



Model Final Clauses for Conventions and Agreements concluded within the Council of Europe

(as adopted by the Committee of Ministers of the Council of Europe at its 315th meeting, in February 1980)

Introduction

At the 113th meeting of the Deputies in September 1962, the Committee of Ministers of the Council of Europe approved two texts of final clauses to be used for international treaties concluded within the Council of Europe. One of these texts was designed for agreements that can be signed without reservation as to ratification and acceptance, and the other for conventions requiring ratification or acceptance. These texts were to serve as models for committees of experts charged with drawing up Council of Europe agreements or conventions. It was agreed that the texts could subsequently be amended in special cases or in the light of the results of the work of the International Law Commission of the United Nations.

Since 1962, these model final clauses have been used in a great many European conventions and agreements. This very use has, however, revealed the need for certain changes to the texts. Moreover, the work of the International Law Commission resulted in the adoption in 1969 of the Vienna Convention on the Law of Treaties, which takes account of the most recent developments in international practice.

So as to take these different factors into account, the Committee of Ministers has approved a single new set of model final clauses, at the 315th meeting of the Deputies in February 1980. This model applies to conventions or agreements concluded between States. The Committee of Ministers points out that when considering the draft European Convention for the Protection of International Watercourses against Pollution, and in order to enable the European Economic Community as such to become a Party to that Convention, it adopted final clauses providing for that possibility. Similar clauses are found in the European Convention of 10 March 1976 for the Protection of Animals kept for Farming Purposes, the European Convention of 10 May 1979 on the Protection of Animals for Slaughter and the Convention of 19 September 1979 on the Conservation of European Wildlife and Natural Habitats.

The model final clauses appearing hereafter apply to both conventions and agreements. With the exception of Article a for which two alternatives are proposed, the texts of all the articles are the same for conventions and agreements : it suffices to maintain or to delete, as appropriate, the words between brackets.

Finally, it should be noted that these model final clauses are intended only to facilitate the task of committees of experts and avoid textual divergencies which would not have any real justification. The model is in no way binding and different clauses may be adopted to fit particular cases.

Article a

Alternative 1 (agreements)

- 1 This Agreement shall be open for signature by the member States of the Council of Europe which may express their consent to be bound by:
 - a signature without reservation as to ratification, acceptance or approval, or
 - b signature with reservation as to ratification, acceptance or approval, followed by ratification, acceptance or approval.
- 2 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Alternative 2 (conventions)

This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article b

- 1 (This Agreement) (This Convention) shall enter into force on the first day of the month following the expiration of a period of ... months after the date on which ... member States of the Council of Europe have expressed their consent to be bound by (the Agreement) (the Convention) in accordance with the provisions of Article a.
- 2 In respect of any member States which subsequently expresses its consent to be bound by it, (the Agreement) (the Convention) shall enter into force on the first day of the month following the expiration of a period of ... months after the date (of signature or) ⁽¹⁾ of the deposit of the instrument of ratification, acceptance or approval.

Article c

- 1 After the entry into force of (this Agreement) (this Convention), the Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to (this Agreement) (this Convention), by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee. ⁽²⁾
- 2 In respect of any acceding State, (the Agreement) (the Convention) shall enter into force on the first day of the month following the expiration of a period of ... months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article d

- 1 Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which (this Agreement) (this Convention) shall apply.
- 2 Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of (this Agreement) (this Convention) to any other territory specified in the declaration. In respect of such territory, (the Agreement) (the Convention) shall enter into force on the first day of the month following the expiration of a period of ... months after the date of receipt of such declaration by the Secretary General.

- 3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of ... months after the date of receipt of such notification by the Secretary General.

Article e ⁽³⁾

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or more of the reservations provided for in the annex ⁽⁴⁾ to (this Agreement) (this Convention) ⁽⁵⁾. No other reservation may be made. ⁽⁶⁾
2. Any Contracting State which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.
3. A Party which has made a reservation in respect of a provision of (this Agreement) (this Convention) may not claim the application of that provision by any other Party ; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

Article f

1. Any Party may at any time denounce (this Agreement) (this Convention) by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of ... months after the date of receipt of the notification by the Secretary General.

Article g

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to (this Agreement) (this Convention), of :

- a. any signature ;
- b. the deposit of any instrument of ratification, acceptance, approval or accession
- c. any date of entry into force of (this Agreement) (this Convention) in accordance with Articles b, c, and d;
- d. any other act, notification or communication relating to (this Agreement) (this Convention).

In witness whereof the undersigned, being duly authorised thereto, have signed (this Agreement) (this Convention).

Done at the, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to (this Agreement) (this Convention).

Notes :

- (1) The words "of signature or" only apply in the case of an agreement.
- (2) The particulars concerning the rules according to which the decision is taken are intended for guidance. Obviously, there are other alternatives, such as : making no stipulation at all, in which case the decision has to be taken by the majority provided for in Article 20.d of the Statute; requiring a unanimous decision by the Committee of Ministers, for the agreement of the States parties which are not members of the Council of Europe. In the text proposed above, "unanimous vote of the representatives of the Contracting States entitled to sit on the Committee" means that all of those States must approve the decision. The decision cannot be taken if some of those States are absent or abstain.
- (3) Where a treaty contains no reservation clause, any reservation compatible with the object and purpose of the treaty may be formulated. If such is not the intention of the bodies responsible for drawing up the treaty, who might on the contrary wish that no reservations be made, an article such as the following should be adopted:

"No reservation may be made in respect of the provisions (of this Agreement) (of this Convention)."

Article e above is only one example of the different arrangements possible for the formulation of reservations, certain of which are already provided for in several Council of Europe agreements or conventions.

- (4) The annex might be worded as follows:
"Annex
(Article e)

Any State may declare that it reserves the right:

1. to ...
2. to ... "

- (5) If formulated when signing the treaty, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.
- (6) The sentence "No other reservation may be made" is intended to make it clear that the list of authorised reservations is exclusive. This sentence might, however, be deleted in appropriate cases.