevention of a deterioration of the dispute or the situation.

Article 16

The foregoing provision of this Chapter shall not apply to a dispute unless all the parties to the dispute agree to their application to that dispute. However, this shall not preclude the other High Contracting Parties not party to the dispute from offering all possible assistance to settle the said dispute. Parties to the dispute should be well disposed towards such offers of assistance.

Article 17

Nothing in this Treaty shall preclude recourse to the modes of peaceful settlement contained in Article 33(l) of the Charter of the United Nations. The High Contracting Parties which are parties to a dispute should be encouraged to take initiatives to solve it by friendly negotiations before resorting to the other procedures provided for in the Charter of the United Nations.

1.1.1.5. CHAPTER V: GENERAL PROVISION

Article 18

This Treaty shall be signed by the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand. It shall be ratified in accordance with the constitutional procedures of each signatory State. It shall be open for accession by other States in Southeast Asia.

Article 19

This Treaty shall enter into force on the date of the deposit of the fifth instrument of ratification with the Governments of the signatory States which are designated Depositories of this Treaty and the instruments of ratification or accession.

Article 20

This Treaty is drawn up in the official languages of the High Contracting Parties, all of which are equally authoritative. There shall be an agreed common translation of the texts in the English language. Any divergent interpretation of the common text shall be settled by negotiation.

IN FAITH THEREOF the High Contracting Parties have signed the Treaty and have hereto affixed their Seals.

Done at Denpasar, Bali, this twenty-fourth day of February in the year one thousand nine hundred and seventy-six.

Protocol Amending the Treaty of Amity and Cooperation in Southeast Asia
Philippines, 15 December 1987

The Government of Brunei Darussalam

The Government of the Republic of Indonesia

The Government of Malaysia

The Government of the Republic of the Philippines

The Government of the Republic of Singapore

The Government of the Kingdom of Thailand

DESIRING to further enhance cooperation with all peace-loving nations, both within and outside Southeast Asia and, in particular, neighbouring States of the Southeast Asia region;

CONSIDERING paragraph 5 of the preamble of the Treaty of Amity and Cooperation in Southeast Asia, done at Denpasar, Bali, on 24 February 1976 (hereinafter referred to as the Treaty of Amity) which refers to the need for cooperation with all peace-loving nations, both within and outside Southeast Asia, in the furtherance of world peace, stability and harmony;

HEREBY AGREE TO THE FOLLOWING:

Article 1

Article 18 of the Treaty of Amity shall be amended to read as follows:

‘This Treaty shall be signed by the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand. It shall be ratified in accordance with the constitutional procedures of each signatory State.

It shall be open for accession by other States in Southeast Asia.

States outside Southeast Asia may also accede to this Treaty by the consent of all the States in Southeast Asia which are signatories to this Treaty and Brunei Darussalam.’

Article 2

Article 14 of the Treaty of Amity shall be amended to read as follows:

‘To settle disputes through regional processes, the High Contracting Parties shall constitute, as a continuing body, a High Council comprising a Representative at ministerial level from each of the High Contracting Parties to take cognisance of the existence of disputes or situations likely to disturb regional peace and harmony.

However, this article shall apply to any of the States outside Southeast Asia which have acceded to the Treaty only in cases where that state is directly involved in the dispute to be settled through the regional processes.’

Article 3

This Protocol shall be subject to ratification and shall come into force on the date the last instrument of ratification of the High Contracting Parties is deposited.

Done at Manila, the fifteenth day of December in the year one thousand nine hundred and eighty-seven.

Second Protocol Amending the Treaty of Amity and Cooperation in Southeast Asia**Manila, Philippines, 25 July 1998**

The Government of Brunei Darussalam

The Government of the Kingdom of Cambodia

The Government of the Republic of Indonesia

The Government of the Lao People's Democratic Republic

The Government of Malaysia

The Government of the Union of Myanmar

The Government of the Republic of the Philippines

The Government of the Republic of Singapore

The Government of the Kingdom of Thailand

The Government of the Socialist Republic of Vietnam

The Government of Papua New Guinea

Hereinafter referred to as the High Contracting Parties:

DESIRING to ensure that there is appropriate enhancement of cooperation with all peace-loving nations, both within and outside Southeast Asia and, in particular, neighbouring States of the Southeast Asia region;

CONSIDERING paragraph 5 of the preamble of the Treaty of Amity and Cooperation in Southeast Asia, done at Denpasar, Bali, on 24 February 1976 (hereinafter referred to as the Treaty of Amity) which refers to the need for cooperation with all peace-loving nations, both within and outside Southeast Asia, in the furtherance of world peace, stability and harmony;

HEREBY AGREE TO THE FOLLOWING:

Article 1

Article 18, paragraph 3, of the Treaty of Amity shall be amended to read as follows:

‘States outside Southeast Asia may also accede to this Treaty with the consent of all the 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.’

Article 2

This Protocol shall be subject to ratification and shall come into force on the date the last instrument of ratification of the High Contracting Parties is deposited.

Done at Manila, the twenty-fifth day of July in the year one thousand nine hundred and ninety-eight.

Third Protocol Amending the Treaty of Amity and Cooperation in Southeast Asia**Ha Noi, Viet Nam, 23 July 2010**

Brunei Darussalam
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
The Socialist Republic of Vietnam
The Commonwealth of Australia
The People's Republic of Bangladesh
The People's Republic of China
The Democratic People's Republic of Korea
The French Republic
The Republic of India
Japan
Mongolia
New Zealand
The Islamic Republic of Pakistan
Papua New Guinea
The Republic Of Korea
The Russian Federation
The Democratic Socialist Republic of Sri Lanka
The Democratic Republic of Timor-Leste
The Republic of Turkey
The United States of America

Hereinafter referred to as the High Contracting Parties:

DESIRING to ensure that there is appropriate enhancement of cooperation with all peace-loving nations, both within and outside Southeast Asia and, in particular, neighbouring States of the Southeast Asia region, as well as with regional organisations whose members are only sovereign States;

CONSIDERING paragraph 5 of the preamble of the Treaty of Amity and Cooperation in Southeast Asia, done at Denpasar, Bali, on 24 February 1976 (hereinafter referred to as the Treaty of Amity) which refers to the need for cooperation with all peace-loving nations, both within and outside Southeast Asia, in the furtherance of world peace, stability and harmony;

HEREBY AGREE TO THE FOLLOWING:

Article 1

Article 18, paragraph 3, of the Treaty of Amity shall be amended to read as follows:

‘This Treaty shall be open for accession by States outside Southeast Asia and regional organisations whose members are only sovereign States with the consent of all the 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.’

Article 2

Article 14, paragraph 2, of the Treaty of Amity shall be amended to read as follows:

‘However, this article shall apply to any of the High Contracting Parties which have acceded to the Treaty only in cases where that High Contracting Party is directly involved in the dispute to be settled through the regional processes.’

Article 3

This Protocol shall be subject to ratification and shall come into force on the date of the last instrument of ratification of the High Contracting Parties is deposited.

Done at Hanoi, Viet Nam, the twenty-third day of July in the year two thousand and ten in a single copy in the English language.

Instrument of Accession to the Treaty of Amity and Cooperation in Southeast Asia by the European Union

WHEREAS the Treaty of Amity and Cooperation in Southeast Asia, which was signed on 24 February 1976 in Bali, Indonesia, was amended by the First, the Second and the Third Protocols Amending the Treaty of Amity and Cooperation in Southeast Asia, which were signed on 15 December 1987, 25 July 1998 and 23 July 2010 respectively;

WHEREAS Article 18, paragraph 3, of the aforesaid Treaty as amended by Article 1 of the aforesaid Third Protocol provides that regional organisations whose members are only sovereign States may accede to the Treaty with the consent of all the 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 Viet Nam;

WHEREAS the Minister of Foreign Affairs of Finland and the Member of the European Commission responsible for External Relations and the European Neighbourhood Policy lodged an application for the accession of the European Union to the Treaty through the letter dated 7 December 2006;

WHEREAS the States in Southeast Asia have consented to the accession of the European Union to the Treaty;

The European Union hereby accedes to the Treaty of Amity and Cooperation in Southeast Asia with effect of the date of deposit of this instrument.

IN WITNESS WHEREOF, this Instrument of Accession is signed by the [TITLE].

Done at [place], [country], this [date] day of [month] in the year two thousand and [year].

For the European Union
