

## 2. World Food Programme (WFP)

Communication transmitted to the Secretariat, 4 August 2022:

In general, WFP drafts treaties such so they enter into force upon signature of all parties involved.

However, when the counterparty informs WFP that it is obligated by its own regulations to undertake additional internal processes in order for the treaty to enter into force, WFP may agree alternatively that entry into force takes place on the date of receipt by WFP of a notification from the other party that internal constitutional requirements have been met.

In such case, the text of the agreement provides for its provisional application pending entry into force either at the date of signature or at another date as may be specifically set out in each case. Provisional application continues in general without limitation until the date of entry into force. However, in two previous cases, WFP has agreed with counterparties to limit the period of provisional application to a fixed duration of one year.

Generally speaking, the provisional application of WFP's Basic Agreements has passed without incident. One exception concerned the *Basic Agreement between the Government of the Islamic Republic of Mauritania and the World Food Programme*. This agreement includes the following provisions:

The present Basic Agreement, and any amendment that may be made thereto, shall enter into force at the date on which the Executive Director of WFP receives a written notification sent by the Government by diplomatic means which indicates that it has completed its internal constitutional processes leading to ratification.

[...]

The present Basic Agreement shall be provisionally applicable from the date of its signature and in the sense of Article 25 of the Vienna Convention on the Law of Treaties dated 23 May 1969, until the Government has completed its internal constitutional processes leading to ratification.<sup>205</sup>

In accordance with the above provisions, the agreement became provisionally applicable on the date of its signature by both parties, *i.e.*, 19 December 2018. WFP has subsequently operated in Mauritania under the terms of the Basic Agreement while awaiting notification of formal ratification by the Mauritanian Government. In this context, in June 2021, the Government requested the amendment of the provisionally applicable agreement. With guidance from the Office of Legal Affairs, WFP and the Mauritanian Government then concluded an amendment to the agreement via an exchange of letters executed between January and April 2022. As of July 2022, ratification of the amended agreement remains pending before the National Assembly.

For further reference, please find in annex hereto a compilation of relevant examples of provisions of treaties to which WFP is party that regulate the provisional application of such treaties.

### Annex

#### Compiled Provisions of Treaties to Which WFP is Party that Regulate Provisional Application

*Basic Agreement between the Government of the Lebanese Republic and the World Food Programme (WFP):*

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<sup>205</sup> *Accord de base entre le Gouvernement de la République Islamique de Mauritanie et le Programme Alimentaire Mondial (PAM) of 19 December 2018, at Article XXII(1) and (2).*

*Article 14*  
*Entry into Force and Termination*

Section 38

The Present Agreement shall enter into force after 30 days from the date in which WFP receives written notification from the Government of completing the conclusion of this Agreement in accordance with its internal constitutional procedures, however it shall come into effect provisionally on the date of its signature.

*Agreement between the World Food Programme and the Government of the Federal Republic of Germany concerning the Office of the World Food Programme in the Federal Republic of Germany:*

*Article 5*  
*Final Provisions*

(1) This Agreement shall enter into force on the day following the date of receipt of the last of the notifications by which the Parties will have informed each other on the completion of their respective formal requirements. It shall be provisionally applied as might be necessary from the date of its signature until the formal requirements for entry into force mentioned in the first sentence above have been fulfilled.

[...]

*Basic Agreement Between the World Food Programme (WFP) and the Government of the State of Kuwait on the Establishment of a Country Office in the State of Kuwait:*

*Article 23*  
*Entry into Force and amendments and termination*

(1) This Agreement shall enter into force on the date of receipt by the Executive Director of a written notification from the Government, to be conveyed through diplomatic channels, that the latter has fulfilled its internal constitutional procedures.

(2) The Basic Agreement will be applied provisionally after signature, in the spirit of Article 25 of the Vienna Convention on the Laws of the Treaties—1969, until the Government of the State of Kuwait has fulfilled its internal constitutional procedures.

*Basic Agreement Between the Government of the Kingdom of the Netherlands and the UN/FAO World Food Programme Concerning Assistance from the World Food Programme to the Netherlands Antilles:*<sup>206</sup>

*Article 7*  
*General Provisions*

1) (a) After the approval constitutionally required in the Kingdom of the Netherlands has been obtained, this Agreement shall enter into force on the date of receipt by the World Food Programme of a relevant notification from the Government of the Kingdom.

(b) Nevertheless, the Government of the Kingdom and the World Food Programme shall provisionally apply the provisions of the present Agreement for a period not exceeding one year from the date in which the Agreement is signed.

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<sup>206</sup> This treaty became provisionally applicable on 13 August 1971. It came into force on 1 February 1972, the date of receipt by WFP of the notification described in Article 7(a), which preceded the expiration of the one-year period of provisional application set forth in Article 7(b).

*Basic Agreement Between the Government of the Kingdom of Spain and the World Food Programme for the Establishment of Offices of the World Food Programme in Spain:*

*Article 21*

*Entry into Force, Duration and Termination*

(1) This Agreement and any amendments hereto shall enter into force as of the date on which the Parties notify each other, through an exchange of instruments, that the respective internal formal procedures have been completed. The provisions of this Agreement shall, as of the date of signature, be applied provisionally pending its entry into force.

[...]

*Agreement Between the Government of the United Arab Emirates and the World Food Programme (WFP) Regarding the WFP Office Dubai:*

*Article 13*

*Entry into Force*

(1) This Agreement shall be signed in both Arabic and English and both versions shall equal effect. The Agreement shall enter into force temporarily after signature until ratified by the UAE Government according to constitutional requirements.

[...]

*Accord de base entre le Gouvernement de la République Islamique de Mauritanie et le Programme Alimentaire Mondial (PAM):*<sup>207</sup>

*Article 22*

*Entrée en vigueur et dénonciation*

(1) Le présent Accord de base, et tout amendement qui y aura été apporté, entre en vigueur à la date à laquelle le Directeur exécutif du PAM reçoit une notification écrite transmise par le Gouvernement par voie diplomatique indiquant que ce dernier a accompli ses propres procédures constitutionnelles jusqu'à sa ratification. [...]

(2) Le présent Accord de base s'applique à titre provisoire à partir de la date de sa signature et dans l'esprit de l'article 25 de la Convention de Vienne sur le droit des traités en date du 23 mai 1969, jusqu'à ce que le Gouvernement ait accompli ses propres procédures constitutionnelles jusqu'à sa ratification.

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<sup>207</sup> Unofficial translation by the United Nations Secretariat:

*Basic Agreement between the Government of the Islamic Republic of Mauritania and the World Food Programme (WFP)*

*Article 22*

*Entry into force and denunciation*

(1) This Basic Agreement, and any amendments thereto, shall enter into force on the date on which the Executive Director of WFP receives a written notification from the Government, to be conveyed through diplomatic channels, that the latter has fulfilled its internal constitutional procedures. [...]

(2) This Basic Agreement will be applied provisionally from the date of its signature and in the spirit of Article 25 of the *Vienna Convention on the Law of Treaties* of May 23, 1969, until the Government has completed its internal constitutional procedures for ratification.