

15. Organization of American States (OAS)

Extracts from the fourth report on the provisional application of treaties, by Juan Manuel Gómez-Robledo, Special Rapporteur:²⁷⁵

150. The Special Rapporteur held an informal consultation with the Office of Legal Affairs of the OAS General Secretariat in relation to the Organization's practice in the use of provisional application of treaties concluded under its auspices or to which it is a party.

151. The unofficial response was that, with respect to OAS and the inter-American treaties deposited with the Secretary-General, in the past 20 years no treaty had been registered that provided for provisional application before its entry into force. It was also indicated that some provisions of the inter-American treaties might have been applied provisionally, but not under the treaty itself, but rather on the basis of some later agreement between the negotiating States.

152. A partial explanation of this absence of provisional application clauses in inter-American treaties might be the fact that these treaties usually contain provisions on entry into force which require a very small number of ratifications, frequently between 2 and 6, out of a total of 35 States members of OAS, in order for the treaty to enter into force; this practice makes it somewhat less attractive or desirable to resort to provisional application.

153. As an example, some inter-American treaties open to signature and ratification or accession in the 35 States members of OAS have been identified as having entry into force clauses like the one described above.

154. Thus, article X of the *Inter-American Convention on Transparency in Conventional Weapons Acquisitions* provides that six instruments of ratification acceptance approval or accession by the members of OAS are required to be deposited with the General Secretariat of the Organization in order for it to enter into force.²⁷⁶ The same is true of the *Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities*²⁷⁷ and the *Inter-American Convention against Terrorism*.²⁷⁸

155. In the case of the *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*—"Convention of Belém do Pará", the number of ratifications necessary for entry into force is only two States.²⁷⁹

²⁷⁵ Doc. A/CN.4/699 (2016).

²⁷⁶ *Inter-American Convention on Transparency in Conventional Weapons Acquisitions* (Guatemala City, 6 July 1999). Available at: <http://www.oas.org/juridico/english/treaties/a-64.html>.

²⁷⁷ *Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities* (Guatemala City, 6 July 1999). Available at: <http://www.oas.org/juridico/english/treaties/a-65.html>.

²⁷⁸ *Inter-American Convention against Terrorism* (Bridgetown, 2 June 2002), OAS, *Acts and Documents*, OAS/Ser.P/XXXII-O/02, vol. 1, AG/RES.1840 (XXXII-O/02).

²⁷⁹ *Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women*—"Convention of Belém do Pará" (Belém do Pará, 6 September 1994). Available at <http://www.oas.org/juridico/english/treaties/a-61.html>.