



**UNIVERSITY OF OSLO, FACULTY OF LAW
NORWEGIAN CENTRE FOR HUMAN RIGHTS**

**INTRODUCTION TO PUBLIC INTERNATIONAL LAW
FROM A HUMAN RIGHTS PERSPECTIVE
Exercise #1-A: The Case of Sealand**

Review the information provided in the following pages regarding the Principality of Sealand.

Consider that the United Nations General Assembly requested an advisory opinion on the matter from the International Court of Justice. Both the United Kingdom and Sealand were allowed to address the court.

Group 1 will represent the United Kingdom in arguing that Sealand is part of the United Kingdom and subject to its jurisdiction. Group 2 will represent Sealand in arguing that it is a sovereign state.



Picture of the entire Principality of Sealand



Map of Sealand's Location



Sealand Stamps



Sealand Coins



Marriage Certificate



Certificate of Naturalization



History of Sealand

During World War II, the United Kingdom decided to establish a number of military bases, the purpose of which was to defend England against German air raids. These sea forts housed enough troops to man and maintain artillery designed to shoot down German aircraft and missiles. They were situated along the east coast of England on the edge of the English territorial waters.

One of these bases, consisting of concrete and steel construction, was the famous royal fort Roughs Tower situated slightly north of the estuary region of the Thames River. In contrast to the original plan to locate the tower within the sovereign territory of England, this fortress was situated at a distance of approximately 7 nautical miles from the coast, which is more than double the then applicable 3-mile range of territorial waters; to put it briefly, this island was situated in the international waters of the North Sea.

After WWII ended, the troops were withdrawn from all bases by the British Admiralty. None of them was ever used by the United Kingdom again, leaving the forts deserted and abandoned. Except for the aforementioned fortress, the bases were subsequently pulled down. This resulted in the portentous uniqueness of the fortress. Fort Roughs Tower, situated at the high seas, had been deserted and abandoned, *res derelicta* and *terra nullius*. From a legal point of view, it therefore constituted extra-national territory.

The Birth of Sealand

This paved the way for occupation. On 2 September 1967, former English major Paddy Roy Bates formally occupied the island and settled there with his family. After intensive discussions with skillful English lawyers, Roy Bates proclaimed the island his own state. Claiming *jus gentium*, he bestowed upon himself the title of Prince and the title of Princess to his wife and subsequently made the state the Principality of Sealand. Roy Bates, henceforth Roy of Sealand, exerted state authority on the island and thus was an absolute sovereign. The royal family and other persons that have declared loyalty to Sealand have occupied Sealand ever since.

Initial Challenge to Sealand's Sovereignty

By late 1968, the British navy had become aware of the new situation off the coast of England. They were interested in terminating the state of affairs brought about by an error committed by the most senior military authorities without causing too much uproar.

Units of the navy entered the territorial waters claimed by Roy of Sealand. As he was aware of his sovereignty, Roy of Sealand threatened the navy by undertaking defensive activity. Shots were fired from Sealand in warning. Since Roy of Sealand was still an English citizen, he was thus accused of extensive crimes in Britain and was summoned to an English court. The result of this lawsuit in Chelmsford, Essex was a spectacular success for Sealand's claim to sovereignty. In its judgment of 25 November 1968, the court declared that it was not competent in Roy of Sealand's case as it could not exert any jurisdiction outside of British national territory. This is the first *de facto* recognition of the Principality of Sealand. English law had ruled that Sealand was not part of the United Kingdom, nor did any other nation claim it, hence Prince Roy's declaration of a new Sovereign State was *de facto* upheld.

Building a New Nation

Seven years later on 25 September 1975, Roy of Sealand proclaimed the Constitution of the Principality. Over time, other national treasures were developed, such as the flag of the Principality of Sealand, its national anthem, stamps, as well as gold and silver coins launched as Sealand Dollars. Finally, passports of the Principality of Sealand were issued to those who had helped Sealand in some way, though they were never for sale.

Sealand Fights Off Invaders (and Wins a War)

In August of 1978, a number of Dutch men came to Sealand in the employ of a German businessman. They were there to discuss business dealings with Sealand. While Roy was away in Britain, these men kidnapped Prince Roy's son Michael, and took Sealand by force. Soon after, Roy recaptured the island with a group of his own men and held the attackers as prisoners of war.

During the time that he held the prisoners, the Governments of the Netherlands and Germany petitioned for their release. First they asked England to intervene in the matter, but the British government cited their earlier court decision as evidence that they made no claim to the territory of Sealand. Then, in an act of de facto recognition of Sealand's sovereignty, Germany sent a diplomat directly to Sealand to negotiate for the release of their citizen. Roy first released the Dutch citizens, as the war was over, and the Geneva Convention requires the release of all prisoners. The German was held longer, as he had accepted a Sealand Passport, and therefore was guilty of treason. Prince Roy, who was grateful that the incident had not resulted in a loss of life, and did not want to bloody the reputation of Sealand, eventually released him as well.

Extension of Territorial Waters

On 1 October, 1987, Britain extended its territorial waters from 3 to 12 nautical miles. The previous day, Prince Roy declared the extension of Sealand's territorial waters to be a like 12 nautical miles, so that right of way from the open sea to Sealand would not be blocked by British claimed waters. No treaty has been signed between Britain and Sealand to divide up the overlapping areas, but a general policy of dividing the area between the two countries down the middle can be assumed. International law does not allow the claim of new land during the extension of sea rights, so Sealand's sovereignty was safely "grandfathered" in. Britain has no more right to Sealand's territory than Sealand has to the territory of the British coastline that falls within its claimed 12 nautical mile arc.

Some nations might have tried to use this as an excuse to try to claim all of the territory of the weaker and not well recognized nation regardless of international law, however, this has not been the case. Britain has made no attempt to take Sealand, and the British government still treats it as an independent State. Prince Roy continues to pay no British National Insurance during the time he resides on Sealand subsequent to a ruling by the British Department of Health and Social Security's solicitor's branch. Also, there was another fire arms incident in 1990 when a ship strayed too near Sealand and warning shots were again fired. The ship's crew made complaints to British authorities and a newspaper article ran detailing the incident. Yet despite Britain's severe prohibition of firearms, British authorities have never pursued the matter. This is a clear indication that Britain's Home Office still considers Sealand to be outside their zone of control.

Fake Sealand Passports

In 1997, forged Sealand passports started tuning up around the world. Some of these were used to open bank accounts under false names in various countries. Since few people have ever seen a legitimate Sealand passport (less than 300 exist today) it was difficult for these to be easily detected as forgeries. The source of these forgeries was traced back to the same German man who was involved in the earlier attempt to take Sealand by force. Dubbing himself Minister of Finance, he had created a fake Sealand Business Foundation and boasts that he has sold over 150 000 fake Sealand Passports to all comers. Thus there are now unfortunately 500 times more forged Sealand Passports in circulation than real ones. Many of the forged passports were apparently sold to people leaving Hong Kong at the time of Chinese reoccupation for USD 1 000 each.

Current Views of the Principality of Sealand

The current government of the Principality of Sealand considers itself to be sovereign, and to have been recognized de facto as such on the basis of the aforementioned statements by multiple world governments. It states the following:

"The Principality of Sealand recognizes jus gentium and has undertaken to regulate any activity with a view to compliance with jus gentium and international law or to have it regulated."

The existence of the Principality as an independent State and the de facto recognition of its sovereignty has been demonstrated time and time again over the last three decades by European and other States and in particular by its nearest neighbour, the United Kingdom. Britain has stated clearly and has demonstrated on a number of occasions either that it has no jurisdiction within Principality territorial limits or that it has no interest in events that have taken place within the Principality.

Moreover, a number of independent legal experts have weighed carefully all arguments for and against Sealand sovereignty and unanimously have agreed that jus gentium applies as a basic principle underpinning the independence of the Principality. This position is further supported by de facto events which demonstrate that reality. On many occasions, other States have either left Sealand alone to deal internationally with matters critical to its National interest, or have recognised Sealand as the legal and administrative authority over all activities within its territorial limits.

Even today, the United Kingdom government recognises, inter alia, residency or work in Sealand as an overseas activity.

The Internet Comes to Sealand

Whilst Sealand has been the pride and joy of Prince Roy and his family for well over 30 years, his recent poor health has caused him fundamentally to review the arrangements which have been in place for decades and to look to the future of his Principality. Consequently, his son Prince Michael was appointed Prince Regent as Sovereign pro tempore by Royal Decree in 1999.

Since that time, the Royal Family has struck a deal with HavenCo Limited, and that company now leases exclusively its offices and operations centres in Sealand, where it offers, and is able to offer, unparalleled security and independence to users who wish to take advantage of its Internet colocation services.

The presence of an active and rapidly growing high-tech internet industry in Sealand has changed the character of the Principality; once more, Sealand rings with the sound of voices, boasts regular support ferry services, and is host to a growing and dynamic population.

Because of the high security required to support HavenCo's operations, access to Sealand remains highly restricted and no public visits are allowed. Further information or specific queries may be addressed to the Bureau of Internal Affairs (burint@sealandgov.org) at SEALAND 1001, Sealand Post Bag, IP11 9SZ, UK.

Additional Facts about Sealand (source: Wikipedia)

History

In 1942, during World War II, HM Fort Roughs was constructed by the UK as one of the Maunsell Sea Forts. It comprised a floating pontoon base with a superstructure of two hollow towers joined by a deck upon which other structures could be added. The fort was towed to a position above Rough Sands sandbar where its base was intentionally flooded so that it sank to a resting place on the sandbar. The location chosen was in international waters, outside the then three-mile territorial water claim of the United Kingdom.

The facility (termed Roughs Tower) was occupied by 150–300 Royal Navy personnel throughout World War II; post-war it was not until 1956 that the last full-time personnel were taken off HM Fort Roughs and marking of its position as a shipping hazard was left to Trinity House [a chartered organization in the UK that tends lighthouses and shipping lanes]. On September 2, 1967, the fort was occupied by Major Paddy Roy Bates, a British subject and pirate radio broadcaster, who ejected a competing group of pirate broadcasters and claimed sovereignty on the basis of his interpretation of international law.

In 1968, Roy's son Michael Bates was summoned to court as a result of an incident during which shots were fired at a British navy vessel [or by Trinity House] in the vicinity of Sealand. According to some reports the vessel's occupants were intending to evict the Bates family from the fortress, while others state that they were simply attempting to repair a nearby navigation buoy. In delivering its decision on November 25, 1968, the court, in Chelmsford, Essex, stated that because the incident occurred outside British territorial waters, the court possessed no jurisdiction. Bates cited this case as evidence of de facto sovereignty.

In 1978, while Bates was away, the "Prime Minister" of Sealand, Alexander G. Achenbach, and several German and Dutch citizens, staged a forcible takeover of Roughs Tower, holding Bates' son Michael captive, before releasing him several days later in the Netherlands.

Bates thereupon enlisted armed assistance and, in a helicopter assault, retook the fortress. He then held the invaders captive, claiming them as prisoners of war. Most participants in the invasion were repatriated at the cessation of the "war", but Gernot Pütz, a German lawyer who held a Sealand passport, was charged with treason against Sealand and was held unless he paid DM 75,000 (more than £18,000). The governments of the Netherlands and Germany petitioned the British government for his release, but the United Kingdom disavowed all responsibility, citing the 1968 court decision. Germany then sent a diplomat from its London embassy to Roughs Tower to negotiate for Pütz's release, and after several weeks Roy Bates relented, subsequently claiming that the diplomat's visit constituted de facto recognition of Sealand by Germany.

Following his repatriation, Achenbach established an "exile government" in Germany, in opposition to Roy Bates, assuming the name "Chairman of the Privy Council". Upon Achenbach's resignation for health reasons in August 1989, the rebel government's "Minister for Economic Co-operation", Johannes Seiger, assumed control, with the position of "Prime Minister and Chairman of the Privy Council". Seiger continues to claim that he is Sealand's legitimate ruling authority.

Sealand claims the waters surrounding Roughs Tower to the extent of twelve nautical miles,[1] and it has claimed to have physically defended this claim on at least one occasion: in an incident in 1990, the Royal Maritime Auxiliary vessel Golden Eye was fired upon from Sealand.

For a period, Sealand passports were mass-manufactured and sold widely (mostly to Eastern Europeans) by a Spanish-based group believed to be associated with the exile government under Seiger.[citation needed] These passports, which were not authorized by the Bates family, were linked to several high-profile crimes, including the murder of Gianni Versace.[citation needed] Due to the massive quantity of illegal passports in circulation (estimated at 150,000), in 1997 the Bates family revoked all Sealand passports, including those that they themselves had issued in the previous thirty years.

In 1987 the UK expanded its territorial waters by 9 nautical miles. This encompassed the Rough Sands area. In 1990-1991 the UK submitted evidence in a US Administrative Court Case [citation needed], the ruling for which included a statement to the effect that no independent "Principality of Sealand" had ever existed. This case was not challenged by the Bates family, who assert that U.S. courts have no jurisdiction in determining the legitimacy of other states.

Additional Legal Sources

In 1978 a German court ruled that Sealand was not a valid nation: "A man-made artificial platform, such as the so-called Duchy of Sealand, cannot be called either 'a part of the earth's surface' or 'land territory' and only structures which make use of a specific piece of the earth's surface can be recognised as State territory within the meaning of international law." (In re Duchy of Sealand (1978) 80 ILR 683, 685 (Administrative Court of Cologne))

In 1990 a US Administrative Court also ruled that Sealand was not a valid sovereign nation, following evidence from James Murphy of the Department of Trade and Industry. On appeal in 1991 the decision that the state called Sealand does not exist, and has not ever existed was upheld by a US Federal Court.

According to the 1982 United Nations Convention on the Law of the Sea, there is no transitional law and no possibility to consent to the existence of a construction which was previously approved or built by a neighbouring state. This means that artificial islands may no longer be constructed and then claimed as sovereign states, or as state territories, for the purposes of extension of an exclusive economic zone or of territorial waters. However, since Roughs Tower is not an artificial island but a sunken ship, it would be necessary for Her Majesty's Crown Estate (which owns the land itself under the tower) to act as the complainant landlord in order to get the wreck removed from its property. If Sealand is a sunken ship rather than an artificial island then no claim to statehood can be made, as a ship cannot constitute the "permanent" territory required for statehood to be established. What is more, military ships and aircraft are the property of the State that commissioned them.

The European Community Opinions of the Badinter Arbitration Committee found that a state was defined by having a territory, a population, and a political authority. The committee also found that the existence and disappearance of states was a question of fact, while the recognition by other states was purely declaratory.

MONTEVIDEO CONVENTION ON RIGHTS AND DUTIES OF STATES (1933)

ARTICLE 1

The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.

ARTICLE 2

The federal state shall constitute a sole person in the eyes of international law.

ARTICLE 3

The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts.

The exercise of these rights has no other limitation than the exercise of the rights of other states according to international law.

ARTICLE 4

States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law.

ARTICLE 5

The fundamental rights of states are not susceptible of being affected in any manner whatsoever.

ARTICLE 6

The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable.

ARTICLE 7

The recognition of a state may be express or tacit. The latter results from any act which implies the intention of recognizing the new state.

ARTICLE 8

No state has the right to intervene in the internal or external affairs of another.

ARTICLE 9

The jurisdiction of states within the limits of national territory applies to all the inhabitants.

Nationals and foreigners are under the same protection of the law and the national authorities and the foreigners may not claim rights other or more extensive than those of the nationals.

ARTICLE 10

The primary interest of states is the conservation of peace. Differences of any nature which arise between them should be settled by recognized pacific methods.

ARTICLE 11

The contracting states definitely establish as the rule of their conduct the precise obligation not to recognize territorial acquisitions or special advantages which have been obtained by force whether this consists in the employment of arms, in threatening diplomatic representations, or in any other effective coercive measure. The territory of a state is inviolable and may not be the object of military occupation nor of other measures of force imposed by another state directly or indirectly or for any motive whatever even temporarily.

ARTICLE 12

The present Convention shall not affect obligations previously entered into by the High Contracting Parties by virtue of international agreements.

ARTICLE 13

The present Convention shall be ratified by the High Contracting Parties in conformity with their respective constitutional procedures. The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification. The instrument of ratification shall be deposited in the archives of the Pan American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

ARTICLE 14

The present Convention will enter into force between the High Contracting Parties in the order in which they deposit their respective ratifications.

ARTICLE 15

The present Convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan American Union, which shall transmit it to the other signatory governments. After the expiration of this period the Convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining High Contracting Parties.

ARTICLE 16

The present Convention shall be open for the adherence and accession of the States which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan American Union which shall communicate them to the other High Contracting Parties.

In witness whereof, the following Plenipotentiaries have signed this Convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this 26th day of December, 1933.



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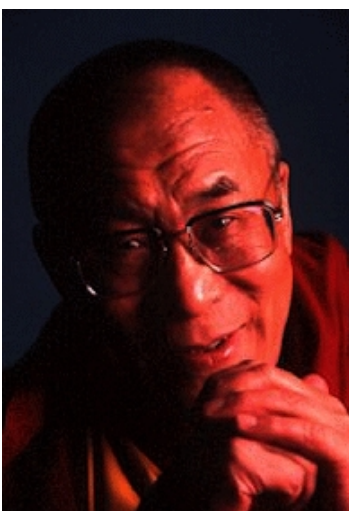
INTRODUCTION TO PUBLIC INTERNATIONAL LAW
FROM A HUMAN RIGHTS PERSPECTIVE

Exercise #1-B: The Case of Tibet

Review the information provided in the following pages regarding the region of Asia commonly known as Tibet.

Consider that the United Nations General Assembly requested an advisory opinion on the matter from the International Court of Justice. Both the China and Tibet were allowed to address the court.

Group 3 will represent China in arguing that Tibet is part of China. Group 4 will represent Tibet in arguing that it is a sovereign state.



The Seventeen-point Agreement



Flag of Tibet



Facts of the Case:

During the middle ages Tibet was unquestionably an independent region which waged victorious wars against Mongul and Chinese opponents. In 1913, the 13th Dalai Lama signed a proclamation stating the relationship between Tibet and China did not imply “subordination of one to the other.” He condemned the Chinese authorities for attempting to colonize Tibetan territory in 1910-12, stating “we are a small, religious, and independent nation.” The International Commission of Jurists, a non-governmental international law organization, has concluded that Tibet in 1913-50 demonstrated the conditions of statehood as generally accepted under international law. In the opinion of the commission, the government of Tibet conducted its own domestic and foreign affairs free from any outside authority and countries with whom Tibet had foreign relations are shown by official documents to have treated Tibet in practice as an independent State.

On 11 November 1950, following the Chinese military entering the region commonly known as Tibet (the Tibetan Autonomous Region in China), Tibet protested to the United Nations with a communication to the Secretary General. The matter was raised in the General Assembly by El Salvador, but tabled without action due to the assertion by India that the matter could be amicably resolved to the mutual satisfaction of China, Tibet, and India. The Chinese army continued its military advance into Tibet.

The 14th Dalai Lama, the sixteen-year-old leader of the country, then sent a delegation to Peking to work out a peace agreement. He appointed Kalon Ngapo Ngawang Jigme as head of the delegation with instructions to convince the Chinese authorities of the illegality of their action and to negotiate an agreement in the spirit of Buddhism which would result in an ending of bloodshed.

According to the Dalai Lama, Ngapo was not given full powers to conclude an agreement. The delegation was not given the official government seal of Tibet nor any other plenipotentiary authority to conclude agreements on behalf of Tibet. The delegation was instructed to refer all important matters back to the Dalai Lama. On 21 May 1951, after some months in Peking (and without any communication from them in the meantime), Ngapo and most of his delegation returned to Tibet after having signed the “Seventeen-point Agreement on Measures for the Peaceful Liberation of Tibet” (pictured above). A public signing ceremony was convened and China declared to the world that an agreement had been concluded for the “peaceful liberation of Tibet.” In essence, this agreement gave China complete control over Tibet.

Six days later, the Dalai Lama learned of the agreement through a Radio Beijing broadcast and immediately rejected it as having been concluded without his authority and that Tibet did not accept its terms. The delegates informed the Dalai Lama that there had been two rounds of mutual negotiations in which China presented proposals completely unacceptable to and rejected by the delegation at which time China informed them that the terms were non-negotiable. The delegation was then imprisoned and allegedly tortured until they signed the agreement, stating to China that they signed in their personal capacities as they did not have authority to bind Tibet.

As the Chinese army pressed on to Lhasa, the capital of Tibet, the Dalai Lama himself traveled to Peking and was greeted by the Chinese leader, Mao Tse Tung. During and following his stay in Beijing, the Dalai Lama often discussed the benefits and appeal of a communist system, as well as the everlasting brotherhood of the Chinese and Tibetan peoples. There seemed to have been a period of relative detente without open armed conflict.

By 1959, however, Tibet claimed that the Chinese exertion of authority in Tibet became openly oppressive and ruthless. Low-intensity armed conflict escalated, political unrest ensued, and people were allegedly arrested, tortured, and massacred. The Dalai Lama secretly fled Tibet for exile in India. Since then he has continuously disclaimed the legitimacy of the Seventeen-point Agreement as well as the legitimacy of the Chinese “occupation” of Tibet (based on various historical events as well). The Chinese government continues to claim the legitimacy of the document (and other documents and historical evidence) as the basis for its authority in Tibet as an integral part of the government of China.

The United Nations General Assembly has passed resolutions urging respect for the rights of Tibetans in 1959, 1961 and 1965. The 1961 resolution, in the opinion of the Tibetan Government-in-exile, asserts that “principle of self-determination of peoples and nations” applies to the Tibetan people.

THE VIENNA CONVENTION ON THE LAW OF TREATIES (1980)

The States Parties to the present Convention,

Considering the fundamental role of treaties in the history of international relations,

Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations, whatever their constitutional and social systems,

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

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

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,

Believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote the purposes of the United Nations set forth in the Charter, namely, the maintenance of international peace and security, the development of friendly relations and the achievement of co-operation among nations,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

PART I

INTRODUCTION

Article 1

Scope of the present Convention

The present Convention applies to treaties between States.

Article 2

Use of terms

1. For the purposes of the present Convention:

- a. "treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation;
- b. "ratification", "acceptance", "approval" and "accession" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;
- c. "full powers" means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;

d. "reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;

e. "negotiating State" means a State which took part in the drawing up and adoption of the text of the treaty;

f. "contracting State" means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;

g. "party" means a State which has consented to be bound by the treaty and for which the treaty is in force;

h. "third State" means a State not a party to the treaty;

i. "international organization" means an intergovernmental organization.

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

International agreements not within the scope of the present Convention

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

a. The legal force of such agreements;

b. The application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;

c. The application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

Article 4

Non-retroactivity of the present Convention

Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

Article 5

Treaties constituting international organizations and treaties adopted within an international organization

The present Convention applies to any treaty which is the constituent instrument of an international organization and to any treaty adopted within an international organization without prejudice to any relevant rules of the organization.

PART II

CONCLUSION AND ENTRY INTO FORCE OF TREATIES

SECTION 1. CONCLUSION OF TREATIES

Article 6

Capacity of States to conclude treaties

Every State possesses capacity to conclude treaties.

Article 7

Full powers

1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the Consent of the State to be bound by a treaty if:

a. He produces appropriate full powers; or

b. It appears from the practice of the States concerned or from other circumstances that their intention was to consider that person as representing the State for such purposes and to dispense with full powers.

2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State:

a. Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;

b. Heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited;

c. Representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of adopting the text of a treaty in that conference, organization or organ.

Article 8

Subsequent confirmation of an act performed without authorization

An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 7 as authorized to represent a State for that purpose is without legal effect unless afterwards confirmed by that State.

Article 9

Adoption of the text

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.

2. The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

Article 10

Authentication of the text

The text of a treaty is established as authentic and definitive:

a. By such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or

b. Failing such procedure, by the signature, signature ad referendum or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

Article 11

Means of expressing consent to be bound by a treaty

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

Article 12

Consent to be bound by a treaty expressed by signature

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:
 - a. The treaty provides that signature shall have that effect;
 - b. It is otherwise established that the negotiating States were agreed that signature should have that effect; or
 - c. The intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.
2. For the purposes of paragraph 1:
 - a. The initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;
 - b. The signature ad referendum of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13

Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:

- a. The instruments provide that their exchange shall have that effect; or
- b. It is otherwise established that those States were agreed that the exchange of instruments should have that effect

Article 14

Consent to be bound by a treaty expressed by ratification, acceptance or approval

1. The consent of a State to be bound by a treaty is expressed by ratification when:
 - a. The treaty provides for such consent to be expressed by means of ratification;
 - b. It is otherwise established that the negotiating States were agreed that ratification should be required;
 - c. The representative of the State has signed the treaty subject to ratification; or
 - d. The intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.
2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15

Consent to be bound by a treaty expressed by accession

The consent of a State to be bound by a treaty is expressed by accession when:

- a. The treaty provides that such consent may be expressed by that State by means of accession;

b. It is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or

c. All the parties have subsequently agreed that such consent may be expressed by that State by means of accession.
Article 16

Exchange or deposit of instruments of ratification, acceptance, approval or accession

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

- a. Their exchange between the contracting States;
- b. Their deposit with the depositary; or
- c. Their notification to the contracting States or to the depositary, if so agreed.

Article 17

Consent to be bound by part of a treaty and choice of differing provisions

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.
2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made clear to which of the provisions the consent relates.

Article 18

Obligation not to defeat the object and purpose of a treaty prior to its entry into force

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

- a. It has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or
- b. It has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

SECTION 2. RESERVATIONS

Article 19

Formulation of reservations

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

- a. The reservation is prohibited by the treaty;
- b. The treaty provides that only specified reservations, which do not include the reservation in question, may be made; or
- c. In cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20

Acceptance of and objection to reservations

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.
2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.
3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.
4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:
 - a. Acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;
 - b. An objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;
 - c. An act expressing a State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.
5. For the purposes of paragraphs 2 and 4 and unless the treaty otherwise provides, a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

Article 21

Legal effects of reservations and of objections to reservations

1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:
 - a. Modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and
 - b. Modifies those provisions to the same extent for that other party in its relations with the reserving State.
2. The reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.
3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

Article 22

Withdrawal of reservations and of objections to reservations

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.
2. Unless the treaty otherwise provides, an objection to a reservation may be withdrawn at any time.
3. Unless the treaty otherwise provides, or it is otherwise agreed:
 - a. The withdrawal of a reservation becomes operative in relation to another contracting State only when notice of it has been received by that State;

b. The withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the reservation.

Article 23

Procedure regarding reservations

1. A reservation, an express acceptance of a reservation and an objection to a reservation must be formulated in writing and communicated to the contracting States and other States entitled to become parties to the treaty.
2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.
3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.
4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

SECTION 3. ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24

Entry into force

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.
2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.
3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.
4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25

Provisional application

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:
 - a. The treaty itself so provides; or
 - b. The negotiating States have in some other manner so agreed.
2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

PART III

OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

SECTION 1. OBSERVANCE OF TREATIES

Article 26

Pacta sunt servanda

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27

Internal law and observance of treaties

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

SECTION 2. APPLICATION OF TREATIES

Article 28

Non-retroactivity of treaties

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29

Territorial scope of treaties

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30

Application of successive treaties relating to the same subject-matter

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.
2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.
3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the latter treaty.
4. When the parties to the later treaty do not include all the parties to the earlier one:
 - a. As between States parties to both treaties the same rule applies as in paragraph 3;
 - b. As between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.
5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty, the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 3. INTERPRETATION OF TREATIES

Article 31

General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
 - a. Any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;
 - b. Any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
 - a. Any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
 - b. Any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
 - c. Any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32

Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- a. Leaves the meaning ambiguous or obscure; or
- b. Leads to a result which is manifestly absurd or unreasonable.

Article 33

Interpretation of treaties authenticated in two or more languages

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.
2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.
3. The terms of the treaty are presumed to have the same meaning in each authentic text.
4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authentic texts discloses a difference of meaning which the application of articles 31 and 32 does not remove, the meaning which best reconciles the texts, having regard to the object and purpose of the treaty, shall be adopted.

SECTION 4. TREATIES AND THIRD STATES

Article 34

General rule regarding third States

A treaty does not create either obligations or rights for a third State without its consent.

Article 35

Treaties providing for obligations for third States

An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the means of establishing the obligation and the third State expressly accepts that obligation in writing.

Article 36

Treaties providing for rights for third States

1. A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.
2. A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

Article 37

Revocation or modification of obligations or rights of third States

1. When an obligation has arisen for a third State in conformity with article 35, the obligation may be revoked or modified only with the consent of the parties to the treaty and of the third State, unless it is established that they had otherwise agreed.
2. When a right has arisen for a third State in conformity with article 36, the right may not be revoked or modified by the parties if it is established that the right was intended not to be revocable or subject to modification without the consent of the third State.

Article 38

Rules in a treaty becoming binding on third States through international custom

Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such.

PART IV

AMENDMENT AND MODIFICATION OF TREATIES

Article 39

General rule regarding the amendment of treaties

A treaty may be amended by agreement between the parties. The rules laid down in Part II apply to such an agreement except in so far as the treaty may otherwise provide.

Article 40

Amendment of multilateral treaties

1. Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.
2. Any proposal to amend a multilateral treaty as between all the parties must be notified to all the contracting States, each one of which shall have the right to take part in:
 - a. The decision as to the action to be taken in regard to such proposal;
 - b. The negotiation and conclusion of any agreement for the amendment of the treaty.
3. Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.
4. The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; article 30, paragraph 4(b), applies in relation to such State.
5. Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State:
 - a. Be considered as a party to the treaty as amended; and
 - b. Be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.

Article 41

Agreements to modify multilateral treaties between certain of the parties only

1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:
 - a. The possibility of such a modification is provided for by the treaty; or
 - b. The modification in question is not prohibited by the treaty and:
 - i. Does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
 - ii. Does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.
2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

PART V

INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

SECTION 1. GENERAL PROVISIONS

Article 42

Validity and continuance in force of treaties

1. The validity of a treaty or of the consent of a State to be bound by a treaty may be impeached only through the application of the present Convention.

2. The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

Article 43

Obligations imposed by international law independently of a treaty

The invalidity, termination or denunciation of a treaty, the withdrawal of a party from it, or the suspension of its operation, as a result of the application of the present Convention or of the provisions of the treaty, shall not in any way impair the duty of any State to fulfil any obligation embodied in the treaty to which it would be subject under international law independently of the treaty.

Article 44

Separability of treaty provisions

1. A right of a party, provided for in a treaty or arising under article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.

2. A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognized in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in article 60.

3. If the ground relates solely to particular clauses, it may be invoked only with respect to those clauses where:

a. The said clauses are separable from the remainder of the treaty with regard to their application;

b. It appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and

c. Continued performance of the remainder of the treaty would not be unjust.

4. In cases falling under articles 49 and 50 the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to paragraph 3, to the particular clauses alone.

5. In cases falling under articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

Article 45

Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty

A State may no longer invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty under articles 46 to 50 or articles 60 and 62 if, after becoming aware of the facts:

a. It shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or

b. It must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

SECTION 2. INVALIDITY OF TREATIES

Article 46

Provisions of internal law regarding competence to conclude treaties

1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.

2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

Article 47

Specific restrictions on authority to express the consent of a State

If the authority of a representative to express the consent of a State to be bound by a particular treaty has been made subject to a specific restriction, his omission to observe that restriction may not be invoked as invalidating the consent expressed by him unless the restriction was notified to the other negotiating States prior to his expressing such consent.

Article 48

Error

1. A State may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that State to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.

2. Paragraph 1 shall not apply if the State in question contributed by its own conduct to the error or if the circumstances were such as to put that State on notice of a possible error.

3. An error relating only to the wording of the text of a treaty does not affect its validity; article 79 then applies.

Article 49

Fraud

If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty.

Article 50

Corruption of a representative of a State

If the expression of a State's consent to be bound by a treaty has been procured through the corruption of its representative directly or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

Article 51

Coercion of a representative of a State

The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.

Article 52

Coercion of a State by the threat or use of force

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of

international law embodied in the Charter of the United Nations.

Article 53

Treaties conflicting with a peremptory norm of general international law "jus cogens"

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

SECTION 3. TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

Article 54

Termination of or withdrawal from a treaty under its provisions or by consent of the parties

The termination of a treaty or the withdrawal of a party may take place:

- a. In conformity with the provisions of the treaty; or
- b. At any time by consent of all the parties after consultation with the other contracting States.

Article 55

Reduction of the parties to a multilateral treaty below the number necessary for its entry into force

Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.

Article 56

Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal

1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

- a. It is established that the parties intended to admit the possibility of denunciation or withdrawal; or
- b. A right of denunciation or withdrawal may be implied by the nature of the treaty.

2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1.

Article 57

Suspension of the operation of a treaty under its provisions or by consent of the parties

The operation of a treaty in regard to all the parties or to a particular party may be suspended:

- a. In conformity with the provisions of the treaty; or
- b. At any time by consent of all the parties after consultation with the other contracting States.

Article 58

Suspension of the operation of a multilateral treaty by agreement between certain of the parties only

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

a. The possibility of such a suspension is provided for by the treaty; or

b. The suspension in question is not prohibited by the treaty and:

i. Does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

ii. Is not incompatible with the object and purpose of the treaty.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59

Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:

a. It appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or

b. The provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.

2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60

Termination or suspension of the operation of a treaty as a consequence of its breach

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

a. The other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:

i. In the relations between themselves and the defaulting State, or

ii. As between all the parties;

b. A party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;

c. Any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of this article, consists in:

- a. A repudiation of the treaty not sanctioned by the present Convention; or
 - b. The violation of a provision essential to the accomplishment of the object or purpose of the treaty.
4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.
5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61

Supervening impossibility of performance

1. A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.
2. Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

Article 62

Fundamental change of circumstances

1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:
 - a. The existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and
 - b. The effect of the change is radically to transform the extent of obligations still to be performed under the treaty.
2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:
 - a. If the treaty establishes a boundary; or
 - b. If the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.
3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

Article 63

Severance of diplomatic or consular relations

The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except in so far as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

Article 64

Emergence of a new peremptory norm of general international law "jus cogens"

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

SECTION 4. PROCEDURE

Article 65

Procedure to be followed with respect to invalidity, termination, withdrawal from or suspension of the operation of a treaty

1. A party which, under the provisions of the present Convention, invokes either a defect in its consent to be bound by a treaty or a ground for impeaching the validity of a treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of its claim. The notification shall indicate the measure proposed to be taken with respect to the treaty and the reasons therefor.
2. If, after the expiry of a period which, except in cases of special urgency, shall not be less than three months after the receipt of the notification, no party has raised any objection, the party making the notification may carry out in the manner provided in article 67 the measure which it has proposed.
3. If, however, objection has been raised by any other party, the parties shall seek a solution through the means indicated in article 33 of the Charter of the United Nations.
4. Nothing in the foregoing paragraphs shall affect the rights or obligations of the parties under any provisions in force binding the parties with regard to the settlement of disputes.
5. Without prejudice to article 45, the fact that a State has not previously made the notification prescribed in paragraph 1 shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

Article 66

Procedures for judicial settlement, arbitration and conciliation

If, under paragraph 3 of article 65, no solution has been reached within a period of twelve months following the date on which the objection was raised, the following procedures shall be followed:

- a. Any one of the parties to a dispute concerning the application or the interpretation of articles 53 or 64 may, by a written application, submit it to the International Court of Justice for a decision unless the parties by common consent agree to submit the dispute to arbitration;
- b. Any one of the parties to a dispute concerning the application or the interpretation of any of the other articles in Part V of the present Convention may set in motion the procedure specified in the Annex to the Convention by submitting a request to that effect to the Secretary-General of the United Nations.

Article 67

Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty

1. The notification provided for under article 65 paragraph 1 must be made in writing.
2. Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign

Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68

Revocation of notifications and instruments provided for in articles 65 and 67 A notification or instrument provided for in article 65 or 67 may be revoked at any time before it takes effect.

SECTION 5. CONSEQUENCES OF THE INVALIDITY, TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY

Article 69

Consequences of the invalidity of a treaty

1. A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.
2. If acts have nevertheless been performed in reliance on such a treaty:
 - a. Each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed;
 - b. Acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.
3. In cases falling under articles 49, 50, 51 or 52, paragraph 2 does not apply with respect to the party to which the fraud, the act of corruption or the coercion is imputable.
4. In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70

Consequences of the termination of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:
 - a. Releases the parties from any obligation further to perform the treaty;
 - b. Does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.
2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71

Consequences of the invalidity of a treaty which conflicts with a peremptory norm of general international law

1. In the case of a treaty which is void under article 53 the parties shall:
 - a. Eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and
 - b. Bring their mutual relations into conformity with the peremptory norm of general international law.
2. In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:

- a. Releases the parties from any obligation further to perform the treaty;
- b. Does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

Article 72

Consequences of the suspension of the operation of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:

- a. Releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;
- b. Does not otherwise affect the legal relations between the parties established by the treaty.

2. During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

PART VI

MISCELLANEOUS PROVISIONS

Article 73

Cases of State succession, State responsibility and outbreak of hostilities

The provisions of the present Convention shall not prejudice any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

Article 74

Diplomatic and consular relations and the conclusion of treaties

The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States. The conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

Article 75

Case of an aggressor State

The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

PART VII

DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION

Article 76

Depositaries of treaties

1. The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the chief administrative officer of the organization.

2. The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

Article 77

Functions of depositaries

1. The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:

- a. Keeping custody of the original text of the treaty and of any full powers delivered to the depositary;
- b. Preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty;
- c. Receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;
- d. Examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question;
- e. Informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;
- f. Informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;
- g. Registering the treaty with the Secretariat of the United Nations;
- h. Performing the functions specified in other provisions of the present Convention.

2. In the event of any difference appearing between a State and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory States and the contracting States or, where appropriate, of the competent organ of the international organization concerned.

Article 78

Notifications and communications

Except as the treaty or the present Convention otherwise provide, any notification or communication to be made by any State under the present Convention shall:

- a. If there is no depositary, be transmitted direct to the States for which it is intended, or if there is a depositary, to the latter;
- b. Be considered as having been made by the State in question only upon its receipt by the State to which it was transmitted or, as the case may be, upon its receipt by the depositary;
- c. If transmitted to a depositary, be considered as received by the State for which it was intended only when the latter

State has been informed by the depositary in accordance with article 77, paragraph 1 (e).

Article 79

Correction of errors in texts or in certified copies of treaties

1. Where, after the authentication of the text of a treaty, the signatory States and the contracting States are agreed that it contains an error, the error shall, unless they decide upon some other means of correction, be corrected:
 - a. By having the appropriate correction made in the text and causing the correction to be initialled by duly authorized representatives;
 - b. By executing or exchanging an instrument or instruments setting out the correction which it has been agreed to make; or
 - c. By executing a corrected text of the whole treaty by the same procedure as in the case of the original text.
2. Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and the contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection to the proposed correction may be raised. If, on the expiry of the time-limit:
 - a. No objection has been raised, the depositary shall make and initial the correction in the text and shall execute a *procès-verbal* of the rectification of the text and communicate a copy of it to the parties and to the States entitled to become parties to the treaty;
 - b. An objection has been raised, the depositary shall communicate the objection to the signatory States and to the contracting States.
3. The rules in paragraphs 1 and 2 apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory States and the contracting States agree should be corrected.
4. The corrected text replaces the defective text *ab initio*, unless the signatory States and the contracting States otherwise decide.
5. The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.
6. Where an error is discovered in a certified copy of a treaty, the depositary shall execute a *procès-verbal* specifying the rectification and communicate a copy of it to the signatory States and to the contracting States.

Article 80

Registration and publication of treaties

1. Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.
2. The designation of a depositary shall constitute authorization for it to perform the acts specified in the preceding paragraph.

PART VIII

FINAL PROVISIONS

Article 81

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 April 1970, at United Nations Headquarters, New York.

Article 82

Ratification

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

Article 83

Accession

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 81. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 84

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth 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 85

Authentic texts

The original of the present Convention, of which the 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 twenty-third day of May, one thousand nine hundred and sixty-nine. . . .

GROUPS FOR ASSIGNMENT #1

Group #1

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