



ROTTERDAM CONVENTION

Rotterdam Convention and the steps towards ratification

What is the objective of the Convention?

The Rotterdam Convention is an international legally binding instrument aimed at protecting human health and the environment by promoting shared responsibility and cooperative efforts in the international trade of certain hazardous chemicals. The Convention was adopted in Rotterdam on 10 September 1998 and it entered into force on 24 February 2004. (For more information visit the Convention's homepage at: www.pic.int)

How can a country become a Party?

A country becomes a Party when it lodges with the depositary its instrument of ratification, acceptance, approval or accession to the Convention.

What does ratification, acceptance, approval or accession mean?

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 UN 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 UN 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.

Background

The following checklist has been developed by the secretariat to assist countries to take the necessary steps in order to ratify, accept, approve or accede to the Rotterdam Convention. It is a checklist that has been prepared in cooperation with the Treaty Section of the Office of Legal Affairs of the United Nations. Although the domestic legislative procedures required for accepting a treaty as legally binding vary from country to country, some general steps that may be applicable to a number of countries are listed below. The practice of the United Nations Secretary-General, the depositary of the Rotterdam Convention, relating to the deposit of the instruments of ratification, acceptance, acceptance or accession is also explained below.



STEPS TO BECOME A PARTY TO THE CONVENTION

Step 1: Prepare analyses and collect documentation. The lead ministry/authority for the Convention (such as the Designated National Authority or ministry involved in negotiating or implementing the Convention) may wish to prepare a cost-benefit analysis of becoming a Party to the 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 other interested and involved authorities (e.g., other ministries) as part of the process of carrying out the steps listed below.

Step 2: Contact authority for issuing ratification instruments and identify who would sign. The lead ministry/authority would consult with their government authority responsible for drafting ratification instruments and related documents (the "ratification package") for international agreements. This is normally a legal unit within the Ministry of Foreign Affairs. The authority responsible for preparing the ratification package would identify who, at the national level, would as a rule take a decision on or approve ratification/accession of the Convention, recognizing that this decision might involve more than one part of the national governmental structures. The decision or approval would provide the basis for the issuance of an instrument of ratification, acceptance, approval or accession for the Convention. The instrument must be signed by the head of State, head of Government or Minister for Foreign Affairs.

Step 3: Identify and undertake processes that lead to endorsement of ratification/accession. The authority or authorities vested with the power 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 lead ministry/authority within the administration of the head of State or head of Government typically would indicate the necessary documentation and decision-making processes that would have to be completed before the instrument can be signed and deposited with the Depositary. In addition to obtaining necessary approvals within the administration of the head of State or head of Government, and within the parliament or other bodies as may be relevant, such processes may include passing or revising legislation, regulations and/or existing policies, a review by judicial bodies, evaluation at different state levels, and engagement of civil society. Early consultation and cooperation among the responsible and interested entities is encouraged to enhance and facilitate the decision-making process.

Step 4: Determine if any declarations are needed. As part of the above decision-making process, the Government will need to determine whether there is any need to submit declarations with the instrument of ratification, acceptance, approval or accession.

Step 5: Prepare and sign instrument(s). Following the completion of the domestic legislative procedures, where necessary, for the approval of the Convention, and following the completion of the necessary national decision-making processes, 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 UN Headquarters in New York. This is customarily done through the Permanent Mission of the relevant State to the UN in New York. The date of deposit is normally recorded as that on which the instrument is received at UN Headquarters. States are advised to deliver such instruments to the Treaty Section Office of Legal Affairs of the UN 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 into 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.

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