

ICAO LEGAL SEMINAR BANJUL, THE GAMBIA

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ICAO'S ROLE AND REQUIREMENTS FOR RATIFICATION OF AIR LAW INSTRUMENTS

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ICAO



Consent to be bound – VCLT Art. 11

The consent of a State to be bound by a treaty may be expressed by:

- **signature,**
- **exchange of instruments constituting a treaty,**
- **ratification,**
- **acceptance,**
- **approval**
- **accession, or**
- **by any other means if so agreed.**

Signature

- Where the **signature is subject to ratification, acceptance or approval, the signature does not establish the consent to be bound.** However, it is a means of authentication and expresses the willingness of the signatory state to continue the treaty-making process.
- The signature qualifies the signatory state to proceed to ratification, acceptance or approval. It also creates an obligation to refrain, in good faith, from acts that would defeat the object and the purpose of the treaty.

Ratification

- Ratification defines the international act whereby a **state indicates its consent to be bound to a treaty** if the parties intended to show their consent by such an act.
- The consent of a State to be bound by a treaty is expressed by **acceptance** or **approval** under conditions similar to those which apply to ratification.

Accession

Accession is the act whereby a **state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states**. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force.

Ratification of air law instruments

- ICAO is the Depositary of about 40 international air law instruments
- Functions of a Depositary (keeping custody of the original text; receiving signatures; examining instruments of ratification; informing States upon the entry into force of a treaty, etc.)



Beijing Convention 2010 - Article 21

1. This Convention shall be open for signature in Beijing on 10 September 2010 by States participating in the Diplomatic Conference on Aviation Security held at Beijing from 30 August to 10 September 2010. After 27 September 2010, this Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montréal until it enters into force in accordance with Article 22.
2. This Convention is subject to ratification, acceptance or approval. **The instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the International Civil Aviation Organization**, who is hereby designated as the Depositary.
3. Any State which does not ratify, accept or approve this Convention in accordance with paragraph 2 of this Article may accede to it at any time. The instrument of accession shall be deposited with the Depositary.

Deposit of an instrument of ratification

1. In order to ratify/accede to a treaty, a State must deposit an instrument of ratification/accession **in compliance with the relevant provisions of the treaty concerned**
2. The instrument **must be signed by the proper authority** either by the Head of State, the Head of Government, the Minister of Foreign Affairs, or a person exercising, *ad interim*, the powers of one of the above authorities
3. The instrument of **ratification/accession must clearly identify the treaty (exact title, date and place)** concerned and the type of action being taken by the State in accordance with the provisions of the treaty (e.g. ratification, acceptance, approval, accession, consent to be bound, etc.)

Administrative Packages

- Designed to assist States in the ratification of, or accession to, treaties.
- Provides a summary of the history, purposes and objectives of the treaties concerned to facilitate understanding.
- Provides template/model instruments of ratification and accession.

Deposit of an instrument of ratification

INSTRUMENT OF RATIFICATION OF THE BEIJING TREATY

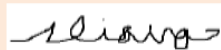
WHEREAS the *Convention on the Acts Relating to International Civil Aviation* was adopted in;

WHEREAS the said Convention was signed on behalf of the Government of the Republic of ;

AND WHEREAS Article 21, paragraph 2, of the Convention specifies that this Convention is subject to ratification, acceptance or approval;

NOW THEREFORE I, Ms. Jane Doe, Minister of Transport declare that the Government of Republic of, having considered the above-mentioned Convention, ratifies the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument ratification on 28 November 2017.

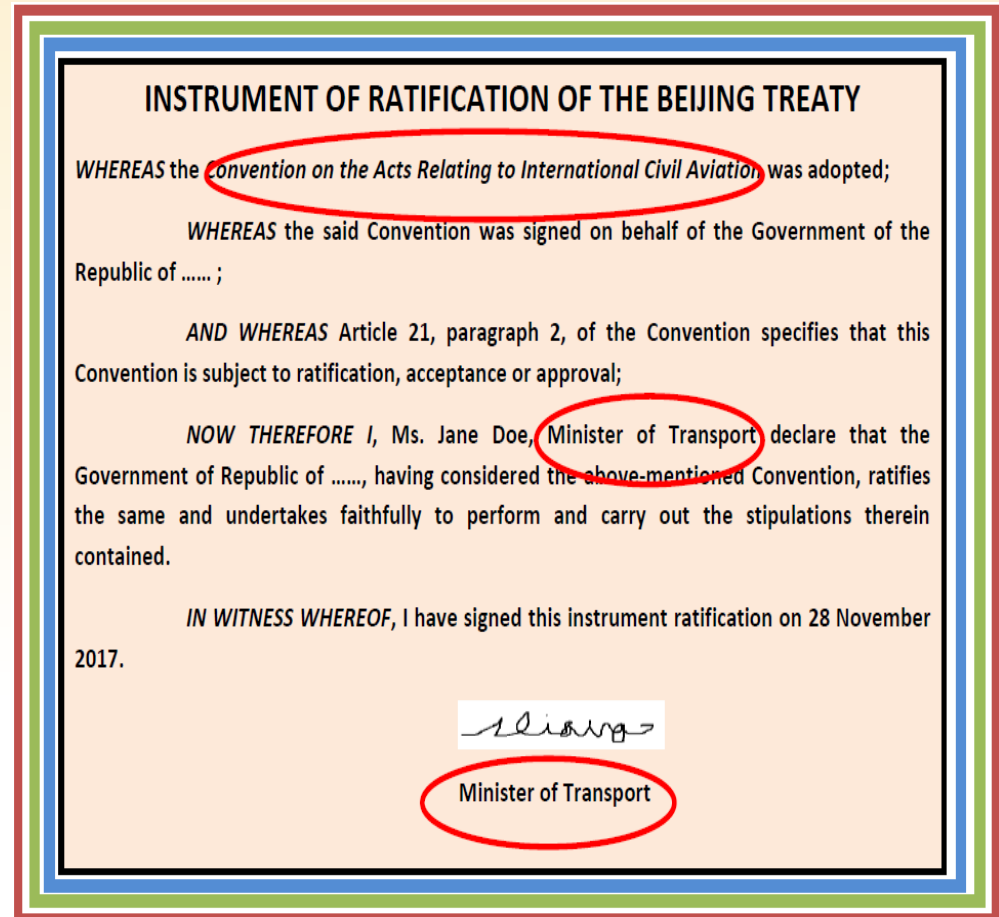


Minister of Transport

Deposit of an instrument of ratification

Common mistakes:

- The title of the treaty
- The date of signature of the treaty
- The place of signature of the instrument is missing
- The instrument of ratification has not been signed by the proper authority



Deposit of an instrument of ratification

- The title of the treaty
- The date of signature of the treaty
- The place of signature of the instrument of ratification
- The instrument is signed by the proper authority
- The instrument includes a declaration, if mandatory

INSTRUMENT OF RATIFICATION OF THE BEIJING CONVENTION 2010

WHEREAS the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* was adopted at Beijing on 10 September 2010;

WHEREAS the said Convention was signed on behalf of the Government of the Republic of

AND WHEREAS Article 21, paragraph 2, of the Convention specifies that this Convention is subject to ratification, acceptance or approval;

NOW THEREFORE I, Ms. Jane Doe, Minister of Foreign Affairs declare that the Government of Republic of, having considered the above-mentioned Convention, ratifies the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument ratification on 28 November 2017 in the city of


Minister of Foreign Affairs

ICAO Treaty Collection

- **Administrative packages providing guidelines for the ratification of, or accession to, international air law instruments in order to assist States in the ratification process**
- **Lists of Parties to all international air law instruments for which ICAO serves as the Depositary**
- **Forms indicating the current status of individual ICAO Member States with respect to International air law instruments**



For any questions with respect to the ratification process with ICAO please do not hesitate to contact LEB



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