

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1968

Part Two. Legal activities of the United Nations and related inter-governmental organizations

Chapter IV. Treaties concerning international law concluded under the auspices of the United Nations and related inter-governmental organizations



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## Chapter IV

### TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTER-GOVERNMENTAL ORGANIZATIONS

#### A. Treaties concerning international law concluded under the auspices of the United Nations

##### 1. TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS<sup>1,2</sup>

*The States concluding this Treaty*, hereinafter referred to as the “Parties to the Treaty”,

*Considering* the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

*Believing* that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

*In conformity with* resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

*Undertaking* to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

*Expressing* their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

*Affirming* the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

*Convinced* that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes,

*Declaring* their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

*Urging* the co-operation of all States in the attainment of this objective,

<sup>1</sup> See General Assembly resolution 2373 (XXII) of 12 June 1968, reproduced in this *Yearbook*, p. 71.

<sup>2</sup> Signed in London, Moscow and Washington on 1 July 1968.

*Recalling* the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

*Desiring* to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a treaty on general and complete disarmament under strict and effective international control,

*Recalling* that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

*Have agreed* as follows!

#### Article I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or explosive devices.

#### Article II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

#### Article III

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this article.

3. The safeguards required by this article shall be implemented in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

#### Article IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.

1. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

#### Article V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

#### Article VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

## Article VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

## Article VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

## Article IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

#### Article X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject-matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty, shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

#### Article XI

This Treaty, the Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Treaty.

DONE in... at... this... day of...

- 
2. CONVENTION ON THE NON-APPLICABILITY OF STATUTORY LIMITATIONS TO WAR CRIMES AND CRIMES AGAINST HUMANITY. ADOPTED AND OPENED FOR SIGNATURE, RATIFICATION AND ACCESSION BY GENERAL ASSEMBLY RESOLUTION 2391 (XXIII) OF 26 NOVEMBER 1968 <sup>2</sup>

#### PREAMBLE

*The States Parties to the present Convention,*

*Recalling* resolutions of the General Assembly of the United Nations 3 (I) of 13 February 1946 and 170 (II) of 31 October 1947 on the extradition and punishment of war criminals, resolution 95 (I) of 11 December 1946 affirming the principles of international law recognized by the Charter of the International Military Tribunal, Nürnberg, and the judgement of the Tribunal, and resolutions 2184 (XXI) of 12 December 1966 and 2202 (XXI) of 16 December 1966 which expressly condemned as crimes against humanity the violation of the economic and political rights of the indigenous population on the one hand and the policies of *apartheid* on the other,

*Recalling* resolutions of the Economic and Social Council of the United Nations 1074 D (XXXIX) of 28 July 1965 and 1158 (XLI) of 5 August 1966 on the punishment of war criminals and of persons who have committed crimes against humanity,

<sup>2</sup> Reproduced in this *Yearbook*, p. 81.

*Noting* that none of the solemn declarations, instruments or conventions relating to the prosecution and punishment of war crimes and crimes against humanity made provision for a period of limitation,

*Considering* that war crimes and crimes against humanity are among the gravest crimes in international law,

*Convinced* that the effective punishment of war crimes and crimes against humanity is an important element in the prevention of such crimes, the protection of human rights and fundamental freedoms, the encouragement of confidence, the furtherance of co-operation among peoples and the promotion of international peace and security,

*Noting* that the application to war crimes and crimes against humanity of the rules of municipal law relating to the period of limitation for ordinary crimes is a matter of serious concern to world public opinion, since it prevents the prosecution and punishment of persons responsible for those crimes,

*Recognizing* that it is necessary and timely to affirm in international law, through this Convention, the principle that there is no period of limitation for war crimes and crimes against humanity, and to secure its universal application,

*Have agreed* as follows:

#### Article I

No statutory limitation shall apply to the following crimes, irrespective of the date of their commission:

(a) War crimes as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, particularly the "grave breaches" enumerated in the Geneva Conventions of 12 August 1949 for the protection of war victims;

(b) Crimes against humanity whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations, eviction by armed attack or occupation and inhuman acts resulting from the policy of *apartheid* and, the crime of genocide as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, even if such acts do not constitute a violation of the domestic law of the country in which they were committed.

#### Article II

If any of the crimes mentioned in article I is committed, the provisions of this Convention shall apply to representatives of the State authority and private individuals who, as principals or accomplices, participate in or who directly incite others to the commission of any of those crimes, or who conspire to commit them, irrespective of the degree of completion, and to representatives of the State authority who tolerate their commission.

#### Article III

The States Parties to the present Convention undertake to adopt all necessary domestic measures, legislative or otherwise, with a view to making possible the extradition, in accordance with international law, of the persons referred to in article II of this Convention.



#### Article IV

The States Parties to the present Convention undertake to adopt, in accordance with their respective constitutional processes, any legislative or other measures necessary to ensure that statutory or other limitations shall not apply to the prosecution and punishment of the crimes referred to in articles I and II of this Convention and that, where they exist, such limitations shall be abolished.

#### Article V

This Convention shall, until 31 December 1969, be open for signature by any State Member of the United Nations or member of any of its specialized agencies or of the International Atomic Energy Agency, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

#### Article VI

This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

#### Article VII

This Convention shall be open to accession by any State referred to in article V. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article VIII

1. This Convention shall enter into force on the ninetieth day after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the tenth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day after the date of the deposit of its own instrument of ratification or accession.

#### Article IX

1. After the expiry of a period of ten years from the date on which this Convention enters into force, a request for the revision of the Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

#### Article X

1. This Convention shall be deposited with the Secretary-General of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States referred to in article V.

3. The Secretary-General of the United Nations shall inform all States referred to in article V of the following particulars:

(a) Signatures of this Convention, and instruments of ratification and accession deposited under articles V, VI and VII;

- (b) The date of entry into force of this Convention in accordance with article VIII;
- (c) Communications received under article IX.

#### Article XI

This Convention, of which the Chinese, English, French Russian and Spanish texts are equally authentic, shall bear the date of 26 November 1968.

IN WITNESS WHEREOF the undersigned, being duly authorized for that purpose, have signed this Convention.

### **B. Treaties concerning international law concluded under the auspices of inter-governmental organizations related to the United Nations**

#### **1. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION**

Amendments to the Constitution of UNESCO: Resolution 11.1 adopted by the General Conference on 4 November 1968 at its fifteenth session

Composition of the Executive Board, duration of term of office of members and method of election

##### *The General Conference,*

*Recalling* resolution 7 adopted at its fourteenth session (1966), which states, *inter alia*, that the problem of the composition of the Executive Board should be reviewed by the Board so as to ensure an equitable, balanced representation of the various cultures and geographical regions, bearing in mind that members elected to the Board should also be persons with experience and competence in the fields proper to UNESCO, in accordance with the spirit and letter of Article V.A.2 of the Constitution; bearing in mind, further, that half the number of Member States have never been elected to membership of the Executive Board,

*Having studied* the report submitted by the Executive Board in compliance with the above-mentioned resolution, containing its recommendations on the composition of the Executive Board,

*Noting* with satisfaction that the number of Member States of UNESCO has increased over the past few years,

*Appreciating* the need for taking the various measures specified in the present decision, which taken together constitute an appropriate means for achieving the objective of the above-mentioned resolution,

...

2. *Decides* to amend Article V of the Constitution as follows:

- (a) in paragraph 1, the word 'thirty' shall be replaced by the words "thirty-four";
- (b) paragraph 3 shall be replaced by the following text:

"3. Members of the Board shall serve from the close of the session of the General Conference which elected them until the close of the *third* ordinary session of the General Conference following that election. *They shall not be immediately*

*eligible for a second term. The General Conference shall, at each of its ordinary sessions, elect the number of members required to fill the vacancies occurring at the end of the session.”*

(c) paragraph 13 shall be replaced by the following:

*“C. Transitional provisions*

*13. Notwithstanding the provisions of paragraph 3 of this Article, members of the Executive Board elected at the thirteenth and fourteenth sessions of the General Conference for a first term and members appointed by the Board in accordance with the provisions of paragraph 4 of this Article to replace members with a four-year term shall be eligible for a second term of four years.*

*14. At the fifteenth session of the General Conference, nineteen members shall be elected to the Executive Board pursuant to the provisions of this Article. Thereafter, at each of its ordinary sessions, the General Conference shall elect the number of members required to fill the vacancies occurring at the end of the session.”*

## 2. INTERNATIONAL CIVIL AVIATION ORGANIZATION

Protocol <sup>4</sup> on the authentic trilingual text of the Convention on International Civil Aviation (Chicago, 1944). Signed at Buenos Aires on 24 September 1968

### THE UNDERSIGNED GOVERNMENTS

CONSIDERING that the last paragraph of the Convention on International Civil Aviation, hereinafter called “the Convention”, provides that a text of the Convention, drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature;

CONSIDERING that the Convention was opened for signature, at Chicago, on the seventh day of December, 1944, in a text in the English language;

CONSIDERING, accordingly, that it is appropriate to make the necessary provision for the text to exist in three languages as contemplated in the Convention;

CONSIDERING that in making such provision, it should be taken into account that there exist amendments to the Convention in the English, French and Spanish languages, and that the text of the Convention in the French and Spanish languages should not incorporate those amendments because, in accordance with Article 94(a) of the Convention, each such amendment can come into force only in respect of any State which has ratified it;

HAVE AGREED as follows:

### Article I<sup>5</sup>

The text of the Convention in the French and Spanish languages annexed to this Protocol, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as specifically referred to in the last paragraph of the Convention.

<sup>4</sup> Came into force on 24 October 1968.

<sup>5</sup> The text of the Convention in the French and Spanish languages mentioned in this article will be found in the second and third columns at pages 1 to 38 of ICAO document 7300/4, subject to what is stated in paragraph 2 of the Foreword at page III of the same document.

## Article II

If a State party to this Protocol has ratified or in the future ratifies any amendment made to the Convention in accordance with Article 94(a) thereof, then the text of such amendment in the English, French and Spanish languages shall be deemed to refer to the text, equally authentic in the three languages, which results from this Protocol.

## Article III

(1) The States members of the International Civil Aviation Organization may become parties to this Protocol either by:

- (a) signature without reservation as to acceptance, or
- (b) signature with reservation as to acceptance followed by acceptance, or
- (c) acceptance.

(2) This Protocol shall remain open for signature at Buenos Aires until the twenty-seventh day of September 1968 and thereafter at Washington, D.C.

(3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Government of the United States of America.

(4) Adherence to or ratification or approval of this Protocol shall be deemed to be acceptance thereof.

## Article IV

(1) This Protocol shall come into force on the thirtieth day after twelve States shall, in accordance with the provisions of Article III, have signed it without reservation as to acceptance or accepted it.

(2) As regards any State which shall subsequently become a party to this Protocol, in accordance with Article III, the Protocol shall come into force on the date of its signature without reservation as to acceptance or of its acceptance.

## Article V

Any future adherence of a State to the Convention shall be deemed to be acceptance of this Protocol.

## Article VI

As soon as this Protocol comes into force, it shall be registered with the United Nations and with the International Civil Aviation Organization by the Government of the United States of America.

## Article VII

(1) This Protocol shall remain in force so long as the Convention is in force.

(2) This Protocol shall cease to be in force for a State only when that State ceases to be a party to the Convention.

## Article VIII

The Government of the United States of America shall give notice to all States members of the International Civil Aviation Organization and to the Organization itself:

- (a) of any signature of this Protocol and the date thereof, with an indication whether the signature is with or without reservation as to acceptance;

- (b) of the deposit of any instrument of acceptance and the date thereof;
- (c) of the date on which this Protocol comes into force in accordance with the provisions of Article IV, paragraph 1.

#### Article IX

This Protocol, drawn up in the English, French and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Government of the States members of the International Civil Aviation Organization.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed this Protocol.

DONE at Buenos Aires this twenty-fourth day of September, one thousand nine hundred and sixty-eight.

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