

DENMARK

1. SUBSTANTIVE ASPECTS

1.1. Distinction

1.1.1. Does your national legislation differentiate between different categories of treaties? If it does, how are they categorised?

Danish legislation does not differentiate between different categories of treaties.

Article 19 para. 1 of the Danish Constitution regulates which international obligations the parliament (in Danish “Folketing”) needs to consent to and which may be entered into by the government (“the King”) without parliamentary consent. Art. 19 para 1 stipulates “*The King shall act on behalf of the realm in international affairs, but, except with the consent of the Folketing, the King shall not undertake any act whereby the territory of the realm shall be increased or reduced, nor shall he enter into any obligation which for fulfilment requires the concurrence of the Folketing or which is otherwise of major importance; nor shall the King, except with the consent of the Folketing, terminate any international treaty entered into with the consent of the Folketing.*”

1.1.2. What are the criteria for their classification into specific category (subject matter, scope, financial effects, etc.)? Does the form of the instrument lead to a different category of treaty?

Please see answer to questions 1.1.1.

1.1.3. What is the legal status of treaties not requiring parliamentary approval in the internal hierarchy of norms?

Treaties not requiring parliamentary approval ranks equal to treaties that do require parliamentary approval in the Danish legal system. In the internal legal system, the principle of dualism applies: international treaties do not become part of Danish law without separate implementing legislation or administrative implementation.

Which authority is responsible for drafting the text of each category of treaty?

The Ministry of Foreign Affairs is generally responsible for drafting and negotiating treaties.

However, specialised ministries are responsible for drafting treaties within their policy areas. Drafting is usually carried out in coordination with the Ministry of Foreign Affairs, which ensures consistency with Denmark's overall foreign policy and international obligations.

1.2.2. In the process of drafting a treaty, which authority is responsible for the assessment of the legal character and category of an agreement?

The Ministry of Foreign Affairs has a central role in assessing the legal character of an international agreement - whether it constitutes a binding treaty under international law or a non-binding instrument such as a memorandum of understanding (MoU).

The Ministry also assesses, often in consultation with the relevant ministry, whether the agreement falls into a category requiring parliamentary approval.

1.2.3. Which authority has the general responsibility for ratification/approval/confirmation procedures for treaties (is it generally the responsibility of the Parliament and only certain categories are confirmed by the government or vice versa)?

The Government (the Monarch acting through the Government) formally ratifies or accedes to treaties on behalf of Denmark.

The Parliament must give prior consent where required by the Constitution, see answer to question 1.1.1.

1.2.4. What are the responsibilities of the line ministries and the Ministry of Foreign Affairs throughout the procedure of conclusion and ratification of each category of treaty?

Line ministries:

- Initiate and draft treaties within their area of competence.
- Carry out the substantive policy analysis and technical negotiations.

- Implement treaty obligations in domestic legislation or administrative measures.

Ministry of Foreign Affairs:

- Provides legal and procedural guidance to ensure compliance with international law and assess whether parliamentary approval is needed.
- Coordinates across ministries to ensure consistency with Denmark's overall foreign and security policy.
- Prepares instruments of ratification, accession, or approval and ensures deposit with the appropriate international body.

1.2.5. What is the competence of autonomous regions/territories for the conclusion of a treaty?

The Kingdom of Denmark also includes the Faroe Islands and Greenland.

Under the constitution, the Government holds the formal competence to conclude treaties on behalf of the Kingdom of Denmark.

Under the Greenland Self-Government Act (2009) and the Faroe Islands Home Rule Act (1948, amended 2005) Greenland and the Faroe Islands may negotiate and conclude international agreements with other states and international organisations in areas where legislative and administrative authority are retrieved.

1.2.6 Does the Ministry of Foreign Affairs have delegated competence to conclude less significant treaties on its own, by producing full powers signed by the Minister of Foreign Affairs? If it does, what typically characterises these agreements?

Yes, the Ministry of Foreign Affairs has delegated competence to conclude treaties not requiring parliamentary approval and which is under the area of the Ministry.

2. PROCEDURAL ASPECTS

2.1. Procedure before conclusion/signature

2.1.1. What are the procedures required for the conclusion of different categories of treaties? Can a treaty be concluded through a simplified procedure? If yes, please provide a detailed presentation of the circumstances in which such procedures can be applied and describe the procedures.

Yes, a treaty can be concluded through simplified procedures, provided it does not fall into the category of treaties requiring parliamentary approval.

Two main simplified methods exist:

Simplified Ratification by the Government

- The Foreign Minister may issue full powers for the signature and directly bind Denmark without a lengthy ratification process.
- Used where the treaty does not involve significant political, financial, or legal consequences.

Conclusion by Exchange of Notes

- Common for minor, technical, or administrative agreements.
- The parties exchange diplomatic notes setting out identical commitments.
- Once both sides have exchanged notes, the agreement enters into force without signature or ratification.

2.1.2. Do you have a procedure to review the harmonization and compliance of treaties not requiring parliamentary approval with existing national laws? What authority does the review and when?

Line ministries are responsible for ensuring treaties within their policy areas comply with Danish legislation.

2.1.3. Do these procedures have one or two phases (before and/or after signature)? Can a treaty enter into force upon signature?

Most treaties follow a two-phase procedure:

1. Signature – Denmark expresses its intent to be bound in the future.
2. Ratification/Approval – The Government formally consents to be bound (with parliamentary approval if required).

Some treaties, however, can be concluded in a single phase where signature itself constitutes binding consent. This is relatively rare and depends on the treaty text and the parties' agreement (cooperation between agencies, cultural exchanges, visa arrangements).

2.1.4. Are there any differences in the procedures when considering multilateral vs bilateral treaties?

Multilateral treaties: usually two-phase (signature + ratification); often require parliamentary approval.

Bilateral treaties: more flexibility and may use simplified procedures; more often concluded without parliamentary approval if minor/technical.

The decisive factor is substance and impact, not the number of parties — but in practice multilateral treaties tend to trigger the extensive procedure.

2.1.5 Are there certain denominations of treaties, which, according to your domestic law, always imply a treaty in simplified form? (for example, “Memorandum of Understanding”, “Minutes” etc.)

MoUs, Declarations, Letters of Intent etc. are usually considered non-binding (depending on the language in the treaty) and will thus not require treaty-process.

Ultimately, the substance of the instrument, not its title, determines the procedure under Danish law.

2.1.6 Is the procedure for obtaining the mandate for negotiations differentiated according to different categories of treaties? If yes, how?

It is common practice for bilateral negotiations to take place without the exchange of negotiating mandates. Prior to the commencement of negotiations, the parties notify each other of the composition of the negotiating delegations. Such notification will usually be sufficient evidence of the participants' authority to conduct negotiations. For participation in multilateral negotiations, a full powers letter or letter of accreditation will only be necessary if this is required by the country inviting the negotiations or if it is stated in the rules of procedure of the international organization under whose auspices the negotiations (conference) are being held.

2.1.7. Are the signatories of all categories of treaties required to produce full powers upon signature or just some of them?

The General Rule is that full powers are a formal document issued by the Minister of Foreign Affairs or the king, authorising a person to represent Denmark in the negotiation, adoption, or signature of a treaty.

2.1.8 Do you allow for electronic signature of treaties? If so, are there certain requirements concerning what type of electronic signature is acceptable? Do you +accept the electronic transmission of treaties instead of the exchange of physical copies? What is the procedure?

There are no Danish rules or practice for allowing for electronic signature of treaties.

However, both a royal and a ministerial power of attorney may, where circumstances so require, be communicated to the principal by telecommunications (telex, fax, e-mail). It is with this eventuality in mind that the Convention on the Law of Treaties in Article 7 uses the word "document" and not the word "instrument". Such a power of attorney is considered provisional in the sense that a royal or ministerial power of attorney is usually sent as soon as it is available.

2.2. Procedure after conclusion

2.2.1. Does the internal procedure for expressing consent to be bound change based on different categories of treaties (i.e., ratification, approval, acceptance, etc.)? If so, please explain.

Yes, In the frequent cases concerning multilateral treaties, where the treaty text gives the participating countries the freedom to choose between ratification on the one hand and one or more simplified forms of accession on the other, Denmark has previously preferred to use the form of ratification. It should be considered in each individual case whether the form of ratification is actually required, or whether a simpler form such as approval can be used.

2.2.2 Is entry into force of a treaty possible on the date of the signature? If yes, what are the procedural requirements that enable such entry into force?

Yes, entry into force at signature is possible if signed by authorised representative with valid full powers. It is a procedural requirement that the treaty stipulates that it will become binding upon signature.

2.2.3. If entry into force is not possible on the date of the signature, is it possible to use provisional application for an earlier application of such treaty?

Yes – provisional application of a treaty is possible when entry into force at the time of signature is not possible.

2.3 Form

2.3.1. Do different categories of treaties require specific form when the text is prepared for signature (i.e., printing on treaty paper, sealing, treaty folder)?

There is no formal requirement that different categories of treaties (be treated differently in preparation for signature, e.g. with special treaty paper or formal sealing. The practice regarding treaty paper, alternation and other formalities is irrelevant to the validity of the treaty in question, which is why the Danish side will be able to adopt a flexible position on these issues.

2.3.2. Who prepares the text of different categories of treaties for signature?

In Denmark, the preparation of the treaty text for signature depends on the category and importance of the treaty.

When it is expected that international negotiations, meetings and conferences will result in the conclusion of binding obligations under international law, the matter must be submitted internally to the relevant ministry at an early stage. The bodies in the individual ministry or agency under which the future international obligation will fall should have clarified the nature, content, scope and possible financial consequences thereof.

2.4. Implementation How are treaties not requiring parliamentary approval implemented in national legislation in order to ensure respect of the principle of *pacta sunt servanda* in accordance with Article 26 of the VCLT?

The Government cannot enter into international obligations which require change of legislation for compliance with such obligation, without parliamentary approval. Please see answer to question 1.1.1.

2.5. Publication, Registration and Depository

2.5.1. Do all categories of treaties have to be published?

All treaties that have entered into force between Denmark and foreign countries must be published in the Danish Official Gazette C.

2.5.2. If not, which categories do not need to be published and made available to the general public? Is there room for discretion?

In Denmark, all agreements must be formally published. If the text is very extensive and/or the treaty cannot be expected to have any impact on the legal position of private citizens, the notice may also be limited to a summary of the content.

2.5.3. Which authority decides whether a treaty should not be published?

In Denmark, the decision on whether a treaty should be published is primarily an executive function, exercised by the Ministry of Foreign Affairs in coordination with relevant line ministries.

2.5.4. Where is each category of treaty published (Official Gazette, website, database, etc.)?

Published on an electronic dedicated website (Lovtidende (Official Gazette)).

2.5.5 Which categories of treaties are registered with the UN Secretariat?

According to Danish practice, all treaties, including amendment and supplementary agreements, to which Denmark is a party, are normally registered, regardless of their form, except for temporary agreements of short duration.

2.5.6 Where are the originals (or certified true copies) of different categories of treaties kept (e.g., MFA, authority responsible for their implementation, state archives)?

Bilateral treaties: The original is kept in the Treaty Archives of the Ministry of Foreign Affairs.

Multilateral treaties: The original is kept by the depositary. Denmark keeps a certified true copy in the Treaty Archives of the Ministry of Foreign Affairs.

1. Exchanges of notes: The original notes are kept in the Treaty Archives.