

WIPO



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WIPO COORDINATION COMMITTEE

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ADHERENCE TO THE 1986 VIENNA CONVENTION ON THE LAW OF TREATIES BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS OR BETWEEN INTERNATIONAL ORGANIZATIONS

Memorandum of the Secretariat

1. The Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (“the Convention”) was concluded on March 21, 1986. The Convention is a *mutatis mutandis* application to international organizations of the 1969 Vienna Convention on the Law of Treaties. It contains rules and procedures applicable to international agreements or treaties between international organizations or between States and international organizations. The specific legal provisions of the Convention govern matters relating to conclusion and entry into force of treaties, reservations, interpretation of the provisions of such agreements, impact on third parties, amendment and modification, invalidity, termination and suspension, deposit of treaties and dispute settlement procedures.¹

2. The Convention is subject to ratification by signatory States and to acts of formal confirmation by international organizations that have signed it, and to accession by any other State or international organization that has the capacity to conclude treaties. The Convention enters into force after the deposit of instruments of ratification or accession by 35 States. So

¹ The Convention is available in the International Bureau for review by interested Member States.

far, 26 States have ratified or acceded to the Convention,² two international organizations have deposited instruments of formal confirmation³ and one international organization has deposited an instrument of accession.⁴

3. In its Resolution 52/153 of December 15, 1997 (“United Nations Decade of International Law”), the United Nations (UN) General Assembly encouraged “States to consider ratifying or acceding to the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, international organizations that have signed the Convention to deposit an act of formal confirmation of the Convention and other international organizations entitled to do so to accede to it at an early date.”

4. In its Resolution 53/100 of December 8, 1998, the UN General Assembly authorized the Secretary-General to deposit, on behalf of the United Nations, an act of formal confirmation of the Convention,⁵ as provided for in Article 83 of the Convention. The said Resolution, recalling Resolution 52/153, again encouraged States to consider ratifying or acceding to the Convention, international organizations that have signed the Convention to deposit an act of formal confirmation of the Convention, and other international organizations entitled to do so to accede to it at an early date.⁶

5. Pursuant to UN General Assembly Resolution 53/100 of December 8, 1998, the UN Secretary-General deposited, on behalf of the United Nations, an instrument of formal confirmation of the Convention on December 21, 1998. Prior to the UN’s deposit of its instrument of formal confirmation, no other international organization had deposited its instrument. It was reasoned that this was mainly because the United Nations itself had not deposited its confirmation, although it was the first to sign the Convention.

² Argentina, Australia, Austria, Belarus, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Germany, Greece, Hungary, Italy, Liechtenstein, Mexico, Netherlands, Republic of Moldova, Senegal, Slovakia, Spain, Sweden, Switzerland, United Kingdom, Uruguay (26).

³ The International Maritime Organization (IMO) and the United Nations (UN).

⁴ The Organization for the Prohibition of Chemical Weapons (OPCW).

⁵ An “act of formal confirmation,” whereby an international organization that has signed the Convention establishes its consent to be bound by the Convention, corresponds to that of ratification by a State.

⁶ The Resolution was included in the document “Resolutions and Decisions of the United Nations, the Administrative Committee on Coordination and the Joint Inspection Unit,” submitted by the Director General of WIPO to the WIPO General Assembly at its September 1999 session. In the said document, the Director General informed the General Assembly that “[t]he WIPO Office of Legal and Organization Affairs is currently reviewing the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations with a view to recommending to the WIPO Coordination Committee to consider authorizing the Organization to accede to the Convention in the Year 2000.” (See document WO/GA/24/3, paragraph 33.)

6. With the deposit of the UN's instrument of formal confirmation, however, it is expected that several other States and international organizations will follow suit. Indeed, the International Maritime Organization (IMO) Secretary-General deposited, on behalf of IMO, an instrument of formal confirmation on February 14, 2000; the Organization for the Prohibition of Chemical Weapons (OPCW) deposited its instrument of accession on June 2, 2000, and other international organizations have also taken the actions described below.

7. The Fifty-Third World Health Assembly authorized on May 20, 2000, the Director General of the World Health Organization (WHO) to deposit an instrument of formal confirmation; the Eighty-Eighth Session of the International Labour Conference authorized on June 12, 2000, the Director General of the International Labour Organization (ILO) to deposit an instrument of formal confirmation. The Director General of the International Atomic Energy Agency (IAEA) also intends to submit the issue to the next meeting of the IAEA Board of Governors in September 2000.

8. Accession by WIPO to the Convention would fulfil the wishes of the UN General Assembly and encourage other States and international organizations to ratify or accede to the Convention. It would also be consistent with the trend in other international organizations, and with WIPO's status as a Specialized Agency of the United Nations that administers some 21 treaties. Most importantly, accession by WIPO to the Convention would significantly contribute to the two main objectives of the United Nations Decade of International Law, namely, the acceptance of and respect for international law and the progressive development and codification of international law.

9. The Coordination Committee is invited to authorize the Director General to make WIPO a party to the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations by depositing with the Secretary-General of the United Nations an instrument of accession to the said Convention.

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