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# 中华人民共和国缔结条约程序法

# Procedure for the Conclusion of Treaties Law of the People's Republic of China

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Procedure for the Conclusion of Treaties Law of the People's Republic of China

（1990年12月28日第七届全国人民代表大会常务委员会第十七次会议通过 1990年12月28日中华人民共和国主席令第37号公布 自公布之日起施行）

(Adopted at the 17th Meeting of the Standing Committee of the Seventh National People's Congress and promulgated by Order of the President of the People's Republic of China No.37 on December 28, 1990)

第一条   根据中华人民共和国宪法，制定本法。

Article 1 This Law is formulated in accordance with the Constitution of the People's Republic of China.

第二条   本法适用于中华人民共和国同外国缔结的双边和多边条约、协定和其他具有条约、协定性质的文件。

Article 2 This Law shall apply to bilateral and multilateral treaties and agreements and other documents of a treaty or agreement-type nature concluded between the People's Republic of China and foreign countries.

第三条   中华人民共和国国务院，即中央人民政府，同外国缔结条约和协定。

Article 3 The State Council, that is, the Central People's Government, of the People's Republic of China shall conclude treaties and agreements with foreign states.

中华人民共和国全国人民代表大会常务委员会决定同外国缔结的条约和重要协定的批准和废除。

The Standing Committee of the National People's Congress of the People's Republic of China shall decide on the ratification and abrogation of treaties and important agreements concluded with foreign states.

中华人民共和国主席根据全国人民代表大会常务委员会的决定，批准和废除同外国缔结的条约和重要协定。

The President of the People's Republic of China shall approve and abrogate treaties and important agreements concluded with foreign states, pursuant to the resolutions of the Standing Committee of the National People's Congress.

中华人民共和国外交部在国务院领导下管理同外国缔结条约和协定的具体事务。

The Ministry of Foreign Affairs of the People's Republic of China shall, under the leadership of the State Council, administer the specific affairs concerning the conclusion of treaties and agreements with foreign states.

第四条   中华人民共和国以下列名义同外国缔结条约和协定：

Article 4 The People's Republic of China shall conclude treaties and agreements with foreign states in the name of:

（一）中华人民共和国；

1. the People's Republic of China;

（二）中华人民共和国政府；

(II) to the Government of the People's Republic of China;

（三）中华人民共和国政府部门；

(III) to a Government department of the People's Republic of China;

第五条   谈判和签署条约、协定的决定程序如下：

Article 5 The decision to negotiate and sign treaties and agreements shall be made according to the following procedures:

（一）以中华人民共和国名义谈判和签署条约、协定，由外交部或者国务院有关部门会同外交部提出建议并拟订条约、协定的中方草案，报请国务院审核决定；

1. in the case of a treaty or agreement to be negotiated and signed in the name of the People's Republic of China, the Ministry of Foreign Affairs or the department concerned under the State Council in conjunction with the Ministry of Foreign Affairs shall make a recommendation and draw up a draft treaty or agreement of the Chinese side and submit it to the State Council for examination and decision;

（二）以中华人民共和国政府名义谈判和签署条约、协定，由外交部提出建议并拟订条约、协定的中方草案，或者由国务院有关部门提出建议并拟订条约、协定的中方草案，同外交部会商后，报请国务院审核决定。属于具体业务事项的协定，经国务院同意，协定的中方草案由国务院有关部门审核决定，必要时同外交部会商；

(II) in the case of a treaty or agreement to be negotiated and signed in the name of the Government of the People's Republic of China, the Ministry of Foreign Affairs or the department concerned under the State Council shall make a recommendation and draw up a draft treaty or agreement of the Chinese side and, after consultation with the Ministry of Foreign Affairs, submit it to the State Council for examination and decision. In the case of an agreement concerning a specific line of business, its Chinese draft shall, with the consent of the State Council, be examined and decided upon by the relevant department under the State Council or when necessary in consultation with the Ministry of Foreign Affairs;

（三）以中华人民共和国政府部门名义谈判和签署属于本部门职权范围内事项的协定，由本部门决定或者本部门同外交部会商后决定；涉及重大问题或者涉及国务院其他有关部门职权范围的，由本部门或者本部门同国务院其他有关部门会商后，报请国务院决定。协定的中方草案由本部门审核决定，必要时同外交部会商。

(III) Agreements to be negotiated and signed in the name of a governmental department of the People's Republic of China concerning matters within the scope of functions and powers of the department shall be decided upon by the department itself or after consultation with the Ministry of Foreign Affairs. If such agreements involve major issues or the scope of functions and powers of other relevant departments under the State Council, the department itself or the department shall, after consultation with other relevant departments under the State Council, submit the agreements to the State Council for decision. The draft agreement of the Chinese side shall be examined and decided upon by the department concerned or when necessary in consultation with the Ministry of Foreign Affairs.

经国务院审核决定的条约、协定的中方草案，经谈判需要作重要改动的，重新报请国务院审核决定。

If, as the result of negotiations, major amendments need to be made to a Chinese party's draft treaty or agreement which was subject to examination, verification and approval by the State Council, the amended draft shall be resubmitted to the State Council for further examination, verification and resolution.

第六条   谈判和签署条约、协定的代表按照下列程序委派：

Article 6 Representatives for negotiating and signing treaties or agreements shall be appointed according to the following procedures:

（一）以中华人民共和国名义或者中华人民共和国政府名义缔结条约、协定，由外交部或者国务院有关部门报请国务院委派代表。代表的全权证书由国务院总理签署，也可以由外交部长签署；

1. In the case of a treaty or agreement to be concluded in the name of the People's Republic of China or Government of the People's Republic of China, the Ministry of Foreign Affairs or the department concerned under the State Council shall submit a report to the State Council for the appointment of a representative. The full powers of the Representative shall be signed by the Premier of the State Council, but may also be signed by the Minister for Foreign Affairs;

（二）以中华人民共和国政府部门名义缔结协定，由部门首长委派代表。代表的授权证书由部门首长签署。部门首长签署以本部门名义缔结的协定，各方约定出具全权证书的，全权证书由国务院总理签署，也可以由外交部长签署。

(II) In the case of an agreement to be concluded in the name of a Government department of the People's Republic of China, a representative shall be appointed by the head of the department. The certificate of authorization for the representative shall be signed by the head of the department. When an agreement is concluded in the name of a department and signed by the said department head and the various participants agree on the issuing of full powers, the full powers shall be signed by the Premier of the State Council or by the Minister for Foreign Affairs.

下列人员谈判、签署条约、协定，无须出具全权证书：

The following persons shall dispense with full powers for negotiating and signing treaties and agreements:

（一）国务院总理、外交部长；

1. the Premier of the State Council, the Minister of Foreign Affairs;

（二）谈判、签署与驻在国缔结条约、协定的中华人民共和国驻该国使馆馆长，但是各方另有约定的除外；

2. the head of a diplomatic mission of the People's Republic of China who negotiates and signs treaties and agreements concluded between China and the state to which he is accredited, unless it is otherwise agreed by the contracting parties;

（三）谈判、签署以本部门名义缔结协定的中华人民共和国政府部门首长，但是各方另有约定的除外；

(III) the head of a Government department of the People's Republic of China who negotiates and signs the agreements concluded in the name of his department, unless it is otherwise agreed by the parties;

（四）中华人民共和国派往国际会议或者派驻国际组织，并在该会议或者该组织内参加条约、协定谈判的代表，但是该会议另有约定或者该组织章程另有规定的除外。

(IV) the person, dispatched to an international conference or accredited to an international organization by the People's Republic of China, who is at the same time the representative for negotiating treaties or agreements in that conference or organization, unless it is otherwise agreed by the conference or otherwise provided for in the constitution of the organization.

第七条   条约和重要协定的批准由全国人民代表大会常务委员会决定。

Article 7 The approval of treaties and major agreements shall be determined by the Standing Committee of the National People's Congress.

前款规定的条约和重要协定是指：

The treaties and important agreements referred to in the preceding paragraph are as follows:

（一）友好合作条约、和平条约等政治性条约；

1. treaties of friendship and cooperation, treaties of peace and other treaties of a political nature;

（二）有关领土和划定边界的条约、协定；

(II) treaties and agreements relating to territory and delimitation of boundary lines;

（三）有关司法协助、引渡的条约、协定；

3. treaties and agreements relating to judicial assistance and extradition;

（四）同中华人民共和国法律有不同规定的条约、协定；

(IV) treaties and agreements which contain stipulations inconsistent with the laws of the People's Republic of China;

（五）缔约各方议定须经批准的条约、协定；

(V) treaties and agreements which are subject to ratification as agreed by the contracting parties;

（六）其他须经批准的条约、协定。

6. other treaties and agreements subject to ratification.

条约和重要协定签署后，由外交部或者国务院有关部门会同外交部，报请国务院审核；由国务院提请全国人民代表大会常务委员会决定批准；中华人民共和国主席根据全国人民代表大会常务委员会的决定予以批准。

After the signing of a treaty or an important agreement, the Ministry of Foreign Affairs or the relevant State Council department in conjunction with the Ministry of Foreign Affairs shall submit the treaty or agreement to the State Council for examination and verification. The State Council shall then request the Standing Committee of the National People's Congress to determine its approval and the President of the People's Republic of China shall grant approval pursuant to the resolution of the Standing Committee of the National People's Congress.

双边条约和重要协定经批准后，由外交部办理与缔约另一方互换批准书的手续；多边条约和重要协定经批准后，由外交部办理向条约、协定的保存国或者国际组织交存批准书的手续。批准书由中华人民共和国主席签署，外交部长副署。

After the approval of a bilateral treaty or major bilateral agreement, the Ministry of Foreign Affairs shall undertake procedures with the other party for the exchange of documents of approval. After the approval of a multilateral treaty or major multilateral agreement, the Ministry of Foreign Affairs shall undertake procedures with the relevant custodial State or international organization for the handover of documents of approval. The instrument of ratification shall be signed by the President of the People's Republic of China and signed by the Vice-Minister for Foreign Affairs.

第八条   本法第七条第二款所列范围以外的国务院规定须经核准或者缔约各方议定须经核准的协定和其他具有条约性质的文件签署后，由外交部或者国务院有关部门会同外交部，报请国务院核准。

Article 8 After the signing of an agreement or other document of a treaty-type nature not included within the scope of paragraph 2 of Article 7 of this Law, but subject to ratification as stipulated by the State Council or as agreed on by its various participants, the Ministry of Foreign Affairs or the relevant State Council department in conjunction with the Ministry of Foreign Affairs shall submit it to the State Council for examination and approval.

协定和其他具有条约性质的文件经核准后，属于双边的，由外交部办理与缔约另一方互换核准书或者以外交照会方式相互通知业已核准的手续；属于多边的，由外交部办理向有关保存国或者国际组织交存该核准书的手续。核准书由国务院总理签署，也可以由外交部长签署。

After the ratification of an agreement or another document of a treaty-type nature, if it is bilateral, the Ministry of Foreign Affairs shall undertake procedures with the other party for the exchange of documents of ratification or, in the style of a diplomatic delivery, the two parties shall notify each other that the said agreement has already been ratified. In the case of a multilateral agreement or document, the Ministry of Foreign Affairs shall undertake procedures with the relevant custodial State or international organization for the handover of documents of ratification. The instrument of approval shall be signed by the Premier of the State Council, but may also be signed by the Minister of Foreign Affairs.

第九条   无须全国人民代表大会常务委员会决定批准或者国务院核准的协定签署后，除以中华人民共和国政府部门名义缔结的协定由本部门送外交部登记外，其他协定由国务院有关部门报国务院备案。

Article 9 After the signing of an agreement which does not require a resolution of approval from the Standing Committee of the National People's Congress or ratification by the State Council, the details of the agreement shall be reported to the State Council by relevant State Council department, except in the case of an agreement signed in the name of a Government department of the People's Republic of China which shall be set by the department to the Ministry of Foreign Affairs for registration.

第十条   缔约双方为使同一条约、协定生效需要履行的国内法律程序不同的，该条约、协定于缔约双方完成各自法律程序并以外交照会方式相互通知后生效。

Article 10 If the two contracting parties need to go through different domestic legal procedures for the entry into force of a same treaty or agreement, the said treaty or agreement shall enter into force after the accomplishment by the two parties of their respective legal procedures and the mutual notification by diplomatic notes.

前款所列条约、协定签署后，应当区别情况依照本法第七条、第八条、第九条的规定办理批准、核准、备案或者登记手续。通知照会的手续由外交部办理。

After the signing of a treaty or agreement as mentioned in the preceding paragraph, procedures for approval, ratification, the filing of details and registration shall be carried out as required pursuant to the provisions of Articles 7, 8 and 9 of this Law. Notification procedures shall be handled by the Ministry of Foreign Affairs.

第十一条   加入多边条约和协定，分别由全国人民代表大会常务委员会或者国务院决定。

Article 11 Participation in multilateral treaties and agreements shall be determined by the Standing Committee of the National People's Congress or the State Council.

加入多边条约和协定的程序如下：

The procedure for acceding to multilateral treaties and agreements shall be as follows:

（一）加入属于本法第七条第二款所列范围的多边条约和重要协定，由外交部或者国务院有关部门会同外交部审查后，提出建议，报请国务院审核；由国务院提请全国人民代表大会常务委员会作出加入的决定。加入书由外交部长签署，具体手续由外交部办理；

1. to accede to a multilateral treaty or an important multilateral agreement listed in Paragraph 2, Article 7 of this Law, the Ministry of Foreign Affairs or the department concerned under the State Council in conjunction with the Ministry of Foreign Affairs shall make a recommendation after examination and submit it to the State Council for examination and verification; the State Council shall then refer it to the Standing Committee of the National People's Congress for decision on accession. The instrument of accession shall be signed by the Minister for Foreign Affairs, and the specific formalities executed by the Ministry of Foreign Affairs;

（二）加入不属于本法第七条第二款所列范围的多边条约、协定，由外交部或者国务院有关部门会同外交部审查后，提出建议，报请国务院作出加入的决定。加入书由外交部长签署，具体手续由外交部办理。

(II) to accede to a multilateral treaty or agreement other than those listed in Paragraph 2, Article 7 of this Law, the Ministry of Foreign Affairs or the department concerned under the State Council in conjunction with the Ministry of Foreign Affairs shall make a recommendation after examination and submit it to the State Council for decision on accession. The participation document shall be signed by the Minister for Foreign Affairs and detailed procedures shall be handled by the Ministry of Foreign Affairs.

第十二条   接受多边条约和协定，由国务院决定。

Article 12 The decision to accept a multilateral treaty or an agreement shall be made by the State Council.

经中国代表签署的或者无须签署的载有接受条款的多边条约、协定，由外交部或者国务院有关部门会同外交部审查后，提出建议，报请国务院作出接受的决定。接受书由外交部长签署，具体手续由外交部办理。

If a multilateral treaty or agreement signed by a representative of China or not requiring signing contains acceptance provisions, the Ministry of Foreign Affairs or a relevant State Council department in conjunction with the Ministry of Foreign Affairs shall examine the details, put forward a recommendation and ask the State Council to pass a resolution on acceptance. The instrument of acceptance shall be signed by the Minister of Foreign Affairs, and the specific formalities executed by the Ministry of Foreign Affairs.

第十三条   中华人民共和国同外国缔结的双边条约、协定，以中文和缔约另一方的官方文字写成，两种文本同等作准；必要时，可以附加使用缔约双方同意的另一种第三国文字，作为同等作准的第三种正式文本或者作为起参考作用的非正式文本；经缔约双方同意，也可以规定对条约、协定的解释发生分歧时，以该第三种文本为准。

Article 13. A bilateral treaty or agreement concluded between the People's Republic of China and a foreign country shall be written in Chinese and the language of the other party. The two texts shall hold equal validity. If deemed necessary, a version of the treaty or agreement in a third language agreed on by the two parties may also be attached. This may be considered as a third official version of equal validity or as a non-official version for reference use only. Subject to approval by the two parties, a stipulation may be made that in the event of a difference of opinion over the interpretation of a provision in a treaty or agreement, the third language version shall prevail.

某些属于具体业务事项的协定，以及同国际组织缔结的条约、协定，经缔约双方同意或者依照有关国际组织章程的规定，也可以只使用国际上较通用的一种文字。

Certain agreements on specific business matters and treaties and agreements concluded with international organizations may, subject to approval by the two parties or pursuant to the relevant provisions of the articles of association of the international organization, be written in only one language which is in common use internationally.

第十四条   以中华人民共和国或者中华人民共和国政府名义缔结的双边条约、协定的签字正本，以及经条约、协定的保存国或者国际组织核证无误的多边条约、协定的副本，由外交部保存；以中华人民共和国政府部门名义缔结的双边协定的签字正本，由本部门保存。

Article 14. The Ministry of Foreign Affairs shall hold custody of the signed originals of bilateral treaties and agreements concluded in the name of the People's Republic of China or the Government of the People's Republic of China, as well as copies of multilateral treaties and agreements ratified by the relevant custodial States or international organisations. The signed original of a bilateral agreement concluded in the name of a Government department of the People's Republic of China shall be kept by the relevant department.

第十五条   经全国人民代表大会常务委员会决定批准或者加入的条约和重要协定，由全国人民代表大会常务委员会公报公布。其他条约、协定的公布办法由国务院规定。

Article 15 Treaties and major agreements which the Standing Committee of the National People's Congress has decided to ratify or accede to shall be promulgated in its bulletin. Measures for the announcement of other treaties and agreements shall be stipulated by the State Council.

第十六条   中华人民共和国缔结的条约和协定由外交部编入《中华人民共和国条约集》。

Article 16 Treaties and agreements concluded by the People's Republic of China shall be included in a Collection of Treaties of the People's Republic of China compiled by the Ministry of Foreign Affairs.

第十七条   中华人民共和国缔结的条约和协定由外交部按照联合国宪章的有关规定向联合国秘书处登记。

Article 17 Treaties and agreements concluded by the People's Republic of China shall be registered with the United Nations Secretariat pursuant to the relevant provisions of the United Nations Charter.

中华人民共和国缔结的条约和协定需要向其他国际组织登记的，由外交部或者国务院有关部门按照各该国际组织章程的规定办理。

If treaties and agreements concluded by the People's Republic of China need to be registered with other international organizations, the Ministry of Foreign Affairs or the relevant State Council department shall handle the matter pursuant to the provisions of the articles of association of the respective international organization.

第十八条   中华人民共和国同国际组织缔结条约和协定的程序，依照本法及有关国际组织章程的规定办理。

Article 18. Procedures for concluding treaties and agreements between the People's Republic of China and international organisations shall be handled in accordance with this Law and the provisions of the articles of association of the respective international organisations.

第十九条   中华人民共和国缔结的条约和协定的修改、废除或者退出的程序，比照各该条约、协定的缔结的程序办理。

Article 19 Procedures for amending, abrogating or withdrawing from a treaty or agreement concluded by the People's Republic of China shall be handled with reference to the respective procedures for concluding a treaty or agreement.

第二十条   国务院可以根据本法制定实施条例。

Article 20 The State Council may formulate implementing regulations in accordance with this Law.

第二十一条   本法自公布之日起施行。

Article 21 This Law shall go into effect as of the date of promulgation.