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Report of the work of the United Nations Conference on Succession of States in Respect of Treaties at its 1977 session

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on Succession of States in Respect of Treaties (Documents of the Conference)*

D. REPORT OF THE CONFERENCE (1977 SESSION)

Document A/CONF.80/15

REPORT OF THE WORK OF THE UNITED NATIONS CONFERENCE ON SUCCESSION OF STATES IN RESPECT OF TREATIES AT ITS 1977 SESSION

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Report of the Conference

1. The General Assembly of the United Nations, by resolution 3496 (XXX) of 15 December 1975, decided to convene a conference of plenipotentiaries in 1977 to consider the draft articles on succession of States in respect of treaties adopted by the International Law Commission at its twenty-sixth session,¹ and to embody the results of its work in an international convention and such other instruments as it might deem appropriate.

2. Subsequently, by resolution 31/18 of 24 November 1976, the General Assembly, after noting, *inter alia*, that the Government of Austria had extended an invitation to hold the United Nations Conference on Succession of States in respect of Treaties at Vienna, decided that the Conference be held from 4 April to 6 May 1977 in that city.

3. The United Nations Conference on Succession of States in respect of Treaties met at the Neue Hofburg in Vienna from 4 April to 6 May 1977.

4. The Conference was opened by the Legal Counsel of the United Nations who made a statement on behalf of the Secretary-General. His Excellency Mr. Rudolf Kirchschlaeger, the Federal President of the Republic of Austria, attended the opening and addressed the Conference.

5. All States were invited to participate in the Conference. The Governments of the following 89 States participated in the Conference: Afghanistan; Algeria; Argentina; Australia; Austria; Barbados; Belgium; Bolivia; Brazil; Bulgaria; Byelorussian Soviet Socialist Republic; Canada; Chile; Colombia; Cuba; Cyprus; Czechoslovakia;

Democratic Yemen; Denmark; Ecuador; Egypt; Ethiopia; Finland; France; German Democratic Republic; Germany, Federal Republic of; Ghana; Greece; Guyana; Holy See; Hungary; India; Indonesia; Iraq; Ireland; Israel; Italy; Ivory Coast; Japan, Kenya; Kuwait; Liberia; Libyan Arab Jamahiriya; Luxembourg; Madagascar; Malaysia; Mexico; Mongolia; Morocco; Netherlands; New Zealand; Niger; Nigeria; Norway; Oman; Pakistan; Papua New Guinea; Peru; Philippines; Poland; Portugal; Qatar; Romania; Saudi Arabia; Senegal; Sierra Leone; Singapore; Somalia; Spain; Sri Lanka; Sudan; Surinam; Swaziland; Sweden; Switzerland; Thailand; Tunisia; Turkey; Uganda; Ukrainian Soviet Socialist Republic; Union of Soviet Socialist Republics; United Arab Emirates; United Kingdom of Great Britain and Northern Ireland; United Republic of Tanzania; United States of America; Uruguay; Venezuela; Yugoslavia and Zaire. The Governments of Iran and the Republic of Korea were represented by observers.²

6. The United Nations Council for Namibia also participated in the Conference.²

7. The following organizations, which have received a standing invitation from the General Assembly to participate in the sessions and work of all international conferences convened under the auspices of the General Assembly, were represented by observers: Palestine Liberation Organization, South West Africa People's Organization (SWAPO).²

8. The following intergovernmental organizations were represented by observers:

¹ Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 10 (A/9610/Rev.1), chap. II, sect. D.

² For the composition of delegations of participants, see document A/CONF.80/INF.3.

Specialized agencies and other United Nations related agencies

Food and Agriculture Organization of the United Nations;
International Civil Aviation Organization;
International Monetary Fund;
International Atomic Energy Agency.

Other intergovernmental organizations

Asian-African Legal Consultative Committee;
Commonwealth Secretariat;
Council of Europe.²

9. At its 1st plenary meeting on Monday, 4 April 1977, the Conference elected Mr. Karl Zemanek (Austria) as President.

10. The Conference elected as Vice-Presidents the representatives of the following States: Argentina, Barbados, Bulgaria, Cuba, Ethiopia, France, India, Indonesia, Ireland, Italy, Ivory Coast, Malaysia, Mexico, Morocco, Pakistan, Romania, Sudan, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Zaire.

11. The following committees were set up by the Conference:

General Committee

Chairman: The President of the Conference;

Members: The President and Vice-Presidents of the Conference, the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee.

Committee of the Whole

Chairman: Mr. Fuad Riad (Egypt);

Vice-Chairman: Mr. Jean Pierre Ritter (Switzerland);

Rapporteur: Mr. Abdul Hakim Tabibi (Afghanistan);

Drafting Committee

Chairman: Mr. Mustapha Kamil Yasseen (United Arab Emirates);

Members: The Chairman of the Drafting Committee, Australia, Cuba, Democratic Yemen, France, Guyana, Ivory Coast, Japan, Kenya, Spain, Swaziland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia.

The Rapporteur of the Committee of the Whole participated *ex officio* in the work of the Drafting Committee in accordance with rule 47 of the rules of procedure of the Conference (A/CONF.80/8).

Credentials Committee

Chairman: Mr. José Sette-Câmara (Brazil);

Members: Brazil; Chile; Germany, Federal Republic of; Nigeria; Philippines; Qatar; Sudan; Sweden; Union of Soviet Socialist Republics.

12. Sir Francis A. Vallat, the International Law Commission's latest Special Rapporteur on the question of succession of States in respect of treaties, acted as Expert Consultant.

13. The Secretary-General of the United Nations was represented by Mr. Erik Suy, Under-Secretary-General, the Legal Counsel. Mr. Yuri M. Rybakov, Director of the Codification Division of the Office of Legal Affairs, acted as Executive Secretary of the Conference. Mr. Santiago Torres Bernárdez acted as Deputy Executive Secretary of the Conference and Secretary of the Committee of the Whole. Miss Jacqueline Dauchy acted as Secretary of the Credentials Committee and as Assistant Secretary of the Committee of the Whole. Mr. Eduardo Valencia Ospina acted as Secretary of the Drafting Committee. Mr. Moritaka Hayashi acted as Assistant Secretary of the Drafting Committee. Mr. Jacques Roman acted as Assistant Secretary of the Drafting and Credentials Committees. Mr. Alexander Borg Olivier acted as Assistant Secretary of the Committee of the Whole.

14. At its 1st plenary meeting, held on 4 April 1977, the Conference adopted the following agenda (A/CONF.80/7):

1. Opening of the Conference by the representative of the Secretary-General
2. Election of the President
3. Adoption of the agenda
4. Adoption of the rules of procedure
5. Election of Vice-Presidents
6. Election of the Chairman of the Committee of the Whole
7. Election of the Chairman of the Drafting Committee
8. Appointment of the Credentials Committee
9. Appointment of other members of the Drafting Committee
10. Organization of work
11. Consideration of the question of succession of States in respect of treaties in accordance with resolutions 3496 (XXX) and 31/18 adopted by the General Assembly on 15 December 1975 and 24 November 1976
12. Adoption of a convention and other instruments deemed appropriate and of the final act of the Conference
13. Signature of the final act and of the convention and other instruments.

15. At its 3rd plenary meeting, held on 14 April 1977, the Conference decided to add a supplementary item to its agenda entitled "Consideration of request of the United Nations Council for Namibia for active participation in the United Nations Conference on Succession of States in respect of Treaties" (General Assembly resolution 31/149). Under that item the President noted that operative paragraph 3 of General Assembly resolution 31/149, entitled "Action by intergovernmental and non-governmental organizations with respect to Namibia", provides the following:

Requests all . . . conferences within the United Nations system to consider granting full membership to the United Nations Council for Namibia so that it may participate in that capacity as the Administering Authority for Namibia in the work of those . . . conferences.

The Conference took a decision in favour of participation as requested by the United Nations Council for Namibia.

16. At the 4th plenary meeting, held on 27 April 1977, the President stated the following:

The Conference will recall that under this item and upon the request of the delegation of the United Nations Council for Namibia referring to General Assembly resolution 31/149, it took a decision concerning that delegation's participation in the Conference. Now, in the context of the implementation of that decision, the delegation of the United Nations Council for Namibia has requested that the Conference should state explicitly that the delegation of the United Nations Council for Namibia has the right to submit proposals and amendments.

The Conference so decided.

17. The Conference adopted its "Rules of Procedure" (A/CONF.80/8) and, on the basis of a memorandum drawn up by the Secretary-General of the United Nations, "methods of work and Procedures of the Conference" (A/CONF.80/9).

18. In connexion with item 11 of its agenda (see para. 14 above), the Conference, pursuant to paragraph 3 of General Assembly resolution 31/18, had before it as the basic proposal for discussion the draft articles on succession of States in respect of treaties adopted by the International Law Commission at its twenty-sixth session (A/CONF.80/4).

19. The Conference, in addition to the relevant records of the International Law Commission and of the General Assembly, had available to it the following background documentation:

(a) An analytical compilation of comments of Governments on the final draft articles on succession of States in respect of treaties (A/CONF.80/5 and Corr.1), prepared by the Codification Division of the Office of Legal Affairs of the United Nations Secretariat;

(b) A guide for the draft articles on succession of States in respect of treaties (ST/LEG/12), prepared by the Codification Division of the Office of Legal Affairs of the United Nations Secretariat;

(c) A select bibliography on succession of States in respect of treaties (ST/LIB/SER.B/24), prepared by the Dag Hammarskjöld Library of the United Nations.

20. The Conference decided that the draft articles on succession of States in respect of treaties prepared by the International Law Commission (A/CONF.80/4), as well as the additional articles, amendments and papers relating thereto, submitted by participating delegations (A/CONF.80/C.1/L.1-L.47) would be first considered by the Committee of the Whole. The texts adopted by the Committee of the Whole were referred to the Drafting Committee (A/CONF.80/DC.1-6, 8, 10-12 and 14-17) which was responsible for preparing drafts and giving advice on drafting as requested and for co-ordinating and reviewing the drafting of all texts adopted. In addition, the Committee of the Whole entrusted to the Drafting Committee (A/CONF.80/DC.7) the preparation of drafts for submission directly to the Plenary concerning the preamble and the final clauses of the future convention (A/CONF.80/DC.9 and DC.13).

21. Pursuant to a recommendation of the General Committee adopted at its meeting on 2 May 1977, the

Conference, at its 5th meeting, held on 5 May 1977, decided to proceed with the consideration at the Plenary level of the articles whose examination had been completed by the Committee of the Whole. As a result of such a consideration, the Conference adopted articles 1, 3-5, 8-11 and 13-29. Such adoption was made without prejudice to any consequential adjustments that might be required in the light of decisions on articles yet to be considered. The stage reached in the consideration of the remaining articles and amendments thereto is reflected in the report of the Committee of the Whole (A/CONF.80/14).

22. At its 6th plenary meeting, held on 5 May 1977, the Conference took note of the report of the Committee of the Whole.

23. At its 7th plenary meeting, held on 6 May 1977, the Conference approved the report of its Credentials Committee (A/CONF.80/12).

24. At the same meeting the representative of Austria, referring to the decision of the General Assembly to accept the invitation extended by the Government of Austria to hold the United Nations Conference on Succession of States in Respect of Treaties in Vienna (General Assembly resolution 31/18), stated that the invitation referred to in General Assembly resolution 31/18 would extend, as a matter of course, to a resumed session of the Conference which would make it possible for the Conference to continue its work in Vienna in 1978.

25. The annex to the present report reproduces titles and texts of articles adopted by the Conference during the period 4 April to 6 May 1977. The deliberations of the Conference are recorded in the summary records of the Conference (A/CONF.80/SR.1-SR.8)³ and in the summary records (A/CONF.80/C.1/SR.1-SR.36)⁴ and the report (A/CONF.80/14)⁵ of the Committee of the Whole.

RECOMMENDATION OF THE CONFERENCE

26. At its 7th plenary meeting, held on 6 May 1977, the Conference adopted the following recommendation:

The United Nations Conference on Succession of States in Respect of Treaties,

Bearing in mind General Assembly resolution 3496 (XXX) of 15 December 1975 by which the General Assembly decided to convene a conference of plenipotentiaries in 1977 to consider the draft articles on succession of States in respect of treaties, adopted by the International Law Commission at its twenty-sixth session, and to embody the results of its work in an international convention and such other instruments as it might deem appropriate,

Having met in Vienna from 4 April to 6 May 1977, in accordance with General Assembly resolution 31/18 of 24 November 1976,

³ *Official Records of the United Nations Conference on Succession of States in Respect of Treaties*, vol. 1, *Summary records of the plenary meeting and of the meetings of the Committee of the Whole* (United Nations publication, Sales No. E.78.V.8), pp. 1-19.

⁴ *Ibid.*, pp. 21 *et seq.*

⁵ See pp. 98 *et seq.*, sect. C.

Expressing its deep appreciation and gratitude to the Government of Austria for making possible the holding of the Conference in the capital of Austria,

Noting that due to the intrinsic complexity of the subject-matter it has not been possible for the Conference in the time available to conclude its work and to adopt an international convention and other appropriate instruments, as requested by the General Assembly in the above-mentioned resolution,

Taking note of the statement of the representative of Austria that the invitation of the Government of Austria referred to in General Assembly resolution 31/18 would extend to a resumed

session of the Conference, which would make it possible for the Conference to continue its work in Vienna in 1978,

Convinced that one more session would enable it to conclude its work as envisaged by the General Assembly,

1. *Adopts* the report on its work for the period 4 April to 6 May 1977;

2. *Requests* the Secretary-General to transmit that report to the General Assembly at its thirty-second session;

3. *Recommends* that the General Assembly decide to reconvene the Conference in the first half of 1978, preferably in April in Vienna, for a final session of four weeks.

ANNEX

Text of Articles adopted by the Conference^a

Article 1. Scope of the present Convention

The present Convention applies to the effects of a succession of States in respect of treaties between States.

Article 3. Cases not within the scope of the present Convention

The fact that the present Convention does not apply to the effects of a succession of States in respect of international agreements concluded between States and other subjects of international law or in respect of international agreements not in written form shall not affect:

(a) the application to such cases of any of the rules set forth in the present Convention to which they are subject under international law independently of the Convention;

(b) the application as between States of the present Convention to the effects of a succession of States in respect of international agreements to which other subjects of international law are also parties.

Article 4. Treaties constituting international organizations and treaties adopted within an international organization

The present Convention applies to the effects of a succession of States in respect of:

(a) any treaty which is the constituent instrument of an international organization without prejudice to the rules concerning acquisition of membership and without prejudice to any other relevant rules of the organization;

(b) any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

Article 5. Obligations imposed by international law independently of a treaty

The fact that a treaty is not considered to be in force in respect of a State by virtue of the application of the present Convention shall not in any way impair the duty of that State to fulfil any obligation embodied in the treaty to which it is subject under international law independently of the treaty.

Article 8. Agreements for the devolution of treaty obligations or rights from a predecessor State to a successor State

1. The obligations or rights of a predecessor State under treaties in force in respect of a territory at the date of a succession of States do not become the obligations or rights of the successor State towards other States parties to those treaties in consequence only of the fact that the predecessor State and the successor State have

concluded an agreement providing that such obligations or rights shall devolve upon the successor State.

2. Notwithstanding the conclusion of such an agreement, the effects of a succession of States on treaties which, at the date of that succession of States, were in force in respect of the territory in question are governed by the present Convention.

Article 9. Unilateral declaration by a successor State regarding treaties of the predecessor State

1. Obligations or rights under treaties in force in respect of a territory at the date of a succession of States do not become the obligations or rights of the successor State or of other States parties to those treaties in consequence only of the fact that the successor State has made a unilateral declaration providing for the continuance in force of the treaties in respect of its territory.

2. In such a case, the effects of the succession of States on treaties which, at the date of that succession of States, were in force in respect of the territory in question are governed by the present Convention.

Article 10. Treaties providing for the participation of a successor State

1. When a treaty provides that, on the occurrence of a succession of States, a successor State shall have the option to consider itself a party thereto, it may notify its succession in respect of the treaty in conformity with the provisions of the treaty or, failing any such provisions, in conformity with the provisions of the present Convention.

2. If a treaty provides that, on the occurrence of a succession of States, a successor State shall be considered as a party, the provision takes effect as such only if the successor State expressly accepts in writing to be so considered.

3. In cases falling under paragraph 1 or 2, a successor State which establishes its consent to be a party to the treaty is considered as a party from the date of the succession of States unless the treaty otherwise provides or it is otherwise agreed.

Article 11^b

A succession of States does not as such affect:

(a) a boundary established by a treaty; or

(b) obligations and rights established by a treaty and relating to the régime of a boundary.

^a The Conference has not yet adopted any decision concerning the grouping of the articles in parts and sections nor on the titles of those parts and sections. See p. 134 above, sect. C, document A/CONF.80/14, para. 243.

^b No decision has been taken yet on the title of the article. See p. 110 above, sect. C, document A/CONF.80/14, para. 70.

Article 13. Questions relating to the validity of a treaty

Nothing in the present Convention shall be considered as prejudging in any respect any question relating to the validity of a treaty.

Article 14. Succession in respect of part of territory

When part of the territory of a State, or when any territory for the international relations of which a State is responsible, not being part of the territory of that State, becomes part of the territory of another State:

(a) treaties of the predecessor State cease to be in force in respect of the territory to which the succession of State relates from the date of the succession of States; and

(b) treaties of the successor State are in force in respect of the territory to which the succession of States relates from the date of the succession of States, unless it appears from the treaty or is otherwise established that the application of the treaty to that territory would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

Article 15. Position in respect of the treaties of the predecessor State

A newly independent State is not bound to maintain in force, or to become a party to, any treaty by reason only of the fact that at the date of the succession of States the treaty was in force in respect of the territory to which the succession of States relates.

Article 16. Participation in treaties in force at the date of the succession of States

1. Subject to paragraphs 2 and 3, a newly independent State may, by a notification of succession, establish its status as a party to any multilateral treaty which at the date of succession of States was in force in respect of the territory to which the succession of States relates.

2. Paragraph 1 does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

3. When, under the terms of the treaty or by reason of the limited number of the negotiating States and the object and purpose of the treaty, the participation of any other State in the treaty must be considered as requiring the consent of all the parties, the newly independent State may establish its status as a party to the treaty only with such consent.

Article 17. Participation in treaties not in force at the date of the succession of States

1. Subject to paragraphs 3 and 4, a newly independent State may, by a notification of succession, establish its status as a contracting State to a multilateral treaty which is not in force if at the date of the succession of States the predecessor State was a contracting State in respect of the territory to which that succession of States relates.

2. Subject to paragraphs 3 and 4, a newly independent State may, by a notification of succession, establish its status as a party to a multilateral treaty which enters into force after the date of the succession of States if at the date of the succession of States the predecessor State was a contracting State in respect of the territory to which that succession of States relates.

3. Paragraphs 1 and 2 do not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

4. When, under the terms of the treaty or by reason of the limited number of the negotiating States and the object and purpose of the treaty, the participation of any other State in the treaty must be considered as requiring the consent of all the parties or of all the

contracting States, the newly independent State may establish its status as a party or as a contracting State to the treaty only with such consent.

5. When a treaty provides that a specified number of contracting States shall be necessary for its entry into force, a newly independent State which establishes its status as a contracting State to the treaty under paragraph 1 shall be counted as a contracting State for the purpose of that provision unless a different intention appears from the treaty or is otherwise established.

Article 18. Participation in treaties signed by the predecessor State subject to ratification, acceptance or approval

1. Subject to paragraphs 3 and 4, if before the date of the succession of States the predecessor State signed a multilateral treaty subject to ratification, acceptance or approval and by the signature intended that the treaty should extend to the territory to which the succession of States relates, the newly independent State may ratify, accept or approve the treaty as if it had signed that treaty and may thereby become a party or a contracting State to it.

2. For the purpose of paragraph 1, unless a different intention appears from the treaty or is otherwise established, the signature by the predecessor State of a treaty is considered to express the intention that the treaty should extend to the entire territory for the international relations of which the predecessor State was responsible.

3. Paragraph 1 does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

4. When, under the terms of the treaty or by reason of the limited number of the negotiating States and the object and purpose of the treaty, the participation of any other State in the treaty must be considered as requiring the consent of all the parties or of all the contracting States, the newly independent State may become a party or a contracting State to the treaty only with such consent.

Article 19. Reservations

1. When a newly independent State establishes its status as a party or as a contracting State to a multilateral treaty by a notification of succession under article 16 or 17, it shall be considered as maintaining any reservation to that treaty which was applicable at the date of the succession of States in respect of the territory to which the succession of States relates unless, when making the notification of succession, it expresses a contrary intention or formulates a reservation which relates to the same subject-matter as that reservation.

2. When making a notification of succession establishing its status as a party or as a contracting State to a multilateral treaty under article 16 or 17, a newly independent State may formulate a reservation unless the reservation is one the formulation of which would be excluded by the provisions of subparagraph (a), (b) or (c) of article 19 of the Vienna Convention on the Law of Treaties.

3. When a newly independent State formulates a reservation in conformity with paragraph 2, the rules set out in articles 20, 21, 22 and 23 of the Vienna Convention of the Law of Treaties apply in respect of that reservation.

Article 20. Consent to be bound by part of a treaty and choice between differing provisions

1. When making a notification of succession under article 16 or 17 establishing its status as a party or contracting State to a multilateral treaty, a newly independent State may, if the treaty so permits, express its consent to be bound by part of the treaty or make a choice between differing provisions under the conditions laid down in the treaty for expressing such consent or making such choice.

2. A newly independent State may also exercise, under the same conditions as the other parties or contracting States, any right

provided for in the treaty to withdraw or modify any consent or choice made by itself or made by the predecessor State in respect of the territory to which the succession of States relates.

3. If the newly independent State does not in conformity with paragraph 1 express its consent or make a choice, or in conformity with paragraph 2 withdraw or modify the consent or choice of the predecessor State, it shall be considered as maintaining:

(a) the consent of the predecessor State, in conformity with the treaty, to be bound, in respect of the territory to which the succession of States relates, by part of that treaty; or

(b) the choice of the predecessor State, in conformity with the treaty, between differing provisions in the application of the treaty in respect of the territory to which the succession of States relates.

Article 21. Notification of succession

1. A notification of succession in respect of a multilateral treaty under article 16 or 17 shall be made in writing.

2. If the notification of succession is not signed by the Head of State, Head of Government or Minister of Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

3. Unless the treaty otherwise provides, the notification of succession shall:

(a) be transmitted by the newly independent State to the depositary, or, if there is no depositary, to the parties or the contracting States;

(b) be considered to be made by the newly independent State on the date on which it has been received by the depositary or, if there is no depositary, on the date on which it has been received by all the parties or, as the case may be, by all the contracting States.

4. Paragraph 3 does not affect any duty that the depositary may have, in accordance with the treaty or otherwise, to inform the parties or the contracting States of the notification of succession or any communication made in connexion therewith by the newly independent State.

5. Subject to the provisions of the treaty, the notification of succession or the communication made in connexion therewith shall be considered as received by the State for which it was intended only when the latter State has been informed by the depositary.

Article 22. Effects of a notification of succession

1. Unless the treaty otherwise provides or it is otherwise agreed, a newly independent State which makes a notification of succession under article 16 or article 17, paragraph 2, shall be considered a party to the treaty from the date of the succession of States or from the date of entry into force of the treaty, whichever is the later date.

2. Nevertheless, the operation of the treaty shall be considered as suspended as between the newly independent State and the other parties to the treaty until the date of making of the notification of succession except so far as that treaty may be applied provisionally in accordance with article 26 or as may be otherwise agreed.

3. Unless the treaty otherwise provides or it is otherwise agreed, a newly independent State which makes a notification of succession under article 17, paragraph 1, shall be considered a contracting State to the treaty from the date on which the notification of succession is made.

Article 23. Conditions under which a treaty is considered as being in force in the case of a succession of States

1. A bilateral treaty which at the date of a succession of States was in force in respect of the territory to which the succession of States relates is considered as being in force between a newly independent State and the other State party when:

(a) they expressly so agree; or

(b) by reason of their conduct they are to be considered as having so agreed.

2. A treaty considered as being in force under paragraph 1 applies in the relations between the newly independent State and the other State party from the date of the succession of States, unless a different intention appears from their agreement or is otherwise established.

Article 24. The position as between the predecessor State and the newly independent State

A treaty which under article 23 is considered as being in force between a newly independent State and the other State party is not by reason only of that fact to be considered as in force also in the relations between the predecessor State and the newly independent State.

Article 25. Termination, suspension of operation or amendment of the treaty as between the predecessor State and the other State party

1. When under article 23 a treaty is considered as being in force between a newly independent State and the other State party, the treaty:

(a) does not cease to be in force between them by reason only of the fact that it has subsequently been terminated as between the predecessor State and the other State party;

(b) is not suspended in operation as between them by reason only of the fact that it has subsequently been suspended in operation as between the predecessor State and the other State party;

(c) is not amended as between them by reason only of the fact that it has subsequently been amended as between the predecessor State and the other State party.

2. The fact that a treaty has been terminated or, as the case may be, suspended in operation as between the predecessor State and the other State party after the date of the succession of States does not prevent the treaty from being considered to be in force or, as the case may be, in operation as between the newly independent State and the other State party if it is established in accordance with article 23 that they so agreed.

3. The fact that a treaty has been amended as between the predecessor State and the other State party after the date of the succession of States does not prevent the unamended treaty from being considered to be in force under article 23 as between the newly independent State and the other State party, unless it is established that they intended the treaty as amended to apply between them.

Article 26. Multilateral treaties

1. If, at the date of the succession of States, a multilateral treaty was in force in respect of the territory to which the succession of States relates and the newly independent State gives notice of its intention that the treaty should be applied provisionally in respect of its territory, that treaty shall apply provisionally between the newly independent State and any party which expressly so agrees or by reason of its conduct is to be considered as having so agreed.

2. Nevertheless, in the case of a treaty which falls within the category mentioned in article 16, paragraph 3, the consent of all the parties to such provisional application is required.

3. If, at the date of the succession of States, a multilateral treaty not yet in force was being applied provisionally in respect of the territory to which the succession of States relates and the newly independent State gives notice of its intention that the treaty should continue to be applied provisionally in respect of its territory, that treaty shall apply provisionally between the newly independent State and any contracting State which expressly so agrees or by reason of its conduct is to be considered as having so agreed.

4. Nevertheless, in the case of a treaty which falls within the category mentioned in article 16, paragraph 3, the consent of all the contracting States to such continued provisional application is required.

5. Paragraphs 1 to 4 do not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the newly independent State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

Article 27. Bilateral treaties

A bilateral treaty which at the date of a succession of States was in force or was being provisionally applied in respect of the territory to which the succession of States relates is considered as applying provisionally between the newly independent State and the other State concerned when:

- (a) they expressly so agree; or
- (b) by reason of their conduct they are to be considered as having so agreed.

Article 28. Termination of provisional application

1. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a multilateral treaty under article 26 may be terminated:

(a) by reasonable notice of termination given by the newly independent State or the party or contracting State provisionally applying the treaty and the expiration of the notice; or

(b) in the case of a treaty which falls within the category mentioned in article 16, paragraph 3, by reasonable notice of termination given by the newly independent State or all of the parties or, as the case may be, all of the contracting States and the expiration of the notice.

2. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a bilateral treaty under article 27 may be terminated by reasonable notice of termination given by the newly independent State or the other State concerned and the expiration of the notice.

3. Unless the treaty provides for a shorter period for its termination or it is otherwise agreed, reasonable notice of termination shall be twelve months' notice from the date on which it is received by the other State or States provisionally applying the treaty.

4. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a multilateral treaty under article 26 shall be terminated if the newly independent State gives notice of its intention not to become a party to the treaty.

Article 29. Newly independent States formed from two or more territories

1. Articles 15 to 28 apply in the case of a newly independent State formed from two or more territories.

2. When a newly independent State formed from two or more territories is considered as or becomes a party to a treaty by virtue of article 16, 17 or 23 and at the date of the succession of States the treaty was in force, or consent to be bound had been given, in respect of one or more, but not all, of those territories, the treaty shall apply in respect of the entire territory of that State unless:

(a) it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation;

(b) in the case of a multilateral treaty not falling under article 16, paragraph 3, or under article 17, paragraph 4, the notification of succession is restricted to the territory in respect of which the treaty was in force at the date of the succession of States, or in respect of which consent to be bound by the treaty had been given prior to that date;

(c) in the case of a multilateral treaty falling under article 16, paragraph 3, or under article 17, paragraph 4, the newly independent State and the other States parties or, as the case may be, the other contracting States otherwise agree; or

(d) in the case of a bilateral treaty, the newly independent State and the other State concerned otherwise agree.

3. When a newly independent State formed from two or more territories becomes a party to a multilateral treaty under article 18 and by the signature or signatures of the predecessor State or States it had been intended that the treaty should extend to one or more, but not all, of those territories, the treaty shall apply in respect of the entire territory of the newly independent State unless;

(a) it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation;

(b) in the case of a multilateral treaty not falling under article 18, paragraph 4, the ratification, acceptance or approval of the treaty is restricted to the territory or territories to which it was intended that the treaty should extend; or

(c) in the case of a multilateral treaty falling under article 18, paragraph 4, the newly independent State and the other States parties or, as the case may be, the other contracting States otherwise agree.