

ROAD MAP TO FACILITATE ACCESSION PROCESSES

The growing interest of some United Nations Member States in the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) led to an increasing number of requests for clarification about the accession process to the Convention. This Road map, prepared by the Water Convention secretariat, aims to address these requests and to present the different steps of the accession process to the Water Convention. The Road map has a recommendatory character and is non-prescriptive in nature as each country has its own administrative organization and procedures that correspond to its domestic legal order. The different steps described in the Road map are drawn from good practices and the lessons learned from completed accession processes to the Water Convention.

For States outside the UNECE region, accession is based on articles 25 and 26 of the Convention as amended (with the amendments having entered into force on 6 February 2013), and takes place in accordance with Decision VI/3 of the Meeting of the Parties on the accession of non-UNECE member States. Through Decision VI/3, in 2012 the Meeting of the Parties gave a blanket approval to any future accession request by United Nations Member States that are not members of UNECE. In order to effectively become a Party, the State simply has to deposit its instrument of accession—established under the domestic legislation on the conclusion of international treaties—with the Secretary-General of the United Nations in New York. The accession instrument should make reference to Decision VI/3.

DESCRIPTION OF THE DIFFERENT STEPS

The accession process to the Water Convention usually includes four major steps (figure 4).

1) Preliminary discussion and expression of interest by the Ministry in charge of water

Related actions

- Nomination of focal points and participation in activities under the Water Convention to better understand the Convention, its activities, functioning and the working modalities of the Convention bodies.
- Organization of outreach and discussion sessions on the Water Convention among all relevant departments of the Ministry in charge of water to build ownership.
- Discussion of the Convention's provisions, article by article, by the technical and legal services of the Ministry in charge of water, and assessment of the compatibility of the Convention's provisions with the country's commitments and institutions both at national and international levels (Constitution, water laws, water codes/strategies, transboundary basin agreements). Questions seeking clarifications can be sent to the secretariat of the Convention.

- If support from the Convention’s secretariat is required, an official letter expressing the country’s interest in the Water Convention can be sent by the Minister in charge of water to the Secretary of the Convention. The letter should be sent through the Permanent Mission of the country to the United Nations in Geneva (establishing contact with the Ministry of Foreign Affairs). This letter does not aim to ask for any form of approval for accession, but only to officially notify the country’s interest in initiating the accession process and to request support from the secretariat, if required. The request can therefore be sent at any moment in the accession process.

2) Broader consultation involving other actors in the discussion of the Convention (at the initiative of the Ministry in charge of water)

Related actions

- This discussion can occur through the organization of one or several meeting(s) in an informal or formal setting (e.g. by establishing an interministerial committee or a working group). It is recommended to involve the relevant sectoral ministries (e.g. environment, planning and land use, agriculture, energy, etc.), the Ministry of Foreign Affairs and any actor deemed relevant to the consultation process (the composition is at the discretion of the country according to domestic practice of dissemination and exchange).
- In particular, the discussion group should:
 - a. Discuss the relevant provisions of the Convention and the Convention’s activities.
 - b. Begin discussing the benefits and opportunities of the country’s potential accession.
 - c. Prepare a list of questions and topics related to the benefits, opportunities and challenges to be discussed during the national workshop (see step 3 below).
 - d. Develop a draft provisional agenda of the workshop based on the questions and topics identified during the process of analyzing the provisions of the Convention.

If needed, the secretariat of the Convention can contribute to the meeting(s) by sending Convention material, such as the text of the Convention, publications, brochures and standard presentations. The secretariat can help the country in the process of accession to establish contact with a country that has recently become a Party in order to share experience on the accession process and the first steps in implementing the Convention.

3) National workshop on the Water Convention

The Convention secretariat can provide financial support for the workshop, if required.

Related actions

- The workshop can effectively mobilize all major actors identified during the preliminary reflection process (relevant sectoral ministries, Ministry of Foreign Affairs, Parliament, the Office of the Prime Minister, basin organizations, civil society, media, etc.), as well as technical and financial partners. If appropriate, the workshop can also include representatives of one or more basin organization(s) to which the country is party. If deemed appropriate, other riparian countries can also be invited to the workshop.
- The workshop aims to:
 - a. Discuss questions and topics identified during the process of analyzing the provisions of the Convention.
 - b. Discuss the benefits of the country’s potential accession with respect to its needs and expectations.

- c. Start a reflection on the implementation strategy for the Convention.
- d. Mobilize technical and financial partners to support the implementation of the Convention.
- e. Decide, in an interministerial and participatory manner, whether and how to move forward in the national accession process and to officially submit the proposal to relevant national bodies (e.g. Council of Ministers).

4) Official accession process in accordance with the national legislation on the ratification of treaties

Accession can be described as a means of expressing the State's consent to be bound by a treaty (Article 11, Vienna Convention on the Law of Treaties (1969)). For the purposes of the Water Convention, the process of formalization of accession at national level usually follows the national procedure for the ratification of international treaties.

The procedure for the ratification of treaties differs from one country to the other, but generally it includes the following steps (figure 5):

- Preparation of the Cabinet memo/ presentation note on the Convention/ justification for accession for the Council of Ministers by the Ministry in charge of water in close cooperation with the Ministry of Foreign Affairs and the Government's General Secretariat.
- Discussion of the draft ratification law in the Council of Ministers.
- If necessary, review of the constitutionality of the draft law on the ratification of the Water Convention (by the Constitutional Court or Supreme Court, depending on the country).
- Review and discussion in Parliament by the relevant Committee.
- Plenary discussion and adoption of the law ratifying the Water Convention by Parliament.
- Signature of the ratification instrument by the President of the country (end of the process at national level) and publication in the Official Journal.
- Deposit of the ratification instrument for acceding to the Water Convention with the United Nations Secretariat in New York (Treaty Section).

The Convention secretariat can share a template of such an instrument.

Actors to be involved

The process requires the active cooperation of the Ministry in charge of water with the following entities:

- Ministry of Foreign Affairs
- General Secretariat of the Government
- Parliament
- Office of the President of the country
- Secretariat of the Water Convention (during the preparation of the instrument and its deposit in New York)

Figure 4: Description of the accession process to the Water Convention

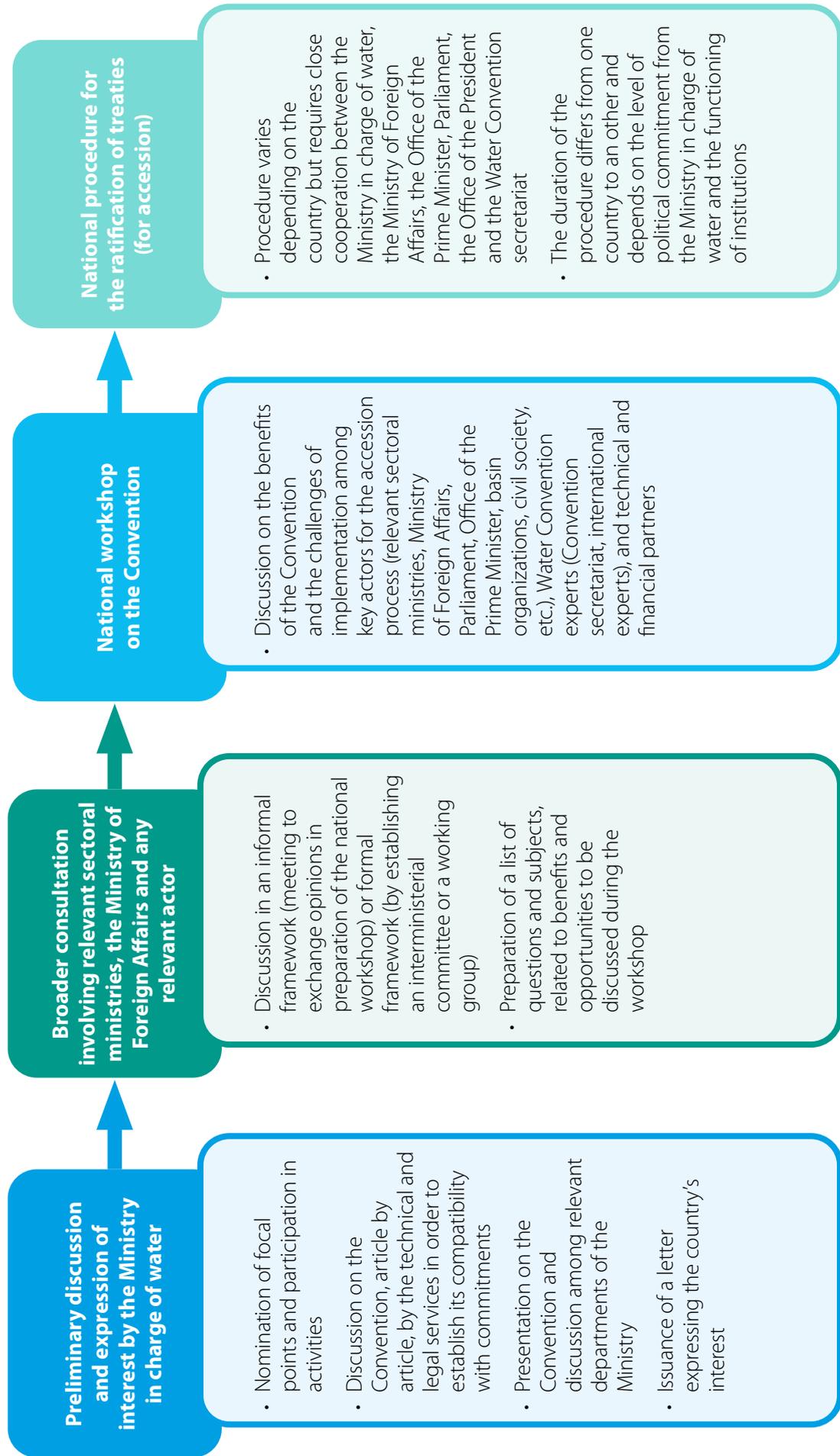


Figure 5: The standard procedure for the ratification of treaties (to be verified with the country's relevant ministries), commonly applicable to the process of accession to the Water Convention

