

24. Malaysia

Statement made in the Sixth Committee, Sixty-eighth session (2013), 25th meeting, 5 November 2013:⁵³

[T]here exists a number of States, like Malaysia, that have established, almost rigid procedures on the internalization and application of treaties.

Statement made in the Sixth Committee, Sixty-ninth session (2014), 27th meeting, 5 November 2014:⁵⁴

In the context of Malaysia's experience and practice, the signing of a treaty does not necessarily create a legal obligation when the treaty further requires ratification, accession, approval or acceptance processes, unless the treaty otherwise provides. The effect of signing in this regard means a State is not yet a Party albeit being a signatory to the treaty, pending its subsequent act of ratification, accession, approval or acceptance of the treaty. The effect emanating from this process is subject to the understanding as enshrined under Article 18 of the [Vienna Convention on the Law of Treaties] whereby the State must refrain from acts which may defeat the object and purpose of the treaty. Malaysia opines that the effect expounded from this context is confined to moral and political outcomes without giving rise to any legal consequences. Be that as it may, prior to signing or becoming a Party to a treaty, Malaysia will usually ensure that its domestic legal framework is in place and ready in order to implement the treaty.

Statement made in the Sixth Committee, Seventieth session (2015), 25th meeting, 11 November 2015:⁵⁵

It is to be highlighted that in Malaysia, Article 39 of the Federal Constitution provides that "The executive authority of the Federation shall be vested in the Yang di-Pertuan Agong and exercisable by him or by the Cabinet or any Minister authorized by the Cabinet". Further, under Article 80(1), the executive authority of the Federation extends to all matters with respect to which Parliament may make laws "[b]y virtue of the 'Federal List'", matters with respect to which Parliament may make laws include "external affairs" which in turn include "treaties, agreements and conventions with other countries". The executive authority of the Federation thus extends to the making or concluding of treaties, agreements and conventions with other countries.

Malaysia's domestic law does not provide for any express provision that prohibits or allows for the provisional application of treaties. In this regard, Malaysia has been very conscientious in ensuring obligations in the treaty are carried out accordingly once Malaysia ratifies a treaty by ensuring that its domestic legal framework is in place before the treaty is binding upon Malaysia.

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⁵³ Full text available at: https://www.un.org/en/ga/sixth/68/pdfs/statements/ilc/malaysia_3.pdf.

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ing a Party to a treaty, Malaysia will ensure that its domestic legal framework is in place and ready in order to implement the treaty.

Statement made in the Sixth Committee, Seventy-sixth session (2021), 18th meeting, 27 October 2021.⁵⁶

Malaysia's domestic law does not provide for any express provision that prohibits or allows for the provisional application of treaties. Nevertheless, in preparation of ratifying or acceding to any treaty, Malaysia as a dualist State will ensure that its domestic laws are in place to be in line with the requirements under the international law. This is to ensure that Malaysia will be able to fulfil its obligations made under the treaty and devoid from any breach of international legal principles. Thus, Malaysia has been very conscientious in ensuring obligations in the treaty are carried out accordingly once Malaysia ratifies a treaty, by ensuring domestic legal framework to be in place before the treaty is binding upon Malaysia.

⁵⁶ Full text available at: https://www.un.org/en/ga/sixth/76/pdfs/statements/ilc/18mtg_malaysia_1.pdf.