

Content

Title :	Regulations Governing the Processing of Treaties and Agreements Ch
Date :	2009.05.05
Legislative :	Promulgated and enforced by MOFA Order No.81304103 on February 19,1992 Amended and Promulgated by MOFA order No.83306001 on March 11,1994 Amended and Promulgated by MOFA order No.09101057640 on April 10, 2002 Amended and Promulgated by MOFA order No.09301234460 on December 15, 2004 Amended and Promulgated by MOFA order No.09848000420 on May 5, 2009
Content :	Regulations Governing the Processing of Treaties and Agreements Promulgated and enforced by MOFA Order No.81304103 on Amended and Promulgated by MOFA order No.83306001 on Amended and Promulgated by MOFA order No.09101057640 on April 10, 2002 Amended and Promulgated by MOFA order No.09301234460 on December 15, 2004 Amended and Promulgated by MOFA order No.09848000420 on May 5, 2009 Article 1 These Regulations stipulate the procedures for processing treaties and agreements. Article 2 These Regulations shall apply when competent authorities of the central government, or authorized institutions and organizations, sign treaties or agreements with foreign governments, international organizations or foreign institutions. Article 3 The “treaties” referred to in these Regulations mean international written agreements that: (1) Carry the designation of “treaty” or “convention” . (2) Contain a ratification clause. (3) Directly involve issues of national interest and are legally binding. (4) Directly involve people’ s rights and obligations, and are legally binding. The “agreements” referred to in these Regulations mean those international written agreements other than the treaties mentioned in the preceding paragraph, no matter their particular designation or format. Article 4 If a treaty involves changes to national territory, it shall be processed in accordance with Article 4 of the Constitution. Article 5 The Ministry of Foreign Affairs (hereinafter referred to as “MOFA”) is in

charge of treaties and agreements.

If a treaty or an agreement is specialized or technical in content, and is best signed by the relevant competent authority, it must first be approved by the Executive Yuan.

Article 6

In cases where the content of a treaty or an agreement that MOFA is in charge of involves the work of other authorities, MOFA shall maintain continuous contact with them or request that they send staff to participate.

The competent authorities referred to in paragraph 2 of the preceding Article shall maintain contact with MOFA during the formulation of a text or counterproposal, as well as during negotiations. The competent authorities may, when necessary, request that MOFA send staff for assistance. When the document is to be formally signed, MOFA may send staff to ensure that the wording, formatting and signatures on the document are all in order.

Article 7

The competent authorities shall consult with related committees of the Legislative Yuan on general guidelines and principles before reaching an agreement on the text of a treaty.

Article 8

When agreement on the text of a treaty or agreement has been reached, it must first be sent to the Executive Yuan for approval before being signed, unless there is a pressing time constraint or unless it has received prior approval from the Executive Yuan.

Article 9

Once a treaty has been signed, the competent authorities shall submit it, within 30 days, via the Executive Yuan to the Legislative Yuan for deliberations. However, in cases where 'treaty' or 'convention' does not appear in its designation, or it does not include a ratification clause, but it fulfills one of the following criteria, it shall be processed in accordance with Article 10:

- (1) The signing of the document is authorized by law.
- (2) The document has been approved by the Legislative Yuan in advance.
- (3) The document's contents are identical to a domestic law.

Article 10

Agreements shall be submitted to the Executive Yuan within 30 days of signing for review. After entering into force, they shall then be submitted to the Legislative Yuan for reference, unless the content involves national secrets or is diplomatically sensitive.

Article 11

Treaties containing a ratification clause shall be approved by the Legislative Yuan before being sent by the competent authorities to MOFA, which shall submit them to the Executive Yuan to forward to the President. The President shall complete the ratification procedure by issuing an instrument of ratification.

After the ratification process is complete and the exchange or deposit of the instrument of ratification becomes effective, the treaty shall come into force after promulgation by the President. However, in certain special

cases, treaties can be promulgated after the President completes the ratification process.

Article 12

The original copies of treaties and agreements shall be written in both Chinese and the official language of the other signatory, with both versions being equally authentic. If necessary, a third version of the text written in the language of a third country may be added if both signatories agree. The third version shall govern should discrepancies in interpretation arise.

For original copies of treaties or agreements that are specialized or technical in content, signatories may agree to use only one common international language.

Article 13

Appended protocols and articles, signed protocols, exchange of diplomatic notes or letters, agreed minutes, or appendices of treaties or agreements also constitute part of treaties or agreements, and shall be processed as such.

Article 14

After treaties and agreements enter into force, MOFA shall compile official copies of the documents and assign each a serial number. These documents shall be published in the gazette on a regular basis for reference purposes.

The competent authorities, as referred to in paragraph 2 of Article 5, shall jointly handle with MOFA the preparation of the official copy of a treaty or agreement ready for signature. Once signed, the official copy to be kept by the Republic of China () shall be deposited with MOFA.

A photocopy of the original diplomatic note or letter presented to the other signatory by the said competent authorities shall be made and clearly noted with "This copy is identical to the officially signed original copy" before being sent along with the original copy signed by the Republic of China () to MOFA for keeping.

Authenticated photocopies of the instrument of ratification, instrument of acceptance, or instrument of accession for treaties or agreements that must be deposited with foreign organizations shall be sent to MOFA within 30 days for keeping.

Article 15

Competent authorities of the central government, or authorized institutions and organizations, shall notify MOFA before signing important business contracts with foreign governments or international organizations, or with organizations, non-governmental organizations or individuals authorized by foreign governments. After signing contracts, they shall deliver the relevant documents to MOFA where they will be filed for reference.

MOFA, the Ministry of Justice and the relevant competent authorities shall jointly consider cases where there is doubt as to whether the international written document to be signed by the central government agencies, or authorized institutions or organizations, should be categorized as an agreement or a contract.

Article 16

After treaties or agreements as referred to in paragraph 2 of Article 5 enter into force, MOFA may request that the competent authorities provide

information related to their implementation. Amendments to, abolition of, or disputes over treaties or agreements shall be jointly dealt with by the competent authorities and MOFA.

Article 17

Personnel involved in the drafting, consultations, negotiations or signing of treaties and agreements shall ensure that information is kept confidential as required by law. Violations thereof shall be punished according to the regulations; those involving criminal liability shall be dealt with by the judicial authorities.

Article 18

MOFA shall decide which matters relating to the processing of treaties and agreements require attention.

Article 19

These Regulations shall enter into force on the date of promulgation.

Data Source : Laws and Regulations Retrieving System