

How to accede to UN Conventions

Capacity Building Programme on UN Road Safety Conventions
Rebecca Huang, UNECE, 28-29 Nov 2017, Abuja



UNECE

Overview

1. Accession
2. Reservations
3. Declarations
4. Notifications

Eligibility to accede

Treaties may be open to...

1. All States

E.g. International Convention on the Harmonization of the Frontier Control of Goods, 1982

2. States members of the UN, its specialized agencies, members of IAEA or parties to the Statute of the ICJ

E.g. 1949 and 1968 Conventions on Road Traffic, 1968 Convention on Road Signs and Signals

3. States members of the UNECE, or admitted to the Commission in a consultative capacity

E.g. Convention on the Contract for the International Carriage of Goods by Road, 1956

Protocols

Most protocols provide that a State wishing to become a party to a protocol must also be a party to the “parent agreement” to which that protocol relates

E.g. Protocol to the Convention on the Contract for the International Carriage of Goods by Road, 1978 (CMR)

Becoming a Contracting Party

1. **Ratification, acceptance or approval**

If a State has signed a treaty, it may become a party by depositing an instrument of ratification, acceptance or approval with the Secretary-General

2. **Accession**

If a State has not signed a treaty, it may become a party by depositing an instrument of accession with the Secretary-General

Essential elements of the Model Accession

1. Treaty must be identified

2. Declaration of undertaking

Expression of the intent of the Government to be bound by the treaty and to undertake faithfully to observe and implement its provisions

3. Signature

Instrument must be signed by the Head of State or Government or the Ministry of Foreign Affairs or by a person exercising the power of one of these authorities ad interim

4. Date

5. Instrument of accession is deposited with the UN Office of Legal Affairs (in New York)

Model instrument of accession

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

ACCESSION

WHEREAS the [title of treaty, convention, agreement, etc.] was [concluded, adopted, opened for signature, etc.] at [place] 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 [treaty, convention, agreement, etc.], 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].

Source:

https://treaties.un.org/Pages/Content.aspx?path=Publication/ModelInstruments/Page1_en.xml

[Signature]

Reservations

- Reservations enable a State to participate in a treaty in which it may not otherwise be able to participate due to an unacceptable provision or provisions.
- Reservations are unilateral statements, however phrased or named, purporting to exclude or modify the legal effect of certain provisions of a treaty in their application to the reserving State. The title does not matter – only the effect.
- May be entitled “reservation”, “declaration”, “understanding”, “interpretative declaration” or “interpretative statement”.
- If the “declaration” excludes or modifies the legal effect of certain provisions of a treaty in their application to the State in question, it is a reservation.

Reservations (cont'd)

- Only the Head of State or Government, or the MFA, or a person having delegated authority for that person, can sign a reservation.
- Reservations may be formulated/signed upon signature, ratification, acceptance, approval, accession etc unless:
 - the reservation is prohibited by the treaty,
 - the reservation is not included in the list of specified reservations, or
 - incompatible with the object and purpose of the treaty.
- Where a treaty is silent on reservations and a State formulates a reservation, the depositary informs the States concerned and leaves it to each State to draw the legal consequences from such reservations. Unless a State objects within 12 months, it is presumed to have accepted the reservation.

1949 Convention on Road Traffic

ARTICLE 35

1. The Secretary-General shall, in addition to the notifications provided for in article 29, paragraphs 1, 3 and 5 of article 31 and article 32, notify the States referred to in paragraph 1 of article 27 of the following:

- (a) Declarations by Contracting States that they exclude annex 1, annex 2, or both of them, from the application of the Convention in accordance with paragraph 1 of article 2;
- (b) Declarations by Contracting States that they shall be bound by annex 1, annex 2, or both of them, in accordance with paragraph 2 of article 2;

1968 Convention on Road Traffic

ARTICLE 54

1. Any State may, at the time of signing this Convention or of depositing its instrument of ratification or accession, declare that it does not consider itself bound by Article 52 of this Convention. Other Contracting Parties shall not be bound by Article 52 with respect to any Contracting Party which has made such a declaration.

2. At the time of depositing its instrument of ratification or accession, any State may, by notification addressed to the Secretary-General, declare that for the purposes of the application of the Convention it treats mopeds as motorcycles (Article 1 (n)).

By notification addressed to the Secretary-General, any State may subsequently at any time withdraw its declaration.

3. The declarations provided for in paragraph 2 of this Article shall become effective six months after the date of receipt by the Secretary-General of notification of them or on the date on which the Convention enters into force for the State making the declaration, whichever is the later.

4. Any modification of a previously selected distinguishing sign notified in conformity with Article 45, paragraph 4, or Article 46, paragraph 3 of this Convention, shall take effect three months after the date on which the Secretary-General receives notification thereof.

5. Reservations to this Convention and its annexes, other than the reservation provided for in paragraph 1 of this Article, shall be permitted on condition that they are formulated in writing and, if formulated before the deposit of the instrument of ratification or accession, are confirmed in that instrument. The Secretary-General shall communicate such reservations to all States referred to in Article 45, paragraph 1, of this Convention.

1968 Convention on Road Traffic

6. Any Contracting Party which has formulated a reservation or made a declaration under paragraphs 1 or 4 of this Article may withdraw it at any time by notification addressed to the Secretary-General.

7. A reservation made in accordance with paragraph 5 of this Article:
 - (a) Modifies for the Contracting Party which made the reservation the provisions of the Convention to which the reservation relates, to the extent of the reservation;

 - (b) Modifies those provisions to the same extent for the other Contracting Parties in their relations with the Contracting Party which entered the reservation.

Declarations

- A State may make a declaration about its understanding of a matter contained in or the interpretation of a particular provision in a treaty.
- Example: Article 46(2)(a) of the Convention on Road Signs and Signals of 1968 provides that upon the deposit of an instrument of ratification or accession every State shall declare which of the models it chooses as a danger warning sign and which models it chooses as a stop sign.
- Preferably signed by the Head of State, Head of Government or Minister for Foreign Affairs (to avoid complications in the event of a doubt whether the declaration constitutes a reservation, or if the declaration is legally binding upon the declarant).

Model Reservation/Declaration

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

RESERVATION / DECLARATION

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
[reservation / declaration] in relation to article(s) [---] of the [title and date of adoption of the
treaty, convention, agreement, etc.]:

[Substance of reservation / declaration]

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

Done at [place] on [date].

Source:

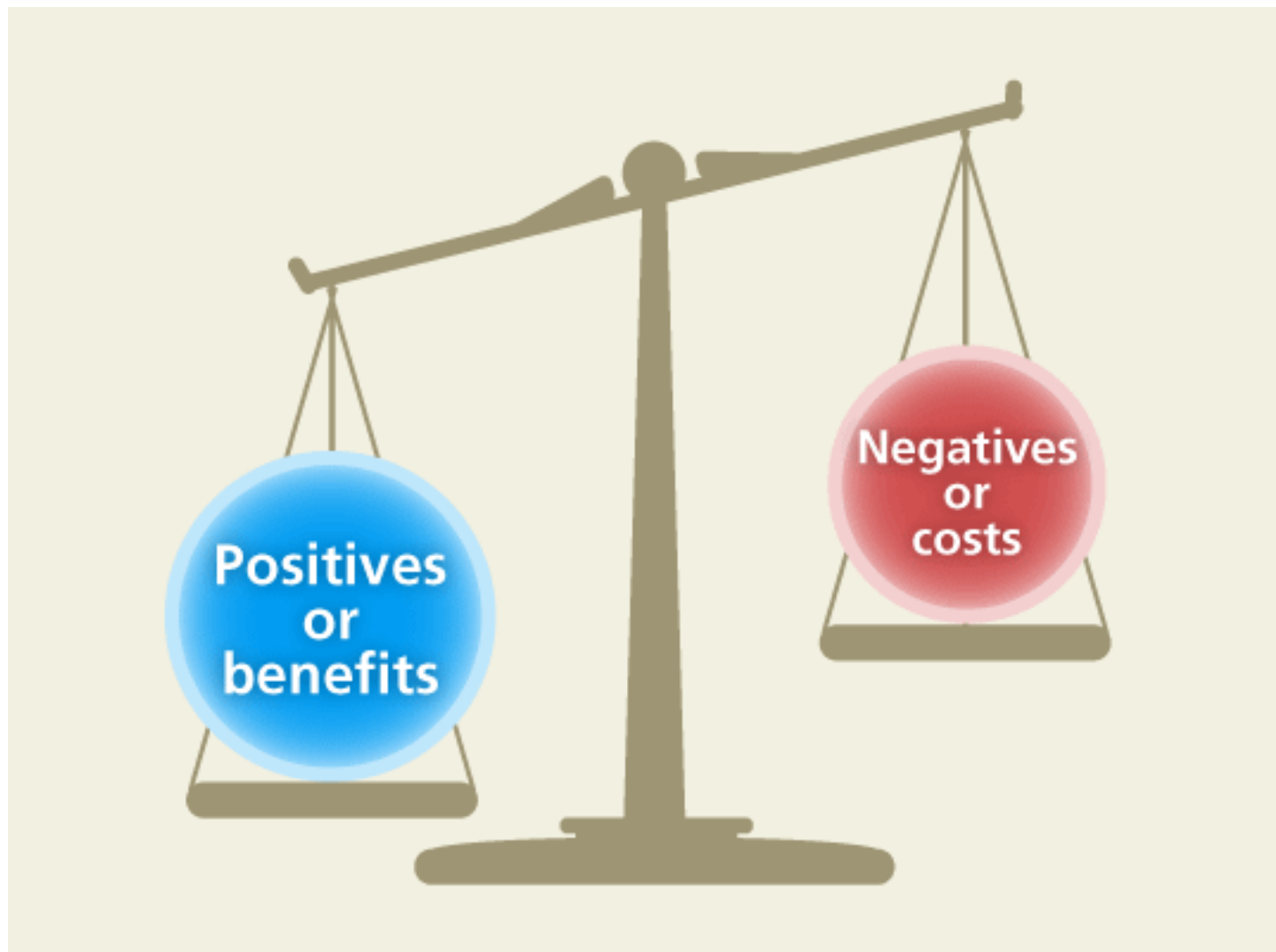
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[Signature and title]

Notifications

- Notifications typically provide information as required under a treaty.
- They are not legally binding and do not need to be signed by one of the three authorities.
- Example: Article 45(4) of the 1968 Convention on Road Traffic provides that States shall notify the Secretary-General of the distinguishing sign it has selected for display in international traffic on vehicles registered by it. By a further notification (to the SG), any State may change the distinguishing sign it has previously selected.

Costs and benefits



Acceding to UN conventions may yield substantial benefits to CPs

- Many non-UNECE member States are already CPs
- Remember that Conventions are amended as the needs arise to remain current
- Consider the net benefits of acceding
- No accession fee
- Undertake the necessary national legal steps/procedures for accession
- Deposit an instrument of accession with the UN Secretary-General through the Office of Legal Affairs New York

Muchas gracias

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