

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1983

Part Two. Legal activities of the United Nations and related intergovernmental organizations

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



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**Part Two. Legal activities of the United Nations and related intergovernmental organizations**

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## Chapter IV

### TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

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

##### UNITED NATIONS CONFERENCE ON SUCCESSION OF STATES IN RESPECT OF STATE PROPERTY, ARCHIVES AND DEBTS (VIENNA, 1 MARCH-8 APRIL 1983)

(a) VIENNA CONVENTION ON SUCCESSION OF STATES IN RESPECT OF STATE PROPERTY, ARCHIVES AND DEBTS. DONE AT VIENNA ON 8 APRIL 1983<sup>1</sup>

*The States Parties to the present Convention,*

*Considering* the profound transformation of the international community brought about by the decolonization process,

*Considering also* that other factors may lead to cases of succession of States in the future,

*Convinced*, in these circumstances, of the need for the codification and progressive development of the rules relating to succession of States in respect of State property, archives and debts as a means for ensuring greater juridical security in international relations,

*Noting* that the principles of free consent, good faith and *pacta sunt servanda* are universally recognized,

*Emphasizing* the importance of the codification and progressive development of international law which is of interest to the international community as a whole and of special importance for the strengthening of peace and international co-operation,

*Believing* that questions relating to succession of States in respect of State property, archives and debts are of special importance to all States,

*Having in mind* the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force, and of universal respect for, and observance of, human rights and fundamental freedoms for all,

*Recalling* that respect for the territorial integrity and political independence of any State is required by the Charter of the United Nations,

*Bearing in mind* the provisions of the Vienna Conventions on the Law of Treaties of 1969 and on Succession of States in Respect of Treaties of 1978,

*Affirming* that matters not regulated by the present Convention continue to be governed by the rules and principles of general international law,

*Have agreed* as follows:

## PART I. GENERAL PROVISIONS

### *Article 1. Scope of the present Convention*

The present Convention applies to the effects of a succession of States in respect of State property, archives and debts.

### *Article 2. Use of terms*

1. For the purposes of the present Convention:

(a) "succession of States" means the replacement of one State by another in the responsibility for the international relations of a territory;

(b) "predecessor State" means the State which has been replaced by another State on the occurrence of a succession of States;

(c) "successor State" means the State which has replaced another State on the occurrence of a succession of States;

(d) "date of the succession of States" means the date upon which the successor State replaced the predecessor State in the responsibility for the international relations of the territory to which the succession of States relates;

(e) "newly independent State" means a successor State the territory of which, immediately before the date of the succession of States, was a dependent territory for the international relations of which the predecessor State was responsible;

(f) "third State" means any State other than the predecessor State or the successor State.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

### *Article 3. Cases of succession of States covered by the present Convention*

The present Convention applies only to the effects of a succession of States occurring in conformity with international law and, in particular, with the principles of international law embodied in the Charter of the United Nations.

### *Article 4. Temporal application of the present Convention*

1. Without prejudice to the application of any of the rules set forth in the present Convention to which the effects of a succession of States would be subject under international law independently of the Convention, the Convention applies only in respect of a succession of States which has occurred after the entry into force of the Convention except as may be otherwise agreed.

2. A successor State may, at the time of expressing its consent to be bound by the present Convention or at any time thereafter, make a declaration that it will apply the provisions of the Convention in respect of its own succession of States which has occurred before the entry into force of the Convention in relation to any other contracting State or State Party to the Convention which makes a declaration accepting the declaration of the successor State. Upon the entry into force of the Convention as between the States making the declarations or upon the making of the declaration of acceptance, whichever occurs later, the provisions of the Convention shall apply to the effects of the succession of States as from the date of that succession of States.

3. A successor State may at the time of signing or of expressing its consent to be bound by the present Convention make a declaration that it will apply the provisions of the Convention provisionally in respect of its own succession of States which has occurred before the entry into force of the Convention in relation to any other signatory or contracting State which makes a declaration accepting the declaration of the successor State; upon the making of the declaration of acceptance, those provisions shall apply provisionally to the effects of the succession of States as between those two States as from the date of that succession of States.

4. Any declaration made in accordance with paragraph 2 or 3 shall be contained in a written notification communicated to the depositary, who shall inform the Parties and the States entitled to become Parties to the present Convention of the communication to him of that notification and of its terms.

*Article 5. Succession in respect of other matters*

Nothing in the present Convention shall be considered as prejudging in any respect any question relating to the effects of a succession of States in respect of matters other than those provided for in the present Convention.

*Article 6. Rights and obligations of natural or juridical persons*

Nothing in the present Convention shall be considered as prejudging in any respect any question relating to the rights and obligations of natural or juridical persons.

PART II. STATE PROPERTY

SECTION 1. INTRODUCTION

*Article 7. Scope of the present Part*

The articles in the present Part apply to the effects of a succession of States in respect of State property of the predecessor State.

*Article 8. State property*

For the purposes of the articles in the present Part, "State property of the predecessor State" means property, rights and interests which, at the date of the succession of States, were, according to the internal law of the predecessor State, owned by that State.

*Article 9. Effects of the passing of State property*

The passing of State property of the predecessor State entails the extinction of the rights of that State and the arising of the rights of the successor State to the State property which passes to the successor State, subject to the provisions of the articles in the present Part.

*Article 10. Date of the passing of State property*

Unless otherwise agreed by the States concerned or decided by an appropriate international body, the date of the passing of State property of the predecessor State is that of the succession of States.

*Article 11. Passing of State property without compensation*

Subject to the provisions of the articles in the present Part and unless otherwise agreed by the States concerned or decided by an appropriate international body, the passing of State property of the predecessor State to the successor State shall take place without compensation.

*Article 12. Absence of effect of a succession of States on the property of a third State*

A succession of States shall not as such affect property, rights and interests which, at the date of the succession of States, are situated in the territory of the predecessor State and which, at that date, are owned by a third State according to the internal law of the predecessor State.

*Article 13. Preservation and safety of State property*

For the purpose of the implementation of the provisions of the articles in the present Part, the predecessor State shall take all measures to prevent damage or destruction to State property which passes to the successor State in accordance with those provisions.

SECTION 2. PROVISIONS CONCERNING SPECIFIC CATEGORIES OF SUCCESSION OF STATES

*Article 14. Transfer of part of the territory of a State*

1. When part of the territory of a State is transferred by that State to another State, the passing of State property of the predecessor State to the successor State is to be settled by agreement between them.

2. In the absence of such an agreement:

(a) Immovable State property of the predecessor State situated in the territory to which the succession of States relates shall pass to the successor State;

(b) Movable State property of the predecessor State connected with the activity of the predecessor State in respect of the territory to which the succession of States relates shall pass to the successor State.

*Article 15. Newly independent State*

1. When the successor State is a newly independent State:

(a) Immovable State property of the predecessor State situated in the territory to which the succession of States relates shall pass to the successor State;

(b) Immovable property, having belonged to the territory to which the succession of States relates, situated outside it and having become State property of the predecessor State during the period of dependence, shall pass to the successor State;

(c) Immovable State property of the predecessor State other than that mentioned in subparagraph (b) and situated outside the territory to which the succession of States relates, to the creation of which the dependent territory has contributed, shall pass to the successor State in proportion to the contribution of the dependent territory;

(d) Movable State property of the predecessor State connected with the activity of the predecessor State in respect of the territory to which the succession of States relates shall pass to the successor State;

(e) Movable property, having belonged to the territory to which the succession of States relates and having become State property of the predecessor State during the period of dependence, shall pass to the successor State;

(f) Movable State property of the predecessor State, other than the property mentioned in subparagraphs (d) and (e), to the creation of which the dependent territory has contributed, shall pass to the successor State in proportion to the contribution of the dependent territory.

2. When a newly independent State is formed from two or more dependent territories, the passing of the State property of the predecessor State or States to the newly independent State shall be determined in accordance with the provisions of paragraph 1.

3. When a dependent territory becomes part of the territory of a State, other than the State which was responsible for its international relations, the passing of the State property of the predecessor State to the successor State shall be determined in accordance with the provisions of paragraph 1.

4. Agreements concluded between the predecessor State and the newly independent State to determine succession to State property of the predecessor State otherwise than by the application of paragraphs 1 to 3 shall not infringe the principle of the permanent sovereignty of every people over its wealth and natural resources.

*Article 16. Uniting of States*

When two or more States unite and so form one successor State, the State property of the predecessor States shall pass to the successor State.

*Article 17. Separation of part or parts of the territory of a State*

1. When part or parts of the territory of a State separate from that State and form a successor State, and unless the predecessor State and the successor State otherwise agree:

(a) Immovable State property of the predecessor State situated in the territory to which the succession of States relates shall pass to the successor State;

(b) Movable State property of the predecessor State connected with the activity of the predecessor State in respect of the territory to which the succession of States relates shall pass to the successor State;

(c) Movable State property of the predecessor State, other than that mentioned in subparagraph (b), shall pass to the successor State in an equitable proportion.

2. Paragraph 1 applies when part of the territory of a State separates from that State and unites with another State.

3. The provisions of paragraphs 1 and 2 are without prejudice to any question of equitable compensation as between the predecessor State and the successor State that may arise as a result of a succession of States.

#### *Article 18. Dissolution of a State*

1. When a State dissolves and ceases to exist and the parts of the territory of the predecessor State form two or more successor States, and unless the successor States concerned otherwise agree:

(a) Immovable State property of the predecessor State shall pass to the successor State in the territory of which it is situated;

(b) Immovable State property of the predecessor State situated outside its territory shall pass to the successor States in equitable proportions;

(c) Movable State property of the predecessor State connected with the activity of the predecessor State in respect of the territories to which the succession of States relates shall pass to the successor State concerned;

(d) Movable State property of the predecessor State, other than that mentioned in subparagraph (c), shall pass to the successor States in equitable proportions.

2. The provisions of paragraph 1 are without prejudice to any question of equitable compensation among the successor States that may arise as a result of a succession of States.

### PART III. STATE ARCHIVES

#### SECTION 1. INTRODUCTION

##### *Article 19. Scope of the present Part*

The articles in the present Part apply to the effects of a succession of States in respect of State archives of the predecessor State.

##### *Article 20. State archives*

For the purpose of the articles in the present Part, "State archives of the predecessor State" means all documents of whatever date and kind, produced or received by the predecessor State in the exercise of its functions which, at the date of the succession of States, belonged to the predecessor State according to its internal law and were preserved by it directly or under its control as archives for whatever purpose.

##### *Article 21. Effects of the passing of State archives*

The passing of State archives of the predecessor State entails the extinction of the rights of that State and the arising of the rights of the successor State to the State archives which pass to the successor State, subject to the provisions of the articles in the present Part.

##### *Article 22. Date of the passing of State archives*

Unless otherwise agreed by the States concerned or decided by an appropriate international body, the date of the passing of State archives of the predecessor State is that of the succession of States.

*Article 23. Passing of State archives without compensation*

Subject to the provisions of the articles in the present Part and unless otherwise agreed by the States concerned or decided by an appropriate international body, the passing of State archives of the predecessor State to the successor State shall take place without compensation.

*Article 24. Absence of effect of a succession of States on the archives of a third State*

A succession of States shall not as such affect archives which, at the date of the succession of States, are situated in the territory of the predecessor State and which, at that date, are owned by a third State according to the internal law of the predecessor State.

*Article 25. Preservation of the integral character of groups of State archives*

Nothing in the present Part shall be considered as prejudging in any respect any question that might arise by reason of the preservation of the integral character of groups of State archives of the predecessor State.

*Article 26. Preservation and safety of State archives*

For the purpose of the implementation of the provisions of the articles in the present Part, the predecessor State shall take all measures to prevent damage or destruction to State archives which pass to the successor State in accordance with those provisions.

SECTION 2. PROVISIONS CONCERNING SPECIFIC CATEGORIES OF SUCCESSION OF STATES

*Article 27. Transfer of part of the territory of a State*

1. When part of the territory of a State is transferred by that State to another State, the passing of State archives of the predecessor State to the successor State is to be settled by agreement between them.

2. In the absence of such an agreement:

(a) The part of State archives of the predecessor State, which for normal administration of the territory to which the succession of States relates should be at the disposal of the State to which the territory concerned is transferred, shall pass to the successor State;

(b) The part of State archives of the predecessor State, other than the part mentioned in subparagraph (a), that relates exclusively or principally to the territory to which the succession of States relates, shall pass to the successor State.

3. The predecessor State shall provide the successor State with the best available evidence from its State archives which bears upon title to the territory of the transferred territory or its boundaries, or which is necessary to clarify the meaning of documents of State archives of the predecessor State which pass to the successor State pursuant to other provisions of the present article.

4. The predecessor State shall make available to the successor State, at the request and at the expense of that State, appropriate reproductions of its State archives connected with the interests of the transferred territory.

5. The successor State shall make available to the predecessor State, at the request and at the expense of that State, appropriate reproductions of State archives of the predecessor State which have passed to the successor State in accordance with paragraph 1 or 2.

*Article 28. Newly independent State*

1. When the successor State is a newly independent State:

(a) Archives having belonged to the territory to which the succession of States relates and having become State archives of the predecessor State during the period of dependence shall pass to the newly independent State;



(b) The part of State archives of the predecessor State, which for normal administration of the territory to which the succession of States relates should be in that territory, shall pass to the newly independent State;

(c) The part of State archives of the predecessor State, other than the parts mentioned in subparagraphs (a) and (b), that relates exclusively or principally to the territory to which the succession of States relates, shall pass to the newly independent State.

2. The passing or the appropriate reproduction of parts of the State archives of the predecessor State, other than those mentioned in paragraph 1, of interest to the territory to which the succession of States relates, shall be determined by agreement between the predecessor State and the newly independent State in such a manner that each of those States can benefit as widely and equitably as possible from those parts of the State archives of the predecessor State.

3. The predecessor State shall provide the newly independent State with the best available evidence from its State archives which bears upon title to the territory of the newly independent State or its boundaries, or which is necessary to clarify the meaning of documents of State archives of the predecessor State which pass to the newly independent State pursuant to other provisions of the present article.

4. The predecessor State shall co-operate with the successor State in efforts to recover any archives which, having belonged to the territory to which the succession of States relates, were dispersed during the period of dependence.

5. Paragraphs 1 to 4 apply when a newly independent State is formed from two or more dependent territories.

6. Paragraphs 1 to 4 apply when a dependent territory becomes part of the territory of a State other than the State which was responsible for its international relations.

7. Agreements concluded between the predecessor State and the newly independent State in regard to State archives of the predecessor State shall not infringe the right of the peoples of those States to development, to information about their history and to their cultural heritage.

#### *Article 29. Uniting of States*

When two or more States unite and so form one successor State, the State archives of the predecessor States shall pass to the successor State.

#### *Article 30. Separation of part or parts of the territory of a State*

1. When part or parts of the territory of a State separate from that State and form a State, and unless the predecessor State and the successor State otherwise agree:

(a) The part of State archives of the predecessor State, which for normal administration of the territory to which the succession of States relates should be in that territory, shall pass to the successor State;

(b) The part of State archives of the predecessor State, other than the part mentioned in subparagraph (a), that relates directly to the territory to which the succession of States relates, shall pass to the successor State.

2. The predecessor State shall provide the successor State with the best available evidence from its State archives which bears upon title to the territory of the successor State or its boundaries, or which is necessary to clarify the meaning of documents of State archives of the predecessor State which pass to the successor State pursuant to other provisions of the present article.

3. Agreements concluded between the predecessor State and the successor State in regard to State archives of the predecessor State shall not infringe the right of the peoples of those States to development, to information about their history and to their cultural heritage.

4. The predecessor and successor States shall, at the request and at the expense of one of them or on an exchange basis, make available appropriate reproductions of their State archives connected with the interests of their respective territories.

5. The provisions of paragraphs 1 to 4 apply when part of the territory of a State separates from that State and unites with another State.

*Article 31. Dissolution of a State*

1. When a State dissolves and ceases to exist and the parts of the territory of the predecessor State form two or more successor States, and unless the successor States concerned otherwise agree:

(a) The part of the State archives of the predecessor State which should be in the territory of a successor State for normal administration of its territory shall pass to that successor State;

(b) The part of the State archives of the predecessor State, other than the part mentioned in subparagraph (a), that relates directly to the territory of a successor State shall pass to that successor State.

2. The State archives of the predecessor State other than those mentioned in paragraph 1 shall pass to the successor States in an equitable manner, taking into account all relevant circumstances.

3. Each successor State shall provide the other successor State or States with the best available evidence from its part of the State archives of the predecessor State which bears upon title to the territories or boundaries of that other successor State or States, or which is necessary to clarify the meaning of documents of State archives of the predecessor State which pass to that State or States pursuant to other provisions of the present article.

4. Agreements concluded between the successor States concerned in regard to State archives of the predecessor State shall not infringe the right of the peoples of those States to development, to information about their history and to their cultural heritage.

5. Each successor State shall make available to any other successor State, at the request and at the expense of that State or on an exchange basis, appropriate reproductions of its part of the State archives of the predecessor State connected with the interests of the territory of that other successor State.

PART IV. STATE DEBTS

SECTION 1. INTRODUCTION

*Article 32. Scope of the present Part*

The articles in the present Part apply to the effects of a succession of States in respect of State debts.

*Article 33. State debt*

For the purposes of the articles in the present Part, "State debt" means any financial obligation of a predecessor State arising in conformity with international law towards another State, an international organization or any other subject of international law.

*Article 34. Effects of the passing of State debts*

The passing of State debts entails the extinction of the obligations of the predecessor State and the arising of the obligations of the successor State in respect of the State debts which pass to the successor State, subject to the provisions of the articles in the present Part.

*Article 35. Date of the passing of State debts*

Unless otherwise agreed by the States concerned or decided by an appropriate international body, the date of the passing of State debts of the predecessor State is that of the succession of States.

*Article 36. Absence of effect of a succession of States on creditors*

A succession of States does not as such affect the rights and obligations of creditors.

SECTION 2. PROVISIONS CONCERNING SPECIFIC CATEGORIES OF SUCCESSION OF STATES

*Article 37. Transfer of part of the territory of a State*

1. When part of the territory of a State is transferred by that State to another State, the passing of the State debt of the predecessor State to the successor State is to be settled by agreement between them.
2. In the absence of such an agreement, the State debt of the predecessor State shall pass to the successor State in an equitable proportion, taking into account, in particular, the property, rights and interests which pass to the successor State in relation to that State debt.

*Article 38. Newly independent State*

1. When the successor State is a newly independent State, no State debt of the predecessor State shall pass to the newly independent State, unless an agreement between them provides otherwise in view of the link between the State debt of the predecessor State connected with its activity in the territory to which the succession of States relates and the property, rights and interests which pass to the newly independent State.
2. The agreement referred to in paragraph 1 shall not infringe the principle of the permanent sovereignty of every people over its wealth and natural resources, nor shall its implementation endanger the fundamental economic equilibria of the newly independent State.

*Article 39. Uniting of States*

When two or more States unite and so form one successor State, the State debt of the predecessor States shall pass to the successor State.

*Article 40. Separation of part or parts of the territory of a State*

1. When part or parts of the territory of a State separate from that State and form a State, and unless the predecessor State and the successor State otherwise agree, the State debt of the predecessor State shall pass to the successor State in an equitable proportion, taking into account, in particular, the property, rights and interests which pass to the successor State in relation to that State debt.
2. Paragraph 1 applies when part of the territory of a State separates from that State and unites with another State.

*Article 41. Dissolution of a State*

When a State dissolves and ceases to exist and the parts of the territory of the predecessor State form two or more successor States, and unless the successor States otherwise agree, the State debt of the predecessor State shall pass to the successor States in equitable proportions, taking into account, in particular, the property, rights and interests which pass to the successor States in relation to that State debt.

PART V. SETTLEMENT OF DISPUTES

*Article 42. Consultation and negotiation*

If a dispute regarding the interpretation or application of the present Convention arises between two or more Parties to the Convention, they shall, upon the request of any of them, seek to resolve it by a process of consultation and negotiation.

*Article 43. Conciliation*

If the dispute is not resolved within six months of the date on which the request referred to in article 42 has been made, any party to the dispute may submit it to the conciliation procedure

specified in the annex to the present Convention by submitting a request to that effect to the Secretary-General of the United Nations and informing the other party or parties to the dispute of the request.

*Article 44. Judicial settlement and arbitration*

Any State at the time of signature or ratification of the present Convention or accession thereto or at any time thereafter, may, by notification to the depositary, declare that, where a dispute has not been resolved by the application of the procedures referred to in articles 42 and 43, that dispute may be submitted for a decision to the International Court of Justice by a written application of any party to the dispute, or in the alternative to arbitration, provided that the other party to the dispute has made a like declaration.

*Article 45. Settlement by common consent*

Notwithstanding articles 42, 43 and 44, if a dispute regarding the interpretation or application of the present Convention arises between two or more Parties to the Convention, they may by common consent agree to submit it to the International Court of Justice, or to arbitration, or to any other appropriate procedure for the settlement of disputes.

*Article 46. Other provisions in force for the settlement of disputes*

Nothing in articles 42 to 45 shall affect the rights or obligations of the Parties to the present Convention under any provisions in force binding them with regard to the settlement of disputes.

PART VI. FINAL PROVISIONS

*Article 47. Signature*

The present Convention shall be open for signature by all States until 31 December 1983 at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 June 1984, at United Nations Headquarters in New York.

*Article 48. Ratification*

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

*Article 49. Accession*

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

*Article 50. Entry into force*

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the fifteenth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

*Article 51. Authentic texts*

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna this eighth day of April, one thousand nine hundred and eighty-three.

## ANNEX

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a Party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article 43, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint:

(a) one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and

(b) one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within sixty days following the date of the appointment of the last of them, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointment of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Party to the present Convention to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

### (b) RESOLUTIONS ADOPTED BY THE CONFERENCE

#### *Resolution concerning peoples struggling against colonialism, alien domination, alien occupation, racial discrimination and apartheid*

*The United Nations Conference on Succession of States in Respect of State Property, Archives and Debts,*

*Recalling* the principles of international law, and in particular the principle of equal rights and self-determination of peoples embodied in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

*Emphasizing* that the present Convention applies exclusively to the effects of a succession of States arising in accordance with international law and, more particularly, with the principles of international law embodied in the Charter of the United Nations,

1. *Recognizes* that the provisions of this Convention may not in any circumstances impair the exercise of the lawful right to self-determination and independence, in accordance with the Purposes and Principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, for peoples struggling against colonialism, alien domination, alien occupation, racial discrimination and *apartheid*;

2. *Recognizes* also that the peoples in question possess permanent sovereignty over their resources and natural wealth and their rights to development, information concerning their history and to the conservation of their cultural heritage;

3. *Declares* that the implementation of the Vienna Convention on Succession of States in Respect of State Property, Archives and Debts by States acceding to independence subsequent to its adoption will be facilitated by the observance of the principle and the rights mentioned in paragraph 2 by administering Powers and other States.

#### *Resolution concerning Namibia*

*The United Nations Conference on Succession of States in Respect of State Property, Archives and Debts,*

*Taking into account* United Nations General Assembly resolution 2145 (XXI) of 27 October 1966, by which the General Assembly decided to terminate the Mandate of South Africa over Namibia and by which the United Nations assumed direct responsibility for the Territory until independence, and General Assembly resolution 2248 (S-V) of 19 May 1967, by which the United Nations Council for Namibia was established and entrusted with the responsibility of administering the Territory until independence,

*Recalling* the advisory opinion of the International Court of Justice of 21 June 1971 which declared that, the continued presence of South Africa in Namibia being illegal, South Africa is under obligation to withdraw its administration from the Territory and thus put an end to its illegal occupation of the Territory,

*Further recalling* the relevant resolutions of the United Nations, in particular Security Council resolutions 385 (1976) which reaffirmed the territorial integrity and unity of Namibia and 432 (1978) which took note of paragraph 7 of General Assembly resolution 32/9 D (1977) declaring that Walvis Bay is an integral part of Namibia,

1. *Resolves* that the relevant articles of the Vienna Convention on Succession of States in Respect of State Property, Archives and Debts shall be interpreted, in the case of Namibia, in conformity with United Nations resolutions on the question of Namibia;

2. *Resolves* that, in consequence, all the rights of the future independent State of Namibia should be reserved.<sup>2</sup>

#### NOTES

<sup>1</sup> The text of the Convention appeared in document A/CONF.117/14. The Convention has not yet entered into force.

<sup>2</sup> The Conference adopted four additional resolutions which are not reproduced here. See A/CONF.117/15, annex, Final Act of the Conference.