**List of Useful Phrases from**

**the Course *Development of Official Documentation (International Agreements)***

### *Glossary of terms relating to Treaty actions*

##### **Acceptance and Approval**

The instruments of "acceptance" or "approval" of a treaty have the same legal effect as ratification and consequently express the consent of a state to be bound by a treaty. In the practice of certain states acceptance and approval have been used instead of ratification when, at a national level, constitutional law does not require the treaty to be ratified by the head of state.

[Arts.2 (1) (b) and 14 (2), Vienna Convention on the Law of Treaties 1969]

##### **Accession**

"Accession" is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force. The Secretary-General of the United Nations, in his function as depositary, has also accepted accessions to some conventions before their entry into force. The conditions under which accession may occur and the procedure involved depend on the provisions of the treaty. A treaty might provide for the accession of all other states or for a limited and defined number of states. In the absence of such a provision, accession can only occur where the negotiating states were agreed or subsequently agree on it in the case of the state in question.

[Arts.2 (1) (b) and 15, Vienna Convention on the Law of Treaties 1969]

##### **Act of Formal Confirmation**

"Act of formal confirmation" is used as an equivalent for the term "ratification" when an international organization expresses its consent to be bound to a treaty.

[Arts.2 (1) (b bis) and 14, Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations 1986]

##### **Adoption**

"Adoption" is the formal act by which the form and content of a proposed treaty text are established. As a general rule, the adoption of the text of a treaty takes place through the expression of the consent of the states participating in the treaty-making process. Treaties that are negotiated within an international organization will usually be adopted by a resolution of a representative organ of the organization whose membership more or less corresponds to the potential participation in the treaty in question. A treaty can also be adopted by an international conference which has specifically been convened for setting up the treaty, by a vote of two thirds of the states present and voting, unless, by the same majority, they have decided to apply a different rule.

[Art.9, Vienna Convention of the Law of Treaties 1969]

##### **Amendment**

The term "amendment" refers to the formal alteration of treaty provisions affecting all the parties to the particular agreement. Such alterations must be effected with the same formalities that attended the original formation of the treaty. Many multilateral treaties lay down specific requirements to be satisfied for amendments to be adopted. In the absence of such provisions, amendments require the consent of all the parties.

[Art.40, Vienna Convention of the Law of Treaties 1969]

##### **Authentication**

The term "authentication" refers to the procedure whereby the text of a treaty is established as authentic and definitive. Once a treaty has been authenticated, states cannot unilaterally change its provisions. If states which negotiated a given treaty do not agree on specific procedures for authentication, a treaty will usually be authenticated by signature, signature ad referendum or the initialling by the representatives of those states.

[Art.10, Vienna Convention on the Law of Treaties 1969]

##### **Correction of Errors**

If, after the authentication of a text, the signatory and contracting states are agreed that it contains an error, it can be corrected by initialling the corrected treaty text, by executing or exchanging an instrument containing the correction or by executing the corrected text of the whole treaty by the same procedure as in the case of the original text. If there is a depositary, the depositary must communicate the proposed corrections to all signatory and contracting states. In the UN practice, the Secretary-General, in his function as depositary, informs all parties to a treaty of the errors and the proposal to correct it. If, on the expiry of an appropriate time-limit, no objections are raised by the signatory and contracting states, the depositary circulates a proces-verbal of rectification and causes the corrections to be effected in the authentic text(s).

[Art.79, Vienna Convention on the Law of Treaties 1969]

##### **Declarations**

Sometimes states make "declarations" as to their understanding of some matter or as to the interpretation of a particular provision. Unlike reservations, declarations merely clarify the state's position and do not purport to exclude or modify the legal effect of a treaty. Usually, declarations are made at the time of the deposit of the corresponding instrument or at the time of signature.

##### **Definitive Signature**

When the treaty is not subject to ratification, acceptance or approval, "definitive signature" establishes the consent of the state to be bound by the treaty. Most bilateral treaties dealing with more routine and less politicized matters are brought into force by definitive signature, without recourse to the procedure of ratification.

[Art.12, Vienna Convention on the Law of Treaties 1969]

##### **Deposit**

After a treaty has been concluded, the written instruments, which provide formal evidence of consent to be bound, and also reservations and declarations, are placed in the custody of a depositary. Unless the treaty provides otherwise, the deposit of the instruments of ratification, acceptance, approval or accession establishes the consent of a state to be bound by the treaty. For treaties with a small number of parties, the depositary will usually be the government of the state on whose territory the treaty was signed. Sometimes various states are chosen as depositaries. Multilateral treaties usually designate an international organization or the Secretary-General of the United Nations as depositaries. The depositary must accept all notifications and documents related to the treaty, examine whether all formal requirements are met, deposit them, register the treaty and notify all relevant acts to the parties concerned.

[Arts.16, 76 and 77, Vienna Convention on the Law of Treaties 1969]

##### **Entry into Force**

Typically, the provisions of the treaty determine the date on which the treaty enters into force. Where the treaty does not specify a date, there is a presumption that the treaty is intended to come into force as soon as all the negotiating states have consented to be bound by the treaty. Bilateral treaties may provide for their entry into force on a particular date, upon the day of their last signature, upon exchange of the instruments of ratification or upon the exchange of notifications. In cases where multilateral treaties are involved, it is common to provide for a fixed number of states to express their consent for entry into force. Some treaties provide for additional conditions to be satisfied, e.g., by specifying that a certain category of states must be among the consenters. The treaty may also provide for an additional time period to elapse after the required number of countries have expressed their consent or the conditions have been satisfied. A treaty enters into force for those states which gave the required consent. A treaty may also provide that, upon certain conditions having been met, it shall come into force provisionally.

[Art.24, Vienna Convention on the Law of Treaties 1969]

##### **Exchange of Letters/Notes**

States may express their consent to be bound by an "exchange of letters/notes". The basic characteristic of this procedure is that the signatures do appear not on one letter or note but on two separate letters or notes. The agreement therefore lies in the exchange of both letters or notes, each of the parties having in their possession one letter or note signed by the representative of the other party. In practice, the second letter or note, usually the letter or note in response, will typically reproduce the text of the first. In a bilateral treaty, letters or notes may also be exchanged to indicate that all necessary domestic procedures have been completed.

[Art.13, Vienna Convention on the Law of Treaties 1969]

##### **Full Powers**

"Full powers" means a document emanating from the competent authority of a state designating a person or persons to represent the state for negotiating, adopting, authenticating the text of a treaty, expressing the consent of a state to be bound by a treaty, or for accomplishing any other act with respect to that treaty. Heads of State, Heads of Government and Ministers for Foreign Affairs are considered as representing their state for the purpose of all acts relating to the conclusion of a treaty and do not need to present full powers. Heads of diplomatic missions do not need to present full powers for the purpose of adopting the text of a treaty between the accrediting state and the state to which they are accredited. Likewise, representatives accredited by states to an international conference or to an international organization or one of its organs do not need to present full powers for the purpose of adopting the text of a treaty in that conference, organization or organ.

[Art.2 (1) (c) and Art.7 Vienna Convention on the Law of Treaties 1969]

##### **Modification**

The term "modification" refers to the variation of certain treaty provisions only as between particular parties of a treaty, while in their relation to the other parties the original treaty provisions remain applicable. If the treaty is silent on modifications, they are allowed only if the modifications do not affect the rights or obligations of the other parties to the treaty and do not contravene the object and the purpose of the treaty.

[Art.41, Vienna Convention on the Law of Treaties 1969]

##### **Notification**

The term "notification" refers to a formality through which a state or an international organization communicates certain facts or events of legal importance. Notification is increasingly resorted to as a means of expressing final consent. Instead of opting for the exchange of documents or deposit, states may be content to notify their consent to the other party or to the depositary. However, all other acts and instruments relating to the life of a treaty may also call for notifications.

[Arts.16 (c), 78 etc,. Vienna Convention on the Law of Treaties 1969]

##### **Objection**

 Any signatory or contracting state has the option of objecting to a reservation, inter alia, if, in its opinion, the reservation is incompatible with the object and purpose of the treaty. The objecting state may further declare that its objection has the effect of precluding the entry into force of the treaty as between objecting and reserving states.

[Art.20-23, Vienna Convention on the Law of Treaties 1969]

##### **Ratification**

Ratification defines the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The institution of ratification grants states the necessary time-frame to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty.

[Arts.2 (1) (b), 14 (1) and 16, Vienna Convention on the Law of Treaties 1969]

##### **Registration and Publication**

Article 102 of the Charter of the United Nations provides that "every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it". Treaties or agreements that are not registered cannot be invoked before any organ of the United Nations. Registration promotes transparency and the availability of texts of treaties to the public. Article 102 of the Charter and its predecessor, Article 18 of the Pact of the League of Nations, have their origin in one of Woodrow Wilson's Fourteen Points in which he outlined his idea of the League of Nations: "Open covenants of peace, openly arrived at, after which there shall be no private international understandings of any kind but diplomacy shall proceed always openly and in the public view".

[Art.80, Vienna Convention on the Law of Treaties 1969]

##### **Reservation**

A reservation is a declaration made by a state by which it purports to exclude or alter the legal effect of certain provisions of the treaty in their application to that state. A reservation enables a state to accept a multilateral treaty as a whole by giving it the possibility not to apply certain provisions with which it does not want to comply. Reservations can be made when the treaty is signed, ratified, accepted, approved or acceded to. Reservations must not be incompatible with the object and the purpose of the treaty. Furthermore, a treaty might prohibit reservations or only allow for certain reservations to be made.

[Arts.2 (1) (d) and 19-23, Vienna Convention of the Law of Treaties 1969]

##### **Revision**

Revision has basically the same meaning as amendment. However, some treaties provide for a revision additional to an amendment (i.e., Article 109 of the Charter of the United Nations). In that case, the term "revision" refers to an overriding adoption of the treaty to changed circumstances, whereas the term "amendment" refers only to a change of singular provisions.

##### **Signature ad referendum**

A representative may sign a treaty "ad referendum", i.e., under the condition that the signature is confirmed by his state. In this case, the signature becomes definitive once it is confirmed by the responsible organ.

[Art.12 (2) (b), Vienna Convention on the Law of Treaties 1969]

##### **Signature Subject to Ratification, Acceptance or Approval**

Where the signature is subject to ratification, acceptance or approval, the signature does not establish the consent to be bound. However, it is a means of authentication and expresses the willingness of the signatory state to continue the treaty-making process. The signature qualifies the signatory state to proceed to ratification, acceptance or approval. It also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.

[Arts.10 and 18, Vienna Convention on the Law of Treaties 1969]

*The Outline of Treaties/International Agreements*

**I Preamble**

Name of the parties

Reasons

Indication of plenipotentiaries and clause on full powers

**II Main body**

**III Final clauses**

Despute settlement

Entry into force

Provisional application

Denunciation and withdrawal

***IV Annexes***

*Language of treaties/interantional agreements*

**1. Keep your average sentence to about 20 words.**

As much as any other quality, your average sentence length will determine the readability of your writing. That’s why readability formulas rely so heavily on sentence length. But you don’t just want a short average. You also want variety. You should have some 35-word sentences and some 3-word sentences. Just monitor your average, and work hard to keep it to about 20 words.

*e.g The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.*

**2.****Keep the subject, the verb, and the object together — toward the beginning of the sentence.**

As you edit to ensure that your sentences are of manageable length, you should think about phrasing. Are the right words appearing in the right places? A sentence has two vital elements: a subject and a predicate (typically consisting of a verb and an object or complement). It seems simple:

*e.g.* ***The Member States******shall facilitate the achievement******of the Union's task****s and* ***refrain from any measure*** *which could jeopardise the attainment of the Union's objectives.* ( The subject is marked by the blue colour, the verb and the object are in green)

**3. Avoid multiple negatives**

When you can recast a negative statement as a positive one without changing the meaning, do it.

**4. Use strong, precise verbs. Minimise is, are, was and were.**

*Be*-verbs often lack force. When they appear frequently, the writing can become inert.

*e. g. Where there is no express agreement, it is ordinarily taken that the authority was to last for what was a reasonable time in light of all the circumstances. => With or without an express agreement, most courts hold that the authority continues for a reasonable time in light of all the circumstances.*

**5. Turn *-ion* words into verbs when you can.**

Avoid using words ending in *-ion* when you can. Write that something *illustrates* something else, not that it *provides an illustration o*f it.

*Wordy Better wording*

are in mitigation of mitigate

make accommodation for accommodate

make adjustments to adjust

make provision for provide for

provide a description of describe

submit an application apply

*take into consideration consider*