



Legislative Procedures of  
AIPA Member Parliaments

2015



# **One ASEAN: Many Systems**

## **Legislative Procedures of AIPA Member Parliaments**

**By, Dr Stephen Sherlock**

September, 2015



The ASEAN Inter-Parliamentary Assembly (AIPA) was first established as ASEAN Inter-Parliamentary Organization (AIPO) by the virtue of the signing of the Statutes of ASEAN Inter-Parliamentary Organization on 2 September 1977. As there was a need to transform AIPO into a more effective and closely integrated institution, the name AIPO was then changed into ASEAN Inter-Parliamentary Assembly (AIPA). The Member Parliaments of AIPA are Legislative Council (Majelis Mesyuarat) of Brunei Darussalam, National Assembly (Rathasaphea) and Senate (Prithasaphea) of Cambodia, House of Representatives (Dewan Perwakilan Rakyat) of Indonesia, National Assembly (Sapha Hengsat) of Lao PDR, House of Representatives (Dewan Rakyat) and Senate (Dewan Negara) of Malaysia, Union Assembly (Pyidaungsu Hluttaw) of Myanmar, Congress of the Philippines, Parliament of Singapore, National Legislative Assembly of Thailand, and National Assembly (Quoc Hoi) of VietNam.

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# FOREWORD



The law-making power of a legislature is one of the important pillars of a democratic system of governance because this power allows it to enact, amend and repeal public policy. But how does the law-making process of a legislature operate, particularly among the member parliaments of AIPA? Such is the subject of inquiry which this publication effectively addresses and seeks to answer.

This publication is, indeed, a very handy reference tool for researchers in view of the contents as it independently describes the different standing procedures on passing of Bills of each member parliament of AIPA and provides unique and diverse historical and political rationale for the standing procedure. Moreover, the accompanying incisive analyses for each political and legislative system studied in this publication will also give some insights into understanding how these systems applied in the past, how they are doing in the present and what the outlook would most likely be in the future.

The feasibility of an ASEAN Parliament in the shape of the European Parliament is answered from the conclusion one can draw from the contents of this publication, bearing in mind the diversity not only in the cultural and religious practices, but also in the political and legislative systems in ASEAN. It is for the future generation to bring about a closer and integrated ASEAN and its legislative system.

My deep gratitude goes to Dr Stephen Sherlock, of the University of New South Wales in Australia, the author of this superb scholarly work, and to the Foreign Office of the Federal Republic of Germany and the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) for funding its publication, as part of the larger project “Capacity Development for the ASEAN Inter-Parliamentary Assembly (AIPA)”, as well as to the Hanns Seidel Foundation (HSF) in Indonesia for its important logistics and staff support.

It is my fervent wish that this publication will be made available in every library in ASEAN and beyond, to that readers will have a better understanding of the differences and similarities of the various legislatures in ASEAN.

**H.E. Drs. Setya Novanto, Ak.**  
**Speaker of the House of Representatives of Indonesia**

## ACKNOWLEDGEMENT



This publication is meant to provide a useful and relevant reference tool on how laws are made in each ASEAN country and the roles being played by their national parliaments.

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It is my sincere wish that users of this publication will get to gain more knowledge and a better understanding of the dynamics of the legislative processes and procedures of the AIPA member parliaments and the important roles they play in achieving the goals of ASEAN integration.

**Hon. P.O. Ram JP**  
**Secretary General of AIPA**

# CONTENTS

---

1	Introduction .....	1
2	Glossary .....	3
3	Summary.....	5
3.1	Variable Factors in the Legislative Role of AIPA Parliaments.....	5
	Constitutional Framework: Presidential or Parliamentary .....	5
	Composition of the Parliament: One-Party, Multiparty or One Dominant Party .....	7
	The Role of Committees .....	11
3.2	Brunei Darussalam .....	12
3.3	Cambodia .....	12
3.4	Indonesia .....	13
3.5	LAO PDR .....	13
3.6	Malaysia .....	14
3.7	Myanmar.....	14
3.8	Philippines .....	15
3.9	Singapore .....	16
3.10	Thailand.....	16
3.11	Vietnam .....	17
4	BRUNEI DARUSSALAM .....	18
4.1	Political System.....	18
4.2	The Parliament of Brunei.....	18
4.3	Constitutional Basis of Parliament's Legislative Authority .....	19
4.4	Legislative Organs of the Parliament .....	21
	Leadership .....	21
	Committees.....	21
4.5	The Legislative Process.....	21
	Submission of Bills.....	21
	First Reading .....	21

	Second Reading .....	21
	Third Reading .....	22
	Assent by the Sultan .....	22
4.6	Ratification of ASEAN Agreements .....	22
5	CAMBODIA .....	24
5.1	Political System.....	24
5.2	Chambers of the Cambodian Parliament .....	25
5.3	Constitutional Basis of Parliament's Legislative Authority .....	25
5.4	Legislative Organs of the Parliament .....	26
	Leadership .....	26
	Permanent Standing Committee.....	26
	Commissions .....	27
5.5	The Legislative Process .....	27
	Draft Law Initiated by the Government.....	27
	Proposed Law Initiated by National Assembly or Senate .....	27
	Deliberation and Passage of a Bill in the National Assembly .....	28
	Deliberation and Passage of a Bill in the Senate .....	29
5.6	Ratification of ASEAN Agreements .....	29
6	INDONESIA.....	31
6.1	Political System .....	31
6.2	Chambers of the Indonesian Parliament .....	31
6.3	Constitutional Basis of Parliament's Legislative Authority.....	33
6.4	Legislative Organs of the House of Representatives (DPR).....	33
	Leadership of the DPR .....	33
	Steering Committee.....	34
	Commissions .....	34
	Budget Committee.....	35
	Special Committees.....	36
	Sub-Committees .....	36
	Legislation Committee .....	36
6.5	The Legislative Process.....	37

	Overview .....	37
	National Legislative Program (Prolegnas) .....	37
	Government Bills .....	38
	House of Representatives (DPR) Initiative Bill .....	39
6.6	Ratification of ASEAN Agreements .....	40
7	LAO PEOPLE'S DEMOCRATIC REPUBLIC (PDR) .....	42
7.1	Political System .....	42
7.2	The Parliament of Lao PDR.....	42
7.3	Constitutional Basis of Parliament's Legislative Authority.....	42
7.4	Legislative Organs of the Parliament.....	44
	Leadership .....	44
	National Assembly Standing Committee.....	44
	Other Committees.....	44
7.5	The Legislative Process.....	45
7.6	Ratification of ASEAN Agreements.....	46
8	MALAYSIA .....	47
8.1	Political System .....	47
8.2	Chambers of the Malaysian Parliament .....	47
8.3	Constitutional Basis of Parliament's Legislative Authority .....	48
8.4	Legislative Organs of the Parliament.....	48
	Leadership.....	48
	Committees.....	49
8.5	The Legislative Process in the House and Senate .....	51
	Introduction of a Bill .....	51
	Types of Bills .....	51
	First Reading .....	51
	Second Reading .....	51
	Third Reading .....	52
	Referral to the Senate.....	52
	Assent by the King.....	52
8.6	Ratification of ASEAN Agreements .....	52

9	MYANMAR.....	54
9.1	Political System.....	54
9.2	Chambers of the Myanmar Parliament.....	54
9.3	Constitutional Basis of Parliament's Legislative Authority .....	55
9.4	Legislative Organs of the Parliament .....	56
	Leadership .....	56
	Standing Committees .....	56
	Defence and Security Committee .....	57
	Ad Hoc Committees and Commissions .....	57
9.5	The Legislative Process in the House and Senate .....	58
	Union Legislative List.....	58
	Submission of Bills .....	59
	Vetting by the Bill Committee .....	59
	Consideration by the Assembly Chamber .....	60
	Consideration by the Other Chamber .....	61
	Signature by the President .....	61
9.6	Ratification of ASEAN Agreements.....	61
10	PHILIPPINES.....	63
10.1	Political System .....	63
10.2	Chambers of the Philippine Congress.....	63
10.3	Constitutional Basis of Congress's Legislative Authority .....	63
10.4	Legislative Organs of the Philippine Congress .....	64
	Leadership .....	64
	Committees .....	64
10.5	The Legislative Process in the House and the Senate .....	70
	Introduction of a Bill.....	70
	Types of Legislative Measures.....	70
	First reading and Referral to Committee .....	71
	Committee Stage .....	71
	Second Reading .....	72
	Third Reading.....	73

	Consideration by the Other Chamber .....	73
	Return to the Initiating Chamber .....	73
	Bicameral Conference Committee.....	73
	Submission to the President .....	74
10.6	Ratification of ASEAN Agreements .....	74
11	SINGAPORE.....	76
11.1	Political System.....	76
11.2	The Singapore Parliament.....	76
11.3	Constitutional Basis of Parliament's Legislative Authority.....	77
11.4	Legislative Organs of the Parliament .....	78
	Leadership .....	78
	Select Committees.....	78
	Select (Ad Hoc) Committees .....	79
	Government Parliamentary Committees .....	79
11.5	The Legislative Process.....	80
	Submission of Bills.....	80
	First Reading .....	81
	Second Reading.....	81
	Third Reading.....	81
	Scrutiny of Bills by the Presidential Council for Minority Rights. 82	
	Presidential Assent .....	82
11.6	Ratification of ASEAN Agreements.....	82
12	THAILAND.....	84
12.1	Political System.....	84
12.2	Chambers of the Thai Parliament .....	84
12.3	Constitutional Basis of Parliament's Legislative Authority.....	85
12.4	Legislative Organs of the Parliament .....	86
	Leadership .....	86
	Ad Hoc Committees.....	88
12.5	The Legislative Process .....	88
	Submission of Bills.....	88

	Voting Rules.....	89
	First Reading .....	89
	Second Reading.....	89
	Third Reading .....	90
	Referral to the Senate .....	90
	Royal Assent .....	90
12.6	Ratification of ASEAN Agreements .....	91
13	VIETNAM .....	92
13.1	Political System .....	92
13.2	The Parliament of Vietnam .....	92
13.3	Constitutional Basis of Parliament's Legislative Authority .....	92
13.4	Legislative Organs of the Parliament .....	94
	Leadership .....	94
	Standing Committees.....	94
	Ethnic Council .....	95
	Other Standing Committees .....	95
13.5	The Legislative Process.....	96
	Development of the Legislative Program.....	96
	Consideration by the Ethnic Council and Other Committees .....	97
	Consideration by the Standing Committee .....	97
	Consideration and Approval by the National Assembly .....	97
13.6	Ratification of ASEAN Agreements .....	99
14	Conclusion .....	100
15	Bibliography .....	102
15	Author's Biography .....	104





# 1 INTRODUCTION

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This is a report on the legislative processes of the member parliaments of the ASEAN Inter-Parliamentary Assembly (AIPA). The main aim of this publication is to provide a reference tool for members and staff of AIPA parliaments and for members of the public in Association of South East Asian Nations (ASEAN) countries seeking concise information about how laws are made in their own country and in other countries within the ASEAN region. The report highlights the commonalities in parliamentary procedures across the region, the broad differences deriving from the countries' variety of historical background and political situation, while noting that each parliament has added distinctive features related to its own particular application of their adopted system.

Each chapter focuses on one AIPA member parliament and is structured to deal with the following material:

- The structure and composition of each chamber of the parliament.
- The constitutional basis of the parliament's legislative powers.
- The legislative organs of the parliament, including leadership institutions, committees and other bodies with a role in making laws.
- The legislative process, describing the various steps in the procedure and the role of the respective legislative organs.
- The role of the parliament in the ratification of ASEAN agreements and, where information was available, in the monitoring of AIPA resolutions.

The research for this publication investigated a range of sources. One of the most important sources was the rules governing the structure and procedures of each AIPA member parliament. These documents are known by a range of names, such as the Rules of Procedure and (in Westminster-derived parliaments) the Standing Orders. They are the rule books for the operation of parliament and should be consulted by any reader seeking more detailed technical information about how their parliament or other parliaments function. Another major source was the websites of each parliament, some of which are highly developed and provide a great deal of information about parliamentary procedure, while others are more rudimentary but still provide some useful data. Published scholarly material on the details of legislative procedure in AIPA parliaments is not extensive, but it was consulted whenever it became available. A number of scholars with expertise in the field were also contacted personally. A search was made of material produced by international parliamentary organisations such as the Inter-Parliamentary Union (IPU) and the Commonwealth Parliamentary Association (CPA), as well as international organisations such as the United Nations Development Programme (UNDP) and research institutions such as the International Crisis Group (ICG). Local non-government organisations in ASEAN countries provided helpful opinions and critique on parliamentary procedure in their respective legislatures. The final important source of information came from within the AIPA member

Parliaments themselves. The author invested considerable effort in consulting with members and staff of AIPA member parliaments, through email, phone and in-person interviews and informal conversations.

The author would like to thank the many individuals and institutions who contributed time, expertise and other support to this project. First of all, the quality of the information and other assistance provided by the AIPA member parliaments was a crucial determinate of the quality of the material in this publication and special thanks is due to those individuals in the respective parliaments who made contributions. Special gratitude also goes to the staff of the AIPA Secretariat in Jakarta, Secretary General P.O. Ram and his team, who provided contacts within the AIPA parliaments and devoted valuable in-kind and intangible support to the research. The analysis, critique and opinions of many individuals in the scholarly and NGO community is greatly appreciated.

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## 2 GLOSSARY

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Ad hoc committee	Single-purpose temporary committee
AIPA	ASEAN Inter-Parliamentary Assembly
ASEAN	Association of South East Asian Nations
ARMM	Autonomous Region in Muslim Mindanao (Philippines)
Attorney-General	Most senior legal official
Bicameral	Parliament with two chambers
Bill	Draft legislation
BKSAP	Inter-parliamentary Cooperation Committee (Indonesia)
CAB	Committee Affairs Bureau (Philippines)
Clerk	Most senior official in a Westminster parliament
CPV	Communist Party of Vietnam
DPR	House of Representatives (Indonesia)
DPD	House of Regional Representatives (Indonesia)
GPC	Government Parliamentary Committee (Singapore)
IPRSAB	Inter-Parliamentary Relations and Special Affairs Bureau (Philippines)
Lower House	Chamber that forms government and/or initiates legislation
LPRP	Lao People's Revolutionary Party
MPR	Indonesian People's Consultative Council
NCMP	Non-Constituency Member of Parliament (Singapore)
NCPO	National Council for Peace and Order (Thailand)
NLD	National League for Democracy (Myanmar)
NMP	Nominated Member of Parliament (Singapore)
PCMR	Presidential Council for Minority Rights (Singapore)
PDR	People's Democratic Republic (Laos)
PAP	People's Action Party (Singapore)
Prolegnas	National Legislative Program (Indonesia)

Question Time/Hour	Chamber session for MPs to question Ministers
Reading	Stage of discussion on a bill
RRB	Research and Reference Bureau (Philippines)
Standing Committee	Permanent committee
Supply Bill	Draft legislation granting funds to government
Tricameral	Parliament with three chambers
UMNO	United Malays National Organization (Malaysia)
Unicameral	Parliament with one chamber
Upper House	Chamber that reviews legislation
USDP	Union Solidarity and Development Party (Myanmar)
Veto	Head of State's power to decline to sign legislation passed by parliament
Westminster	Parliament modeled on British Parliament
WTO	World Trade Organization

### 3 SUMMARY

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#### 3.1 VARIABLE FACTORS IN THE LEGISLATIVE ROLE OF AIPA PARLIAMENTS

The member parliaments of the ASEAN Inter-Parliamentary Assembly (AIPA) reflect the diversity of the historical, constitutional and political backgrounds of the nations that make up ASEAN. The members of the respective AIPA parliaments are chosen according to a wide variety of different systems, and their functions, structures and operations are shaped by differing political traditions and regimes. Each has its own particular relationship with executive government and their various representatives, including presidents, prime ministers, ministers and monarchs. The balance between the respective roles of the legislative and executive branches in the legislative process varies greatly across the spectrum of constitutions in ASEAN. Therefore, the procedures for reviewing and passing laws in AIPA member parliaments are inevitably very different.

Nevertheless, it is not difficult to identify certain patterns within the diversity of legislative procedures amongst AIPA parliaments. Each parliament represents its own particular mix of a number of common variables, combined with special local interpretations and applications of those variables. These variables derive from traditions of political, constitutional and legal thinking that have been both inherited from colonial and global practice and from local institutions and traditions. These features are not unique to the ASEAN region, because they are found across the parliamentary world, but they are applied in their own special way in the AIPA parliaments.

The variable factors that have shaped the structure of AIPA parliaments and their legislative procedures are detailed below.

#### ***Constitutional Framework: Presidential or Parliamentary***

Broadly speaking, constitutions across the world are conventionally classified as either presidential or parliamentary, or as having features of both systems (usually called “semi-presidential” systems). Political scholars have for decades recognised that different combinations of these two variables, and the way they are applied in practice, are defining characteristics of constitutional systems and have a major impact on the way that countries are governed. One of the most fundamental effects is the subject of this publication: the role of legislatures in the lawmaking process (Shugart and Carey 1992). Different constitutional systems produce different kinds of parliaments and these parliaments are involved in the legislative process in different ways.

The key difference between the presidential and parliamentary systems is the method for selection of the head of government and whether or not the cabinet is responsible to the parliament. Systems where there are two separate elections for the head of government (called the president) and the parliament and a clear separation of powers between the two branches of government are classified as presidential. System where there is one election for the parliament, and the parliament then elects a head of government (usually known as a prime minister or chancellor), who is answerable to the parliament, are classified as parliamentary.

These different arrangements are major determinates of the role of the parliament in lawmaking. It has been observed that the focus of parliaments' work in parliamentary systems is on the review of legislation proposed by executive government, whereas parliaments in presidential systems both review government legislation and initiate their own legislation. Paradoxically, parliaments within a parliamentary system are generally relatively weak in lawmaking terms compared to legislatures in a presidential system. This reality, which may seem confusing at first glance, comes about because a prime minister must control a majority within parliament in order to stay in office, while a president can remain in power even if he/she does not have majority support in the legislature (eg. US Congress). Therefore, a prime minister can routinely expect to have his/her legislation passed in a parliamentary system, while in a presidential system the president may face a hostile parliament opposing the government's program. Thus, parliaments in presidential systems generally have a much greater role in the legislative process than do parliaments in a parliamentary system. Presidential legislatures often draft their own bills, question the policy objectives of government bills and/or propose amendments.

In the case of ASEAN, there is a group of seven countries that can be classified as parliamentary. This is most clearly seen in the examples of Malaysia, Singapore and Brunei, where the influence of the British colonial experience led to the formation of Westminster-style parliaments at the time of independence or, in the case of Brunei, sometime after independence. Parliamentary systems of various kinds have also been constituted in more recent times in the ASEAN member states of Thailand, Cambodia, Vietnam and Laos. The other group of three AIPA member parliaments operate within a presidential system: Philippines, Indonesia and Myanmar.

In the first group of ASEAN member states, the parliament is clearly less influential in the drafting, review and passage of legislation than in the second. In the parliamentary systems of, for example, Brunei, Singapore, Malaysia or Cambodia, the great majority of laws are drafted by the executive and are passed with relatively limited input from the parliament. This is a characteristic of parliamentary systems, especially those in the Westminster tradition, including UK, Australia etc. Conversely, in systems headed by an executive president there is a legislature with its own popular mandate and keen to make an independent

Mark on the content of laws. This is clearly seen in the assertive parliaments of Indonesia and the Philippines, where the legislature and executive often have opposing views on legislation and where a large proportion of bills are drafted within the parliament rather than in government ministries.

The AIPA member parliaments are presented according to their parliamentary or presidential character in the table below.

*Table 1. AIPA Parliaments:  
Parliamentary and Presidential Constitutions*

<b>Parliamentary</b>	Brunei Cambodia Lao PDR Malaysia Singapore Thailand Vietnam
<b>Presidential</b>	Indonesia Myanmar Philippines

Of course, the parliamentary-presidential spectrum is only one of the variables than can determine a parliament's powers. A second key variable is how the parliament is elected and long-term patterns in the elections, factors discussed in the following section.

### ***Composition of the Parliament: One-Party, Multiparty or One Dominant Party***

The second variable within AIPA parliaments, and which has a great effect on the character of parliament's role in legislative procedure, is the rules for selecting the members of the parliament. In ASEAN, this includes: competitive elections in Singapore, Malaysia, Indonesia, Thailand (before 2014), Philippines, Myanmar (since 2010) and Cambodia; one-party elections in Vietnam and Laos; and appointment by the monarch in Brunei.

A parliament within a one-party system or under a ruling monarch is less likely to have a major role in the legislative process because the ruling party or the monarch will always control both the legislative and executive branches of government. In these circumstances, it should be expected that most, if not all, legislative will be drafted within executive government and that members

of parliament will not oppose government legislation on issues of fundamental principle and will never vote against legislation. In systems such as these, for example, in Vietnam and Laos, parliaments are institutions that provide advice to the government on the content and wording of legislation, whereas in multiparty parliaments, such as in Thailand before 2014, much more political debate and critique of government legislation can be anticipated. Another way to make this contrast would be to emphasize that input from parliaments in one-party systems/monarchies tends to be technical and apolitical, whereas in multiparty systems the input is more likely to be political and/or ideological, as well as technical.

Multiparty elections have a big impact on the kind of legislative debate that occurs in parliaments. But scholars of politics have observed that some multiparty elections produce parliaments with a wide range of competing parties, while others seem to be permanently dominated by one party. In AIPA, Indonesia, Philippines and Thailand (before 2014) have highly competitive parliaments, whereas Singapore and Malaysia have had the same ruling party since independence and Cambodia's parliament has been dominated by one party over many elections. The term "one-dominant party system" (Satori 1976) is often used to describe these systems. The term was first used by the political scientist, Duverger (1951), and was commonly applied to India until the mid-1970s where, up until that time, the Congress Party had formed government after every election from independence in 1947 (Kothari 1964). This concept can be used to refine our analysis of the party composition of parliaments.

In terms of the legislative process in parliament, a legislature with one longstanding dominant party has some of the characteristics of a one-party parliament. In these countries, the parliament's input into lawmaking tends to focus on giving technical advice on the content and wording of government bills, and is less involved in partisan political debate and critique of government policies. Naturally, opinions differ on whether this is desirable: one argument is that such parliaments do not waste time on political "point-scoring" and produce laws with better technical quality, while the counter argument is that politicized debate produces laws that are a better reflection of the range of ideas and interests in the nation.

But setting these arguments aside, the fact is that there is a big variety of multiparty parliaments in ASEAN and understanding this fact helps us understand why different AIPA parliaments have different types of involvement in the legislative process. There is a spectrum within the range of one-dominant party parliaments. This ranges from Singapore, where the great majority of seats in parliament have been occupied by one ruling party since independence, through to Malaysia where one party has held a clear majority since independence, but where opposition parties have often been powerful



and frequently criticize and challenge the policies of the government. In both countries, the parliament rarely initiates legislation (partly because they both have parliamentary systems), and the dominance of one party limits the ability of non-government parties to amend bills or influence government policies. But in Singapore the overwhelming dominance of the ruling party means that most discussion on legislation is quite technical and downplays partisan argument, while strong oppositions in the Malaysian parliament have ensured that political debate is usually robust.

Cambodia's parliament is sometimes seen as showing signs of being dominated by one party, but there are prominent opposition parties in that chamber as well. In the case of Myanmar, the elections of 2010 produced a parliament dominated by one party and military representatives, but it is still too early to draw clear conclusions about how the Myanmar parliament will operate in relation to the drafting, review and passage of legislation.

The range of AIPA parliaments on the spectrum from one-party through one-dominant party to multiparty is shown in Table 2 below.

*Table 2. AIPA Parliaments: One-party, One-dominant party & Multiparty composition*

One Party/Ruling Monarch	One Dominant Party	Multiparty
Brunei Vietnam Lao PDR	Cambodia Malaysia Myanmar (since 2010) Singapore	Indonesia Philippines Thailand (before 2014)

Table 3 places the two variables of (1) parliamentary versus presidential systems and (2) party composition together as follows.

*Table 3. AIPA Parliaments: Constitution Frameworks & Party Composition*

	One Party/Ruling Monarch	One Dominant Party	Multiparty
Parliamentary	Brunei Vietnam Lao PDR	Cambodia Malaysia Singapore	Thailand (before 2014)
Presidential		Myanmar (since 2010)	Indonesia Philippines

Table 4 takes five features of possible parliamentary involvement in the legislative process (policy review of government bills; advice and technical input on bills; critique and debate of government bills; development of policy alternatives; and initiation and drafting of bills) and identifies which of the AIPA member parliaments where these activities are likely to take or not. The parliaments are classified according to a combination of the two key characteristics of parliaments that are detailed above: their constitutional identity as presidential or parliamentary; together with their method of composition, whether one party/monarchy, one-dominant party or multiparty.

*Table 4. AIPA Parliaments: Features of parliamentary involvement in the legislative process. By constitutional framework & party composition*

	<b>One party/ruling monarch</b>  <i>Brunei Lao PDR Vietnam</i>	<b>One dominant party</b>  <i>Parliamentary</i>  <i>Cambodia Malaysia Singapore</i>	<b>One dominant party</b>  <i>Presidential</i>  <i>Myanmar (since 2010)</i>	<b>Multiparty Parliamentary</b>  <i>Thailand (before 2014)</i>	<b>Multiparty Presidential</b>  <i>Indonesia Philippines</i>
Policy review of government bills	Rarely	Only if opposition parties have sufficient representation	Occasionally	Mostly by opposition parties	Often
Advice & technical input	Yes	Yes	Yes	Yes	Yes
Critique & debate of government bills	Rarely	Only if opposition parties have sufficient representation	Occasionally	Mostly by opposition parties	Often
Development of policy alternatives	No	Only if opposition parties have sufficient representation	Occasionally	Mostly by opposition parties	Often
Initiation & drafting of bills	No	Rarely	Yes	No	Yes

## ***The Role of Committees***

A third major variable in the involvement of AIPA member parliaments in the legislative process is the role of committees. Committees are a way for parliaments to divide the huge complex work of parliament into manageable size. Committees enable members of parliament to concentrate in policy areas where they have expertise and to develop their specialist skills and knowledge. It should be noted at the outset that parliamentary committees are not only involved in legislative processes, but also play a very important part in the parliamentary function of oversight of executive government policies and their expenditure of public funds. In fact, in parliaments where committees are not greatly involved in lawmaking, the main work of committees is usually in relation to scrutiny of the government and investigating and reporting on policy issues. But in this publication, which is focused on legislative procedures, only the lawmaking role of committees is discussed.

Table 4 above showed that the parliaments with the most prominent role in the legislative process in AIPA parliaments are those with multiparty presidential systems, namely Indonesia and the Philippines. These parliaments not only initiate and draft bills, they frequently propose amendments to government bills. Since drafting bills and amendments is difficult to do in a large plenary session, it is usually delegated to committees. Therefore legislative committees of parliaments in presidential systems are usually very powerful organs which can determine the fate of draft legislation, both in terms of its content and whether it is passed at all.

Conversely, the role of committees in drafting and amending legislation in parliaments in a parliamentary system, especially in the one-party or one-dominant party examples, is more limited. Usually, the legislative procedures in such parliaments formally provide for a committee stage in the lawmaking process, but the basic policy content and wording of the clauses of bills is rarely likely to change in the committee stage. The committee stage can provided an opportunity for public consultation on bills but if, as is usually the case, the bill has been drafted within a government ministry, most consultation would have been completed during the ministry's own drafting process.

There is, of course, some variation in the legislative role of committees amongst the ASEAN countries with a parliamentary system. In the case of Vietnam, parliamentary committees are involved in the development of the legislative program before draft bills are submitted to the parliament. In Thailand before 2014, committee meetings were a place where a lot of substantive debate took place between government and non-government parties. In Malaysia, Singapore and Brunei, the committee stage on bills frequently takes place in the form of a Committee of the Whole House which is effectively the same as a plenary session because it involves all members and takes place in the main chamber. In these parliaments there are no standing legislative committees

on particular areas of policy and “select” or ad hoc committees are rarely constituted. In Cambodia, the Permanent Standing Committee has a deciding role over the legislative input of the sectoral standing Commissions.

The following sections (3.2. to 3.11) provide a summary of the legislative procedures in each of the AIPA member parliaments. Chapters 4 to 13 describe the systems in more detail.

## **3.2 BRUNEI DARUSSALAM**

Brunei is a monarchy with a ruling monarch who both exercises executive power and is the head of state. It has a unicameral legislature, the Legislative Council of Brunei, which is appointed by His Majesty the Sultan. The Council is empowered to pass legislation, except in certain areas where it must receive the prior approval of the Sultan. Bills pass through three Readings. In the First Reading, the bill is presented to the chamber without debate. In the Second Reading the details of the bill are discussed and may be referred to a select committee for further consideration or may be deliberated in a Committee of the Whole House, after which the bill is either accepted or rejected. On acceptance, the bill is presented to the chamber in a Third Reading and a motion passed that it be referred to His Majesty the Sultan for his assent and for the bill to become law. Bills are drafted by the government and mostly deliberated in plenary session or in a Committee of the Whole House, although they can be referred to a select committee. There is not a specialist committee for ASEAN or AIPA matters.

## **3.3 CAMBODIA**

Cambodia is a constitutional monarchy, with a King who is the titular head of state. The country has a parliamentary system of government, in which the parliament elects a Prime Minister who exercises executive power as head of government. There is a bicameral parliament, with an elected National Assembly and an appointed and non-universal elected Senate. The most powerful body in the Assembly is the Permanent Standing Committee and there are nine sectoral Commissions covering different policy areas. The National Assembly does not have a committee specifically tasked to deal with ASEAN or AIPA matters, which are the responsibility of the Commission on Foreign Affairs and International Cooperation, Information and Media.

Bills are mostly drafted by executive government and are submitted to the President of the National Assembly. Bills are considered first by the Permanent Standing Committee which decides which Commission will take responsibility for the bill. The Commission submits its report to the National Assembly, which discusses the bill before voting to accept or reject the bill. If accepted, the bill passes to the Senate which reviews the legislation and either accepts, rejects

or proposes amendments to the bill. Any differences between the two chambers must be resolved within a period of one month, after which the completed legislation is passed to the King whose decree makes the bill become law.

### **3.4 INDONESIA**

Indonesia is a republic with an elected President who is both head of state and exercises power as the head of executive government. There are three chambers with a role in the legislative process: the House of Representatives (DPR), which is the principal legislative chamber, the House of Regional Representatives (DPD) which can submit, but not pass, bills on matters related to the country's regions, and the People's Consultative Council (MPR) whose sole legislative power is to amend the constitution. Nevertheless Indonesia can be regarded as having a unicameral parliament because only the DPR has the power to pass legislation into law. The constitution states that the DPR holds legislative power, but that there must be joint agreement between the DPR and the President for legislation to become law. The most important legislative organs are the standing sectoral Commissions of the DPR, but bills can also be deliberated in ad hoc Special Committees. The Indonesian parliament does not have a dedicated committee to deal with ASEAN and AIPA matters, which are the responsibility of Commission I on foreign affairs and the Inter-parliamentary Cooperation Committee (BKSAP).

The majority of bills are drafted by executive government ministries, but an increasing number of bills are being initiated and drafted in the DPR. A National Legislative Program lists the planned bills for the coming five-year and one-year periods and allots responsibility for drafting to either the government or the DPR. Government bills are submitted to the plenary by the President, while DPR bills are submitted by a member, a Commission or the DPR Legislation Council. A bill is referred to a Commission or a Special Committee to deliberate on the content of the law in a joint process of discussion between government and DPR representatives. After the Commission or Special Committee completes the bill, it is submitted to a plenary session for the formalities of final acceptance by the DPR. The bill is then sent to the President for his/her signature. The President does not have power of veto because the bill becomes law after thirty days if the President does not sign it.

### **3.5 LAO PDR**

The Lao People's Democratic Republic is a republic under the constitutional rule of the Lao People's Revolutionary Party (LPRP), with a President who is both head of government and head of state. It has a unicameral one-party National Assembly and has a parliamentary form of government to the extent that the President is formally elected by the National Assembly. The most powerful body

in the parliament is the National Assembly Standing Committee and there are six sectoral standing committees with responsibility for various policy areas. The National Assembly does not have a dedicated committee to deal with ASEAN and AIPA matters, which are the responsibility of the Foreign Affairs Committee. Legislation can be proposed by executive government agencies, by parliament, and a range of government-supported popular organisations. Proposed bills are submitted to the Ministry of Justice who reviews drafts and is responsible for referring bills to the National Assembly after they have been approved by Cabinet. After submission to parliament, bills are considered by the relevant standing committee and then the Standing Committee before being presented to a plenary for final approval. Upon acceptance by a plenary session of the Assembly, a bill becomes law.

### **3.6 MALAYSIA**

Malaysia is a constitutional monarchy with a King who is the ceremonial head of state and a parliamentary system of government headed by a Prime Minister who is the executive head of government. There are two chambers in the Parliament: an elected House of Representatives and a Senate with members appointed by the government of the states and the King. There are five standing committees in the House and four in the Senate, mostly empowered to deal with the internal procedures of the parliament and with oversight of executive government policies and expenditure of public funds. There are no standing committees on sectoral policy issues. The Parliament does not have a specific committee to deal with ASEAN and AIPA matters.

Almost all legislation is initiated by executive government, but there is the facility for Private Bills introduced by individual members. Bills pass through three Readings. In the First Reading, the bill is presented to the chamber without debate. In the Second Reading the details of the bill are either deliberated in a Committee of the Whole House or may be referred to a select committee for further consideration, after which the bill is either accepted or rejected. Most debate on a bill occurs at this stage. On acceptance, the bill is presented to the chamber in a Third Reading and a motion passed that it be referred to the Senate. The Senate conducts a similar process of three Readings. After both Houses have agreed to a bill it is passed to the King for his assent and for the bill to become law.

### **3.7 MYANMAR**

The Union of Myanmar is a republic with a presidential system of government where the President is both head of state and head of executive government. The President is chosen by an electoral college composed of committees from the country's national and district legislatures, but the President is not

responsible to parliament. Myanmar has a bicameral legislature composed of the People's Assembly with 330 elected members and 110 members from the armed forces, and the Nationalities Assembly with 168 elected members and 56 members from the armed forces. The two chambers periodically meet jointly as the Union Assembly. There are four standing committees dealing with oversight of executive government, internal parliamentary affairs and the development of legislation. Ad hoc committees are also created for legislative purposes, as well as Commissions that include selected members of the public. The Assembly does not have a committee specifically tasked to deal with ASEAN and AIPA matters, but the growing involvement of the parliament in legislation suggests that it may have a significant input into the ratification of ASEAN agreements in the future. To date, more bills have come from executive government rather than lawmakers, but a number of bills have been initiated from within the parliament. The legislative process begins with consideration by the Bill Committee which reviews the content and wording of the bill, before it is presented to the Assembly for amendment, acceptance or rejection. A bill must pass both chambers before it can be submitted to the President for his/her signature. The President does not have the power of veto.

### **3.8 PHILIPPINES**

The Philippines is a republic with a presidential form of government where the directly elected President is both the head of state and the head of executive government. The chambers of the bicameral Congress of the Philippines are the House of Representatives and the Senate. The 289 members (16<sup>th</sup> Congress) of the House are elected by proportional representation and party list, while the 24 Senators are elected from a single national constituency. There is a large number of standing committees in both chambers, dealing with legislation, oversight, and internal parliamentary matters. However, there is not a committee with specific responsibility for ASEAN or AIPA matters, which are presently dealt with by the Committee on Foreign Relations.

Bills are filed by the members of Congress. A bill passes through the stages of three Readings. The bill is introduced without debate on First Reading, after which it is referred to a committee. The committee stage is a critical part of the process where most of the policy work and political negotiation happen. The bill is then referred to the plenary for Second Reading, where further debate on amendments may occur. Once the draft has been passed on Second Reading, it shall then be voted upon on - Third Reading, where the final formality of agreement is completed. Bills must be accepted by both chambers in order to become law. If there is a difference between the two chambers, the bill is considered in a Bicameral Conference Committee before the final bicameral report is again voted upon separately by each chamber of Congress. The final version is then submitted to the President for signature. The President's veto extends only up to thirty days, after which a bill automatically becomes law.

### **3.9 SINGAPORE**

Singapore is a republic with a parliamentary system of government. The Prime Minister is elected by, and responsible to, the parliament and is the head of executive government. The ceremonial head of state is the President. The Parliament of Singapore is unicameral and composed of mostly elected members, together with some members without constituencies and some members nominated by government. There are seven standing committees dealing with oversight of executive government and internal parliamentary affairs. Select committees can be established to deal with legislative and other matters, but most legislation is dealt with in the plenary in the form of a Committee of the Whole Parliament. There are also Government Parliamentary Committees composed of members of the ruling party to increase parliamentary scrutiny of bills. ASEAN and AIPA matters can be taken up by members of parliament because the Parliament does not have a committee with this specific responsibility.

Almost all bills are drafted by executive government. The legislative process consists of the stages of three Readings. A bill is introduced without debate in the First Reading. The bill is then debated in the Second Reading, after which it proceeds to the committee stage where a select committee can be selected or, more often, it is considered by all members sitting as a Committee of the Whole Parliament. The bill is then voted on before being referred to the Third Reading, which is the final formality before the bill is agreed to by the Parliament. Most bills are then referred to the Presidential Council for Minority Rights to ensure that the bill is not discriminatory against any community. The bill has to be assented to before being gazetted in the Government Gazette to become law.

### **3.10 THAILAND**

Thailand is a constitutional monarchy with the reigning King as head of state. According to the 2007 Constitution (which is under review) the country has a parliamentary system with a Prime Minister as the head of executive government. The bicameral parliament is known as the National Assembly, composed of the 500-member House of Representative elected through a mixture of single member constituencies and proportional representation and the 150-member non-party Senate. There is a large number of committees in both houses, dealing with oversight of executive government, internal parliamentary affairs and legislation. Ad hoc committees can also be formed to deal with legislation. The Assembly does not have a specific committee with responsibility for ASEAN or AIPA matters.

Bills can be submitted by the government, by 20 members of parliament or, in certain circumstances, by a court or by 10,000 voters. The legislative



process passes through the stages of three Readings. A bill is introduced into parliament without debate in a First Reading. During the Second Reading the bill is considered in more detail and proceeds to the committee stage where it is examined by a standing or a select (ad hoc) committee or is debated by all members sitting as a Committee of the Whole House. A vote is then taken to amend, accept or reject the bill. If the bill has been accepted it is scheduled for a Third Reading where the final formal acceptance takes place. A bill must be accepted by both houses to become law. If there is a difference between the two houses, a bill is referred to a joint committee for resolution. The completed bill is submitted to the King for his assent, after which it becomes law. If the King returns the bill, it can become law only if two-thirds of a joint session of the National Assembly agrees to support it.

### **3.11 VIETNAM**

The Socialist Republic of Vietnam is under the constitutional rule of the Communist Party of Vietnam. The head of state is the President selected by the parliament and responsible for representing the country internationally, while the Prime Minister is the head of executive government and also selected by the parliament. The unicameral National Assembly is composed of 458 members of the Communist Party and 42 independents. The most powerful committee is the Standing Committee of the National Assembly which guides the work of the parliament. There is also an Ethnic Council and nine standing committees on sectoral policy issues. The Assembly does not have a committee with specific responsibility for ASEAN and AIPA matters, which are handled by the Committee on Foreign Affairs.

The legislative process begins with the development of the legislative program, in which representatives of the National Assembly, executive government, courts and a range of state-sponsored popular organisations can submit proposals for legislation. The proposals are reviewed by the relevant committees of the Assembly and referred to the Standing Committee which finalizes the program, which in turn is formally adopted by the National Assembly. A draft bill based on the proposals in the legislative program is first reviewed by committees such as the Ethnic Council and Legal Committee and then by the Standing Committee. The Standing Committee submits the bill to the National Assembly for its consideration through a number of stages. The bill is introduced and explained by the committee that reviewed the bill and time is provided for group discussions amongst Assembly members about the details of the draft legislation. The key stage is deliberations in an Assembly plenary session, which can include discussions with representatives of government ministries or other institutions supporting the bill. The Assembly will either pass the bill or submit a revised bill for reconsideration by the Standing Committee or other relevant committees. Once a final draft is agreed upon by the Assembly it is submitted to the President for his/her signature.

## **4 BRUNEI DARUSSALAM**

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### **4.1 POLITICAL SYSTEM**

Brunei Darussalam is a monarchy with a ruling monarch who both exercises executive power and is the head of state. It is ruled by the Sultan and Yang Di-Pertuan of Brunei Darussalam, His Majesty Paduka Seri Baginda Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah, who is both the Head of State and the Prime Minister. His Majesty is the 29<sup>th</sup> Sultan in one of the oldest continuous hereditary royal lines in the world.

Brunei achieved internal self-government from Britain in 1959, with the then Sultan assuming executive authority and the country's foreign relations remaining under Britain's control. In 1984 Brunei gained full independence and the system of government was restructured into a formal ministerial system with the Sultan as Prime Minister. The Sultan also serves as Minister of Defense and Minister of Finance. He is advised by, and presides over, four policy councils: the Council of Cabinet Ministers, the Legislative Council, the Privy Council and the Religious Council. The Sultan appoints the members of each of these Councils. In 2004 the Sultan reconvened the Brunei Legislative Council.

### **4.2 THE PARLIAMENT OF BRUNEI**

Brunei Darussalam has a unicameral legislature, the Legislative Council of Brunei Darussalam. The Council composed of 33 full members, consists of 14 ex-officio, 19 appointed, the Speaker and the Clerk. All members are appointed by His Majesty the Sultan of Brunei and can be removed from their positions seats at the discretion of His Majesty the Sultan. Members include His Majesty the Sultan himself and twelve Ministers from executive government. Other members are designated to be Distinguished Bruneians, and Head Men from different centres in the Sultanate. The chamber is non-partisan and members do not represent political parties.

For reasons that reflect Brunei's history before independence, the parliament's structure and operation sit broadly within the traditions of Westminster parliaments. This applies to the rules of procedure or standing orders that govern the workings of the Council, the structure of the committee system and the processes for reviewing and deliberating legislation. While being influenced by Westminster procedures, the parliament of Brunei has, of course, developed in its own particular modes of operation that reflect the country's own traditions and the decisions made by its leaders since independence.



*Legislative Council of Brunei Darussalam in session*

#### **4.3 CONSTITUTIONAL BASIS OF PARLIAMENT'S LEGISLATIVE AUTHORITY**

According to Article 39 of the Constitution, His Majesty the Sultan has the power to make laws, and Article 40 empowers members of the Legislative Council to introduce draft laws (bills) into the Council. Article 42 specifies that members of the Council may not, without the prior approval of His Majesty the Sultan, propose legislation in the following categories:

- Relating to the issue of Bank Notes or the establishment of any Bank Association or the amendment of the constitution thereof;
- That appears inconsistent with obligations imposed upon His Majesty the Sultan by Treaty or Agreement with another power or State;
- Relating to questions of defense or public security;
- That may have the effect of lowering or adversely affect directly or indirectly the rights, position, discretion, powers, privileges, sovereignty or prerogatives of His Majesty the Sultan, his Successors, His Consort or other members of the Royal Family;
- That may have the effect of lowering or adversely affect directly or indirectly the standing or prominence of the National Philosophy of Malay Islamic Monarchy;

- Which would provide for or directly or indirectly affect the finances or currency of Brunei Darussalam;
- Which would provide for or directly or indirectly affect the compounding or remitting of any debt due to Brunei Darussalam;
- Which would provide for or directly or indirectly affect the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition of any such charge;
- Which would provide for or directly or indirectly affect the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any alteration in any such payment, issue or withdrawal otherwise than by reducing it;
- Which would provide for or directly or indirectly affect the receipt of moneys on account of the Consolidated Fund or the custody or issue of such moneys, or the audit of the accounts of Brunei Darussalam;
- Which would provide for or directly or indirectly affect the borrowing of money, or the giving of any guarantee by Brunei Darussalam, or the amendment of the law relating to the financial obligations of Brunei Darussalam; or
- Which would provide for or directly or indirectly affect the assignment of any tax or fee.

Article 45 provides that a bill must receive the ascent of His Majesty the Sultan to become law and that His Majesty the Sultan may amend a bill as he sees fit, without reference back to the Legislative Council.



*Consultation meeting between Members of Brunei Parliament and officials from an executive government ministry*

## **4.4 LEGISLATIVE ORGANS OF THE PARLIAMENT**

### ***Leadership***

The Legislative Council is led by a Speaker and Deputy Speakers appointed by His Majesty the Sultan.

### ***Committees***

The Council may form itself into a Committee of the Whole Council to review, debate, amend and pass bills, or it may form Select Committees to conduct such deliberations and to report to the Council.

## **4.5 THE LEGISLATIVE PROCESS**

### ***Submission of Bills***

Bills are submitted by His Majesty the Sultan or by Members of the Legislative Council, except in those areas mentioned in Article 42 (discussed above), where the prior approval of His Majesty the Sultan is required.

The legislative process follows the general practice in Westminster-derived parliaments, with a bill passing through the stages of three “readings”. The passage of the bill through each reading is decided by a vote on the voices, gathered by the Speaker.

### ***First Reading***

In the First Reading, the bill is introduced into the Council by the Member moving its introduction who reads the long title of the bill, upon which it is deemed to have been read a first time. The First Reading is a formality and no debate on the bill takes place. After the bill has been read for the first time, the Member moving its introduction into the Council gives notice of the day on which the bill will be moved for a second reading.

### ***Second Reading***

The bill is then scheduled for its Second Reading. When a motion for a Second Reading is made and seconded, the Speaker proposes the question, “That this bill be now read a second time”. Any debate on this motion can only be taken on the general merits and principles of the bill. If the motion is assented

to, the bill is either debated by the Committee of the Whole Council or is referred to a Select Committee.

The Committee of the Whole Council is composed of every member of the Legislative Council, formed when the Council resolves to form itself into such a committee. The Committee of the Whole Council deliberates on the bill clause by clause. Members may move amendments to the bill, or may ask for information about any part of the bill or proposed amendment. If a bill is referred to a Select Committee, made up of a certain number of members of the Council, debate on the bill takes place in the committee in the same way. Upon the completion of debate in a Select Committee, including on any amendments, the Committee provides a report to the Council, presented by the Chairman of the Committee. When the Council resolves to accept the report of the Selection Committee, the bill is ready to proceed to the Third Reading.

### ***Third Reading***

The bill then goes through a Third Reading, where the Member in charge of the bill moves that the bill be read and accepted or gives notice of a day on which such a motion will be moved. When the motion has been accepted, the Clerk of the Council will record that the bill has been passed and will pass it to the Speaker for referral to His Majesty the Sultan for his assent.

### ***Assent by the Sultan***

All bills passed by the Legislative Council must receive the assent of His Majesty the Sultan before becoming law. When a bill has been passed and assented to by His Majesty the Sultan it will be published in the government Gazette.

## **4.6 RATIFICATION OF ASEAN AGREEMENTS**

According to constitutional arrangements in Brunei, the power to negotiate and conclude international treaties, conventions and agreements, including ASEAN Agreements, is vested in executive government. Parliament has a role only if the government decides that a particular agreement requires legislation in order to be implemented. Responsibility for dealing with ASEAN resolutions sits with the Ministry of Foreign Affairs. Once the processes in executive government are complete, the agreement is regarded as ratified. Any necessary legislation is drafted in the relevant Ministry and submitted to parliament for passage into law.

Parliament is not directly involved in the drafting or ratification of ASEAN Agreements because it is the responsibility of the executive. The passage through parliament of any legislation necessary to implement ASEAN Agreements follows the same procedure described above. The draft legislation passes through the stages of three Readings in plenary sessions of the two chambers. There is no committee specifically tasked with the review of ASEAN Agreements or with international treaties and agreements generally. Deliberations on ASEAN agreements take place in plenary sessions of parliament rather than in committee.

Parliament can monitor implementation of agreements through the mechanisms that apply to general parliamentary oversight of executive government. These derive from the constitutional provision for ministerial responsibility to parliament, which is a key feature of the Westminster tradition. Therefore the involvement of the parliament in the monitoring and implementation of ASEAN and AIPA agreements takes place as part of parliamentary procedures that are used for other national and international affairs. There are no purpose-built specialized procedures for this area of policy.



## 5 CAMBODIA

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### 5.1 POLITICAL SYSTEM

Cambodia is a constitutional monarchy. The King, Norodom Sihamoni, is the Head of State but does not exercise executive power. The country has a parliamentary system of government, with the Prime Minister appointed by the King from the representatives of the party holding the majority in the National Assembly. Cambodia is divided into 24 provinces plus the municipality of Phnom Penh, the capital city.

Cambodia achieved its independence from France in 1953 and was governed by a succession of regimes after that time. The current political system dates from a United Nations brokered agreement amongst Cambodian political groupings in 1991 which led to the first National Assembly elections of 1993. A new constitution was promulgated on 24 September 1993, transforming Cambodia into a constitutional monarchy. Multiparty elections have taken place every five years since that time, the most recent being in 2013.



*Plenary session of the National Assembly of Cambodia*



## **5.2 CHAMBERS OF THE CAMBODIAN PARLIAMENT**

There are two legislative chambers in Cambodia.

- National Assembly, which is the principal legislative chamber. The Assembly is composed of 123 elected members elected every five years from 24 provinces and municipalities. The Senate, which also has a five year term, is made up of 61 members of whom two are appointed by the King, two are appointed by the National Assembly, and the remainder?
- Senate, a second chamber which usually acts as a house of review for legislation passed by the National Assembly. Senators also have the power to propose legislation. The Senate is half the size of the National Assembly and has a term of six years (currently 61 Senators). Two Senators are appointed by the King, two Senators nominated by the National Assembly and the other Senators are elected by commune councilors through “non-universal election”. (Constitution: Art 100)

## **5.3 CONSTITUTIONAL BASIS OF PARLIAMENT’S LEGISLATIVE AUTHORITY**

Article 90 of the Constitution grants legislative power to the National Assembly as follows:

- The Assembly shall be the organ to hold legislative power which shall fulfil its function as stipulated in the Constitution and laws in force.
- The Assembly shall approve the national budget, State Planning, Loans, Lendings, financial commitments, and the creation, changes or annulment of tax.
- The Assembly shall approve Administrative Accounts.
- The Assembly shall approve laws on amnesty.
- The Assembly shall approve or annul treaties or international conventions.
- The Assembly shall approve laws on the declaration of war.
- The adoption of the above-mentioned clauses shall be decided by a simple majority of the entire assembly members.

Article 99 states simply that the Senate is an “organ to hold legislative power which shall fulfil its function as stipulated in the Constitution and laws in force”. The Constitution does not specify the legislative powers of the Senate in the same as it does for the National Assembly.

The right to initiate legislation is provided in Article 91:

Senate members, deputies of the National Assembly and the Prime Minister shall have the right to initiate legislation. The deputies shall have the right to propose

any amendment to the law(s), but, the proposal(s) shall not be unacceptable if they aim at reducing public income or increasing the burden on the people.

## **5.4 LEGISLATIVE ORGANS OF THE PARLIAMENT**

### ***Leadership***

The National Assembly is led by a President, First Vice President and a Second Vice President.

The Senate is led by a President, First Vice President and Second Vice President.

### ***Permanent Standing Committee***

The National Assembly and the Senate each has its own Permanent Standing Committee with the overall directive role in their respective chambers, including preparing the agenda for sessions, arranging the work of their chambers between sessions, managing the chambers' budgets and the remuneration and discipline of deputies. Their legislative role is to consider proposed laws, to decide whether the proposal will be considered by the Assembly or the Senate respectively and to pass them to the appropriate Commission for consideration. The Permanent Standing Committee in the National Assembly consists of the President of the Assembly, the Vice-Presidents and all the Chairpersons of the National Assembly Commissions. The Committee in the Senate consists of President of the Senate, the Vice-Presidents and all the Chairpersons of the Senate Commissions.



*A special plenary meeting of the Permanent Standing Committee of the National Assembly*

## **Commissions**

The Commissions are the main working committees of the National Assembly. There are nine specialist Commissions covering different policy areas. They are composed of members with expertise or interest in a particular policy subject. The legislative powers of the Commissions are to consider draft legislation relevant to their policy and provide expert advice to the rest of the National Assembly. Commissions consist of at least seven members and have a Chairperson, Vice-Chairperson and Secretary.

The Commissions are:

- Human Rights, Complaints and Investigations and National Assembly-Senate Relations
- Economics, Finance, Banking and Auditing
- Planning, Investment, Agriculture, Rural Development, Environment and Water Resources
- Interior, National Defense and Civil Service Administration
- Foreign Affairs, International Cooperation, Information and Media
- Legislation and Justice
- Education, Youth, Sport, Religious Affairs, Culture and Tourism
- Public Health, Social Work, Veterans, Youth, Rehabilitation, Labour, Vocational Training and Women's Affairs
- Public Works, Transport, Telecommunication, Post, Industry, Mines, Energy, Commerce, Land Management, Urban Planning and Construction
- Investigation and Anti-Corruption

## **5.5 THE LEGISLATIVE PROCESS**

Draft and proposed legislation can be proposed by the National Assembly, the Senate or the Government.

### ***Draft Law Initiated by the Government***

The Prime Minister submits a proposal to the President of the National Assembly, accompanied by a letter requesting the National Assembly to adopt the draft law, the text of draft law and explanatory notes signed by the Prime Minister.

### ***Proposed Law Initiated by National Assembly or Senate***

Members of the National Assembly or Senators submit a proposal to the President of the National Assembly, accompanied by a letter requesting the National Assembly to adopt the proposed law, the text of proposed law and explanatory notes signed by the members of the National Assembly or the Senators.

### ***Deliberation and Passage of a Bill in the National Assembly***

The President of the Assembly refers a proposed law to the Permanent Standing Committee and places the draft on the agenda of the Committee. The Committee session considers the proposed law and refers the text to the appropriate specialist Commission for consideration and study.

A meeting of the relevant Commission considers the proposals and text of the draft or proposed law. This will include meetings with representatives of the Government or representatives who have drawn up the draft or proposed law for consideration, study and adoption. The Commission reports on the results of the review of the text and submits it to the President of the Permanent Standing Committee.



*Commission of the Cambodian National Assembly discussing draft legislation with representatives of their counterpart ministry in executive government*

The Standing Committee meets to review the text and decides whether or not to include the draft or proposed law into the agenda of a Plenary Session of the National Assembly. The Committee schedules a time in the Assembly's agenda for deliberation on the draft or proposal.

The National Assembly approves the inclusion of the draft or proposed law into the agenda, and the Chairperson of the specialist Commission reports the results of their work to the National Assembly session. Representatives of the Government or representatives of the signatory National Assembly members or Senators and the chairperson of the Commission collaborate to defend the proposed law. The National Assembly debates and adopts or rejects the draft or proposed law.

### ***Deliberation and Passage of a Bill in the Senate***

The draft or proposed law adopted by the National Assembly is forwarded to the Senate for review and comments.

The Senate conducts reviews and makes comments on the draft or proposed law and on any other issues transmitted by the National Assembly within a period of no later than one month. In urgent cases, this period shall be reduced to only five days.

If the Senate approves or does not make any recommendations within the period specified above, the proposed law adopted by the National Assembly will be promulgated. If the Senate requests changes to the proposed law, the National Assembly shall immediately consider the proposed law for the second time by reviewing and adopting the provisions or main points that the Senate has requested rectification.

The shuttle process between the Senate and the National Assembly should be carried out within a period of only one month. This period is reduced to ten days if the proposed law deals with the national budget and finance and to two days in urgent cases. If the National Assembly takes longer than the specified period or extends the specified period for review, the period for both the National Assembly and the Senate is equally extended.

If the Senate rejects the draft or proposed law, the National Assembly may not consider it for a second time within one month's time. This period shall be reduced to 15 days if the proposed law deals with the national budget and finance and four days in urgent cases.

Once agreement has been reached between both chambers, the President of the National Assembly delivers the proposed law to the King. The King signs a Royal Decree by which the draft becomes law.

## **5.6 RATIFICATION OF ASEAN AGREEMENTS**

Cambodia's constitution creates a parliamentary system, and it is common in such systems for the executive branch of government to have a more prominent role in the process of drafting and ratifying international agreements, treaties and conventions than that of the legislature. Because the government must hold a majority in parliament in order to stay in office, it is usually able to rely on this majority to support the passage of ASEAN agreements through the two chambers of parliament. The key decisions therefore tend to be made in the responsible executive ministry, the Ministry of Foreign Affairs, with parliament's role in the process being one of review. The fact that an ASEAN agreement is being passed through the parliament also provides an opportunity for public discussion.

As mentioned above, Section 90 of the Constitution formally empowers the parliament to approve or annul treaties or international conventions. ASEAN agreements are drafted in the Ministry of Foreign Affairs and submit the agreement to the National Assembly for approval.

The process for review and approval of ASEAN agreements follows a similar series of steps to those for the legislation, described above. After receipt of the draft agreement from the government, the President of the National Assembly convenes a meeting of the Standing Committee to consider the agreement and refer it to the Commission on Foreign Affairs, International Cooperation, Information, and Media and the Commission on Legislation and Justice. The Commission then discusses the draft, including in meetings with Ministry representatives. Following these deliberations, the Commission submits a report to the President of the Standing Committee. The Standing Committee considers the report of the Commission and places the draft on to the agenda of a National Assembly session for the final step of adoption of the National Assembly in ratification.

The National Assembly does not have a committee specifically tasked to monitor the implementation of ASEAN agreements. Oversight of the implementation of ASEAN agreements will normally take place in the Commission with responsibility for the particular policy issue covered by the agreement. For example, an agreement such as the ASEAN Agreement on Trans-boundary Haze Pollution would be overseen by the Commission on Planning, Investment, Agriculture, Rural Development, Environment and Water Resources, Interior, National Defense and Civil Service Administration.

## **6. INDONESIA**

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### **6.1 POLITICAL SYSTEM**

Indonesia is a republic with a presidential system of government. The President is both head of state and exercises executive power as the head of government. The President is elected by popular election to a fixed five- year term and appoints a Cabinet of ministers of his/her own choosing. Legislative power is exercised by the parliament which is elected by popular vote every five years, in the same year as the presidential election. There is a distinct separation of powers between the executive and legislative branches of government and the parliament acts as a powerful check and balance on the powers of the President and is initiating an increasing volume of legislation.

The Republic of Indonesia declared its independence from the Netherlands in 1945 and gained full effective control of government in 1949. After a short period of parliamentary government, a presidential system was imposed in 1959 by the country's first president and independence leader, Sukarno. The country was under the authoritarian rule of President Suharto from 1965 until 1998. The current political system dates from the elections of 1999. Constitutional reforms from 1999 to 2002 provided for increased legislative and oversight powers to the parliament and direct popular election of the president, thus creating a clearer separation of powers between the executive and legislative branches of government. Multiparty elections have been held every five years since 1999, the most recent parliamentary and presidential elections being held in 2014, with President Joko Widodo taking office in October 2014.

### **6.2 CHAMBERS OF THE INDONESIAN PARLIAMENT**

There are three chambers with a role in the legislative process.

- House of Representatives (Dewan Perwakilan Rakyat – DPR). The DPR is the principal legislative chamber, through which all bills must pass in order to become law. The DPR has the power to initiate draft laws, along with the President of Indonesia and, in certain policy areas, the House of Regional Representatives (DPD) (see below). It is directly elected every five years and has 560 members, elected on a proportional representation system from multi-member electoral districts.
- House of Regional Representatives (Dewan Perwakilan Daerah – DPD). The DPD is sometimes described as Indonesia's "Senate", but it is not an "upper house" in a conventional sense because it does not have the power to pass, reject or amend draft legislation passed by the



DPR. Its powers are advisory. Its legislative powers are to draft bills related to regional autonomy; central and regional relations; formation, enlargement and merger of regions; management of natural resources and other economic resources; and financial balance between the centre and regions. It also has the power to give advice on bills drafted by the DPR or the President in those aforementioned policy areas. The DPD is directly elected and has 132 members, four from each province.

- People's Consultative Council (Majelis Permusyawaratan Rakyat – MPR). Before the amendments to the Constitution that took place from 1999 to 2002, the MPR had the power to draft broad legislative guidelines, but today its sole legislative role is the power to amend the Constitution. The MPR is composed of the members of the other two Houses (DPR and DPD) sitting together as a single assembly.

Although there are three chambers with a function related to legislation, Indonesia should be considered as having a unicameral parliament because there is only one chamber, the House of Representatives, which has the power to pass, amend or reject legislation.



*Plenary session of the Indonesian House of Representatives (DPR)*





*Plenary session of the Indonesian House of Regional Representatives (DPD)*

### **6.3 CONSTITUTIONAL BASIS OF PARLIAMENT'S LEGISLATIVE AUTHORITY**

Article 20(1) of the Constitution of the Republic of Indonesia stated that the House of Representatives (DPR) has the power to make laws. Article 20(2) elaborates that all draft legislation must be agreed to by both the House of Representatives and the President in order to become law.

Article 22 (D) grants the House of Regional Representatives (DPD) the power to propose legislation on the policy areas mentioned above and to participate in the deliberation of bills in those areas initiated by the House of Representatives.

Article 3(1) grants the MPR the power to amend the Constitution.

### **6.4 LEGISLATIVE ORGANS OF THE HOUSE OF REPRESENTATIVES (DPR)**

#### ***Leadership of the DPR***

The presiding officers of the House of Representatives are collectively called the Leadership of the DPR, namely the Speaker and four Vice Speakers. The Speaker or a Vice Speaker presides over plenary sessions of the DPR, including the sessions deliberating legislation.

## ***Steering Committee***

The Steering Committee of the House of Representatives is composed of one-tenth of the number of House members, in proportion to the size of each political party caucus. Its legislative role is to determine the agenda for each annual and individual session of the chamber, including the agenda for deliberation on legislation by the plenary. The Committee decides which House of Representatives organ is to be responsible for deliberations on particular bills and liaises with other organs of the DPR regarding the scheduling of deliberations on legislation. It is sometimes referred to as a 'mini- DPR' because it reflects the party political composition of the whole parliament and is chaired and led by the Leadership of the House.

## ***Commissions***

There are eleven standing committees in the DPR, known as Commissions, which cover the full range of government policy areas. The Commissions are the principal working bodies of the parliament and are the organs which conduct, or delegate and oversee the conduct of, most deliberation on legislation. The drafts of legislation produced by Commissions (or by Special Committees, as described below) are passed to the Plenary for final approval.

The Commissions are as follows:

- |                 |  |
|-----------------|--|
| Commission I    | Foreign Affairs, Defense, Information, Intelligence  |
| Commission II   | Home Affairs, Regional Autonomy, State Apparatus & Bureaucratic Reform, Elections, Land Issues                       |
| Commission III  | Law, Human Rights, Security  |
| Commission IV   | Agriculture, Forestry, Marine Affairs & Fisheries, Food  |
| Commission V    | Transport & Communications, Public Works, Public Housing, Rural Development & Under-developed Regions, Meteorology   |
| Commission VI   | Industry, Trade, Investment, Cooperatives/Small & Medium Enterprise, State Owned Companies, National Standardisation |
| Commission VII  | Energy, Mining, Research & Technology, Environment   |
| Commission VIII | Religion, Social Issues, Women's Empowerment.  |
| Commission IX   | Labour & Human Resources, Population, Health   |
| Commission X    | Education, Culture, Tourism, Youth, Sport, National Library  |
| Commission XI   | Finance, Development Planning, Banking   |

Each Commission has around fifty members, with each DPR Member being a member of one Commission only. The composition of each Commission is determined in proportion to the size of the party caucuses in the DPR, in consultation between the Leadership of the House and leaders of each caucus. Commissions are led by a Chair and three Deputy Chairs. The leaders of the Commissions regularly confer with the Leadership of the House and with the Steering Committee over the introduction and scheduling of discussions on Bills.



*Members of Commission V of the House of Representatives on a field visit*

### **Budget Committee**

The Budget Committee is a standing committee whose legislative role is similar to that of a Commission, but whose sole function is to deliberate on the legislation that constitutes the annual state budget. The Budget Committee is a large committee (currently 98 members) whose membership is decided in consultation between the Leadership of the House, leaders of the Commissions and leaders of the party caucuses. The Committee's composition is determined according to three principles: it must have representatives from each of Indonesia's provinces, have representatives from each Commission and be composed in proportion to the party composition of the DPR.

## ***Special Committees***

DPR Special Committees are ad-hoc committees formed for various special purposes. A Special Committee formed to deliberate on a particular bill is usually set up when the subject matter of the bill embraces issues of concern to more than one Commission. In this case they have effectively the same powers as a Commission. Special Committees have a maximum size of 30, in proportion to the size of DPR party caucuses. Membership is decided in consultation between the Leadership of the House and the leaders of party caucuses.

## ***Sub-Committees***

Commissions and Special Committees can create a number of ad-hoc committees during their deliberations on legislation. These include:

- A Working Committee to consider the policy details of legislation, including through public consultations, composed of no more than half the size of the main committee.
- A Composition Team to finalize the wording of a draft bill.
- A Synchronisation Team to ensure that the wording of the DPR's draft of a bill and the Government's draft are synchronized.

## ***Legislation Committee***

The Legislation Committee is a standing committee whose objective is to strengthen the quality of legislation produced by the DPR, both internally and in its deliberations with the Government and the House of Regional Representatives (DPD). It supports the legislative process by providing drafting and technical advice to Commissions and other DPR organs who are drafting and deliberating on bills. The Committee can hold consultations with interest groups and members of the public on draft bills. The Committee can also be responsible for originating and drafting bills on the special request of the Steering Committee, in which case its powers in relation to that particular bill is effectively the same as a Commission. A major role for the Committee is to draft the National Legislative Program, which is a list of the DPR's plans for legislation during the five-year term of the parliament, including its priorities for each annual session. The Program is determined in consultation with the Government and the DPD. The Committee is composed of around 80 members, in proportion to the size of party caucuses in the House of Representatives.

## 6.5 THE LEGISLATIVE PROCESS

### *Overview*

Draft legislation (bills) can originate from the House of Representatives (DPR), the President or, in specified policy areas, the House of Regional Representatives (DPD). According to the Constitution, the DPR has the power to make laws but, in order to be passed, legislation must be jointly agreed to by both the DPR and the President. The legislative process therefore takes the form of a dialogue between the DPR and its committees and the President and his/her Ministers and agencies to reach agreement about the final version of a bill. In certain policy areas, there can be input and advice from the DPD, but it is not binding on the DPR. In Stage 1 of the legislative process deliberations take place between the DPR and executive government representatives in DPR committees and sub-committees. After a draft bill has been agreed upon in committee it is passed on to the Plenary. Stage 2 of the process is deliberation by the Plenary. After agreement has been reached in the Plenary, a bill is considered to be passed by the DPR and is sent to the President to sign into law. If the President fails to sign within 30 days, the bill still becomes law (Sherlock 2007).

### *National Legislative Program (Prolegnas)*

The main planning document for legislation is the National Legislative Program. The Program is drawn up in consultations between the House of Representatives (DPR), the President and the House of Regional Representatives (DPD) after the election of a new DPR and takes the form of a list of bills that are planned to be passed by the DPR in its five-year term. Each year the DPR, President and DPD also draw up a list of priority bills to be passed in that year. Other bills not listed in the National Legislative Program may be proposed by either the DPR or the President, including ratifying international agreements, then filling a legal vacuum created by the decision of the Constitutional Court, in emergencies or in circumstances where the Legislation Committee and the relevant government ministry agree that there is a need for particular legislation.

After a bill has been included in the Program (or has been agreed to outside the Program process) it enters into one of two separate processes, depending on whether it is a DPR-initiated bill or a government-initiated bill.

## **Government Bills**

Government bills (which make up a large majority of bills) are drafted in the relevant Ministry and/or the Ministry of Law and Human Rights, usually in consultation with the State Secretariat. Such bills are submitted to the Leadership of the DPR with an introductory letter from the President stating which Minister will represent the President in discussions on the bill with the DPR. The bill will be accompanied by an “academic document” (*naskah akademis*), which provides a background and rationale for the bill, elucidation of the bill’s intentions and an outline and evaluation of the approach to the policy issues taken in the bill. The document may also contain alternative wordings or definitions for key terms and clauses.

The Leadership of the House passes the bill to a Plenary Meeting where copies are distributed to all Members. The bill is then passed to the Steering Committee which decides whether the bill is to be discussed by a Commission or a Special Committee or the Legislation Committee.

The bill then passes into the First Stage which takes the form of discussions between the relevant DPR Commission or Special Committee and Government representatives. The Minister usually attends the initial meeting and is then represented by ministry officials. At the first meetings the views of the various party caucuses on the Government’s draft of the bill are presented. This is followed by a formal Government response to the caucuses’ position. The key discussion then involves a presentation by each caucus in the committee of a Register of Issues. The Register of Issues lists the particular clauses or sections of the bill where there are differences of opinion between party caucuses and/or between the DPR and the Government representatives. The Register forms the basis for discussions and negotiations between the Government and the DPR Members in the committee.

The formulation of the Register of Issues and detailed discussion usually takes place in a Working Committee, which is essentially a subcommittee of the Commission or Special Committee. Agreement is progressively reached on each item in the Register until a final draft is decided upon. Matters of detail may be referred to a Composition Team and a final check on a single agreed wording between DPR committee and Government is made by a Synchronisation Team. The final draft of the bill is then decided upon at a plenary meeting of the Commission or Special Committee and passed to the Steering Committee to schedule the bill’s presentation to a Plenary Meeting. If agreement cannot be reached during Stage I, the uncompleted draft will be passed to the plenary to resolve. It is important to note that the final draft of the bill is not considered complete until the Government side agrees to the draft.

Stage II is the formal acceptance and passage of the bill through the Plenary Meeting of the House of Representatives. This takes the form of a report on the results of deliberations in Stage I, the presentation of final views by the party

Caucuses and the Government's final response and remarks. The final draft of most bills is agreed upon during Stage I, but if agreement had failed in Stage I, the various parties will debate the issue in a plenary session. Once agreement is reached, the Leadership of the House then sends the Bill to the President for his/her signature. If, after 15 working days, the President has not signed the Bill, the Leadership of the House will send a letter requesting an explanation from the President. If the Bill is not signed by the President within 30 days of its passage through the DPR it becomes law. The President does not have a formal constitutional veto over legislation and, in effect, can only delay legislation for 30 days.

### ***House of Representatives (DPR) Initiative Bill***

A House of Representatives initiative bill can be proposed by a DPR Member or group of Members, a DPR Commission, Joint Commission or (with the support of the Steering Committee), the Legislation Committee. The proposers of the bill may submit the draft to the Legislation Committee for support in completing the draft. The bill is submitted to the Leadership of the House which sends it to the next Plenary Meeting where it is distributed to all Members. The Steering Committee then determines the timing of when the proposed Bill will be submitted to another Plenary Meeting to determine whether the proposed Bill is to be accepted in principle as a DPR bill. This involves a statement and explanation by the proposers of the bill and the presentation by each party caucus of its position on the bill. The bill may be accepted, accepted with amendments or rejected as a DPR bill. If the Bill is accepted with amendments, the Plenary Meeting will assign a Commission, Special Committee or Legislation Committee to discuss and complete the bill. The option of acceptance with amendment has not yet been exercised by a Plenary Meeting.

Once the Bill has been accepted as a DPR bill, the Leadership of the Houses submits it to the President with a request that the President assign a Minister to represent the Government in deliberations on the bill. The Steering Committee then decides whether a Commission, a Committee or the Legislation Committee is to handle the deliberations. The bill then enters Stage I which begins with a first statement of the Government's views on the DPR's draft of the bill, followed by responses from the DPR party caucuses. The discussion then takes the same form as for the deliberations on a Government bill – that is, the formulation of a Register of Issues and debate on the items in the Register until agreement has been reached by all sides within the DPR and between DPR and Government.

Once agreement has been reached in the Commission or Special Committee, the bill is sent to the Steering Committee to schedule it for Stage II deliberations. As with Government bill, should agreement not be possible in Stage I, the issue must be resolved during Stage II. In the vast majority of cases, however,

agreement is reached during Stage I and Stage II deliberations are mostly ceremonial. After Stage II agreement, the bill is sent to the President for his/ her signature.

## **6.6 RATIFICATION OF ASEAN AGREEMENTS**

The House of Representatives (DPR) is empowered to review and ratify ASEAN agreements under its constitutional powers of legislation and oversight of executive government as provided for in Section 20A of the Constitution. The resolution is drafted in the Ministry of Foreign Affairs and submitted to the parliament for deliberation. The draft is sent to the Leadership of the DPR, who in turn submits it to the Steering Committee. The Steering Committee decides which Commission should take responsibility for dealing with the draft and when it should be submitted to the Commission. When the responsible Commission has agreed to ratification of the agreement it is then submitted to a plenary session of the House for final approval, in what is usually a ceremonial decision taken without debate. When the plenary process is complete, the ratified agreement is submitted to the President for his/her signature, through the Leadership of the House.

ASEAN agreements are often dealt with by Commission I on foreign affairs, but they are also assigned to other Commissions when the subject of the agreement is relevant to their responsibilities. For example, the ASEAN Charter was ratified by Commission I, as was the ASEAN Convention on Counter Terrorism, while the ASEAN Agreement on the Movement of Natural Persons (migrant labour) was ratified by Commission IX on Human Resources, Population and Health. On the first occasion that the ASEAN Agreement on Trans-boundary Haze Pollution was submitted to the House it was dealt with by Commission I, while the second time it was submitted to the House the Agreement was assigned to Commission VI on Natural Resources, Research and Technology and the Environment.

The House of Representatives plays a potentially prominent role in the ratification of ASEAN agreements because Indonesia is constitutionally a presidential system, with clear separation of powers between the executive and legislative branches of government and separate elections for each. Unlike the Westminster-derived parliaments in ASEAN, such as Malaysia, Singapore and Brunei, where members of the executive sit in the chamber and control majority support, the two branches of government in Indonesia's system of government are separate. The presidency and parliament are frequently controlled by different parties or coalitions. Therefore executive government cannot always be confident that the ASEAN agreements it signs will always be ratified by the House. Although ASEAN agreements generally receive parliamentary approval, they are often subject to rigorous questioning by legislators and can be rejected.





*AIPA-sponsored meeting convened in Jakarta to discuss legislative procedures in AIPA member parliaments*

For example, the ASEAN Agreement on Trans-boundary Haze Pollution was refused ratification by the House in 2007. As mentioned above, it was submitted to the parliament for a second time in 2014 and, on this occasion, was ratified by the House. The Indonesian parliament tends to scrutinise ASEAN agreements more closely if members consider that there are clear domestic political implications in ratification. This was the case in the Agreement on Trans-boundary Haze, where there were perceived issues regarding Indonesia's national sovereignty.

The potential for the involvement of the House of Representatives in the ratification of ASEAN agreements, and the need for executive government to win the support of the chamber, was also demonstrated by the ratification of the ASEAN Charter in 2008. After the Charter had been agreed to at the ASEAN leaders' summit in Singapore in November 2007, it was submitted to the respective states for their ratification. Many ASEAN parliaments, especially those with limited input into their country's international agreements, promptly ratified the Charter. But in some ASEAN parliaments, especially Indonesia and the Philippines, there was some opposition to ratification from a number of parties in parliament and the matter became the subject of some controversy. In Indonesia, this occurred in a country where ratification was symbolically quite important for the foreign policy of the incumbent government because Indonesia is "a founding member of ASEAN and the host to the Secretariat" (Frost 2008:26). Although all ASEAN parliaments eventually agreed to ratification, the differing pace and political smoothness of the process in some countries compared to others was clear evidence of the varying roles of the legislatures across the ten members of ASEAN.

## **7 LAO PEOPLE'S DEMOCRATIC REPUBLIC (PDR)**

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### **7.1 POLITICAL SYSTEM**

The Lao People's Democratic Republic (PDR) is a socialist republic with a parliamentary system under the constitutional rule of the Lao People's Revolutionary Party (LPRP). The President is both head of state and exercises executive power as head of government. The Politburo of the LPRP, drawn from its Central Committee, is the key decision-making body. The National Assembly, which is elected by the people from a list of candidates approved by the Party, meets twice a year and is responsible for scrutinizing proposed legislation.

Laos was formally declared an independent state in 1950 and gained full independence from France in 1953. The current political system dates from 1975 when the LPRD took full control of government. Since 1986, the government has moved from a centrally planned economy to a more market-oriented system. In 1991, the National Assembly adopted a new constitution which formalized the establishment of a market-oriented economy and for greater political openness. The ninth Party Congress took place in 2011, with National Assembly elections in the same year. The National Assembly re-elected Choummaly Sayasone for a second term as President, with Bounnhang Vorachit returned as Vice President and Thongsing Thammavong as Prime Minister.

### **7.2 THE PARLIAMENT OF LAO PDR**

Laos has a unicameral legislature, the National Assembly. The Assembly is composed of 136 members, 132 from the Lao People's Revolutionary Party (LPRP) and 4 independents. Elections last took place in April 2011, with the LPRP the only party fielding candidates.

### **7.3 CONSTITUTIONAL BASIS OF PARLIAMENT'S LEGISLATIVE AUTHORITY**

Article 53 of the amended Constitution (2003) of the Lao PDR vests the National Assembly with the following powers:

- Prepare, adopt or amend the Constitution.
- Consider, adopt, amend or abrogate the laws.
- Consider and adopt the determination, amendment or abrogation of taxes and duties.

- Consider and adopt strategic plans for socio-economic development and the State budget.
- Elect or remove the President, the Vice-President and members of the National Assembly Standing Committee.
- Elect or remove the President or Vice-President of the State based on the recommendation of the National Assembly Standing Committee.
- Consider or approve the proposed appointment or removal of the Prime Minister based on the recommendation of the President of the State, and to consider and approve the organisational structure of the government and the appointment, transfer or removal of members of the government based on the recommendation of the Prime Minister.
- Elect or remove the President of the People's Supreme Court and the Supreme Public Prosecutor based on the recommendation of the President of the State.
- Decide on establishment or dissolution of the ministries, ministry-equivalent organisations, provincial authorities and city authorities and to determine the boundaries of provinces and cities based on the recommendation of the Prime Minister.
- Decide on granting amnesties.
- Decide on the ratification of treaties and agreements signed with foreign countries in accordance with the laws.
- Decide on matters of war or peace.
- Oversee the observance and implementation of the Constitution and laws.



*Plenary session of the National Assembly of Lao PDR*

## **7.4 LEGISLATIVE ORGANS OF THE PARLIAMENT**

### ***Leadership***

The National Assembly is led by the President and two Vice Presidents.

### ***National Assembly Standing Committee***

The Standing Committee is the permanent body of the National Assembly. The Standing Committee substitutes for the National Assembly during the inter-sessions periods and consists of the ten Assembly members (the President and 2 Vice-Presidents; the Chief of the Cabinet; the Chairs of the six committees), The Standing Committee is chaired by the President, and the Vice-Presidents are responsible for all day-to-day management decisions. The Standing Committee has the following functions:

- Prepare for the National Assembly sessions, convene Assembly sessions, direct the activities of the Assembly and ensure that Assembly's work plan is implemented;
- Propose to the President that laws and decrees be issued;
- Interpret and explain the provisions of the Constitution and educate the people about them;
- Oversee the activities of executive government organs, the People's Courts and the Office of the Public Prosecutor during recesses of the National Assembly
- Appoint, transfer or remove judges of the Supreme Court, People's Courts at all levels and Military Courts.

### ***Other Committees***

There are six sectoral committees in the National Assembly with responsibility for specific policy areas:

- Law Committee
- Economy, Planning and Finance Committee
- Social and Cultural Affairs Committee
- Ethnic Affairs Committee
- National Defense and Security Committee
- Foreign Affairs Committee

In addition, the National Assembly Cabinet and the Women Parliamentarians' Caucus assist the Standing Committee and the other Committees.



*The 35<sup>th</sup> General Assembly of AIPA held in Laos in 2014*

## **7.5 THE LEGISLATIVE PROCESS**

According to Article 59 of the constitution, draft legislation can be proposed or initiated by the President of the Lao PDR, a Standing Committee of the Assembly, government ministries, the People's Supreme Court, the People's Prosecutor General, the Lao Front for National Construction and Mass Organisations (including Unions, Youth and Women's Organisations).

The draft law is submitted to the Ministry of Justice, which checks the draft for technical details and for its consistency with other laws. The draft is also considered by the cabinet of the government before submission to the National Assembly.

There are several stages in the deliberations of a draft law:

- The draft is referred to the relevant sectoral committee for the committee's consideration of the objectives of the draft law and its wording;
- The committee convenes public consultations with constituents and stakeholders at both the central and local level to receive input into the draft law;
- Following the completion of the sectoral committee's deliberations, the draft law is referred to the Standing Committee which makes a decision about whether the draft is of appropriate quality to be submitted to a plenary session of the Assembly for consideration.
- The draft law is considered and debated in a plenary session of the Assembly, and if accepted, is adopted as law.

## **7.6 RATIFICATION OF ASEAN AGREEMENTS**

As mentioned above, the constitution empowers the National Assembly to decide on the ratification of treaties and agreements with foreign countries. Treaties themselves are the responsibility of executive government, led by the Prime Minister. Treaties are referred to the parliament for ratification by the Minister for Foreign Affairs and are discussed in the National Assembly through its procedures of debate, with the process overseen and coordinated by the Standing Committee of the National Assembly. If legislation is required for treaty ratification, the procedures follow the same stage of legislation described above. After ratification in the National Assembly, the ratified treaty is passed to the President for signature and issuance.

Because Lao PDR is constitutionally a one-party state, with almost all members of the National Assembly belonging to the Lao People's Revolutionary Party, the participation of the parliament in the ratification of ASEAN agreements, or in international relations in general, is limited. The Prime Minister has the greater determining influence on the direction of state policy and therefore involvement by the parliament in the implementation and monitoring of ASEAN agreements is structured within the framework of priorities set by the government.

There is no committee specifically tasked with handling ASEAN or AIPA matters. The Committee on Foreign Affairs of the National Assembly is the coordinator in charge of all external relations and foreign affairs activities of the Assembly, including those with ASEAN. Regarding specific matters in ASEAN cooperation, this Committee will cooperate with other relevant committees in the National Assembly, according to the particular policy area involved.

The leaders of the Foreign Affairs Committee have responsibility for setting the overall direction of the work of the Committee in relation to ASEAN matters and, where necessary, submits reports to the plenary session of the National Assembly for final decision. The ASEAN Charter was ratified by the Lao PDR in March 2008. Because of the rapid passage of the Charter through the National Assembly, Lao PDR was amongst the first countries to convey its instrument of ratification to ASEAN (Frost 2008:26).

## **8 MALAYSIA**

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### **8.1 POLITICAL SYSTEM**

Malaysia is a constitutional monarchy with a King (known as the Yang di-Pertuan Agong) who is the ceremonial head of state. The country has a parliamentary system of government headed by a Prime Minister who is the executive head of government elected by the party with the majority of seats in the lower house of parliament, the House of Representatives. The Prime Minister heads a Cabinet composed of ministers who are members of parliament from the ruling party. Malaysia has a federal system, with thirteen states and three Federal Territories. Nine of the states have hereditary rulers who share the position of King on a five-year rotating basis. The head of government in each state and territory is elected from the local parliament.

Malaysia achieved its independence from Britain in 1957 under the name of the Federation of Malaya. In 1963, the Federation was enlarged by the accession of Singapore, Sabah and Sarawak. The name 'Malaysia' was adopted from that date. Singapore left the Federation in 1965. The first election was held in 1955. The governing Barisan Nasional (National Front), in which the United Malays National Organisation (UMNO) is the dominant voice, has been in power at the federal level in one form or another since that first election. The most recent election was held in 2013, returning the government of Prime Minister Dato' Sri Najib Razak, to power.

### **8.2 CHAMBERS OF THE MALAYSIAN PARLIAMENT**

There are two chambers in the Parliament:

- House of Representatives, the lower house, which is composed of 222 members, elected every five years, under a single member district system (sometimes known as "first past the post") where each constituency is represented by a single member. Government is formed by the party or coalition holding a majority of seats in the House.
- Senate, the upper house, which is composed of 70 Senators, 26 nominated by the governments of Malaysia's 13 states and 44 appointed by the King, on the advice of the Prime Minister. The term of office is three years and Senators may only be re-appointed once, consecutively or non-consecutively. As an unelected chamber, the power of the Senate is largely advisory. It cannot formally reject bills passed by the House of Representatives and is only able to delay their passage by one month, or up to a year under certain circumstances.





*Plenary session of the House of Representatives of Malaysia*

For reasons that reflect Malaysia's history before independence, the parliament's structure and operation sit broadly within the traditions of Westminster parliaments. This applies to the rules of procedure or standing orders that govern the workings of both chambers, the structure of the committee system and the processes for reviewing and deliberating legislation. While being influenced by Westminster procedures, the Malaysian parliament has, of course, developed in its own particular modes of operations that reflect its own traditions and the decisions made by its own representatives of the people in parliament since independence.

### **8.3 CONSTITUTIONAL BASIS OF PARLIAMENT'S LEGISLATIVE AUTHORITY**

Article 66(1) provides that the "power to laws shall be exercised by Bills passed by both Houses" of parliament and assented to by the King. A Bill may originate in either House, but section 67(1) specifies that money bills (to provide funds for the functions of government) cannot originate in the Senate and must be introduced by a Minister.

### **8.4 LEGISLATIVE ORGANS OF THE PARLIAMENT**

#### ***Leadership***

The House of Representatives is led by a Speaker (known in Bahasa Malaysia as Yang di-Pertuan Dewan Rakyat) and Deputy Speaker. The Senate is led by a President and Deputy President.



## **Committees**

There are five standing or permanent committees:

- **Committee of Selection.** A powerful committee, Chaired by the Speaker, whose function is to appoint the members of other standing committees and select committees.
- **Public Accounts Committee.** A committee of this kind is frequently found in parliaments within the Westminster tradition. Its function is to scrutinise the expenditure of public funds after their allocation in the national budget. It has no role in the drafting or review of the budget bills, but monitors the implementation of spending authorized in the budget legislation after it has been passed. The Committee consists of a Chairman and Vice-Chairman to be appointed by the House, and not less than six and not more than twelve members to be nominated by the Committee of Selection.
- **Standing Orders Committee.** Its function is to consider matters relating to the Standing Orders (rules of procedure for the House) that have been referred to it by the House. It is chaired by the Speaker and has six other members, nominated by the Committee of Selection.
- **House Committee.** Advises the Speaker on matters connected with the services and amenities available to members of the House. It is chaired by the Speaker and has six other members, nominated by the Committee of Selection.
- **Committee of Privileges.** Considers matters related to the powers and privileges of members of the House that are referred to it by the House. It reports on its findings to the House. The Committee is chaired by the Speaker and has six other members, nominated by the Committee of Selection.

Ad hoc committees, known as Select Committees can also be appointed to undertake particular tasks. Select Committees elect their own Chair and, as far as practicable, the balance between the parties in the House is reflected in the Committee.

The Senate has a smaller committee system whose design reflects that of the House of Representatives, with the Committee of Selection choosing the membership of the committees and with the Chairmanship of each committee being held by the President of the Senate. The Senate Committees are:

- **Committee of Selection**
- **House Committee**
- **Committee of Privileges**
- **Standing Orders Committee**

The power of committees in Westminster, or parliamentary, system is generally relatively limited because the committees usually have a majority of members

From the party or coalition that controls government. Committee majorities therefore do not ordinarily challenge the policy content or wording of legislation sponsored by the government led by their own party. In recent decades, however, the activism of committees in Westminster parliaments, at least in the area of oversight of government policy and the expenditure of public money, has increased. They are still generally not as aggressive in challenging the executive as is the case in parliaments in presidential systems such as the US, especially in relation to draft legislation. This reflects the fact that the overall power of the legislature in presidential systems is greater than in parliamentary systems because the legislative and executive branches of government are elected separately and may be controlled by contending political parties.

Even in comparison to other Westminster-based parliaments, the committee system in the Malaysian parliament is relatively underdeveloped. The trend towards greater assertiveness by parliamentary committees in Westminster parliaments such as UK and Australia has not been replicated in Malaysia. This is mostly because the government has been led by the same party coalition since the time of independence. Successive governments have not seen it as desirable to increase the role of the legislature, opting rather to limit the powers of questioning available to opposition parties in parliamentary committees.

The limited power of parliamentary committees in Malaysia is illustrated in the fact that there are no standing committees on the various policy areas in government, such as foreign affairs, finance, defense, economic policy and social policy. Most Westminster parliaments have standing committees charged with overseeing the actions of their counterpart government agencies, designed to create a check and balance mechanism over the practices of ministries. These committees also investigate and report on current issues and long-term policy questions facing the nation. The restriction of the activities of committees in the Malaysian Parliament is also shown in a number of other ways:

- The control of the selection of members of committees by the Selection Committee, a Committee controlled by a government majority and chaired by the Speaker.
- All other standing committees are chaired by the Speaker and have a government majority.
- Only the Public Accounts Committee and the Privileges Committee have the power to summon witnesses or call for the submission of documents.
- There are no standing committees with the duty to scrutinise the quality of bills or the conduct of elections.
- The appointment of Select Committees to investigate particular issues is rare.

## **8.5 THE LEGISLATIVE PROCESS IN THE HOUSE AND SENATE**

### ***Introduction of a Bill***

A bill can be introduced by the House or (with the exception of money bills) by the Senate or by an individual member of the House or Senator. In most cases, bills take the form of bills from the House of Representatives, drafted by the relevant government ministry, with the assistance of the Drafting Division of the Attorney-General's Department and presented to the House by the respective Minister.

### ***Types of Bills***

**Private Members Bill.** These are bills introduced by an individual member, without necessarily having the support of the government. Although every member has the right to sponsor a Private Bill, they are mostly introduced by members from opposition parties. A Private Bill must be referred to a Select Committee which must agree to allow the bill to proceed. Such bills are very rare and even fewer of them have ever been passed by the parliament.

**Government Bills.** The vast majority of bills are ones introduced by a government Minister, produced with the support of the civil service.

### ***First Reading***

The First Reading is a largely procedural stage of the legislative process, during which the Clerk (Setiausaha) reads a copy of the title of the bill. Copies of the bill are distributed to all members. The bill is deemed to have been read and can proceed to the Second Reading at the next sitting of the chamber.

### ***Second Reading***

This is the stage where most debate is likely to occur. A bill can be referred to a Select Committee before the Second Reading, and this committee can discuss the details, policy principles and merits of the bill. Usually, the bill is discussed in a Committee of the Whole House during the Second Reading, where all members become members of the Committee. A bill may also be referred to a Select Committee after the Second Reading, but only to discuss wording details, not policy issues. A bill requires a two-thirds majority to be passed, but votes usually take place on a voice vote, rather than in a "division" of the House.

### ***Third Reading***

The Third Reading is the final stage of the legislative process and is usually a formality. Following a vote on the voices, the bill is deemed to have been passed by the House.

### ***Referral to the Senate***

After being passed by the House of Representatives, a bill will be referred to the Senate for deliberation. The Senate follows the same procedure as the House, with three Readings of the bill before it is deemed to be passed. The Senate does not have the power to reject a bill, but it may fail to pass a bill or make amendments that are not acceptable to the House. In these circumstances, the House can resubmit the bill to the Senate until after a waiting period – one month in the case of money bills and twelve months in the case of ordinary bills. The bill is then deemed to have been passed by both Houses.

### ***Assent by the King***

Once a bill has been passed by both Houses, it is submitted to the King for his signature, after which it becomes law.

## **8.6 RATIFICATION OF ASEAN AGREEMENTS**

According to constitutional arrangements in Malaysia, the power to negotiate and conclude international treaties, conventions and agreements such as ASEAN Agreements is vested in executive government. Parliament has a role only if the government decides that a particular agreement requires legislation in order to be implemented. The Ministry of Foreign Affairs meets with other relevant ministries at inter-agency meetings to provide briefings about the results of international negotiations and the conclusion of an ASEAN Agreement. The Ministry signs and deposits the instrument of accession. The Attorney General's Chambers advises the government on the legal issues concerning application, ratification and implementation of agreements. It also advises whether existing laws are sufficient to discharge any obligations under the agreement or if new legislation is required. Once the processes in executive government are complete, the agreement is regarded as ratified. Any necessary legislation is drafted in the relevant Ministry and submitted to parliament for passage into law.

Parliament is not directly involved in the drafting or ratification of ASEAN agreements because it is the responsibility of the executive. The passage

Through parliament of any legislation necessary to implement ASEAN agreements follows the same procedure described above. The draft legislation passes through the stages of three Readings in plenary sessions of the two chambers. There is no committee specifically tasked with the review of ASEAN Agreements or with international treaties and agreements generally.

There is not a specific committee or other organ of parliament with the role of monitoring the implementation of ASEAN and AIPA agreements. Parliament can monitor implementation of agreements through the mechanisms that apply to general parliamentary oversight of executive government. These derive from the constitutional provision for ministerial responsibility to parliament, which is a key feature of the Westminster tradition. As Siddiquee (2005: 114) notes:

Parliamentary questions, supplementary questions, debates, and motions are among the devices that the Members of Parliament (MPs) [in the Malaysian Parliament] can use to scrutinize the activities of various ministries of the government and those of the senior bureaucrats within these ministries. The purpose of “question hour,” for example, is to enable MPs to ventilate public grievances and to draw attention towards the failure of the government and its administration. There can also be scheduled as well as unscheduled debates on important matters.

Therefore the involvement of the parliament in the monitoring and implementation of ASEAN and AIPA agreements takes place as part of parliamentary procedures that are used for other national and international affairs. There are no purpose-built specialized procedures for this area of policy.

### 9.1 POLITICAL SYSTEM

The Union of Myanmar is a republic with a presidential system of government where the President is both head of state and head of executive government. The President is chosen by an electoral college composed of committees from the country's national and district legislatures, but the President cannot be removed from the fixed five- year term of office, except by impeachment on legal or constitutional grounds. The President appoints the Cabinet, whose members must also be approved by parliament. The current head of state, inaugurated as President on 30 March 2011, is Thein Sein. Myanmar is divided into seven states and seven regions, each of which have their own elected administrations.

Myanmar achieved independence from Britain in 1948. From 1962 to 2011, the country was ruled by successive military regimes. A new constitution of Myanmar, its third since independence, was ratified by a national referendum and promulgated in 2008. The first general election in 20 years was held in 2010, and a civilian government was installed in 2011, significantly altering the country's political landscape. The new government is dominated by the Union Solidarity and Development Party (USDP), because the other major party, the National League for Democracy (NLD) chose to boycott the 2010 elections. NLD re-registered as a party in 2011 and contested the 2012 by-elections, winning 43 of the 44 seats it contested.

### 9.2 CHAMBERS OF THE MYANMAR PARLIAMENT

Myanmar has a bicameral national legislature, the Pyidaungsu Hluttaw (Union Assembly). Its two chambers are elected simultaneously, every five years:

- People's Assembly (Pyithu Hluttaw), a 440-seat lower house, composed of 330 elected members and 110 members from the Defence Forces who are nominated by the Commander-in-Chief of the Defence Forces.
- Nationalities Assembly (Amyotha Hluttaw), a 224-seat upper house, Composed of 168 elected members and 56 members from the Defence Forces who are nominated by the Commander-in-Chief of the Defence Forces. Of the elected members, twelve are elected from each of the states or regions of the Union of Myanmar.

The electoral system for elected members in each chamber is a plurality, single-member district system (sometimes known as "first-past-the-post"), under which each constituency or district is represented by a single member

and the winning candidate is the one that receives the largest number, even if that is not a majority. The electoral districts for each chamber vary considerably in population: in the People's Assembly, the districts are based on townships of varying size, and the states and regions that form the electoral districts for the Nationalities Assembly also differ in population.

The Myanmar Parliament has the special feature that it regularly sits as the Union Assembly, in a joint session of both chambers, while each chamber also convenes its own normal sessions as the People's Assembly and Nationalities' Assembly respectively. The Union Assembly has its own Speaker – the position is occupied in rotation by the Speaker of the People's Assembly and the Nationalities' Assembly, but it is a separate office from that of the Speaker of the lower and upper houses.



*Plenary session of the People's Assembly of Myanmar*

### **9.3 CONSTITUTIONAL BASIS OF PARLIAMENT'S LEGISLATIVE AUTHORITY**

The legislative power of the Union Assembly is conferred in Articles 95 to 108 of the Constitution, with Articles 136 to 140 describing the legislative process for the People's Assembly and Articles 156 to 160 describing the legislative process in the Nationalities' Assembly.

## 9.4 LEGISLATIVE ORGANS OF THE PARLIAMENT

### ***Leadership***

The People's Assembly is led by a Speaker and Deputy Speaker.  
The Nationalities' Assembly is led by a Speaker and Deputy Speaker.

### ***Standing Committees***

Each chamber has four standing committees, each of which has a maximum of fifteen members and reports to the Speaker of its chamber. The committees are as follows:

Bill Committee. It has the responsibility to vet all bills to determine their compatibility with:

- the constitution and existing laws, as well as with Myanmar's international obligations;
- whether they align with national priorities;
- whether they serve the interests of the nation and people;
- whether they could pose a risk to national security;
- whether they are consistent with current realities;
- whether their provisions can be implemented in practice.

Due to its heavy workload and specific procedures, many observers describe this committee as a bottleneck in the lawmaking process, a situation that could be partly addressed through adjustments in its working methods, drawing on international practice.

Public Accounts Committee. It is responsible for:

- vetting government expenditures and reports of the auditor-general to ensure that such expenditures were for the approved purpose and effectively utilised;
- vetting the operations of state-owned enterprises;
- scrutinising government revenues.

The work of the Committee can include making visits and inspections of the organisations it is vetting and scrutinising.

Assembly Rights Committee. It is tasked with:

- considering alleged violations of the rights of the legislature, a committee or a member;
- deciding whether a violation has taken place;



- recommending action to the legislature;
- verifying credentials of members, resignations, ethical and disciplinary violations and disqualifications.

Because of this Committee's role in monitoring and enforcing the rights of the chamber, it is chaired by the Deputy Speaker.

Government's Guarantees, Pledges and Undertakings Vetting Committee. It determines the extent to which commitments made by the government and top executive bodies have been implemented in a timely manner. Such inquiries can be conducted through visits and inspections, as well as in consultations convened in the parliament building.

### ***Defence and Security Committee***

This Committee can be formed when the chamber considers that there is a need for investigations of matters related to defence and security. It is not a standing committee and is to function for a limited time only. The Committee comprises members of the Assembly who are the Defence Services personnel and, if the workload makes it necessary, may also include non-military members of the Assembly as well.



*Members of the Social Development Committee of the People's Assembly  
in a consultation meeting with community organisations*

### ***Ad Hoc Committees and Commissions***

In addition to the Standing Committees, each chamber of parliament may also create ad hoc committees and commissions. Commissions are an interesting

Feature of the Myanmar parliament because they may include not only members of parliament but also representatives from outside parliament as well. Ad hoc committees and commissions can be formed within either chamber or they may be joint bodies in which members of both chambers work together in the one committee.

Committees cover specific sectors, such as health, education, monetary policy and international relations, as well as broader thematic areas like human rights, peacemaking, reform and modernisation and legal affairs. In addition to the Bill Committee, draft laws are usually also considered by the relevant ad hoc committee.

There are more than 40 ad hoc committees and commissions. They include:

Legal Affairs Assessment and Special Issues Commission (lower house). This influential body was the first commission formed, in November 2011. It is chaired by the lower house Deputy Speaker and has 54 members, of whom eighteen are elected (including four from opposition parties), three are from the military bloc and the rest are outside experts, including respected legal, economic and other professionals. It is tasked to recommend laws that should be amended, repealed or replaced and also functions as a source of advice for the lower house Speaker.

Rule of Law, Peace and Stability Committee (lower house). Formed in August 2012, the Committee is made up of members from various political parties. The subject matter of the Committee, together with its composition of members from both government representatives and leading opposition party figures, made it important for the establishment of effective working relations between government and non-government members of the chamber in the early days after the first democratic election.

Constitutional Review Committee (joint committee of both chambers). The Committee was created in July 2013 and submitted its final report on 31 January 2014, at which point its term ended. The Committee was chaired by the lower house Deputy Speaker and had 109 members – 25 from the military bloc, the rest drawn from the parties in the Union Assembly in about the same proportion as their share of seats. It reviewed possible amendments to the 2008 constitution and made recommendations to the Union Assembly.

## **9.5 THE LEGISLATIVE PROCESS IN THE HOUSE AND SENATE**

### ***Union Legislative List***

Section 96 provides for a Legislative List for the Union and state levels of government which delineates the respective areas of government policy for

which the country's legislatures are responsible. The two chambers of the Union Assembly draft laws within those areas, as detailed in Schedule One of the Constitution. The policy areas are:

- Defence and Security
- Foreign Affairs
- Finance and planning
- Economics
- Agriculture and Livestock Breeding
- Energy, Electricity, Mining and Forestry
- Industry
- Transport, Communication and Construction
- Social affairs
- Management
- Judicial

### ***Submission of Bills***

Bills may be submitted by executive government agencies with authority within the area specified by the Union Legislative List or by members of parliament. Bills initiated by executive government are submitted to the Speaker of the Union Assembly, who then determines which chamber the bill will be submitted to for consideration. Bills submitted by members of the parliament are presented to their respective chambers.

To date, more bills have come from executive government rather than lawmakers, but a number of bills have been initiated from within the parliament.

In the case of the Union Budget, the bill is based on annual estimated budgets, developed in consultation with the Union Financial Commission and submitted by the Minister of Finance to the People's Assembly for approval. The government also submits the bill on supplementary appropriations and revised estimates each fiscal year, including the recommendations of the Financial Commission. The Public Accounts Committee scrutinises the incomes, expenditures and businesses of Union Ministries, before the bill is submitted to a plenary session and the Committee's observations and recommendations are reported to the Assembly by the Speaker.

### ***Vetting by the Bill Committee***

When the lower or upper house receives a bill, it first sends it to the Bill Committee, which vets the bill against a number of specified criteria. The Committee considers whether or not the bill:

- (a) is in accord with the provisions in the Constitution and existing laws;
- (b) is in accord with the plans and goals made by the Union;
- (c) is geared towards and protect the interests of the Union and the people;
- (d) contains facts which shall jeopardise the integrity and security of the Union;
- (e) is suitable for the actual situation of the Union;
- (f) affects the personal and material security of the people;
- (g) contains wording which shall affect union solidarity;
- (h) contains clauses where the rights of a Union ministry overlap with that of a government body or rights of a government body overlap with that another government body;
- (i) if concerned with the international or regional treaties and agreements, is in accord with the provisions in them that the Union of Myanmar has agreed to or violates the sovereignty of the Union;
- (j) comprehensively contains the original facts relating to the relevant bills;
- (k) contains provisions that can actually be implemented;
- (l) comprehensively contains the provisions in order to meet its goals.

Following its deliberations on the issues above, the Committee produces a report on its findings. The report is then submitted to the Speaker who, in turn, submits it to the chamber for consideration and debate.

### ***Consideration by the Assembly Chamber***

The first stage of the deliberations on a bill by either chamber of the Union Assembly is to consider the report of the Bill Committee. The chamber then moves on to debate the provisions of the bill. Following the completion of debate the chamber votes on the bill and may decide to approve it, approve it with amendments, or reject it. Votes on bills require a simple majority. The Assembly rules of procedure allow for three different voting methods:

- secret voting using electronic voting machine, which provides for 'yes', 'no' and 'abstain' votes and which does not identify how individual representatives vote;
- secret voting by paper ballot;
- voting by standing up, which is an open vote.

The voting method to be used on each occasion is left to the discretion of the Speaker. The Speaker has a casting vote.

In the case of the Union Budget Bill, the bill is discussed in two stages: firstly in relation to basic principles and policy and secondly in relation to income and expenditure. For national security and state secrets, only the first stage is conducted in the plenary. The Speaker designates a period of not more than twelve days during which income and expenditure issues can be raised by Assembly

members, who must submit the issues to the Speaker at least three days before the relevant plenary session. Members can submit proposals to reduce allocations but cannot propose increased expenditure or move expenditure between policy areas. In certain areas, such as salaries of heads of Union organisations and Union debts, members can debate the provisions but cannot propose expenditure reductions. Deliberations will take place with representatives of the relevant Union organisations in which they will provide information about details of the bill. The Minister of Finance will submit a final draft of the bill after amendments made by the People's Assembly have been included.

### ***Consideration by the Other Chamber***

A bill passed in one chamber is then sent to the other chamber – ie. to the Nationalities' Assembly if the bill originated in the People's Assembly and vice versa. If both chambers reject the bill, it is withdrawn from further consideration. If both chambers agree to the original or an amended bill, then it is sent to the Union Assembly Speaker for transmission to the President. If the two chambers do not agree on whether to accept or reject a bill, or on what amendments should be made, the bill is sent to the Union Assembly to decide, and then to the president.

### ***Signature by the President***

The president has 14 days in which to sign the bill into law, or send it back to the Union Assembly with comments. If the President does neither, the bill automatically becomes law after 14 days. The president does not have power of veto. He cannot return a bill to the legislature twice; if a bill is sent to the President for a second time, he/she then has 7 days within which to sign it, or it automatically becomes law. After signing, the President will promulgate the law by publication in the official gazette.

## **9.6 RATIFICATION OF ASEAN AGREEMENTS**

The People's Assembly is empowered to decide on matters related to ratifying, annulling or withdrawing from international treaties and agreements, including ASEAN agreements. This is provided for in Section 108 (a) of the Myanmar Constitution of 2008. Section 108 (b) states that the People's Assembly may confer this authority on the President. The President's treaties powers are affirmed in Section 209 (a) of the Constitution, in relation to treaties that require parliamentary approval and in Section 209 (b) in relation to treaties that do not require parliamentary approval. The process for ratification is the same as for the passage of legislation as detailed in the section above. The bill for ratification is drafted by the Ministry of Foreign Affairs and/or other relevant Ministry and is submitted to parliament to be made into law. The bill is considered by the Bills

Committee before being submitted to the People's Assembly for agreement and then submitted to the Nationalities Assembly. After the agreement of the two chambers has been reached, the bill becomes law.

The parliament of Myanmar is a new institution, first convened in January 2011 following elections in 2010. It therefore had not ratified any ASEAN agreements by the time of writing. The ASEAN Charter was agreed to and ratified by the former government in 2008. The new government has not submitted the Charter to parliament.

Being a new and developing institution, the extent and nature of the parliament's role in the ratification of ASEAN agreements and agreements has not yet become clear. There are a number of key institutional and political elements that are likely to influence to the extent to which ASEAN agreements are the product of legislative as well as executive government input.

Since the new constitution describes a broadly presidential system, the parliament may develop into a strongly independent and assertive branch of government, as is often the case in presidential systems across the world. With separate presidential and parliamentary elections, the legislature has its own separate sense of legitimacy and may be led by political parties that are in opposition to the president's party. The assertiveness of the US Congress and its frequent differences of opinion with their President is the most prominent and well-known example.

## **10 PHILIPPINES**

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### **10.1 POLITICAL SYSTEM**

The Philippines is a republic with a presidential form of government. The President is elected by popular vote for a single six-year term, during which he/she appoints and presides over the cabinet.

The Philippines achieved its independence in 1898 after over 300 years of colonial rule of Spain. After Spain's defeat in the Spanish-American war, it ceded the Philippines to the United States as part of the Treaty of Paris. During World War II, the country was briefly occupied by Japan until its defeat by the Allied Forces in 1945.

The United States then recognized the country's full independence in 1946, after which the Philippines elected its own President. In 1972, then - President Marcos declared martial law, instituting a period of authoritarian rule. -After the snap elections and the subsequent People Power Revolution or EDSA Revolution in 1986, Corazon Aquino became President. Under the 1987 Constitution, a one-term limit was imposed on the incumbency of the President. The most recent elections were held in 2010 to elect the President; Vice-President; 12 senators; all 287 members of the House of Representatives; and provincial, city and municipal elected officials. Benigno Aquino was sworn into office as President in June 2010.

### **10.2 CHAMBERS OF THE PHILIPPINE CONGRESS**

There are two chambers in the Philippine Congress:

- The House of Representatives, or lower house, is currently composed of 289 members. Eighty percent of the members are elected from single-member constituencies, while twenty percent are elected through a multi-member proportional representation system, using a party-list electoral system.
- The Senate, or the upper house, is composed of 24 Senators elected for a term of six years. Half the Senate is elected every 3 years, from a single national constituency, using a "plurality at large" voting system in which voters vote for up to twelve candidates.

### **10.3 CONSTITUTIONAL BASIS OF CONGRESS'S LEGISLATIVE AUTHORITY**

Article VI of the Constitution describes the structure and operation of the Legislative Department, including the size and system of election for each of the

two chambers of Congress. Article VI (1) states that “legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum”.



*Plenary session of the Congress of the Philippines, addressed  
by the President of the Philippines*

## **10.4 LEGISLATIVE ORGANS OF THE PHILIPPINE CONGRESS**

### ***Leadership***

The House of Representatives is led by a Speaker and Deputy Speakers. Other important leading office-holders are the Majority and Minority Leaders, elected by parties in the House and thus reflecting the political composition of the chamber.

The Senate is led by a President and Deputy Presidents. The Majority and Minority Leaders are also leading positions, as in the House of Representatives.

### ***Committees***

There is a large number of committees in Congress and they play a very important role in the legislative process. These include Standing or Permanent Committees



covering sectoral policy areas, internal and inter-parliamentary affairs of the chambers, and Special or Oversight committees, which are ad hoc committees focusing on specific issues of national importance. The House has 59 standing committees and 11 special committees, while the Senate has 39 Permanent committees (plus five Finance Sub-Committees) and 33 Ad Hoc or Oversight Committees.

Because of the large number of committees in both chambers of the Congress, and their importance in the legislative process, most members serve on several committees simultaneously. The majority of members in both chambers are either a Chair or Vice-Chair of at least one committee.

The House Standing Committees are as follows:

- Accounts
- Agrarian Reform
- Agriculture and Food
- Appropriations
- Aquaculture and Fisheries Resources
- Banks and Financial Intermediaries
- Basic Education and Culture
- Civil Service and Professional Regulation
- Constitutional Amendments
- Cooperatives Development
- Dangerous Drugs
- Ecology
- Economic Affairs
- Energy
- Ethics and Privileges
- Foreign Relations
- Games and Amusements
- Good Government and Public Accountability
- Government Enterprises and Privatization
- Government Reorganization
- Health
- Higher and Technical Education
- Housing and Urban Development
- Human Rights
- Information and Communications Technology
- Inter-parliamentary Relations and Diplomacy



*Public consultation meeting of a House of Representatives committee  
deliberating on a health bill*

- Justice
- Labour and Employment
- Legislative Franchises
- Local Government
- Metro Manila Development
- Mindanao Affairs
- Muslim Affairs
- National Cultural Communities
- National Defence and Security
- Natural Resources
- Overseas Workers Affairs
- People's Participation
- Population and Family Relations
- Poverty Alleviation
- Public Information
- Public Order and Safety
- Public Works and Highways

- Revision of Laws
- Rules
- Rural Development
- Science and Technology
- Small Business and Entrepreneurship Development
- Social Services
- Tourism
- Trade and Industry
- Transportation
- Veterans Affairs and Welfare
- Ways and Means
- Welfare of Children
- Women and Gender Equality
- Youth and Sports Development

House Special Committees are as follows:

- Ad Hoc Committee on the Bangsamoro Basic Law
- Bases Conversion
- Bicol Recovery and Economic Development
- East Asian Growth Area
- Food Security
- Globalisation & WTO
- Land Use
- Millennium Development Goals
- Northwest Luzon Growth Quadrangle
- Peace, Reconciliation and Unity
- Reforestation
- Southern Tagalog Development
- The XXXI Summer Olympic Games

Senate standing committees are as follows:

- Accountability of Public Officers & Investigations
- Accounts
- Agrarian Reform
- Agriculture and Food
- Banks, Financial Institutions & Currencies
- Civil Service and Government Reorganization

- Climate Change
- Constitutional Amendments and Revision of Codes
- Cooperatives
- Cultural Communities
- Economic Affairs
- Education, Arts and Culture
- Electoral Reforms and People's Participation
- Energy
- Environment and Natural Resources
- Ethics and Privileges
- Finance/Subcommittees A to E
- Foreign Relations
- Games, Amusement and Sports
- Government Corporations & Public Enterprises
- Health and Demography
- Justice and Human Rights
- Labour, Employment & Human Resources Development
- Local Government
- National Defence and Security
- Peace, Unification and Reconciliation
- Public Information and Mass Media
- Public Order and Dangerous Drugs
- Public Services
- Public Works
- Rules
- Science and Technology
- Social Justice, Welfare and Rural Development
- Tourism
- Trade, Commerce and Entrepreneurship
- Urban Planning, Housing and Resettlement
- Ways and Means
- Women, Family Relations and Gender Equality
- Youth

There are also 33 Joint Oversight/Ad Hoc Committees composed of House Members and Senators. They are as follows:

- Joint Congressional Oversight Committee on the Clean Water Act

- Joint Congressional Power Commission
- Congressional Oversight Committee on Agricultural and Fisheries Modernization
- Congressional Oversight Committee on Dangerous Drugs
- Congressional Oversight Committee on Proper Implementation of the National Internal Revenue Code
- Congressional Oversight Committee on the Official Development Assistance Law
- Oversight Committee on ARMM Organic Act
- Joint Congressional Oversight Committee on Overseas Voting Act of 2003
- Joint Congressional Oversight Committee on the Chain Saw Act
- Congressional Oversight Committee on Civil Aviation Authority of the Philippines
- Congressional Oversight Committee on Quality Affordable Medicines
- Joint Congressional Oversight Committee on Cooperatives
- Joint Oversight Committee on the Human Security Act
- Congressional Oversight Committee on Biofuels
- Congressional Oversight Committee on Agrarian Reform
- Joint Congressional Oversight Committee on Tourism
- Joint Congressional Oversight Committee on Overseas Workers' Affairs
- Congressional Oversight Committee on Philippine Disaster Risk Reduction & Management Act of 2010
- Congressional Oversight Committee on Labour and Employment
- Legislative Oversight Committee on the Visiting Forces Agreement
- Special Oversight Committee on Economic Affairs
- Joint Congressional Oversight Committee on Public Expenditures
- Joint Congressional Oversight Committee on the Ecological Solid Waste Management Act
- Select Oversight Committee on the Local Government Code of 1991
- Congressional Oversight Committee on the Special Purpose Vehicle Act
- Congressional Oversight Committee on the Anti-Money Laundering Law
- Oversight Committee on Climate Change
- Oversight Committee on Bases Conversion
- Congressional Oversight Committee on the AFP Modernization Act
- Select Oversight Committee on Intelligence and Confidential Funds
- Select Oversight Committee on Barangay Affairs

- Joint Congressional Oversight Committee on the Automated Election System
- Joint Congressional Oversight Committee on the Clean Air Act

## 10.5 THE LEGISLATIVE PROCESS IN THE HOUSE AND THE SENATE

### *Introduction of a Bill*

No matter where a legislative proposal originates, it can only be introduced by a member of Congress. There is no limit to the number of bills a member may introduce. House and Senate bills may have joint sponsorship and carry several members' names.

### *Types of Legislative Measures*

The type of measures that Congress may consider and act upon (in addition to treaties in the Senate) includes bills and three kinds of resolutions:

#### 1. Bills

These are general measures, which if passed upon, may become laws. The vast majority of legislative proposals – recommendations dealing with the economy, increasing penalties for certain crimes, regulation on commerce and trade, etc. – are drafted in the form of bills. They also include budgetary appropriations of the government and many others. When passed by both chambers in identical form and signed by the President or repassed by Congress over a presidential veto, they become laws.

#### 2. Joint Resolutions

A joint resolution, like a bill, requires the approval of both houses and the signature of the President. It has the force and effect of a law if approved. There is little real difference between a bill and a joint resolution. The latter is generally used when dealing with a single item or issue, such as a continuing or emergency appropriations bill. Joint resolutions are also used for proposing amendments to the Constitution.

#### 3. Concurrent Resolutions

A concurrent resolution is used for matters affecting the operations of both houses and must be passed in the same form by both of them. However, they are not referred to the President for his signature, and they do not have the force of law. Concurrent resolutions are used to fix the time of adjournment of a Congress and to express the "sense of Congress" on an issue.

#### 4. Simple Resolutions

A simple resolution deals with matters entirely within the prerogative of one chamber of Congress, such as adopting or receiving its own rules. A simple resolution is not considered by the other chamber and is not sent to the President for his signature. Like a concurrent resolution, it has no effect and force of a law. Simple resolutions are used occasionally to express the opinion of a single chamber on a current issue, or to call for a congressional action on an issue of national interest.

### ***First Reading and Referral to Committee***

Once a measure has been introduced and given a number, the bill is read for the first time. It must be noted that during the First Reading of a bill, only the title and the author are read on the floor. The process is aimed to formally introduce the bill to the chamber and make members aware of its introduction.

The bill is then referred to an appropriate committee, a process which is handled by the Speaker/President. For example, if a bill involves matters relating to agriculture, food production and agri-business, it must be referred to the Committee on Agriculture and Food.

As a general rule, a bill is referred to only one committee. But because of the large number of committees, there is often an overlap of responsibility. Whenever a bill covers subject matter related to the jurisdiction of more than one committee, it is referred to the committee within whose jurisdiction the subject matter most directly relates. However, that committee may, through its Chair, request another committee to provide input on the bill under consideration. The two committees mutually agree on a period during which the responsible committee will wait for input from the second committee.

### ***Committee Stage***

The committee stage is a critical part of the legislative process, where most of the practical work on policy details is done and political compromises on policy are worked out between parties. The power of Congress's standing committees is reflected in the fact that they are often known as "little legislatures." Committee hearings are held to discuss bills, which is often participated in by national government representatives, academe and other stakeholders. Expert opinion and public input, often determine the fate of most legislative proposals. Committee members and staff are experts in the subjects under their jurisdiction, and it is at committee hearings and technical working groups where a bill comes under the sharpest scrutiny. If a measure is to be substantially revised, the revision usually occurs at the committee level.



*A House of Representatives committee consolidates a bill*

A committee may dispose of a bill in any of several ways: it can approve the proposed bill without an amendment; approve the bill with changes; rewrite the bill entirely; reject it; or recommend substitution or consolidation with similar bills filed. A favourable recommendation from a committee allows the chamber to proceed with consideration of a bill. Rejection by a committee essentially kills a bill.

Following committee hearings on a bill, the committee issues a report. This describes the purpose and scope of the bill, explains any committee amendments, and indicates proposed changes in existing law and such other materials that are relevant.

### ***Second Reading***

The Second Reading is the main opportunity for members to debate a bill in plenary, following its consideration in the committee. The author of the bill delivers a sponsorship speech on the floor to explain the bill's provision and to argue for its passage. Members engage in debate and rebuttal to highlight the pros and cons of the bill. A period of amendments incorporates changes in the bill proposed by the committee or introduced by the members themselves on the floor. Finally, a vote is taken on the second reading version of the bill. If approved, the bill is calendared for Third Reading.



### ***Third Reading***

The Third Reading is a final formality before a bill is considered to be passed by the chamber. Printed copies of the bill's final version are distributed to the House Members/Senators. This time, only the title of the bill is read on the floor. Nominal voting is held. If passed, the approved bill is referred to the Senate for concurrence, if the bill has not yet already been considered by the other chamber.

### ***Consideration by the Other Chamber***

After the bill is approved on Third Reading, it will be submitted to the other chamber for consideration. If a bill originated in the House of Representatives it will be sent to the Senate for consideration. Similarly, a Senate bill will be referred to the House after the Third Reading in the Senate. Under normal procedures, therefore, a bill passed by one chamber and transmitted to the other is referred to the appropriate committee, from which it must follow the same route to passage as a bill originating from that chamber. The same procedures of First Reading, Second Reading and Third Reading occur in the other chamber, unless the bill on the same subject has already been reported on by the appropriate committee.

Major legislation is often introduced at the same time in both houses in the form of companion (identical) bills, the purpose of which is to speed up the legislative process by encouraging both chambers to consider the measure simultaneously. Sponsors of companion bills may also hope to dramatise the importance or urgency of the issue and show broad support for the legislation.

### ***Return to the Initiating Chamber***

The bill is returned to the initiating chamber to finalise a compatible version. If a House-approved version is compatible with that of the Senate's and vice versa, the final version's enrolled form is printed.

### ***Bicameral Conference Committee***

If there are differences between the two chambers, a Bicameral Conference Committee is called to reconcile conflicting provisions of the versions of both the Senate and of the House of Representatives. Either chamber can request a conference once both have considered the same legislation. Generally, the chamber that approved the legislation first will disagree to the amendments made by the second body and will make a request that a conference be

convened. Sometimes, however, the second body will ask for a conference immediately after it has passed the legislation, assuming that the other chamber will not accept its amendments.

The Speaker/Senate President designates the members of his/her respective panel in the Conference Committee, with the approval of the chamber. The authority of the Committees members theoretically is limited to matters in disagreement between the two chambers. They are not authorised to delete provisions or language agreed to by both the House and the Senate as to draft entirely new provisions. In practice, however, the conferees have wide latitude, except where the matters in disagreement are very specific. Moreover, conferees attempt to reconcile their differences, but generally they try to grant concessions only insofar as they remain confident that the chamber they represent will accept the compromise.

When the Committee has reached agreement on a bill, it will submit a report indicating changes made in the bill and explaining each side's actions. Once a Conference Committee completes its work, the amended bill can be submitted to the floor for approval. Approval of the conference report by both houses, along with any amendments on disagreement, constitutes final approval of the bill.

### ***Submission to the President***

After both houses have given final approval to a bill, a final copy of the bill, known as the "enrolled bill," is printed and certified as correct by the Secretary of the Senate and the Secretary General of the House of Representatives. The bill is then signed by the Speaker of the House and the Senate President. The "enrolled bill" is submitted to the President for his/her signature. A bill may become a law, even without the President's signature, if the President does not sign a bill within 30 days from receipt in his office. A bill may also become a law without the President's signature if Congress overrides a presidential veto by two-thirds vote.

## **10.6 RATIFICATION OF ASEAN AGREEMENTS**

The Senate is empowered to review ASEAN agreements under its constitutional powers of legislation and oversight of executive government as provided for in Article VII of the Constitution. "The Constitution provides that the power to ratify is vested in the President, subject to the concurrence of the Senate. Upon receiving the required certified true copy of the signed international agreement and its enclosures, the Office of Legal Affairs (OLA) of the Department of Foreign Affairs drafts a memorandum for the President recommending ratification of the international agreement and a

letter addressed to the Senate President recommending the concurrence by the Senate to the ratification of the President. In the Senate, the agreement or treaty undergoes three readings. No treaty/agreement is considered concurred in by the Senate unless it has passed three readings on separate days and printed copies are distributed to the Senators three days before its passage. The votes of at least two-thirds of all Members of the Senate is required for concurrence to a treaty."

The Senate plays a potentially prominent role in the ratification of ASEAN agreements because the Philippines is constitutionally a presidential system, with clear separation of powers between the executive and legislative branches of government and separate elections for each. Unlike the Westminster-derived parliaments in ASEAN, such as Malaysia, Singapore and Brunei, where members of the executive sit in the chamber and control majority support, the two branches of government in the Philippines' system of government are separate. The presidency and parliament are frequently controlled by different parties or coalitions. Therefore executive government cannot always be confident that the ASEAN agreements it signs will always be ratified by the House. Although ASEAN agreements generally receive legislative approval, they are often subject to rigorous questioning by legislators and can be rejected. The Philippines was one of the last countries to ratify the ASEAN Charter because of some opposition within Congress. Then President Arroyo established an inter-agency task force in 2008 to encourage the Congress to support ratification (Frost 2008:26).

In the case of AIPA resolutions, resolutions adopted by an AIPA General Assembly are transmitted to the Committee Affairs Department (CAD) of the House for distribution to the concerned committee by the Inter-Parliamentary Relations and Special Affairs Bureau (IPRSAB). The IPRSAB maintains the relationship of the House of Representatives with affiliated inter-parliamentary organizations such as the AIPA through its Inter-Parliamentary Relations Service (IPRS). The IPRSAB also provides a copy of the same resolutions to the Research and Reference Bureau (RRB) to determine if actions have been taken on the area of concern of the resolutions. Should an AIPA resolution require the creation of a Committee within the House, the opinion and recommendations of the RRB and the CAD are obtained.

It has been observed that more often than not, the House has taken action on the area of concern of an AIPA resolution. In cases where no action has been taken, the IPRSAB seeks the assistance of the concerned committee to include the particular AIPA concern in the agenda of the relevant House Committee. The IPRSAB works closely with the Committee on Inter-Parliamentary Relations and Diplomacy and the Committee on Foreign Affairs in processing AIPA resolutions.

## **11 SINGAPORE**

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### **11.1 POLITICAL SYSTEM**

Singapore is a republic with a parliamentary system of government. The head of state is the President. The Prime Minister is elected by, and responsible to, the parliament and is the head of executive government. Before 1991 the President was appointed by parliament, but a constitutional reform was introduced to provide for popular election of the President. Besides ceremonial roles, the President has the constitutional responsibility to safeguard the national reserves and the integrity of the civil service.

The Constitution lays down the fundamental principles and basic framework for the organs of state. Executive government is led by the Cabinet, and is accountable to Parliament. The President appoints a Prime Minister, who is a member of parliament and commands the confidence of the majority of Parliament. The Prime Minister is the effective head of the executive branch of government. He/she appoints and chairs the Cabinet, which is composed of members of parliament from the party with the majority of seats in parliament. The Cabinet is the central decision-making body of the executive government. In practice, all significant decisions or actions taken by the executive are first discussed and collectively agreed by Cabinet.

Singapore achieved its independence from Britain in 1963 as part of the new Federation of Malaysia, but left the Federation to become a separate state in 1965. Singapore's Legislative Assembly was renamed the Parliament of Singapore and first sat in 1965. The first general election after independence was held in 1968. The People's Action Party (PAP) has been the ruling party since that time, holding government uninterruptedly since the establishment of the country. The most recent elections were held in 2011, with two by-elections in 2012 and 2013. The PAP holds 80 of the 87 elected seats in parliament, resulting in the re-election of Prime Minister Lee Hsien Loong (Secretary-General of the PAP), who has held the post since 2004.

### **11.2 THE SINGAPORE PARLIAMENT**

The Parliament of Singapore is unicameral. The present Twelfth Parliament has 99 members consisting of 87 elected members, 3 Non-Constituency members (NCMPs) and 9 Nominated members (NMPs). At a national election 87 members are elected for a term of five years, on a first-past-the-post basis, and represent either Single Member Constituencies (SMCs) or Group Representation Constituencies (GRCs). In addition, up to nine NCMPs and up to nine (NMPs) may be appointed. The aim of NCMP is to ensure a minimum number of Members from an opposition political party in Parliament.

The measure was introduced because an overwhelming majority of members have come from the ruling party, the People's Action Party, ever since the first parliament sat in 1965. NCMPs are declared elected from candidates who fail to win at general elections, provided they gained at least 15% of the votes polled at the election in the electoral division where they stood for election. There are currently three NCMPs. NMPs are appointed for a term of two and a half years on the recommendation of a Special Select Committee chaired by the Speaker of Parliament.



*Opening session of the Parliament of Singapore*

For reasons that reflect Singapore's history before independence, the parliament's structure and operation sit broadly within the traditions of Westminster parliaments. This applies to the rules of procedure or standing orders that govern the workings of the chamber, the structure of the committee system and the processes for reviewing and deliberating legislation. While being influenced by Westminster procedures, the Singapore parliament has, of course, developed in its own particular modes of operations that reflect its own traditions and the decisions made by its own representatives of the people in parliament since independence.

### **11.3 CONSTITUTIONAL BASIS OF PARLIAMENT'S LEGISLATIVE AUTHORITY**

The legislative power of the Parliament is conferred in Articles 38 to 67 and Articles 142 to 148 of the Constitution.

## 11.4 LEGISLATIVE ORGANS OF THE PARLIAMENT

### **Leadership**

The Parliament of Singapore is led by a Speaker and two Deputy Speakers.

### **Select Committees**

The Parliament has a number of standing select committees that are appointed as soon as possible after each election. The committee structure reflects the structure traditionally found in Westminster parliaments internationally, with committees such as the Committees of Selection, Privileges, Estimates and Public Accounts deriving from their counterparts in the British House of Commons. A notable difference from most other Westminster parliaments is the absence of sectoral standing committees covering the full range of government policy areas (such as foreign affairs, economy, social affairs etc.) and shadowing the relevant executive government ministries and agencies. This is, in part at least, because Singapore has been governed by the same political party, the People's Action Party, since independence in 1963 and opposition parties have had weak representation in Parliament.

*Committee of Selection* is an influential committee because it is responsible for selecting members of the other committees of the Parliament. It is composed of seven members, reflecting the balance between Government and Opposition parties in the Parliament, and is chaired by the Speaker.

*Committee of Privileges* Looks into complaints of breaches of parliamentary privilege and any matters that appear to affect the powers and privileges of Parliament. It is composed of seven members, reflecting the balance between Government and Opposition parties in the Parliament, and is chaired by the Speaker.

*Estimates Committee* Examines the Government's estimates of expenditure and whether or not the expenditure was the best use of public funds in order to achieve the policy objectives implied in the expenditure. The Committee reports on its finding and suggests any ways in which the funds might be expended more economically. The Committee is composed of not more than seven members, reflecting the balance between Government and Opposition parties in the Parliament. The Committee's Chair is appointed by the Speaker.

*House Committee* Considers and advises the Speaker on all matters connected with the comfort and convenience of MPs. The Committee is composed of seven members, reflecting the balance between Government and Opposition parties in the Parliament, and is chaired by the Speaker.

*Public Accounts Committee* Examines the expenditure of public funds by the government by examining the accounts of expenditure granted by Parliament to executive government. Examines other accounts laid before Parliament as the Committee thinks fit. The Committee considers the annual Report of the Auditor-General. The Committee produces a report on its findings and recommendations. It is empowered to ask questions of government agencies and contractors. The Committee is composed of not more than seven members, reflecting the balance between Government and Opposition parties in the Parliament. The Chair is appointed by the Speaker.

*Public Petitions Committee* Considers all public petitions referred to it and conveys information to Parliament about the contents of the petitions. The Committee is composed of seven members, reflecting the balance between Government and Opposition parties in the Parliament, and is chaired by the Speaker.

*Standing Orders Committee* Considers and reports on all matters relating to the Standing Orders of Parliament referred to it by Parliament. The Committee is composed of seven members, reflecting the balance between Government and Opposition parties in the Parliament, and is chaired by the Speaker.

### **Select (Ad Hoc) Committees**

The Parliament can form other select (ad hoc) committees to consider other issues that come before the chamber. This includes select committees on a bill, established to consider a particular bill being considered by the Parliament. Committees can invite public submissions on bills or other matters before the Parliament and hold public hearings to gather evidence from members of the public, especially those with expertise in the subject under consideration. Most of these committees have been established to consider bills under consideration and very few have been formed to investigate and report on particular issues before the Parliament.

### **Government Parliamentary Committees**

Government Parliamentary Committees (GPCs) were established by the ruling People's Action Party (PAP) in 1987. GPCs are Party organs, and were not set up because they are required by any provision of the Constitution or constitutional convention. Each GPC examines the policies, programs and proposed legislation of a particular government ministry, provides the ministry with feedback and suggestions and is consulted by the ministry on issues of public interest.

The members of GPCs are PAP backbenchers, and each GPC is backed by a resource panel that members of the public are invited to join. GPCs were introduced to increase the participation of MPs in policymaking, to give the public a say in government policies through sitting on resource panels, and to strengthen democratic institutions in the country. With the increase in opposition members in Parliament there was some discussion within the PAP about whether to abolish GPCs because it was originally envisaged that GPC members would act as a sort of proxy opposition in Parliament. But these Committees still operate and currently there are 11 GPCs dealing with the following matters:

- Communications and information
- Culture, community and youth
- Defence and foreign affairs
- Education
- Finance, trade and industry
- Health
- Home affairs and law
- Manpower
- National development and the environment
- Social and family development
- Transport

## **11.5 THE LEGISLATIVE PROCESS**

### ***Submission of Bills***

Any individual Member of Parliament can submit a bill, in which case it is known as a Private Member's Bill. In practice, most legislation is initiated by the Cabinet, either acting on its own or on the advice of senior civil servants. Sometimes new policy initiatives requiring legislation are initiated by the Prime Minister's Office. In other cases new legislation or amendments to existing legislation are initiated by the Ministry charged with the responsibility of regulating that activity.

If the proposed legislation relates to an issue of interest to only one the Ministry or agency, it will work with the Legislative Division of the Attorney-General's Chambers to prepare the draft Bill. If the proposed legislation cuts across the responsibilities of several Ministries, an inter-ministerial committee will be established with representatives from the Attorney-General's Chambers and the relevant Ministries.

The legislative process follows the general practice in Westminster-derived parliaments, with a bill passing through the stages of three "readings".



### ***First Reading***

In the First Reading, the bill is introduced into Parliament, usually by the member responsible for the bill. The First Reading is a formality and no debate on the bill takes place. The bill is considered as having been read after the MP introducing it has read aloud its long title and laid a copy of it on the Table of the House, and the Clerk of Parliament has read out its short title. The Bill is then handed over to the Clerk of Parliament who is responsible for printing and circulating the Bills to the Members of Parliament. The bill is published in the Government Gazette for the public's information.

### ***Second Reading***

The bill is then scheduled for its Second Reading. If a bill involves matters related to taxation, borrowing, the receipt or expenditure of public funds, the Minister for Finance must signify that the President has recommended the introduction of the bill. The minister responsible for moving the bill usually makes a speech explaining the objects and reasons behind the bill. The general merits and principles of the bill are then debated.

The bill then proceeds to the committee stage, where the details of the drafting of the proposed law are examined. Where a bill is relatively uncontroversial, it is referred to a committee of the whole Parliament: a committee of this kind is formed when all the MPs attending the session form a committee and discuss the bill clause by clause. Bills that are more controversial, or that require the views of interested groups or the public, are often referred to a select committee. The committee may invite interested people to make representations to the committee. Public hearings to hear submissions on the bill may be held. The select committee then reports its findings, together with any suggested amendments to the bill, to Parliament.

When a select committee has completed its consideration on a bill, it is referred back to the whole chamber, either with or without proposed amendments. When the final text of the bill has been completed, it will be voted on by the members in the chamber. A vote can be taken on a voice vote or, if at least five members call for it, a vote will take place in a "division", in which members physically indicate their vote and the tally of votes (and any abstentions) is recorded by the Speaker.

### ***Third Reading***

The bill then goes through a Third Reading. At this stage, only amendments not of a material character may be made to the bill. The minister moving the

Third Reading may also make a speech outlining the changes made to the bill. The bill is then put to the vote. In most cases, a simple majority of Parliament is all that is needed for the bill to be approved. However, bills seeking to amend the Constitution must be carried by a special majority: not less than two-thirds of all MPs on the Second and Third readings. On the completion of the Third Reading, the bill is regarded as having been passed by the Parliament.

### ***Scrutiny of Bills by the Presidential Council for Minority Rights***

Once bills have been passed by Parliament (except for money bills, bills related to defence and security and bills deemed by the Prime Minister as too urgent to delay), they must be submitted to a non-elected advisory body called the Presidential Council for Minority Rights (PCMR). The PCMR's responsibility is to draw attention to any legislation that, in its opinion, is a "differentiating measure", that is, one that discriminates against any racial or religious community. When the Council makes a favourable report or no report within the time prescribed, the bill is presented to the President for assent.

If the PCMR submits an adverse report, Parliament may opt to make amendments to the bill and resubmit it to the Council for approval. Parliament can also decide to present the bill for the President's assent, despite the PCMR's adverse report, provided that a Parliamentary motion for such action has been passed by at least two-thirds of all MPs. The PCMR has not rendered any adverse reports since it was set up in 1970.

### ***Presidential Assent***

The President generally exercises his constitutional function of assenting to bills in accordance with Cabinet's advice and does not act according to his personal discretion. Therefore, he/she may not refuse to assent to bills that have been validly passed by Parliament, except in relation to certain matters specified in the Constitution, principally specified fiscal measures (e.g. Supply Bills), key civil service appointments, Internal Security Act detention orders and Maintenance of Religious Harmony Act restraining orders and bills that affect the powers of the President. Upon receiving presidential assent, a bill becomes law, known as an Act of Parliament. The Act comes into force on the date named in a notification published in the Government Gazette.

## **11.6 RATIFICATION OF ASEAN AGREEMENTS**

According to constitutional arrangements in Singapore, the power to negotiate and conclude international treaties, conventions and agreements, including ASEAN Agreements, is vested in executive government. The Ministry of Foreign

Affairs meets with other relevant ministries at inter-agency meetings to provide briefings about the results of international negotiations and the conclusion of an ASEAN Agreement. The Ministry signs and deposits the instrument of accession. The Attorney General's Chambers advises the government on the legal issues concerning application, ratification and implementation of agreements. It also advises whether existing laws are sufficient to discharge any obligations under the agreement or if new legislation is required. Once the processes in executive government are complete, the agreement is regarded as ratified. Any necessary legislation is drafted in the relevant Ministry and submitted to parliament for passage into law.

Parliament is not directly involved in the drafting or ratification of ASEAN Agreements because it is the responsibility of the executive. The passage through parliament of any legislation necessary to implement ASEAN Agreements follows the same procedure described above. The draft legislation passes through the stages of three Readings in plenary sessions of the two chambers. There is no committee specifically tasked with the review of ASEAN Agreements or with international treaties and agreements generally. Deliberations on ASEAN agreements take place in plenary sessions of parliament rather than in committee.

Monitoring the implementation of ASEAN and AIPA agreements can be taken up by members of parliament because the Parliament does not have a committee with this specific responsibility. Parliament can monitor implementation of ASEAN and AIPA agreements through the mechanisms that apply to general parliamentary oversight of executive government. These derive from the constitutional provision for ministerial responsibility to parliament, which is a key feature of the Westminster tradition.

Therefore the involvement of the parliament in the monitoring and implementation of ASEAN and AIPA agreements takes place as part of parliamentary procedures that are used for other national and international affairs. There are no purpose-built specialized procedures for this area of policy.

## 12 THAILAND

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The most recent Constitution operating in Thailand was drawn up in 2007. Since May 2014, however, the 2007 Constitution has been revoked and Thailand has been under the rule of the National Council for Peace and Order (NCPO), which has taken control of the national administration. The following description pertains to the operation of the National Assembly as it was under the 2007 Constitution, which has been subject to a process of review and rewriting.

### 12.1 POLITICAL SYSTEM

Thailand is a constitutional monarchy with the reigning King as head of state. Reigning since 1946, King Bhumibol Adulyadej is the world's longest-serving current head of state and the country's longest-reigning monarch. According to the 2007 Constitution (which is under review) the country has a parliamentary system with a Prime Minister as the head of executive government. The Prime Minister is limited to two terms in office and appoints the Cabinet from members of the majority party in parliament.

Thailand is the only country in ASEAN, and one of the few parts of Asia, that was not subjected to colonial rule. The first constitutional government was established in 1932 when the then-absolutist King was induced to create the post of prime minister as part of reforms that made the country a constitutional monarchy. The country has experienced numerous changes of regime since that time, especially through military coup. The most recent constitution was drafted in 2007, providing for an elected parliament and Prime Minister. The most recent elections of 2011 were won by the Pheu Thai Party, whose leader, Yingluck Shinawatra, became Prime Minister. In 2014, the Army Chief launched a military coup, established the National Council for Peace and Order (NCPO) and was nominated Prime Minister in a unanimous resolution of the new National Legislative Assembly. The interim government announced a road map leading to an election in 2015 and the drafting of a new constitution.

### 12.2 CHAMBERS OF THE THAI PARLIAMENT

Under the 2007 Constitution, the bicameral parliament is known as the National Assembly.

The House of Representatives is the lower house of parliament, made up of 500 members elected every four years, or sooner if a dissolution occurred. The House is the main legislative chamber where the government is formed from

the party or coalition with the support of the majority of House members. The House is elected on a parallel voting or Mixed Member Majoritarian (MMM) system where 375 members represent single-member constituencies (often known as a “first-past-the-post” system), and 175 members represent 8 multi-member constituencies with seats allocated according to the percentage of vote each party received. Thus every voter has two votes: one for an individual MP to represent his/her single-member constituency, and one for a party from a party list to represent his/her multi-member constituency.

The upper house is called the Senate and has terms of six years. The chamber is non-partisan and has limited legislative powers. The Senate is made up of 76 elected members (one representing each province) and 73 or 74 members selected from by the Senate Selection Committee from the academic community, public sector, private sector, professional sector and other sectors. Senators are not permitted to hold any additional office or to be members of political parties.

## **12.3 CONSTITUTIONAL BASIS OF PARLIAMENT’S LEGISLATIVE AUTHORITY**

The National Assembly is described in Chapter Six of the 2007 Constitution. Sections 138-140 provide for the Assembly’s powers to make organic laws and Sections 142-153 deal with other laws.



*House of Representatives of Thailand in plenary session*

## 24 LEGISLATIVE ORGANS OF THE PARLIAMENT

### *Leadership*

The House of Representatives is led by the Speaker of the House of Representatives and two Deputy Speakers and the Senate by the President of the Senate and two Vice Presidents. The Speaker of the House of Representatives is also President of the National Assembly. The President of the Senate is Vice-President of the National Assembly. In a case where there is no Speaker of the House of Representatives, or the Speaker of the House of Representatives is not present or is unable to perform his/her duties, the President of the Senate acts as President of the National Assembly.

House of Representatives Standing Committees are as follows:

- Committee on Legal Affairs, Justice and Human Rights
- Committee on Boundary Affairs
- Committee on House of Representatives Affairs
- Committee on Constitutional Organisation, State Enterprises, Public Organisation and Funds
- Committee on Children, Youth, Women, Elderly and the Disabled
- Committee on National Debt Solution
- Committee on Agriculture and Co-Operatives
- Committee on Transport
- Committee on National Security
- Committee on Consumer Protection
- Committee on Monetary Affairs, Finance, Banking and Financial Institutions
- Committee on Foreign Affairs
- Committee on Police Affairs
- Committee on Budget Administration Follow-up
- Committee on Armed Forces
- Committee on Tourism and Sports
- Committee on Land, National Resources and Environment
- Committee on Administration
- Committee on Local Administration
- Committee on Money Laundering & Narcotics Prevention & Suppression
- Committee on Prevention & Mitigation of Effects of Natural and Public

#### Disaster

- Committee on Corruption Prevention and Suppression
- Committee on Energy
- Committee on Political Development, Mass Communications & Public Participation
- Committee on Economic Development
- Committee on Commerce and Intellectual Property
- Committee on Labour
- Committee on Science and Technology
- Committee on Religion, Arts and Culture
- Committee on Education
- Committee on Social Welfare
- Committee on Public Health
- Committee on Agricultural Product Price Promotion
- Committee on Communications and Telecommunications
- Committee on Industry

Senate standing committees are as follows:

- Committee on Agriculture and Cooperatives
- Committee on Communications
- Committee on Finance, Banking and Financial Institutions
- Committee on Budget
- Committee on Science, Technology and Energy
- Committee on Economics, Commerce and Industrial
- Committee on Environment
- Committee on Foreign Affairs
- Committee on Armed Forces
- Committee on Interior Administration
- Committee on Privatisation of the State Enterprises
- Committee on Public Participation
- Committee on Justice and Human Rights
- Committee on Independent Body Affairs
- Committee on Sports
- Committee on Tourism
- Committee on Labour and Social Welfare
- Committee on Education, Religion, Arts and Culture
- Committee on Public Health

- Committee on Women, Youth and Elderly Affairs
- Committee for Checking Minutes of the Sitzings and Following-up Resolutions of the Senate
- Committee on Social Development and Human Security

### ***Ad Hoc Committees***

Both the House of Representatives and the Senate can form ad-hoc committees to consider the details of particular bills or to investigate issues of national importance.

## **12.5 THE LEGISLATIVE PROCESS**

### ***Submission of Bills***

Under the 2007 Constitution, a bill can be introduced to the National Assembly by:

- (1) Council of Ministers (Cabinet);
- (2) At least twenty members of the House of Representatives;
- (3) A Court or an independent constitutional organ, but only in respect of a law concerned with that institutional organisation or a law the execution of which the President of such Court or such organ has charge and control; or
- (4) Persons having the right to vote of not less than ten thousand in number, on matters relating to rights and liberties or fundamental state policies.

If the bill is related to financial matters, its introduction has to be made with the endorsement of the Prime Minister. A money bill means a bill with provisions dealing with any of the following matters:

- The imposition, repeal, reduction, alteration, modification, remission, or regulation of taxes or duties;
- The allocation, receipt, custody, payment of the State funds, or transfer of expenditure estimates of the State funds or the transfer of national budget funds;
- The raising of loans, or guarantee or redemption of loans; or any binding of State's properties;
- Currency.

If there are doubts about whether a bill is a money bill or not, the issue is resolved in joint sitting of the Speaker of the House of Representatives and Chairs of all its standing committees, within fifteen days of the case arising.



The legislative process follows the practice in many parliamentary systems of government, with a bill passing through the stages of three "Readings" through each chamber of the National Assembly.

### ***Voting Rules***

Voting takes place by majority vote, either through an open or a secret ballot. Votes are normally open, unless 20 or more members call for a secret ballot. In the case of an open vote, there is a vote by voting machine or by raising coloured ballot papers to indicate yes, no or abstention. If there is a secret ballot, voting is conducted through a voting machine or through marking ballot papers in sealed envelopes.

### ***First Reading***

In the First Reading, the bill is introduced into the chamber, usually by the responsible minister. The members of the chamber, the House of Representatives or the Senate respectively, then consider and resolve whether to accept the bill for consideration. If the bill is from people submitting a petition, the chamber can allow the people submitting the bill to state the principle of the bill. If the proposed bill is defeated it is deemed to be rejected by the chamber. If it is approved, the chamber considers the draft in the Second Reading.

### ***Second Reading***

Upon the bill's acceptance in the First Reading, it is then placed on the agenda for the Second Reading stage where the draft is examined in more detail. The bill proceeds to the committee stage, where the provisions of the proposed law are examined by a select committee or ad hoc committee of the respective chamber or by a Committee of the Whole House. If the chamber resolves to have the bill considered by a Committee of the Whole House, all the members present constitute the committee and the President presides as Chair of the Committee. A bill is normally referred to a committee and would only be submitted to the Committee of the Whole House on the motion of a member, seconded by at least ten other members. The committee could vote to accept the bill or to propose amendments.

After the committee's consideration of the bill it produces a report on its findings and any amendments and submit the report to the President of the chamber concerned. The committee can also express its view that certain issues in the bill should be referred to the Council of Ministers, the Constitutional Court, the Courts of Justice, the Administrative Courts

or other constitutional organ. The chamber then considers the bill and any amendments and votes on the bill.

### ***Third Reading***

The bill then goes through a Third Reading. At this stage, the final decision on a bill takes place through a vote without debate. If the bill is defeated it is deemed to be rejected. If the members vote to accept the bill, the draft is presented to the Senate. The bill then proceeds to the upper house for consideration, debate and voting.

### ***Referral to the Senate***

When the House of Representatives considers a bill and passes a resolution approving it, the House of Representatives submits the bill to the Senate. The Senate is required to finish the consideration of the bill within sixty days; or in the case of a money bill, within thirty days. After the Senate has finished the consideration of a bill, and if it agrees with the House of Representatives the bill then proceeds to the next stage. If the Senate disagrees with the House of Representatives, the bill is withheld and returned to the House of Representatives. If there is an amendment, the amended bill is then returned to the House of Representatives. If the House of Representatives approves the amendment, the bill proceeds to the next stage. In other cases, each House appoints representatives (being or not being its members) in equal number (as may be fixed by the House of Representatives), to constitute a joint committee for considering the bill. The joint committee then prepares a report and submits the bill to both Houses. If both Houses approve the bill, proceedings on the bill proceed to the next stage. If either House rejected it, the bill is withheld.

### ***Royal Assent***

After a bill has been approved by the National Assembly, the Prime Minister presents it to the King for his signature (Royal Assent) within twenty days from the date of the receipt of the bill from the National Assembly. The bill comes into force upon its publication in the Royal Gazette.

If the King refuses his Royal assent, either by withholding his signature to a bill and returning it to the National Assembly or by not returning it within ninety days (a veto), the National Assembly is required to re-deliberate the bill. If the National Assembly resolves to reaffirm the bill with the votes of not less than two-thirds of the total number of the members of both Houses, the Prime Minister again presents the bill to the King for signature. If the King still does

not sign the bill and returns it within thirty days, the Prime Minister can cause the bill to be promulgated as an Act in the Royal Gazette as if the King had signed it. Thus the National Assembly has the power to overturn the Royal veto.

## **12.6 RATIFICATION OF ASEAN AGREEMENTS**

Arrangements for the National Assembly's involvement in the ratification of ASEAN agreements are under review because of the suspension of the 2007 Constitution. The 2007 Constitution states that any treaty requiring legislation for its implementation must be approved by the National Assembly. In general terms, the process for passage of such legislation follows the same lawmaking process as described above. More specifically, the National Assembly is required to complete its consideration of legislation for an agreement such as the ASEAN Charter within sixty days of receipt from executive government. The Council of Ministers must provide information on the agreement to the public, conduct public consultations and supply the relevant data to the National Assembly for its consideration.

The draft agreement is submitted to parliament by the Council of Ministers to the office of the President of the House. The President, in turn, conveys the draft to the Committee on Foreign Affairs and/or other relevant committee for deliberation. The report of the committee on the draft agreement, including its recommendation on ratification, is submitted to the plenary session of the House for approval. There is no committee specifically tasked with the responsibility of dealing with ASEAN matters. ASEAN agreements, and ASEAN affairs generally, are handled in the Committee on Foreign Affairs, with involvement from other committees if there are specific policy issues within those committees' responsibility.

As mentioned above, there is no specific parliamentary committee for ASEAN and AIPA. Monitoring of the implementation of ASEAN and AIPA agreements takes place through the same procedures and mechanisms that are involved in the oversight and scrutiny of executive government in other policy areas. The rules of procedure enable MPs to raise questions and seek explanations about the quality of the implementation of policy and expenditure of public funds by executive government agencies, including with regard to ASEAN matters.

## **13 VIETNAM**

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### **13.1 POLITICAL SYSTEM**

The Socialist Republic of Vietnam is under the constitutional rule of the Communist Party of Vietnam. The head of state is the President selected by the parliament and responsible for representing the country internationally, while the Prime Minister is the head of executive government and also selected by the parliament. The Communist Party of Vietnam (CPV) Central Committee—in which political power is formally vested—comprises 175 full and 25 alternate members elected at the Party Congress, held every five years. The Central Committee meets twice a year and acts as the CPV's supreme decision-making organ. The Central Committee in turn elects a Politburo (currently 16 members), which runs Party affairs between Central Committee meetings and is Vietnam's most powerful political body in practice. The government is accountable to the National Assembly. In recent years, the National Assembly has become increasingly influential in setting national priorities, with members prepared to criticise the government.

Vietnam achieved independence from France in 1954, but was divided between two rival states until reunification in 1975. Strictly socialist policies were pursued by the government in the years following reunification, while recent times have seen increasing political and economic liberalisation. The most recent elections were held in 2011. The current General Secretary of the CPV is Nguyen Phu Trong, the Prime Minister is Nguyen Tan Dung and the President is Truong Tan Sang.

### **13.2 THE PARLIAMENT OF VIETNAM**

Vietnam's parliament is the unicameral National Assembly, composed of 458 members of the Communist Party of Vietnam and 42 independent members. The term of office is five years. Unusually, most of the members of the National Assembly are part-time and hold other forms of employment as well as fulfilling their duties as members of parliament. In addition to its legislative powers, the Assembly holds formal responsibility for appointing the President (head of state), Prime Minister (head of government), Chief Justice of the Supreme People's Court of Vietnam, Head of the Supreme People's Procuracy of Vietnam (or 'Supreme People's Office of Supervision and Inspection'), and the 21-member Government.

### **13.3 CONSTITUTIONAL BASIS OF PARLIAMENT'S LEGISLATIVE AUTHORITY**

Chapter VI of the Constitution describes the structure, functions and powers of the National Assembly. Article 83 states that the National Assembly is the only

organ with constitutional and legislative powers. The powers of the Assembly in relation to the Constitution, legislation, decrees and appointments are set out in Article 84 as follows:

1. Make and amend the Constitution; to make and amend laws; to work out a programme for making laws and decree-laws;
2. Exercise supreme control over conformity to the Constitution, the law and the resolutions of the National Assembly, to examine reports of the country's President, Standing Committee of the National Assembly, the Government, Supreme People's Court, Supreme People's Office for Supervision and Control;
3. Decide the country's plan for socioeconomic development
4. Decide the national financial and monetary policies; to decide the draft State budget and budgetary appropriations; to approve the accounts of the State budget; to establish, change, or abolish taxes;
5. Decide the nationalities policy of the State;
6. Regulate the organisation and activity of the National Assembly, the country's President, the Government, People's Courts, People's Office of Supervision and Control and the local administrations.
7. Elect, release from duty, remove from office the President and Vice-President, Chairman of the National Assembly, Vice-Chairmen and members of the Standing Committee of the National Assembly, Prime Minister, President of the Supreme People's Court, Head of the Supreme People's Office of Supervision and Control; to sanction proposals of the country's President on the establishment of the Council of National Defence and Security; to sanction Proposals of the Prime Minister on the appointment, release from duty and removal from office of Deputy Prime Ministers, Cabinet Ministers and other members of the Government;
8. Set up or suppress government ministries and government organs of ministerial rank; to establish, merge, divide, or adjust the boundaries of provinces and cities under direct central rule; to set up or disband special administrative-economic units;
9. Abrogate all formal written documents issued, by the country's President, the Standing Committee of the National Assembly, the Government, the Prime Minister, the Supreme People's Court, and the Supreme People's Office of Supervision and Control, that run counter to the Constitution, the law, and resolutions taken by the National Assembly;
10. Proclaim an amnesty;
11. Institute titles and ranks in the people's armed forces, in the diplomatic service and other State titles and ranks; to institute medals, badges and State honours and distinctions;
12. Decide issues of war and peace; to proclaim a state of emergency and other special measures aimed at ensuring national defence and security;
13. Decide fundamental policies in external relations; to ratify or annul

international agreements that have been signed or participated in on the proposal of the country's President;

14. Hold a referendum.



*Plenary session of the National Assembly of Vietnam*

## **13.4 LEGISLATIVE ORGANS OF THE PARLIAMENT**

### ***Leadership***

Leadership is exercised by the Chairman/woman of the National Assembly.

### ***Standing Committees***

Standing Committee of the National Assembly

This Committee is the most powerful of the standing committees of the National Assembly and is responsible for guiding the overall work of the Assembly, including when the Assembly is not in session. It is chaired by the Chairman/woman of the National Assembly. The Committee's constitutional duties are:

1. Preparing, convening and chairing the National Assembly's sessions;
2. Explaining and interpreting the Constitution, laws, acts, and ordinances;
3. Promulgating ordinances at the National Assembly's request;
4. Supervising the implementation of the Constitution and laws, and the activities of the Government, the Supreme People's Court and the Supreme People's Procuracy;
5. Supervising and guiding the activities of provincial people's councils (local legislative bodies);
6. Directing and co-ordinating the activities of the National Assembly's Ethnic Council and other committees, providing guidance and guaranteeing the deputies' working conditions;
7. Approving the cabinet's personnel affairs in between the National Assembly's sessions and making reports to the National Assembly in the next session;
8. Declaring wars in between the National Assembly's sessions and making reports to the National Assembly in the next session;
9. Launching general mobilisation or partial mobilisation, and declaring national or local state of emergency;
10. Performing external relation activities of the National Assembly; and
11. Organising referendums at the National Assembly's request.

The Committee is led by a Chair and Deputy Chair and is composed of member selected by the National Assembly. Members of the Committee must not concurrently hold a position in the cabinet. The Committee is elected at the beginning of the term of each new Assembly and members hold their position until the end of the Assembly's term.

### ***Ethnic Council***

The main duties of the Ethnic Council are to contribute to, investigate and supervise legal documents (laws, acts, ordinances) and legal procedures in relation to ethnic issues.

### ***Other Standing Committees***

These include:

- Committee on Laws;
- Committee on Judicial Affairs;
- Committee on Economic Affairs;
- Committee on Financial and Budgetary Affairs;
- Committee on National Defence and Security;

- Committee on Culture, Education, Adolescents and Children;
- Committee on Social Affairs;
- Committee on Science, Technology and Environment;
- Committee on Foreign Affairs.

## 13.5 THE LEGISLATIVE PROCESS

### *Development of the Legislative Program*

The development of the legislative program is the first stage of the legislative process in which various institutions submit proposals for legislation to the National Assembly to be composed into a legislative program for the coming period. The institutions that are able to submit legislative proposals are the State President, National Assembly agencies, executive government agencies, Supreme People's Court, Supreme People's Procuracy, Vietnam Fatherland Front and its member organisations, and National Assembly members.

The legislative proposals are first considered by committees of the National Assembly such as the Law Committee, Ethnic Committee and other committees. This review process ensures that the proposals comply with certain requirements to be included in the legislative program. The proposals must include: the need for the legislation; subject and scope of the legislation, viewpoints about the proposal; projected impact on the society and economy; projected financial resources required to implement the legislation; and projected conditions to ensure the drafting of the document.

The verified proposals are then submitted to the Standing Committee of the National Assembly which is responsible for drafting the legislative program, based on the proposals received. The Standing Committee must consider whether the proposals are in line with the plans and policies of the Communist Party, strategies for socio-economic development, national defence and security and other requirements of state management during the relevant period. The Standing Committee submits a report and draft resolution of the National Assembly on the legislative program, accompanied by an explanation of the proposals. The draft legislative program is published on the website of the National Assembly.

The draft legislative program is first discussed in a plenary session of the National Assembly and inputs and suggestions are provided by Assembly members. These inputs are considered by the institutions that initiated the proposed legislation and amendments may be made to the draft legislation. The Standing Committee reports to the National Assembly on the amended drafts. The National Assembly then votes to adopt a final version of the Assembly's resolution on the legislative program.



### ***Consideration by the Ethnic Council and Other Committees***

The next stage of the legislative process involves detailed consideration of draft legislation by relevant committees of the National Assembly, in consultation with the institutions that initiated the proposals. For example, the Ethnic Council considers issues related to the country's ethnic groups and the Legal Committee verifies draft legislation to ensure constitutionality, legality and consistency with other laws. This process considers broad issues such as the objectives and scope of the draft legislation, consistency with plans and policies of the Communist Party, financial feasibility and constitutionality of the proposals, as well as matters such as the language and drafting details of the proposals.

### ***Consideration by the Standing Committee***

Once a draft bill has been considered by the appropriate National Assembly committees, it is the responsibility of the Standing Committee of the National Assembly to provide further input on the draft and prepare it for presentation to the National Assembly. This role includes performing the function of connecting and mediating between the initiators of a bill and the National Assembly. The Standing Committee will produce a report on its findings and recommendations on the draft bill and refer it to the National Assembly for consideration and passage through the chamber. The Standing Committee is responsible for drafting the agenda of National Assembly sessions and proposing which bills should be considered in which sessions of the Assembly.

### ***Consideration and Approval by the National Assembly***

Consideration of bills in sessions of the National Assembly consists of the following steps:

- Explanation of the bill

The bill is presented to the National Assembly plenary session by representatives of the government agency or National Assembly members who have initiated the bill, in the form of a submission report.

- Presentation of first-stage consideration reports from National Assembly Committees

Each of the National Assembly Committees that considered the draft bills before their referral to the Standing Committee will present a report on their findings and recommendations on the draft bill to the Assembly plenary session. These are designed to inform the Assembly members of issues and

Opinions related to the bill and to facilitate the quality of deliberations in the chamber.

- Group discussions by National Assembly members

Time is provided for groups of the National Assembly members to study the content of draft bills, to meet and exchange opinions about draft bills and to prepare input to be presented at the following plenary session. These discussions are organised to take place before deliberations in the plenary session begin.

- Plenary session deliberations

A key stage in the legislative process is deliberation in a National Assembly plenary session. Because the Assembly meets in plenary sessions for a limited number of times per year and most members are part-time, the time for deliberations on a bill is relatively constrained. Therefore the Assembly has reformed plenary processes in recent years to reduce the amount of discussion on drafting details and layout of bills and to concentrate on substantive issues of content. The Assembly members invite representatives of government agencies and other organisations involved in the drafting of the bill to present their views on the content of the bill. If there is continuing disagreement amongst Assembly members, the chair of the session can request that Opinion Forms be distributed to members so they can express their views in writing.

### *Deliberations on revised bills*

If discussions on the contents of a bill are not finally resolved, the Assembly may propose revisions on a bill and refer them to the Standing Committee of the Assembly for discussions with Assembly Committees and the initiators of the bill. The bill will then be further discussed after changes have been made by Assembly Committees or by the initiating institutions. Discussions on the revised bill usually take place in a second session of Assembly, but may take place later in the same session if amendments have been completed.

### *Completion of the bill*

The final stage of the legislative process is voting on the bill. A bill is passed when it receives the support of the majority of the members present. Voting can take place through an electronic voting system, by secret ballot or by a show of hands. Once final agreement on the bill is reached it is submitted to the President for signature.

### **13.6 RATIFICATION OF ASEAN AGREEMENTS**

Ratification of all international agreements by the National Assembly is not required under Vietnamese law. The ASEAN Charter was ratified by the State President of Vietnam in March 2008. Because the Charter could be ratified directly by the decision of the President, Vietnam was amongst the first countries to convey its instrument of ratification to ASEAN (Frost 2008:26).

Because Vietnam is constitutionally a one-party state, with almost all members of the National Assembly belonging to the Communist Party, the participation of the parliament in the ratification of ASEAN agreements, or in international relations in general, is limited. Executive government has the greater determining influence on the direction of state policy and therefore involvement by the parliament in the implementation and monitoring of ASEAN agreements is structured within the framework of priorities set by the government.

There is no committee specifically tasked with handling ASEAN or AIPA matters. The Committee on Foreign Affairs of the National Assembly is the coordinator in charge of all external relations and foreign affairs activities of the Assembly, including those with ASEAN. Regarding specific matters in ASEAN cooperation, this Committee will cooperate with other relevant committees in the National Assembly, according to the particular policy area involved.

The leaders of the Committee on Foreign Affairs have responsibility for setting the overall direction of the work of the Committee in relation to ASEAN matters and, where necessary, submits reports to the plenary session of the National Assembly for final decision.

## 14 CONCLUSION

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This study has shown that legislative procedures in AIPA member parliaments are as diverse as the states that make up ASEAN. The countries of ASEAN include constitutional monarchies, Westminster-based parliamentary systems, a variety of parliamentary systems in one-party socialist republics and one-party dominant states, as well as republics with a presidential system. Various constitutional arrangements, political and historical legacies and electoral systems give rise to parliaments that have very different relationships with executive government and very different types of involvement in the lawmaking process. Some AIPA parliaments initiate and draft laws, while others are more involved in a process of review of government-initiated legislation. On the one hand, there are AIPA member parliaments whose input into legislation is in the nature of advice to the government, in which case it tends to focus on technical issues and refinements to the details of policy. On the other hand, the input from many AIPA parliaments is much more politicised in character and may involve the drafting of amendments that challenge the whole approach being advocated by executive government.

This variety is one of the outstanding features of ASEAN, but it is also a challenge for the development of a common stance on policy issues and to the strengthening of procedures for the implementation of ASEAN agreements. This includes matters related to the legislative branch of government and the affairs of AIPA as the counterpart to executive institutions in ASEAN. When proposing recommendations for the further development of ASEAN and AIPA systems, the principle of non-intervention in the internal affairs of member countries and consensus-based decision-making prescribes that recommendations must not run counter to what is acceptable and achievable within member states and parliaments.

In the case of AIPA, the diversity described in this study provides further evidence that it is not advisable or even possible to be prescriptive about any recommendations for reform of AIPA systems and practices. Such change must come about from within AIPA member parliaments and cannot be directed from without. The following recommendations are therefore ones which can be initiated by parliaments themselves and which involve the evolution of a renewed spirit for the strengthening of AIPA, as much as the creation of new systems.

1. Enhance the existing role of the Speaker/President in each AIPA parliament in facilitating the ratification, implementation and monitoring of ASEAN agreements and AIPA resolutions. ASEAN and AIPA instruments are much more likely to achieve an appropriate status and profile if they are sponsored and actively supported by the leadership of the chamber.

2. Encourage the establishment of a dedicated committee for ASEAN affairs in each AIPA member parliament. This will send a strong message about the importance according to ASEAN affairs, alongside existing organs with responsibility for international affairs, treaties and inter-parliamentary relations.
3. Support a renewed emphasis on the role of the AIPA Caucus as a mechanism through which action on ASEAN and AIPA instruments can be strengthened.
4. Provide for the allocation of staff resources in each AIPA parliament dedicated to working in support of the implementation of ASEAN and AIPA instruments.
5. Support the development of networks of staff that are already emerging across the AIPA member parliaments.
6. Develop standard operating procedures (SOP) in each AIPA parliament for the drafting of resolutions for AIPA forums in order to enhance their common appeal and usefulness to member parliaments. Such procedures will produce drafts with a greater chance of finding common agreement.
7. Strengthen communication between AIPA and ASEAN institutions.

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