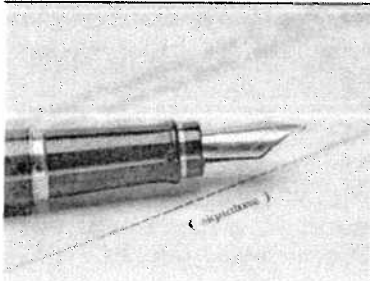


Legal and External
Relations Division
Legal Services Section

Signing and Ratifying the CTBT :
Procedures, Depositary Requirements and Legal Consequences

Signature and Ratification Guide



May 2003

Signature and Ratification Guide

Table of Contents

I. Introduction	1
II. Relevant Provisions of the CTBT	2
III. Signing the CTBT – Procedures and Full Powers	3
IV. Ratifying the CTBT	5
V. Legal Consequences of Signature and Ratification	7
VI. Contact Details	9

Annexes

- Annex A: Signature and Ratification Process (flow chart)
- Annex B: Model Instrument of Full Powers
- Annex C: Model Law for the Approval of the Treaty
- Annex D: Model Instruments of Ratification

Signature and Ratification Guide

I. Introduction

The Treaty

1. Nuclear non-proliferation and disarmament are issues of global concern affecting all States and regions. The Comprehensive Nuclear-Test-Ban Treaty (CTBT) bans any nuclear weapon test explosion and any other nuclear explosion in any environment. The Treaty thereby constrains the development and improvement of nuclear weapons and thus contributes to nuclear non-proliferation and enhances international peace and security.
2. The Comprehensive Nuclear-Test-Ban Treaty was adopted by the United Nations General Assembly on 10 September 1996 and opened for signature on 24 September 1996 at the United Nations in New York. The Treaty stipulates that it should be ratified according to a State's constitutional processes. The process is completed by depositing the instrument of ratification, expressing the consent of the State to be bound by the Treaty, with the depositary. The Secretary-General of the United Nations is the depositary of the Treaty. The Treaty will enter into force 180 days after the 44 States listed in Annex 2 to the Treaty have deposited their instruments of ratification with the depositary.

Signature, ratification and implementation

3. All States Signatories will have to go through several steps in order to be in a position to apply the Treaty when it enters into force. This will be necessary regardless of whether the legal system of the State Signatory is of the common law or civil law tradition.
4. After signature as a first step, the next step is the ratification of the Treaty. It is the formal act by which a State Signatory consents to become bound by the Treaty upon its entry into force.

Information on signature and ratification is contained in this Signature and Ratification Guide.

5. The next step, which may precede or be combined with ratification or which may immediately follow it, is the adoption of national implementation legislation. Such legislation is necessary in order to give effect to a State Party's obligations under the Treaty within its own jurisdiction and in its domestic law.

Information on national implementation measures is contained in the Legislation Package available from the Provisional Technical Secretariat (for contact details see part VI).

The Signature and Ratification Guide

6. This guide contains information on the signature and ratification process to be followed by States wishing to become States Parties to the CTBT. It includes models of the relevant instruments and a model law for the approval of the Treaty. The guide further provides information on the legal consequences of signature and ratification, including benefits of becoming a member of the Preparatory Commission.

Signature and Ratification Guide

II. Relevant Provisions of the CTBT

Article XI. Signature

This Treaty shall be open to all States for signature before its entry into force.

Article XII. Ratification

This Treaty shall be subject to ratification by States Signatories according to their respective constitutional processes.

Article XIII. Accession

Any State which does not sign this Treaty before its entry into force may accede to it at any time thereafter.

Article XV. Reservations

The Articles of and the Annexes to this Treaty shall not be subject to reservations. The provisions of the Protocol to this Treaty and the Annexes to the Protocol shall not be subject to reservations incompatible with the object and purpose of this Treaty.

Article XVI. Depositary

1. The Secretary-General of the United Nations shall be the Depositary of this Treaty and shall receive signatures, instruments of ratification and instruments of accession.
2. The Depositary shall promptly inform all States Signatories and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of the entry into force of this Treaty and of any amendments and changes thereto, and the receipt of other notices.
3. The Depositary shall send duly certified copies of this Treaty to the Governments of the States Signatories and acceding States.
4. This Treaty shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

Signature and Ratification Guide

III. Signing the CTBT – Procedures and Full Powers

Signature

1. In accordance with its Article XI, the Treaty is open for signature by all States before it enters into force. Signature is accomplished when the authorized representative of a State signs the Treaty at United Nations Headquarters in New York.
2. The national steps leading to signature of the CTBT are the same as for all other treaties. First, a government takes a decision to sign the Treaty. Second, a decision should be made as to who will represent the State when signing the Treaty. Third, the capacity of that representative to sign must be determined. Unless the representative is the Head of State or Government or the Minister for Foreign Affairs, he or she will have to be issued with or possess full powers to sign the Treaty.

When are full powers required?

3. In accordance with recognized customary international treaty law, as codified by the Vienna Convention on the Law of Treaties, heads of State, heads of Government and Ministers for Foreign Affairs are, by virtue of their functions considered as representing their State for the purpose of performing all acts relating to the conclusion of a treaty, including their signature. Consequently, these three authorities do not need to produce full powers when signing the Treaty.
4. All individuals other than these authorities must produce full powers to sign the CTBT. Regarding treaties, including the CTBT, for which the Secretary-General of the United Nations is the depositary full powers are usually bestowed upon the permanent representative duly accredited to the United Nations.

Form of full powers

5. If full powers are required they must be issued and signed by one of the three qualified authorities referred to above and must unambiguously empower the representative of the Government concerned to sign the Treaty.
6. Usually the full powers are limited, in that they specify a particular treaty as the treaty in respect of which the full powers are granted. However, full powers may also be 'general', i.e. full powers that do not specify the treaty to be signed, but rather authorize the permanent representative to sign all treaties adopted by the General Assembly and deposited with the Secretary-General. States intending to sign the CTBT should verify whether such general full powers are already included in their representatives' credentials to the United Nations or contained in a separate instrument.
7. Full powers, whether specific or general, must be granted to a given individual and indicate his name and surname.

8. A model instrument of full powers is herewith provided in Annex B.
9. Further information on full powers can be found in the *Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties* (ST/LEG/7/Rev.1) and in the United Nations Treaty Handbook which can be found in electronic form on the web site of the Office for Legal Affairs of the United Nations at <http://untreaty.un.org/ola-internet/Assistance/Section1.htm>.

Reservations upon signature

10. Pursuant to Article 19 of the Vienna Convention on the Law of Treaties (1969), a State may when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless the reservation is prohibited by the Treaty. Pursuant to Article XV of the Treaty, reservations to the articles of and the annexes to the Treaty are not permitted. The provisions of the Protocol to the Treaty and the annexes to the Protocol shall not be subject to reservations incompatible with the object and the purpose of the Treaty.

Appointment for signature

11. A State wishing to sign the Treaty should make an appointment for signature with the Treaty Section of the United Nations' Office of Legal Affairs. For contact details of the United Nations Treaty Section please refer to part VI. The depositary verifies all full powers prior to signature. States should therefore submit to the United Nations Treaty Section for verification a copy of the instrument of full powers (if required) well in advance of signature. The State should present the original instrument of full powers at the time of signature.

Signature and Ratification Guide

IV. Ratifying the CTBT

Ratification

1. Ratification of the CTBT is a two step process, first at the national level and second at the international level.
2. In accordance with Article XII of the CTBT, States must ratify the Treaty according to their respective constitutional processes. These processes differ from State to State, but will usually entail approval of the Treaty by the legislature or the executive of a State, or both. The responsible government office, usually the Ministry of Foreign Affairs, may give advice on national constitutional requirements and the domestic procedure necessary to ratify the Treaty. A model law for approval of the Treaty by a State's legislature is provided herewith in Annex C.
3. Ratification at the national level alone is inadequate to establish a State's intention to be legally bound at the international level. Ratification of the Treaty is accomplished on the date on which the State deposits its instrument of ratification with the depositary of the Treaty, the Secretary-General of the United Nations in New York. Upon the deposit of a valid instrument of ratification with the depositary, the State becomes legally bound under the Treaty if the Treaty is in force at that time. Otherwise, the State becomes legally bound at the time the Treaty enters into force.

Who may issue an instrument of ratification?

4. In order to be considered valid and to be accepted by the Secretary-General of the United Nations, the instrument must be duly signed by the Head of State, Head of Government or the Minister for Foreign Affairs. An instrument of ratification may also be signed by another official on the condition that he/she produces full powers to sign the instrument (see part III). Unsigned instruments in the form of notes verbales are not accepted.

Form of the instrument of ratification

5. There is no established form for instruments of ratification. An instrument of ratification can take various forms, depending on the practices and preferences of States. Whatever the form, the instrument of ratification shall contain all the information required by the depositary.
6. The instrument must indicate the title of the person who has signed it and the date and the place of issue. The Treaty must also be clearly identified. Lastly, the instrument must 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 and to undertake faithfully to observe and implement the Treaty's provisions. Two possible model instruments of ratification are provided herewith in Annex D.

Deposit of the instrument

7. The deposit of an instrument of ratification at United Nations Headquarters is effected either by the representative of the Government concerned delivering the instrument of ratification to the Secretary-

General, or to his representative (the Legal Counsel or the Chief of the Treaty Section of the Office of Legal Affairs) or by sending the instrument of ratification to the Secretary-General by mail. For contact details of the United Nations Treaty Section please refer to part VI.

8. It is not necessary to produce full powers simply to deposit an instrument or a notification duly signed by one of the three qualified authorities (see part III), especially when the deposit is effected by the permanent representative or a member of the permanent mission to the United Nations or under cover of an official note. If an official other than the three qualified authorities has signed the instrument of ratification, the full powers of that official must be produced when depositing the instrument of ratification.

Effectiveness and acknowledgement of deposit

9. If the instrument is acceptable, its deposit is deemed effected on the day of its receipt by the depositary. The Secretary-General informs the State concerned of the date of the deposit.

Reservations upon ratification

10. Pursuant to Article 19 of the Vienna Convention on the Law of Treaties (1969), a State may when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless the reservation is prohibited by the Treaty. Pursuant to Article XV of the Treaty, reservations to the articles of and the annexes to the Treaty are not permitted. The provisions of the Protocol to the Treaty and the annexes to the Protocol shall not be subject to reservations incompatible with the object and the purpose of the Treaty.

Signature and Ratification Guide

V. Legal Consequences of Signature and Ratification

The signing of the CTBT entails legal responsibilities and entitlements as well as specific benefits for States Signatories.

Responsibilities and entitlements

1. States that have ratified the CTBT will become bound by all of its provisions when the Treaty enters into force.
2. Before the Treaty enters into force, States Signatories are bound by the basic obligation of Article I of the CTBT not to carry out any nuclear weapon test explosion or other nuclear explosion. Pursuant to Article 18 of the Vienna Convention on the Law of Treaties (1969), a State is obliged to refrain from acts which would defeat the object and purpose of a treaty when it has signed the treaty until it has made its intention clear not to become a party to the treaty. Consequently, States which have signed or ratified the CTBT are obligated to observe the prohibition of Article I of the Treaty.
3. Pursuant to paragraph 4 of the Text on the Establishment of a Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, the Commission shall be composed of all States which have signed the Treaty. Every State Signatory becomes a member of the Commission with the right to participate in its decision making processes. In order to be in the position to effectively participate in the work of the Commission, States are invited to accredit a representative with the Commission.
4. Pursuant to paragraph 5 of the Text establishing the Preparatory Commission, the costs of the Commission and its activities, including the capital investments and operation and maintenance costs for the establishment and provisional operation of the IMS, shall be met by all States Signatories. Individual States' contributions are assessed annually in accordance with the United Nations scale of assessment adjusted to take into account differences in membership between the United Nations and the Commission. The Commission may also benefit from voluntary contributions.
5. States hosting IMS stations commit to take all appropriate measures to establish the necessary facilities to participate in the verification regime. These measures include the conclusion of facility agreements which regulate the establishment of, and post-certification activities at, the facilities. Pending conclusion of a facility agreement the activities of the Commission in the host States are regulated by interim exchanges of letters authorizing the Commission to carry out the necessary work in accordance with its work programme. The costs for construction, provisional operation and maintenance of the stations are borne by the Commission in accordance with the provisions of the CTBT.

6. States Signatories are required to prepare national legislation for the implementation of the Treaty and other necessary measures such as the establishment or designation of a National Authority, designated to serve as the focal point for liaison with the Organization and with other States. Such national measures need to be effective when the Treaty enters into force for the State. Information on national implementation measures is available from the Secretariat (Legislation Package).

Benefits

In addition to contributing to global peace and security, States which sign the CTBT benefit in the following areas:

1. States Signatories have access to all IMS data and IDC products and services through the satellite based Global Communications Infrastructure (GCI) or through a secure Internet connection. These services include IMS data processing and analysis and the provision of assistance to States to enhance their national data centres' (NDC) data processing capabilities.
2. Government nominated users can participate in discussions on upcoming meetings or contribute to papers under preparation via the secure internet based Experts Communications System (ECS). The ECS is particularly useful for States that do not have a Permanent Mission in Vienna.
3. Under the terms of the Treaty, the IMS facilities hosted by States will be owned and operated by the host country. The Commission will provide technical assistance to IMS-hosting States for the establishment, upgrading, operation and maintenance of these facilities.
4. The Commission provides a number of training programmes in various verification related disciplines. Upon returning to their national facility, IMS and IDC-trained station operators and staff from National Data Centres will contribute to enhancing their country's scientific capacity.
5. The Commission organizes international cooperation projects such as workshops and information visits. These activities are designed to further Treaty understanding and contribute to national capacity building. States Signatories benefit from sharing information and exchanging experiences with each other.

Signature and Ratification Guide

VI. Contact Details

Depositary information

1. The depositary is the custodian of the original version of a treaty. The depositary for the Comprehensive Nuclear-Test-Ban Treaty is the Secretary-General of the United Nations. For an appointment to sign the Treaty, or to deposit an instrument of ratification, the Chief of the Treaty Section may be contacted as follows:

Chief, Treaty Section
Office of Legal Affairs
United Nations Secretariat
United Nations Plaza
New York, N.Y. 10017
USA

Telephone: +1 212 963 5048/6045
Facsimile: +1 212 963 3693

2. The requirements of the depositary in respect of signature and ratification are set out in a number of publications by the Depositary. The electronic versions are available on the website of the UN Treaty Section (www.treaties.un.org), principally:
 - Treaty Handbook (in Arabic, Chinese, English, French, Russian and Spanish)
 - Summary of Practice of the Secretary-General as Depositary of Multilateral Treaties (ST/LEG/7/Rev.1) (in English and French)

Provisional Technical Secretariat of the Preparatory Commission

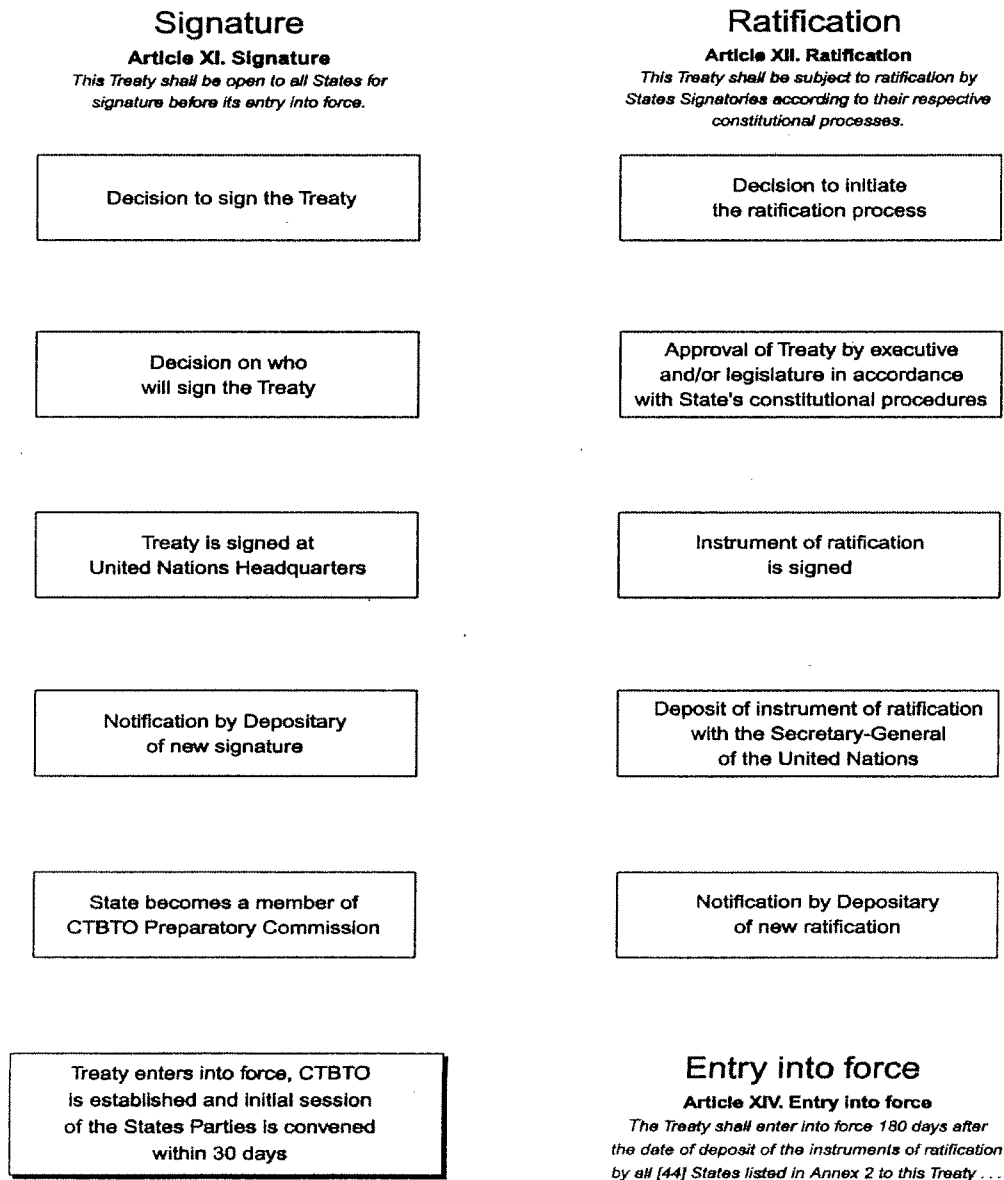
3. For further information please contact the Legal Services Section or visit the Commission's web site:

Legal Services Section
Legal and External Relations Division
Preparatory Commission for the
Comprehensive Nuclear-Test-Ban
Treaty Organization
Vienna International Centre
P.O. Box 1200
A-1400 Vienna
Austria

Tel.: (+43-1)-26030-6128
Fax: (+43-1)-26030-5976
email: legal.services@ctbto.org
web site: www.ctbto.org

Annex A

Signature and Ratification Process (flow chart)



Annex B

Model Instrument of Full Powers

FULL POWERS

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs], hereby authorize [name and title] to [sign] [ratify¹] the Comprehensive Nuclear-Test-Ban Treaty, adopted at New York on 10 September 1996, on behalf of the Government of [name of State].

Done at [place] on [date]

[Signature by Head of State,
Head of Government or
Minister of Foreign Affairs]

Seal [optional]

¹ Full powers are not required to merely deposit a duly signed instrument of ratification, cf. Chapter III, paragraph 8.

Annex C

Model Law for the Approval of the Treaty

STATUTE ON THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY

Section 1 – Approval of the Treaty

The Comprehensive Nuclear-Test-Ban Treaty signed by [name of State] on [date] is hereby approved.

Section 2 – Administrative and Technical Changes

The Government is authorized to put into effect such changes of an administrative and technical nature to Parts I and III of the Protocol to the Treaty and Annexes 1 and 2 to the Protocol which have been adopted pursuant to Article VII, paragraphs 7 and 8, of the Treaty.

Section 3 – Entry Into Force

This Statute shall enter into force on the day [of its promulgation] [fixed by order of the Government]. The day on which the Treaty shall enter into force for [name of State] pursuant to Article XIV of the Treaty shall be made public.

Annex D

Model Instruments of Ratification

Below are two possible instruments of ratification. Either of the two contains all relevant information the depositary needs to know and can be used in ratifying the Treaty. A State may use either of the two when ratifying the CTBT depending on its practice and preferences.

Alternative 1 (solemn form):

INSTRUMENT OF RATIFICATION BY [NAME OF STATE]

WHEREAS the Comprehensive Nuclear-Test-Ban Treaty (hereinafter referred to as ‘the Treaty’) was adopted at New York on 10 September 1996;

WHEREAS the said Treaty has been signed on behalf of [name of State] on [date of signature];

AND WHEREAS the Treaty is subject to ratification by States Signatories, in accordance with Article XII thereof;

NOW THEREFORE, the Government of [name of State], having considered the Treaty hereby ratifies the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS THEREOF, I have signed this Instrument of Ratification and affixed hereunto the Seal of [name of State].

Done at [place] on [date]

[Signature by Head of State,
Head of Government or
Minister of Foreign Affairs
or any other official for which
full powers have been issued]

Seal

Alternative 2 (personal form):

**INSTRUMENT OF RATIFICATION
BY
[NAME OF STATE]**

I, [name], [title (*Head of State or Government, or Minister for Foreign Affairs*)], declare that the Government of [name of State], having previously signed the Comprehensive Nuclear-Test-Ban Treaty adopted at New York on 10 September 1996, has considered the said Treaty and I therefore now declare that the Government of [name of State] hereby ratifies the same and undertakes to carry out faithfully all the stipulations therein contained.

In witness whereof, I have signed the present instrument.

Done at [place] on [date]

[Signature by Head of State,
Head of Government or
Minister of Foreign Affairs
or any other official for which
full powers have been issued]