

DIPLOMATIC CONFERENCE TO CONCLUDE AND ADOPT A DESIGN LAW TREATY

FREQUENTLY ASKED QUESTIONS ON PROCEDURAL AND LEGAL ASPECTS¹

What is a credentials document?

A credentials document is a document issued by a State authorizing one or several designated delegate(s) to participate in a diplomatic conference and to sign the final act of that conference, as relevant (please see question “What is a final act?”).

Consistent with WIPO treaty practice, credentials are required to participate in the Diplomatic Conference to Conclude and Adopt a Design Law Treaty (Diplomatic Conference) for the purpose of negotiating and adopting the treaty and to sign the final act.

Credentials should be contained in a *note verbale* of the State’s Permanent Mission in Geneva or a letter signed by its Permanent Representative in Geneva. A *note verbale* of the State’s Ministry for Foreign Affairs or a letter signed by its Minister for Foreign Affairs will also qualify as credentials.

./ For illustrative purposes, an example of a credentials document is attached as Annex A.

What is an instrument of full powers?

An instrument of full powers is a document issued by a State authorizing one or several designated delegate(s) to undertake given treaty actions, such as signing a treaty.

Pursuant to Rule 6(2) of the [Draft Rules of Procedure of the Diplomatic Conference](#), full powers are required for signing the Design Law Treaty whose adoption is expected to take place at the end of the Diplomatic Conference.

An instrument of full powers must be signed by a Head of State, Head of Government, or Minister of Foreign Affairs. Full powers not signed by one of these three State’s authorities will not be accepted. The instrument of full powers must expressly specify that the designated delegate(s) is or are authorized to sign the treaty concerned.

Full powers are personal and cannot be transferred to another person (even to another member of the delegation).

./ For illustrative purposes, an example of a full powers document is attached as Annex B.

¹ The information contained herein is for information purposes only and does not constitute legal advice.

What happens if the delegate with full powers leaves before the end of the Diplomatic Conference?

If a State assigned full powers to only one delegate and this delegate leaves before the end of the Diplomatic Conference, that State will not be able to sign the treaty during the Conference.

To avoid such a situation, it is prudent to assign full powers to at least two delegates in case one is prevented from signing the treaty. Signature of the treaty remains possible at WIPO headquarters for one year after its adoption (please see Article 31(2) of the [Basic Proposal for the Design Law Treaty](#)).

Are credentials and full powers legally distinct?

Credentials and full powers are legally distinct (please see questions “What is a credentials document?” and “What is an instrument of full powers?”). Full powers may, however, be included in the credentials document. In such a case, the document must be signed by a Head of State, Head of Government, or Minister of Foreign Affairs.

When and to whom should the credentials and full powers be sent?

Credentials should be uploaded during the [online registration](#) process or a scanned copy thereof should be sent by electronic mail to the Office of the Legal Counsel (legalcounsel@wipo.int), before or promptly after the opening of the Conference.

In any case, credentials and full powers shall be presented to the Secretary of the Conference, preferably not later than twenty-four hours after the opening of the Diplomatic Conference, pursuant to Rule 8 of the [Draft Rules of Procedure](#).

Who decides if the credentials and full powers are in order?

The decision on whether the credentials and full powers are in order shall be made by the Conference, meeting in Plenary, following the report of the Credentials Committee.

Pursuant to Rule 10 of the [Draft Rules of Procedure](#), pending a decision upon their credentials, delegations shall be entitled to participate provisionally in the deliberations of the Conference.

What is a final act?

The final act is a document distinct from the treaty that contains summary information about a diplomatic conference such as, *inter alia*, the dates and venue of that conference, the name of the treaty and its date of adoption, as appropriate, as well as the names of the signatories of the final act.

By way of example, please see the [final act](#) of the Diplomatic Conference to Conclude an International Legal Instrument Relating to Intellectual Property, Genetic Resources and Traditional Knowledge Associated with Genetic Resources.

Signing the final act does not create legal obligations for the signatory or bind the signatory to sign or ratify the treaty to which it relates, unless otherwise expressed at the diplomatic conference concerned.

If a final act is adopted at the Diplomatic Conference, it shall be open for signature by any delegation whose credentials have been found in order (please see Rules 6(1) and 48 of the [Draft Rules of Procedure](#)). Full powers are not required to sign the final act.

What is the composition of a delegation?

Pursuant to Rule 4 of the [Draft Rules of Procedure](#), a delegation shall have one or more delegates and may include advisors. Each delegation shall have a Head of Delegation and may have a Deputy Head of Delegation. The number of members of a delegation is not limited by the [Draft Rules of Procedure](#).

Does signing a treaty mean that the signatory is legally bound by it?

As far as the Design Law Treaty is concerned, the Basic Proposal provides that the signature, alone, does not establish the necessary consent to be bound by the treaty (if it is adopted). An eligible party will be required to deposit with the Director General of WIPO an instrument of ratification if it has signed the treaty (or an instrument of accession if it has not signed the treaty) to become a party to the treaty and be bound by it (please see Articles 27(2) and 28 of the [Basic Proposal for the Design Law Treaty](#)).

Pursuant to Article 18(a) of the Vienna Convention on the Law of Treaties, signature creates an obligation to refrain from acts that would defeat the object and purpose of the treaty.

When do signatures take place?

In diplomatic conferences held under the auspices of WIPO, signatures of the final act and the treaty take place during a signature ceremony after the closing of the diplomatic conference. Delegations whose credentials and full powers have been found in order may choose to sign the final act only, or to sign both the final act and the treaty.

How much time would the treaty be open for signature?

Consistent with WIPO treaty practice, Article 31(2) of [the Basic Proposal for the Design Law Treaty](#) provides that the Design Law Treaty would remain open for signature for one year after its adoption.

Contact

For further information on the procedural and legal aspects of the Diplomatic Conference, please contact legalcounsel@wipo.int.

ANNEX A

Example of Credentials²

I have the honor to inform the International Bureau that the Government of [name of State] will be represented by the following delegation at the Diplomatic Conference to Conclude and Adopt a Design Law Treaty which will take place in Riyadh, Kingdom of Saudi Arabia, from November 11 to 22, 2024:

[full name and title of delegates]

Done at [place] on [date].

[Name, title]

[Signature]

² Credentials should be contained in a *note verbale* of the State's Permanent Mission in Geneva or a letter signed by its Permanent Representative in Geneva. A *note verbale* of the State's Ministry for Foreign Affairs or a letter signed by its Minister for Foreign Affairs will also qualify as credentials.

ANNEX B

Example of Full Powers³

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs], hereby authorize [full name and title of delegate(s)] to represent the Government of [name of State] at the Diplomatic Conference to Conclude and Adopt a Design Law Treaty, which will take place in Riyadh, Kingdom of Saudi Arabia, from November 11 to 22, 2024 (hereinafter referred to as “the Diplomatic Conference”), to participate in its work and sign, in the name of the Government of [State], the treaty adopted at the Diplomatic Conference.

Done at [place] on [date].

[Name, title]

[Signature]

³ To be signed by the Head of State, Head of Government or Minister for Foreign Affairs.