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ถาคพนวท ก.

Treaty
between the Federal Republic of Germany
and the German Democratic Republic
on the Establishment of German Unity

- Unification Treaty -

The Federal Republic of Germany and the German Democratic Republic,

Resolved to achieve in free self-determination the unity of Germany in peace and freedom as an equal partner in the community of nations,

Mindful of the desire of the people in both parts of Germany to live together in peace and freedom in a democratic and social federal state governed by the rule of law,

In grateful respect to those who peacefully helped freedom prevail and who have unswervingly adhered to the task of establishing German unity and are achieving it,

Aware of the continuity of German history and bearing in mind the special responsibility arising from our past for a democratic development in Germany committed to respect for human rights and to peace,

Seeking through German unity to contribute to the unification of Europe and to the building of a peaceful European order in which borders no longer divide and which ensures that all European nations can live together in a spirit of mutual trust,

Aware that the inviolability of frontiers and of the territorial integrity and sovereignty of all states in Europe within their frontiers constitutes a fundamental condition for peace,

Have agreed to conclude a Treaty on the Establishment of German Unity, containing the following provisions:

Chapter I

Effect of Accession

Article 1

Länder

(1) Upon the accession of the German Democratic Republic to the Federal Republic of Germany in accordance with Article 23 of the Basic Law taking effect on 3 October 1990 the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia shall become Länder of the Federal Republic of Germany. The establishment of these Länder and their boundaries shall be governed by the provisions of the Constitutional Act of 22 July 1990 on the Establishment of Länder in the German Democratic Republic (Länder Establishment Act) (Law Gazette I, No. 51, p. 955) in accordance with Annex II.

(2) The 23 boroughs of Berlin shall form Land Berlin.

Article 2

Capital City, Day of German Unity

(1) The capital of Germany shall be Berlin. The seat of the parliament and government shall be decided after the establishment of German unity.

(2) 3 October shall be a public holiday known as the Day of German Unity.

Chapter II

Basic Law

Article 3

Entry into Force of the Basic Law

Upon the accession taking effect, the Basic Law of the Federal Republic of Germany, as published in the Federal Law Gazette Part III, No. 100-1, and last amended by the Act of 21 December 1983 (Federal Law Gazette I, p. 1481), shall enter into force in the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia and in that part of

Land Berlin where it has not been valid to date, subject to the amendments arising from Article 4, unless otherwise provided in this Treaty.

Article 4
Amendments to the Basic Law
Resulting from Accession

The Basic Law of the Federal Republic of Germany shall be amended as follows:

1. The preamble shall read as follows:

"Conscious of their responsibility before God and men,

Animated by the resolve to serve world peace as an equal partner in a united Europe, the German people have adopted, by virtue of their constituent power, this Basic Law.

The Germans in the Länder of Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hesse, Lower Saxony, Mecklenburg-Western Pomerania, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia have achieved the unity and freedom of Germany in free self-determination. This Basic Law is thus valid for the entire German people."

2. Article 23 shall be repealed.
3. Article 51 (2) shall read as follows:

"(2) Each Land shall have at least three votes; Länder with more than two million inhabitants shall have four, Länder with more than six million inhabitants five, and Länder with more than seven million inhabitants six votes."

4. The existing text of Article 135a shall become paragraph 1. The following paragraph shall be inserted after paragraph 1:

"(2) Paragraph 1 above shall be applied mutatis mutandis to liabilities of the German Democratic Republic or its legal entities as well as to liabilities of the Federation or other corporate bodies and institutions under public law which are connected with the transfer of properties of the German Democratic Republic to the Federation, Länder and communes (Gemeinden), and to liabilities arising from measures taken by the German Democratic Republic or its legal entities."

5. The following new Article 143 shall be inserted in the Basic Law:

"Article 143

(1) Law in the territory specified in Article 3 of the Unification Treaty may deviate from provisions of this Basic Law for a period not extending beyond 31 December 1992 in so far as and as long as no complete adjustment to the order of the Basic Law can be achieved as a consequence of the different conditions. Deviations must not violate Article 19 (2) and must be compatible with the principles set out in Article 79 (3).

(2) Deviations from sections II, VIII, VIIIa, IX, X and XI are permissible for a period not extending beyond 31 December 1995.

(3) Notwithstanding paragraphs 1 and 2 above, Article 41 of the Unification Treaty and the rules for its implementation shall remain valid in so far as they provide for the irreversibility of interferences with property in the territory specified in Article 3 of the said Treaty."

6. Article 146 shall read as follows:

"Article 146

This Basic Law, which is valid for the entire German people following the achievement of the unity and freedom of Germany, shall cease to be in force on the day on which a constitution adopted by a free decision of the German people comes into force."

Article 5
Future Amendments to the Constitution

The Governments of the two Contracting Parties recommend to the legislative bodies of the united Germany that within two years they should deal with the questions regarding amendments or additions to the Basic Law as raised in connection with German unification, in particular

with regard to the relationship between the Federation and the Länder in accordance with the Joint Resolution of the Minister-Presidents of 5 July 1990,

with regard to the possibility of restructuring the Berlin/Brandenburg area in derogation of the provisions of Article 29 of the Basic Law by way of an agreement between the Länder concerned,

with considerations on introducing state objectives into the Basic Law, and

with the question of applying Article 146 of the Basic Law and of holding a referendum in this context.

Article 6
Exception

For the time being, Article 131 of the Basic Law shall not be applied in the territory specified in Article 3 of this Treaty.

Article 7
Financial System

(1) The financial system of the Federal Republic of Germany shall be extended to the territory specified in Article 3 unless otherwise provided in this Treaty.

(2) Article 106 of the Basic Law shall apply to the apportionment of tax revenue among the Federation as well as the Länder and communes (associa-

tions of communes) in the territory specified in Article 3 of this Treaty with the proviso that

1. paragraph 3, fourth sentence, and paragraph 4 shall not apply up to 31 December 1994;
2. up to 31 December 1996 the share of income tax revenue received by the communes in accordance with Article 106 (5) of the Basic Law shall be passed on from the Länder to the communes not on the basis of the amount of income tax paid by their inhabitants, but according to the number of inhabitants in the communes;
3. up to 31 December 1994, in derogation of Article 106 (7) of the Basic Law, an annual share of at least 20 per cent of the Land share of total revenue from joint taxes and of the total revenue from Land taxes as well as 40 per cent of the Land share from the German Unity Fund according to paragraph 5, item 1, shall accrue to the communes (associations of communes).

(3) Article 107 of the Basic Law shall be valid in the territory specified in Article 3 of this Treaty with the proviso that up to 31 December 1994 the provision of paragraph 1, fourth sentence, shall not be applied between the Länder which have until now constituted the Federal Republic of Germany and the Länder in the territory specified in Article 3 of this Treaty and that there shall be no all-German financial equalization between the Länder (Article 107 (2) of the Basic Law).

The Land share of turnover tax throughout Germany shall be divided up into an eastern component and a western component in such a way that the average share of turnover tax per inhabitant in the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia amounts

in 1991 to 55 per cent
 in 1992 to 60 per cent
 in 1993 to 65 per cent
 in 1994 to 70 per cent

of the average share of turnover tax per inhabitant in the Länder of Baden-Württemberg, Bavaria, Bremen, Hesse, Hamburg, Lower Saxony, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland and Schleswig-Holstein. The share of Land Berlin shall be calculated in advance on the basis of the number of inhabitants. The provisions contained in this paragraph shall be reviewed for 1993 in the light of the conditions obtaining at the time.

(4) The territory specified in Article 3 of this Treaty shall be incorporated into the provisions of Articles 91a, 91b and 104a (3) and (4) of the Basic Law, including the pertinent implementing provisions, in accordance with this Treaty with effect from 1 January 1991.

(5) Following the establishment of German unity the annual allocations from the German Unity Fund shall be distributed as follows:

1. 85 per cent as special assistance to the Länder of Brandenburg, Mecklenburg-Western Pomerania, Saxony, Saxony-Anhalt and Thuringia as well as to Land Berlin to cover their general financial requirements and divided up among these Länder in proportion to their number of inhabitants, excluding the inhabitants of Berlin (West), and
2. 15 per cent to meet public requirements at a central level in the territory of the aforementioned Länder.

(6) In the event of a fundamental change in conditions, the Federation and the Länder shall jointly examine the possibilities of granting further assistance in order to ensure adequate financial equalization for the Länder in the territory specified in Article 3 of this Treaty.

Chapter III Harmonization of Law

Article 8 Extension of Federal Law

Upon the accession taking effect, federal law shall enter into force in the territory specified in Article 3 of this Treaty unless its area of application is

restricted to certain Länder or parts of Länder of the Federal Republic of Germany and unless otherwise provided in this Treaty, notably Annex I

Article 19

Continued Validity of Law of the German Democratic Republic

(1) Law of the German Democratic Republic valid at the time of signing of this Treaty which is Land law according to the distribution of competence under the Basic Law shall remain in force in so far as it is compatible with the Basic Law, notwithstanding Article 143, with the federal law put into force in the territory specified in Article 3 of this Treaty and with the directly applicable law of the European Communities, and unless otherwise provided in this Treaty. Law of the German Democratic Republic which is federal law according to the distribution of competence under the Basic Law and which refers to matters not regulated uniformly at the federal level shall continue to be valid as Land law under the conditions set out in the first sentence pending a settlement by the federal legislator.

(2) The law of the German Democratic Republic referred to in Annex II shall remain in force with the provisos set out there in so far as it is compatible with the Basic Law, taking this Treaty into consideration, and with the directly applicable law of the European Communities.

(3) Law of the German Democratic Republic enacted after the signing of this Treaty shall remain in force to the extent agreed between the Contracting Parties. Paragraph 2 above shall remain unaffected.

(4) Where law remaining in force according to paragraphs 2 and 3 above refers to matters within the exclusive legislative power of the Federation, it shall remain in force as federal law. Where it refers to matters within concurrent legislative powers or outlining legislation, it shall continue to apply as federal law if and to the extent that it relates to fields which are regulated by federal law in the remaining area of application of the Basic Law.

(5) The church tax legislation enacted by the German Democratic Republic in accordance with Annex II shall continue to apply as Land law in the Länder named in Article 1 (1) of this Treaty.

Article 10

Law of the European Communities

(1) Upon the accession taking effect, the Treaties on the European Communities together with their amendments and supplements as well as the international agreements, treaties and resolutions which have come into force in connection with those Treaties shall apply in the territory specified in Article 3 of this Treaty.

(2) Upon the accession taking effect, the legislative acts enacted on the basis of the Treaties on the European Communities shall apply in the territory specified in Article 3 of this Treaty unless the competent institutions of the European Communities enact exemptions. These exemptions are intended to take account of administrative requirements and help avoid economic difficulties.

(3) Legislative acts of the European Communities whose implementation or execution comes under the responsibility of the Länder shall be implemented or executed by the latter through provisions under Land law.

Chapter IV

International Treaties and Agreements

Article 11

Treaties of the Federal Republic of Germany

The Contracting Parties proceed on the understanding that international treaties and agreements to which the Federal Republic of Germany is a contracting party, including treaties establishing membership of international organizations or institutions, shall retain their validity and that the rights and obligations arising therefrom, with the exception of the treaties named in Annex I, shall also relate to the territory specified in Article 3 of this Treaty. Where adjustments become necessary in individual cases, the all-German Government shall consult with the respective contracting parties.

Article 12

Treaties of the German Democratic Republic

- (1) The Contracting Parties have agreed that, in connection with the reestablishment of German unity, international treaties of the German Democratic Republic shall be discussed with the contracting parties concerned with a view to regulating or confirming their continued application, adjustment or expiry, taking into account protection of confidence, the interests of the states concerned, the treaty obligations of the Federal Republic of Germany as well as the principles of a free, democratic basic order governed by the rule of law, and respecting the competence of the European Communities.
- (2) The united Germany shall determine its position with regard to the adoption of international treaties of the German Democratic Republic following consultations with the respective contracting parties and with the European Communities where the latter's competence is affected.
- (3) Should the united Germany intend to accede to international organizations or other multilateral treaties of which the German Democratic Republic but not the Federal Republic of Germany is a member, agreement shall be reached with the respective contracting parties and with the European Communities where the latter's competence is affected.

Chapter V

Public Administration and the Administration of Justice

Article 13

Future Status of Institutions

- (1) Administrative bodies and other institutions serving the purposes of public administration or the administration of justice in the territory specified in Article 3 of this Treaty shall pass under the authority of the government of the Land in which they are located. Institutions whose sphere of activities transcends the boundaries of a Land shall come under the joint responsibility of the Länder concerned. Where institutions consist of several branches each of which is in a position to carry out its activities independently, the branches shall come under the responsibility of the government of

the respective Land in which they are located. The Land government shall be responsible for the transfer or winding-up. Section 22 of the Länder Establishment Act of 22 July 1990 shall remain unaffected.

(2) To the extent that before the accession took effect the institutions or branches mentioned in paragraph 1, first sentence, performed tasks that are incumbent upon the Federation according to the distribution of competence under the Basic Law, they shall be subject to the competent supreme federal authorities. The latter shall be responsible for the transfer or winding-up.

(3) Institutions under paragraphs 1 and 2 above shall also include such

1. cultural, educational, scientific and sports institutions,
2. radio and television establishments

as come under the responsibility of public administrative bodies.

Article 14

Joint Institutions of the Länder

(1) Institutions or branches of institutions which, before the accession took effect, performed tasks that are incumbent upon the Länder according to the distribution of competence under the Basic Law shall continue to operate as joint institutions of the Länder pending a final settlement by the Länder named in Article 1 (1) of this Treaty. This shall apply only to the extent that it is necessary for them to remain in place under this transitional arrangement so as to allow the Länder to carry out their responsibilities.

(2) The joint institutions of the Länder shall be under the authority of the Land plenipotentiaries pending the election of minister-presidents in the Länder. Subsequently they shall be under the authority of the minister-presidents. The latter may charge the responsible Land minister with their supervision.

Article 15

Transitional Arrangements for Land Administration

(1) The Land spokesmen in the Länder named in Article 1 (1) of this Treaty and the government plenipotentiaries in the districts shall continue to dis-

charge their present responsibilities on behalf of the Federal Government and subject to its instructions, from the date when the accession takes effect until the election of minister-presidents. The Land spokesmen shall, as Land plenipotentiaries, be in charge of the administration of their respective Länder and have the right to give instructions to district administrative authorities and, in the case of delegated responsibilities, also to communes and rural districts. Where Land commissioners were appointed in the Länder named in Article 1 (1) of this Treaty before the accession took effect, they shall be vested with the responsibilities and powers of the Land spokesman as set out in the first and second sentences.

(2) The other Länder and the Federation shall render administrative assistance in setting up Land administrative authorities.

(3) At the request of the minister-presidents of the Länder named in Article 1 (1) of this Treaty the other Länder and the Federation shall render administrative assistance in the execution of certain technical responsibilities for a period not extending beyond 30 June 1991. The minister-president shall grant any agencies and individuals from the Länder and the Federation a right to give instructions to the extent that they render administrative assistance in the execution of technical responsibilities.

(4) The Federation shall make available the necessary budget resources to the extent that it renders administrative assistance in the execution of technical responsibilities. The resources employed shall be deducted from the share of the respective Land in the German Unity Fund allocations or from its share of import turnover tax.

Article 16

Transitional Provision Pending the Constitution of a Single Land Government for Berlin

Until the constitution of a single Land government for Berlin its responsibilities shall be discharged by the Berlin Senat jointly with the Magistrat.

Articles 17
Rehabilitation

The Contracting Parties reaffirm their intention to create without delay a legal foundation permitting the rehabilitation of all persons who have been victims of a politically motivated punitive measure or any court decision contrary to the rule of law or constitutional principles. The rehabilitation of these victims of the iniquitous SED regime shall be accompanied by appropriate arrangements for compensation.

Article 18
Continued Validity of Court Decisions

(1) Decisions handed down by the courts of the German Democratic Republic before the accession took effect shall retain their validity and may be executed in conformity with the law put into force according to Article 8 of this Treaty or remaining in force according to Article 9. This law shall be taken as the yardstick when checking the compatibility of decisions and their execution with the principles of the rule of law. Article 17 of this Treaty shall remain unaffected.

(2) Subject to Annex I, persons sentenced by criminal courts of the German Democratic Republic are granted by this Treaty a right of their own to seek the quashing of final decisions through the courts.

Article 19
Continued Validity of Decisions Taken by
Public Administrative Bodies

Administrative acts of the German Democratic Republic performed before the accession took effect shall remain valid. They may be revoked if they are incompatible with the principles of the rule of law or with the provisions of this Treaty. In all other respects the rules on the validity of administrative acts shall remain unaffected.

Article 20
Legal Status of Persons in the Public Service

(1) The agreed transitional arrangements set out in Annex I shall apply to

the legal status of persons in the public service at the time of accession.

(2) The exercise of public responsibilities (state authority as defined in Article 33 (4) of the Basic Law) shall be entrusted as soon as possible to professional civil servants. Public service law shall be introduced in accordance with the agreed arrangements set out in Annex I. Article 92 of the Basic Law shall remain unaffected.

(3) Military personnel law shall be introduced in accordance with the agreed arrangements set out in Annex I.

Chapter VI

Public Assets and Debts

Article 21

Administrative Assets

(1) The assets of the German Democratic Republic which are used directly for specific administrative purposes (administrative assets) shall become federal assets unless their designated purpose as of 1 October 1989 was primarily to meet administrative responsibilities which, under the Basic Law, are to be exercised by Länder, communes (associations of communes) or other agencies of public administration. Where administrative assets were primarily used for the purposes of the former Ministry of State Security/National Security Office, they shall accrue to the Trust Agency unless they have already been given over to new social or public purposes since the above-mentioned date.

(2) Where administrative assets are not federal assets under paragraph 1 above, they shall accrue, upon the accession taking effect, to the agency of public administration which, under the Basic Law, is responsible for the relevant administrative purpose.

(3) Assets which have been made available free of charge by another corporate body under public law to the central government or to the Länder and communes (associations of communes) shall be returned free of charge to this corporate body or its legal successor; former Reich assets shall become federal assets.

(4) Where administrative assets become federal assets under paragraphs 1 to 3 above or by virtue of a federal law, they shall be used for public purposes in the territory specified in Article 3 of this Treaty. This shall also apply to the use of proceeds from the sale of assets.

Article 22 Financial Assets

(1) Public assets of legal entities in the territory specified in Article 3 of this Treaty, including landed property and assets in agriculture and forestry, which do not directly serve specific administrative purposes (financial assets), with the exception of social insurance assets, shall, unless they have been handed over to the Trust Agency or will be handed over by law according to Section 1 (1), second and third sentences, of the Trusteeship Act, to communes, towns and cities or rural districts, come under federal trusteeship upon the accession taking effect. Where financial assets were primarily used for the purposes of the former Ministry of State Security/National Security Office, they shall accrue to the Trust Agency unless they have already been given over to new social or public purposes since 1 October 1989. Financial assets shall be divided by federal law between the Federation and the Länder named in Article 1 of this Treaty in such a way that the Federation and the Länder named in Article 1 each receive one half of the total value of the assets. The communes (associations of communes) shall receive an appropriate share of the Länder portion. Assets accruing to the Federation under this provision shall be used for public purposes in the territory specified in Article 3 of this Treaty. The Länder share should in principle be distributed to the respective Länder in such a way that the relationship between the total values of the assets apportioned to the respective Länder corresponds to the relationship between the population sizes of these Länder on the date the accession takes effect, excluding the inhabitants of Berlin (West). Article 21 (3) of this Treaty shall be applied mutatis mutandis.

(2) Pending legislative arrangements the financial assets shall be administered by the authorities currently responsible unless the Federal Minister of Finance orders the assumption of administrative responsibilities by authorities responsible for the administration of assets at the federal level.

(3) On demand the federal, regional or local authorities referred to in paragraphs 1 and 2 above shall provide each other with information about, and grant each other access to, land registers, files and other materials containing information on assets whose assignment in law and in fact is unresolved or the subject of dispute between the said authorities.

(4) Paragraph 1 above shall not apply to publicly owned property used for residential purposes and coming under the legal responsibility of publicly owned housing enterprises. This shall also apply to publicly owned property which is already the subject of concrete plans for residential use. Upon the accession taking effect, these assets shall become the property of the local authorities, which shall also assume their respective shares of the debts. Taking into consideration social concerns, the local authorities shall step by step place their housing stock on the basis obtaining in a market economy. Privatization shall be speeded up in this context, among other things to encourage individual home ownership. As regards the publicly owned housing stock of state institutions, in so far as it does not come under Article 21 of this Treaty, paragraph 1 above shall remain unaffected.

Article 23

Debt Arrangements

(1) Upon the accession taking effect, the total debts of the central budget of the German Democratic Republic which have accumulated up to this date shall be taken over by a federal Special Fund without legal capacity, which shall meet the obligations arising from debt servicing. The Special Fund shall be empowered to raise loans:

1. to pay off debts of the Special Fund,
2. to cover due interest and loan procurement costs,
3. to purchase debt titles of the Special Fund for the purposes of market cultivation.

(2) The Federal Minister of Finance shall administer the Special Fund. The Special Fund may, in his name, conduct legal transactions, sue and be sued. The general legal domicile of the Special Fund shall be at the seat of the Federal Government. The Federation shall act as guarantor for the liabilities of the Special Fund.

(3) From the day the accession takes effect until 31 December 1993 the Federation and the Trust Agency shall each repay one half of the interest payments made by the Special Fund.

Repayment shall be made by the first of the month following the month in which the Special Fund has made the payments referred to in the first sentence.

(4) With effect from 1 January 1994 the Federation and the Länder named in Article 1 of this Treaty as well as the Trust Agency shall take over the total debts which have accumulated in the Special Fund up to 31 December 1993 in accordance with Article 27 (3) of the Treaty of 18 May 1990 between the Federal Republic of Germany and the German Democratic Republic Establishing a Monetary, Economic and Social Union. The distribution of the debts shall be settled in detail by a separate law in accordance with Article 34 of the Act of 25 July 1990 concerning the Treaty of 18 May 1990 (Federal Law Gazette 1990 II, p. 518). The portions of the total amount for the Länder named in Article 1 of this Treaty to be taken over by each of the Länder named in Article 1 shall be calculated in relation to their number of inhabitants on the date the accession takes effect, excluding the inhabitants of Berlin (West).

(5) The Special Fund shall be abolished at the end of 1993.

(6) Upon the accession taking effect, the Federal Republic of Germany shall take over the sureties, guarantees and warranties assumed by the German Democratic Republic and debited to its state budget prior to unification. The Länder named in Article 1 (1) of this Treaty and Land Berlin for that part in which the Basic Law has not been in force to date shall assume jointly and severally a counter-surety to the amount of 50 per cent of the total debt transferred in the form of sureties, guarantees and warranties to the Federal Republic of Germany. The losses shall be divided among the Länder in proportion to their number of inhabitants on the date the accession takes effect, excluding the inhabitants of Berlin (West).

(7) The German Democratic Republic's share of the Staatsbank Berlin may be transferred to the Länder named in Article 1 of this Treaty. The rights

arising from the German Democratic Republic's share of the Staatsbank Berlin shall accrue to the Federation pending the transfer of the share according to the first sentence or a transfer according to the third sentence. The Contracting Parties shall, notwithstanding an examination from the viewpoint of antitrust legislation, provide for the possibility of transferring the Staatsbank Berlin wholly or partially to a credit institution under public law in the Federal Republic of Germany or to other legal entities. In the event that not all assets and liabilities are covered by a transfer, the remaining part of the Staatsbank Berlin shall be wound up. The Federation shall assume the liabilities resulting from the German Democratic Republic acting as guarantor for the Staatsbank Berlin. This shall not apply to liabilities arising after the transfer of the share according to the first sentence or a transfer according to the third sentence. The fifth sentence shall apply mutatis mutandis to new liabilities created by the Staatsbank Berlin during winding-up. If claims are made on the Federation in its capacity as guarantor, the burden shall be incorporated upon the accession taking effect into the total debt of the central budget of the German Democratic Republic and be taken over by the Special Fund under paragraph 1 above, which has no legal capacity.

Article 24

Settlement of Claims and Liabilities vis-à-vis Foreign Countries and the Federal Republic of Germany

(1) In so far as they arise from the monopoly on foreign trade and foreign currency or from the performance of other state tasks of the German Democratic Republic vis-à-vis foreign countries and the Federal Republic of Germany up to 1 July 1990, the settlement of the claims and liabilities remaining when the accession takes effect shall take place under instructions from, and under the supervision of, the Federal Minister of Finance. Debt rescheduling agreements contracted by the Government of the Federal Republic of Germany after the accession takes effect shall also incorporate the claims mentioned in the first sentence. The claims concerned shall be held in trust by the Federal Minister of Finance or transferred to the Federation to the extent that the claims are adjusted.

(2) The Special Fund as defined in Article 23 (1) of this Treaty shall, up to 30 November 1993, assume payment of the necessary administrative expendi-

ture, the interest costs arising from the difference between interest payments and interest revenue and the other losses incurred by the institutions charged with the settlement of claims and liabilities during the settlement period in so far as the institutions are unable to balance them out of their own resources. After 30 November 1993 the Federation and the Trust Agency shall each assume one half of the expenditure and costs referred to in the first sentence and of the loss compensation. Further details shall be determined by federal law.

(3) Claims and liabilities arising from membership of the German Democratic Republic or its institutions in the Council for Mutual Economic Assistance may be the subject of separate arrangements by the Federal Republic of Germany. These arrangements may also refer to claims and liabilities which will arise or have arisen after 30 June 1990.

Article 25

Assets Held in Trust

The Privatization and Reorganization of Publicly Owned Assets Act (Trusteeship Act) of 17 June 1990 (Law Gazette I, No. 33, p. 300) shall continue to apply after the accession takes effect with the following proviso:

(1) The Trust Agency shall continue to be charged, in accordance with the provisions of the Trusteeship Act, with restructuring and privatizing the former publicly owned enterprises to bring them into line with the requirements of a competitive economy. It shall become a direct institution of the Federation vested with legal capacity and subject to public law. Technical and legal supervision shall be the responsibility of the Federal Minister of Finance, who shall exercise technical supervision in agreement with the Federal Minister of Economics and the respective federal minister. Stakes held by the Trust Agency shall be indirect stakes of the Federation. Amendments to the Charter shall require the agreement of the Federal Government.

(2) The number of members of the Administrative Board of the Trust Agency shall be raised from 16 to 20, and for the first Administrative Board to 23. Mark. The interest payments due shall be repaid to the Deutsche Kreditbank AG and the other banks by the Trust Agency.

Article 26

Special Fund of the Deutsche Reichsbahn

(1) Upon the accession taking effect, the property and all other property rights of the German Democratic Republic and the Reich property in Berlin (West) belonging to the special fund of the Deutsche Reichsbahn within the meaning of Article 26 (2) of the Treaty of 18 May 1990 shall become the property of the Federal Republic of Germany as the special fund of the Deutsche Reichsbahn. This further includes all property rights acquired since 8 May 1945 with resources from the special fund of the Deutsche Reichsbahn as well as those which were attached to its operation or that of its predecessor administrations, regardless of which legal entity they were acquired for, unless they were subsequently given over to another purpose with the consent of the Deutsche Reichsbahn. Property rights claimed by the Deutsche Reichsbahn up to 31 January 1991 pursuant to Section 1 (4) of the Decree of 11 July 1990 on the Registration of Claims with Regard to Property Rights (Law Gazette I, No. 44, p. 718) shall not be regarded as property given over to another purpose with the consent of the Deutsche Reichsbahn.

(2) Associated liabilities and claims shall be transferred simultaneously with the property rights to the special fund of the Deutsche Reichsbahn.

(3) The Chairman of the Board of the Deutsche Bundesbahn and the Chairman of the Board of the Deutsche Reichsbahn shall be responsible for coordinating the two special funds. In carrying out this responsibility they shall work towards the objective of technically and organizationally merging the two railways.

Article 27

Special Fund of the Deutsche Post

(1) The property and all other property rights belonging to the special fund of the Deutsche Post shall become the property of the Federal Republic of Germany. They shall be combined with the special fund of Deutsche Bundespost. Associated liabilities and claims shall be transferred simultaneously with the property rights to the special fund of the Deutsche Bundespost. Property serving sovereign and political purposes, together with associated liabilities and claims, shall not become part of the special fund of the Deutsche Bundespost.

The special fund of the Deutsche Post shall also include all property rights which, as of 8 May 1945, belonged to the special fund of the Deutsche Reichspost or, after 8 May 1945, were either acquired with resources from the former special fund of the Deutsche Reichspost or attached to the operation of the Deutsche Post, regardless of which legal entity they were acquired for, unless they were subsequently given over to another purpose with the consent of the Deutsche Post. Property rights claimed by the Deutsche Post up to 31 January 1991 pursuant to Section 1 (4) of the Decree of 11 July 1990 on the Registration of Claims with Regard to Property Rights shall not be regarded as property given over to another purpose with the consent of the Deutsche Post.

(2) After consulting the enterprises of the Deutsche Bundespost the Federal Minister of Posts and Telecommunications shall finally determine the division of the special fund of the Deutsche Post among the partial special funds of the three enterprises. After consulting the three enterprises of the Deutsche Bundespost, the Federal Minister of Posts and Telecommunications shall, within a transitional period of three years, determine which items of property serve sovereign and political purposes. He shall take them over without compensation.

Article 28

Economic Assistance

(1) Upon the accession taking effect, the territory specified in Article 3 of this Treaty shall be incorporated into the arrangements of the Federation existing in the territory of the Federal Republic for economic assistance, taking into consideration the competence of the European Communities. The specific requirements of structural adjustment shall be taken into account during a transitional period. This will make a major contribution to the speediest possible development of a balanced economic structure with particular regard for small and medium-sized businesses.

(2) The relevant ministries shall prepare concrete programmes to speed up economic growth and structural adjustment in the territory specified in Article 3 of this Treaty. The programmes shall cover the following fields:

measures of regional economic assistance accompanied by a special programme for the benefit of the territory specified in Article 3 of this

- Treaty; preferential arrangements shall be ensured for this territory;
- measures to improve the general economic conditions in the communes, with particular emphasis being given to infrastructure geared to the needs of the economy;
 - measures to foster the rapid development of small and medium-sized businesses;
 - measures to promote the modernization and restructuring of the economy, relying on restructuring schemes drawn up by industry of its own accord (e.g. rehabilitation programmes, including ones for exports to COMECON countries);
 - debt relief for enterprises following the examination of each case individually.

Article 29 : --

- Foreign Trade Relations

(1) The established foreign trade relations of the German Democratic Republic, in particular the existing contractual obligations vis-à-vis the countries of the Council for Mutual Economic Assistance, shall enjoy protection of confidence. They shall be developed further and expanded, taking into consideration the interests of all parties concerned and having regard for the principles of a market economy as well as the competence of the European Communities. The all-German Government shall ensure that appropriate organizational arrangements are made for these foreign trade relations within the framework of departmental responsibility.

(2) The Federal Government, or the all-German Government, shall hold consultations with the competent institutions of the European Communities on which exemptions are required for a transitional period in the field of foreign trade, having regard to paragraph 1 above.

Chapter VII
Labour, Social Welfare, Family, Women,
Public Health and Environmental Protection

Article 30
Labour and Social Welfare

(1) It shall be the task of the all-German legislator

1. to recodify in a uniform manner and as soon as possible the law on employment contracts and the provisions on working hours under public law, including the admissibility of work on Sundays and public holidays, and the specific industrial safety regulations for women;
2. to bring public law on industrial safety into line with present-day requirements in accordance with the law of the European Communities and the concurrent part of the industrial safety law of the German Democratic Republic.

(2) Employed persons in the territory specified in Article 3 of this Treaty shall be entitled, upon reaching the age of 57, to receive early retirement payments for a period of three years, but not beyond the earliest possible date on which they become entitled to receive a retirement pension under the statutory pension scheme. The early retirement payment shall amount to 65 per cent of the last average net earnings; for employed persons whose entitlement arises on or before 1 April 1991 early retirement payments shall be raised by an increment of five percentage points for the first 312 days. The early retirement payments shall be made by the Federal Institute for Employment along similar lines to unemployment pay, notably the provisions of Section 105c of the Employment Promotion Act. The Federal Institute for Employment may reject an application if it is established that there is a clear lack of manpower in the region to carry out the occupational duties so far discharged by the applicant. The early retirement payments shall be refunded by the Federation in so far as they reach beyond the period of entitlement to unemployment pay. The provisions on early retirement payments shall be applied to new claims up to 31 December 1991. The period of validity may be prolonged by one year.

In the period from this Treaty taking effect up to 31 December 1990, women shall be entitled, not reaching the age of 55, to receive early retirement payments for a period not exceeding five years.

(3) The social welfare supplement to pension, accident and unemployment payments introduced in the territory specified in Article 3 of this Treaty in conjunction with the Treaty of 18 May 1990 shall be limited to new cases up to 31 December 1991. The payments shall be made for a period not extending beyond 30 June 1995.

(4) The transfer of tasks incumbent upon the social insurance scheme to separate agencies shall take place in such a way as to ensure that payments are made and financed and sufficient staff is available to perform the said tasks. The distribution of assets and liabilities among the separate agencies shall be definitively settled by law.

(5) The details regarding the introduction of Part VI of the Social Code (pension insurance) and the provisions of Part III of the Reich Insurance Code (accident insurance) shall be settled in a federal Act.

For persons whose pension under the statutory pension scheme begins in the period from 1 January 1992 to 30 June 1995

1. a pension shall be payable which is in principle at least as high as the amount they would have received on 30 June 1990 in the territory specified in Article 3 of this Treaty according to the pension law valid until that time, without regard for payments from supplementary or special pension schemes,
2. a pension shall also be paid where, on 30 June 1990, a pension entitlement would have existed in the territory specified in Article 3 of this Treaty under the pension law valid until that time.

In all other respects, the introduction should have the goal of ensuring that as wages and salaries in the territory specified in Article 3 of this Treaty are brought into line with those in the other Länder, so are pensions.

(6) In developing further the ordinance on occupational diseases it shall be examined to what extent the arrangements which have applied until now in the territory specified in Article 3 of this Treaty can be taken into account.

Article 31

Family and Women

(1) It shall be the task of the all-German legislator to develop further the legislation on equal rights for men and women.

(2) In view of different legal and institutional starting positions with regard to the employment of mothers and fathers, it shall be the task of the all-German legislator to shape the legal situation in such a way as to allow a reconciliation of family and occupational life.

(3) In order to ensure that day care centres for children continue to operate in the territory specified in Article 3 of this Treaty, the Federation shall contribute to the costs of these centres for a transitional period up to 30 June 1991.

(4) It shall be the task of the all-German legislator to introduce regulations no later than 31 December 1992 which ensure better protection of unborn life and provide a better solution in conformity with the Constitution of conflict situations faced by pregnant women - notably through legally guaranteed entitlements for women, first and foremost to advice and public support - than is the case in either part of Germany at present. In order to achieve these objectives, a network of advice centres run by various agencies and offering blanket coverage shall be set up without delay with financial assistance from the Federation in the territory specified in Article 3 of this Treaty. The advice centres shall be provided with sufficient staff and funds to allow them to cope with the task of advising pregnant women and offering them necessary assistance, including beyond the time of confinement. In the event that no regulations are introduced within the period stated in the first sentence, the substantive law shall continue to apply in the territory specified in Article 3 of this Treaty.

Article 32

Voluntary Organizations

Voluntary welfare and youth welfare organizations play an indispensable part through their institutions and services in fashioning the socially oriented state described in the Basic Law. The establishment and expansion of voluntary welfare and youth welfare organizations shall be promoted in the territory specified in Article 3 of this Treaty in line with the distribution of competence under the Basic Law.

Article 33

Public Health

(1) It shall be the task of the legislators to create the conditions for effecting a rapid and lasting improvement in in-patient care in the territory specified in Article 3 of this Treaty and for bringing it into line with the situation in the remainder of the federal territory.

(2) In order to avoid deficits arising from expenditure on prescribed drugs by the health insurance scheme in the territory specified in Article 3 of this Treaty, the all-German legislator shall introduce temporary regulations providing for a reduction in producers' prices within the meaning of the Ordinance on the Price of Drugs corresponding to the gap between the income subject to insurance contributions in the territory specified in Article 3 of this Treaty and that in the present federal territory.

Article 34

Protection of the Environment

(1) On the basis of the German environmental union established under Article 16 of the Treaty of 18 May 1990 in conjunction with the Skeleton Environment Act of the German Democratic Republic of 29 June 1990 (Law Gazette I, No. 42, p. 649), it shall be the task of the legislators to protect the natural basis of man's existence, with due regard for prevention, the polluter-pays principle, and cooperation, and to promote uniform ecological conditions of a high standard at least equivalent to that reached in the Federal Republic of Germany.

(2) With a view to attaining the objective defined in paragraph 1 above, ecological rehabilitation and development programmes shall be drawn up for the territory specified in Article 3 of this Treaty, in line with the distribution of competence under the Basic Law. Measures to ward off dangers to public health shall be accorded priority.

Chapter VIII

Culture, Education and Science, Sport

Article 35

Culture

(1) In the years of division, culture and the arts - despite different paths of development taken by the two states in Germany - formed one of the foundations for the continuing unity of the German nation. They have an indispensable contribution to make in their own right as the Germans cement their unity in a single state on the road to European unification. The position and prestige of a united Germany in the world depend not only on its political weight and its economic strength, but also on its role in the cultural domain. The overriding objective of external cultural policy shall be cultural exchange based on partnership and cooperation.

(2) The cultural substance in the territory specified in Article 3 of this Treaty shall not suffer any damage.

(3) Measures shall be taken to provide for the performance of cultural tasks, including their financing, with the protection and promotion of culture and the arts being the responsibility of the new Länder and local authorities in line with the distribution of competence under the Basic Law.

(4) The cultural institutions which have been under central management to date shall come under the responsibility of the Länder or local authorities in whose territory they are located. In exceptional cases, the possibility of the Federation making a contribution to financing shall not be ruled out, particularly in Land Berlin.

(5) The parts of the former Prussian state collections which were separated as a result of post-war events (including State Museums, State Libraries, Secret State Archives, Ibero-American Institute, State Musicology Institute) shall be joined together again in Berlin. The Prussian Cultural Heritage Foundation shall assume responsibility for the time being. Future arrangements shall likewise involve an agency that is responsible for the former Prussian state collections in their entirety and is based in Berlin.

(6) The Cultural Fund shall be continued up to 31 December 1994 on a transitional basis in the territory specified in Article 3 of this Treaty to promote culture, the arts and artists. The possibility of the Federation making a contribution to financing in line with the distribution of competence under the Basic Law shall not be ruled out. Discussions on a successor institution shall be held in the framework of the talks on the accession of the Länder named in Article 1 (1) of this Treaty to the Cultural Foundation of the Länder.

(7) In order to offset the effects of the division of Germany the Federation may help to finance, on a transitional basis, individual cultural programmes and institutions in the territory specified in Article 3 of this Treaty to enhance the cultural infrastructure.

Article 36

Broadcasting

(1) The Rundfunk der DDR and the Deutscher Fernsehfunk shall be continued as an autonomous joint institution having legal capacity by the Länder named in Article 1 of this Treaty and by Land Berlin in respect of that part where the Basic Law has not been valid to date for a period not extending beyond 31 December 1991 in so far as they perform tasks coming under the responsibility of the Länder. The institution shall have the task of providing the population in the territory specified in Article 3 of this Treaty with a radio and television service in accordance with the general principles governing broadcasting establishments coming under public law. The studio equipment which has belonged to the Deutsche Post to date shall be made over to the institution together with the immovable property serving production and administrative purposes for radio and television. Article 21 of this Treaty shall be applied mutatis mutandis.

- (2) The executive bodies of the institution shall be
the Broadcasting Commissioner,
the Advisory Council on Broadcasting.
- (3) The Broadcasting Commissioner shall be elected by the Volkskammer on the proposal of the Prime Minister of the German Democratic Republic. Should the Volkskammer fail to elect a Broadcasting Commissioner, he shall be elected by the Land spokesmen of the Länder named in Article 1 (1) of this Treaty and by the First Mayor of Berlin by a majority vote. The Broadcasting Commissioner shall be in charge of the institution and represent it in and out of court. He shall be responsible for fulfilling the mission of the institution within the limits of the available resources and shall, without delay, draw up a budget for 1991 in which revenue and expenditure are balanced.
- (4) The Advisory Council on Broadcasting shall comprise 18 acknowledged public figures as representatives of socially relevant groups. The parliaments of the Länder named in Article 1 (1) of this Treaty and the Berlin Municipal Assembly shall each elect three members. The Advisory Council on Broadcasting shall have a consultative voice on all questions of programming and a right to participation in major personnel, economic and budget decisions. The Advisory Council on Broadcasting may recall the Broadcasting Commissioner by a majority vote of two thirds of its members. It may elect a new Broadcasting Commissioner by a majority vote of two thirds of its members.
- (5) The institution shall be financed mainly by revenue raised through licence fees paid by radio and television users resident in the territory specified in Article 3 of this Treaty. To that extent it shall be the recipient of radio and television licence fees. For the rest, it shall cover its expenditure by advertising revenue and other revenue.
- (6) Within the period laid down in paragraph 1 above the institution shall be dissolved in accordance with the federal structure of broadcasting through a joint treaty between the Länder named in Article 1 of this Treaty or converted to agencies under public law of one or more Länder. Should a treaty under the first sentence fail to materialize by 31 December 1991, the institution shall be deemed to have been dissolved on that date. The assets and liabilities existing on that date shall be shared out among the Länder named

in Article 1 of this Treaty. The amount of the shares to be transferred shall be calculated in proportion to the licence fee revenues as of 30 June 1991 in the territory specified in Article 3 of this Treaty. This shall not affect the obligation of the Länder to continue to provide a broadcasting service in the territory specified in Article 3 of this Treaty.

(7) Upon the entry into force of the treaty under paragraph 6 above, but no later than 31 December 1991, paragraphs 1 to 6 above shall cease to have effect.

Article 37

Education

(1) School, vocational or higher education certificates or degrees obtained or officially recognized in the German Democratic Republic shall continue to be valid in the territory specified in Article 3 of this Treaty. Examinations passed and certificates obtained in the territory specified in Article 3 or in the other Länder of the Federal Republic of Germany, including Berlin (West), shall be considered equal and shall convey the same rights if they are of equal value. Their equivalence shall be established by the respective competent agency on application. Legal provisions of the Federation and the European Communities regarding the equivalence of examinations and certificates, and special provisions set out in this Treaty shall have priority. In all cases this shall not affect the right to use academic professional titles and degrees obtained or officially recognized or conferred.

(2) The usual recognition procedure operated by the Conference of Ministers of Education and Cultural Affairs shall apply to teaching diploma examinations. The said Conference shall make appropriate transitional arrangements.

(3) Examination certificates issued under the trained occupation scheme and the skilled workers' training scheme as well as final examinations and apprentices' final examinations in recognized trained occupations shall be considered equal.

(4) The regulations necessary for the reorganization of the school system in the territory specified in Article 3 of this Treaty shall be adopted by the Länder named in Article 1. The necessary regulations for the recognition of examinations under educational law shall be agreed by the Conference of

Ministers of Education and Cultural Affairs. In both cases they shall be based on the Hamburg Agreement and the other relevant agreements reached by the said Conference.

(5) Undergraduates who move to another institution of higher education before completing their studies shall have their study and examination record up to that point recognized according to the principles laid down in Section 7 of the General Regulations on Degree Examination Procedures (ABD) or within the terms of the rules governing admission to state examinations.

(6) The entitlements to study at an institution of higher education confirmed on leaving certificates issued by engineering and technical schools of the German Democratic Republic shall be valid in accordance with the resolution of 10 May 1990 of the Conference of Ministers of Education and Cultural Affairs and its Annex B. Further principles and procedures for the recognition of technical school and higher education certificates for the purpose of school and college studies based on them shall be developed within the framework of the Conference of Ministers of Education and Cultural Affairs.

Article 38

Science and Research

(1) In the united Germany science and research shall continue to constitute important foundations of the state and society. The need to renew science and research in the territory specified in Article 3 of this Treaty while preserving efficient institutions shall be taken into account by an expert report on publicly maintained institutions prepared by the Science Council and to be completed by 31 December 1991, with individual results to be implemented step by step before that date.

The following provisions are intended to make possible the preparation of this report and ensure the incorporation of science and research in the territory specified in Article 3 of this Treaty into the joint research structure of the Federal Republic of Germany.

(2) Upon the accession taking effect, the Academy of Sciences of the German Democratic Republic shall be separated as a learned society from the research institutes and other institutions. The decision as to how the learned

society of the Academy of Sciences of the German Democratic Republic is to be continued shall be taken under Land law. For the time being the research institutes and other institutions shall continue to exist up to 31 December 1991 as institutions of the Länder in the territory specified in Article 3 of this Treaty in so far as they have not been previously dissolved or transformed. Transitional arrangements shall be made for the financing of these institutes and institutions up to 31 December 1991; the requisite funds shall be provided in 1991 by the Federation and the Länder named in Article 1 of this Treaty.

(3) The employment contracts of the staff employed at the research institutes and other institutions of the Academy of Sciences of the German Democratic Republic shall continue to exist up to 31 December 1991 as limited employment contracts with the Länder to which these institutes and institutions are transferred. The right to cancel these employment contracts with or without notice under the conditions listed in Annex I to this Treaty shall remain unaffected.

(4) Paragraphs 1 to 3 above shall apply mutatis mutandis to the Academy of Architecture and the Academy of Agricultural Sciences of the German Democratic Republic and to the scientific institutions subordinate to the Ministry of Food, Agriculture and Forestry.

(5) The Federal Government shall begin negotiations with the Länder with a view to adapting or renewing the Federation-Länder agreements under Article 91b of the Basic Law in such a way that educational planning and the promotion of institutions and projects of scientific research of supra-regional importance are extended to the territory specified in Article 3 of this Treaty.

(6) The Federal Government shall seek to ensure that the proven methods and programmes of research promotion in the Federal Republic of Germany are applied as soon as possible to the entire federal territory and that the scientists and scientific institutions in the territory specified in Article 3 of this Treaty are given access to current research promotion schemes. Furthermore, certain schemes for promoting research and development which have expired in the territory of the Federal Republic of Germany shall be reopened for the territory specified in Article 3 of this Treaty; this shall not include fiscal measures.

(7) Upon the accession of the German Democratic Republic taking effect, the Research Council of the German Democratic Republic shall be dissolved.

Article 39

Sport

(1) The sporting structures which are in a process of transformation in the territory specified in Article 3 of this Treaty shall be placed on a self-governing basis. The public authorities shall give moral and material support to sport in line with the distribution of competence under the Basic Law.

(2) To the extent that it has proved successful, top-level sport and its development shall continue to receive support in the territory specified in Article 3 of this Treaty. Support shall be given within the framework of the rules and principles existing in the Federal Republic of Germany and in line with the public-sector budgets in the territory specified in Article 3 of this Treaty. Within this framework, the Physical Training and Sport Research Institute (FKS) in Leipzig, the doping control laboratory recognized by the International Olympic Committee (IOC) in Kreischa (near Dresden) and the Sports Equipment Research and Development Centre (FES) in Berlin (East) shall - each in an appropriate legal form and to the extent necessary - be continued as institutions in the united Germany or attached to existing institutions.

(3) The Federation shall support sport for the disabled for a transitional period until 31 December 1992.

Chapter IX

Transitional and Final Provisions

Article 40

Treaties and Agreements

(1) The obligations under the Treaty of 18 May 1990 between the Federal Republic of Germany and the German Democratic Republic on the Establishment of a Monetary, Economic and Social Union shall continue to be valid unless otherwise provided in this Treaty and unless they become irrelevant in the process of establishing German unity.

(2) Where rights and duties arising from other treaties and agreements between the Federal Republic of Germany or its Länder and the German Democratic Republic have not become irrelevant in the process of establishing German unity, they shall be assumed, adjusted or settled by the competent national entities.

Article 41

Settlement of Property Issues

(1) The Joint Declaration of 15 June 1990 on the Settlement of Open Property Issues (Annex III) issued by the Government of the Federal Republic of Germany and the Government of the German Democratic Republic shall form an integral part of this Treaty.

(2) In accordance with separate legislative arrangements there shall be no return of property rights to real estate or buildings if the real estate or building concerned is required for urgent investment purposes to be specified in detail, particularly if it is to be used for the establishment of an industrial enterprise and the implementation of this investment decision deserves support from a general economic viewpoint, above all if it creates or safeguards jobs. The investor shall submit a plan showing the major features of his project and shall undertake to carry out the plan on this basis. The legislation shall also contain arrangements for compensation to the former owner.

(3) The Federal Republic of Germany shall not otherwise enact any legislation contradicting the Joint Declaration referred to in paragraph 1 above.

Article 42

Delegation of Parliamentary Representatives

(1) Before the accession of the German Democratic Republic takes effect, the Volkskammer shall, on the basis of its composition, elect 144 Members of Parliament to be delegated to the 11th German Bundestag together with a sufficient number of reserve members. Relevant proposals shall be made by the parties and groups represented in the Volkskammer.

(2) The persons elected shall become members of the 11th German Bundestag by virtue of a statement of acceptance delivered to the President of the Volkskammer, but not until the accession takes effect. The President of the Volkskammer shall without delay communicate the result of the election, together with the statement of acceptance, to the President of the German Bundestag.

(3) The eligibility for election to, and loss of membership of, the 11th German Bundestag shall otherwise be subject to the provisions of the Federal Election Act as promulgated on 1 September 1975 (Federal Law Gazette I, p. 2325) and last amended by the Act of 29 August 1990 (Federal Law Gazette II, p. 813).

In the event of cessation of membership, the member concerned shall be replaced by the next person on the reserve list. He must belong to the same party as, at the time of his election, the member whose membership has ceased. The reserve member to take his seat in the German Bundestag shall, before the accession takes effect, be determined by the President of the Volkskammer, and thereafter by the President of the German Bundestag.

Article 43

Transitional Rule for the Bundesrat Pending the Formation of Länder Governments

From the formation of the Länder named in Article 1 (1) of this Treaty until the election of minister-presidents, the Land plenipotentiaries may take part in the meetings of the Bundesrat in a consultative capacity.

Article 44

Preservation of Rights

Rights arising from this Treaty in favour of the German Democratic Republic or the Länder named in Article 1 of this Treaty may be asserted by each of these Länder after the accession has taken effect.

Article 45

Entry into Force of the Treaty

(1) This Treaty, including the attached Protocol and Annexes I to III, shall enter into force on the day on which the Governments of the Federal Republic of Germany and the German Democratic Republic have informed each other that the internal requirements for such entry into force have been fulfilled.

(2) The Treaty shall remain valid as federal law after the accession has taken effect.

Done at Berlin on 31 August 1990 in duplicate in the German language.

For the
Federal Republic of Germany

For the
German Democratic Republic

Dr Wolfgang Schäuble

Dr Günther Krause

Protocol

At the signing of the Treaty between the Federal Republic of Germany and the German Democratic Republic on the Establishment of Germany Unity the following explanations were made in respect of this Treaty:

I. Re Articles and Annexes of the Treaty

1. Re Article 1:

(1) The boundaries of Land Berlin shall be those defined by the Establishment of a New Municipality of Berlin Act of 27 April 1920 (Prussian Law Gazette 1920, p. 123) with the proviso

- that the note in the protocol concerning Article 1 of the Agreement of 31 March 1988 between the Senat and the Government of the German

Democratic Republic on the Inclusion of Further Enclaves and Other Small Territories in the Agreement of 20 December 1971 on the Settlement of Questions of Enclaves by the Exchange of Territories shall be extended to all boroughs and shall continue to apply between the Länder of Berlin and Brandenburg;

that all territories in which an election to the House of Representatives or to the Municipal Assembly of Berlin took place after 7 October 1949 are constituent parts of the boroughs of Berlin.

(2) The Länder of Berlin and Brandenburg shall review the course of the boundary arising from paragraph 1 above and produce a documentary record of it within one year.

2. Re Article 2 (1):

The Contracting Parties agree that decisions under the second sentence shall be the prerogative of the legislative bodies of the Federation after the election of the first all-German Bundestag and after the establishment of full rights of participation for the Länder named in Article 1 (1) of this Treaty.

3. Re Article 2 (2):

The Contracting Parties agree that the character of 3 October 1990 as a public holiday does not rule out actions which have already been decided irreversibly when the Treaty enters into force.

4. Re Article 4, item 5:

Article 143 (1) and (2) has only temporary significance; it is therefore not binding on future legislation.

5. Re Article 9 (5):

The two Contracting Parties take note of the statement by Land Berlin that the church tax legislation valid in Berlin (West) shall, with effect from 1 January 1991, be extended to that part of Berlin in which it has not been valid to date.

6. Re Article 13:

Institutions or their branches which, up to the accession taking effect, have performed tasks that in future are no longer to be carried out by the public administration shall be wound up as follows:

(1) Where a substantive link exists with public tasks, the institutions or their branches shall be wound up by the body which is responsible for these public tasks (Federation, Land, Länder jointly).

(2) In all other cases the institutions or their branches shall be wound up by the Federation.

In cases of doubt the Land concerned or the Federation may have recourse to an agency established by the Federation and the Länder.

7. Re Article 13 (2):

Where institutions are wholly or partially transferred to the Federation, suitable existing staff shall be taken on to an appropriate extent as necessary for the performance of tasks.

8. Re Article 15:

The administrative assistance of the Federation and the Länder for the organization of Land administration and the performance of certain technical tasks shall be coordinated in a clearing agency to be established by the Federation and the Länder.

9. Re Article 16:

The two Contracting Parties take note of the announcement by Land Berlin that the First Mayor will, on 3 October 1990, be appointed a member of the Bundesrat and that the members of the Magistrat, like other members of the Land Government of Berlin, will be entitled to deputize for the appointed members of the Bundesrat.

10. Re Article 17: The provisions of Article 17 of the Treaty shall apply to persons who, due to committal to a psychiatric institution contrary to the rule of law, became victims within the meaning of Article 17.

11. Re Article 20 (2):

The introduction of professional civil service law in accordance with the agreed arrangements set out in Annex I shall take place in line with the principles governing the staffing of permanently required posts of the Federal Republic of Germany.

12. Re Article 21 (1), first sentence:

The Länder shall be informed about the continued use of immovable property employed for military purposes. The Länder concerned shall be consulted before immovable property which has been used to date for military purposes and becomes federal property is given over to another use.

13. Re Article 22 (4):

Publicly owned land used for housing purposes by the housing cooperatives shall also be covered by paragraph 4 and shall ultimately be made over to the housing cooperatives, with its present purpose being maintained.

14. Re Article 35:

The Federal Republic of Germany and the German Democratic Republic declare in connection with Article 35 of the Treaty:

1. There shall be freedom of commitment to the distinctive Sorbian way of life and to Sorbian culture.

2. The maintenance and further development of Sorbian culture and traditions shall be guaranteed.

3. The Sorbian people and their organizations shall be free to cultivate and preserve the Sorbian language in public life.

4. The distribution of competence between the Federation and the Länder as set out in the Basic Law shall remain unaffected.

15. Re Article 38:

Agreements concluded by the Academy of Sciences, the Academy of Architecture and the Academy of Agricultural Sciences of the German Democratic Republic with organizations in other states or with international agencies shall be reviewed in accordance with the principles laid down in Article 12 of the Treaty.

16. Re Article 40:

The Federal Government shall settle cases in which it has agreed to assume the costs of medical care for Germans from the territory specified in Article 3 of the Treaty.

17. Re Annex II, Chapter II, Section III, No. 2:

The parties shall have the right to equality of opportunity in the preparations for elections and in the competition for votes. Money or moneyed assets which have accrued to the parties neither through membership dues, nor through donations, nor through the reimbursement of election campaign expenses by the state, notably items of property belonging to former Bloc parties and the PDS in the German Democratic Republic, may be used neither for the preparations for elections nor in the election campaign. The parties shall be obliged to submit affidavits by their treasurers to this effect and to have their renunciation of the use of such resources confirmed by public auditors as of 1 December 1990. Where parties in the Federal Republic of Germany merge with former Bloc parties of the German Democratic Republic prior to election day, they shall be bound to account for their assets at the time of their merger by submitting in each case a closing and an opening balance sheet not later than 1 November 1990, which shall accord with the criteria set out in Section 24 (4) of the Political Parties Act.

18. Re Annex III:

The two Contracting Parties agree that for the cases coming under the arrangements set out in the second and third sentences of Section 6 implementation may also be envisaged under Section 7 of the Joint Declaration.

11. Statement for the Record

The two Contracting Parties are agreed that the provisions of the Treaty are adopted without prejudice to the rights and responsibilities of the Four Powers in respect of Berlin and Germany as a whole still existing at the time of signing and to the still outstanding results of the talks on the external aspects of the establishment of German unity.

ภาคผนวก ข.

TREATY ON THE FINAL SETTLEMENT WITH RESPECT TO
GERMANY

The Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America,

Conscious of the fact that their peoples have been living together in peace since 1945;

Mindful of the recent historic changes in Europe which make it possible to overcome the division of the continent;

Having regard to the rights and responsibilities of the Four Powers relating to Berlin and to Germany as a whole, and the corresponding wartime and post-war agreements and decisions of the Four Powers;

Resolved in accordance with their obligations under the Charter of the United Nations to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

Recalling the principles of the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki;

Recognizing that those principles have laid firm foundations for the establishment of a just and lasting peaceful order in Europe;

Determined to take account of everyone's security interests;

Convinced of the need finally to overcome antagonism and to develop cooperation in Europe;

Confirming their readiness to reinforce security, in particular by adopting effective arms control, disarmament and confidence-building measures; their willingness not to regard each other as adversaries but to work for a relationship of trust and cooperation; and accordingly their readiness to consider positively setting up appropriate institutional arrangements within the framework of the Conference on Security and Cooperation in Europe;

Welcoming the fact that the German people, freely exercising their right of self-determination, have expressed their will to bring about the unity of Germany as a state so that they will be able to serve the peace of the world as an equal and sovereign partner in a united Europe;

Convinced that the unification of Germany as a state with definitive borders is a significant contribution to peace and stability in Europe;

Intending to conclude the final settlement with respect to Germany;

Recognizing that thereby, and with the unification of Germany as a democratic and peaceful state, the rights and responsibilities of the Four Powers relating to Berlin and to Germany as a whole lose their function;

Represented by their Ministers for Foreign Affairs who, in accordance with the Ottawa Declaration of 13 February 1990, met in Bonn on 5 May 1990, in Berlin on 22 June 1990, in Paris on 17 July 1990 with the participation of the Minister for Foreign Affairs of the Republic of Poland, and in Moscow on 12 September 1990;

Have agreed as follows:

ARTICLE 1

(1) The united Germany shall comprise the territory of the Federal Republic of Germany, the German Democratic Republic and the whole of Berlin. Its external borders shall be the borders of the Federal Republic of Germany and the German Democratic Republic and shall be definitive from the date on which the present Treaty comes into force. The confirmation of the definitive nature of the borders of the united Germany is an essential element of the peaceful order in Europe.

(2) The united Germany and the Republic of Poland shall confirm the existing border between them in a treaty that is binding under international law.

(3) The united Germany has no territorial claims whatsoever against other states and shall not assert any in the future.

(4) The Governments of the Federal Republic of Germany and the German Democratic Republic shall ensure that the constitution of the united Germany does not contain any provision incompatible with these principles. This applies accordingly to the provisions laid down in the preamble, the second sentence of Article 23, and Article 146 of the Basic Law for the Federal Republic of Germany.

(5) The Governments of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America take formal note of the corresponding commitments and declarations by the Governments of the Federal Republic of Germany and the German Democratic Republic and declare that their implementation will confirm the definitive nature of the united Germany's borders.

ARTICLE 2

The Governments of the Federal Republic of Germany and the German Democratic Republic reaffirm their declarations that only peace will emanate from German soil. According to the constitution of the united Germany, acts tending to and undertaken with the intent to disturb the peaceful relations between nations, especially to prepare for aggressive war, are unconstitutional and a punishable offence. The Governments of the Federal Republic of Germany and the German Democratic Republic declare that the united Germany will never employ any of its weapons except in accordance with its constitution and the Charter of the United Nations.

ARTICLE 3

(1) The Governments of the Federal Republic of Germany and the German Democratic Republic reaffirm their renunciation of the manufacture and possession of and control over nuclear, biological and chemical weapons. They declare that the united Germany, too, will abide by these commitments. In particular, rights and obligations arising from the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 will continue to apply to the united Germany.

(2) The Government of the Federal Republic of Germany, acting in full agreement with the Government of the German Democratic Republic, made the following statement on 30 August 1990 in Vienna at the Negotiations on Conventional Armed Forces in Europe:

"The Government of the Federal Republic of Germany undertakes to reduce the personnel strength of the armed forces of the united Germany to 370,000 (ground, air and naval forces) within three to four years. This reduction will commence on



the entry into force of the first CFS agreement. Within the scope of this overall ceiling no more than 345,000 will belong to the ground and air forces which, pursuant to the agreed mandate, alone are the subject of the Negotiations on Conventional Armed Forces in Europe. The Federal Government regards its commitment to reduce ground and air forces as a significant German contribution to the reduction of conventional armed forces in Europe. It assumes that in follow-on negotiations the other participants in the negotiations, too, will render their contribution to enhancing security and stability in Europe, including measures to limit personnel strengths."

The Government of the German Democratic Republic has expressly associated itself with this statement.

(3) The Governments of the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America take note of these statements by the Governments of the Federal Republic of Germany and the German Democratic Republic.

ARTICLE 4

(1) The Governments of the Federal Republic of Germany, the German Democratic Republic and the Union of Soviet Socialist Republics state that the united Germany and the Union of Soviet Socialist Republics will settle by treaty the conditions for and the duration of the presence of Soviet armed forces on the territory of the present German Democratic Republic and of Berlin, as well as the conduct of the withdrawal of these armed forces which will be completed by the end of 1994, in connection with the implementation of the undertaking of the Federal Republic of Germany and the German Democratic Republic referred to in paragraph 2 of Article 3 of the present Treaty.

(2) The Governments of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America take note of this statement.

ARTICLE 5

(1) Until the completion of the withdrawal of the Soviet armed forces from the territory of the present German Democratic Republic and of Berlin in accordance with Article 4 of the present Treaty, only German territorial defence units which are not integrated into the alliance structures to which German armed forces in the rest of German territory are assigned will be stationed in that territory as armed forces of the united Germany. During that period and subject to the provisions of paragraph 2 of this Article, armed forces of other states will not be stationed in that territory or carry out any other military activity there.

(2) For the duration of the presence of Soviet armed forces in the territory of the present German Democratic Republic and of Berlin, armed forces of the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America will, upon German request, remain stationed in Berlin by agreement to this effect between the Government of the united Germany and the Governments of the states concerned. The number of troops and the amount of equipment of all non-German armed forces stationed in Berlin will not be greater than at the time of signature of the present Treaty. New categories of weapons will not be introduced there by non-German armed forces. The Government of the united Germany will conclude with the governments of those states which have armed forces stationed in Berlin treaties with conditions which are fair taking account of the relations existing with the states concerned.

(3) Following the completion of the withdrawal of the Soviet armed forces from the territory of the present German Democratic Republic and of Berlin, units of German armed forces assigned to military alliance structures in the same way as those in the rest of German territory may also be stationed in that part of Germany, but without nuclear weapon carriers. This does not apply to conventional weapon systems which may have other capabilities in addition to conventional ones but which in that part of Germany are equipped for a conventional role and designated only for such. Foreign armed forces and nuclear weapons or their carriers will not be stationed in that part of Germany or deployed there.

ARTICLE 6

~~The right of the united Germany to belong to alliances, with all the rights and responsibilities arising therefrom, shall not be affected by the present Treaty.~~

ARTICLE 7

(1) The French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America hereby terminate their rights and responsibilities relating to Berlin and to Germany as a whole. As a result, the corresponding, related quadripartite agreements, decisions and practices are terminated and all related Four Power institutions are dissolved.

(2) The united Germany shall have accordingly full sovereignty over its internal and external affairs.

ARTICLE 8

(1) The present Treaty is subject to ratification or acceptance as soon as possible. On the German side it will be ratified by the united Germany. The Treaty will therefore apply to the united Germany.

(2) The instruments of ratification or acceptance shall be deposited with the Government of the united Germany. That Government shall inform the Governments of the other Contracting Parties of the deposit of each instrument of ratification or acceptance.

ARTICLE 9

The present Treaty shall enter into force for the united Germany, the French Republic, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America on the date of deposit of the last instrument of ratification or acceptance by these states.

ARTICLE 10

The original of the present Treaty, of which the English, French, German and Russian texts are equally authentic, shall be deposited with the Government of the Federal Republic of Germany, which shall transmit certified true copies to the Governments of the other Contracting Parties.

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

DONE at Moscow this twelfth day of September 1990.

AGREED MINUTE TO THE TREATY ON THE
FINAL SETTLEMENT WITH RESPECT TO
GERMANY OF 12 SEPTEMBER 1990

Any questions with respect to the application of the word "deployed" as used in the last sentence of paragraph 3 of Article 5 will be decided by the Government of the united Germany in a reasonable and responsible way taking into account the security interests of each Contracting Party as set forth in the preamble.

ภาคผนวก ค.

VIENNA CONVENTION
ON SUCCESSION OF STATES
IN RESPECT OF TREATIES

(Document A/CONF.80/31*)

* Incorporating document A/CONF.80/31/Corr.2.

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 treaties 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 that the consistent observance of general multilateral treaties which deal with the codification and progressive development of international law and those the object and purpose of which are of interest to the international community as a whole is of special importance for the strengthening of peace and international co-operation,

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 Convention on the Law of Treaties of 1969,

Bearing also in mind article 73 of that Convention,

Affirming that questions of the law of treaties other than those that may arise from a succession of States are governed by the relevant rules of international law, including those rules of customary international law which are embodied in the Vienna Convention on the Law of Treaties of 1969,

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. General provisions

Article 1. Scope of the present Convention

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

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

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

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

(e) "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;

(f) "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 was responsible;

(g) "notification of succession" means in relation to a multilateral treaty any notification, however phrased or named, made by a successor State expressing its consent to be considered as bound by the treaty;

(h) "full powers" means in relation to a notification of succession or any other notification under the present Convention a document emanating from the competent authority of a State designating a person or persons to represent the State for communicating the notification of succession or, as the case may be, the notification;

(i) "ratification", "acceptance" and "approval" 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;

(j) "reservation" means a unilateral statement, however phrased or named, made by a State when signing, ratifying, accepting, approving or acceding to a treaty or when making a notification of succession 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;

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

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

(m) "other State party" means in relation to a successor State any party, other than the predecessor State, to a treaty in force at the date of a succession of States in respect of the territory to which that succession of States relates;

(n) "international organization" means an inter-governmental 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. Cases not within the scope of the present Convention

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

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

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

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

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

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

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

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

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

Article 6. 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, the principles of international law embodied in the Charter of the United Nations.

Article 7. 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 8. Agreements for the devolution of treaty obligations or rights from a predecessor State to a successor State

1. The obligations or rights of a predecessor State under treaties in force in respect of a territory at the date of a succession of States do not become the obligations or rights of the successor State towards other States parties to those treaties by reason only of the fact that the predecessor State and the successor State have concluded an agreement providing that such obligations or rights shall devolve upon the successor State.

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

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

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

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

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

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

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

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

Article 11. Boundary régimes

A succession of States does not as such affect:

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

Article 12. Other territorial régimes

1. A succession of States does not as such affect:

- (a) obligations relating to the use of any territory, or to restrictions upon its use, established by a treaty for the benefit of any territory of a foreign State and considered as attaching to the territories in question;
- (b) rights established by a treaty for the benefit of any territory and relating to the use, or to restrictions upon the use, of any territory of a foreign State and considered as attaching to the territories in question.

2. A succession of States does not as such affect:

- (a) obligations relating to the use of any territory, or to restrictions upon its use, established by a treaty for the benefit of a group of States or of all States and considered as attaching to that territory;
- (b) rights established by a treaty for the benefit of a group of States or of all States and relating to the use of

any territory, or to restrictions upon its use, and considered as attaching to that territory.

3. The provisions of the present article do not apply to treaty obligations of the predecessor State providing for the establishment of foreign military bases on the territory to which the succession of States relates.

Article 13. The present Convention and permanent sovereignty over natural wealth and resources

Nothing in the present Convention shall affect the principles of international law affirming the permanent sovereignty of every people and every State over its natural wealth and resources.

Article 14. Questions relating to the validity of a treaty

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

Part II. Succession in respect of part of territory

Article 15. Succession in respect of part of territory

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

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

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

Part III. Newly independent States

SECTION 1. GENERAL RULE

Article 16. Position in respect of the treaties of the predecessor State

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

SECTION 2. MULTILATERAL TREATIES

Article 17. Participation in treaties in force at the date of the succession of States

1. Subject to paragraphs 2 and 3, a newly independent State may, by a notification of succession, establish its

status as a party to any multilateral treaty which at the date of the succession of States was in force in respect of the territory to which the succession of States relates.

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

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

Article 18. Participation in treaties not in force at the date of the succession of States

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

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

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

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

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

Article 19. Participation in treaties signed by the predecessor State subject to ratification, acceptance or approval

1. Subject to paragraphs 3 and 4, if before the date of the succession of States the predecessor State signed a multilateral treaty subject to ratification, acceptance or

approval and by the signature intended that the treaty should extend to the territory to which the succession of States relates, the newly independent State may ratify, accept or approve the treaty as if it had signed that treaty and may thereby become a party or a contracting State to it.

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

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

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

Article 20. Reservations

1. When a newly independent State establishes its status as a party or as a contracting State to a multilateral treaty by a notification of succession under article 17 or 18, it shall be considered as maintaining any reservation to that treaty which was applicable at the date of the succession of States in respect of the territory to which the succession of States relates unless, when making the notification of succession, it expresses a contrary intention or formulates a reservation which relates to the same subject-matter as that reservation.

2. When making a notification of succession establishing its status as a party or as a contracting State to a multilateral treaty under article 17 or 18, a newly independent State may formulate a reservation unless the reservation is one the formulation of which would be excluded by the provisions of subparagraph (a), (b) or (c) of article 19 of the Vienna Convention on the Law of Treaties.

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

Article 21. Consent to be bound by part of a treaty and choice between differing provisions

1. When making a notification of succession under article 17 or 18 establishing its status as a party or contracting State to a multilateral treaty, a newly independent State may, if the treaty so permits, express its consent to be bound by part of the treaty or make a choice between differing provisions under the conditions laid down in the treaty for expressing such consent or making such choice.

2. A newly independent State may also exercise, under the same conditions as the other parties or contracting States, any right provided for in the treaty to withdraw or modify any consent expressed or choice made by itself or by the predecessor State in respect of the territory to which the succession of States relates.

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

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

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

Article 22. Notification of succession

1. A notification of succession in respect of a multi-lateral treaty under article 17 or 18 shall be made in writing.

2. If the notification of succession 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.

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

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

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

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

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

Article 23. Effects of a notification of succession

1. Unless the treaty otherwise provides or it is otherwise agreed, a newly independent State which makes a notification of succession under article 17 or article 18, paragraph 2, shall be considered a party to the treaty from the date of the succession of States or from the date of entry into force of the treaty, whichever is the later date.

2. Nevertheless, the operation of the treaty shall be considered as suspended as between the newly independent State and the other parties to the treaty until the date of making of the notification of succession except in so far as that treaty may be applied provisionally in accordance with article 27 or as may be otherwise agreed.

3. Unless the treaty otherwise provides or it is otherwise agreed, a newly independent State which makes a notification of succession under article 18, paragraph 1, shall be considered a contracting State to the treaty from the date on which the notification of succession is made.

SECTION 3. BILATERAL TREATIES

Article 24. Conditions under which a treaty is considered as being in force in the case of a succession of States

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

(a) they expressly so agree; or

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

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

Article 25. The position as between the predecessor State and the newly independent State

A treaty which under article 24 is considered as being in force between a newly independent State and the other State party is not by reason only of that fact to be considered as being in force also in the relations between the predecessor State and the newly independent State.

Article 26. Termination, suspension of operation or amendment of the treaty as between the predecessor State and the other State party

1. When under article 24 a treaty is considered as being in force between a newly independent State and the other State party, the treaty:

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

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

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

2. The fact that a treaty has been terminated or, as the case may be, suspended in operation as between the

predecessor State and the other State party after the date of the succession of States does not prevent the treaty from being considered to be in force or, as the case may be, in operation as between the newly independent State and the other State party if it is established in accordance with article 24 that they so agreed.

3. The fact that a treaty has been amended as between the predecessor State and the other State party after the date of the succession of States does not prevent the unamended treaty from being considered to be in force under article 24 as between the newly independent State and the other State party, unless it is established that they intended the treaty as amended to apply between them.

SECTION 4. PROVISIONAL APPLICATION

Article 27. Multilateral treaties

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

2. Nevertheless, in the case of a treaty which falls within the category mentioned in article 17, paragraph 3, the consent of all the parties to such provisional application is required.

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

4. Nevertheless, in the case of a treaty which falls within the category mentioned in article 17, paragraph 3, the consent of all the contracting States to such continued provisional application is required.

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

Article 28. Bilateral treaties

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

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

Article 29. Termination of provisional application

1. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a multilateral treaty under article 27 may be terminated:

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

(b) in the case of a treaty which falls within the category mentioned in article 17, paragraph 3, by reasonable notice of termination given by the newly independent State or all of the parties or, as the case may be, all the contracting States and the expiration of the notice.

2. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a bilateral treaty under article 28 may be terminated by reasonable notice of termination given by the newly independent State or the other State concerned and the expiration of the notice.

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

4. Unless the treaty otherwise provides or it is otherwise agreed, the provisional application of a multilateral treaty under article 27 shall be terminated if the newly independent State gives notice of its intention not to become a party to the treaty.

SECTION 5. NEWLY INDEPENDENT STATES FORMED FROM TWO OR MORE TERRITORIES

Article 30. Newly independent States formed from two or more territories

1. Articles 16 to 29 apply in the case of a newly independent State formed from two or more territories.

2. When a newly independent State formed from two or more territories is considered as or becomes a party to a treaty by virtue of article 17, 18 or 24 and at the date of the succession of States the treaty was in force, or consent to be bound had been given, in respect of one or more, but not all, of those territories, the treaty shall apply in respect of the entire territory of that State unless:

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

(b) in the case of a multilateral treaty not falling under article 17, paragraph 3, or under article 18, paragraph 4, the notification of succession is restricted to the territory in respect of which the treaty was in force at the date of the

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succession of States, or in respect of which consent to be bound by the treaty had been given prior to that date;

(c) in the case of a multilateral treaty falling under article 17, paragraph 3, or under article 18, paragraph 4, the newly independent State and the other States parties or, as the case may be, the other contracting States otherwise agree; or

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

3. When a newly independent State formed from two or more territories becomes a party to a multilateral treaty under article 19 and by the signature or signatures of the predecessor State or States it had been intended that the treaty should extend to one or more, but not all, of those territories, the treaty shall apply in respect of the entire territory of the newly independent State unless:

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

(b) in the case of a multilateral treaty not falling under article 19, paragraph 4, the ratification, acceptance or approval of the treaty is restricted to the territory or territories to which it was intended that the treaty should extend; or

(c) in the case of a multilateral treaty falling under article 19, paragraph 4, the newly independent State and the other States parties or, as the case may be, the other contracting States otherwise agree.

Part IV. Uniting and separation of States

Article 31. Effects of a uniting of States in respect of treaties in force at the date of the succession of States

1. When two or more States unite and so form one successor State, any treaty in force at the date of the succession of States in respect of any of them continues in force in respect of the successor State unless:

(a) the successor State and the other State party or States parties otherwise agree; or

(b) it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

2. Any treaty continuing in force in conformity with paragraph 1 shall apply only in respect of the part of the territory of the successor State in respect of which the treaty was in force at the date of the succession of State unless:

(a) in the case of a multilateral treaty not falling within the category mentioned in article 17, paragraph 3, the successor State makes a notification that the treaty shall apply in respect of its entire territory;

(b) in the case of a multilateral treaty falling within the category mentioned in article 17, paragraph 3, the successor State and the other States parties otherwise agree; or

(c) in the case of a bilateral treaty, the successor State and the other State party otherwise agree.

3. Paragraph 2 (a) does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

Article 32. Effects of a uniting of States in respect of treaties not in force at the date of the succession of States

1. Subject to paragraphs 3 and 4, a successor State falling under article 31 may, by making a notification, establish its status as a contracting State to a multilateral treaty which is not in force if, at the date of the succession of States, any of the predecessor States was a contracting State to the treaty.

2. Subject to paragraphs 3 and 4, a successor State falling under article 31 may, by making a notification, establish its status as a party to a multilateral treaty which enters into force after the date of the succession of States if, at that date, any of the predecessor States was a contracting State to the treaty.

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

4. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may establish its status as a party or as a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

5. Any treaty to which the successor State becomes a contracting State or a party in conformity with paragraph 1 or 2 shall apply only in respect of the part of the territory of the successor State in respect of which consent to be bound by the treaty had been given prior to the date of the succession of States unless:

(a) in the case of a multilateral treaty not falling within the category mentioned in article 17, paragraph 3, the successor State indicates in its notification made under paragraph 1 or 2 that the treaty shall apply in respect of its entire territory; or

(b) in the case of a multilateral treaty falling within the category mentioned in article 17, paragraph 3, the successor State and all the parties or, as the case may be, all the contracting States otherwise agree.

6. Paragraph 5 (a) does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory of the successor State would be incompatible with the object and purpose

of the treaty or would radically change the conditions for its operation.

Article 33. Effects of a uniting of States in respect of treaties signed by a predecessor State subject to ratification, acceptance or approval

1. Subject to paragraphs 2 and 3, if before the date of the succession of States one of the predecessor States had signed a multilateral treaty subject to ratification, acceptance or approval, a successor State falling under article 31 may ratify, accept or approve the treaty as if it had signed that treaty and may thereby become a party or a contracting State to it.

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

3. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may become a party or a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

4. Any treaty to which the successor State becomes a party or a contracting State in conformity with paragraph 1 shall apply only in respect of the part of the territory of the successor State in respect of which the treaty was signed by one of the predecessor States unless:

(a) in the case of a multilateral treaty not falling within the category mentioned in article 17, paragraph 3, the successor State when ratifying, accepting or approving the treaty gives notice that the treaty shall apply in respect of its entire territory;

(b) in the case of a multilateral treaty falling within the category mentioned in article 17, paragraph 3, the successor State and all the parties or, as the case may be, all the contracting States otherwise agree.

5. Paragraph 4 (a) does not apply if it appears from the treaty or is otherwise established that the application of the treaty in respect of the entire territory of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

Article 34. Succession of States in cases of separation of parts of a State

1. When a part or parts of the territory of a State separate to form one or more States, whether or not the predecessor State continues to exist:

(a) any treaty in force at the date of the succession of States in respect of the entire territory of the predecessor State continues in force in respect of each successor State so formed;

(b) any treaty in force at the date of the succession of States in respect only of that part of the territory of the predecessor State which has become a successor State continues in force in respect of that successor State alone.

2. Paragraph 1 does not apply if:

(a) the States concerned otherwise agree; or

(b) it appears from the treaty or is otherwise established that the application of the treaty in respect of the successor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

Article 35. Position if a State continues after separation of part of its territory

When, after separation of any part of the territory of a State, the predecessor State continues to exist, any treaty which at the date of the succession of States was in force in respect of the predecessor State continues in force in respect of its remaining territory unless:

(a) the States concerned otherwise agree;

(b) it is established that the treaty related only to the territory which has separated from the predecessor State; or

(c) it appears from the treaty or is otherwise established that the application of the treaty in respect of the predecessor State would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation.

Article 36. Participation in treaties not in force at the date of the succession of States in cases of separation of parts of a State

1. Subject to paragraphs 3 and 4, a successor State falling under article 34, paragraph 1, may, by making a notification, establish its status as a contracting State to a multilateral treaty which is not in force if, at the date of the succession of States, the predecessor State was a contracting State to the treaty in respect of the territory to which the succession of States relates.

2. Subject to paragraphs 3 and 4, a successor State falling under article 34, paragraph 1, may, by making a notification, establish its status as a party to a multilateral treaty which enters into force after the date of the succession of States if at that date the predecessor State was a contracting State to the treaty in respect of the territory to which the succession of States relates.

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

4. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may establish its status as a party or as a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

Article 37. Participation in cases of separation of parts of a State in treaties signed by the predecessor State subject to ratification, acceptance or approval

1. Subject to paragraphs 2 and 3, if before the date of the succession of States the predecessor State had signed

a multilateral treaty subject to ratification, acceptance or approval and the treaty, if it had been in force at that date, would have applied in respect of the territory to which the succession of States relates, a successor State falling under article 34, paragraph 1, may ratify, accept or approve the treaty as if it had signed that treaty and may thereby become a party or a contracting State to it.

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

3. If the treaty is one falling within the category mentioned in article 17, paragraph 3, the successor State may become a party or a contracting State to the treaty only with the consent of all the parties or of all the contracting States.

Article 38. Notifications

1. Any notification under articles 31, 32 or 36 shall be made in writing.

2. If the notification 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.

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

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

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

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

5. Subject to the provisions of the treaty, such notification or communication shall be considered as received by the State for which it is intended only when the latter State has been informed by the depositary.

Part V. Miscellaneous provisions

Article 39. Cases of State responsibility and outbreak of hostilities

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

Article 40. Cases of military occupation

The provisions of the present Convention shall not prejudice any question that may arise in regard to a treaty from the military occupation of a territory.

Part VI. Settlement of disputes

Article 41. 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 42. Conciliation

If the dispute is not resolved within six months of the date on which the request referred to in article 41 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 43. 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 41 and 42, 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 44. Settlement by common consent

Notwithstanding articles 41, 42 and 43, 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 45. Other provisions in force for the settlement of disputes

Nothing in articles 41 to 44 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 VII. Final provisions

Article 46. Signature

The present Convention shall be open for signature by all States until 28 February 1979 at the Federal Ministry

for Foreign Affairs of the Republic of Austria, and subsequently, until 31 August 1979, at United Nations Headquarters in New York.

Article 47. Ratification

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

Article 48. 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 49. 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 50. 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 twenty-third day of August, one thousand nine hundred and seventy-eight.

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 42, 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.



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UNITED NATIONS CONFERENCE ON SUCCESSION
OF STATES IN RESPECT OF STATE PROPERTY,
ARCHIVES AND DEBTS

Vienna, 1 March - 8 April 1983



VIENNA CONVENTION ON SUCCESSION OF STATES IN RESPECT
OF STATE PROPERTY, ARCHIVES AND DEBTS

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 1Scope 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 2Use 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 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 6Rights 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 7Scope 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 8State 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 9Effects 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 10Date 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 11Passing 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 12Absence 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 13Preservation 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 14Transfer 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 17Separation 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 18Dissolution 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 20State archives

For the purposes 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 21Effects 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 22Date 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 26Preservation 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 27Transfer 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 30Separation 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 31Dissolution 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 32Scope 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 33State 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 34Effects 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 35Date 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 36Absence 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 37Transfer 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 43Conciliation

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 44Judicial 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 45Settlement 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 46Other 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 47Signature

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 48Ratification

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

Article 49Accession

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 50Entry 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 51Authentic 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.



ประวัติผู้เขียน

นายกำปนาท หิรัญศุภโชติ เกิดวันที่ 3 กุมภาพันธ์ 2510 ที่อำเภอบางกอกน้อย
จังหวัดกรุงเทพมหานคร สำเร็จการศึกษาปริญญาตรีนิติศาสตรบัณฑิต ภาควิชานิติศาสตร์
คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย ในปีการศึกษา 2530 และเข้าศึกษาต่อในหลักสูตร
นิติศาสตรมหาบัณฑิต ที่จุฬาลงกรณ์มหาวิทยาลัย เมื่อ พ.ศ. 2532