International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook

Introduction
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Introduction

International Collective in Support of Fishworkers
27 College Road, Chennai, India
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Timeline
Introduction

In 2003, the International Collective in Support of Fishworkers (ICSF) conducted “Empowerment through Information: Training Programme for Fishworker Organizations and Non-governmental Organizations (NGOs)”. As part of the preparations for the training programme, a draft handbook and companion CD-ROM on “International Legal Instruments Relevant to Fisheries” were produced and distributed to participants. The draft handbook classified 57 instruments into legally binding and non-binding types, and provided the following information: long title of the instrument, short title, acronym, legal status, objectives, date of opening for signature, date of entry into force, signatories, ratifications, contents, additional instruments, initiating body, decision-making body, periodicity, participation in decision-making body, secretariat, relevance to fisheries, relevance to small-scale fisheries, keywords and relevant articles.

Based on feedback from the participants of the training programme and other readers, it was decided to revise the handbook. It was also realized that the handbook could be important in the advocacy and campaign activities of fishworker organizations, NGOs and others working in the sector.

This is the revised version of the handbook. It provides more detailed information for a wider range of legal instruments relevant to fisheries and fishworkers. It covers 114 legal instruments, categorized into seven themes, namely, human rights, food security, women and development; environment and sustainable development; oceans and fisheries management; environmental pollution; fishing vessels and safety at sea; labour; and trade.

This version also contains information on the working of the instruments (decision-making bodies, monitoring and implementation agencies, periodicity of meetings, rules for participation in meetings of the decision-making bodies and implementation agencies for States and NGOs), regional instruments/agencies and follow-up to the instrument.

Most of these instruments were initiated either through discussions at, or from a resolution of, the United Nations (UN) General Assembly or by UN programmes like the United Nations Environment Programme (UNEP); specialized agencies of the UN like the Food and Agriculture Organization of the United Nations (FAO); the International Labour Organization (ILO); the
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International Maritime Organization (IMO); and the World Trade Organization (WTO). Each theme classifies the instruments based on their legal status (binding and non-binding) and type (treaty, convention, agreement, protocol, resolution, recommendation, voluntary guidelines, conference declaration and plan of action). The most important of all treaties is the Vienna Convention on the Law of Treaties, 1969, which, while recognizing the fundamental role of treaties in international relations, provides the framework for the formation of a treaty/agreement.

This revised edition of the handbook is far more extensive and comprehensive than the draft version. It also features a glossary that explains the various terms used in treaty-making. Apart from being a ready reckoner to the instruments, it highlights the important sections of relevance to fisheries/small-scale fisheries/fishworkers. The companion CD-ROM provides the full texts of all the instruments in a searchable format, along with details of the working of the instruments and the decisions of the various committees.

The contents of both the handbook and the CD-ROM are current as on March 2005. In cases where some information fields are absent (e.g., Short Title, Acronym), this is because they are not officially used or available. It is also available online at www.icsf.net

The Selected Paragraphs/Articles sections contain unedited excerpts, copied verbatim, from the relevant instruments and may not be stylistically consistent with the rest of the publication.

Comments and suggestions on this handbook are welcome for possible incorporation in future editions. They may be sent to icsf@icsf.net
Acknowledgement

ICSF would like to acknowledge and thank the following secretariats for responses and comments:

- Secretariat of the Convention on Biological Diversity (CBD)
- Secretariat of the Convention on Wetlands (Ramsar)
- Secretariat of the World Heritage Convention (WHC)
- Secretariat of the Convention on Migratory Species (CMS)
- Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC)
- Division for Ocean Affairs and the Law of the Sea, United Nations (DOALOS)
- International Labour Office of the International Labour Organization (ILO)
- World Trade Organization (WTO)
## Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>ACP</td>
<td>Africa, Caribbean and Pacific</td>
</tr>
<tr>
<td>AFTA</td>
<td>ASEAN Free Trade Area</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>AIDS</td>
<td>acquired immune deficiency syndrome</td>
</tr>
<tr>
<td>ASCOBANS</td>
<td>Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas</td>
</tr>
<tr>
<td>ACCOBAMS</td>
<td>Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area</td>
</tr>
<tr>
<td>AIMS</td>
<td>Atlantic, Indian Ocean, Mediterranean and the South China Sea</td>
</tr>
<tr>
<td>BPoA</td>
<td>Barbados Plan of Action</td>
</tr>
<tr>
<td>CAC</td>
<td>Codex Alimentarius Commission</td>
</tr>
<tr>
<td>CAP</td>
<td>conformity assessment procedures</td>
</tr>
<tr>
<td>CBD</td>
<td>Convention on Biological Diversity</td>
</tr>
<tr>
<td>CCAMLR</td>
<td>Convention on the Conservation of Antarctic Marine Living Resources</td>
</tr>
<tr>
<td>CCPR</td>
<td>(International) Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>CCRF</td>
<td>Code of Conduct for Responsible Fisheries</td>
</tr>
<tr>
<td>CCSBT</td>
<td>Convention for the Conservation of Southern Bluefin Tuna</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
</tr>
<tr>
<td>CEPA</td>
<td>Committee on Education and Public Awareness</td>
</tr>
<tr>
<td>CEPTFA</td>
<td>Council of the Eastern Pacific Tuna Fishing Agreement</td>
</tr>
<tr>
<td>CESCR</td>
<td>Committee on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>CFA</td>
<td>Committee on Freedom of Association (of ILO)</td>
</tr>
<tr>
<td>CFC</td>
<td>chlorofluorocarbons</td>
</tr>
<tr>
<td>CFS</td>
<td>Committee on World Food Security (of FAO)</td>
</tr>
<tr>
<td>CITES</td>
<td>Convention on International Trade in Endangered Species of Wild Fauna and Flora</td>
</tr>
<tr>
<td>CMS</td>
<td>Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)</td>
</tr>
<tr>
<td>COFI</td>
<td>Committee on Fisheries (of FAO)</td>
</tr>
<tr>
<td>COLREGs</td>
<td>Convention on the International Regulations for Preventing Collisions at Sea</td>
</tr>
<tr>
<td>COMESA</td>
<td>Common Market for Eastern and Southern Africa</td>
</tr>
<tr>
<td>COP</td>
<td>Conference of Parties</td>
</tr>
<tr>
<td>CPR</td>
<td>common property resources</td>
</tr>
<tr>
<td>CRTA</td>
<td>Committee on Regional Trade Agreements (of WTO)</td>
</tr>
<tr>
<td>CSD</td>
<td>Commission on Sustainable Development</td>
</tr>
<tr>
<td>CSW</td>
<td>Commission on the Status of Women (of UN)</td>
</tr>
<tr>
<td>CSocD</td>
<td>Commission for Social Development (of UN)</td>
</tr>
<tr>
<td>CTD</td>
<td>Committee on Trade and Development (of WTO)</td>
</tr>
<tr>
<td>CTE</td>
<td>Committee on Trade and Environment (of WTO)</td>
</tr>
</tbody>
</table>
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CTG Committee on Trade in Goods (of WTO)
CTS Committee on Trade in Services (of WTO)

DAW Division for the Advancement of Women (of UN)
DESA Department of Economic and Social Affairs (of UN)
DFP destructive fishing practices
DFT destructive fishing techniques
DOALOS Department of Ocean Affairs and the Law of the Sea (of UN)
DSB Dispute Settlement Body (of WTO)
DSD Division for Sustainable Development (of UN)
DSU disputes settlement understanding (of the Uruguay Round)
DTE Decision on Trade and Environment

EAF ecosystem approach to fisheries
EC European Commission
ECOSOC Economic and Social Council (of UN)
ECOWAS Economic Community of West African States
EEC European Economic Community
EEZ exclusive economic zone
EGTT Expert Group on Technology Transfer
EIA environmental impact assessment
EMS environmental management systems
ESM environmentally sound management
ESP Committee on Employment and Social Policy (of ILO)
EU European Union

FAD fish aggregating device.
FAO Food and Agriculture Organization of the United Nations
FDI foreign direct investment
FFA Forum Fisheries Agency (of the South Pacific)
FIGIS Fisheries Global Information System (of FAO)
FOC flag of convenience
FSU floating storage units
FPSO floating production storage and offloading (unit)
FWCW Fourth World Conference on Women (Beijing Conference)

GATS General Agreement on Trade in Services
GATT General Agreement on Tariffs and Trade
GATT EMIT GATT group on Environmental Measures and International Trade
GPA Global Programme of Action
GPA-LBA Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities
GCRMN Global Coral Reef Monitoring Network
GEF Global Environment Facility
GESAMP Group of Experts on the Scientific Aspects of Marine Environmental Protection
GFCM General Fisheries Council for the Mediterranean
GIS geographic information system
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>GISP</td>
<td>Global Invasive Species Programme</td>
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<tr>
<td>GIWA</td>
<td>Global International Waters Assessment</td>
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<tr>
<td>GPS</td>
<td>global positioning system</td>
</tr>
<tr>
<td>GTI</td>
<td>Global Taxonomy Initiative</td>
</tr>
<tr>
<td>HCFC</td>
<td>hydrochlorofluorocarbon</td>
</tr>
<tr>
<td>HMS</td>
<td>highly migratory species</td>
</tr>
<tr>
<td>HRD</td>
<td>human resource development</td>
</tr>
<tr>
<td>HS</td>
<td>harmonized system</td>
</tr>
<tr>
<td>HIPC</td>
<td>heavily indebted poor countries</td>
</tr>
<tr>
<td>HIV</td>
<td>human immunodeficiency virus</td>
</tr>
<tr>
<td>IAEA</td>
<td>International Atomic Energy Agency</td>
</tr>
<tr>
<td>IBRD</td>
<td>International Bank for Reconstruction and Development (World Bank)</td>
</tr>
<tr>
<td>ICAM</td>
<td>integrated coastal area management</td>
</tr>
<tr>
<td>ICCAT</td>
<td>International Commission for the Conservation of Atlantic Tunas</td>
</tr>
<tr>
<td>ICCP</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ICCROM</td>
<td>International Centre for the Study of the Preservation and Restoration of Cultural Property</td>
</tr>
<tr>
<td>ICES</td>
<td>International Council for the Exploration of the Sea</td>
</tr>
<tr>
<td>ICESC</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
</tr>
<tr>
<td>ICOMOS</td>
<td>International Council on Monuments and Sites</td>
</tr>
<tr>
<td>ICPD</td>
<td>International Conference on Population and Development</td>
</tr>
<tr>
<td>ICRI</td>
<td>International Coral Reef Initiative</td>
</tr>
<tr>
<td>ICS</td>
<td>international code of signals</td>
</tr>
<tr>
<td>ICZM</td>
<td>integrated coastal zone management</td>
</tr>
<tr>
<td>IGO</td>
<td>inter-governmental organization</td>
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<tr>
<td>ILO</td>
<td>International Labour Organization</td>
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<tr>
<td>IMCAM</td>
<td>integrated marine and coastal area management</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
</tr>
<tr>
<td>IMCO</td>
<td>Intergovernmental Maritime Consultative Organization (former name of IMO)</td>
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<tr>
<td>IMO</td>
<td>International Maritime Organization</td>
</tr>
<tr>
<td>INC</td>
<td>Intergovernmental Negotiating Committee</td>
</tr>
<tr>
<td>IOC</td>
<td>International Oceanographic Commission</td>
</tr>
<tr>
<td>IOSEA</td>
<td>Indian Ocean and South-East Asia</td>
</tr>
<tr>
<td>IOTC</td>
<td>Indian Ocean Tuna Commission</td>
</tr>
<tr>
<td>IPCC</td>
<td>Intergovernmental Panel on Climate Change</td>
</tr>
<tr>
<td>IPOA</td>
<td>international plan of action</td>
</tr>
<tr>
<td>IPPC</td>
<td>International Plant Protection Committee</td>
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<tr>
<td>IPR</td>
<td>intellectual property rights</td>
</tr>
<tr>
<td>ISO</td>
<td>International Standards Organization</td>
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<tr>
<td>ITLOS</td>
<td>International Tribunal for the Law of the Sea</td>
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<tr>
<td>IUCN</td>
<td>International Union for the Conservation of Nature and Natural Resources (now called IUCN-The World Conservation Union)</td>
</tr>
<tr>
<td>IUU</td>
<td>illegal, unreported and unregulated (fishing)</td>
</tr>
<tr>
<td>IWC</td>
<td>International Whaling Commission</td>
</tr>
<tr>
<td>IWRB</td>
<td>International Wildfowl Research Bureau</td>
</tr>
</tbody>
</table>
### Introduction

**JPoI**  Johannesburg Plan of Implementation  
**LAR**  living aquatic resources  
**LBA**  land-based activities  
**LCA**  life cycle analysis  
**LDC**  least developed country  
**LDC**  London Dumping Convention  
**LIFDC**  low-income food-deficit countries  
**LILS**  Committee on Legal Issues and International Labour Standards (of ILO)  
**LME**  large marine ecosystem  

**MAFOR**  marine (weather) forecast  
**MARPOL**  International Convention for the Prevention of Pollution from Ships  
**MCPA**  marine and coastal protected area  
**MCS**  monitoring, control and surveillance  
**MDG**  Millennium Development Goals  
**MEA**  multilateral environmental agreements  
**MEPC**  Marine Environment Protection Committee  
**MFN**  most favoured nation  
**MNE**  (Subcommittee on) Multinational Enterprises (of ILO)  
**MOP**  Meeting of Parties  
**MoU**  memorandum of understanding  
**MPA**  marine protected area  
**MSC**  Maritime Safety Committee  
**MSY**  maximum sustainable yield  

**NAMA**  non-agricultural market access  
**NEAFC**  North East Atlantic Fisheries Commission  
**NEPAD**  New Partnership for Africa’s Development  
**NGLS**  Non-Governmental Liaison Service (of UN)  
**NGMA**  Negotiating Group on Market Access (of WTO)  
**NGO**  non-governmental organization  
**NGR**  Negotiating Group on Rules (of WTO)  
**NPAFC**  North Pacific Anadromous Fish Commission  
**NPOA**  national plan of action  
**NTB**  non-tariff barriers  

**ODA**  Overseas Development Aid  
**OECD**  Organization for Economic Co-operation and Development  
**OIE**  Office International des Epizooties (International Office of Epizootics)  
**OEWG**  Open-Ended Working Group  

**PADH**  physical alteration and destruction of habitats  
**PFA**  Programme, Financial and Administrative Committee (of ILO)  
**PGE**  Permanent Group of Experts  
**PHF**  post-harvest fisheries  
**PIC**  prior informed consent  
**PoA**  plan of action
POP persistent organic pollutants
PSSA particularly sensitive sea area

REIO regional economic integration organization
RFMO regional fisheries management organization
RFO regional fisheries organization
RTA regional trade agreements

SADC Southern African Development Community
SAR search and rescue (operations at sea)
SBI Subsidiary Body for Implementation
SBSTTA Subsidiary Body on Scientific, Technical and Technological Advice (to the CBD)

SCM subsidies and countervailing measures
SEAFO South East Atlantic Fisheries Organization
SFV Safety of Fishing Vessels (The Torremolinos International Convention for the Safety of Fishing Vessels)
SIDS small island developing States
SLF Stability and Load Lines and Fishing Vessels Safety (a sub-committee of the MSC of IMO)

SNA system of national accounts
SOLAS Safety of Life at Sea
SPS sanitary and phytosanitary standards (measures or regulations)
STCW-F Standards of Training, Certification and Watchkeeping for Fishing (International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel)

STM Committee on Sectoral and Technical Meetings and Related Issues (of ILO)
STRP Scientific and Technical Review Panel (of the Ramsar Convention)
SWIOFC Southwest Indian Ocean Fisheries Commission

TA technical assistance
TAC total allowable catch
TBPA transboundary protected area
TBT technical barriers to trade

TC Committee on Technical Co-operation (of ILO)
TEAP Technology and Economic Assessment Panel (of UNEP)
TEK traditional ecological knowledge
TNC transnational corporation

TRIPS trade-related aspects of intellectual property rights

UDHR Universal Declaration of Human Rights
UN United Nations
UNCED United Nations Conference on Environment and Development (Rio Summit or Earth Summit)
UNCHE United Nations Conference on Human Environment
UNCTAD United Nations Conference on Trade and Development
UNDP United Nations Development Programme
Introduction

UNEP United Nations Environment Programme
UNESCO United Nations Economic, Social and Cultural Organization
UNFCCC United Nations Framework Convention on Climate Change
UNFSA United Nations Fish Stocks Agreement
UNGA United Nations General Assembly
UNHCHR United Nations High Commissioner for Human Rights
UNICPOLOS United Nations Informal Consultative Process on the Law of the Sea

VMS vessel monitoring systems

WEAMU West African Economic and Monetary Union
WCARRD World Conference on Agrarian Reform and Rural Development
WCHR World Conference on Human Rights
WCMC World Conservation Monitoring Centre
WCPA World Commission on Protected Areas (of IUCN)
WFS World Food Summit
WHC World Heritage Convention
WHO World Health Organization
WIG wing-in-ground
WIPO World Intellectual Property Organization
WP/SDG Working Party on the Social Dimension of Globalization (of ILO)
WRI World Resources Institute
WSSD World Summit on Sustainable Development
WTO World Trade Organization
**Glossary**

acceptance: When a State becomes a party to a treaty; it may mean *either* by “signature subject to acceptance” (analogous to ratification) or by acceptance without prior signature (analogous to accession). The text of the treaty usually establishes which meaning of “acceptance” is meant. Also see **ratification**.

access to information: being able to obtain relevant information, especially with respect to environment

accession: the act whereby a State that has not signed a treaty expresses its consent to become a party to that treaty by depositing an “instrument of accession”. Accession has the same legal effect as ratification, acceptance or approval. The conditions under which accession may occur and the procedure involved depend on the provisions of the relevant treaty. Accession is generally employed by States wishing to express their consent to be bound by a treaty where the deadline for signature has passed. However, many modern multilateral treaties provide for accession even during the period that the treaty is open for signature.

action plan: a sequence of steps to achieve an endpoint

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 and the international organizations participating in the negotiation of that treaty, e.g., by voting on the text, initialing, signing, etc. Adoption may also be the mechanism used to establish the form and content of amendments to a treaty, or regulations under a treaty.

agreement: a decision to do something made by two or more people, organizations, companies or governments. Agreements can be binding or non-binding. A binding agreement is one that everyone who has signed must follow or be punished. Non-binding agreements show that governments are trying to do something but they accept that they may not always be able to do so because of economic reasons.

amendment: the formal alteration of the provisions of a treaty by its parties. Such alterations must be effected with the same formalities that attended the original formation of the treaty. Multilateral treaties typically provide specifically for their amendment.
**authentication**: the procedure whereby the text of a treaty is established as authentic and definitive. Once a treaty has been authenticated, its provisions cannot be modified except by formal amendment.

**authentic language**: the language in which the meaning of a treaty’s provisions is to be determined

**authentic or authenticated text**: the version of the treaty that has been authenticated by the parties

**binding**: for an agreement, one whose terms have to be complied with

**certified true copy**

**certified true copy for depositary purposes**: A certified true copy for depositary purposes means an accurate duplication of an original treaty, prepared in all authentic languages, and certified as such by the depositary of the treaty. The Secretary-General of the United Nations circulates certified true copies of each treaty deposited with the Secretary-General to all States and entities that may become parties to the treaty. For reasons of economy, the Secretary-General, as depositary, normally provides only two certified true copies to each prospective participant in the treaty. States are expected to make any additional copies required to fulfil their domestic needs. See article 77(1)(b) of the Vienna Convention 1969.

**certified true copy for registration purposes**: A certified true copy for registration purposes means an accurate duplication of a treaty submitted to the Secretariat of the United Nations for registration. The registering party must certify that the text submitted is a true and complete copy of the treaty and that it includes all reservations made by the parties. The date and place of adoption, the date and the method whereby the treaty has come into force, and the authentic languages must be included. See article 5 of the Regulations.

**clearing-house**: any agency that brings together seekers and providers of goods, services or information, thus matching demand with supply

**Code of Conduct**: FAO’s Code of Conduct for Responsible Fisheries
COP (Conference of Parties): meetings of the parties who have signed, accepted or ratified a convention

contracting State: a State that has expressed its consent to be bound by a treaty where the treaty has not yet entered into force or where it has not entered into force for that State

correction: Correction of a treaty is the remedying of an error in its text. If, after the authentication of a text, the signatory and contracting States agree that an error exists, those States can correct the error by:
   a. initialling the corrected treaty text;
   b. executing or exchanging an instrument containing the correction; or
   c. executing the corrected text of the whole treaty by the same procedure by which the original text was executed.

If there is a depositary, the depositary must communicate the proposed corrections to all signatory and contracting States and States parties. In the practice of the United Nations, the Secretary-General, as depositary, informs all States of the error and the proposal to correct it. If, on the expiry of a specified time limit, no signatory or contracting State or State party objects, the Secretary-General circulates a procès-verbal of rectification and causes the corrections to be effected in the authentic text(s) ab initio. States have 90 days to object to a proposed correction. This period can be shortened if necessary.

See article 79 of the Vienna Convention 1969.

credentials: Credentials take the form of a document issued by a State authorizing 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. A State may also issue credentials to enable signature of the Final Act of a conference. Credentials are distinct from full powers. Credentials permit a delegate or delegation to adopt the text of a treaty and/or sign the Final Act, while full powers permit a person to undertake any given treaty action (in particular, signature of treaties).

covenant: a mutual agreement

convention: a formal multilateral treaty with a broad number of parties. In the last century, however, the term was regularly employed for bilateral agreements. Conventions are normally open for participation by the international community as a whole, or by
a large number of States. Usually, instruments negotiated under the auspices of an international organization are entitled conventions. The same holds true for instruments adopted by an organ of an international organization.

**customary law:** established patterns of behaviour that can be objectively verified within a particular social setting

**date of effect:** the time when a treaty action (such as signature, ratification, acceptance of an amendment, etc.) is undertaken with the depositary, in the depositary practice of the Secretary-General of the UN

**decision:** the act or process of deciding; determining after consideration

**declaration:** formal statement by a State or international organization while ratifying a convention

**interpretative declaration:** An interpretative declaration is a declaration by a State as to its understanding of some matter covered by a treaty or its interpretation of a particular provision. Unlike reservations, declarations merely clarify a State’s position and do not purport to exclude or modify the legal effect of a treaty.

The Secretary-General, as depositary, pays specific attention to declarations to ensure that they do not amount to reservations. Usually, declarations are made at the time of signature or at the time of deposit of an instrument of ratification, acceptance, approval or accession. Political declarations usually do not fall into this category as they contain only political sentiments and do not seek to express a view on legal rights and obligations under a treaty.

**mandatory declaration:** A mandatory declaration is a declaration specifically required by the treaty itself. Unlike an interpretative declaration, a mandatory declaration is binding on the State making it.

**optional declaration:** An optional declaration is a declaration that a treaty specifically provides for, but does not require. Unlike an interpretative declaration, an optional declaration is binding on the State making it.
denunciation: the act, by a State, of declaring non-binding a convention that has previously been ratified by the same State

depository (depository): 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. The Secretary-General, as depositary, accepts notifications and documents related to treaties deposited with the Secretary-General, examines whether all formal requirements are met, deposits them, registers them subject to Article 102 of the Charter of the United Nations and notifies all relevant acts to the parties concerned. Some treaties describe depositary functions. This is considered unnecessary in view of the detailed provision of article 77 of the Vienna Convention 1969.

A depositary can be one or more States, an international organization, or the chief administrative officer of the organization, such as the Secretary-General of the United Nations. The Secretary-General does not share depositary functions with any other depositary. In certain areas, such as dealing with reservations, amendments and interpretation, the Secretary-General’s depositary practice, which has developed since the establishment of the United Nations, has evolved further since the conclusion of the Vienna Convention 1969. The Secretary-General is not obliged to accept the role of depositary, especially for treaties negotiated outside the auspices of the United Nations. It is the usual practice to consult the Treaty Section prior to designating the Secretary-General as depositary. The Secretary-General, at present, is the depositary for over 500 multilateral treaties.

See articles 76 and 77 of the Vienna Convention 1969.

depository notification (C.N.): A depositary notification (sometimes referred to as a C.N., an abbreviation for circular notification) is a formal notice that the Secretary-General sends to all Member States, non-member States, the specialized agencies of the United Nations, and the relevant secretariats, organizations and United Nations offices, as depositary of a particular treaty. The notification provides information on that treaty, including actions undertaken. Such notifications are typically distributed by e-mail on the day that they are processed. Notifications with bulky attachments are transmitted in paper form.
entry into force:

**definitive entry into force:** Entry into force of a treaty is the moment in time when a treaty becomes legally binding on the parties to the treaty. The provisions of the treaty determine the moment of its entry into force. This may be a date specified in the treaty or a date on which a specified number of ratifications, approvals, acceptances or accessions have been deposited with the depositary.

**entry into force for a State:** A treaty that has already entered into force may enter into force in a manner specified in it for a State or international organization that expresses its consent to be bound by it after its entry into force.

**provisional entry into force:** Provisional entry into force may be allowed by the terms of a treaty, for example, in commodity agreements. Provisional entry into force of a treaty may also occur when a number of parties to a treaty that has not yet entered into force decide to apply the treaty as if it had entered into force. Once a treaty has entered into force provisionally, it creates obligations for the parties that agreed to bring it into force in that manner.

**enforcement:** submission to follow rules and regulations

**guidelines:** a set of instructions to be followed

**final act:** A Final Act is a document summarizing the proceedings of a diplomatic conference. It is normally the formal act by which the negotiating parties bring the conference to a conclusion. It is usually part of the documentation arising from the conference, including the treaty, the resolutions and interpretative declarations made by participating States. There is no obligation to sign the Final Act, but signature may permit participation in subsequent mechanisms arising from the conference, such as preparatory committees. Signing the Final Act does not normally create legal obligations or bind the signatory State to sign or ratify the treaty attached to it.

**full powers**

**instrument of full powers:** Full powers take the form of a solemn instrument issued by the Head of State, Head of Government or Minister for Foreign Affairs, empowering a named representative to undertake given treaty actions.
The Secretary-General’s practice in relation to full powers may differ in certain respects from that of other depositaries. The Secretary-General does not accept full powers transmitted by telex or powers that are not signed.

The Head of State, Head of Government and Minister for Foreign Affairs are considered as representing their State for the purpose of all acts relating to the signature of, and the consent to be bound by, a treaty. Accordingly, they need not present full powers for those purposes.

See articles 2(1)(c) and 7 of the Vienna Convention 1969.

**instrument of general full powers:** An instrument of general full powers authorizes a named representative to execute certain treaty actions, such as signatures, relating to treaties of a certain kind (for example, all treaties adopted under the auspices of a particular organization).

**legally binding:** the requirement that contracting parties follow the provisions in the instrument and create legal rights and duties

**legislation:** a law or set of laws of a particular country

**memorandum of understanding (MOU):** a less formal international instrument than a typical treaty or international agreement. It often sets out operational arrangements under a framework international agreement. It is also used for the regulation of technical or detailed matters. An MOU typically consists of a single instrument and is entered into among States and/or international organizations.

**modification:** the variation of certain provisions of a treaty only as between particular parties to that treaty. As between other parties, the original provisions apply. If a treaty is silent as to modifications, they are allowed only to the extent that they do not affect the rights or obligations of the other parties to the treaty and do not contravene the object and purpose of the treaty.

**multilateral trading system:** the system operated by the WTO. Most nations—including almost all the main trading nations—are members of the system. But some are not, so “multilateral” is used to describe the system instead of “global” or “world”.

**non-binding:** an instrument that cannot be legally enforced on signatories or parties to it e.g. conference declaration
Introduction

**party**: a State or other entity with treaty-making capacity that has expressed its consent to be bound by that treaty by an act of ratification, acceptance, approval or accession, etc., where that treaty has entered into force for that particular State. This means that the State is bound by the treaty under international law.

**plenipotentiary**: the person authorized by an instrument of full powers to undertake a specific treaty action.

**protocol**: an agreement of a less formal nature than that entitled a treaty or convention. Generally, a protocol amends, supplements or clarifies a multilateral treaty.

**provisional application**

**provisional application of a treaty that has entered into force**: Provisional application of a treaty that has entered into force may occur when a State unilaterally undertakes to give legal effect to the obligations under a treaty on a provisional and voluntary basis. The State would generally intend to ratify, accept, approve or accede to the treaty once its domestic procedural requirements for international ratification have been satisfied. The State may terminate this provisional application at any time. In contrast, a State that has consented to be bound by a treaty through ratification, acceptance, approval, accession or definitive signature generally can only withdraw its consent in accordance with the provisions of the treaty or, in the absence of such provisions, other rules of treaty law. See article 24 of the Vienna Convention 1969.

**provisional application of a treaty that has not entered into force**: Provisional application of a treaty that has not entered into force may occur when a State notifies the signatory States to a treaty that has not yet entered into force that it will give effect to the legal obligations specified in that treaty on a provisional and unilateral basis. Since this is a unilateral act by the State, subject to its domestic legal framework, it may terminate this provisional application at any time.

A State may continue to apply a treaty provisionally, even after the treaty has entered into force, until the State has ratified, approved, accepted or acceded to the treaty. A State’s provisional application terminates if that State notifies the other States among which the treaty is being applied provisionally of its intention not to become a party to the treaty. See article 25 of the Vienna Convention 1969.
**ratification, acceptance, approval**: the act undertaken on the international plane, whereby a State establishes its consent to be bound by a treaty. Ratification, acceptance and approval all require two steps: the execution of an instrument of ratification, acceptance or approval by the Head of State, Head of Government or Minister for Foreign Affairs, expressing the intent of the State to be bound by the relevant treaty; and, for multilateral treaties, the deposit of the instrument with the depositary; and for bilateral treaties, the exchange of the instruments between parties.

**registration**: the function of the UN Secretariat in effecting the registration of treaties and international agreements under Article 102 of the Charter of the United Nations

**reservation**: statement made by a State by which it purports to exclude or alter the legal effect of certain provisions of a treaty in their application to that State. A reservation may enable a State to participate in a multilateral treaty that it would otherwise be unable or unwilling to participate in. States can make reservations to a treaty when they sign, ratify, accept, approve or accede to it. When a State makes a reservation upon signing, it must confirm the reservation upon ratification, acceptance or approval.

**revision/review**: an amendment. However, some treaties provide for revisions/reviews separately from amendments (see, e.g., Article 109 of the Charter of the United Nations). In that case, revision/review typically refers to an overriding adaptation of a treaty to changed circumstances, whereas the term amendment refers to changes to specific provisions.

**signature**:
- **definitive signature**: signature not subject to ratification. Definitive signature occurs where a State expresses its consent to be bound by a treaty by signing the treaty without the need for ratification, acceptance or approval. A State may definitively sign a treaty only when the treaty so permits.

- **simple signature**: signature subject to ratification. Simple signature applies to most multilateral treaties. This means that when a State signs the treaty, the signature is subject to ratification, acceptance or approval. The State has not expressed its consent to be bound by the treaty until it ratifies, accepts or approves it. In that case, a State that signs a treaty is obliged to refrain, in good faith, from acts that would defeat the object and purpose of the treaty.
treaty: a generic term embracing all instruments binding under international law, regardless of their formal designation, concluded between two or more international juridical persons. Thus, treaties may be concluded between States; international organizations with treaty-making capacity and States; or international organizations with treaty-making capacity.

The Vienna Convention 1969 defines a treaty as “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation” (article 2(1)(a)). Accordingly, conventions, agreements, protocols and exchange of letters or notes may all constitute treaties.

bilateral treaty: a treaty between two parties

multilateral treaty: a treaty between more than two parties

plurilateral treaty: a treaty between a few States

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International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook

International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook provides detailed information for a wide range of legal instruments relevant to fisheries and fishworkers. It covers 114 legal instruments, categorized into the following seven themes:

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ICSF is an international NGO working on issues that concern fishworkers the world over. It is in status with the Economic and Social Council of the UN and is on ILO’s Special List of Non-Governmental International Organizations. It also has Liaison Status with FAO. Registered in Geneva, ICSF has offices in Chennai, India and Brussels, Belgium. As a global network of community organizers, teachers, technicians, researchers and scientists, ICSF’s activities encompass monitoring and research, exchange and training, campaigns and actions, as well as communications.

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