

SWEDEN

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?

Differentiation is made between treaties requiring Parliamentary approval and treaties not requiring Parliamentary approval. There is also differentiation between treaties concluded by the Government and treaties concluded by authorities after authorization by the Government.

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?

Parliamentary approval is required for treaties which require a change in or cancellation of legislation, or if the enactment of a new law is required. Parliamentary approval is also required for treaties which concern matters for which a decision by Parliament is required, for example if the treaty affects the budget. Finally, Parliamentary approval is required for treaties of greater importance.

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

The legal status is the same.

1.2. Competence

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

The Government Offices¹ is the responsible authority, and the drafting is carried out by the line ministry responsible for the subject matter in accordance with regulations and rules of procedure for the Government Offices. If the Government has tasked an administrative authority to conclude a treaty which does not require Parliamentary approval, the authority in question normally drafts the text.

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 authority responsible for drafting the text.

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/Government Offices, Ministry for Foreign Affairs.

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?

In accordance with regulations and rules of procedure for the Government Offices, the line ministries are responsible for drafting the text of the treaty. They are also 1 *The Government Offices form a single, integrated public authority comprising the Prime Minister's Office, the government ministries and the Office for Administrative Affairs* responsible for the process of Government decisions and Parliamentary approval. The Ministry for Foreign Affairs can assist in the drafting of the text and provide legal advice. The Ministry for Foreign Affairs is responsible for issuing instruments of ratification/approval/accession.

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

N/A

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?

No

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.

A treaty can be concluded following a decision by the Government. Depending on the treaty, Parliamentary approval may be required (see question 1.1.2.). The Government may also authorize an authority to conclude a treaty that does not require Parliamentary approval. This can be done on a case-by-case basis or in general terms through a Government Ordinance.

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?

The line ministries are responsible for reviewing the harmonization and compliance of treaties with existing national laws.

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

A treaty can enter into force upon signature.

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

No

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.)

No

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

No

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

Full powers are required for signatures of all categories of treaties.

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?

No

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.

No

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. It must be decided by the competent body, i.e. the Government or the authorized authority.

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 is also 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)?

No

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

The line ministries.

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?

Certain agreements are implemented by regulation in ordinance or by the Government giving an authority an assignment related to the commitments in the agreement. Other agreements are implemented by the authorities applying the agreement without specific or explicit regulation in a law or regulation. Accordingly, not all treaties are implemented in national legislation.

2.5. Publication, Registration and Depository

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

No

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?

1) Treaties of lesser importance, 2) treaties concluded by the European Union and its Member States which have been published in the Official Journal of the European Union and 3) treaties which according to the Swedish Public Access to Information and Secrecy Act shall not be disclosed to the public.

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

In accordance with regulations and rules of procedure for the Government Offices, the task is assigned to the Ministry for Foreign Affairs

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

On the web page for the Swedish Government (regeringen.se)

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

All treaties which have been signed in Sweden.

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)?

The originals are kept in a treaty archive at the Ministry for Foreign Affairs