



Treaties

Treaties are fundamental instruments in international law, offering a structured framework for states to formalize their rights, obligations, and commitments.

According to the Vienna Convention on the Law of Treaties (1969), a treaty is defined as a written agreement between states, either in one or multiple instruments. Treaties can be bilateral (between two states) or multilateral (involving several states), addressing a wide range of issues, such as trade, defense, human rights, and environmental protection.

Treaties are fundamental to international relations, providing a framework that holds states accountable for their commitments and sets clear guidelines for cooperation across different sectors, their binding nature ensures that states comply with their obligations and regulate their conduct, facilitating peaceful relations globally while protecting the interests of all parties involved.

For Somalia, treaties provide a structured legal framework to manage relations with other nations, addressing common concerns and creating opportunities for collaboration in various fields, from economic development to security.

Treaty-Making Process

The Ministry of Foreign Affairs and International Cooperation plays a central role in coordinating and overseeing the treaty-making process, ensuring that national interests are safeguarded while fulfilling international obligations. This process involves close collaboration with key institutions, including the Office of the President, the Office of the Prime Minister, the Office of the Attorney General, and other relevant ministries and government bodies.

1. Bilateral Treaty-Making Process

Bilateral treaties, which are agreements between two sovereign states, typically address specific areas such as trade, diplomacy, economic development, security, or defense. The process of negotiating and concluding these treaties involves several stages that ensure alignment with national priorities and international law.

Initiation of Treaty Negotiations

The process begins when the relevant ministry identifies the need for a treaty, with the Ministry of Foreign Affairs and International Cooperation taking the lead.

In collaboration with other concerned ministries, the Ministry assesses the strategic importance of the proposed treaty, considering its alignment with the state's foreign policy and national interests. This stage ensures that the treaty's goals are consistent with the state's broader diplomatic and policy objectives.

Consultation and Preliminary Negotiations

Following the identification of the treaty's necessity, the Ministry of Foreign Affairs and International Cooperation initiates diplomatic consultations with the counterpart state.

These consultations may involve formal meetings, direct negotiations, or discussions through diplomatic channels. During this phase, the Ministry works alongside relevant ministries to evaluate the treaty's legal, financial, and operational implications. Agreement is sought on the key terms of the treaty, and initial drafts of the treaty text are prepared.

Drafting the Treaty Text

Once preliminary agreements have been reached, the Ministry of Foreign Affairs and International Cooperation, in close coordination with the relevant ministries, proceeds to draft the treaty text. This draft incorporates all agreed terms, ensuring compliance with domestic laws and international obligations.

At this stage, the Office of the Attorney General reviews the draft to ensure its compatibility with the constitutional and legal frameworks of the state. Necessary amendments are made to finalize the text, addressing any legal concerns and ensuring its readiness for domestic approval.

Domestic Review and Deliberation

Following the completion of the treaty draft, it is submitted for internal review by relevant government authorities.

The Office of the Attorney General examines the legal ramifications, while the Council of Ministers deliberates on the broader political and policy implications of the treaty. This stage ensures that the treaty aligns with the state's national interests and complies with all legal and constitutional requirements.

Review and Presidential Approval

After the treaty text has been carefully reviewed by the Prime Minister, it is submitted to the President of the Federal Republic of Somalia for formal approval. The President, in consultation with relevant advisors, assesses whether to proceed with the signing of the treaty.

This step ensures that the treaty has been thoroughly vetted and receives the endorsement of all pertinent authorities, including the Prime Minister and relevant ministries, before moving forward to the signing stage.

Signing and Legislative Ratification

Once the President grants approval, the treaty is signed by the Head of State or a representative designated by the President. In cases involving matters of national security, sovereignty, or significant financial commitments, the treaty may also require ratification by the Federal Parliament of Somalia. This ensures that the treaty undergoes further examination and approval by the legislative branch, maintaining democratic oversight in the treaty-making process.

The Ministry of Foreign Affairs and International Cooperation is responsible for managing the procedures related to the signing and ratification of treaties. The Ministry ensures that all legal, procedural, and constitutional requirements are fully met, facilitating the transition of the treaty into a legally binding instrument under both Somali domestic law and international law.

After the treaty is signed and agreed upon, it must be ratified according to Somali constitutional procedures. Once ratified, the treaty is promulgated in the official gazette, becoming an integral part of the domestic legal system.

2. Multilateral Treaty-Making Process

Multilateral treaties are agreements between three or more parties, usually sovereign states and sometimes international organizations and these treaties form the foundation of international cooperation on global issues like environmental protection, trade, human rights, and security so by joining such treaties, Somalia ensures its interests are represented and contributes to shaping international norms.

The Ministry of Foreign Affairs and International Cooperation plays a central role in the country's engagement with multilateral treaties, which are agreements involving multiple states.

Through participation in multilateral treaties, Somalia fosters peaceful relations, addresses common challenges, and promotes sustainable development while these agreements help strengthen country's global standing and support collaborative efforts in tackling critical issues affecting multiple countries.

Decision on the Necessity of Joining a Multilateral Treaty

The process of engaging in a multilateral treaty begins with a detailed and comprehensive analysis by Somalia's relevant government ministries, under the leadership of the Ministry of Foreign Affairs and International Cooperation.

These ministries evaluate the potential benefits and implications of joining a multilateral treaty, considering factors such as Somalia's national interests, international standing, and alignment with global objectives.

The Ministry of Foreign Affairs, in consultation with other stakeholders, plays a pivotal role in ensuring that the country's position is well-represented in such decisions.

Participation in Treaty Negotiations

Somalia plays an active role in international negotiations to draft multilateral treaties, with its diplomats representing the country at various international forums. The Ministry of Foreign Affairs and International Cooperation, along with its Permanent Missions to international organizations, coordinates the participation of Somali delegates in these crucial negotiations.

Somali diplomats engage in lengthy and complex discussions at international conferences, where they advocate for the country's national interests and work to secure favorable outcomes. These negotiations involve reconciling the diverse interests of multiple states, and Somali representatives collaborate with experts from other nations to ensure that the final treaty text aligns with Somalia's priorities and objectives.

Domestic Review and Legal Analysis

Once a draft treaty is finalized, it undergoes a thorough review by the relevant government ministries to ensure that it complies with the country's constitutional requirements and aligns with existing domestic laws.

The Ministry of Foreign Affairs and International Cooperation, in collaboration with the Office of the Attorney General, plays a key role in identifying and addressing any legal adjustments needed for the treaty's implementation, ensuring that all legal aspects are properly aligned for effective execution within the country's legal framework.

Ratification Process

For multilateral treaties, ratification is a critical step that confirms Somalia's commitment to its international obligations. Following the approval of the treaty text by the relevant authorities, it is submitted for ratification to ensure that all necessary procedural and legal requirements are met. This stage reflects the importance of aligning international agreements with the country's constitutional and legal framework.

This process often involves deliberations in the Federal Parliament of Somalia, especially if the treaty holds significant implications for national sovereignty, financial obligations, or legislative matters. Once ratified by the Federal Parliament, the treaty becomes legally binding, and its provisions are formally incorporated into Somali law, enabling effective implementation and adherence to the agreed terms.

Promulgation and Implementation

After ratification, the treaty is officially promulgated, usually through the official gazette, which formalizes its enforceability under Somali law and ensures public awareness of its provisions.

The Ministry of Foreign Affairs and International Cooperation, in collaboration with other government agencies, oversees the treaty's implementation by facilitating the creation of new laws, regulations, or policies required to align domestic governance with the treaty's terms and obligations.

Continuous Engagement

Somalia maintains active involvement with multilateral treaties throughout their lifecycle, ensuring ongoing compliance and alignment with international standards.

The Ministry of Foreign Affairs and International Cooperation plays a central role in monitoring the implementation of treaty obligations, collaborating with international partners to fulfill commitments, and addressing any emerging challenges.

Somalia also participates in periodic treaty reviews, engages in conferences of parties, and adjust its position when necessary to reflect evolving global dynamics and national priorities.

