



General Assembly

Distr.: General
20 March 2019

Original: English/French

International Law Commission

Seventy-first session

Geneva, 29 April–7 June and 8 July–9 August 2019

Succession of States in respect of State responsibility

Information on treaties which may be of relevance to the future work of the Commission on the topic

Memorandum by the Secretariat

Contents

	<i>Page</i>
I. Introduction	5
II. Treaties which may be of relevance to the future work of the Commission on the topic . . .	9
A. Vienna Conventions	9
1. Vienna Convention on the law of treaties (1969)	9
2. Vienna Convention on succession of States in respect of treaties (1978)	9
3. Vienna Convention on Succession of States in Respect of State Property, Archives and Debts (1983)	12
B. Other multilateral treaties and bilateral treaties	13
1. United Kingdom of Great Britain and Northern Ireland and Trans-Jordan: Treaty of Alliance (1946)	13
2. United States of America and Philippines: Treaty of general relations and Protocol (1946)	13
3. India and Pakistan: Agreement as to the devolution of international rights and obligations upon the Dominions of India and Pakistan (1947)	14
4. United Kingdom of Great Britain and Northern Ireland and Burma: Treaty regarding the recognition of Burmese independence and related matters (1947)	15
5. United Kingdom of Great Britain and Northern Ireland and Ceylon: External Affairs Agreement (1947)	15

* Reissued for technical reasons on 10 May 2019.



6.	Netherlands and Indonesia: Round Table Conference Agreement (1949)	16
7.	United Kingdom of Great Britain and Northern Ireland and Israel: Agreement for the settlement of financial matters outstanding as a result of the termination of the Mandate for Palestine (1950)	17
8.	India and France: Treaty of cession of the territory of the Free Town of Chandernagore (1951)	17
9.	United Kingdom of Great Britain and Northern Ireland and Jordan: Agreement for the settlement of financial matters outstanding as a result of the termination of the mandate for Palestine (1951)	18
10.	United Kingdom of Great Britain and Northern Ireland and Libya: Agreement regarding certain financial matters (1953)	18
11.	Laos and France: Treaty of Friendship and Association (1953)	19
12.	France and Viet Nam: Treaty of Independence of Viet Nam (1954)	19
13.	France and India: Agreement for the settlement of the question of the future of the French Establishments in India (1954)	20
14.	Italy and Libyan Arab Republic: Agreement on economic cooperation and settlement of issues arising from Resolution 388 (V) of 15 December 1950 of the General Assembly of the United Nations (1956)	20
15.	France and Morocco: Treaty (1956)	21
16.	France and India: Treaty of Cession of the French Establishments of Pondicherry, Karikal, Mahe and Yanam (1956)	21
17.	United States of America, Belgium, France, Italy, Morocco, Netherlands, Portugal, Spain and United Kingdom of Great Britain and Northern Ireland: Final Declaration of the International Conference in Tangier and annexed Protocol (1956)	22
18.	Federation of Malaya and United Kingdom of Great Britain and Northern Ireland: Exchange of letters constituting an agreement concerning succession to rights and obligations arising from international instruments (1957)	23
19.	United Kingdom of Great Britain and Northern Ireland and Ghana: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of Ghana (1957)	23
20.	France and United Arab Republic: General Agreement (1958)	23
21.	United Kingdom of Great Britain and Northern Ireland and United Arab Republic: Agreement concerning financial and commercial relations and British property in Egypt (1959)	24
22.	Italy and Somalia: Treaty of Friendship (1960)	25
23.	United Kingdom of Great Britain and Northern Ireland, Greece and Turkey and Cyprus: Treaty concerning the Establishment of the Republic of Cyprus (1960)	26
24.	United Kingdom of Great Britain and Northern Ireland and Nigeria: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of the Federation of Nigeria (1960)	26
25.	United Kingdom of Great Britain and Northern Ireland and Sierra Leone: Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of Sierra Leone (1961)	26

26. France and Algeria: Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (1962)	27
27. United Kingdom of Great Britain and Northern Ireland and Jamaica: Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of Jamaica (1962).	28
28. United Kingdom of Great Britain and Northern Ireland and Trinidad and Tobago: Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of Trinidad and Tobago (1962).	29
29. New Zealand and Western Samoa: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of Western Samoa (1962).	29
30. United Kingdom of Great Britain and Northern Ireland, and Federation of Malaya, North Borneo, Sarawak and Singapore: Agreement relating to Malaysia (1963)	30
31. United Kingdom of Great Britain and Northern Ireland and Malta: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of Malta (1964)	31
32. Singapore and Malaysia: Agreement relating to the separation of Singapore from Malaysia as an independent and sovereign State (1965)	31
33. United Kingdom of Great Britain and Northern Ireland and Gambia: Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of the Gambia (1966).	32
34. United States of America and Egypt: Agreement concerning claims of nationals of the United States (1976)	32
35. United Kingdom of Great Britain and Northern Ireland and Seychelles: Exchange of notes constituting an agreement concerning treaty succession (1976)	33
36. United Kingdom of Great Britain and Northern Ireland and Vanuatu: Exchange of notes constituting an agreement concerning the United Kingdom contribution towards compensation claims arising out of civil disturbances in Vanuatu in 1980 (1984).	33
37. Federal Republic of Germany and German Democratic Republic: Treaty on the Establishment of German Unity (1990)	34
38. Treaty on the legal succession in respect of the external public debt and assets of the USSR (1991).	35
39. Agreement establishing the Commonwealth of Independent States; Protocol to the Agreement establishing the Commonwealth of Independent States; Alma Ata Declaration (1991)	36
40. Germany and United States of America: Agreement concerning the settlement of certain property claims (1992).	37
41. Slovakia and Hungary: Special Agreement for submission to the International Court of Justice of the differences concerning the Gabčíkovo–Nagymaros Project (1993)	38

42. Australia and Nauru: Agreement for the settlement of the case in the International Court of Justice concerning certain phosphate lands in Nauru (1993)	38
43. United States of America and Viet Nam: Agreement concerning the settlement of certain property claims (1995).	39
44. Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia: Agreement on the Regulation of Relations and Promotion of Cooperation (1996).	40
45. Croatia and Federal Republic of Yugoslavia: Agreement on Normalization of Relations (1996)	40
46. Agreement on Succession Issues (2001).	40
47. Sudan and South Sudan: Agreement on Certain Economic Matters (2012).	41

I. Introduction

1. At its sixty-ninth session (2017), the Commission decided to include the topic “Succession of States in respect of State responsibility” in its programme of work and appointed Mr. Pavel Šturma as Special Rapporteur.¹

2. At its seventieth session (2018), the Commission requested from the Secretariat a memorandum providing information on treaties which may be of relevance to its future work on the topic.² The present memorandum has been prepared pursuant to such request.

3. The topic before the Commission concerns the effects of a succession of States in respect of the responsibility of States for internationally wrongful acts.³ The Special Rapporteur indicated that the purpose of the topic was to clarify “the question of whether there are rules of international law governing both the transfer of obligations and the transfer of rights arising from international responsibility of States for internationally wrongful acts” in the context of State succession.⁴

4. For the purposes of identifying treaties that may be of relevance to the Commission’s future work on the topic, a threefold methodology was employed:

(i) First, by *note verbale* dated 21 September 2018, all Member States of the United Nations and non-member States having received a standing invitation to participate as observers in the sessions and the work of the General Assembly, were invited to submit information, within the context of succession of States, on any multilateral or bilateral agreements, concluded after 26 June 1945, governing the possible transfer of rights and obligations arising from the commission of an internationally wrongful act. One Member State responded.⁵ In addition, one Member State provided information relevant to the present memorandum in the context of the request for information made by the Commission under chapter III of its report on the work of the Commission at its sixty-ninth session;⁶

¹ *Official Records of the General Assembly, Seventy-second Session, Supplement No. 10 (A/72/10)*, para. 211.

² *Ibid.*, *Seventy-third Session, Supplement No. 10 (A/73/10)*, para. 225.

³ See the first report of the Special Rapporteur on succession of States in respect of State responsibility, Mr. Pavel Šturma (A/CN.4/708), paras. 19–29; see also *Official Records of the General Assembly, Seventy-second Session, Supplement No. 10 (A/72/10)*, paras. 217, 235–236 and 248.

⁴ First report of the Special Rapporteur on succession of States in respect of State responsibility, Mr. Pavel Šturma (A/CN.4/708), para. 19.

⁵ Cabo Verde submitted copies and extracts of: the Agreement between the Portuguese Government and the African Independence Party of Guinea and Cabo Verde, signed on 26 August 1974; the Text of Law No. 13/74 of 17 December [1974] defining the organic Statute of the State of Cabo Verde; the Text of the agreement between the Government of Portugal and the African Party on independence of Guinea and Cabo Verde, signed on 19 December 1974; the Text of the proclamation of the Independence of Cabo Verde, made on 5 July 1975; the General Agreement on Cooperation and Friendship between Portugal and Cabo Verde, signed on 5 July 1975; the Agreement between the Republic of Cabo Verde and the Republic of Portugal on the transfer of the Department of the Banco Nacional Ultramarino em Cabo Verde, signed in April 1976; and the Protocol on the granting of the Portuguese radio MARCONI Company, in the Republic of Cabo Verde, signed on 21 January 1977. The submission may be accessed at http://legal.un.org/ilc/guide/3_5.shtml.

⁶ *Official Records of the General Assembly, Seventy-second Session, Supplement No. 10 (A/72/10)*, para. 31. Further to this request, by *note verbale* dated 26 April 2018, Portugal indicated the following: “having in mind the context of the independence of the former Portuguese colonies in the 1970’s, [they] have searched and analyzed the independence agreements with the (then) new states, the national legislation issued at the time and the decisions of the higher courts that may be related to the decolonization process. None of them addressed the specific issue of the succession or the distribution of rights and obligations arising from internationally wrongful acts of the predecessor State”.

(ii) Second, a review of treaties published in the United Nations *Treaty Series* was conducted.⁷ Such review was limited to bilateral and closed multilateral treaties registered or filed and recorded with the Secretariat as of 1 October 2018, which were entered into by Member States in the five years prior to and the ten years after their admission to membership in the United Nations, including treaties entered into by predecessor States, as appropriate; and

(iii) Third, a systematic review was conducted of the Commission's documentation on the present⁸ and related topics "Succession of States and Governments",⁹ "Succession in respect of treaties",¹⁰ "Succession of States in respect of matters other than treaties",¹¹ "Nationality in relation to the succession of States"¹² and "State responsibility".¹³

⁷ The United Nations *Treaty Series* is a publication produced by the Secretariat of the United Nations containing all treaties and international agreements registered or filed and recorded by the Secretariat pursuant to Article 102 of the Charter of the United Nations.

⁸ See the first and second reports of the Special Rapporteur on succession of States in respect of State responsibility, Mr. Pavel Šturma (A/CN.4/708 and A/CN.4/719).

⁹ See the following Secretariat studies: A/CN.4/149 and Add.1, A/CN.4/150 and A/CN.4/151, in *Yearbook of the International Commission, 1962*, vol. II; and A/CN.4/157, in *Yearbook ... 1963*, vol. II. See also *United Nations Legislative Series: Materials on Succession of States*, United Nations publication (Sales No. E/F.68.V.5).

¹⁰ Draft articles on succession of States in respect of treaties with commentaries thereto, *Yearbook ... 1974*, vol. II (Part One), document A/9610/Rev.1, pp. 174 *et seq.* See the five reports by the Special Rapporteur, Sir Humphrey Waldock, in: *Yearbook ... 1968*, vol. II, document A/CN.4/202 (first report); *Yearbook ... 1969*, vol. II, document A/CN.4/214 and Add.1–2 (second report); *Yearbook ... 1970*, vol. II, document A/CN.4/224 and Add.1 (third report); *Yearbook ... 1971*, vol. II (Part One), document A/CN.4/249 (fourth report); and *Yearbook ... 1972*, vol. II, document A/CN.4/256 and Add.1–4 (fifth report). See the first report by the Special Rapporteur, Sir Francis Vallat, in *Yearbook ... 1974*, vol. II (Part One), document A/CN.4/278 and Add.1–6. See also the following Secretariat studies: *Yearbook ... 1968*, vol. II, document A/CN.4/200 and Add.1–2; *Yearbook ... 1969*, vol. II, document A/CN.4/210; *Yearbook ... 1970*, vol. II, documents A/CN.4/225, A/CN.4/229 and A/CN.4/232; *Yearbook ... 1971*, vol. II (Part Two), document A/CN.4/243 and Add.1; and A/CN.4/263 (not published in a *Yearbook*).

¹¹ Draft articles on succession of States in respect of State property, archives and debts, with commentaries, *Yearbook ... 1981*, vol. II (Part Two), pp. 20 *et seq.* See the thirteen reports of the Special Rapporteur, Mr. Mohammed Bedjaoui, in: *Yearbook ... 1968*, vol. II, document A/CN.4/204 (first report on succession of States in respect of rights and duties resulting from sources other than treaties); *Yearbook ... 1969*, vol. II, document A/CN.4/216/Rev.1 (second report on succession in respect of matters other than treaties); *Yearbook ... 1970*, vol. II, document A/CN.4/226 (third report); *Yearbook ... 1971*, vol. II (Part One), document A/CN.4/247 and Add.1 (fourth report); *Yearbook ... 1972*, vol. II, document A/CN.4/259 (fifth report); *Yearbook ... 1973*, vol. II, document A/CN.4/267 (sixth report); *Yearbook ... 1974*, vol. II (Part One), document A/CN.4/282 (seventh report); *Yearbook ... 1976*, vol. II (Part One), document A/CN.4/292 (eighth report); *Yearbook ... 1977*, vol. II (Part One), document A/CN.4/301 and Add.1 (ninth report); *Yearbook ... 1978*, vol. II (Part One), document A/CN.4/313 (tenth report); *Yearbook ... 1979*, vol. II (Part One), document A/CN.4/322 and Add.1–2 (eleventh report); *Yearbook ... 1980*, vol. II (Part One), document A/CN.4/333 (twelfth report); and *Yearbook ... 1981*, vol. II (Part One), document A/CN.4/345 and Add.1–3 (thirteenth report). See also *United Nations Legislative Series: Materials on Succession of States in Respect of Matters other than Treaties*, United Nations publication (Sales No. E/F.77.V.9).

¹² Draft articles on nationality of natural persons in relation to the succession of States, with commentaries, *Yearbook ... 1999*, vol. II (Part Two), pp. 20 *et seq.* See the four reports of the Special Rapporteur, Mr. Václav Mikulka, in: *Yearbook ... 1995*, vol. II (Part One), document A/CN.4/467 (first report on State succession and its impact on nationality of natural and legal persons); *Yearbook ... 1996*, vol. II (Part One), document A/CN.4/474 (second report); *Yearbook ... 1997*, vol. II (Part One), document A/CN.4/480 and Add.1 (third report); and *Yearbook ... 1998*, vol. II (Part One), document A/CN.4/489 (fourth report).

¹³ Draft articles on responsibility of States for internationally wrongful acts, with commentaries, *Yearbook ... 2001*, vol. II (Part Two) and corrigendum, pp. 26 *et seq.*, para. 76. See the six reports of the Special Rapporteur, Mr. F. V. García Amador, in: *Yearbook ... 1956*, vol. II, document A/CN.4/96 (first report on State responsibility: international responsibility); *Yearbook ... 1957*, vol. II, document A/CN.4/106 (second report); *Yearbook ... 1958*, vol. II, document A/CN.4/111

5. This memorandum provides information on relevant treaties found as a result of the research based on the above methodology. A broad approach was taken in deciding which of those treaties to include in this memorandum. For example, treaties have been included when they were concluded in a context of succession of States, and when the text of certain provisions contained therein may address, directly or indirectly, the possible transfer of rights and obligations arising from the commission of an internationally wrongful act.

6. The information contained in the memorandum derives from official or primary sources. In particular, most of the provisions referred to in the memorandum are quoted from treaties registered under Article 102 of the Charter of the United Nations or deposited with the Secretary-General.¹⁴ In some instances, however, relevant provisions were identified in treaties that were not registered under Article 102.¹⁵

7. This memorandum sets forth the relevant text of the included treaties and does not address their application or interpretation. Registration of an instrument submitted under Article 102 of the Charter of the United Nations and included in this memorandum does not confer on the instrument the status of a treaty or an international agreement if it does not already have that status and does not confer on a party a status which it would not otherwise have. The inclusion in this memorandum of an instrument not registered under Article 102 does not imply a judgment by the

(third report); *Yearbook ... 1959*, vol. II, document A/CN.4/119 (fourth report); *Yearbook ... 1960*, vol. II, document A/CN.4/125 (fifth report); and *Yearbook ... 1961*, vol. II, document A/CN.4/134 and Add.1 (sixth report). See the eight reports of the Special Rapporteur, Mr. Roberto Ago, in: *Yearbook ... 1969*, vol. II, document A/CN.4/217 and Add.1 (first report on State responsibility); *Yearbook ... 1970*, vol. II, document A/CN.4/233 (second report); *Yearbook ... 1971*, vol. II (Part One), documents A/CN.4/217/Add.2 (first report) and A/CN.4/246 and Add.1–3 (third report); *Yearbook ... 1972*, vol. II, document A/CN.4/264 and Add.1 (fourth report); *Yearbook ... 1976*, vol. II (Part One), document A/CN.4/291 and Add.1–2 (fifth report); *Yearbook ... 1977*, vol. II (Part One), document A/CN.4/302 and Add.1–3 (sixth report); *Yearbook ... 1978*, vol. II (Part One), document A/CN.4/307 and Add.1–2 (seventh report); *Yearbook ... 1979*, vol. II (Part One), document A/CN.4/318 and Add.1–4 (eighth report); and *Yearbook ... 1980*, vol. II (Part One), document A/CN.4/318/Add.5–7 (addendum to the eighth report). See the seven reports of the Special Rapporteur, Mr. Willem Riphagen, in: *Yearbook ... 1980*, vol. II (Part One), document A/CN.4/330 (preliminary report on the content, forms and degrees of international responsibility); *Yearbook ... 1981*, vol. II (Part One), document A/CN.4/344 (second report); *Yearbook ... 1982*, vol. II (Part One), document A/CN.4/354 and Add.1–2 (third report); *Yearbook ... 1983*, vol. II (Part One), document A/CN.4/366 and Add.1 (fourth report); *Yearbook ... 1984*, vol. II (Part One), document A/CN.4/380 (fifth report); *Yearbook ... 1985*, vol. II (Part One), document A/CN.4/389 (sixth report); and *Yearbook ... 1986*, vol. II (Part One), document A/CN.4/397 and Add.1 (seventh report). See the eight reports of the Special Rapporteur, Mr. Gaetano Arangio-Ruiz, in: *Yearbook ... 1988*, vol. II (Part One), document A/CN.4/416 and Add.1 (preliminary report on State responsibility); *Yearbook ... 1989*, vol. II (Part One), document A/CN.4/425 and Add.1 (second report); *Yearbook ... 1991*, vol. II (Part One), document A/CN.4/440 and Add.1 (third report); *Yearbook ... 1992*, vol. II (Part One), document A/CN.4/444 and Add.1–3 (fourth report); *Yearbook ... 1993*, vol. II (Part One), document A/CN.4/453 and Add.1–3 (fifth report); *Yearbook ... 1994*, vol. II (Part One), document A/CN.4/461 and Add.1–3 (sixth report); *Yearbook ... 1995*, vol. II (Part One), document A/CN.4/469 and Add.1–2 (seventh report); and *Yearbook ... 1996*, vol. II (Part One), document A/CN.4/476 and Add.1 (eighth report). See the four reports of the Special Rapporteur, Mr. James Crawford, in: *Yearbook ... 1998*, vol. II (Part One), document A/CN.4/490 and Add.1–7 (first report on State responsibility); *Yearbook ... 1999*, vol. II (Part One), document A/CN.4/498 and Add.1–4 (second report); *Yearbook ... 2000*, vol. II (Part One), document A/CN.4/507 and Add.1–4 (third report); and *Yearbook ... 2001*, vol. II (Part One), document A/CN.4/517 and Add.1 (fourth report).

¹⁴ Registered treaties are published in the United Nations *Treaty Series*. Multilateral treaties deposited with the Secretary-General are available from <https://treaties.un.org>.

¹⁵ Such treaties have been referred to in the Commission's documentation, the *United Nations Legislative Series* or the *United Nations Juridical Yearbook*, and other United Nations documents. In such instances, the information has been provided by States to the United Nations or is published in the official journals of States. In one instance, the text of the instrument is available on a United Nations website (see footnote 153 below).

Secretariat on the nature of the instrument, the status of a party, or any similar question. As was the case in previous memoranda issued by the Secretariat on succession issues, “[t]he designations used, the dates mentioned, and the presentation of the material in this document do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country or territory or the position which the States concerned may take with regard to the particular treaties or agreements mentioned”.¹⁶ For the purpose of presenting historical information, the designations used are based on the sources of the information at the time of their publication and do not necessarily reflect any subsequent changes in the official denomination of States or territories. Moreover, no opinion is expressed by the Secretariat as to the existence or not of any internationally wrongful act or the validity of any claims by or against the States concerned either before or after the adoption of the treaties mentioned below.

8. Finally, the memorandum does not purport to be exhaustive as to the universe of relevant treaties which may exist on this topic. For example, it does not include information on agreements concluded before the conclusion of the Charter of the United Nations (26 June 1945), nor agreements concerning facts that occurred before this date.

9. The results of the research conducted under (ii) and (iii) of the above-mentioned methodology (in paragraph 4 above) are set forth as follows. Section II.A sets forth relevant provisions in the 1969 Vienna Convention on the law of treaties, the 1978 Vienna Convention on succession of States in respect of treaties and the 1983 Vienna Convention on Succession of States in Respect of State Property, Archives and Debts.¹⁷

10. Section II.B comprises other multilateral treaties and bilateral treaties addressing the possible transfer of rights and obligations arising from the commission of an internationally wrongful act within the context of succession of States, including agreements where a party reserved its position regarding the admission of its liability or responsibility. This subsection also includes so-called “devolution agreements” and “claims agreements”, addressed by the Commission at its sixty-ninth session in the course of the consideration of the first report by the Special Rapporteur.¹⁸ According to the Special Rapporteur, “devolution agreements” are “agreements between the predecessor State and the successor State [which] mostly relate to succession in respect of treaties [and] also address the transfer of obligations and responsibilities arising from their application”.¹⁹ “Claims agreements” are “concluded between the successor State and the third State that was affected by an internationally wrongful act committed by the predecessor State”, and may relate to the settlement of claims of such third States and/or its nationals.²⁰ Within each subsection of the memorandum, for ease of reference, treaties are presented chronologically.

¹⁶ *Yearbook ... 1970*, vol. II, document A/CN.4/229, p. 105. See also *Yearbook ... 1969*, vol. II, document A/CN.4/210.

¹⁷ See section II.A below. See also the first report of the Special Rapporteur on succession of States in respect of State responsibility, Mr. Pavel Šturma (A/CN.4/708), paras. 65–73.

¹⁸ See *Official Records of the General Assembly, Seventy-second Session, Supplement No. 10 (A/72/10)*, paras. 216–252, and the first report of the Special Rapporteur on succession of States in respect of State responsibility, Mr. Pavel Šturma (A/CN.4/708), paras. 95–103.

¹⁹ First report of the Special Rapporteur on succession of States in respect of State responsibility, Mr. Pavel Šturma (A/CN.4/708), para. 99.

²⁰ *Ibid.*, paras. 100–103.

II. Treaties which may be of relevance to the future work of the Commission on the topic

A. Vienna Conventions

1. Vienna Convention on the law of treaties (1969)

11. The Vienna Convention on the law of treaties was adopted on 23 May 1969 by the United Nations Conference on the Law of Treaties (hereinafter referred to as the “1969 Vienna Convention”).²¹ It entered into force on 27 January 1980, in accordance with article 84, paragraph 1, of the Convention.

12. Pursuant to its preamble, the 1969 Vienna Convention “achieved”, *inter alia*, “the codification and progressive development of the law of treaties”.²² In this regard, the States parties affirmed “that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention”.²³

13. Article 73 of the 1969 Vienna Convention, entitled “Cases of state succession, state responsibility and outbreak of hostilities”, states:

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.

14. This provision was based on draft article 69 of the draft articles on the law of treaties adopted by the International Law Commission in 1966.²⁴ In its commentary to draft article 69, the Commission noted:

The reservation regarding cases of a succession of States and of international responsibility is formulated in the present article in entirely general terms. The reason is that the Commission considered it essential that the reservation should not appear to prejudice any of the questions of principle arising in connexion with these topics, the codification of both of which the Commission already has in hand.²⁵

2. Vienna Convention on succession of States in respect of treaties (1978)

15. The Vienna Convention on succession of States in respect of treaties was adopted on 23 August 1978 by the United Nations Conference on the Succession of States in respect of Treaties (hereinafter referred to as the “1978 Vienna Convention”).²⁶ It entered into force on 6 November 1996, in accordance with article 49, paragraph 1, of the Convention.

16. Pursuant to its preamble, the 1978 Vienna Convention sought *inter alia* to meet “the need for the codification and progressive development of the rules relating to

²¹ United Nations, *Treaty Series*, vol. 1155, No. 18232, p. 331.

²² *Ibid.*

²³ *Ibid.*

²⁴ *Yearbook ... 1966*, vol. II, document A/6309/Rev.1, Part II, para. 38. The United Nations Conference on the Law of Treaties was convened pursuant to General Assembly resolutions 2166 (XXI) of 5 December 1966 and 2287 (XXII) of 6 December 1967. By the terms of these resolutions, the draft articles on the law of treaties adopted by the Commission were referred to the Conference “as the basic proposal for consideration” (General Assembly resolution 2166 (XXI), para. 7; see also the third preambular paragraph of General Assembly resolution 2287 (XXII)).

²⁵ *Yearbook ... 1966*, vol. II, document A/6309/Rev.1, Part II, para. 38, commentary to draft article 69, para. (3). See also *ibid.*, para. 30.

²⁶ United Nations, *Treaty Series*, vol. 1946, No. 33356, p. 3.

succession of States in respect of treaties as a means for ensuring greater juridical security in international relations”, while “[a]ffirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention”.²⁷ The scope of the 1978 Vienna Convention is defined by article 1 thereof:

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

17. Article 2 of the 1978 Vienna Convention contains the following definitions:

1. For the purposes of the present Convention:

...

(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 State was responsible;

...

18. Article 8 of the 1978 Vienna Convention, entitled “Agreements for the devolution of treaty obligations or rights from a predecessor State to a successor State”, provides:

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.

19. Article 8 of the 1978 Vienna Convention was based on draft article 8 of the draft articles on succession of States in respect of treaties adopted by the International Law Commission in 1974.²⁸ In its commentary to draft article 8, the Commission noted *inter alia*:

²⁷ *Ibid.*

²⁸ *Yearbook ... 1974*, vol. II (Part One), document A/9610/Rev.1, p. 182. The United Nations Conference on the Succession of States in Respect of Treaties was convened pursuant to General Assembly resolution 3496 (XXX) of 15 December 1975 “to consider the draft articles on succession of States in respect of treaties” adopted by the International Law Commission and to consequently adopt “an international convention and such other instruments as it may deem appropriate” (para. 3).

[P]aragraph 1 of the present article declares that 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 in consequence *only* of the fact that the predecessor State and the successor State have concluded a devolution agreement. In order to remove any possible doubt on the point, it spells out the rule, which emerges both from general principles and State practice, that a devolution agreement does not of its own force create any legal nexus between the successor State and other States parties.

Paragraph 2 of the article then provides that, even if a devolution agreement has been concluded, “the effects of a succession of States” on treaties which at the date of that succession were in force in respect of the territory in question are governed by the present articles. This does not deny the relevance which a devolution agreement may have as a general expression of the successor State’s policy in regard to continuing its predecessor’s treaties in force nor its significance in the process of bringing about the continuance in force of a treaty. What the paragraph says is that notwithstanding the conclusion of a devolution agreement the effects of a succession of States are governed by the rules of general international law on succession of States in respect of treaties codified in the present articles. It emphasizes that a devolution agreement cannot *of itself* pass to the successor State vis-à-vis other States parties any treaty obligations or rights which would not in any event pass to it under general international law.²⁹

20. Article 9 of the 1978 Vienna Convention, entitled “Unilateral declaration by a successor State regarding treaties of the predecessor State”, provides:

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.

21. In addition, article 39 of the 1978 Vienna Convention, entitled “Cases of State responsibility and outbreak of hostilities”, provides:

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.

22. Article 39 of the 1978 Vienna Convention was based on draft article 38 of the draft articles on succession of States in respect of treaties adopted by the International Law Commission in 1974.³⁰ In its commentary to draft article 38, the Commission noted:

Questions arising from the international responsibility of a State were also excluded from the [1969 Vienna Convention on the law of treaties] by article 73. The Commission, when proposing this exclusion in its final report on the law of treaties, explained in its commentary to the relevant article its reasons

²⁹ *Yearbook ... 1974*, vol. II (Part One), document A/9610/Rev.1, p. 187, paras. (19) and (20) of the commentary to draft article 8.

³⁰ See footnote 28 above.

for doing so.³¹ ... The same considerations and the possibility of an impact of the rules of State responsibility on the operation of the law of succession of States made it desirable, in the Commission's view, to insert in the text of the article a general reservation covering questions arising from the international responsibility of a State.³²

3. Vienna Convention on Succession of States in Respect of State Property, Archives and Debts (1983)

23. The Vienna Convention on Succession of States in Respect of State Property, Archives and Debts was adopted on 7 April 1983 and was opened for signature on 8 April 1963 by the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (hereinafter referred to as the "1983 Vienna Convention").³³ It is not yet in force.

24. Pursuant to its preamble, the 1983 Vienna Convention sought *inter alia* to meet "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", while "[a]ffirming that matters not regulated by the present Convention continue to be governed by the rules and principles of general international law".³⁴ The scope of the 1983 Vienna Convention is defined by article 1 thereof:

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

25. Article 2 of the 1983 Vienna Convention set forth certain definitions modelled on those in article 2 of the 1978 Vienna Convention.³⁵

26. Article 5 of the Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, entitled "Succession in respect of other matters", provides:

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.

B. Other multilateral treaties and bilateral treaties

1. United Kingdom of Great Britain and Northern Ireland and Trans-Jordan: Treaty of Alliance (1946)

27. The Treaty of Alliance was signed between the United Kingdom and Trans-Jordan on 22 March 1946 and came into force on 17 June 1946.³⁶ Pursuant to the treaty, "His Majesty The King recognise[d] Trans-Jordan as a fully independent State and His Highness The Amir as the sovereign thereof".³⁷ Furthermore, it was agreed, *inter alia*, that "[t]here shall be perpetual peace and friendship between His Majesty The King and His Highness The Amir of Trans-Jordan" and that "[t]here shall

³¹ See paragraph 14 above.

³² *Yearbook ... 1974*, vol. II (Part One), document A/9610/Rev.1, p. 268, para. (3) of the commentary to draft articles 38 and 39.

³³ A/CONF.117/14.

³⁴ *Ibid.*

³⁵ See paragraph 17 above.

³⁶ United Nations, *Treaty Series*, vol. 6, No. 74, p. 143.

³⁷ *Ibid.*, art. 1.

be established between the High Contracting Parties a close alliance in consecration of their friendship, their cordial understanding and their good relations”.³⁸

28. Article 8 of the Treaty provides:

1. All obligations and responsibilities devolving on His Majesty The King in respect of Trans-Jordan in respect of any international instrument which is not legally terminated should devolve on His Highness The Amir of Trans-Jordan alone, and the High Contracting Parties will immediately take such steps as may be necessary to secure the transfer of His Highness The Amir of these responsibilities.

2. Any general international treaty, convention or agreement which has been made applicable to Trans-Jordan by His Majesty The King (or by his Government in the United Kingdom) as mandatory shall continue to be observed by His Highness The Amir until His Highness The Amir (or his Government) becomes a separate contracting party thereto or the instrument in question is legally terminated in respect of Trans-Jordan.

29. Article 12 of the Treaty further states:

Nothing in the present Treaty is intended to or shall in any way prejudice the rights and obligations which devolve, or may devolve, upon either of the High Contracting Parties under the Charter of the United Nations or, save as may result from the provisions of Articles 8 and 11,^[39] under any other international agreements, conventions or treaties.

2. United States of America and the Philippines: Treaty of general relations and Protocol (1946)

30. The Treaty of general relations and Protocol between the United States of America and the Philippines was signed on 4 July 1946 and entered into force on 22 October 1946.⁴⁰ It provided “for the recognition of the independence of the Republic of the Philippines as of July 4, 1946 and the relinquishment of American sovereignty over the Philippine Islands”.⁴¹

31. Article IV of the Treaty provides *inter alia*:

The Republic of the Philippines agrees to assume, and does hereby assume, all the debts and liabilities of the Philippine Islands, its provinces, cities, municipalities and instrumentalities, which shall be valid and subsisting on the date hereof.

32. Article VII of the Treaty also states:

The Republic of the Philippines agrees to assume all continuing obligations assumed by the United States of America under the Treaty of Peace between the United States of America and Spain concluded at Paris on the 10th day of December, 1898, by which the Philippine Islands were ceded to the United States of America, and under the Treaty between the United States of America and Spain concluded at Washington on the 7th day of November, 1900.

³⁸ *Ibid.*

³⁹ Article 11 provided that, upon the Treaty coming into force, the “Agreement between His Majesty The King and His Highness The Amir dated the 20th February, 1928, and subsequently revised by further Agreements dated the 2nd June, 1934 and the 19th July, 1941, shall cease to have effect”.

⁴⁰ United Nations, *Treaty Series*, vol. 7, No. 88, p. 3.

⁴¹ *Ibid.*, preamble.

33. At the same time, the Protocol accompanying the Treaty set out the parties' understanding that the Treaty did not

attempt to regulate the details of arrangements between the two Governments for the establishment, termination or regulation of the rights and duties of the two countries, each with respect to the other, in the settlement of claims, as to the ownership or control of real or personal property, or as to the carrying out of provisions of law of either country; or for the settlement of rights or claims of citizens or corporations of either country with respect to or against each other.

3. India and Pakistan: Agreement as to the devolution of international rights and obligations upon the Dominions of India and Pakistan (1947)

34. The Agreement as to the devolution of international rights and obligations upon the Dominions of India and Pakistan was reached on 6 August 1947, as set out in the Schedule to the Indian Independence (International Arrangements) Order, 1947.⁴² The Order itself had been made "in exercise of the powers conferred ... by the Indian Independence Act, 1947", which provided for "two independent Dominions [to] be set up in India, to be known respectively as India and Pakistan", as from "the appointed day" of 15 August 1947.⁴³ According to the Order, the Agreement was to "have the effect of an agreement duly made between the Dominion of India and the Dominion of Pakistan" as from 15 August 1947.⁴⁴

35. The Agreement provided that the "international rights and obligations to which India [was] entitled and subject immediately before the 15th day of August, 1947" would devolve in accordance with its provisions.⁴⁵

36. In particular, articles 3 and 4 of the Agreement provide:

3. (1) Rights and obligations under international agreements having an exclusive territorial application to an area comprised in the Dominion of India will devolve upon that Dominion.

(2) Rights and obligations under international agreements having an exclusive territorial application to an area comprised in the Dominion of Pakistan will devolve upon that Dominion.

4. Subject to Articles 2⁴⁶ and 3 of this agreement, rights and obligations under all international agreements to which India is a party immediately before the appointed day will devolve both upon the Dominion of India and upon the Dominion of Pakistan, and will, if necessary, be apportioned between the two Dominions.

⁴² *United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above), p. 162, note 1. The Agreement has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status, its authentic text, or its date of entry into force.

⁴³ *Ibid.*, p. 127.

⁴⁴ *Ibid.*, p. 162, note 1. See also *General Assembly, Official Records, Second Session, Sixth Committee*, pp. 308–310, annex 6c – Admission of Pakistan to membership in the United Nations, Letter from the delegation of India to the Secretary-General of the United Nations (A/C.6/161).

⁴⁵ *United Nations Legislative Series, Materials on Succession of States* (see footnote 9), p. 162, art. 1.

⁴⁶ Article 2, paragraph 1, of the Agreement provided for "[m]embership of all international organisations together with the rights and obligations attaching to such membership [to] devolve solely upon the Dominion of India", while article 2, paragraph 2, stated that "[t]he Dominion of Pakistan will take such steps as may be necessary to apply for membership of such international organisations as it chooses to join".

4. United Kingdom of Great Britain and Northern Ireland and Burma: Treaty regarding the recognition of Burmese independence and related matters (1947)

37. The Treaty regarding the recognition of Burmese independence and related matters was concluded between the United Kingdom and Burma on 17 October 1947 and came into force on 4 January 1948.⁴⁷ Under its terms, “[t]he Government of the United Kingdom recognise[d] the Republic of the Union of Burma as a fully independent sovereign State”.⁴⁸

38. Article 2 of the Treaty provides:

All obligations and responsibilities heretofore devolving on the Government of the United Kingdom which arise from any valid international instrument shall henceforth, in so far as such instrument may be held to have application to Burma, devolve upon the Provisional Government of Burma. The rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Burma shall henceforth be enjoyed by the Provisional Government of Burma.

39. In addition, article 13 of the Treaty provides:

Nothing in the present Treaty is intended to or shall in any way prejudice the rights and obligations which devolve or may devolve upon either of the contracting parties under the Charter of the United Nations or from any special agreements concluded in virtue of Article 43 of the Charter.

5. United Kingdom of Great Britain and Northern Ireland and Ceylon: External Affairs Agreement (1947)

40. The External Affairs Agreement was signed between the United Kingdom and Ceylon on 11 November 1947.⁴⁹ The Agreement affirmed the readiness of Ceylon “to assume the status of a fully responsible member of the British Commonwealth of Nations, in no way subordinate in any aspect of domestic or external affairs”.⁵⁰ It entered into force on 4 February 1948.

41. Paragraph 6 of the Agreement provides:

All obligations and responsibilities heretofore devolving on the Government of the United Kingdom which arise from any valid international instrument shall henceforth, in so far as such instrument may be held to have application to Ceylon devolve upon the Government of Ceylon. The reciprocal rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Ceylon, shall henceforth be enjoyed by the Government of Ceylon.

6. Netherlands and Indonesia: Round Table Conference Agreement (1949)

42. At the Round Table Conference at The Hague, which aimed to achieve “an appropriate and lasting solution of the Indonesian conflict by reaching agreement between the participants on the way of transferring real, complete and unconditional sovereignty to the Republic of the United States of Indonesia”, a number of agreements were reached on 2 November 1949 between the Netherlands and the Republic of the United States of Indonesia.⁵¹ These came into force on 27 December

⁴⁷ United Nations, *Treaty Series*, vol. 70, No. 904, p. 183.

⁴⁸ *Ibid.*, art. 1.

⁴⁹ United Nations, *Treaty Series*, vol. 86, No. 1149, p. 25.

⁵⁰ *Ibid.*, preamble.

⁵¹ United Nations, *Treaty Series*, vol. 69, No. 894, p. 3, preamble. The ratification of the agreements was recorded in the Protocol signed at Amsterdam on 27 December 1949

1949.⁵² However, the agreements were subsequently “abrogated by the Republic of Indonesia as of 15 February 1956”.⁵³

43. These agreements included the Agreement on Transitional Measures. Article 4 thereof provides *inter alia*:

1. The Kingdom of the Netherlands and the Republic of the United States of Indonesia recognize and accept that all rights and obligations of Indonesia, under private and public law, are ipso jure transferred to the Republic of the United States of Indonesia, unless otherwise provided for in the special agreements included in the Union Statute.

2. The Republic of the United States of Indonesia shall be responsible for the fulfilment of the obligations of the public bodies which previously had a legal status in Indonesia and which are now merged in the Republic of the United States of Indonesia or in its component parts and further guarantees the fulfilment of the obligations of public bodies which continue to exist as such, unless otherwise provided for in the financial and economic agreement.

44. Article 5 further provides:

1. The Kingdom of the Netherlands and the Republic of the United States of Indonesia understand that, under observance of the provisions of paragraph 2 hereunder, the rights and obligations of the Kingdom arising out of treaties and other international agreements concluded by the Kingdom shall be considered as the rights and obligations of the Republic of the United States of Indonesia only where and inasmuch as such treaties and agreements are applicable to the jurisdiction of the Republic of the United States of Indonesia and with the exception of rights and duties arising out of treaties and agreements to which the Republic of the United States of Indonesia cannot become a party on the ground of the provisions of such treaties and agreements.

2. Without prejudice to the power of the Republic of the United States of Indonesia to denounce the treaties and agreements referred to in paragraph 1 above or to terminate their operation for its jurisdiction by other means as specified in the provisions of those treaties and agreements, the provisions of paragraph 1 above shall not be applicable to treaties and agreements in respect of which consultations between the Republic of the United States of Indonesia and the Kingdom of the Netherlands shall lead to the conclusion that such treaties and agreements do not fall under the stipulations of paragraph 1 above.

7. United Kingdom of Great Britain and Northern Ireland and Israel: Agreement for the settlement of financial matters outstanding as a result of the termination of the Mandate for Palestine (1950)

45. The Agreement for the settlement of financial matters outstanding as a result of the termination of the Mandate for Palestine was signed between the United Kingdom and Israel on 30 March 1950 and came into force on the same date.⁵⁴ It was concluded by the two parties in light of their desire “to reach a full and final settlement of their respective claims and counter-claims regarding the assets and liabilities of the former Palestine Government (hereinafter called ‘the Mandatory Government’) and of other

(*ibid.*, p. 200, note 1). According to a *note verbale* received from the Netherlands, as the agreements had been ratified, the word “draft”, whenever appearing in the opening lines of the documents, should be deleted (*ibid.*, p. 202, note 1).

⁵² *Ibid.*, p. 200, note 1.

⁵³ *United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above), p. 36.

⁵⁴ United Nations, *Treaty Series*, vol. 86, No. 1162, p. 231.

financial matters outstanding between them as a result of the termination of the Mandate for Palestine”.⁵⁵

46. According to Israel, the Agreement resulted from negotiations between the parties during which “the matters were discussed on a pragmatic basis not related to any theoretical issues of succession”.⁵⁶

47. Article 6 of the Agreement provides:

The Government of the United Kingdom, while not admitting any liability whatever in respect of claims against the Mandatory Government, will give sympathetic consideration to such claims properly brought by persons who, at the date of signature of this Agreement, are resident in Israel, provided that the decision as to whether any particular claim should be paid, the amount which should be paid in respect thereof, and the manner of payment shall be in the sole discretion of the Government of the United Kingdom.

The Government of Israel will afford to the Government of the United Kingdom all reasonable facilities, including access to any available relevant records, to enable them to examine any claims against the Mandatory Government concerning property situated in Israel, and to elicit information in regard to such claims.

8. India and France: Treaty of cession of the territory of the Free Town of Chandernagore (1951)

48. The Treaty of cession of the territory of the Free Town of Chandernagore was concluded between India and France on 2 February 1951 and came into force on 9 June 1952.⁵⁷ It aimed “to confirm the cession by the French Republic of the territory of the Free Town of Chandernagore to the Republic of India and to settle the problems which flow from this cession”.⁵⁸

49. France had previously, “at the request of the Government of the Republic of India, accepted the appointment, as a provisional measure, of an Indian Administrator in this territory on 2nd May 1950”.⁵⁹ A Franco–Indian Commission consisting of six members, three representing each of the two Governments, had further been established, and it was agreed that the Commission would commence its functions from 2 May 1950.⁶⁰ In that context, article VII of the Treaty provides:

The Government of the Republic of India shall succeed to the rights and obligations resulting from acts done by France for public purposes concerning the administration of the territory of the Free Town of Chandernagore. Financial and monetary issues arising from the transfer of the said territory shall be examined and determined by the Franco–Indian Commission already set up and referred to under the terms of the Protocol annexed to this Treaty.

⁵⁵ *Ibid.*, preamble.

⁵⁶ The Secretariat received information concerning this agreement from Israel in the context of the preparation of the *United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above and the observations by Israel at pp. 40–41, para. 7).

⁵⁷ United Nations, *Treaty Series*, vol. 203, No. 2744, p. 155.

⁵⁸ *Ibid.*, preamble.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, preamble, and Protocol, article II.

9. United Kingdom of Great Britain and Northern Ireland and Jordan: Agreement for the settlement of financial matters outstanding as a result of the termination of the mandate for Palestine (1951)

50. The Agreement for the settlement of financial matters outstanding as a result of the termination of the mandate for Palestine was signed between the United Kingdom and Jordan on 1 May 1951 and came into force on the same date.⁶¹ It was intended by the two parties to be “a full and final settlement of their respective claims and counter-claims regarding the assets and liabilities of the former Palestine Government (hereinafter called ‘the Mandatory Government’) and of other financial matters outstanding between them as a result of the termination of the Mandate for Palestine”.⁶²

51. Article 5 of the Agreement provides:

The Government of the United Kingdom, while not admitting any liability whatever in respect of claims against the Mandatory Government, will give sympathetic consideration, in accordance with arrangements already made, to such claims properly brought by persons who, at the date of signature of this Agreement, are resident in Jordan, provided that the decision as to whether any particular claim should be paid, the amount which should be paid in respect thereof, and the manner of payment shall be in the sole discretion of the Government of the United Kingdom.

The Government of Jordan will afford to the Government of the United Kingdom all reasonable facilities, including access to any available relevant records, to enable them to examine any claims against the Mandatory Government concerning property situated in Jordan, and to elicit information in regard to such claims.

10. United Kingdom of Great Britain and Northern Ireland and Libya: Agreement regarding certain financial matters (1953)

52. The Agreement regarding certain financial matters was concluded between the United Kingdom and Libya on 25 March 1953 and came into force by signature on the same date.⁶³ The agreement referred to General Assembly resolutions 289 (IV) of 21 November 1949 and 387 (V) of 17 November 1950, by which it was “decided that Libya (comprising Cyrenaica, Tripolitania and the Fezzan) should be constituted an Independent and Sovereign State”. In light of certain matters, including the fact that “Libya became an Independent and Sovereign State in accordance with the said Resolutions on 24th December, 1951”, and that, prior to that date, Governments had been established in Cyrenaica and Tripolitania with executive and legislative authority in relation to internal affairs, the agreement stated that “the Government of Libya recognise[d] that certain financial arrangements [were] necessary”.⁶⁴

53. Of particular note is paragraph 3 (a) of the Agreement, under the heading “Obligations of the former British Administrations in Cyrenaica and Tripolitania”, which provides:

3. The Government of Libya will—

(a) indemnify and keep indemnified the United Kingdom Government in respect of all claims, costs and expenses relating to things which have been done or omitted by or on behalf of the United Kingdom Government or the Chief

⁶¹ United Nations, *Treaty Series*, vol. 117, No. 1582, p. 19.

⁶² *Ibid.*, preamble.

⁶³ United Nations, *Treaty Series*, vol. 172, No. 2252, p. 281.

⁶⁴ *Ibid.*, preamble.

Administrators as part of the administration of Cyrenaica prior to 30th September, 1949, and of Tripolitania prior to 31st March, 1951;

11. Laos and France: Treaty of Friendship and Association (1953)

54. The Treaty of Friendship and Association was concluded between Laos and France on 22 October 1953.⁶⁵ Article 1 of the Treaty provides:

The French Republic recognises and declares that the Kingdom of Laos is a fully independent and sovereign State. Consequently it succeeds the French Republic in all the rights and obligations deriving from all international treaties and special conventions contracted by France prior to the present convention on behalf of Laos or French Indo-China.⁶⁶

12. France and Viet Nam: Treaty of Independence of Viet Nam (1954)

55. Article 2 of the Treaty of Independence of Viet Nam between France and Viet Nam of 4 June 1954⁶⁷ provides:

Viet-Nam takes over from France all rights and obligations resulting from international treaties or conventions contracted by France in the name of the State of Viet-Nam, and all other treaties and conventions concluded by France in the name of French Indo-China in so far as these affect Viet-Nam.⁶⁸

13. France and India: Agreement for the settlement of the question of the future of the French Establishments in India (1954)

56. The Agreement for the settlement of the question of the future of the French Establishments in India was signed by France and India on 21 October 1954 and came into force on 1 November 1954.⁶⁹ It provided for India to “take over the administration of the territory of the French Establishments in India” with effect from

⁶⁵ This Treaty has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status, its authentic text or its date of entry into force.

⁶⁶ The French text of this provision is published in *United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above), p. 72. The Secretariat received information concerning this provision from the United Kingdom in the context of the preparation of the *United Nations Legislative Series, Materials on Succession of States*, where an English version of the provision is published at page 188.

⁶⁷ This Treaty has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status, its authentic text, or its date of entry into force. The Secretariat received information concerning this agreement from Viet Nam in the context of preparing the *United Nations Legislative Series, Materials on Succession of States in Respect of Matters other than Treaties* (see footnote 11 above), where the French text is published on page 441, together with the following footnote: “The inclusion of the materials hereunder does not imply on the part of the Secretariat any judgement as to the position of the Socialist Republic of Viet-Nam thereon” (*ibid.*, note 1). See also the first report on succession of States in respect of rights and duties resulting from sources other than treaties, by the Special Rapporteur, Mr. Mohammed Bedjaoui, in *Yearbook ... 1968*, vol. II, document A/CN.4/204, pp. 99–100, para. 34.

⁶⁸ The Secretariat received information concerning this provision from the United Kingdom in the context of the preparation of the *United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above), where an English version of the provision is published at page 189.

⁶⁹ This Agreement has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status or its authentic text. The English text and information on entry on force are published in *United Nations Legislative Series, Materials on Succession of States in Respect of Matters other than Treaties* (see footnote 11 above), p. 80.

1 November 1954, with the Establishments “keep[ing] the benefit of the special administrative status which was in force prior to the *de facto* transfer”.⁷⁰

57. In this context, article 3 of the Agreement provides:

The Government of India shall succeed to the rights and obligations resulting from such acts of the French administration as are binding on these Establishments.

58. Article 35 of the Agreement further provides:

The questions pending at the time of the *de facto* transfer shall be considered and settled by a Franco-Indian Commission composed of three representatives of the French Government and three representatives of the Government of India. All difficulties which might arise as regards the rights and obligations to which the Government of India succeed according to article 3 shall be settled by the said Commission.

14. Italy and Libyan Arab Republic: Agreement on economic cooperation and settlement of issues arising from Resolution 388 (V) of 15 December 1950 of the General Assembly of the United Nations (1956)

59. The Agreement on economic cooperation and settlement of issues arising from resolution 388 (V) of 15 December 1950⁷¹ was concluded between “[t]he Government of the Italian Republic and the Government of the United Kingdom of Libya, [w]ith the aim of settling ... the matters pending between their two countries”, “[b]earing in mind resolution 388 (V) of 15 December 1950, in which the United Nations General Assembly adopted economic and financial provisions relating to Libya”.⁷² The agreement was signed on 2 October 1956 and entered into force on 7 December 1957. It referred to resolution 388 (V) of 15 December 1950 as “the resolution”.⁷³

60. In particular, article 3 of the Agreement provides:

The two Governments declare that the Libyan State is the successor to the Italian State with respect to rights to the public property of the State and the inalienable property of the State.

61. Article 4 of the Agreement further provides:

The Italian Government, in accordance with the provisions of the resolution, confirms that the movable and immovable property located in Libya that constituted the alienable property of the Italian State or belonged to the autonomous agencies of the Italian State has been transferred to the Libyan State. For its part, the Libyan Government acknowledges that, other than the property in the categories mentioned, which are listed in the land registers and are in any case now in its possession, it has nothing further to claim on that score from the Italian State.

62. In addition, article 5 of the Agreement provides:

The Libyan Government, as the successor to the Italian State in the property rights referred to in the preceding article, declares that it recognizes the property rights of third parties, who consequently may not bring any claim against the Italian State in respect of those rights. The Libyan Government shall exercise the rights previously held by the Italian State vis-à-vis third parties.

⁷⁰ *Ibid.*, art. 1.

⁷¹ United Nations, *Treaty Series*, vol. 2328, No. 41716, p. 149.

⁷² *Ibid.*, preamble.

⁷³ *Ibid.*, art. 2.

63. By an exchange of notes dated 2 October 1956, the parties further confirmed certain understandings “in supplement to the Agreement ..., which shall form an integral part thereof”, including:

(2) With reference to article 5 of the Agreement, the Libyan Government declares that it assumes responsibility for any compensation still owed to Libyan nationals as a result of expropriations carried out by the Italian Government and the former Italian administration in Libya. The Italian Government shall see to the payment of such compensation still owed to Italian nationals.⁷⁴

15. France and Morocco: Treaty (1956)

64. Article 11 of the Treaty between France and Morocco of 28 May 1956⁷⁵ provides:

Le Maroc assume les obligations résultant des traités internationaux passés par la France au nom du Maroc, ainsi que celles qui résultent des actes internationaux relatifs au Maroc qui n'ont pas donné lieu à des observations de sa part (“Morocco assumes the obligations resulting from international treaties entered into by France on behalf of Morocco, as well as those resulting from international acts relating to Morocco which have not given rise to observations by Morocco”).⁷⁶

16. France and India: Treaty of Cession of the French Establishments of Pondicherry, Karikal, Mahe and Yanam (1956)

65. The Treaty of Cession of the French Establishments of Pondicherry, Karikal, Mahe and Yanam, between India and France was signed on 28 May 1956.⁷⁷ Under the Treaty, France ceded to India “in full sovereignty” the territory of the Establishments, which would “keep the benefit of the special administrative status which was in force prior to” 1 November 1954.⁷⁸

66. In this connection, article 3 of the Treaty states:

The Government of India shall succeed to the rights and obligations resulting from such acts of the French administrations as are binding on these Establishments.

67. In addition, article 29 of the Treaty provides:

All questions pending at the time of the ratification of the Treaty of Cession shall be examined and settled by a French-Indian Commission composed of three Representatives of the French Government and three Representatives of the Indian Government.

⁷⁴ *Ibid.*, notes I (A) and II (A).

⁷⁵ This Treaty has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status, its authentic text or its date of entry into force.

⁷⁶ The Secretariat received information concerning this provision from the United Kingdom in the context of the preparation of the *United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above and see the original French text at page 169).

⁷⁷ This Treaty has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status, its authentic text, or its date of entry into force. The English text is published in *United Nations Legislative Series, Materials on Succession of States in Respect of Matters other than Treaties* (see footnote 11 above), p. 86.

⁷⁸ *Ibid.*, articles 1 and 2.

17. United States of America, Belgium, France, Italy, Morocco, Netherlands, Portugal, Spain and United Kingdom of Great Britain and Northern Ireland: Final Declaration of the International Conference in Tangier and annexed Protocol (1956)

68. From 8 to 29 October 1956, “an international conference was held in Fedala and Tangier ... for the purpose of settling the questions raised by the abolition of the special régime of the Tangier Zone”.⁷⁹ At the conclusion of the conference, Belgium, France, Italy, Morocco, the Netherlands, Portugal, Spain, the United Kingdom and the United States of America signed the Final Declaration and the Protocol annexed to it. Both the Declaration and the Protocol came into force upon signature.⁸⁰

69. Under the terms of the declaration, the signatories expressed their desire to “establish the principles of the independence of Morocco and the unity and integrity of its territory”.⁸¹ They “agreed to recognize the abolition of the international régime of the Tangier Zone and ... declare[d] abrogated, in so far as they ha[d] participated therein, all acts, agreements, and conventions concerning the said régime”.⁸² Consequently, they recognized that the territory would be under the “entire and sole sovereignty” of the Sultan of Morocco, who would have “the unrestricted right to determine the future régime of Tangier”.⁸³

70. The provisions of the Protocol were adopted “[w]ith a view to settling the questions raised by the abrogation of the Special Statute of the Tangier Zone”.⁸⁴ Since “[t]he abolition of the special régime of Tangier terminate[d] the general and permanent authority conferred on the International Administration by the Dahir of February 16, 1924”, the Protocol provided that “the International Administration [would] cease to exercise the administrative powers that had been vested in it”.⁸⁵ In this context, article 2 of the Protocol provides:

The Moroccan State, which recovers possession of the public and private domain entrusted to the International Administration by virtue of the Dahir of February 16, 1924, receives the latter’s property as constituted under Article 43 of the aforesaid Dahir. Subject to the provisions relating to the concessions, leases, and authorizations mentioned in Chapter IV, the Moroccan State will take over the debts and obligations duly contracted by the International Administration within the limits of the authority delegated to it by His Majesty the Sultan.

18. Federation of Malaya and United Kingdom of Great Britain and Northern Ireland: Exchange of letters constituting an agreement concerning succession to rights and obligations arising from international instruments (1957)

71. By an exchange of letters dated 12 September 1957, which “refer[red] to the Federation of Malaya Independence Act, 1957, under which Malaya ha[d] assumed independent status within the British Commonwealth of Nations”, the United Kingdom and the Federation of Malaya agreed to the following provisions:

(i) All obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument are, from 31st August, 1957, assumed by the Government of the Federation of Malaya in

⁷⁹ United Nations, *Treaty Series*, vol. 263, No. 3772, p. 165, Final Declaration, preamble.

⁸⁰ *Ibid.*, Final Declaration, art. III.

⁸¹ *Ibid.*, art. I.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*, annexed Protocol, preamble.

⁸⁵ *Ibid.*, art. 1.

so far as such instruments may be held to have application to or in respect of the Federation of Malaya.

(ii) The rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to or in respect of the Federation of Malaya are from 31st August, 1957, enjoyed by the Government of the Federation of Malaya.⁸⁶

19. United Kingdom of Great Britain and Northern Ireland and Ghana: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of Ghana (1957)

72. By an exchange of letters dated 25 November 1957, which “refer[red] to the Ghana Independence Act, 1957”, the United Kingdom and Ghana set out their agreement with the following provisions:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall henceforth, in so far as such instrument may be held to have application to Ghana, be assumed by the Government of Ghana;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to the Gold Coast shall henceforth be enjoyed by the Government of Ghana.⁸⁷

20. France and United Arab Republic: General Agreement (1958)

73. On 22 August 1958, “[t]he Government of the French Republic and the Government of the United Arab Republic, desiring to settle the problems which arose between them following the events of October and November 1956 and prompted by the desire to re-establish cultural, economic and financial relations between the two countries”, concluded the General Agreement.⁸⁸ Pursuant to its preamble, the Agreement, “as regards the United Arab Republic, shall apply solely to Egyptian territory”.⁸⁹

74. The Agreement contained several annexed Protocols and a series of exchanges of letters annexed to it. It entered into force on the date of signature.

75. Article 3 of the Agreement provides:

The Government of the United Arab Republic undertakes to terminate on the date of entry into force of this Agreement the special measures taken against French nationals or in respect of their property and rights, in accordance with the provisions of this Agreement and of the annexes thereto.

The French Government undertakes to terminate on the date of entry into force of this Agreement the special measures concerning Egyptian accounts or assets earmarked as Egyptian in France.

76. Article 5 of the Agreement provides:

The reconsignment and restoration of property and rights to their owners, or payment of the equivalent value of any such assets which are not restored, shall be effected in the manner laid down in Protocol No. II, which forms an integral part of this Agreement.

⁸⁶ *Ibid.*, vol. 279, No. 4046, p. 287.

⁸⁷ *Ibid.*, vol. 287, No. 4189, p. 233.

⁸⁸ *Ibid.*, vol. 732, No. 10511, p. 85.

⁸⁹ *Ibid.*

The reconsignment and restoration of industrial property rights to their owners shall be effected in the manner laid down in Protocol No. III, which forms an integral part of this Agreement.

77. Article 6 of the Agreement provides:

A Commission, composed of a limited number of French experts, shall have the task of lending its good offices with the Egyptian authorities competent in the matter of sequestration to any French national who may wish to submit to it a claim regarding his property or rights.

The Commission, whose presence in Egypt shall be temporary and shall terminate upon completion of its task, shall throughout its mission be provided with the facilities necessary to carry out the said mission.

78. In addition, article 7 of the Agreement provides:

The two Governments consider that this Agreement and the annexes thereto, and the other agreements and annexes thereto signed this day, constitute a final settlement of their claims arising out of the events of October and November 1956.

21. United Kingdom of Great Britain and Northern Ireland and United Arab Republic: Agreement concerning financial and commercial relations and British property in Egypt (1959)

79. The Agreement concerning financial and commercial relations and British property in Egypt between the United Kingdom and the United Arab Republic was signed on 28 February 1959.⁹⁰ Pursuant to the preamble, “[t]he Government of the United Kingdom ... and the Government of the United Arab Republic (as successors of the Government of the Republic of Egypt, and acting so far only as concerns the territory of the Republic of Egypt)” concluded the agreement “[d]esiring to re-establish normal relations”.⁹¹

80. The Agreement entered into force on the same day as it was signed and was accompanied by several Annexes constituting “an integral part thereof”,⁹² as well as several exchanges of notes that were registered under Article 102 of the Charter of the United Nations together with the Agreement. In one such exchange of notes, also signed on the same day, between the Economic Secretary to Her Majesty’s Treasury and the Central Minister of Economy for the United Arab Republic,⁹³ reference was made to the negotiations leading to the Agreement, and the following proposal was agreed to:

(1) ... In the course of these negotiations there arose certain claims put forward on the one hand by the Government of the United Kingdom and on the other by the Government of the United Arab Republic, for which no provision is made in the Agreement.

(2) For their part the United Kingdom Government put forward claims, arising out of the events of October–November 1956, including claims in respect of United Kingdom Government property situated in the Suez Canal Base (as defined in paragraph (1) of Part A of Annex II to the Suez Canal Base Agreement of October 19, 1954),⁹⁴ and in respect of the costs incurred by the Government

⁹⁰ *Ibid.*, vol. 343, No. 4925, p. 159.

⁹¹ *Ibid.*, preamble.

⁹² *Ibid.*, art. I.

⁹³ *Ibid.*, notes IX and X.

⁹⁴ *Ibid.*, No. 2833: vol. 210, p. 3; vol. 222, p. 424; vol. 225, p. 292; vol. 231, p. 374; vol. 252, p. 366; and vol. 269, p. 366.

of the United Kingdom for clearance of the Suez Canal, being costs for which the United Nations Organization did not assume responsibility. The Government of the United Arab Republic do not admit liability in respect of any of these claims.

(3) For their part the Government of the United Arab Republic put forward claims arising out of the events of October–November 1956, including damage to Government and private property, and damage to public utilities including loss of revenue, damage to the Suez Canal including loss of revenue to the Suez Canal Authority and other damage to the Egyptian economy. The United Kingdom Government do not admit liability in respect of any of these claims.

(4) In consideration of the foregoing and without prejudice to any of the provisions of the Agreement referred to in paragraph (1) of this Note, I have the honour to propose that the two Governments shall waive all the claims and categories of claims described in paragraphs (2) and (3) of this Note.

22. Italy and Somalia: Treaty of Friendship (1960)

81. On 1 July 1960, Italy and Somalia concluded a Treaty of Friendship, together with an exchange of notes which “shall constitute an agreement between the two Governments and shall form an integral part of the aforesaid Treaty”.⁹⁵ The exchange of notes provides *inter alia*:

(1) It is agreed that upon the entry into force of the aforesaid Treaty the Government of Somalia shall succeed the Italian Government in all the rights and obligations arising out of international instruments concluded by the Italian Government in its capacity as the Administering Authority for the Trust Territory, in the name of and on behalf of Somaliland up to June 30, 1960;

(2) In accordance with the purposes and the principle of Article 12 of the Trusteeship Agreement for Somaliland of January 27, 1950, the Italian Government considers itself bound to provide the attached list of the multilateral agreements entered into by Italy before 1950 on humanitarian, social, health, legal and administrative matters and applied to Somaliland;

Upon the accession of Somalia to independence, all responsibilities and all obligations assumed by the Italian Government under these agreements, in so far as they extend to Somalia, shall cease with regard both to the Somali Government and to third States.

23. United Kingdom of Great Britain and Northern Ireland, Greece and Turkey and Cyprus: Treaty concerning the Establishment of the Republic of Cyprus (1960)

82. The United Kingdom, Greece and Turkey “of the one part” and Cyprus “of the other part” signed the Treaty concerning the Establishment of the Republic of Cyprus

⁹⁵ This Treaty has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status, its authentic text or its date of entry into force. The Secretariat received information concerning the Note from Italy from the United Kingdom in the context of preparing *United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above), where an English version of the Note is published at pages 169 to 170, together with the footnote: “The text of the Somali Note has not been provided by the Government of the United Kingdom. ... The Somali Government agrees with the content of paragraph 1 of the Italian Note and takes note of the information provided in accordance with paragraph 2” (*ibid.*, p. 170, note 2). The authentic Italian text is published in *Bollettino Ufficiale della Repubblica Somalia*, Anno II, 31 December 1961, Supplements No. 9–12, pp. 5–9.

on 16 August 1960. The Treaty came into force on the same date.⁹⁶ Article 8 of the Treaty provides:

(1) All international obligations and responsibilities of the Government of the United Kingdom shall henceforth, in so far as they may be held to have application to the Republic of Cyprus, be assumed by the Government of the Republic of Cyprus.

(2) The international rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of their application to the territory of the Republic of Cyprus shall henceforth be enjoyed by the Government of the Republic of Cyprus.

24. United Kingdom of Great Britain and Northern Ireland and Nigeria: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of the Federation of Nigeria (1960)

83. By an exchange of letters dated 1 October 1960, which “refer[red] to the Nigeria Independence Act, 1960, under which Nigeria ha[d] assumed independent status within the Commonwealth”, the United Kingdom and Nigeria agreed that:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall henceforth, in so far as such instrument may be held to have application to Nigeria, be assumed by the Government of the Federation of Nigeria;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Nigeria shall henceforth be enjoyed by the Government of the Federation of Nigeria.⁹⁷

25. United Kingdom of Great Britain and Northern Ireland and Sierra Leone: Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of Sierra Leone (1961)

84. The United Kingdom and Sierra Leone entered into an agreement by an exchange of letters dated 5 May 1961, which came into force on that date, with retroactive effect from 27 April 1961.⁹⁸ The exchange of letters “refer[red] to the Sierra Leone Independence Act, 1961, under which Sierra Leone ha[d] assumed independent status within the Commonwealth”, and set out the agreement between the two parties to the following provisions:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall be assumed by the Government of Sierra Leone as from 27th April, 1961, in so far as such instrument may be held to have application to Sierra Leone;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Sierra Leone shall, as from 27th April, 1961, be enjoyed by the Government of Sierra Leone.

⁹⁶ United Nations, *Treaty Series*, vol. 382, No. 5476, p. 8.

⁹⁷ *Ibid.*, vol. 384, No. 5520, p. 207.

⁹⁸ *Ibid.*, vol. 420, No. 6036, p. 11.

26. France and Algeria: Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (1962)

85. A number of declarations were adopted on 19 March 1962,⁹⁹ at the close of “[t]he negotiations which took place at Evian from 7 March to 18 March 1962, between the Government of the French Republic and the F.L.N. [Algerian National Liberation Front]”.¹⁰⁰

86. The negotiations culminated in the conclusion of a ceasefire, and “[s]ince the formation, after self-determination, of an independent and sovereign State appear[ed] to be in line with the realities of the Algerian situation ... the French Government consider[ed], together with the F.L.N., that the independence of Algeria in co-operation with France [was] the solution for which this situation call[ed]”.¹⁰¹ The French Government and the F.L.N. “therefore defined this solution” in the declarations, to be “submitted to the electors for approval at the time of the vote on self-determination”.¹⁰² It was agreed that “[i]f the solution of independence and co-operation [was] adopted, the content of the present Declarations [would] be binding on the Algerian State”.¹⁰³

87. By an exchange of letters between France and Algeria on 3 July 1962, France, having “taken note of the results of the vote of 1 July 1962 on self-determination and of the implementation of the Declarations of 19 March 1962”, stated that it “recognized the independence of Algeria”, and “the powers of sovereignty” over the territory were transferred “to the Provisional Executive of the Algerian State”.¹⁰⁴ The exchange of letters and declarations came into force as an agreement between France and Algeria on 3 July 1962, in accordance with chapter V of the General Declaration.¹⁰⁵

⁹⁹ *Ibid.*, vol. 507, No. 7395, p. 25. The declarations consisted of the General Declaration, the Declaration of Guarantees, the Declaration of Principles concerning Economic and Financial Co-operation, the Declaration of Principles on Co-operation for the Exploitation of the Wealth of the Saharan Subsoil, the Declaration of Principles concerning Cultural Co-operation, the Declaration of Principles concerning Technical Co-operation, the Declaration of Principles concerning Military Questions, and the Declaration of Principles concerning the Settlement of Differences.

¹⁰⁰ *Ibid.*, Declarations adopted on 19 March 1962 at the close of the Evian talks, General Declaration, preamble.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ *Ibid.*, chap. II.

¹⁰⁴ *Ibid.*, exchange of letters. The letter from the President of the French Republic to the President of the Provisional Executive of the Algerian State states *inter alia*:

“France has taken note of the results of the vote of 1 July 1962 on self-determination and of the implementation of the Declarations of 19 March 1962. France has recognized the independence of Algeria.

“In consequence, and in accordance with chapter V of the General Declaration of 19 March 1962, the powers of sovereignty over the territory of the former French Departments of Algeria are, as from this day, transferred to the Provisional Executive of the Algerian State.”

The letter from the President of the Executive of the Algerian State to the President of the French Republic states *inter alia*:

“I have the honour, on behalf of the Algerian Provisional Executive, to acknowledge receipt of your message and to take note of the official recognition, by the French Republic, of the independence of Algeria.

“In consequence, in accordance with chapter V of the Evian Declarations of 19 March 1962, the powers of sovereignty over Algerian territory have this day been transferred to the Provisional Executive.”

¹⁰⁵ *Ibid.*, Declarations adopted on 19 March 1962 at the close of the Evian talks, General Declaration. Chapter V (“Consequences of self-determination”) provides *inter alia*:

“If the solution of independence and co-operation is adopted:

- The independence of Algeria will immediately be recognized by France; the transfer of powers will be effected forthwith;

88. Pursuant to the preamble in the Declaration of Principles concerning Economic and Financial Co-operation:

Co-operation between France and Algeria in economic and financial matters shall be on a contractual basis, in accordance with the following principles:

1. Algeria shall guarantee French interests and the acquired rights of individuals and legal entities.¹⁰⁶

89. That Declaration further provides, under title IV (“Guarantee of acquired rights and previous commitments”), at article 18:

Algeria shall assume the obligations and enjoy the rights contracted on behalf of itself or of Algerian public establishments by the competent French authorities.

**27. United Kingdom of Great Britain and Northern Ireland and Jamaica:
Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of Jamaica (1962)**

90. The United Kingdom and Jamaica entered into an agreement by an exchange of letters dated 7 August 1962, which came into force as from 6 August 1962, in accordance with its provisions.¹⁰⁷ The exchange of letters “refer[red] to the Jamaica Independence Act, 1962, under which Jamaica ha[d] assumed independent status within the Commonwealth”, and set out the agreement between the two parties to the following provisions:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument (including any such instrument made by the Government of the Federation of the West Indies by virtue of authority entrusted by the Government of the United Kingdom) shall as from 6th August, 1962 be assumed by the Government of Jamaica, in so far as such instrument may be held to have application to Jamaica;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Jamaica shall as from 6th August, 1962 be enjoyed by the Government of Jamaica.

28. United Kingdom of Great Britain and Northern Ireland and Trinidad and Tobago: Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of Trinidad and Tobago (1962)

91. By an exchange of letters dated 31 August 1962, which “refer[red] to the Trinidad and Tobago Independence Act, 1962, under which Trinidad and Tobago

– The regulations set forth in the present General Declaration and in
– The Declarations accompanying it will enter into force at the same time.
“The Provisional Executive will organize, within three weeks, elections for the constitution of the Algerian National Assembly, to which it will transfer its powers.”

¹⁰⁶ *Ibid.*, Declarations adopted on 19 March 1962 at the close of the Evian talks, Declaration of Principles concerning Economic and Financial Cooperation. The rest of the preamble states:
“2. France shall undertake, in return, to grant to Algeria technical and cultural assistance and to make to its economic and social development a preferential contribution justified by the extent of existing French interests in Algeria.

“3. Within the framework of these reciprocal undertakings, France and Algeria will maintain privileged relations, particularly as regards trade and currency.”

¹⁰⁷ *Ibid.*, vol. 457, No. 6580, p. 117.

ha[d] assumed independent status within the Commonwealth”, the United Kingdom and Trinidad and Tobago agreed to the following provisions:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument (including any such instruments made by the Government of the Federation of the West Indies by virtue of authority entrusted by the Government of the United Kingdom) shall henceforth be assumed by the Government of Trinidad and Tobago, insofar as such instruments may be held to have application to Trinidad and Tobago;

(ii) the rights and benefits which heretofore were enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to Trinidad and Tobago shall henceforth be enjoyed by the Government of Trinidad and Tobago.¹⁰⁸

29. New Zealand and Western Samoa: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of Western Samoa (1962)

92. In an exchange of letters dated 30 November 1962, New Zealand and Western Samoa, further to “discussions ... concerning the inheritance of international rights and obligations by Western Samoa, which became an independent sovereign State on 1 January 1962”, agreed to the following provisions:

(i) All obligations and responsibilities of the Government of New Zealand which arise from any valid international instrument are, from 1 January 1962, assumed by the Government of Western Samoa in so far as such instrument may be held to have application to or in respect of Western Samoa.

(ii) The rights and benefits heretofore enjoyed by the Government of New Zealand in virtue of the application of any such international instrument to or in respect of Western Samoa are, from 1 January 1962, enjoyed by the Government of Western Samoa.¹⁰⁹

30. United Kingdom of Great Britain and Northern Ireland, and Federation of Malaya, North Borneo, Sarawak and Singapore: Agreement relating to Malaysia (1963)

93. The Agreement relating to Malaysia was concluded between the United Kingdom, and the Federation of Malaya, North Borneo, Sarawak and Singapore on 9 July 1963.¹¹⁰ Article I thereof provided:

The Colonies of North Borneo and Sarawak and the State of Singapore shall be federated with the existing States of the Federation of Malaya as the States of Sabah, Sarawak and Singapore in accordance with the constitutional instruments annexed to this Agreement and the Federation shall thereafter be called “Malaysia”.¹¹¹

94. The Agreement, as amended on 28 August 1963, further required “the enactment by the Parliament of the Federation of Malaya of an Act in the form set out in Annex A”, which was to be “brought into operation” on 16 September 1963 “(and the

¹⁰⁸ *Ibid.*, No. 6581, p. 123.

¹⁰⁹ *Ibid.*, vol. 476, No. 6898, p. 3.

¹¹⁰ *Ibid.*, vol. 750, No. 10760, p. 2.

¹¹¹ *Ibid.*, art. I.

date on which the said Act is brought into operation is hereinafter referred to as ‘Malaysia Day’).¹¹²

95. Section 76 of the Malaysia Act envisaged in Annex A is entitled “Succession to rights, liabilities and obligations” and provides:

(1) All rights, liabilities and obligations relating to any matter which was immediately before Malaysia Day the responsibility of the government of a Borneo State or of Singapore, but which on that day becomes the responsibility of the Federal Government, shall on that day devolve upon the Federation, unless otherwise agreed between the Federal Government and the government of the State.

(2) This section does not apply to any rights, liabilities or obligations in relation to which section 75^[113] has effect, nor does it have effect to transfer any person from service under the State to service under the Federation or otherwise affect any rights, liabilities or obligations arising from such service or from any contract of employment; but, subject to that, in this section rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise.

(3) The Attorney-General shall on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this section a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

(4) In this section references to the government of a State include the government of the territories comprised therein before Malaysia Day.¹¹⁴

31. United Kingdom of Great Britain and Northern Ireland and Malta: Exchange of letters constituting an agreement relative to the inheritance of international rights and obligations by the Government of Malta (1964)

96. By an exchange of letters dated 31 December 1964, which “refer[red] to the Malta Independence Act 1964”, the United Kingdom and Malta set forth their agreement with the following provisions:

(i) all obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument shall, as from the 21st September, 1964, be assumed by the Government of Malta insofar as such instruments may be held to have application to Malta;

(ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to

¹¹² *Ibid.*, Agreement relating to Malaysia, art. II. See also *ibid.*, Agreement amending the Agreement of 9 July 1963 between the United Kingdom of Great Britain and Northern Ireland, the Federation of Malaya, North Borneo, Sarawak and Singapore relating to Malaysia, by which it was agreed that “in Article II of the Agreement relating to Malaysia ... the date ‘16th September’ shall be substituted for the date ‘31st August’ and that the Malaysia Act of the Parliament of the Federation of Malaya shall, with any consequential amendments, come into force on 16th September, 1963”.

¹¹³ Section 75 concerns “Succession to property” (*ibid.*, Agreement relating to Malaysia, Annex A).

¹¹⁴ The text was adopted in the Malaysia Act, 1963 (*United Nations Legislative Series, Materials on Succession of States* (see footnote 9 above), p. 93).

Malta shall, as from the 21st September, 1964, be enjoyed by the Government of Malta.¹¹⁵

32. Singapore and Malaysia: Agreement relating to the separation of Singapore from Malaysia as an independent and sovereign State (1965)

97. Following the establishment of Malaysia on 16 September 1963,¹¹⁶ Malaysia and Singapore concluded the Agreement relating to the separation of Singapore from Malaysia as an independent and sovereign State on 7 August 1965.¹¹⁷ The Agreement provided that “Singapore shall cease to be a State of Malaysia on the 9th day of August, 1965, (hereinafter referred to as ‘Singapore Day’) and shall become an independent and sovereign state separate from and independent of Malaysia and recognised as such by the Government of Malaysia”.¹¹⁸

98. In that context, article IV of the Agreement provides:

The Government of Malaysia will take such steps as may be appropriate and available to them to secure the enactment by the Parliament of Malaysia of an Act in the form set out in Annex B to this Agreement and will ensure that it is made operative as from Singapore Day, providing for the relinquishment of sovereignty and jurisdiction of the Government of Malaysia in respect of Singapore so that the said sovereignty and jurisdiction shall on such relinquishment vest in the Government of Singapore in accordance with this Agreement and the constitutional instruments annexed.

99. Section 9 (“Transfer of property and succession to rights, liabilities and obligations”) of Annex B, which sets out “an Act to amend the Constitution of Malaysia and the Malaysia Act”, provides:

All property, movable and immovable, and rights, liabilities and obligations which before Malaysia Day belonged to or were the responsibility of the Government of Singapore and which on that day or after became the property of or the responsibility of the Government of Malaysia shall on Singapore Day revert to and vest in or devolve upon and become once again the property of or the responsibility of Singapore.

100. Further, article VIII of the Agreement provides:

With regard to any agreement entered into between the Government of Singapore and any other country or corporate body which has been guaranteed by the Government of Malaysia, the Government of Singapore hereby undertakes to negotiate with such country or corporate body to enter into a fresh agreement releasing the Government of Malaysia of its liabilities and obligations under the said guarantee, and the Government of Singapore hereby undertakes to indemnify the Government of Malaysia fully for any liabilities, obligations or damage which it may suffer as a result of the said guarantee.

33. United Kingdom of Great Britain and Northern Ireland and Gambia: Exchange of letters constituting an agreement relating to the inheritance of international rights and obligations by the Government of the Gambia (1966)

101. The United Kingdom and the Gambia exchanged letters dated 20 June 1966, which “refer[red] to the independence of The Gambia on the 18th of February, 1965” and stated, “in regard to the obligations and responsibilities and the rights and benefits

¹¹⁵ United Nations, *Treaty Series*, vol. 525, No. 7594, p. 221.

¹¹⁶ See paragraphs 93 to 95 above.

¹¹⁷ United Nations, *Treaty Series*, vol. 563, No. 8206, p. 89.

¹¹⁸ *Ibid.*, art. II.

which, by virtue of any valid international instrument, related to The Gambia immediately before that date”, that the two parties were in agreement:

(i) that all obligations and responsibilities of the Government of the United Kingdom which arose from any valid international instrument applying to The Gambia immediately before the 18th of February, 1965 continued to apply to The Gambia and were assumed by the Government of The Gambia as from that date; and

(ii) that the rights and benefits enjoyed by the Government of the United Kingdom by virtue of the application of any such international instrument to The Gambia continued to be enjoyed by the Government of The Gambia.¹¹⁹

34. United States of America and Egypt: Agreement concerning claims of nationals of the United States (1976)

102. On 1 May 1976, the United States of America and the Arab Republic of Egypt, “being desirous of effecting a settlement of claims of nationals of the United States against the Arab Republic of Egypt, and desiring further to advance friendly cooperation and beneficial economic relations between the two countries”, concluded the Agreement concerning claims of nationals of the United States.¹²⁰ The Agreement entered into force on 27 October 1976.

103. Under article I, paragraph 1, of the Agreement, “[t]he Government of the Arab Republic of Egypt (hereinafter referred to as the Egyptian Government) agree[d] to pay, and the Government of the United States agree[d] to accept”, a sum “in full settlement and discharge of all the claims of nationals of the United States against the Egyptian Government” described in the Agreement. Article II, paragraph 1, provides:

The claims which are referred to in Article I, and which are being settled and discharged by this Agreement, are claims of nationals of the United States for: property, rights and interests in Egypt affected by Egyptian measures of land reform, sequestration, nationalization, expropriation, confiscation and other restrictive measures against such property, rights and interests, as well as financial and fiscal matters decreed by the Arab Republic of Egypt, which occurred since January 1, 1952, and before the entry into force of this Agreement.

35. United Kingdom of Great Britain and Northern Ireland and Seychelles: Exchange of notes constituting an agreement concerning treaty succession (1976)

104. By an exchange of letters dated 29 June 1976, which “refer[red] to the Seychelles Act 1976”, the United Kingdom and Seychelles agreed that:

(i) All obligations and responsibilities of the Government of the United Kingdom of Great Britain and Northern Ireland which arise from any valid

¹¹⁹ *Ibid.*, vol. 573, No. 8333, p. 203.

¹²⁰ *Ibid.*, vol. 1070, No. 16288, p. 25. It may be recalled that, following a plebiscite on 21 February 1958, the United Arab Republic was established by a union of Egypt and Syria (see the *note verbale* dated 7 March 1958 from the Secretary-General to the President of the Security Council, S/3976, Annex A). On 13 October 1961, the Syrian Arab Republic, having resumed its status as an independent State, resumed its separate membership in the United Nations (see the cable dated 8 October 1961 from the Prime Minister and Minister for Foreign Affairs of the Syrian Arab Republic addressed to the President of the General Assembly, A/4914-S/4958). On 2 September 1971, the United Arab Republic changed its name to the Arab Republic of Egypt (see “Historical information: United Arab Republic”, *Multilateral Treaties Deposited with the Secretary-General*, available from https://treaties.un.org/pages/HistoricalInfo.aspx?clang=_en#UnitedArabRepublic).

international instrument shall, as from the 29th of June 1976, be assumed by the Government of Seychelles insofar as such instruments may be held to have application to Seychelles.

(ii) The rights and benefits heretofore enjoyed by the Government of the United Kingdom of Great Britain and Northern Ireland in virtue of the application of any such international instrument to Seychelles shall, as from the 29th of June 1976, be enjoyed by the Government of Seychelles.¹²¹

36. United Kingdom of Great Britain and Northern Ireland and Vanuatu: Exchange of notes constituting an agreement concerning the United Kingdom contribution towards compensation claims arising out of civil disturbances in Vanuatu in 1980 (1984)

105. The exchange of notes dated 13 March 1984 between the United Kingdom and Vanuatu concerned certain “compensation claims arising out of civil disturbances on the islands of Santo, Tanna and Malekula between May and August 1980”.¹²²

106. In the exchange of notes, the United Kingdom agreed to “make an ex-gratia contribution ... to assist the Government of Vanuatu to meet the cost of admissible claims”. Such contribution was “made without prejudice to the position of the Government of the United Kingdom and [did] not amount to the admission of past, present or future liability on the part of the Government of the United Kingdom in any way”. Further, it “discharge[d] the Government of the United Kingdom from any further contribution in respect of claims arising out of the above-mentioned civil disturbances, and shall be in full and final settlement of any such claims which might be made upon the Government of the United Kingdom”.

107. The Government of Vanuatu was required to use the contribution to meet the cost of the claims in accordance with the provisions of the agreement, and to “ensure that, on receipt of payment, each claimant signs a discharge recording that payment to him has been received and that he undertakes to pursue no further claim, directly or indirectly against the Government of the United Kingdom”.

37. Federal Republic of Germany and German Democratic Republic: Treaty on the establishment of German Unity (1990)

108. The Treaty on the establishment of German Unity was signed between the Federal Republic of Germany and the German Democratic Republic on 31 August 1990.¹²³ It provided for the accession of the German Democratic Republic to the Federal Republic of Germany.¹²⁴

¹²¹ United Nations, *Treaty Series*, vol. 1038, No. 15527, p. 135.

¹²² *Ibid.*, vol. 1416, No. 23698, p. 189. It may be recalled that Vanuatu “attained independence on 30 July 1980” (Application of the Republic of Vanuatu for admission to membership in the United Nations, A/36/308-S/14506); it became a member of the United Nations on 15 September 1981 (General Assembly resolution 36/1 of 15 September 1981 and Security Council resolution 489 (1981) of 8 July 1981; see also S/14580 and A/36/308-S/14506).

¹²³ This Treaty has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status or its entry into force. The authentic German text appears in the *Federal Law Gazette of the Federal Republic of Germany*, BGBL Part II, pp. 885 *et seq.* (28 September 1990). The English translation used in this memorandum can be found in *The Unification of Germany in 1990*, Bonn, Press and Information of the Federal Government, 1991. The Treaty addressed, *inter alia*, the effect of accession; the application of and amendments to the Basic Law resulting from accession; the harmonization of law in the new territory; international treaties and agreements; public administration and the administration of justice; public assets and debts; labour, social welfare, family, women, public health and environmental protection; and culture, education and science.

¹²⁴ Article 1 of the Treaty provides:
“Länder

109. Article 11 of the Treaty provided that international treaties and agreements to which the Federal Republic of Germany was a contracting party would retain their validity, and that the rights and obligations arising from those treaties and agreements (excluding certain treaties named in annex I of the Treaty) would also relate to the territory of the German Democratic Republic. Article 12, paragraph (1), of the Treaty further provided that the international treaties of the German Democratic Republic would “be discussed with the contracting parties concerned with a view to regulating or confirming their continued application, adjustment or expiry”.

110. Article 23, paragraph (1), of the Treaty also provided that “[u]pon 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”. Article 23, paragraph (6), further provided that, upon accession, the Federal Republic of Germany would “take over the sureties, guarantees and warranties assumed by the German Democratic Republic and debited to its state budget prior to unification”.

111. Article 24 of the Treaty, entitled “Settlement of claims and liabilities vis-à-vis foreign countries and the Federal Republic of Germany”, provides:

(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 expenditure, 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.

“(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. ...

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

38. Treaty on the legal succession in respect of the external public debt and assets of the USSR (1991)

112. The Treaty on the legal succession in respect of the external public debt and assets of the USSR was signed on 4 December 1991 and entered into force by signature on the same date.¹²⁵ Article 2 of the Treaty defined the parties to the Treaty.¹²⁶ According to information available to the Secretariat at the time of registration under Article 102 of the Charter of the United Nations, the Treaty was signed by Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Ukraine and the Union of Soviet Socialist Republics.

113. The preamble of the Treaty provides:

The States which are or were subjects of the Union of Soviet Socialist Republics, irrelative to their current status, and the USSR as the state-predecessor,

...

considering that matters of succession in respect of the state financial obligations are of prime importance,

taking into account the principles of international law and the provisions of the Vienna (1983) Convention on Succession of States in Respect of State Property, Archives and Debts,

are concluding the present Treaty on the Succession in respect of the External Public Debt and Assets of the USSR.

114. Article 5 of the Treaty provides:

The Parties shall bear no responsibility with respect to neither obligations of particular sovereign states, republic which were subjects of the USSR, particular enterprises, associations and organisations, irrespective of their departmental subordination, which have been guaranteed by themselves and not by the USSR or public authorities empowered by it before the signature of the present Treaty nor the obligations of the USSR in case of formalizing them after the signature of the present Treaty, unless an agreement between the Parties provides for otherwise.

115. It was further agreed that “the time of succession, in accordance with the present Treaty, shall be 1 December 1991”.¹²⁷

39. Agreement establishing the Commonwealth of Independent States; Protocol to the Agreement establishing the Commonwealth of Independent States; Alma Ata Declaration (1991)

116. The Agreement establishing the Commonwealth of Independent States was adopted on 8 December 1991 by “the Republic of Belarus, the Russian Federation (RSFSR) and Ukraine, as founder States of the Union of Soviet Socialist Republics and signatories of the Union Treaty of 1922, hereinafter referred to as the High

¹²⁵ United Nations, *Treaty Series*, vol. 2380, No. 42935, p. 95.

¹²⁶ Article 2 of the Treaty provides: “The states-successors of the USSR shall be the Parties to the present Treaty, hereinafter referred to as the “Parties”, namely: Republic of Armenia[,] Azerbaijan Republic[,] Republic of Belarus[,] Estonian Republic[,] Republic of Georgia[,] Kazakh Soviet Socialist Republic[,] Republic of Kyrgyzstan[,] Latvian Republic[,] Lithuanian Republic[,] Republic of Moldova[,] Russian Soviet Federal Socialist Republic[,] Republic of Tajikistan[,] Turkmenistan[,] Ukraine[,] Republic of Uzbekistan[,] and the Union of Soviet Socialist Republics as a state-predecessor.”

¹²⁷ *Ibid.*, art. 6.

Contracting Parties”.¹²⁸ Pursuant to its preamble, the parties declared that “the Union of Soviet Socialist Republics as a subject of international law and a geopolitical reality no longer exists”.

117. Article 12 of the Agreement provides:

The High Contracting Parties undertake to discharge the international obligations incumbent on them under treaties and agreements entered into by the former Union of Soviet Socialist Republics.

118. Article 13 of the Agreement provides:

This Agreement shall not affect the obligations of the High Contracting Parties towards third States.

This Agreement is open for accession by all States members of the former Union of Soviet Socialist Republics, and also by other States sharing the purposes and principles of this Agreement.

119. The Protocol to the Agreement establishing the Commonwealth of Independent States, adopted at Alma Ata on 21 December 1991, provided that “[t]he Republic of Azerbaijan, the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Republic of Moldova, the Russian Federation (RSFSR), the Republic of Tajikistan, Turkmenistan, the Republic of Uzbekistan and Ukraine, on an equitable basis and as High Contracting Parties, shall constitute the Commonwealth of Independent States”.¹²⁹ As “an integral part of the Agreement establishing the Commonwealth of Independent States”, the Protocol further provided that “[t]he Agreement establishing the Commonwealth of Independent States shall enter into force for each of the High Contracting Parties from the moment of its ratification”.

120. Pursuant to the Alma Ata Declaration of 21 December 1991,¹³⁰ “[t]he Republic of Azerbaijan, the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Republic of Kyrgyzstan, the Republic of Moldova, the Russian Federation (RSFSR), the Republic of Tajikistan, Turkmenistan, the Republic of Uzbekistan and Ukraine” declared that:

The Commonwealth of Independent States is open, with the consent of all its participants, to accession by other States members of the former Union of Soviet Socialist Republics, and also by other States sharing the purposes and principles of the Commonwealth.

...

With the establishment of the Commonwealth of Independent States, the Union of Soviet Socialist Republics ceases to exist.

¹²⁸ The Agreement has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status or its date of entry into force. The text of the Agreement can be found in the letter dated 12 December 1991 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General (A/46/771, annex II).

¹²⁹ The Protocol has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status or its date of entry into force. The text of the Protocol can be found in the letter dated 27 December 1991 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General (A/47/60-S/23329, annex I).

¹³⁰ The text of the Declaration can be found in the letter dated 27 December 1991 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General (*ibid.*, annex II).

The States participating in the Commonwealth guarantee in accordance with their constitutional procedures the discharge of the international obligations deriving from treaties and agreements concluded by the former Union of Soviet Socialist Republics.

40. Germany and United States of America: Agreement concerning the settlement of certain property claims (1992)

121. On 13 May 1992, Germany and the United States of America concluded the Agreement concerning the settlement of certain property claims, which came into force on 28 December 1992.¹³¹ Article 1 thereof provides:

This agreement shall cover claims of nationals of the United States (including natural and juridical persons) arising from any nationalization, expropriation, intervention, or other taking of, or special measures directed against, property of nationals of the United States before October 18, 1976, covered by the United States German Democratic Republic Claims Program established by United States Public Law 94-542 of October 18, 1976 (the “United States Program”).

122. Article 3, paragraph 9, of the Agreement provides:

This agreement shall constitute a full and final settlement and discharge of claims covered by article 1 of United States nationals who do not elect pursuant to article 3 to pursue domestic remedies in the Federal Republic of Germany.^[132] Such nationals’ title to, or rights or interests of any kind in, property of whatever nature in the Federal Republic of Germany covered by such claims shall be transferred by operation of this agreement to the Federal Republic of Germany when the final transfer amount has been determined. No further action or declaration by the United States nationals concerned shall be required in this regard.

41. Slovakia and Hungary: Special Agreement for submission to the International Court of Justice of the differences concerning the Gabčíkovo–Nagymaros Project (1993)

123. The Special Agreement for submission to the International Court of Justice of the differences concerning the Gabčíkovo–Nagymaros Project was concluded between Slovakia and Hungary on 7 April 1993 and came into force on 26 June 1993.¹³³ Its preamble provides *inter alia* that the Slovak Republic was the sole successor State of the Czech and Slovak Federal Republic in respect of rights and obligations relating to the Gabčíkovo–Nagymaros Project, upon which the Court was requested to adjudicate:

The Republic of Hungary and the Slovak Republic,

Considering that differences have arisen between the Czech and Slovak Federal Republic and the Republic of Hungary regarding the implementation and the termination of the [Treaty concerning the construction and operation of the Gabčíkovo–Nagymaros system of locks], signed in Budapest on September 16,

¹³¹ United Nations, *Treaty Series*, vol. 1911, No. 32547, p. 27. The Agreement addressed certain claims of nationals of the United States of America arising from facts which occurred before the accession of the German Democratic Republic to the Federal Republic of Germany in 1990 (see paragraph 108 above).

¹³² Article 3, paragraph 1, of the Agreement provided *inter alia* that the United States of America “shall offer its nationals who would be entitled to a portion of the settlement amount under United States law the opportunity to elect whether to receive that portion of the settlement amount or to pursue domestic remedies in the Federal Republic of Germany”.

¹³³ United Nations, *Treaty Series*, vol. 1725, No. 30113, p. 225.

1977 and related instruments (hereinafter referred to as “the Treaty”),^[134] and on the construction and operation of the “provisional solution”;

Bearing in mind that the Slovak Republic is one of the two successor States of the Czech and Slovak Federal Republic and the sole successor State in respect of rights and obligations relating to the Gabčíkovo-Nagymaros Project;^[135]

42. Australia and Nauru: Agreement for the settlement of the case in the International Court of Justice concerning certain phosphate lands in Nauru (1993)

124. The Agreement for the settlement of the case in the International Court of Justice concerning certain phosphate lands in Nauru was concluded between Australia and Nauru on 10 August 1993 and came into force on 20 August 1993.¹³⁶ It aimed “to settle amicably the application brought by the Republic of Nauru against Australia in the International Court of Justice”.¹³⁷

125. By its terms, “Australia agree[d] that, in an effort to assist the Republic of Nauru in its preparations for its post-phosphate future, it shall pay the Republic of Nauru a cash settlement ... without prejudice to Australia’s long-standing position that it bears no responsibility for the rehabilitation of the phosphate lands worked out before 1 July 1967”.¹³⁸ At the same time, Nauru

agree[d] that it shall make no claim whatsoever, whether in the International Court of Justice or otherwise, against all or any of Australia, the United Kingdom of Great Britain and Northern Ireland and New Zealand, their servants or agents arising out of or concerning the administration of Nauru during the period of the Mandate or Trusteeship or the termination of that administration, as well as any matter pertaining to phosphate mining, including matters pertaining to the British Phosphate Commissioners, their assets or the winding up thereof.¹³⁹

43. United States of America and Viet Nam: Agreement concerning the settlement of certain property claims (1995)

126. On 28 January 1995, the United States of America and Viet Nam concluded the Agreement concerning the settlement of certain property claims, which entered into force on the same date.¹⁴⁰ The Agreement was reached “with a firm desire to reach an early settlement of property claims in order to develop bilateral economic and trade relations and in the context of the process of normalization of relations between the [two parties] on the basis of equality and mutual benefit”.¹⁴¹ In particular, article 1 of the Agreement provides:

The claims covered by this agreement are:

¹³⁴ *Ibid.*, vol. 1109, No. 17134, p. 211.

¹³⁵ See *Gabčíkovo–Nagymaros Project (Hungary/Slovakia)*, *Judgment*, *I.C.J. Reports 1997*, p. 7, at p. 81, para. 151.

¹³⁶ United Nations, *Treaty Series*, vol. 1770, No. 30807, p. 379.

¹³⁷ *Ibid.*, preamble. See *Certain Phosphate Lands in Nauru (Nauru v. Australia)*, *Order of 13 September 1993*, *I.C.J. Reports 1993*, p. 322; see also the Trusteeship Agreement for the Territory of Nauru, approved by the General Assembly of the United Nations on 1 November 1947, United Nations, *Treaty Series*, vol. 10, No. 103, p. 3.

¹³⁸ *Ibid.*, vol. 1770, No. 30807, p. 379, art. 1.

¹³⁹ *Ibid.*, art. 3.

¹⁴⁰ *Ibid.*, vol. 2420, No. 43661, p. 91.

¹⁴¹ *Ibid.*, preamble. It may be recalled that “[t]he Democratic Republic of Viet-Nam and the Republic of South Viet-Nam (the latter of which replaced the Republic of Viet Nam) united on 2 July 1976 to constitute a new State, the Socialist Republic of Viet-Nam (Viet-Nam)” (see “Historical information: Viet Nam”, *Multilateral Treaties Deposited with the Secretary-General*, available from <https://treaties.un.org/pages/historicalinfo.aspx#VietNam>).

(a) the claims of the United States and of nationals of the United States (including natural and juridical persons) against Vietnam arising from the nationalization, expropriation, or taking of, or other measures directed against, properties, rights, and interests of the United States or United States nationals prior to the entry into force of this agreement; and

(b) the claims of Vietnam and of nationals of Vietnam (including natural and juridical persons) against the United States arising from the nationalization, expropriation, or taking of, or other measures directed against, properties, rights, and interests of Vietnam or Vietnamese nationals prior to the entry into force of this agreement.

127. Article 2 of the Agreement provides *inter alia*:

1. In full and final settlement of the claims covered by this agreement, Vietnam shall pay the ... “settlement amount” ... to the United States and the United States shall unblock all assets of Vietnam that are blocked in the United States, in accordance with paragraph 3.

2. The United States shall be exclusively responsible for distribution of the settlement amount.

3. The United States agrees to unblock ... all assets of Vietnam that are blocked by the United States, and Vietnam agrees that the settlement amount shall be paid simultaneously out of such assets. The United States also agrees to unblock, at the same time, assets of nationals of Vietnam.

128. Article 3 of the Agreement provides:

1. Upon payment of the settlement amount, this agreement shall constitute a full and final settlement and discharge of the claims covered by this agreement, and thereafter neither government shall present to the other, on its behalf or on behalf of another, any claim covered by this agreement.

2. Any title to, or right or interest of any kind in, properties included in claims covered by this agreement shall be transferred by operation of this agreement to the government against which the claim had been made upon payment of the settlement amount.

3. If any claim covered by this agreement is presented directly by a national of one country to the government of the other, that government will refer it to the government of the national who presented the claim.

44. Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia: Agreement on the Regulation of Relations and Promotion of Cooperation (1996)

129. The Agreement on the Regulation of Relations and Promotion of Cooperation was signed on 8 April 1996 between “[t]he Republic of Macedonia and the Federal Republic of Yugoslavia (‘the Parties’) ... [d]esiring to promote good relations between their citizens and nations, [and d]esiring to contribute thereby to the regulation of mutual relations”.¹⁴²

130. Article 4, paragraph 3, of the Agreement provided that “[t]he Parties agree[d] to resolve their mutual claims on ground of succession to the former Yugoslavia by

¹⁴² This Agreement has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status or its date of entry into force. The text of the Agreement can be found in the letter dated 17 April 1996 from the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations addressed to the President of the Security Council (S/1996/291, appendix).

agreement”. Furthermore, article 7 thereof stated that “[t]he Parties shall also resolve the issue of property of natural and legal persons, on the basis of reciprocity and by an agreement”.

45. Croatia and Federal Republic of Yugoslavia: Agreement on Normalization of Relations (1996)

131. The Agreement on Normalization of Relations between the Federal Republic of Yugoslavia and the Republic of Croatia was concluded on 23 August 1996.¹⁴³ Article 5, paragraph 3, of the Agreement provides:

The Contracting Parties are agreed to solve the issue of the succession of the Socialist Federal Republic of Yugoslavia on the basis of the rules of international law on succession of States and through agreement.

46. Agreement on Succession Issues (2001)

132. At the Conference on Succession Issues held in Vienna on 29 June 2001, the Agreement on Succession Issues¹⁴⁴ was adopted by “Bosnia and Herzegovina, the Republic of Croatia, the Republic of Macedonia, the Republic of Slovenia and the Federal Republic of Yugoslavia, being in sovereign equality the five successor States to the former Socialist Federal Republic of Yugoslavia”.¹⁴⁵ It aimed, “in the interests of all successor States and their citizens and in the interests of stability in the region and their mutual good relations, to resolve questions of State succession arising upon the break-up of the former Socialist Federal Republic of Yugoslavia”.¹⁴⁶ Negotiations were held “with a view to identifying and determining the equitable distribution amongst [the parties] of rights, obligations, assets and liabilities of the former Socialist Federal Republic of Yugoslavia”.¹⁴⁷ The Agreement “[d]emonstrat[ed] [the parties’] readiness to co-operate in resolving outstanding succession issues in accordance with international law”.¹⁴⁸

133. Article 4 of the Agreement established a “Standing Joint Committee of senior representatives of each successor State”, whose principal tasks were “the monitoring of the effective implementation of [the] Agreement and serving as a forum in which issues arising in the course of its implementation may be discussed”.¹⁴⁹

134. The Agreement contained seven annexes and several appendices to the Agreement and annexes, which formed “an integral part of the Agreement”.¹⁵⁰ Further, article 7 provided that the “Agreement, together with any subsequent agreements called for in implementation of the Annexes to [the] Agreement, finally settles the mutual rights and obligations of the successor States in respect of succession issues covered by [the] Agreement”. The annexes set out the terms on which the respective subject matter would be settled, namely: “Movable and immovable property” (annex A); “Diplomatic and consular properties” (annex B); “Financial assets and liabilities” (annex C and appendix); “Archives” (annex D);

¹⁴³ This Agreement has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status or its date of entry into force. The text of the Agreement can be found in the letter dated 29 August 1996 from the Chargé d’affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General (A/51/318-S/1996/706, annex).

¹⁴⁴ United Nations, *Treaty Series*, vol. 2262, No. 40296, p. 251.

¹⁴⁵ *Ibid.*, preamble.

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.*

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*, art. 4.

¹⁵⁰ *Ibid.*, art. 6.

“Pensions” (annex E); “Other rights, interests, and liabilities” (annex F); “Private property and acquired rights” (annex G).¹⁵¹

135. Article 1 of annex F (“Other rights, interests, and liabilities”) to the Agreement provides:

All rights and interests which belonged to the SFRY [former Socialist Federal Republic of Yugoslavia¹⁵²] and which are not otherwise covered by this Agreement (including, but not limited to, patents, trademarks, copyrights, royalties, and claims of and debts due to the SFRY) shall be shared among the successor States, taking into account the proportion for division of SFRY financial assets in Annex C of this Agreement. The division of such rights and interests shall proceed under the direction of the Standing Joint Committee established under Article 4 of this Agreement.

136. Article 2 of annex F further provides:

All claims against the SFRY which are not otherwise covered by this Agreement shall be considered by the Standing Joint Committee established under Article 4 of this Agreement. The successor States shall inform one another of all such claims against the SFRY.

47. Sudan and South Sudan: Agreement on Certain Economic Matters (2012)

137. On 27 September 2012, nine agreements between the Sudan and South Sudan were signed under the auspices of the African Union High-Level Implementation Panel in the Ethiopian capital Addis Ababa, including the Agreement on Certain Economic Matters.¹⁵³

138. Article 3 of the Agreement, entitled “Treatment of External Assets and Liabilities”, includes article 3.1, entitled “Agreed Zero-Option Approach”, which provides *inter alia*:

3.1.1 The two States hereby agree that the RoS [Republic of Sudan¹⁵⁴], as the continuing state, shall retain all external debt liabilities and external assets of the RoS.

139. Article 5 of the Agreement, entitled “Mutual Forgiveness of Claims of Non-Oil Arrears and Other Claims”, provides:

5.1.1 Each Party agrees to unconditionally and irrevocably cancel and forgive any claims of non-oil related arrears and other non-oil related financial claims outstanding to the other Party, up to the date of this Agreement, including the claims of arrears and other financial claims filed by each Party with the African Union High Level Implementation Panel on Sudan in February, 2012.

5.1.2 To that end, each Party acknowledges that there shall be no further liability owed to the other Party in respect of such arrears or other financial claims.

5.1.3 The Parties agree that the provisions of Article 5.1.1 shall not serve as a bar to any private claimants. The Parties agree to safeguard the rights of private claimants and to ensure that such claimants that they have the right of access to

¹⁵¹ *Ibid.*, art. 3.

¹⁵² *Ibid.*, art. 1.

¹⁵³ See *United Nations Juridical Yearbook 2013*, p. 87, note 29. This Agreement has not been registered by the parties pursuant to Article 102 of the Charter of the United Nations. Consequently, the Secretariat has no information on its status, its authentic text, or its entry into force. The text of the Agreement can be found in the United Nations peacemaker database, at <http://peacemaker.un.org/node/1617>.

¹⁵⁴ See article 1 of the Agreement.

the courts, administrative tribunals and agencies of each State for the purpose of realizing the protection of their rights.

5.1.4 The Parties agree to take such action as may be necessary, including the establishment of joint committees or any other workable mechanisms, to assist and facilitate the pursuance of claims by nationals or other legal persons of either State to pursue claims in accordance with, subject to the provisions of the applicable laws in each State.
