



International Treaties Seminar: Road Safety

**Participation in
multilateral
treaties**

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Treaties

- International agreements concluded between States or/and international organizations in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.

Treaties

- **Treaties are drawn up by the negotiating States (and/or international organizations).**
- **Text is authenticated (established as authentic and definitive) by a procedure agreed upon by States participating in its drawing up (signature, initialing, adoption, etc.)**
- **Original is prepared on basis of the agreed and authenticated text.**

Secretary-General's Role as Depository

- **Multilateral treaties normally designate a depository.**
- **The depository begins to perform his role, once the multilateral treaty is adopted.**
- **Original of a multilateral treaty is prepared by the depository on basis of text as adopted.**

Secretary-General's Role as Depository

- Secretary-General is designated as Depository of 560 multilateral treaties.
- These treaties provide a comprehensive network of legal norms affecting international behavior.
- Some treaties have significant implications for individuals and communities.
- And business activities of corporations.

Secretary-General's Role as Depository

- **The Secretary-General is not obligated to accept the depository role but normally does, where:**
 - **It is an open multilateral treaty of a universal nature;**
 - **It has been adopted by the General Assembly;**
 - **Concluded by a conference convened by a UN organ;**
 - **Regional treaties drawn up within the framework of the regional economic commissions.**

Secretary-General's Role as Depository

- The Secretary-General is responsible for ensuring the proper execution of all treaty actions relating to a treaty.

- Guided in the performance of the depositary functions by the following:
 - Provisions of the relevant treaty (final clauses);
 - The practice of the S-G as depositary (Summary of Practice of the Secretary-General as Depository);
 - Articles 76 and 77 of the Vienna Convention on the Law of Treaties, 1969;
 - Resolutions of the GA and other UN organs;
 - International law.

- The Secretary-General provides advice and assistance relating to the conclusion of such treaties, particularly on final clauses (ST/SGB/2001/7 of 28 August 2001).

Status of Treaties Deposited with the Secretary-General

- Secretary-General publishes *"The Multilateral Treaties Deposited with the Secretary-General"*.
 - The most comprehensive collection of this type in the world.
 - Provides details on the status of the multilateral treaties deposited with the Secretary-General.
 - signatures, ratifications, declarations, reservations, etc.
 - Available on the Internet at <https://treaties.un.org>
 - Updated daily.
 - The Secretary-General depositary notifications are daily posted on the Internet and sent by e-mail by subscription.

Depositary and Administrative Functions

- The Secretary-General is given numerous administrative functions under the multilateral treaties as well.
 - E.g., collect information, convene and arrange meetings of the parties, make reports, dispatch study groups, etc.
 - However, he is not disposed to being allocated such functions in his capacity as depositary.

Encouraging Wider Participation

- In 2000, the Millennium Year, a campaign to encourage wider participation in the multilateral treaties deposited with the Secretary-General.
 - A key awareness raising effort.
 - Many treaties negotiated with meticulous care and adopted with great enthusiasm have, after many years, not achieved universal participation.
 - Some not even in force.
- The Millennium Summit Treaty Event proved to be a major success
 - decided to hold such an event each year and
 - 1878 treaty actions have been deposited since 2000.

Training

- Assistance is provided to countries to become party to treaties. i.e., to sign and ratify, accede to or undertake other treaty actions and to draft final clauses.
 - Secretariat has prepared a treaty handbook to provide guidance to countries to undertake treaty actions.
 - It has also prepared a final clauses handbook to provide a reference tool to draft final clauses of multilateral treaties.
 - Handbooks are available in all UN official languages.
 - Handbooks are supplemented with training sessions for government officials and others.
 - Training sessions are conducted in New York and in the regions.

Final clauses

Signature

- No positive legal obligations.
- Indicates intention to express consent to be bound.
- Creates an obligation to refrain in good faith from acts that would be contrary to the object and purpose of a treaty (until it shall have made its intention clear not to become a party to the treaty – art. 18 VCLT).
- No time limit for ratification.

Who Can Sign a Multilateral Treaty?

- Head of State.
- Heads of Government.
- Minister for Foreign Affairs.
- Acting or *Ad Interim* Head of State or Government or Minister for Foreign Affairs.
- All other representatives must be in possession of “full powers.”

Signature Depositary Review

- Is the treaty open for signature?
- Does the treaty allow your State to sign?
- Who will sign?
- Are full powers required?
- Appointment for signature.

Final Clauses: How to Become Party to a Multilateral Treaty?

- Signature + Consent to be bound
 - Referred to as “Simple Signature ” + ratification, acceptance or approval.
- Definitive Signature.
- Accession.
- Formal confirmation.

- Succession.

- Deposit of instruments.

Instrument of Consent to Be Bound

- Identify treaty.
- Declaration of undertaking
 - Expression of intent of the Government to be bound by the treaty and to undertake faithfully to observe and implement its provisions.
- Issued and signed
 - Head of State or Government or the MFA or by a person exercising the power of one of the three authorities *ad interim*.
- Dated

Consent to be Bound Additional Requirements

- **Mandatory Declarations.**
- **Optional Declarations.**
- **Notifications.**

Final Clauses

Entry into force

- Treaties enter into force in accordance with their final provisions:
 - Upon a certain number of States depositing instruments of ratification;
 - A specific time after a certain number of States have deposited instruments of ratification;
 - Upon a certain percentage, proportion or category of States depositing instruments of ratification;
 - On a specific date.

Reservations

- A reservation is an statement , however phrased or named, which purports to exclude or modify the legal effects of the treaty provisions.
- Legally binding, so, it must be included in a duly signed instrument of ratification, accession, etc. or signed separately.
- Made at the time of expression of consent to be bound. (May be done upon signature but must be confirmed upon deposit of instrument of ratification, accession, etc.)
- Modification, withdrawal and late reservations.

Reservations

- Reservations
 - Authorized?
 - Prohibited?
 - Silent?

Amendments

- In the past, treaties rarely included amendment provisions.
- Today, most contemporary treaties include a mechanism for their amendment.
- Amendment procedures: diverse and often elaborate.
- Amendment procedures have caused practical difficulties.

Final Clauses Amendments

- Provisions on amendments should include rules governing:
 - Proposal of amendments (by a Party).
 - Submission of the amendment proposal for circulation to all Parties (normally by the relevant secretariat).
 - Adoption procedures (if including a specific proportion of votes, clearly indicating whether this proportion relates to all the Parties or all the Parties present at the time that the vote is taken).
 - Circulation of the adopted amendment by the depositary.
 - Consent to be bound (acceptance/ratification).
 - Entry into force (if including a specific proportion, indicating whether the number of acceptances is calculated on the basis of the number of Parties at the time of adoption or at the time of acceptance).
 - Effect (binding only those that accepted or binding all).

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