

## **Checklist: General steps to be taken prior to lodging instruments of ratification, acceptance, approval, accession or the like with the Secretary-General of the United Nations<sup>1</sup>**

### **Purpose:**

“In order to assist countries to ratify or accede to the Convention, the [Intergovernmental Negotiating Committee of the Stockholm Convention] recommended that the secretariat, in consultation with the United Nations [Office of Legal Affairs] Treaty Section, prepare a checklist that would identify the general steps that a sovereign nation should complete before *it deposits*<sup>2</sup> its instruments of ratification [, acceptance, approval] or accession to the United Nations” (reference: paragraph 188 of UNEP/POPS/INC.6/22). Although the domestic legislative procedures required for the approval of a treaty varies from country to country, some general steps that may be applicable to a number of countries are listed below. The Secretary-General’s practice relating to the deposit of the instruments of ratification, acceptance, acceptance, accession and the like are also explained below.

### **Steps:**

**Step 1. Prepare analyses/collect documentation:** The lead ministry/authority for the Stockholm Convention (e.g., Stockholm Convention Focal Point or ministry involved in negotiating or implementing the Convention) may wish to prepare a cost-benefit analysis of becoming a Party to the Stockholm Convention including any legislative or administrative actions that will be necessary for its implementation, and to collect all relevant documentation. This information would be shared with those authorities involved in the steps below.

**Step 2. Contact authority for issuing ratification instruments/identify who would sign:** The lead ministry/authority would consult with their Government authority responsible for drafting ratification instruments for international agreements. This is normally a legal unit within the ministry of foreign affairs. The responsible authority would identify who at national level would, as a rule, take a decision on or approve of ratification/accession of the Convention. The decision or approval would provide the basis for the issuance of an instrument of ratification, acceptance, approval or accession for the Stockholm Convention. (Models of these instruments are included in attachments 1 and 2.) The instrument must be signed by the head of State, head of Government or minister of foreign affairs.

**Step 3. Identify/undertake processes that lead to endorsement of ratification/accession:** The office/administration of supreme national authority entitled to decide on ratification/accession would be contacted to identify appropriate steps that would lead to the endorsement of ratification/accession. Assuming that there is the political will to proceed, the supreme national authority would indicate the necessary documentation and decision-making processes that would have to be completed before the instrument can be signed and deposited. In addition to obtaining necessary approvals within the administration of the head of State or head of Government, or parliamentary debate, such processes may include passing law, a judiciary review, or evaluation at different state levels.

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<sup>1</sup> This checklist was prepared by the interim secretariat of the Stockholm Convention on Persistent Organic Pollutants in consultation with the Treaty Section of the Office of Legal Affairs of the United Nations.

<sup>2</sup> Italics added. The Treaty Section of the Office of Legal Affairs of the United Nations advises that the term “lodging” is more appropriate than the phrase “it deposits” in this context.

**Step 4. Determine if any declarations are needed:** As part of the above decision-making process, the Government will need to determine whether any declarations need to be made with submission of the instrument of ratification, acceptance, approval or accession. (A model instrument of declaration is included in attachment 3.) For example, a Government will need to submit a declaration to exercise the opt-in option for amending annexes A, B or C included paragraph 4 of Article 22 and paragraph 4 of Article 25 of the Convention.

**Step 5. Prepare and sign instrument(s):** Following the completion of the domestic legislative procedures, where necessary, for the approval of the Convention, the Government office responsible for doing so will prepare the instrument of ratification, acceptance, approval or accession and any instruments of declaration. In the practice of many countries, this responsibility belongs to the Ministry of Foreign Affairs. The authority entitled to do so will then sign the instrument(s).

**Step 6. Lodge instrument(s) with the Depositary:** An instrument of ratification, acceptance, approval or accession to the Convention becomes effective only when it is deposited with the Secretary-General of the United Nations at United Nations Headquarters in New York. This is customarily done through the Permanent Mission of the relevant State to the United Nations in New York. The date of deposit is normally recorded as that on which the instrument is received at Headquarters. States are advised to deliver such instruments to the Treaty Section of the United Nations directly to ensure that the action is promptly processed (contact information provided below). The individual who delivers the instrument of ratification, acceptance, approval or accession does not require full powers. In addition to delivery by hand, instruments may also be mailed or faxed to the Treaty Section. If a State initially faxes an instrument, it must also provide the original as soon as possible thereafter to the Treaty Section. It is also recommended that, where feasible, States provide courtesy translations in English and/or French of instruments in other languages submitted for deposit with the Secretary-General. This facilitates the prompt processing of the relevant actions.

**Secretary-General's practice relating to the deposit of the instruments of ratification, acceptance, acceptance, accession and the like:**

Ratification, acceptance, approval, accession and the like are the means by which a State establishes its consent to be bound by a treaty on the international plane (Vienna Convention on the Law of Treaties, 1969, article 2 (b)). The common feature of these treaty actions is that the deposit of the relevant instruments with the depositary, in this case the Secretary-General, binds the State concerned at international law. Therefore, the depositary, prior to effecting the deposit of a treaty action, must be satisfied that a State's intention, as expressed in its instrument, is clear in this respect. Since the Secretary-General is the depositary of over 500 multilateral conventions and the vast majority of them are open to participation by the international community in general, the Secretary-General has had to develop a uniform practice to determine the validity of such instruments, both to safeguard his integrity and to protect the interests of other States parties.

The Secretary-General's practice relating to the deposit of instruments of ratification, acceptance, approval, accession and the like is as follows. Such instruments must:

- Emanate from and be signed by the Head of State, Head of Government or Minister for Foreign Affairs or a person exercising, ad interim, the powers of one of the above authorities;

- Clearly identify the treaty concerned and the type of action, consistent with the provisions of the treaty, i.e., ratification, acceptance, approval, accession, consent to be bound, etc.;
- Contain an unambiguous expression of the will of the Government, acting on behalf of the State, to recognize itself as being bound by the treaty concerned and to undertake faithfully to observe and implement its provisions (a simple reference to a domestic statutory provision will be inadequate);
- Indicate the title of the signatory. In the case of a person exercising, ad interim, the powers of the Head of State, Head of Government or Minister for Foreign Affairs, the title must indicate that the person is exercising such powers ad interim. In this respect, the depositary accepts the following formulations: Acting Head of State, Acting Head of Government, Acting Minister for Foreign Affairs, Head of State ad interim, Head of Government ad interim and Minister for Foreign Affairs ad interim;
- Indicate the date and place where the instrument was issued;
- If required, specify the scope of their application in accordance with the provisions of the relevant treaty;
- If required, contain all mandatory declarations and notifications in accordance with the provisions of the relevant treaty; and
- Where reservations are intended, include such reservations since reservations must be signed by the Head of State, Head of Government or Minister for Foreign Affairs or a person exercising, ad interim, the powers of one of the above authorities.

It is noted that if these requirements are lacking, the instrument in question is unlikely to be accepted in deposit. Further information on the deposit of binding instruments can be obtained from the publications *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties* (ST/LEG/8) and the *Treaty Handbook* published by the Treaty Section of the Office of Legal Affairs. Both publications are also available in the United Nations Treaty Collection on the Internet at the following address: <http://untreaty.un.org>. The Treaty Handbook also contains model instruments.

**Contact information for submission of instruments:**

Treaty Section  
 Attention: Bradford Smith  
 Office of the Legal Affairs  
 United Nations  
 First Avenue and 42nd Street  
 New York, NY 10017 U.S.A.  
 Tel.: +1-212-963-5047  
 Fax: +1-212-963-3693  
 E-mail: [treaty@un.org](mailto:treaty@un.org)  
 Website: <http://untreaty.un.org>

Attachment 1

**STOCKHOLM CONVENTION - MODEL INSTRUMENT OF RATIFICATION,  
ACCEPTANCE OR APPROVAL**

**(To be signed by the Head of State, Head of Government or Minister for  
Foreign Affairs)**

**[RATIFICATION / ACCEPTANCE / APPROVAL]**

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**WHEREAS** the Stockholm Convention on Persistent Organic Pollutants was adopted at Stockholm, Sweden on 22 May 2001,

**AND WHEREAS** the said convention has been signed on behalf of the Government of [name of State] on [date],

**NOW THEREFORE I**, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above mentioned convention, [ratifies, accepts, approves] the same and undertakes faithfully to perform and carry out the stipulations therein contained.

**IN WITNESS WHEREOF**, I have signed this instrument of [ratification, acceptance, approval] at [place] on [date].

[Signature]

Attachment 2

**STOCKHOLM CONVENTION - MODEL INSTRUMENT OF ACCESSION**

**(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)**

**ACCESSION**

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**WHEREAS** the Stockholm Convention on Persistent Organic Pollutants was adopted at Stockholm, Sweden on 22 May 2001,

**NOW THEREFORE I**, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above mentioned convention accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

**IN WITNESS WHEREOF**, I have signed this instrument of accession at [place] on [date].

[Signature]

Attachment 3

**STOCKHOLM CONVENTION - MODEL INSTRUMENT OF DECLARATION**

**(To be signed by the Head of State, Head of Government or Minister for Foreign Affairs)**

**DECLARATION**

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I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],

**HEREBY DECLARE** that the Government of [name of State] makes the following declaration in relation to article(s) [----] of the Stockholm Convention on Persistent Organic Pollutants, adopted 22 May 2001 in Stockholm, Sweden:

[Substance of reservation / declaration]

**IN WITNESS WHEREOF**, I have hereunto set my hand and seal.

Done at [place] on [date].

[Signature and title]