

**DIPLOMATIC CONFERENCE TO CONCLUDE AN INTERNATIONAL LEGAL INSTRUMENT
RELATING TO INTELLECTUAL PROPERTY, GENETIC RESOURCES AND TRADITIONAL
KNOWLEDGE ASSOCIATED WITH GENETIC RESOURCES**

QUESTIONS AND ANSWERS ON PROCEDURAL AND LEGAL ASPECTS¹

What are credentials?

Credentials take the form of a document issued by a State authorizing a delegate or delegation to participate in a Diplomatic Conference and to sign the final act of that Conference, as relevant (please see Question “What is a final act?”).

Consistent with WIPO treaty practice, credentials are required to participate in the Diplomatic Conference for the purpose of negotiating and adopting the international legal instrument and to sign the final act.

Credentials should be contained in a *note verbale* or letter of the State’s Permanent Representative in Geneva or in a *note verbale* of the State’s Ministry for Foreign Affairs or its Permanent Mission in Geneva.

A communication signed by a Minister other than the Minister for Foreign Affairs will not qualify as credentials.

./ For illustrative purposes, an example of a credentials document is attached as Annex A.

What is an instrument of full powers?

An instrument of full powers is a document issued by a State authorizing one or several designated delegate(s) to undertake a given treaty action, including, signing a treaty.

Pursuant to Rule 6(2) of the [Draft Rules of Procedure of the Diplomatic Conference](#), full powers are required for signing the international legal instrument whose adoption is expected to take place at the end of the Diplomatic Conference.

An instrument of full powers must be signed by a Head of State, Head of Government, or Minister of Foreign Affairs. Full powers not signed by one of these three State’s authorities will not be accepted.

Full powers are personal and cannot be transferred to another person (even to another member of your delegation).

./ For illustrative purposes, an example of a full powers document is attached as Annex B.

¹ The information contained herein is for information purposes only and does not constitute legal advice.

What happens if the delegate with full powers leaves before the end of the Diplomatic Conference?

If a State assigned full powers to only one delegate and this delegate leaves before the end of the Diplomatic Conference, that State will not be able to sign the international legal instrument during the Conference.

To avoid such a situation, it is prudent to assign full powers to at least two delegates in case one is prevented from signing the international legal instrument. Signature remains possible for one year after the adoption of the international legal instrument (please see Article 17 of the [Basic Proposal for an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources](#)).

Are credentials and full powers legally distinct?

Credentials and full powers are legally distinct (please see Questions “What are credentials?” and “What is an instrument of full powers?”). Full powers may, however, be included in the credentials document. In such a case, the document should be signed by a Head of State, Head of Government, or Minister of Foreign Affairs.

When and to whom should the credentials and full powers be sent?

Credentials should be uploaded during the [online registration](#) process or a scanned copy thereof should be sent by electronic mail to the Office of the Legal Counsel (legalcounsel@wipo.int), before or promptly after the opening of the Conference.

In any case, credentials and full powers shall be presented to the Secretary of the Conference, preferably not later than twenty-four hours after the opening of the Diplomatic Conference, pursuant to Rule 8 of the [Draft Rules of Procedure](#).

Who decides if the credentials and full powers are in order?

The decision on whether the credentials and full powers are in order shall be made by the Conference, meeting in Plenary, following the report of the Credentials Committee.

Pursuant to Rule 10 of the [Draft Rules of Procedure](#), pending a decision upon their credentials, delegations shall be entitled to participate provisionally in the deliberations of the Conference.

What is a final act?

The final act is a document summarizing the procedure of a Diplomatic Conference and by which the negotiating parties bring the Conference to a conclusion.

Signing the final act does not create legal obligations for the State or bind the signatory to sign or ratify the treaty to which it relates, unless otherwise expressed at the Diplomatic Conference.

If a final act is adopted by the Conference, it shall be open for signature by any delegation whose credentials have been found in order (please see Rules 6(1) and 48 of the [Draft Rules of Procedure](#)). Full powers are not required to sign the final act.

What is the composition of a delegation?

Pursuant to Rule 4 of the [Draft Rules of Procedure](#), a delegation may have one or more delegates and include advisors. Each delegation shall have a Head of Delegation and may have a Deputy Head of Delegation. The number of members of a delegation is not limited by the [Draft Rules of Procedure](#).

Does signing a treaty mean that the signatory is legally bound by it?

Where a treaty provides that signature is to be followed by ratification or subject to accession, the signature, alone, does not establish the necessary consent to be bound by the treaty. The signature qualifies the signatory State to proceed to ratification, acceptance, or approval. As far as the international legal instrument is concerned, a WIPO Member State or an eligible party needs to deposit with the Director of General of WIPO an instrument of ratification (if it has signed the international legal instrument) or an instrument of accession (if it has not signed the international legal instrument) to be bound by it (please see Articles 14 and 19 of the [Basic Proposal](#)).

Pursuant to Article 18(a) of the Vienna Convention on the Law of Treaties, signature creates an obligation to refrain from acts that would defeat the object and purpose of the treaty.

When do signatures take place?

In Diplomatic Conferences held under the auspices of WIPO, signatures of the final act and the international legal instrument take place during a signature ceremony after the closing of the Diplomatic Conference. Delegations whose credentials and full powers have been found in order may choose to sign the final act only, or to sign both the final act and the international legal instrument.

How much time would the international legal instrument be open for signature?

Consistent with WIPO treaty practice, Article 17 of the [Basic Proposal](#) provides that the international legal instrument remains open for signature for one year after its adoption.

What are the origins of the draft administrative provisions and final clauses for the draft international legal instrument to be considered by the Diplomatic Conference?

The draft administrative provisions and final clauses, which are proposed for consideration by the Diplomatic Conference, are based on WIPO treaty practice and customary international law. They were not substantively negotiated amongst WIPO Member States prior to their consideration and approval by the Preparatory Committee of the Diplomatic Conference at its meetings in September and December 2023.

What is the difference between an amendment and a revision of the treaty?

WIPO treaties often make a distinction between the process of revision of the treaty by a Diplomatic Conference and possible amendment, through an Assembly decision, of certain provisions of the treaty, namely the administrative provisions and final clauses. This distinction is also reflected in the [Basic Proposal](#).

ANNEX A

Example of Credentials²

I have the honor to inform the International Bureau that the Government of [name of State] will be represented by the following delegation at the Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources which will take place in Geneva from May 13 to May 24, 2024:

[full name and title of delegates]

Done at [place] on [date].

[Name, title]
[Signature]

² Credentials should be contained in a letter or a *note verbale* of the State's Permanent Representative in Geneva, or in a *note verbale* of the State's Ministry of Foreign Affairs or its Permanent Mission in Geneva.

ANNEX B

Example of Full Powers³

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],
Hereby authorize [full name and title] to represent the Government of [name of State] at the
Diplomatic Conference to conclude an International Legal Instrument Relating to Intellectual
Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources,
which will take place in Geneva, from May 13 to May 24, 2024 (hereinafter referred to as “the
Diplomatic Conference”), to participate in its work and sign, in the name of the Government of
[State] the International Legal Instrument adopted at the Diplomatic Conference.

Done at [place] on [date].

[Name, title]
[Signature]

³ To be signed by the Head of State, Head of Government or Minister for Foreign Affairs.