

United Nations  Nations Unies

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Dear Ms. Schmögnerová,

I refer to Mr. Blumenthal's communication of 3 November 2003 requesting a legal opinion on behalf of the UNECE Working Party on the Harmonization of Vehicle Regulations (WP.29) on the difference between the legal status of a "treaty" and an "agreement".

The terms "treaty" and "agreement" are generally used interchangeably. In the practice of certain countries, the term "agreement" signifies an instrument which produces identical legal consequences to a "treaty". The United Nations Office of Legal Affairs, guided by the Vienna Convention on the Law of Treaties 1969, takes the view that a "treaty" and an "agreement" have the same legal effect provided each possesses the following characteristics: first it has to be a binding instrument, which means that the contracting parties intended to create legal rights and obligations. Secondly, the instrument must be concluded by states or international organizations with treaty-making power. Thirdly, it has to be governed by international law. Finally the engagement has to be in writing.

Further information on this question can be obtained from the United Nations Treaty Collection on the Internet (<http://untreaty.un.org>). The excerpt is attached.

Hans Corell
The Legal Counsel

Ms. Brigita Schmögnerová,
Executive Secretary
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Geneva, Switzerland