



the dirco

Department of International Relations
and Cooperation

REPUBLIC OF SOUTH AFRICA

**PRACTICAL GUIDE AND PROCEDURES
FOR THE CONCLUSION OF AGREEMENTS
3rd edition**

OFFICE OF THE CHIEF STATE LAW ADVISOR
INTERNATIONAL LAW



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FOREWORD

The purpose of this Practical Guide is to assist you in understanding the constitutional processes and procedures that must be followed in order to conclude international agreements. The intention is also to provide practical guidance in the steps to be taken in complying with these procedures.

Since the inception of the modern state system, international law (the law between states and between states and international organisations) has been one of the mechanisms with which states attempted to establish and keep international peace and order. In the period prior to the First World War, international law operated in a bilateral context within an international community consisting of a limited number of states. After 1919, and even more so after the Second World War, the advent of multilateral diplomacy intensified international interaction. It was especially the need to create new legal regimes on all aspects of state interaction/interrelations that firmly established international law as a cornerstone of modern diplomacy.

Since the end of the Cold War, international security has also been increasingly defined in terms of human security rather than that of the state and its physical integrity. Contemporary international challenges to governments like population flows and refugee problems (often resulting from the gross human rights violations or conflicts and civil wars within the borders of states), fatal diseases, environmental threats and organised crime, can only be addressed by inter-governmental cooperation and regime creation, processes that need to be embedded in international law. These developments necessitate the involvement of the legal advisor trained in international law in the formulation and conduct of a state's diplomacy.

The State Law Advisors specialising in international law are situated in the Office of the Chief State Law Advisor (IL) (hereafter referred to as "the Office"), located within the Department of International Relations and Cooperation.

The Office is here to render a service to you and to assist where it can. We trust that this Practical Guide will serve to inform you about the services this Office provides, which are at your disposal.

OFFICE OF THE CHIEF STATE LAW ADVISOR (IL)

Composition of the Office

The Office consists of two components, namely the State Law Advisors (IL), and the South African Treaty Section that are at the disposal of clients.

The mission and vision of the Office

The Office renders a professional specialised service to all its clients in an effective and efficient manner and adhere to the principle of Batho Pele - people first

The Office provides

- Legal advice and inputs to the South African Government as a whole on international law in order to ensure that international agreements are not in conflict with international law and South Africa's international obligations;
- Legal advice and inputs to the Department of International Relations and Cooperation and all missions abroad to ensure that within the domestic context, in particular in respect of departmental matters, including policy, the Department of International Relations and Cooperation acts in conformity with South African law; and
- A Treaty and Information Service, the central record keeping authority and custodian of all international agreements South Africa is a party to, and an effective information service specialising in domestic and international law.

Clients of the Office

Provide legal advice to:

National and provincial departments, Minister and Deputy Ministers of the Department of International Relations and Cooperation, Head Office of the Department of International Relations and Cooperation, and South African Missions abroad.

Provide information service to:

Foreign Missions, Parastatals, Parliament, Universities, Research Institutions, Civil Society, etc.

STATE LAW ADVISORS (IL)

Legal advice is provided:

- in respect of all questions relating to international law on request to our clients;
- on questions relating to South African law, particularly private law, including law of contract, labour law and administrative law.

Role of the State Law Advisors (IL)

The legal services offered by the State Law Advisors (IL) include the following:

- Render written legal opinions in respect of international law to the Government as a whole, and other clients and in respect of South African law to the Department of International Relations and Cooperation and all its missions;
- Scrutinise international agreements for consistency with international law and with South Africa's other international obligations;
- Participate as members of South African delegations, in the capacity of legal advisors, in international conferences, meetings and conventions locally and abroad;
- Negotiate, draft or make inputs in the negotiations of international agreements, contracts and related documents;
- Approve and certify international agreements and supervise over the registration, publication and safekeeping thereof;
- Provide legal advice to the Department of International Relations and Cooperation pertaining to South African law in general or on specific actions, with regard to specific questions/problems on the basis of applicable legal principles and legislation;
- Manage litigation and act as an intermediary between the Department of International Relations and Cooperation and the State Attorney or legal representatives in foreign countries, as the case may be, when the Department is involved in litigation;
- Draft or participate in the drafting of South African legislation, including amendments thereof based on international law or South African law.

SOUTH AFRICAN TREATY SECTION

The South African Treaty Section in the Office of the Chief State Law Advisor (IL) is the central record keeping authority and custodian of all international agreements that South Africa is a party to. The Treaty Section also houses an Information Centre with a valuable law collection used for research and provides a specialized information service in international and domestic law.

The Treaty Section is the depositary of all international agreements and keeps custody of the South African Treaty Collection. There are approximately 2800 agreements deposited with the Treaty Section. The South African Treaty Register is the **official record** of all bilateral and multilateral agreements that the Republic of South Africa is a party to.

It is therefore of the utmost importance that all documents and information relating to agreements should be deposited by the responsible line function departments with the Treaty Section for custodial purposes, information retrieval and registration at the United Nations as required by the Charter of the United Nations.

Services offered

- An information service on:
 - all aspects concerning agreements such as the signature, ratification, accession, and entry into force of all agreements that the Republic of South Africa is a party to;
 - international and domestic law;
- Perform custodianship duties pertaining to agreements;
- Process, bind and seal all agreements, Instruments of Ratification/Accession, Instruments of Full Power before signature;
- Publish internal newsletter and literature reviews containing abstracts of journal articles;
- Photocopy service;
- Online access to law collection catalogue and South African Treaty Register.

Types of publications and online resources

Types of publications and online resources: South African Constitutional and Labour law reports, International law reports, South African Statutes, South African Gazettes (in electronic format), Textbooks and journals on international and domestic law, Treaty collections, Hein Online, International Law in Domestic Courts, Sabinet, Legalbrief, Butterworths Forms and Precedents, etc.

Hours

Mondays to Fridays from 8:00 to 16:30.

PROCEDURES FOR: _____

Requesting legal advice

The Office requires that any request for legal advice be submitted to the relevant Desk at the Department of International Relations and Cooperation. The reason being to ensure that Desks are informed of all developments in its area of responsibility as well as to give it the opportunity to comment on the political implications related to the matter on which advice is required.

Once the relevant Desk has had an opportunity to make its inputs it will submit a request for legal advice to the Office in the prescribed format. The prescribed form for the request for legal advice is the FA184 form, which is available online on the Intranet of the Department of International Relations and Cooperation.

Concluding international agreements

The procedure for concluding international agreements (which includes treaties and conventions) is set out in Chapter 5 of the 2006 Manual on Executive Acts of the Office of the President of South Africa. In short this procedure involves the following:

- an opinion on the agreement's consistency with domestic law must be obtained from the State Law Advisors at the Department of Justice and Constitutional Development;
- an opinion on the agreement's consistency with international law and South Africa's international obligations must be obtained from the State Law Advisors (IL) at the Office;
- a President's Minute must be prepared by the responsible government department for signature by both the responsible line function Cabinet Minister and the President;
- the President's Minute, a short Explanatory Memorandum, the two legal opinions together with a copy of the agreement (documents in twofold) must be forwarded to the Office for certification in accordance with the prescribed procedures in a Z137 coversheet, before it can be presented to the Presidency for approval.

Chapter 5 of the Manual must be read together with section 231 of the Constitution of the Republic of South Africa, 1996. This Practical Guide clearly explains what each step involves and examples of the relevant documentation are reflected in Annexures 1, 2 and 3 thereof.

Note that the term “agreement” includes convention, treaty, protocol, memorandum of understanding, accord, exchange of notes, etc.

PROCEDURES FOR: _____

Obtaining a President's Minute

(Presidential approval to sign an agreement is obtained through a document called a "President's Minute" that is signed by the President.)

All international agreements must be submitted for legal advice to the State Law Advisors of the Department of Justice and Constitutional Development and to the State Law Advisors (IL) of this Office to obtain the opinions as indicated above.

All international agreements to be signed must be approved by the National Executive. This is regardless of whether or not the agreement falls within the ambit of section 231(2) or 231(3) of the Constitution. This must be done prior to the signature of any agreement. In practice, this is done by obtaining a President's Minute, that is signed by the Cabinet Minister responsible for the specific subject matter of the agreement and counter-signed by the President.

Certification of agreements

In order to obtain a President's Minute, the text of the agreement must be certified by the State Law Advisors (IL) of this Office. The following documents need to be submitted in order to obtain the certification of the agreement:

- Text of the President's Minute;
- Explanatory Memorandum, indicating the proposed date of signature;
- The final text of the agreement;
- Certificate of authenticity issued by the Minister of the responsible government department in case of multilateral agreements;
- A copy of the legal advice of the State Law Advisors of the Department of Justice and Constitutional Development;
- A copy of the legal advice of the State Law Advisors (IL) of this Office;
- **All documents must be in twofold and contained in Folder Z137.**

State Law Advisors (IL) need **at least 24 hours** to certify agreements.

After certification has been completed the following documentation must be submitted to the Presidency in Folder Z137:

- Text of the President's Minute signed by the relevant Minister;
- Explanatory Memorandum, indicating the proposed date of signature;
- One copy of the certified text of the Agreement;
- A copy of the legal advice of the State Law Advisors of the Department of Justice and Constitutional Development;
- A copy of the legal advice of the State Law Advisors from the Office of the Chief State Law Advisor (IL);
- Minister's Certificate, required in cases of multilateral agreements where the original text of the agreement is not available, the line function Minister is required to sign a certificate confirming that the version presented to the Presidency is a copy of the true version of the agreement.

SEE FLOWCHART A FOR CORRECT PROCEDURE

The procedure, which is followed hereafter, will depend on whether the agreement falls within the ambit of section 231(2) or 231(3) of the Constitution. The line function department together with the State Law Advisors (IL) of the Office is responsible for making this determination.

Technical, administrative or executive agreements requiring National Executive approval in terms of section 231(3) of the Constitution

The guidelines to determine whether an agreement falls within the ambit of section 231(3) of the Constitution are as follows:

- Agreements that do not require parliamentary approval for ratification or accession;
- Agreements that have no extra-budgetary financial implications;
- Agreements that do not have legislative implications.

National Executive approval means that a President's Minute must be obtained. After signature, these agreements must be tabled in Parliament within a reasonable time, but for information purposes only. Tabling is the responsibility of the line function department.

SEE FLOWCHART B FOR CORRECT PROCEDURE

Agreements requiring parliamentary approval for Ratification or Accession in terms of section 231(2) of the Constitution.

As a President's Minute must be obtained regardless of whether or not the agreement falls within the ambit of section 231(2) or 231(3) of the Constitution, the procedure for obtaining approval of the National Executive, as set out in Flowchart A, must also be followed.

For agreements falling within the ambit of section 231(2) of the Constitution an additional procedure must be followed i.e. parliamentary approval for ratification/accession of the agreement must be obtained. Agreements requiring parliamentary approval in terms of section 231(2) of the Constitution are agreements that:

-
- Require ratification or accession (usually multilateral agreements);
 - Have financial implications that require an additional budgetary allocation from Parliament;
 - Have legislative or domestic implications (e.g. require new legislation or legislative amendments);
 - Approval for ratification is required in cases where South Africa has signed the agreement and it provides for such an instrument;
 - Approval for accession is required when South Africa has not signed an agreement but can become a party thereto through accession.

Signing of international agreements during a conference

Ministers are sometimes required to sign international agreements that are negotiated, drafted and adopted during conferences. The usual procedure where a State Law Advisor (IL) certifies the agreement before obtaining a President's Minute cannot thus apply. In such cases an Instrument of Full Power and a President's Minute will be required, even though the final document could not be certified by the State Law Advisors (IL). The President's Minute and Instrument of Full Power will authorize the Minister to sign an agreement, that will be subject to ratification.

Instrument of Full Power

The Vienna Convention on the Law of Treaties, 1969 defines "Full Power" as a document emanating from the competent authority of a State (i.e. Head of State, Head of Government or the Minister of International Relations and Cooperation) designating a person to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing consent to be bound by a treaty, or for accomplishing any other act with respect to a treaty.

An Instrument of Full Power is not a President's Minute. A President's Minute must still be obtained.

SEE FLOWCHART C FOR CORRECT PROCEDURE

Depositing documents with the South African Treaty Section

The original copy of every international agreement must, after signature, be deposited with the Treaty Section. In the case of a multilateral agreement where the original copy is not available, a certified copy is required.

Every action that causes a change in the status of an agreement must be reported and the relevant documentation sent to the Treaty Section.

For example:

- Parliament's approval to ratify or accede to an agreement;
- Copies of Instruments of Ratification or Accession;
- Depositary notifications;
- Entry into force notifications;
- Amendments;
- Termination or any other relevant information.

This information is also needed for the registration of the agreements with the United Nations.

Binding of agreements or Instruments of Ratification or Accession

All agreements and Instruments of Ratification or Accession must be properly bound and sealed before signature. When negotiations have been finalised and an agreement is ready for signature, the Treaty Section will process, bind and seal it in the prescribed manner. The responsible Department or Desk must provide the Treaty Section with the electronic version of the final text of the agreement or instrument, as well as a copy of the signed President's Minute.

Agreements to be bound can be e-mailed to: favierl@dirco.gov.za,
meyiwae@dirco.gov.za,
mantyin@dirco.gov.za or
vanderwaltr@dirco.gov.za

Agreements can not be bound if the signed President's Minute is not submitted together with the final version of the text of the agreement.

TABLING OF AGREEMENTS IN PARLIAMENT

All international agreements have to be tabled in Parliament. Agreements falling within the ambit of section 231(2) of the Constitution requires tabling and approval of the National Assembly and National Council of Provinces. Agreements falling within the ambit of section 231(3) requires tabling for information purposes only. Tabling is the responsibility of the line function department. Guidelines to tabling is available on the Parliamentary web site.

PUBLISHING AGREEMENTS IN GOVERNMENT GAZETTE

It is recommended, but not constitutionally prescribed that the texts of agreements ratified and the extent of its incorporation in South African law, are published in the Government Gazette.

Agreements addressing the immunities and privileges of states or international organisations require publishing in the Government Gazette. The full text of the agreement, or relevant sections addressing immunities and privileges are published together with a note from the Minister of International Relations and Cooperation in terms of the Diplomatic Immunities and Privileges Act, 37 of 2001 through which the immunities and privileges in terms of the agreement are accorded.

GUIDELINES FOR DRAFTING OF AGREEMENTS

Introduction

The following guidelines are intended to provide general guidance in so far as the most basic aspects of drafting of international agreements are concerned. It also aims at enhancing the uniformity in drafting styles applied in the drafting of international agreements. As all elements of international agreements need to be agreed on by the respective parties, the drafting style will also depend on the agreement between the parties. The guidelines given here are therefore how South Africa would prefer the international agreement to be drafted, although this is not necessarily always attainable due to the fact, as already indicated, that the drafting style may depend on the agreement reached between the parties.

The Parties

Agreements are concluded between Governments and not Departments. Departments can be designated as the authority for implementing agreements. The South African side to the agreement is always to be cited as “ the Government of the Republic of South Africa”.

Terminology

An international agreement refers to an agreement between states or between states and international organisations that creates or intends to create a relationship between them operating under international law.

Various titles are used to define an international agreement. For example:

- **Treaty:** normally used for more formal agreements dealing with matters of gravity.
- **Convention:** usually used for multilateral agreements.
- **Agreement:** less formal agreements with limited scope and fewer parties.
- **Protocol:** usually an ancillary agreement to the original agreement.
- **Memorandum of Understanding:** a less formal agreement, usually of an administrative or technical nature.
- **Exchange of Notes:** a less formal agreement. Concluded through two or more diplomatic notes between the parties.

It should be noted that it is not the name of the instrument that makes it a binding or non-binding international agreement, but the contents thereof.

Therefore an instrument such as a Declaration of Intent, in which the parties only express their intentions, without creating any obligations, would not be an international agreement as contemplated in section 231 of the Constitution.

Structure

Agreements are usually structured in such a way that it includes a preamble, substantive clauses, standard end clauses and signature clauses.

Sequencing of articles

If an article on definitions is required, this should be placed at the very beginning of the agreement just after the Preamble. Definitions should be listed in alphabetical order. If an article on the objective or purpose is included it should be included after the article on definitions. Substantive clauses follow the definitions where after certain standard articles on Settlement of Disputes, Amendment, Entry into Force and Duration and Termination follow and the text of the agreement is concluded by standard end clauses.

Preamble

An international agreement usually has a preamble that is not intended to constitute substantive provisions or create legal obligations. It sets out the background and context of the agreement and is used as an aid to the interpretation of the agreement.

Two styles of drafting are commonly used. By using the present participle of the verb to begin each clause, e.g. “Recalling” or by using the word “Whereas” to start each preambular paragraph.

Example:

“The Government of the Republic of South Africa, the Government of the People’s Republic of Mozambique and the Government of the Republic of Portugal (hereinafter referred to in the singular as “a Party” and in the plural as “the Parties”);

RECALLING that an Agreement was entered into on 19 September 1969 between the Government of the Republic of South Africa and the Government of the Republic of Portugal concerning the establishment and operation of a hydro-electric scheme, known as the Cahora Bassa Project, for the generation and supply of electricity for use within the territories of South Africa and Mozambique and possibly other countries;

RECOGNIZING that conditions have changed considerably since the conclusion of the said Agreement which consequently no longer reflects the realities of the situation in the region of Southern Africa;

DESIRING THEREFORE to enter into a tripartite Agreement which will take account of the changed conditions prevailing in the region;

HEREBY AGREE AS FOLLOWS:

Example:

“WHEREAS the Government of the Republic of South Africa and the Government of the Netherlands (hereinafter jointly referred to as “the Parties” and in the singular “Party”) are desirous to consolidate and strengthen their friendly ties and reciprocal understanding; and

WHEREAS the Parties are conscious of the desirability of promoting to the greatest possible extent the mutual knowledge, experience and understanding of their respective human and developmental needs in the Social Welfare field, by means of friendly co-operation between them;

NOW THEREFORE the Parties undertake as follows: ...”

Headings and numbering

It is always helpful if headings/subtitles are provided for each Article.

As far as the numbering is concerned, substantive provisions are divided into articles, sub-articles, paragraphs and sub-paragraphs. Articles are numbered either in Arabic or capital roman numbers. Sub-articles in Arabic number, paragraphs in alphabetic letters and sub-paragraphs in small roman numbers. Capital letters are used and the article and subtitle are centred.

Example:

”ARTICLE 4
or
ARTICLE IV
COMPOSITION OF THE COMMISSION

Each Party shall appoint five representatives to serve on the Commission.

The Commission shall:

- a. Consider all allegations of infringements of the provisions of this Agreement;
- b. Advise the parties of its conclusions;
- c. Make recommendations to the Parties regarding:
 - i. settlement of disputes;
 - ii. effective means of enhancing the application of this Agreement; and
 - iii. the possibilities of extended co-operation between the Parties.”

Standard articles

Standard wording can be used for standard articles such as settlement of disputes, amendments, entry into force, etc.:

Examples:

• SETTLEMENT OF DISPUTES

“Any dispute between the Parties arising out of the interpretation or implementation of this Agreement shall be settled amicably through consultation or negotiation between the Parties to the dispute.”

• AMENDMENT

“This Agreement may be amended by mutual consent of the Parties through an Exchange of Notes between the Parties through the diplomatic channel.”

It is a common error to provide for the entry into force of amendments. The Exchange of Notes through which the amendment will be effected, stipulate the date of entry into force (usually on the date of the last notification). An entry into force provision in this clause therefore is not only unnecessary but may also lead to confusion.

• ENTRY INTO FORCE

Where the agreement falls within the ambit of section 231(3) of the Constitution of the Republic of South Africa, 1996:

“This Agreement shall enter into force on the date of signature thereof by the Parties.”

Where the agreement falls within the ambit of section 231(2) of the Constitution of the Republic of South Africa, 1996:

“The Parties shall notify each other in writing when their respective constitutional requirements for entry into force of this Agreement have been fulfilled. This Agreement shall enter into force on the date of the last written notification.”

It should be noted that it frequently happens that the other party will require an entry into force clause that requires notification of the completion of the constitutional procedures. This can happen even if South Africa considers the agreement to be an agreement within the ambit of section 231(3) of the Constitution. This is acceptable. However, the line function department should note that the election of this wording would require an additional administrative step namely that a Diplomatic Note must be sent. In these cases the responsible line function department should request that the relevant Desk at the Department of International Relations and Cooperation send such a Note. A copy of the Note must be submitted to the Treaty Section.

Where ratification or accession is to be expressly provided for, the correct format must be used in consultation with the State Law Advisor (IL).

- **DURATION AND TERMINATION**

“This Agreement shall remain in force for a period of three years, after which it shall be renewed automatically unless terminated by either Party giving six months written notice in advance through the diplomatic channel of its intention to terminate this Agreement.

A Party terminating this Agreement shall remain bound to contractual relationships to which it is a party and to its obligations there under, until they are fulfilled.”

OR

“ This Agreement shall enter into force on the date of signature and remain in force for an indefinite period unless terminated by either Party giving six months written notice in advance through the diplomatic channel of its intention to terminate the Agreement.

Termination of this Agreement shall not affect any programmes undertaken prior to the termination of this Agreement, unless otherwise agreed upon by the Parties.”

OR

“ The termination of this Agreement shall not affect the completion of any unfulfilled obligation at the moment of its termination, unless otherwise agreed by the Parties.”

- **END AND SIGNATURE CLAUSES**

“IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed and sealed this Agreement in duplicate in the English and Hindi languages, both texts being equally authentic. In case of diversion of interpretation the English text shall prevail.

DONE at on day of in the year 201.....

FOR THE GOVERNMENT OF

THE REPUBLIC OF SOUTH AFRICA

FOR THE GOVERNMENT

OF

USEFUL INFORMATION

Contact details

Office of the Chief State Law Advisor (IL)

Tel: 012 351 0857
Fax: 012 329 1721
E-mail: cronjel@dirco.gov.za

South African Treaty Section

Tel: 012 351 0872/0726/0851/0837
Fax: 012 329 1653
E-mail: vanderwaltr@dirco.gov.za

Legislation administered by the Department of International Relations and Cooperation

- Diplomatic Immunities and Privileges Act, No. 37 of 2001
- Foreign States Immunities Act, No. 87 of 1981
- African Renaissance and International Co-operation Fund Act, No. 51 of 2000

ANNEXURE I

Example of a Z137 Folder

81/173195
(Z 137)



Republic of South Africa

Department.....

Delivery address.....

The Director-General
Office of the President

In accordance with the provisions of section 84 of the Constitution of the Republic of South Africa, 1996, the under mentioned Executive Act is enclosed for submission to the President for consideration and signature.

No.	Subject

.....
Director-General
Date
Enquiries
Tel

Office use			

A3 Size

ANNEXURE 2

Example of a President's Minute

81/172488
(Z19E)



PRESIDENT'S MINUTE NO.

In terms of Section 231 of the Constitution of the Republic of South Africa, 1996 I hereby approve that the attached agreement on.....between the Republic of South Africa and (country) be entered into, and I hereby authorise the Minister of to sign the agreement.

Given under my Hand and the Seal of the Republic of South Africa
at (place) on this day of (month)
Two Thousand and Ten.

PRESIDENT

MINISTER OF THE CABINET

 A4 Size

ANNEXURE 3

Example of a Minister's Certificate

(Ministerial Letterhead)

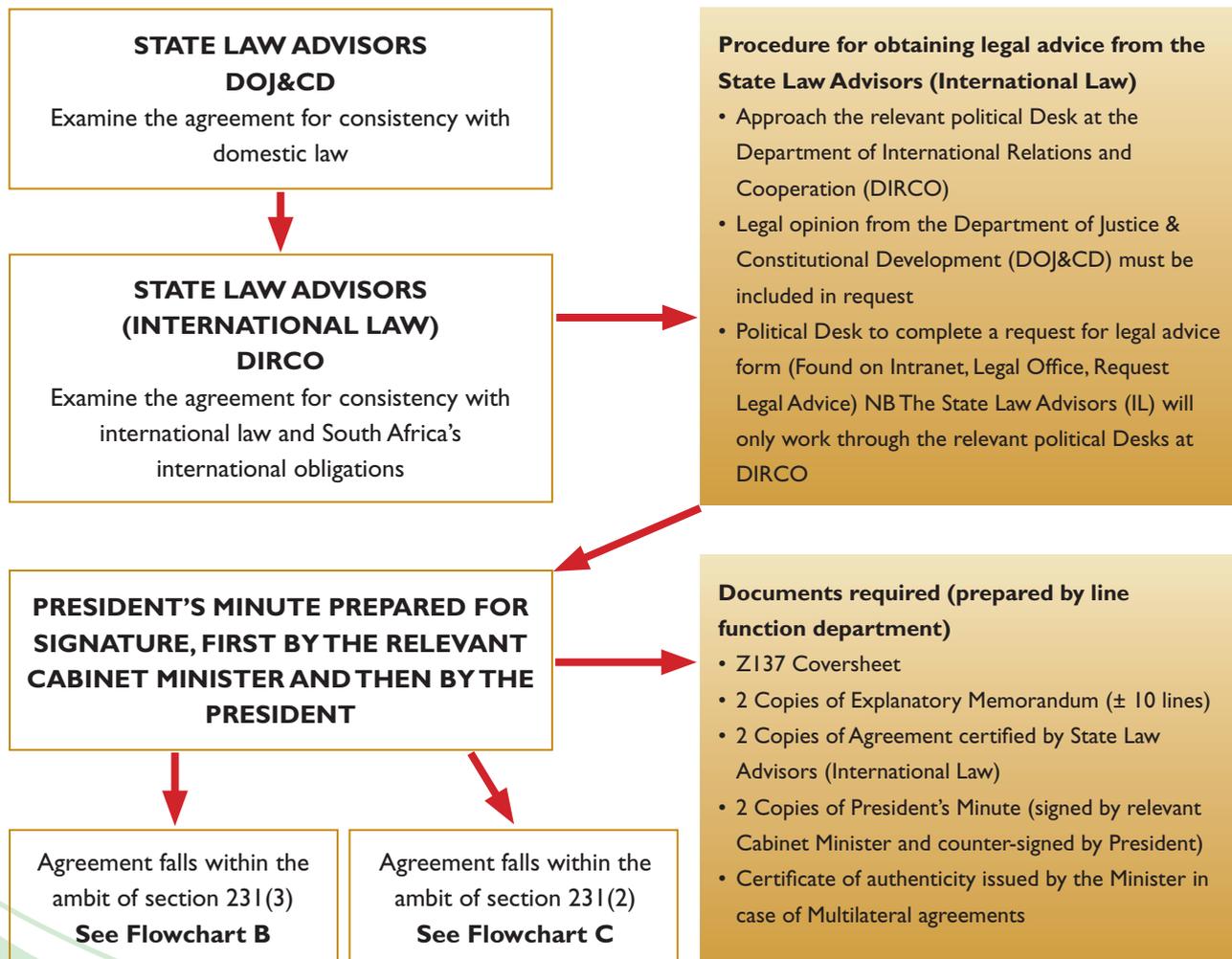
CERTIFICATE BY THE MINISTER OF

I,, in my capacity as Minister of
..... of the Republic of South Africa, hereby certify that the attached
document is a true version of the Agreement between the Government of the Republic of
South Africa and the and forms
part of President's Minute No of

A4 Size

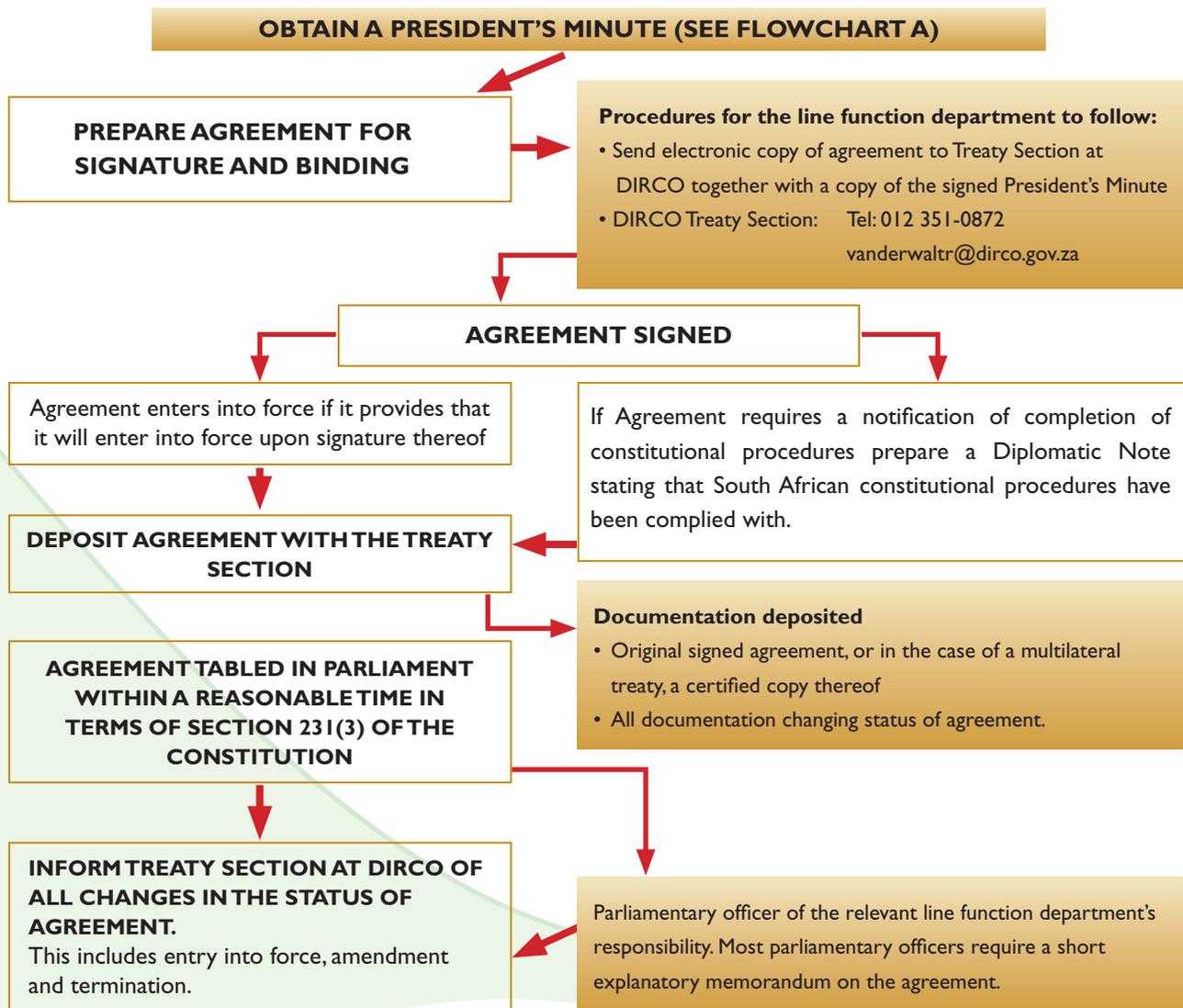
FLOW CHART A

Procedure for obtaining President's Approval (a President's Minute) for all international agreements



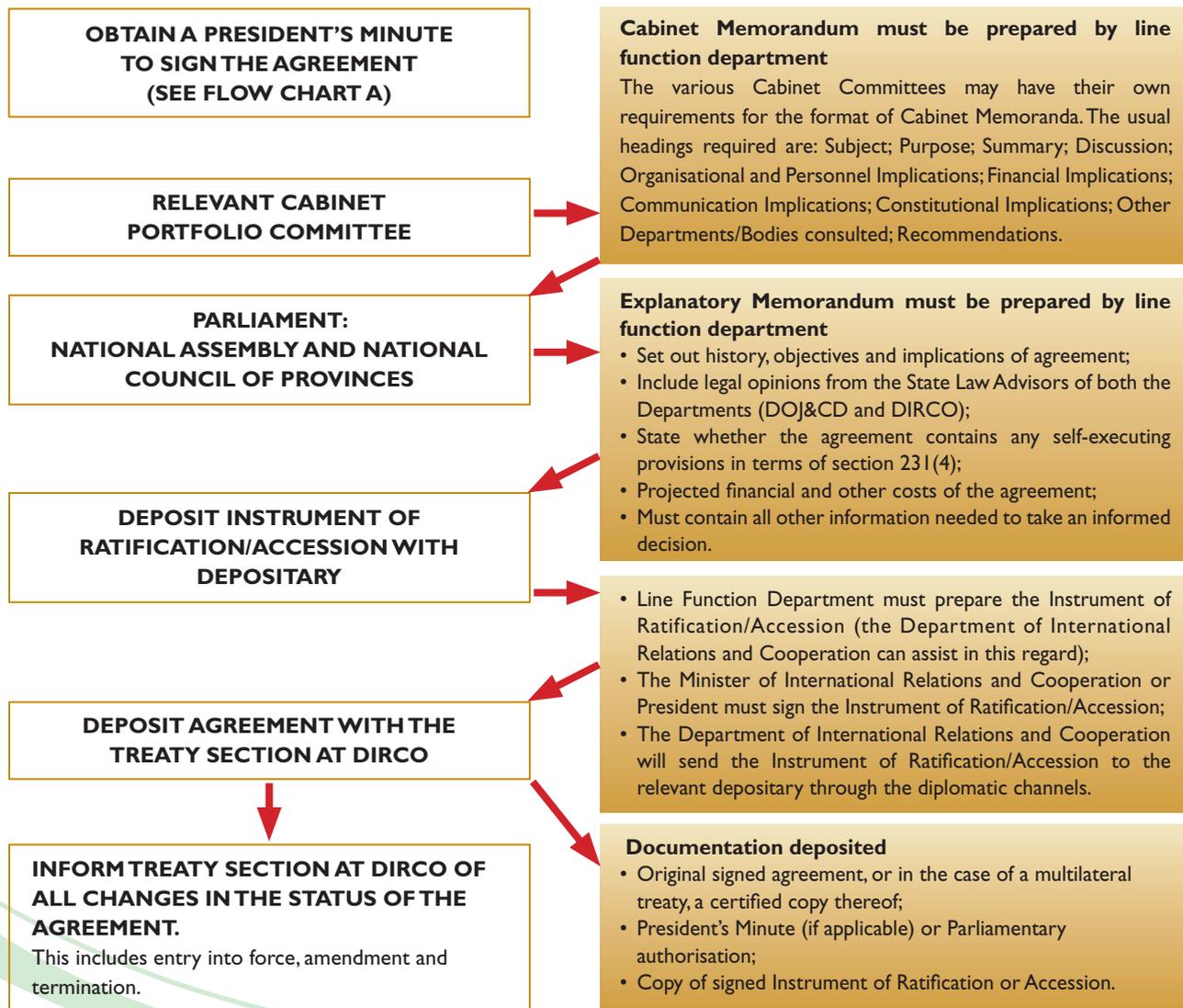
FLOW CHART B

Procedure for concluding an Agreement that falls within the ambit of section 231(3) of the Constitution



FLOW CHART C

Procedure for obtaining Parliamentary approval in terms of section 231(2) of the Constitution



TERMS COMMONLY USED IN RELATION TO AGREEMENTS

Acceptance/ Approval	The act whereby a State indicates its consent to become a party to a treaty. Acceptance/ Approval are specifically provided for in a treaty and can take the form of a letter or a standard format prescribed by the treaty itself.
Accession	The act whereby a State that has not signed a treaty expresses its consent to become a party by depositing an instrument of accession. Accession has the same legal effect as ratification.
Adoption	The formal act by which negotiating parties establish the form and content of a treaty. The treaty is adopted through a specific act expressing the will of the States by voting on the text, initialling, signing, etc.
Consent to be bound	A State expresses its consent to be bound by a treaty under international law by some formal act, i.e. definitive signature, ratification, acceptance, approval or accession.
Credentials	Credentials is a document issued by a State authorising a delegate or delegation of that State to attend a conference, including where necessary, for the purpose of negotiating and adopting the text of a treaty.
Depositary	The depositary of a treaty is the custodian of the treaty and is entrusted with the functions specified in article 77 of the Vienna Convention 1969.
Entry into force	The moment in time when a treaty becomes legally binding on the parties to a treaty.

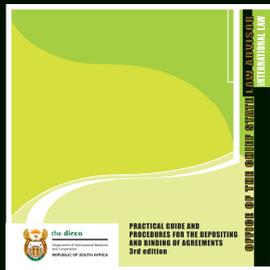
TERMS COMMONLY USED IN RELATION TO AGREEMENTS

Exchange of Notes

May embody a bilateral treaty commitment. The signatures of both parties appear on two separate Notes. The agreement lies in the exchange of these Notes, each of the parties retaining one Note signed by the representative of the other party. In a bilateral treaty the parties may also exchange Notes to indicate that they have completed all domestic procedures necessary to implement the treaty.

Ratification

The act undertaken on the international plane, whereby a State that has signed the treaty confirm its consent to be bound by a treaty. This is done by depositing an instrument of ratification with the depositary. This should not be confused with the act of ratification at a national level which a State may be required to undertake, in accordance with its own constitutional provisions.



OFFICE OF THE CHIEF STATE LAW ADVISOR (IL)
DEPARTMENT OF INTERNATIONAL RELATIONS AND COOPERATION
PRIVATE BAG X152
PRETORIA
0001