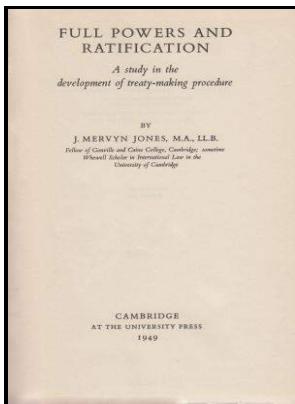


# Full powers and ratification - a study in the development of treaty-making procedure

## The University Press - B. Steps in the treaty



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## U.S. Senate: About Treaties

The Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations provides the set of rules for the conclusion of treaties between them.

### Treaty

Each case must be examined carefully. Description: AJIL is a leading peer-reviewed journal, published quarterly since 1907. Thus, even if adoption in a formal sense can be attained, but it is clear that implementation will be fatally crippled by the non-participation of important states, it is often regarded as sensible to suspend the process until a more generally satisfactory solution can be secured through continued negotiations - or, and this is particularly important in respect of environmental matters, until international or domestic pressures bring dissenting governments around.

### Treaty

The next step is the exchange of the instruments of ratification, which usually also signifies the effectiveness of the treaty unless a different date has been agreed upon by the parties.

## U.S. Senate: About Treaties

There are, however, some mitigating factors. Executive Agreements — similar to treaties except that they do not require legislative concurrence. Consequently texts ready for adoption by the states participating in the regime can be prepared in substantially shorter times - subject, of course, to the need to negotiate generally acceptable terms.

## Treaty Making by the ROKMinistry of Foreign Affairs, Republic of Korea

The constitutional requirement that the Senate approve a treaty by a vote of two-thirds of senators present means that treaties must overcome

political and partisan divisions to gain approval. Battles over semantics and phrasing are normal in treaty negotiations. Ratification, which is the next step, is the formal act by which a state confirms and accepts the provisions of a treaty concluded by its representatives.

### **Full powers and ratification : a study in the development of treaty**

Art 14 para 1 codifies the self-evident rule that ratification expresses the consent of a States to be bound by a treaty, if the States so desire. Nowadays, many states notify the other state of the completion of domestic procedures, instead of exchanging instruments of ratification when bringing a treaty into force. The validity of this has never been seriously questioned by our Courts.

### **Article 14**

It is for this reason that a number of devices have been developed for simplifying the process of updating treaties, devices that concern one or both of the major phases of the legislative process described above. Under international law, there is no difference between treaties and executive agreements in their binding effect upon states concerned, as long as the negotiating functionaries have remained within their powers. One of the issues in the discussions was trying to identify the kind of international agreements that require Senate concurrence.

### **Article 14**

Though in principle the negotiations culminate in the decision on the adoption of the proposed instrument, in practice they may continue as they have in respect of UNCLOS and especially the protection of the ozone layer 11 even into the post-adoption period. If he approves the agreement, he will forward it to the Office of the Executive Secretary, who in turn, will attest, to the authenticity and veracity of the text signed or ratified. The appointment of those who, for particular purposes, have the power to negotiate with foreign governments, is carried out in accordance with the Act on the Appointment and Powers of Government Delegates and Special Envoys.

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