

- 2 A state exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in conformity with the treaty.

Article 37 Revocation or modification of obligations or rights of third states

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

Article 38 Rules in a treaty becoming binding on third states through international custom

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

PART IV

AMENDMENT AND MODIFICATION OF TREATIES

Article 39 General rules regarding the amendment of treaties

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

Article 40 Amendment of multilateral treaties

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

Article 41 Agreements to modify multilateral treaties between certain of the parties only

- 1 Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:

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

PART V

INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

SECTION 1

GENERAL PROVISIONS

Article 42 Validity and continuance in force of treaties

- 1 The validity of a treaty or of the consent of a state to be bound by a treaty may be impeached only through the application of the present Convention.
- 2 The termination of a treaty, its denunciation or the withdrawal of a party, may take place only as a result of the application of the provisions of the treaty or of the present Convention. The same rule applies to suspension of the operation of a treaty.

Article 43 Obligations imposed by international law independently of a treaty

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

Article 44 Separability of treaty provisions

- 1 A right of a party, provided for in a treaty or arising under Article 56, to denounce, withdraw from or suspend the operation of the treaty may be exercised only with respect to the whole treaty unless the treaty otherwise provides or the parties otherwise agree.
- 2 A ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty recognised in the present Convention may be invoked only with respect to the whole treaty except as provided in the following paragraphs or in Article 60.
- 3 If the ground relates solely to particular clauses, it may be invoked only with respect those clauses where:
- (a) the said clauses are separable from the remainder of the treaty with regard to their application;
 - (b) it appears from the treaty or is otherwise established that acceptance of those clauses was not an essential basis of the consent of the other party or parties to be bound by the treaty as a whole; and
 - (c) continued performance of the remainder of the treaty would not be unjust.

- 4 In cases falling under Articles 49 and 50 the state entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or, subject to para 3, to the particular clauses alone.
- 5 In cases falling under Articles 51, 52 and 53, no separation of the provisions of the treaty is permitted.

Article 45 Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty

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

- (a) it shall have expressly agreed that the treaty is valid or remains in force or continues in operation, as the case may be; or
- (b) it must by reason of its conduct be considered as having acquiesced in the validity of the treaty or in its maintenance in force or in operation, as the case may be.

SECTION 2
INVALIDITY OF TREATIES

Article 46 Provisions of internal law regarding competence to conclude treaties

- 1 A state may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.
- 2 A violation is manifest if it would be objectively evident to any state conducting itself in the matter in accordance with normal practice and in good faith.

Article 47 Specific restrictions on authority to express the consent of a state

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

Article 48 Error

- 1 A state may invoke an error in a treaty as invalidating its consent to be bound by the treaty if the error relates to a fact or situation which was assumed by that state to exist at the time when the treaty was concluded and formed an essential basis of its consent to be bound by the treaty.
- 2 Paragraph 1 shall not apply if the state in question contributed by its own conduct to the error or if the circumstances were such as to put that state on notice of a possible error.
- 3 An error relating only to the wording of the text of a treaty does not affect its validity; Article 79 then applies.

Article 49 Fraud

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

Article 50 Corruption of a representative of a state

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

Article 51 Coercion of a representative of a state

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

Article 52 Coercion of a state by the threat or use of force

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

Article 53 Treaties conflicting with a peremptory norm of general international law (*jus cogens*)

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

SECTION 3

TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

Article 54 Termination of or withdrawal from a treaty under its provisions or by consent of the parties

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

- (a) in conformity with the provisions of the treaty; or
- (b) at any time by consent of all the parties after consultation with the other Contracting States.

Article 55 Reduction of the parties to a multilateral treaty below the number necessary for its entry into force

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

Article 56 Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal

- 1 A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:
 - (a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or
 - (b) a right of denunciation or withdrawal may be implied by the nature of the treaty.
- 2 A party shall give not less than 12 months' notice of its intention to denounce or withdraw from a treaty under para 1.

Article 57 Suspension of the operation of a treaty under its provisions or by consent of the parties

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

- (a) in conformity with the provisions of the treaty; or
- (b) at any time by consent of all the parties after consultation with the other Contracting States.

Article 58 Suspension of the operation of a multilateral treaty by agreement between certain of the parties only

- 1 Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:
 - (a) the possibility of such suspension is provided for by the treaty; or
 - (b) the suspension in question is not prohibited by the treaty and:
 - (i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
 - (ii) is not incompatible with the object and purpose of the treaty.
- 2 Unless in a case falling under para 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59 Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

- 1 A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:
 - (a) it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or
 - (b) the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.
- 2 The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60 Termination or suspension of the operation of a treaty as a consequence of its breach.

- 1 A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating or suspending its operation in whole or in part.
- 2 A material breach of a multilateral treaty by one of the parties entitles:
 - (a) the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
 - (i) in the relations between themselves and the defaulting state; or
 - (ii) as between all the parties;
 - (b) a party specially affected by the breach, to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting state;

- (c) any party other than the defaulting state to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligation under the treaty.
- 3 A material breach of a treaty, for the purposes of this article, consists in:
 - (a) a repudiation of the treaty not sanctioned by the present Convention; or
 - (b) the violation of a provision essential to the accomplishment of the object and purpose of the treaty.
- 4 The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.
- 5 Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61 Supervening impossibility of performance

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

Article 62 Fundamental change of circumstances

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

Article 63 Severance of diplomatic or consular relations

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

Article 64 Emergence of a new peremptory norm of general international law (*jus cogens*)

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

SECTION 4
PROCEDURE

Article 65 Procedure to be followed with respect to invalidity, termination, withdrawal from or suspension of the operation of a treaty

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

Article 66 Procedures for judicial settlement, arbitration and conciliation

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

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

Article 67 Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty

- 1 The notification provided for under Article 65, para 1 must be made in writing.
- 2 Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of para 2 or 3 of Article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the state communicating it may be called upon to produce full powers.

Article 68 Revocation of notifications and instruments provided for in Articles 65 and 67

A notification or instrument provided for in Articles 65 or 67 may be revoked at any time before it takes effect.

SECTION 5

CONSEQUENCES OF THE INVALIDITY, TERMINATION
OR SUSPENSION OF THE OPERATION OF A TREATY

Article 69 Consequences of the invalidity of a treaty

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

Article 70 Consequences of the termination of a treaty

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

Article 71 Consequences of the invalidity of a treaty which conflicts with a peremptory norm of general international law

- 1 In the case of a treaty which is void under Article 53 the parties shall:

- (a) eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and
 - (b) bring their mutual relations into conformity with the peremptory norm of general international law.
- 2 In the case of a treaty which becomes void and terminates under Article 64, the termination of the treaty:
 - (a) releases the parties from any obligations further to perform the treaty;
 - (b) does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

Article 72 Consequences of the suspension of the operation of a treaty

- 1 Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:
 - (a) releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;
 - (b) does not otherwise affect the legal relations between the parties established by the treaty.
- 2 During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

PART VI

MISCELLANEOUS PROVISIONS

Article 73 Cases of state succession, state responsibility and outbreak of hostilities

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

Article 74 Diplomatic and consular relations and the conclusion of treaties

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

Article 75 Case of an aggressor state

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

PART VII

DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION

Article 76 Depositaries of treaties

- 1 The designation of the depositary of a treaty may be made by the negotiating states, either in the treaty itself or in some other manner. The depositary may be one or more states, an international organisation or the chief administrative officer of the organisation.
- 2 The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a state and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

Article 77 Functions of depositaries

- 1 The functions of a depositary, unless otherwise provided in the treaty or agreed by the Contracting States, comprise in particular:
 - (a) keeping custody of the original text of the treaty and of any full powers delivered to the depositary;
 - (b) preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the states entitled to become parties to the treaty;
 - (c) receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;
 - (d) examining whether the signature of any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the state in question;
 - (e) informing the parties and the states entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;
 - (f) informing the states entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;
 - (g) registering the treaty with the Secretariat of the United Nations;
 - (h) performing the functions specified in other provisions of the present Convention.
- 2 In the event of any difference appearing between a state and the depositary as to the performance of the latter's functions, the depositary shall bring the question to the attention of the signatory states and the Contracting States or, where appropriate, of the competent organ of the international organisation concerned.

Article 78 Notifications and communications

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

- (a) if there is no depositary, be transmitted direct to the states for which it is intended, or if there is a depositary, to the latter;

- (b) be considered as having been made by the state in question only upon its receipt by the state to which it was transmitted or, as the case may be, upon its receipt by the depositary;
- (c) if transmitted to a depositary, be considered as received by the state for which it was intended only when the latter state has been informed by the depositary in accordance with Article 77, para 1(e).

Article 79 Correction of errors in texts or in certified copies of treaties

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

Article 80 Registration and publication of treaties

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