



The Status and Provisional Implementation of International Treaties in International Organizations

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Abstract: The provisional implementation of international treaties represents a relatively recent and increasingly significant development within the field of international treaty law. Over the past decades, this mechanism has assumed a critical role in promoting the flexibility and responsiveness of the international legal system.

This study seeks to examine the various dimensions of provisional implementation by elucidating its legal framework within the context of treaties concluded by international organizations and analyzing the diverse forms through which it is applied. It further investigates the underlying reasons for the growing reliance on provisional implementation relative to other traditional and contemporary instruments in treaty law. In addition, the study explores the methodologies employed in the provisional application of treaties and underscores its practical significance in the operational functioning of international organizations. Notably, the topic has been included on the agenda of the International Law Commission since 2012, with four reports published on the subject as of February 2019.

Keywords: *International treaties, provisional implementation, foundational documents of international organizations, international organizations.*

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Introduction

International law constitutes one of the most vital instruments for regulating the behavior of actors in the global arena. Its effectiveness and dynamism must be maintained in alignment with contemporary developments and the evolving needs of the international community—both substantively and through the continuous adaptation of its legal mechanisms. Simultaneously, the expansion of international relations necessitates the creation of new legal norms. Accordingly, the modernization and enhancement of the mechanisms within this legal system are both inevitable and essential.

While customary international law initially served as the cornerstone of the international legal system, over time, international treaties have emerged as the principal source of law, offering significant advantages in terms of clarity, predictability, and enforceability. Nevertheless, the pace and complexity of developments in international relations often outstrip the capacity of traditional treaty frameworks to address the needs of all parties, including third states affected by international agreements.

The processes of identifying legal gaps, drafting norms, and concluding treaties frequently require extended periods. Consequently, even this otherwise flexible legal system faces challenges, including procedural delays, formal requirements, and political sensitivities. In response, new mechanisms have evolved

within international law, among which the provisional implementation of treaties has become particularly significant. Its growing use—especially in treaties involving international organizations—underscores the necessity of modern tools capable of maintaining the agility and responsiveness of the treaty regime amid rapidly evolving global relations.

Translating the operational needs of international organizations into binding treaty rules is inherently complex and time-consuming, involving negotiation, signature, acceptance, ratification, and the deposit or exchange of ratification instruments. These formalities, combined with the political and institutional considerations associated with ratification by competent organs, frequently conflict with the urgent requirement for immediate application of certain treaty provisions. Within this context, provisional implementation provides a practical mechanism to ensure the prompt application of essential treaties or conventions adopted under the auspices of international organizations.

However, international law—and the treaty regime in particular—does not provide explicit guidance on the suspension of provisionally applied treaties. Despite this ambiguity, provisional application and suspension have become increasingly common practices among international law subjects, particularly international organizations.

Among the types of treaties potentially subject to provisional application, the founding statutes of international organizations are especially prominent. Therefore, any substantive discussion of provisional implementation in this context must begin with the provisional application of these founding statutes. This raises critical questions: Can the states responsible for establishing an international organization through its statute also agree to its provisional implementation? Moreover, is such provisional application consistent with the fundamental purpose of the organization's creation?

Some scholars argue that provisional implementation is crucial for the operational viability of certain organizations, such as the Convention on the International Maritime Satellite Organization. In these cases, where the organization's objectives are primarily commercial, provisional application of its statute enables the immediate commencement of intended commercial activities. This mechanism also serves a precautionary function, minimizing the risk that states might reconsider their commitment to the treaty between the signing and formal ratification stages.

Chapter One – Principles of Provisional Enforcement of Treaties in International Organizations

Following states, international organizations constitute the most significant and influential subjects of international law. As affirmed by the 1949 Advisory Opinion of the International Court of Justice on *Reparation for Injuries Suffered in the Service of the United Nations*, international organizations possess legal personality and, consequently, bear both rights and obligations. Reflecting this status, the 1986 **Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations (VCIOT)** established a comprehensive framework for the conclusion of treaties in which one or both parties are international organizations.

In parallel, the **International Law Commission (ILC)** presented in 2011 a draft on the responsibility of international organizations, recognizing that, similar to states, these entities are subject to a customary regime of international responsibility.

The increasing reliance on provisional enforcement mechanisms reflects the urgent need for effective legal arrangements in contemporary international law, particularly in contrast to the often-lengthy domestic procedures required to bring treaties into formal effect. Under provisionally applied treaties, international organizations—like states—acquire binding rights and obligations.

Indeed, international organizations are themselves established through treaties, exercise treaty-making powers within their institutional frameworks, and frequently become parties to international agreements. In each of these contexts, the question of provisional implementation arises, highlighting its significance as a legal mechanism that enhances the agility and responsiveness of international law in practice.

Section One – Reasons for the Provisional Application of Treaties in Relation to International Organizations

A central question in the context of United Nations practice is: why do parties choose to apply and enforce a treaty provisionally,

without awaiting formal ratification? Treaty negotiations are typically conducted confidentially, and only in multilateral treaties—particularly those negotiated under the auspices of the United Nations or at UN conferences—does the public gain limited access to aspects of the negotiation process.

Consequently, it is often difficult, if not impossible, to ascertain precisely from available sources the reasoning behind a state's or international organization's decision to provisionally apply a specific treaty. Nevertheless, several general motives can be identified through a review of legal scholarship and the practice of international organizations.

Although there is no universally accepted classification of the objectives underpinning provisional application, some scholars have sought to identify recurring patterns. For example, Kalbers and Lefebvre emphasize **urgency** and **legal continuity** as primary drivers of this mechanism. In addition, the provisional application of treaties may be motivated by the desire to ensure eventual ratification and to maintain consistency and stability within the legal framework.

Where treaty negotiations are conducted confidentially and domestic ratification processes are lengthy or uncertain, states or international organizations may opt for provisional application to expedite the legal effect of the agreement. Similarly, when an amendment or modification to an existing treaty has not yet entered into force for all parties, certain states may choose to provisionally apply the amended provisions to ensure coherence in their legal obligations with selected parties.

In this manner, provisional application enables the immediate effect of some or all of a treaty's substantive provisions without waiting for formal entry into force. It provides a mechanism through which parties can confer legal effect upon specific commitments or conditions prior to the completion of domestic or international procedures. Some legal scholars even interpret provisional application as obliging parties to comply with treaty provisions before formal entry into force.

According to Lefebvre, provisional application is particularly valuable when at least one party must submit the treaty to domestic constitutional authorities for ratification. In such circumstances, provisional application ensures that the treaty begins to operate while internal ratification is pending. Alternatively, parties may adopt other mechanisms, such as rendering the treaty binding upon signature.

Other scholars conceptualize provisional application as a simplified, time-limited implementation of either the entire treaty or selected provisions, pending full ratification. The Special Rapporteur of the International Law Commission on the Provisional Application of Treaties has identified several key factors prompting states to utilize provisional application. Among these, the **urgency of treaty implementation** is considered especially significant, as discussed below.

Paragraph 1 – Urgency of Treaty Implementation

One of the principal motivations for provisional application is the urgency of implementing treaty obligations. As noted previously, the conventional process for treaty implementation—culminating in formal ratification—can be protracted or, in some instances, fail entirely if the requisite ratifications are not obtained. Nevertheless, certain treaties address matters that require immediate action.

Some international treaties are specifically designed to respond to pressing global challenges, including environmental crises, economic instability, or urgent security concerns, where any delay would compromise the treaty's effectiveness or relevance. In such circumstances, provisional application allows parties to implement essential provisions without awaiting the often lengthy and uncertain process of formal ratification.

The rationale of urgency is reflected in Article 25 of the 1969 Vienna Convention on the Law of Treaties, which explicitly acknowledges the possibility of provisional application. A corresponding provision is also included in Article 22 of the draft convention on treaties involving international organizations, further emphasizing the significance of this mechanism within contemporary treaty law.

Paragraph 2 – Creating Flexibility

Another significant rationale for resorting to the provisional implementation of treaties is to enhance flexibility within the treaty framework. During the Vienna Conference, several state representatives emphasized that the inclusion of provisional application reflects both the evolving practice of states and their adaptive needs in international treaty law.

For instance, Article 308(4) of the United Nations Convention on the Law of the Sea (UNCLOS) provides: *"The rules, regulations and procedures developed by the Commission shall be applied provisionally pending formal approval by the Authority, in accordance with section 11."*

State representatives from countries such as Costa Rica and Italy highlighted that the provisional application of constituent instruments of international organizations should be understood as a mechanism for introducing greater flexibility into the treaty regime. This flexibility manifests in several ways. As noted by Mr. Al-Arian during discussions at the International Law Commission, when treaty matters are urgent, hold significant political value, or require prompt implementation despite procedural delays—particularly those prescribed in the founding instruments of international organizations—provisional application serves an essential function.

Moreover, this flexibility can have tangible practical consequences. For example, Alban Goslin argues that provisional application enables the adjustment of treaty provisions without resorting to formal amendment procedures, thereby facilitating the timely adaptation of treaties to emerging circumstances and evolving international needs.

Paragraph 3 – Caution

Another important rationale for provisional application lies in its precautionary function, which serves to increase the likelihood that a treaty will ultimately enter into force and become operational. According to Krieger, provisional application is particularly valuable in politically sensitive agreements. In cases where international organizations conclude such treaties, provisional application can help build confidence among member states and reduce the risk that a state might reverse its decision to ratify the treaty during the interim period.

The period between signature and formal ratification carries inherent risks, as a government may alter its position, withdraw support for the treaty, or even reconsider its commitment to the organization being established. By applying the treaty

provisionally, states can advance implementation while mitigating the potential for political reversals.

In this manner, the provisional application of the founding instruments of international organizations facilitates early engagement and operationalization, providing a functional legal and institutional framework even before formal ratification is completed.

Second Section – Provisional Application of Treaties in the Practice of International Organizations

On 12 June 1973, the Secretary-General of the United Nations prepared a document outlining examples of the provisional application of multilateral treaties—particularly those establishing international organizations—prior to their formal entry into force. This document examined the provisional application of several key institutions, including:

- The International Civil Aviation Organization (ICAO)
- The Intergovernmental Maritime Consultative Organization
- The International Refugee Organization
- The World Health Organization (WHO)
- The International Atomic Energy Agency (IAEA)
- The International Sugar Agreement (1968)
- The Central European Transport Organization

The purpose of this study was to analyze the legal and procedural arrangements in cases where treaties establishing international organizations were granted provisional effect. It highlighted instances in which the provisional application of a treaty directly facilitated the creation and operational functioning of an international organization.

Among the United Nations specialized agencies and related institutions that have operated under provisional application, one of the most illustrative examples is the International Civil Aviation Organization (ICAO). Its experience demonstrates how provisional implementation can ensure continuity, operational readiness, and early institutional engagement even before the formal ratification of the founding treaty.

Article 1 – Provisional Implementation in ICAO

The practice of provisional implementation within the framework of the International Civil Aviation Organization (ICAO) dates back to the International Civil Aviation Conference held in Chicago in December 1944. This Conference adopted several key instruments, including:

1. Provisional Agreement on International Civil Aviation
2. Convention on International Civil Aviation
3. Transit Agreement on International Air Services
4. International Air Transport Agreement
5. Draft technical annexes

These instruments envisioned the creation of an international organization for civil aviation, structured in two distinct phases: a temporary body and a permanent organization. The Convention on

International Civil Aviation, also known as the Chicago Convention, established the foundational principles and obligations of the international aviation regime, including the creation of a permanent international organization.

Part I of the Interim Agreement on International Civil Aviation created a temporary technical and advisory body—the Interim International Civil Aviation Organization—to facilitate cooperation among states until the permanent organization was formally established. Article 7 of the Convention stipulates:

“...upon the entry into force of the Convention on International Civil Aviation, signed at Chicago on 7 December 1944, the instruments and property of the International Organization shall be transferred to the International Civil Aviation Organization established by the said Convention.”

The Interim Agreement was opened for signature on 7 December 1944, the same day the Convention was adopted. Additionally, Article 4 of the International Air Transit Agreement provides that, prior to the Convention’s entry into force, all references to it—except for certain specified articles—shall be interpreted as referring to the Interim Agreement.

Consequently, the Interim Agreement served as the legal and institutional foundation for a temporary international organization, which operated until it was succeeded by the permanent ICAO upon the Convention’s formal entry into force. All documents, records, and responsibilities were subsequently transferred to the newly established ICAO.

This example illustrates how provisional implementation can operate through the establishment of a temporary organization, providing the necessary institutional framework for cooperation while awaiting the full ratification and legal activation of a treaty. The interim body included all states that had accepted the Interim Agreement, ensuring broad participation and continuity in international civil aviation governance.

Article II – Preparatory Committee for the Intergovernmental Maritime Consultative Organization (IMCO)

The United Nations Maritime Conference, convened by the Economic and Social Council from 19 February to 6 March 1948, aimed to establish the Intergovernmental Maritime Consultative Organization (IMCO). The Convention on the Intergovernmental Maritime Consultative Organization was adopted at this Conference, and Article 60 of the Convention set out the conditions required for its formal entry into force.

To enable the Organization to commence its activities without delay, the Conference adopted a resolution establishing a Preparatory Committee. The resolution stipulated that the Committee would hold its first meeting immediately following the conclusion of the Conference, and that its work would conclude upon adoption of the Organization’s first resolution.

The Committee’s primary functions were:

1. To make proposals regarding the implementation of IMCO’s functions and its budget for the first two years;
2. To draft Rules of Procedure;
3. To draft Financial and Staff Regulations.

The first official meeting of IMCO took place in January 1959, after which its Assembly adopted a resolution dissolving the

Preparatory Committee. This Committee had consisted of 12 countries that participated in the original Maritime Conference.

Article III – Preparatory Commission of the International Refugee Organization (IRO)

The International Refugee Organization (IRO) exemplifies another international body that employed provisional arrangements to ensure operational readiness prior to the formal entry into force of its founding statute.

The Preparatory Commission of the IRO was established through the Agreement on Provisional Measures for Displaced Persons, adopted in December 1946. Article 11 of the Agreement stipulated that the instrument would enter into force upon signature by representatives of eight states that were signatories to the Statute of the International Refugee Organization. The Commission was therefore established in advance of the Statute’s entry into force to undertake essential preparatory work. As outlined in Article 2, paragraph 1, the Preparatory Commission was tasked with taking all necessary and practical measures to ensure that the Organization could commence operations as promptly as possible.

Article IV – Preparatory Commission of the World Health Organization (WHO)

The World Health Organization (WHO) provides another prominent example of provisional implementation. The Statute of the WHO was signed on 23 July 1946 during the International Health Conference in New York. Since the Statute required ratification by at least 26 countries before entering into force, the Conference simultaneously adopted a resolution to establish a Provisional Commission, which was opened for signature on the same day.

The preamble to this resolution states:

“The States present at the International Health Conference agree that an international organization, to be called the World Health Organization, should be established, and agree on its Statute. They further decide that a Provisional Committee should be established before the Statute comes into force and before the World Health Organization is formally established.”

Among the responsibilities assigned to the Provisional Commission, as outlined in Article 2, was the preparation and distribution of provisional instructions for the WHO’s first session. These instructions, along with related documents and applications, were to be transmitted to signatory states at least six weeks prior to the opening of the Organization’s inaugural session.

Article V – Preliminary Commission of the International Atomic Energy Agency (IAEA)

Similarly, a Preliminary Commission was established for the International Atomic Energy Agency (IAEA). The relevant provisions are contained in the Annex to the IAEA Statute.

According to Part A of the Annex, the Preliminary Commission was to be established on the first day the Statute was opened for signature. It would remain in existence until the Statute entered into force and subsequently until the General Conference had been convened and the Governing Body elected, in accordance with Article 6.

Paragraph 3 of the Annex outlines the Commission's functions, which included:

- Preparing for the first session of the General Conference;
- Drafting provisional instructions;
- Preparing draft rules of procedure.

The first session of the General Conference was to be convened as soon as possible following the Statute's entry into force. Paragraph 4 further assigned the Preliminary Commission an additional role: to conduct research and prepare reports on urgent requests submitted to the Agency. These reports were intended to support both the first session of the General Conference and the initial session of the Board of Governors.

Chapter 2 – Nature and Scope of the Provisional Application of Treaties of International Organizations

As demonstrated by the preceding examples, provisional application has become a routine and practical measure in the formation and functioning of international organizations. This practice is also logically justifiable. The establishment of an international organization typically involves broad and ambitious goals and principles, which require the ratification of a large number of states. Consequently, the entry into force of such treaties often takes significantly longer than other types of international agreements.

There is usually a substantial time gap between the conclusion of the international conference and the point at which the organization becomes formally established and operational. However, the very need for creating such an organization typically arises from pressing challenges in international relations. Delays in operationalizing the organization could leave urgent issues unresolved, and in some cases, the momentum for establishing the organization may be lost entirely.

In this context, provisional implementation plays a vital role—both in ensuring that the organization is ultimately established and in temporarily addressing the issues that motivated its creation.

However, it is important to emphasize that provisional implementation in the case of international organizations differs in nature from that of other international treaties:

1. In most cases, provisional implementation is regulated by a separate legal instrument—often a temporary or preparatory agreement—which exists alongside the principal treaty.
2. The primary objective of provisional implementation in this context is not the immediate enforcement of the treaty's substantive provisions, but rather the expedited operationalization of the organization itself. Nevertheless, in some instances, limited substantive application may also take place.

In practical terms, provisional implementation typically involves the establishment of a temporary institution—such as a Preparatory Commission—which is tasked with overseeing the initial setup and coordination required to launch the organization. Once the permanent organization is formally established, the provisional

body is dissolved, and its functions are transferred to the permanent structure. Thus, the legal and institutional framework of provisional implementation in these cases is inherently temporary and transitional.

The Special Rapporteur of the International Law Commission has noted that what is sometimes referred to as provisional implementation in the case of international organizations is, in practice, more accurately described as the adoption of temporary operational measures. While these measures resemble the traditional understanding of provisional application of treaties, they are not entirely identical.

It is also crucial to highlight that provisional implementation is not limited to the formation or establishment phase of international organizations. This mechanism may also apply within the internal operations of already established organizations. In other words, an international organization may decide to provisionally apply certain rules, instruments, or decisions, either before formal adoption or during exceptional circumstances. This internal provisional application represents another important dimension of the broader legal regime governing international organizations.

First Section – Provisional Implementation of Treaties by International Organizations

As previously discussed, provisional implementation in international organizations encompasses more diverse dimensions than its counterpart in treaties concluded by States. Unlike States—which are not created by international treaties, or even when established through treaties (e.g., post-conflict arrangements)—the issue of provisional implementation typically does not arise for them in the same way. In contrast, international organizations are inherently creatures of treaty law, and the question of provisional implementation often arises even before their formal establishment.

However, once an international organization has been established, the matter of provisional implementation becomes analogous to that for States. That is, international organizations, as subjects of international law, can become parties to treaties that may be provisionally applied. In such cases, they operate on equal footing with States.

Thus, a critical question arises: What is the legal basis for the provisional implementation of treaties by international organizations?

Much like Article 25 of the 1969 Vienna Convention on the Law of Treaties (VCLT) governs the provisional application of treaties by States, Article 25 of the 1986 Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations serves as the primary legal foundation for provisional application by international organizations. The article provides:

“A treaty or a part of a treaty may be applied provisionally pending its entry into force if:
(a) the treaty itself so provides; or
(b) the negotiating States and negotiating organizations have in some other manner so agreed.”

Since the constituent instruments of international organizations are usually concluded by States, and international organizations are rarely founding members of other international organizations,

Article 25 is more commonly applicable to treaties concluded within international organizations, or where international organizations participate as negotiating parties. Nevertheless, this does not preclude international organizations from participating as founding members in the establishment of other organizations and benefiting from provisional application mechanisms. Experience has shown that both States and international organizations exercise significant flexibility regarding the form, scope, duration, and procedures associated with provisional application. While the rules governing treaties of international organizations are not entirely uniform, they are, in many respects, similar to those governing treaties between States.

However, unlike States, international organizations do not inherently possess treaty-making capacity. Whether an organization may provisionally apply a treaty depends on its internal legal framework, including founding statutes, procedural rules, and decisions of competent organs. The organization's rules must expressly or implicitly allow for provisional application.

Typically, treaties entered into by international organizations include:

- Headquarters agreements;
- Cooperation agreements with other international organizations;
- Agreements regulating their legal status and operations in member States.

Since 1945, many international organizations have incorporated clauses for provisional application in their treaties, reflecting both State practice and customary international law. Notable examples include:

- The 1994 Headquarters Agreement between the Netherlands and the United Nations concerning the Tribunal for the Former Yugoslavia, provisionally applied from 29 July 1994.
- The Headquarters Agreement for the International Telecommunication Union (ITU), provisionally applied from 15 November 1947, formally entering into force on 1 January 1949.
- The Agreement between the United Nations and the Organization for the Prohibition of Chemical Weapons (October 2000), provisionally applied from the date of signature.
- The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and the World Meteorological Organization (WMO), with provisional measures authorized by executive authorities pending ratification.
- Bilateral agreements, such as the United Nations–Cyprus Agreement concerning peacekeeping deployment (1964), applied retroactively and provisionally due to the immediate presence of troops.
- The Cooperation Agreement between the Russian Federation and the International Labour Organization (ILO), provisionally applied from 5 September 1997.

In conclusion, the principles reflected in Article 25 of the 1969 Vienna Convention have been carried over into the 1986 Vienna

Convention, reinforcing the idea that the legal regime governing provisional application for international organizations closely mirrors that applicable to States. This reflects a broader consensus within the international community that provisional application is an effective legal tool for ensuring timely and flexible responses to the complex procedural and operational demands of international legal relations, particularly in the context of international organizations.

Second Speech – Provisional Implementation of a Treaty between Member States of an International Organization

Another important aspect of provisional implementation concerns the relationship between the Member States of an international organization and a treaty that the organization has undertaken to implement provisionally.

The key question is: If an international organization is a negotiating party to a treaty—or later decides to join an international treaty and declares it will implement the treaty provisionally—are the Member States of that organization also bound by the obligations arising from such provisional implementation? Or does the organization's decision not extend binding effects to its members?

This issue is particularly significant because international organizations often have large memberships, and the collective participation of these members in provisional application can critically affect the effectiveness of the treaty's implementation. The organization's provisional actions may have substantial practical and legal consequences, particularly where urgent implementation is needed or operational coordination is required.

However, this topic has not been specifically addressed in the Special Rapporteur's report, and there is a lack of dedicated research analyzing it comprehensively.

In the absence of explicit provisions, the most consistent approach appears to be treating the relationship between Member States and international organizations regarding such obligations as governed by general rules of international law. There seems to be no defensible basis for a special or unique regime that diverges from these general principles. In other words, unless expressly stated in the treaty or organizational statute, provisional implementation by an international organization does not automatically bind its Member States beyond the obligations they individually consent to undertake.

This interpretation preserves the autonomy of Member States while maintaining the functional effectiveness of international organizations in implementing treaties provisionally. It also aligns with the broader principle that international organizations, despite their legal personality and treaty-making capacity, cannot unilaterally impose obligations on their members without a clear legal basis.

Third Speech – Provisional Application of Treaties in the European Union

As a continuing and pioneering regional organization, the European Union (EU) has played an active and influential role in international relations, including shaping the development of the

international legal system. The EU's practice regarding the provisional application of treaties provides a particularly instructive case study for understanding how international organizations employ this legal mechanism.

In practice, provisional application is commonly used for treaties negotiated within the EU framework, especially for complex agreements requiring approval by all Member States—a process that can be lengthy due to constitutional and procedural constraints.

Legal Basis in the EU

The legal foundation for provisional application of international treaties by the EU and its Member States is found in **Article 218 of the Treaty on the Functioning of the European Union (TFEU)**. Specifically, paragraph 5 of Article 218 provides:

“The Council, on a proposal from the negotiators, shall adopt a decision authorizing them to sign the treaty and, where appropriate, to provisionally apply the treaty before its entry into force.”

This provision allows the EU to authorize negotiators to provisionally apply treaties even before formal ratification, particularly in cases where immediate implementation is desirable.

Practical Application

Provisional application in the EU context is generally limited to provisions falling within the EU's exclusive competence, as domestic constitutional constraints in certain Member States may prevent provisional application of provisions under their jurisdiction. Accordingly, the EU applies provisions within its exclusive competence, while Member States may only provisionally apply parts of treaties consistent with their national law.

Key examples of provisional application in the EU include:

- **Common Aviation Area Agreement (15 October 2010):** The Council authorized signing and provisional application of the Agreement.
- **EU–Republic of Korea Free Trade Agreement:** Provisional application by the EU excluded provisions falling within Member States' competence.
- **EU–Ukraine Association Agreement (Political Charter, 21 March 2014):** Certain provisions entered into provisional application as of 1 November 2014.
- **EU–Republic of Moldova Common Aviation Area Agreement (Article 29):** Provisional application governed by domestic procedures from the date of signature.
- **EU–Canada Air Transport Agreement (Articles 22–26):**
 - **Article 22:** Amendments enter into force following consultations and in accordance with Article 23.
 - **Article 23, paragraph 2:** Parties agree to provisionally apply the Agreement in accordance with domestic laws from the first day of the month following the last notification of internal completion of procedures for provisional application.

- **Article 26:** During provisional application, specified bilateral agreements are suspended, with the Agreement prevailing upon formal entry into force.

- **Article 14, paragraph 5:** Procedures and indicators adopted by the Joint Committee for implementation are also provisionally applied.

These examples demonstrate the EU's careful approach in balancing the urgency of treaty implementation with domestic legal constraints. The EU routinely combines provisional application with consultation mechanisms to address potential conflicts and ensure that provisional measures are consistent with both EU law and Member States' national law.

In summary, the EU's experience illustrates how provisional application can serve as a flexible and effective legal tool, enabling the timely operation of complex, multi-party treaties while respecting the legal autonomy of Member States.

Conclusion

Today, the provisional implementation of treaties has evolved into a well-established legal institution that allows international law to adapt effectively to the dynamic needs of the global community. Traditional legal tools often prove insufficient to address emerging gaps arising from new challenges and pressing needs in international relations. Treaties dealing with urgent matters—such as humanitarian crises, bilateral and multilateral trade agreements, or politically sensitive issues—frequently face significant delays before entering into force, delays that undermine the very purpose and urgency of these agreements.

Provisional implementation allows subjects of international law, including those not formal parties to a treaty, to participate in its application. By doing so, they assume certain obligations and enjoy the treaty's benefits without being constrained by complex or politically sensitive ratification processes. This approach broadens participation, bypasses internal bureaucratic hurdles, and fosters greater engagement in international cooperation, thereby accelerating progress toward a global civil society founded on collaboration.

International practice demonstrates that States regularly embed provisions for provisional implementation within the founding documents of international organizations. As the Special Rapporteur has noted, provisional implementation plays a crucial role in facilitating the timely creation and operationalization of new international organizations. It ensures that these entities can commence their functions promptly, even while formal ratification of their constitutive treaties is still pending.

Moreover, provisional implementation serves additional purposes, such as ensuring continuity. When an organization succeeds a prior institution or seeks to implement amendments to its statutes, provisional implementation can maintain operational stability between the adoption of protocols and their full legal effect.

Importantly, the use of provisional implementation is not confined to the period preceding a treaty's formal entry into force. Its flexible nature allows both founders and members of international organizations to apply it in diverse contexts, enhancing the enforceability and effectiveness of treaties. Even third parties—States or entities not originally party to a treaty—can engage with selected provisions through provisional implementation, avoiding

the complexities of domestic ratification procedures while still benefiting from participation.

In conclusion, provisional implementation constitutes a versatile, pragmatic, and increasingly indispensable tool in contemporary international law. It enables timely cooperation, expands participation, supports continuity, and strengthens the evolving architecture of global governance, ensuring that international law remains responsive, adaptive, and effective in addressing the challenges of the modern world.

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