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***STRENGTHENING CAPACITY FOR ENVIRONMENTAL AND CLIMATE CHANGE
LAW IN ASIA AND THE PACIFIC
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SESSION 11: PROCESS FOR RATIFICATION OF TREATIES IN INDIA

Presented by Prof. (Dr.) Sanjeevi Shanthakumar



GOVERNMENT OF INDIA'S SOP FOR TREATIES

A. Gitesh Sarma
Additional Secretary(MD)



विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

No. 312/AS(MD)/17

Dated 02 Apr 2018

**Subject: Revision of Standard Operating Procedures (SOPs) with respect to MoUs/
Agreements with foreign countries.**

Dear Secretary,

Please refer to this Ministry's DO No. 05/ Monitoring Cell/17 dated 29.8.2017 on the aforementioned subject forwarding the revised SOPs to various Ministries, which

VCLT 1961

- Under international law, the law and practices pertaining to treaties is governed by the Vienna Convention on the Law of Treaties, 1969.
- Although, India is not a Party to the Convention, it follows its provisions in practice.



INDIAN PRACTICE

According to the Indian Constitutional scheme, making of international treaties is an executive act.

A Treaty is concluded with the approval of Union Cabinet.

It is not placed before the Parliament for discussion and approval.

However, where the performance of treaty obligations entails alteration of the existing domestic law or requires new enactment, it would accordingly require legislative action.



RATIFICATION

- Where a treaty does not provide for its entry into force upon its signature only, and makes it subject to ratification, the treaty requires ratification.
- Multilateral Treaties are, however, always subject to ratification.
- The treaty is ratified by obtaining the Instrument of Ratification under the signature and seal of the President of India.



RATIFICATION ONLY AFTER LEGISLATION

- In order to ensure that India is in a position to efficiently discharge all obligations emanating from the treaties, ratification should be undertaken only after the relevant domestic laws have been amended, or the enabling legislation has been enacted in cases where there are no domestic laws on the subject.
- Therefore, proposal for entering into such treaties should specifically state that such ratification or accession will be made only after amending the relevant domestic laws, or enacting appropriate legislations.



RATIFICATION PROCESS

The concerned administrative Ministry submits the Cabinet Note, Cabinet approval and three copies of the signed treaty.

The instrument of ratification is prepared by the Legal and Treaties Division of MEA and processed for signature of the President.

In case of a bilateral treaty, it becomes effective on the exchange of instruments of ratification.

In case of a multilateral treaty, the instrument of ratification is to be deposited with the depository to the treaty.



L&T DIVISION OF MEA TO BE CUSTODIAN OF TREATIES

- The Treaty section in the office of the Legal and Treaties Division of MEA is the official custodian of all international treaties to which India is a party.



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धन्यवाद

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Thank You

