

(b) The signature *ad referendum* of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

#### Article 11

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

1. The consent of a State to be bound by a treaty is expressed by ratification when :

(a) The treaty provides for such consent to be expressed by means of ratification;

(b) It is otherwise established that the negotiating States were agreed that ratification should be required;

(c) The representative of the State in question has signed the treaty subject to ratification; or

(d) The intention of the State in question to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.

2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

#### Article 12

##### **Consent to be bound by a treaty expressed by accession**

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

(a) The treaty or an amendment to the treaty provides that such consent may be expressed by that State by means of accession;

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

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

#### Article 13

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

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

(a) Their exchange between the contracting States;

(b) Their deposit with the depositary; or

(c) Their notification to the contracting States or to the depositary, if so agreed.

#### Article 14

##### **Consent relating to a part of a treaty and choice of differing provisions**

1. Without prejudice to the provisions of articles 16 to 20, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is effective only if it is made plain to which of the provisions the consent relates.

## Article 15

**Obligation of a State not to frustrate the object of a treaty prior to its entry into force**

A State is obliged to refrain from acts tending to frustrate the object of a proposed treaty when :

- (a) It has agreed to enter into negotiations for the conclusion of the treaty, while these negotiations are in progress;
- (b) It has signed the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty;
- (c) It has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

**SECTION 2 : RESERVATIONS TO MULTILATERAL TREATIES**

## Article 16

**Formation of reservations**

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

- (a) The reservation is prohibited by the treaty;
- (b) The treaty authorises specified reservations which do not include the reservation in question; or
- (c) In cases where the treaty contains no provisions regarding reservations, the reservation is incompatible with the object and purpose of the treaty.

## Article 17

**Acceptance of and objection to reservations**

1. A reservation expressly or impliedly authorized by the treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.

2. When it appears from the limited number of the negotiating States and the object and purpose of the treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.

3. When a treaty is a constituent instrument of an international organization, the reservation requires the acceptance of the competent organ of that organization, unless the treaty otherwise provides.

4. In cases not falling under the preceding paragraphs of this article :

- (a) Acceptance by another contracting State of the reservation constitutes the reserving State a party to the treaty in relation to that State if or when the treaty is in force;
- (b) An objection by another contracting State to a reservation precludes the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is expressed by the objecting State;
- (c) An act expressing the State's consent to be bound by the treaty and containing a reservation is effective as soon as at least one other contracting State has accepted the reservation.

5. For the purposes of paragraphs 2 and 4 a reservation is considered to have been accepted by a State if it shall have raised no objection to the reservation by the end of a period of twelve months after it was notified of the reservation or by the date on which it expressed its consent to be bound by the treaty, whichever is later.

#### Article 18

##### Procedure regarding reservations

1. A reservation, an express acceptance of a reservation, and an objection to a reservation must be formulated in writing and communicated to the other States entitled to become parties to the treaty.

2. If formulated on the occasion of the adoption of the text or upon signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.

3. An objection to the reservation made previously to its confirmation does not itself require confirmation.

#### Article 19

##### Legal effects of reservations

1. A reservation established with regard to another party in accordance with articles 16, 17 and 18;

- (a) Modifies for the reserving State the provisions of the treaty to which the reservation relates to the extent of the reservation; and

- (b) Modifies these provisions to the same extent for such other party in its relations with the reserving State.

2. The reservation does not modify the provisions of the treaty for the other parties to the treaty *inter se*.

3. When a State objecting to a reservation agrees to consider the treaty in force between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation.

#### Article 20

##### Withdrawal of reservations

1. Unless the treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required for its withdrawal.

2. Unless the treaty otherwise provides or it is otherwise agreed, the withdrawal becomes operative only when notice of it has been received by the other contracting States.

#### SECTION 3: ENTRY INTO FORCE OF TREATIES

#### Article 21

##### Entry into force

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.

2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.

3. When the consent of a State to be bound is established after a treaty has come into force, the treaty enters into force for that State on the date when its consent was established unless the treaty otherwise provides.

#### Article 22

##### Entry into force provisionally

1. A treaty may enter into force provisionally if :
  - (a) The treaty itself prescribes that it shall enter into force provisionally pending ratification, acceptance, approval or accession by the contracting States; or
  - (b) The negotiating States have in some other manner so agreed.
2. The same rule applies to the entry into force provisionally of part of a treaty.

### PART III

#### OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

##### SECTION 1 : OBSERVANCE OF TREATIES

#### Article 23

##### **Pacta sunt servanda**

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

##### SECTION 2 : APPLICATION OF TREATIES

#### Article 24

##### **Non-retroactivity of treaties**

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

#### Article 25

##### **Application of treaties to territory**

Unless a different intention appears from the treaty or is otherwise established, the application of a treaty extends to the entire territory of each party.

#### Article 26

##### **Application of successive treaties relating to the same subject-matter**

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.

2. When a treaty specifies that it is subject to or that it is not to be considered as inconsistent with, an earlier or later treaty, the provisions of that other treaty prevail.

3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 56, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.

4. When the parties to the later treaty do not include all the parties to the earlier one :

- (a) As between States parties to both treaties the same rule applies as in paragraph 3;
- (b) As between a State party to both treaties and a State party only to the earlier treaty, the earlier treaty governs their mutual rights and obligations;
- (c) As between a State party to both treaties and a State party only to the later treaty, the later treaty governs their mutual rights and obligations.

5. Paragraph 4 is without prejudice to article 37, or to any question of the termination or suspension of the operation of a treaty under article 57 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty the provisions of which are incompatible with its obligations towards another State under another treaty.

### SECTION 3 : INTERPRETATION OF TREATIES

#### Article 27

##### General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes :

- (a) Any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;

- (b) Any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context :

- (a) Any subsequent agreement between the parties regarding the interpretation of the treaty;
- (b) Any subsequent practice in the application of the treaty which establishes the understanding of the parties regarding its interpretation;
- (c) Any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

#### Article 28

##### Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 27, or to determine the meaning when the interpretation according to article 27 :

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

#### Article 29

##### Interpretation of treaties in two or more languages

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language,

unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text. Except in the case mentioned in paragraph 1, when a comparison of the text discloses a difference of meaning which the application of articles 27 and 28 does not remove, a meaning which as far as possible reconciles the texts shall be adopted.

#### SECTION 4 : TREATIES AND THIRD STATES

##### Article 30

##### **General rule regarding third States**

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

##### Article 31

##### **Treaties providing for obligations for third States**

An obligation arises for a State from a provision of a treaty to which it is not a party if the parties intend the provision to be a means of establishing the obligation and the third State has expressly accepted that obligation.

##### Article 32

##### **Treaties providing for rights for third States**

1. A right arises for a State from a provision of a treaty to which it is not a party if the parties intend the provision to

accord that right either to the State in question, or to a group of States to which it belongs, or to all States, and the State assents thereto. Its assent shall be presumed so long as the contrary is not indicated.

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 33

##### **Revocation or modification of obligations or rights of third States**

1. When an obligation has arisen for a third State in conformity with article 31, the obligation may be revoked or modified only with the mutual 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 32, 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 34

##### **Rules in a treaty becoming binding through international custom**

Nothing in articles 30 to 33 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law.

## PART IV

## AMENDMENT AND MODIFICATION OF TREATIES

## Article 35

**General rule regarding the amendment of treaties**

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

## Article 36

**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 every party, 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; and article 26, paragraph 4(b) applies in relation to such State.

5. Any State which becomes a party to the treaty after the entry into force of the amending agreement shall, failing an expression of a different intention by that State :

- (a) Be considered as a party to the treaty as amended; and
- (b) Be considered as a party to the unamended treaty in relation to any party to the treaty not bound by the amending agreement.

## Article 37

**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 :
  - (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; and
  - (iii) is not prohibited by the treaty.

2. Unless in a case falling under paragraph 1 (a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides.

## Article 38

**Modification of treaties by subsequent practice**

A treaty may be modified by subsequent practice in the application of the treaty establishing the agreement of the parties to modify its provisions.

## PART V

INVALIDITY, TERMINATION AND SUSPENSION OF  
THE OPERATION OF TREATIES

## SECTION 1 : GENERAL PROVISIONS

## Article 39

**Validity and continuance in force of treaties**

1. The validity of a treaty may be impeached only through the application of the present articles. A treaty the invalidity of which is established under the present articles is void.

2. A treaty may be terminated or denounced or withdrawn from by a party only as a result of the application of the terms of the treaty or of the present articles. The same rule applies to suspension of the operation of a treaty.

## Article 40

**Obligations under other rules of international law**

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 articles or of the terms 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 is subject under any other rule of international law.

## Article 41

**Separability of treaty provisions**

1. A right of a party provided for in a treaty to denounce, withdraw from or suspend the operation of the treaty may only be exercised 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 articles may only be invoked with respect to the whole treaty except as provided in the following paragraphs or in article 57.

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

- (a) The said clauses are separable from the remainder of the treaty with regard to their application; and
- (b) Acceptance of those clauses was not an essential basis of the consent of the other party or parties to the treaty as a whole.

4. Subject to paragraph 3, in cases falling under articles 46 and 47 the State entitled to invoke the fraud or corruption may do so with respect either to the whole treaty or to the particular clauses alone.

5. In cases falling under articles 48, 49 and 50, no separation of the provisions of the treaty is permitted.

## Article 42

**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 43 to 47 inclusive or 57 to 59 inclusive if, after becoming aware of the facts :

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

## SECTION 2 : INVALIDITY OF TREATIES

### Article 43

#### **Provisions of internal law regarding competence to conclude a treaty**

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 of its internal law was manifest.

### Article 44

#### **Specific restrictions on authority to express the consent of the State**

If the authority of a representative to express the consent of his 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 a consent expressed by him unless the restriction was brought to the knowledge of the other negotiating State prior to his expressing such consent.

### Article 45

#### **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 a 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 74 then applies.

### Article 46

#### **Fraud**

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

### Article 47

#### **Corruption of a representative of the 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 48

#### **Coercion of a State by the threat or use of force**

The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its represen-

tative through acts or threats directed against him personally shall be without any legal effect.

Article 49

**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 the Charter of the United Nations.

Article 50

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

A treaty is void if it conflicts with a peremptory norm of general international law 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 51

**Termination of or withdrawal from a treaty by consent of the parties**

A treaty may be terminated or a party may withdraw from a treaty :

- (a) In conformity with a provision of the treaty allowing such termination or withdrawal ; or
- (b) At any time by consent of all the parties.

Article 52

**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 specified in the treaty as necessary for its entry into force.

Article 53

**Denunciation of a treaty containing no provision regarding termination**

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 it is established that the parties intended to admit the possibility of denunciation or withdrawal.

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

Article 54

**Suspension of the operation of a treaty 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 a provision of the treaty allowing such suspension;
- (b) At any time by consent of all the parties.

Article 55

**Temporary suspension of the operation of a multilateral treaty by consent between certain of the parties only**

When a multilateral treaty contains no provision regarding the suspension of its operation, two or more parties may conclude an agreement to suspend the operation of provisions of the treaty temporarily and as between themselves alone if such suspension :