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**FINAL DRAFT OF THE REVISED CONVENTION ON THE SETTLEMENT OF  
DISPUTES RELATED TO SPACE ACTIVITIES**

Draft Convention on the Settlement of Space Law Disputes adopted by the Space Law  
Committee of the International Law Association  
1 October 1984

Adopted as revised by the Space Law Committee of the International Law Association  
30 May 1998

PREAMBLE

*The Contracting Parties*<sup>\*</sup>

*Recognizing* the common interest of all mankind in furthering the exploration and use of  
outer space for peaceful purposes,

*Recognizing* that the pursuit of peace based upon justice is vital for the preservation of  
human society and civilization,

*Resolved* therefore to settle by peaceful means any disputes which may arise between  
them with regard to outer space,

*Have agreed* as follows:

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<sup>\*</sup> *Vice* in the 1 October 1984 version: “High Contracting Parties,” hereinafter abbreviated as “HCPs.”

SECTION I  
APPLICABILITY OF THE CONVENTION

ARTICLE 1  
SCOPE OF DISPUTES SETTLED UNDER THIS CONVENTION

1. This Convention applies to all activities in outer space and all activities with effects in outer space, if such activities are carried out by states and international organizations, in accordance with article 69 of this Convention, by nationals thereof or from the territory of a Contracting Party.
2. Any Contracting Party, on depositing its instrument of ratification, may declare
  - (a) that it excludes from the applicability of the Convention space activities of a specific kind described in such declaration,
  - (b) that it limits the applicability of this Convention to certain space activities or to specific areas of space law as may be dealt with in specific bilateral or multilateral treaties described in such declaration,
  - (c) that it will not be bound by certain sections or articles of this Convention described in such declaration.
3. A Contracting Party may only benefit from this Convention in so far as it is itself bound.
4. A Contracting Party which is bound by only part of this Convention, or which has made reservations, may at any time, by a simple declaration, either extend the scope of its obligations or abandon all or part of its reservations.
5. The Convention shall not apply to disputes which the parties have agreed or may agree to submit to another procedure of peaceful settlement, if that agreement provides for a procedure entailing binding decisions.

## ARTICLE 2 DEFINITIONS

(This article shall be completed, insofar as considered necessary or useful, at a later stage when States and International Organisations negotiate the final text of this Convention).

## SECTION II NON-BINDING SETTLEMENT PROCEDURES

### ARTICLE 3 OBLIGATION TO EXCHANGE VIEWS

1. When a dispute arises between Contracting Parties concerning a matter described in Art.1, paragraph 1, the parties to the dispute shall proceed expeditiously to an exchange of views regarding its settlement by negotiations or other peaceful means.
2. The Parties shall also proceed expeditiously to an exchange of views when a procedure for the settlement of such a dispute has been terminated without a settlement or where a settlement has been reached and the circumstances require consultation regarding the manner of implementing the settlement.

### ARTICLE 4 CONCILIATION

1. All Contracting Parties which are parties to a dispute concerning a matter described in article 1, paragraph 1 may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure under Section IV, or another conciliation procedure.
2. If the invitation is accepted and if the parties agree upon the conciliation procedure to be applied, any party may submit the dispute to that procedure.
3. If the invitation is not accepted or the parties do not agree upon the procedure, the conciliation proceedings shall be deemed to be terminated.
4. Unless the parties otherwise agree, when a dispute has been submitted to conciliation, the proceedings may be terminated only in accordance with the agreed conciliation procedure.

SECTION III  
BINDING SETTLEMENT PROCEDURES

ARTICLE 5  
APPLICATION OF PROCEDURES UNDER THIS SECTION

Any dispute concerning a matter described in article 1, paragraph 1 shall, where no settlement has been reached by recourse to Section II, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

ARTICLE 6  
CHOICE OF PROCEDURE

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of the Convention:

(a) The International Tribunal for Space Law, if and when such a Tribunal has been established in accordance with Section VI,

(b) the International Court of Justice,

(c) an arbitral tribunal constituted in accordance with Section V.

2. A Contracting Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Section V.

3. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

4. If the parties to a dispute have not accepted the same procedure for the settlement of a dispute, it may be submitted only to arbitration in accordance with Section V, unless the parties otherwise agree.

5. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

6. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this Article, unless the parties otherwise agree.

7. Declarations and notices referred to in this Article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the Contracting Parties.\*

#### ARTICLE 7 JURISDICTION

1. The court or tribunal referred to in Article 6 shall have jurisdiction over any dispute concerning a matter described in Article 1, paragraph 1 which is submitted to it in accordance with this Convention.

2. The court or tribunal referred to in Article 6 shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement.

3. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.

#### ARTICLE 8 EXPERTS

In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this section may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts to sit with the court or tribunal but without the right to vote.

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\* *Vice* in the 1 October 1984 version: "States Parties."

## ARTICLE 9 PROVISIONAL MEASURES

1. If a dispute has been duly submitted to a court or tribunal which considers that, *prima facie*, it has jurisdiction, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the space environment, pending the final decision.
2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.
3. Provisional measures may be prescribed, modified or revoked under this Article only at the request of a party to the disputes and after the parties have been given an opportunity to be heard.
4. The court or tribunal shall forthwith give notice to the parties to the dispute, and to such other Contracting Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.
5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted, any court or tribunal agreed upon by the parties or, failing such agreement, within two weeks from the date of the request for provisional measures, the International Tribunal for Space Law or, as long as this Tribunal has not been established, \* the International Court of Justice may prescribe, modify or revoke provisional measures in accordance with this Article if it considers that *prima facie* the tribunal which is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm these provisional measures, acting in conformity with paragraphs 1 to 4.
6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

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\* *Vice* in the 1 October 1984 version: "erected."

## ARTICLE 10 ACCESS

1. All the dispute settlement procedures specified in this Convention shall be open to Contracting Parties.
2. The dispute settlement procedures specified in this Convention shall be open to entities other than States and international intergovernmental organizations,\* unless the matter is submitted to the International Court of Justice in accordance with Article 6.

## ARTICLE 11 APPLICABLE LAW

1. A court or tribunal having jurisdiction under this Convention shall apply this Convention and other rules of international law not incompatible with this Convention\* as well as any other rules of law that the parties to a dispute have agreed to be applicable or which the court or tribunal finds to be applicable due to the nature of the dispute.
2. Paragraph 1 does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case *ex aequo et bono*, if the parties so agree.

## ARTICLE 12 EXHAUSTION OF LOCAL REMEDIES

Any dispute concerning a matter described in Article 1 paragraph 1 may be submitted to the procedures provided for in this Section only after local remedies have been exhausted where this is required by international law.

## ARTICLE 13 FINALITY AND BINDING FORCE OF DECISIONS

1. Any decision rendered by a court or tribunal having jurisdiction under this Convention shall be final and shall be complied with by all the parties to the dispute.

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\* Added since the 1 October 1984 version: “intergovernmental organizations”.

\* The remainder of the sentence added since the 1 October 1984 version.

2. Any such decision shall have no binding force except between the parties and in respect of that particular dispute.

#### SECTION IV CONCILIATION PROCEDURE

##### ARTICLE 14 INSTITUTION OF PROCEEDINGS

If the parties to a dispute have agreed, in accordance with Article 4, to submit it to conciliation under this Section, any such party may institute the proceedings by written notification addressed to the other party or parties to the dispute.

##### ARTICLE 15 LIST OF CONCILIATORS

A list of conciliators shall be drawn up and maintained by the Secretary-General of the United Nations. Every Contracting Party shall be entitled to nominate four conciliators, each of whom shall be a person having the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by a Contracting Party in the list so constituted is less than four, that Contracting Party shall be entitled to make further nominations as necessary. The name of a conciliator shall remain on the list until withdrawn by the Contracting Party which made the nomination, provided that such conciliator continues to serve on any conciliation commission to which that conciliator has been appointed until the completion of the proceedings before that commission.

##### ARTICLE 16 CONSTITUTION OF THE CONCILIATION COMMISSION

The conciliation commission shall, unless the parties otherwise agree, be constituted as follows:

- (a) Subject to subparagraph (g), the conciliation commission shall consist of five members.
- (b) The party instituting the proceedings shall appoint two conciliators to be chosen preferably from the list referred to in Article 15, one of whom may be its national, unless



the parties otherwise agree. Such appointments shall be included in the notification referred to in Article 14.

(c) The other party to the dispute shall appoint two conciliators in the manner set forth in subparagraph (b) within 21 days of receipt of the notification referred to in Article 14. If the appointments are not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General of the United Nations to make the appointment in accordance with subparagraph (e).

(d) Within 30 days after all four conciliators have been appointed, they shall appoint a fifth conciliator chosen from the list referred to in Article 15, who shall be chairman. If the appointment is not made within that period, either party may, within one week of the expiration of that period, request the Secretary-General of the United Nations to make the appointment in accordance with subparagraph (e).

(e) Within 30 days of the receipt of a request under subparagraph (c) or (d), the Secretary-General of the United Nations shall make the necessary appointments from the list referred to in Article 15 in consultation with the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Two or more parties which determine by agreement that they are in the same interest shall appoint two conciliators jointly. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint conciliators separately.

(h) In disputes involving more than two parties having separate interests, or where there is disagreement as to whether they are of the same interest, the parties shall apply subparagraph (a) to (f) in so far as possible.

#### ARTICLE 17 PROCEDURE

The conciliation commission shall determine its own procedure unless the parties otherwise agree. The commission may, with the consent of the parties to the disputes, invite any Contracting Party to submit to it its views orally or in writing. Decisions of the

commission regarding procedural matters, the report and recommendations, shall be made by a majority vote of its members.

#### ARTICLE 18 AMICABLE SETTLEMENT

The commission should draw the attention of the parties to any measures which might facilitate an amicable settlement of the dispute.

#### ARTICLE 19 FUNCTIONS OF THE COMMISSION

The commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement.

#### ARTICLE 20 REPORT

1. The commission shall report within 9 months of its constitution. Its report shall record any agreement reached and, failing agreement, its conclusions on all questions of fact or law relevant to the matter in dispute and such recommendations as the commission may deem appropriate for an amicable settlement. The report shall be deposited with the Secretary-General of the United Nations, and shall immediately be transmitted by him to the parties to the dispute.

2. The report of the commission, including its conclusions or recommendations, shall not be binding upon the parties.

#### ARTICLE 21 TERMINATION

The conciliation proceedings are terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by written notification addressed to the Secretary-General of the United Nations, or when a period of sixty days has expired from the date of transmission of the report to the parties.

ARTICLE 22  
FEES AND EXPENSES

The fees and expenses of the commission shall be borne by the parties to the dispute.

ARTICLE 23  
RIGHT OF PARTIES TO MODIFY PROCEDURE

The parties to the dispute may by agreement applicable solely to that dispute modify any provision of this section.

SECTION V  
ARBITRATION PROCEDURE

ARTICLE 24  
INSTITUTION OF PROCEEDINGS

1. Any party to a dispute may submit the dispute to the arbitration procedures provided for in this Section by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the ground on which it is based.
2. The arbitration procedures\* provided for in this Section are not applicable if the parties to the dispute, by arbitration agreement, have submitted the dispute to another arbitration procedure, provided that other arbitration procedure entails binding decisions.

ARTICLE 25  
LIST OF ARBITRATORS

1. A list of arbitrators shall be drawn up and maintained by the Secretary-General of the United Nations. Every Contracting Party shall be entitled to nominate four arbitrators, each of whom shall be a person experienced in space law or space affairs and having the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list.

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\* *Vice* in the 1 October 1984 version: "arbitral procedure."

2. If at any time the arbitrators nominated by a Contracting Party on the list so constituted are less than four, that Contracting Party shall be entitled to make further nominations as necessary.

3. The name of an arbitrator shall remain on the list until withdrawn by the Contracting Party which made the nomination, provided that such arbitrator continues to serve on any arbitral tribunal to which that arbitrator has been appointed until the completion of the proceedings before the arbitral tribunal.

## ARTICLE 26 CONSTITUTION OF THE ARBITRAL TRIBUNAL

For the purpose of proceedings under this Section, the arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(a) subject to subparagraph (g), the arbitral tribunal shall consist of five members,

(b) the party instituting the proceedings shall appoint one member to be chosen preferably from the list referred to in Article 25, who may be its national. The appointment shall be included in the notification referred to in Article 24,

(c) the other party to the dispute shall, within 30 days of receipt of the notification referred to in Article 24, appoint one member to be chosen preferably from the list, who may be its national. If the appointment is not made within that period, the party instituting the proceedings may, within 2 weeks of the expiration of that period, request that the appointment be made in accordance with subparagraph (e),

(d) the other three members shall be appointed by agreement between the parties. They shall be chosen preferably from the list and shall be nationals of third states unless the parties otherwise agree. The parties to the dispute shall appoint the President of the arbitral tribunal from among those three members. If, within 60 days of receipt of the notification referred to in Article 24, the parties are unable to reach agreement on the appointment of one or more of the members of the tribunal to be appointed by agreement, or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the afore-mentioned 60-day period,

(e) unless the parties agree that any appointment under subparagraph (c) and (d) be made by a person or a third state chosen by the parties, the President of the International Tribunal for Space Law, and before the creation of this Tribunal, the President of the International Court of Justice, shall make the necessary appointments. If the President is unable to act under this subparagraph or is a national of one of the parties to the dispute, the appointment shall be made by the next senior member of the International Tribunal for Space Law, or the International Court of Justice respectively, who is available and is not a national of one of the parties. The appointments referred to in this subparagraph shall be made from the list referred to in Article 25 within a period of 30 days of the receipt of the request and in consultation with the parties. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute,

(f) any vacancy shall be filled in the manner prescribed for the initial appointment,

(g) parties in the same interest shall appoint one member of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal. The number of members of the tribunal appointed separately by the parties shall always be smaller by one than the number of members of the tribunal to be appointed jointly by the parties,

(h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

## ARTICLE 27 FUNCTIONS OF THE ARBITRAL TRIBUNAL

An arbitral tribunal constituted under Article 26\* shall function in accordance with this section and the other provisions of this Convention.

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\* *Vice* in the 1 October 1984 version: "Article 23."

ARTICLE 28  
PROCEDURE

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring each party a full opportunity to be heard and to present its case.

ARTICLE 29  
DUTIES OF PARTIES TO A DISPUTE

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, in accordance with their law and using all means at their disposal, shall:

- (a) provide it with all relevant documents, facilities and information, and
- (b) enable it when necessary to call witnesses or experts and receive their evidence and to visit the localities to which the case relates.

ARTICLE 30  
EXPENSES

Unless the arbitral tribunal decides otherwise because of the particular circumstances of the case, the expenses of the tribunal including the remuneration of its members shall be borne by the parties to the dispute in equal shares.

ARTICLE 31  
REQUIRED MAJORITY FOR DECISIONS

Decisions of the arbitral tribunal shall be taken by a majority vote of its members. The absence or abstention of less than half of the members shall not constitute a bar to the tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

ARTICLE 32  
DEFAULT OF APPEARANCE

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue its proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not

constitute a bar to the proceedings. Before making its award, the arbitral tribunal must be satisfied that not only does it have jurisdiction over the dispute but also that the claim is well founded in fact and law.

### ARTICLE 33 AWARD

The award of the arbitral tribunal shall be confined to the subject-matter of the dispute and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the award. Any member of the tribunal may attach a separate or dissenting opinion to the award.

### ARTICLE 34 FINALITY OF AWARD

The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute.

### ARTICLE 35 INTERPRETATION AND IMPLEMENTATION OF AWARD

1. Any controversy which may arise between the parties to the dispute as regards the interpretation or implementation of the award may be submitted by either party for decision to the arbitral tribunal which made the award. For this purpose, any vacancy in the tribunal shall be filled in the manner provided for in the original appointments of the members of the tribunal.

2. Any such controversy may be submitted to another court or tribunal under Article 6 by agreement of all the parties to the dispute.

### ARTICLE 36 APPLICATION TO ENTITIES OTHER THAN STATE PARTIES

The provisions of this Section shall apply mutatis mutandis to any dispute involving entities other than State Parties.

SECTION VI  
INTERNATIONAL TRIBUNAL FOR SPACE LAW

ARTICLE 37  
GENERAL PROVISIONS

1. Any time after the deposit of the 30th instrument of ratification or accession to this Convention, if at least 21 of the Contracting Parties so agree, an International Tribunal for Space Law shall be created in conformity with this Section VI.
2. The International Tribunal for Space Law is constituted and shall function in accordance with the provisions of this Convention and this Section.
3. The seat of the Tribunal shall be determined at the time of its creation.
4. The Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable.

SUBSECTION 1  
ORGANIZATION OF THE TRIBUNAL

ARTICLE 38  
COMPOSITION OF THE TRIBUNAL

1. The Tribunal shall be composed of a body of 15\* independent members, elected among persons having the highest reputation for fairness and integrity and of recognised competence in the field of space law.
2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

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\* *Vice* in the 1 October 1984 version: "21."



## ARTICLE 39 MEMBERSHIP

1. No two members of the Tribunal may be nationals of the same State. A person who for the purpose of membership in the Tribunal could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.
2. There shall be no less than two<sup>\*</sup> members from each geographical group.

## ARTICLE 40 NOMINATIONS AND ELECTIONS

1. Each Contracting Party may nominate no more than two persons having the qualifications prescribed in Article 38. The members of the Tribunal shall be elected from the list of persons thus nominated.
2. At least three months before the date of the election, the Secretary-General of the United Nations, in the case of the first election, and the Registrar of the Tribunal in the case of subsequent elections, shall address a written invitation to the Contracting Parties to submit their nominations for members of the Tribunal within two months. This officer shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the Contracting Parties which have nominated them, and shall submit it to the Contracting Parties before the seventh day of the last month before the date of such election.
3. The first election shall be held within six months of the date of the agreement to create the Tribunal according to article 37 paragraph 1.
4. The members of the Tribunal shall be elected by secret ballot. Elections shall be held at a meeting of the Contracting Parties convened by the Secretary-General of the United Nations in the case of the first election, and by a procedure agreed to by the Contracting Parties in the case of subsequent elections. Two-thirds of the Contracting Parties shall constitute a quorum at that meeting. The persons elected to the Tribunal shall be those

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<sup>\*</sup> *Vice* in the 1 October 1984 version: “three.”

nominees who obtain the largest number of votes and a two-third majority of the Contracting Parties present and voting, provided that such majority includes a majority of the Contracting Parties.

#### ARTICLE 41 TERM OF OFFICE

1. The members of the Tribunal shall be elected for five\* years and may be re-elected provided, however, that of the members elected in the first election the terms of 5\* members shall expire at the end of two years, and the terms of five more members shall expire at the end of four\* years.
2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of two and four\* years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election.
3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any proceedings which they may have begun before the date of their replacement.
4. In the case of resignation of a member of the Tribunal, the letter of resignation shall be addressed to the President of the Tribunal. The place becomes vacant upon receipt of that letter.

#### ARTICLE 42 VACANCIES

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provisions: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 40, and the date of the election shall be fixed by the President of the Tribunal after consultation with the Contracting Parties.

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\* *Vice* in the 1 October 1984 version: "nine."

\* *Vice* in the 1 October 1984 version: "seven."

\* *Vice* in the 1 October 1984 version "four."

\* *Vice* in the 1 October 1984 version: "three and six."

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

#### ARTICLE 43 INCOMPATIBLE ACTIVITIES

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with, or be financially interested in, any of the operations of any enterprise concerned with space activities.

2. No member of the Tribunal may act as agent, counsel or advocate in any case.

3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

#### ARTICLE 44 CONDITIONS RELATING TO PARTICIPATION OF MEMBERS IN A PARTICULAR CASE

1. No member of the Tribunal may participate in the decision of any case in which he has previously taken part as agent, counsel or advocate for one of the parties, or as a member of a national or international court or tribunal, or in any other capacity.

2. If, for some special reason, a member of the Tribunal considers that he should not take part in the decision of a particular case, he shall so inform the President of the Tribunal.

3. If the President considers that for some special reason one of the members of the Tribunal should not sit in a particular case, he shall give him notice accordingly.

4. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

#### ARTICLE 45 CONSEQUENCES OF CEASING TO FULFIL REQUIRED CONDITIONS

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the requested conditions, the President of the Tribunal shall declare the seat vacant.

ARTICLE 46  
PRIVILEGES AND IMMUNITIES

The members of the Tribunal, when engaged in the business of the Tribunal, shall have diplomatic privileges and immunities.

ARTICLE 47  
SOLEMN DECLARATION BY MEMBERS

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

ARTICLE 48  
PRESIDENT, VICE-PRESIDENT AND REGISTRAR

1. The Tribunal shall elect its President and Vice-President for three years; who may then be re-elected.
2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.
3. The President and the Registrar shall reside at the seat of the Tribunal.

ARTICLE 49  
QUORUM

1. All available members of the Tribunal shall sit; a quorum of 9\* elected members shall be required to constitute the Tribunal.
2. Subject to Article 52, the Tribunal shall determine which members are available to constitute the Tribunal for the consideration of a particular dispute, having regard of the effective functioning of the chambers as provided for in Article 50.

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\* *Vice* in the 1 October 1984 version: "11."

3. All disputes and applications submitted to the Tribunal shall be heard in and be determined by the Tribunal, unless the parties request that it shall be dealt with in accordance with Article 50.

#### ARTICLE 50 SPECIAL CHAMBERS

1. The Tribunal may form such chambers, composed of three or more of its elected members, as it considers necessary for dealing with particular categories of disputes.
2. The Tribunal shall form a chamber for dealing with a particular dispute submitted to it if the parties so request. The composition of such a chamber shall be determined by the Tribunal with the approval of the Parties.
3. With a view to a speedy dispatch of business, the Tribunal shall annually form a chamber composed of five of its elected members which may hear and determine disputes by summary procedure. Two alternative members shall be appointed for the purpose of replacing members who are unable to participate in a particular proceeding.
4. Disputes shall be heard and determined by the chambers provided for in this Article if the parties so request.
5. A judgment given by any of the chambers provided for in this Article shall be considered as rendered by the Tribunal.

#### ARTICLE 51 RULES OF THE TRIBUNAL

The Tribunal shall establish rules to govern its functions, particularly rules of procedure.\*

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\* *Vice* in the 1 October 1984 version: “The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.”

## ARTICLE 52 NATIONALITY OF MEMBERS

1. Members of the Tribunal having the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.
2. If the Tribunal, when hearing a dispute, includes upon the bench a member of the nationality of one of the parties, any other party may choose a person to participate as a member of the Tribunal.
3. If the Tribunal, when hearing a dispute, does not include upon the bench a member of the nationality of the parties, each of those parties may choose a person to participate as a member of the Tribunal.
4. This Article applies to the chambers referred to in Article 50. In such cases the President, in consultation with the parties, shall request specified members of the Tribunal forming the chamber, as many as necessary, to give place to the members of the Tribunal of the nationality of the parties concerned and, failing such, or if they are unable to be present, to the members specially chosen by the parties.
5. Should there be several parties in the same interest they shall, for the purpose of the preceding provisions, be considered as one party only. Any doubt on this point shall be settled by decision of the Tribunal.
6. Members chosen in accordance with paragraphs 2, 3 and 4 shall fulfil the conditions required by Articles 38, 44 and 47. They shall participate in the decision on terms of complete equality with their colleagues.

## ARTICLE 53 REMUNERATION OF MEMBERS

1. Each elected member of the Tribunal shall receive an annual allowance and, for each day on which he exercises his functions, a special allowance, provided that in no year the total sum payable to any member as special allowance should exceed the amount of the annual allowance.
2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for each day on which he acts as President.
4. The members chosen under Article 52, other than elected members of the Tribunal, shall receive compensation for each day on which they exercise their functions.
5. The salaries, allowances and compensations shall be determined from time to time at meetings of the Contracting Parties, taking into account the work of the Tribunal. They may not be reduced during the term of office.
6. The salary of the Registrar shall be determined at meetings of the Contracting Parties, on the proposal of the Tribunal.
7. Regulations adopted at meetings of the Contracting Parties shall determine the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of the Tribunal and the Registrar shall have their traveling expenses refunded.
8. The salaries, allowances, and compensations shall be free of all taxation.

#### ARTICLE 54 EXPENSES OF THE TRIBUNAL

1. The expenses of the Tribunal shall be borne by the Contracting Parties on such terms and in such manner as shall be decided at meetings of the Contracting Parties.
2. When an entity other than a Contracting Party is a party to a case submitted to it, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal.

SUBSECTION 2  
COMPETENCE

ARTICLE 55  
JURISDICTION

The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal.

ARTICLE 56  
REFERENCE OF DISPUTES SUBJECT TO OTHER AGREEMENTS

If all the parties to a treaty already in force and concerning the subject-matter covered by this Convention so agree, any disputes concerning the interpretation or application of such treaty may, in accordance with such agreement, be submitted to the Tribunal.

ARTICLE 57  
APPLICABLE LAW

The Tribunal shall decide all disputes and applications in accordance with Article 11.

SUBSECTION 3  
PROCEDURE

ARTICLE 58  
INSTITUTION OF PROCEEDINGS

1. Disputes are submitted to the Tribunal, as the case may be, either by notification of a special agreement or by written application, addressed to the Registrar. In both cases, the subject of the dispute and the parties shall be indicated.
2. The Registrar shall forthwith notify the special agreement or the application to all those concerned.
3. The Registrar shall also notify all Contracting Parties.



ARTICLE 59  
PROVISIONAL MEASURES

1. In accordance with Article 9, the Tribunal and its Chambers shall have the power to prescribe provisional measures.
2. If the Tribunal is not in session or a sufficient number of members is not available to constitute a quorum, the provisional measures shall be prescribed by the chamber of summary procedure formed under Article 50, paragraph 4. Such provisional measures may be adopted at the request of any party to the dispute.\* They shall be subject to review by the Tribunal.

ARTICLE 60  
HEARING

1. The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President. If neither is able to preside, the senior judge present shall preside.
2. The hearing shall be public, unless the Tribunal decides otherwise or unless the parties demand that the public be not admitted.

ARTICLE 61  
CONDUCTION OF CASE

The Tribunal shall make orders for the conduction of the case, decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

ARTICLE 62  
DEFAULT

When one of the parties does not appear before the Tribunal or fails to defend its case, the other party may request the Tribunal to continue the proceedings and make its decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the

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\* Deleted from the 1 October 1984 version: "Notwithstanding Art. 50, paragraph 4, such provisional measures may be adopted at the request of any party to the dispute."

proceedings. Before making its decision, the Tribunal must be satisfied that it not only has jurisdiction over the dispute, but also that the claim is well founded in fact and in law.

ARTICLE 63  
MAJORITY FOR DECISION

1. All questions shall be decided by a majority of the members of the Tribunal who are present.
2. In the event of an equality of votes, the President or the member of the Tribunal who acts in his place shall have a casting vote.

ARTICLE 64  
JUDGMENT

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the members of the Tribunal who have taken part in the decision.
3. If the judgment does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.
4. The judgment shall be signed by the President and by the Registrar. It shall be read in open courts, due notice having been given to the parties to the dispute.

ARTICLE 65  
REQUEST TO INTERVENE

1. Should a Contracting Party consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit a request to the Tribunal to be allowed to intervene.
2. It shall be for the Tribunal to decide upon this request.
3. If a request to intervene is granted, the decision of the Tribunal in respect of the dispute shall be binding upon the intervening Contracting Party in so far as it relates to matters in respect of which that Contracting Party intervened.

#### ARTICLE 66

##### RIGHT TO INTERVENE IN CASES OF INTERPRETATION OR APPLICATION

1. Whenever the interpretation or application of this Convention is in question, the Registrar shall notify all Contracting Parties forthwith.
2. Whenever pursuant to Article 55 or 56 the interpretation or application of an international agreement is in question, the Registrar shall notify all the parties to the agreement.
3. Every party referred to in paragraphs 1 and 2 has the right to intervene in the proceedings; if it uses this right, the interpretation given by the judgment will be equally binding upon it.

#### ARTICLE 67

##### FINALITY AND BINDING FORCE OF DECISIONS

1. The decision of the Tribunal is final and shall be complied with by all the parties to the dispute.
2. The decision shall have no binding force except between the parties in respect of that particular dispute.
3. In the event of dispute as to the meaning or scope of the decision, the Tribunal shall construe it upon the request of any party.

#### ARTICLE 68

##### COSTS

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

SECTION VII  
FINAL PROVISIONS

ARTICLE 69  
SIGNATURE\*

1. This Convention shall be open for signature by:
  - (a) States, including partly self-governing states which have internal and external competence in the matter.
  - (b) international intergovernmental organizations.
2. The Convention shall remain open for signature at the United Nations Headquarters.

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\* Substantially revised from the 1 October 1984 version:

1. This Convention shall be open for signature by:
  - (a) all States;
  - (b) Namibia, as represented by the United Nations Council for Namibia;
  - (c) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
  - (d) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
  - (e) all territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
  - (f) international organizations.
2. The Convention shall remain open for signature at the United Nations Headquarters in New York.

ARTICLE 70  
RATIFICATION AND FORMAL CONFIRMATION

This Convention is subject to ratification by states and the other entities referred to in Article 69, paragraph 1. The instruments of ratification and of formal confirmation shall be deposited with the Secretary-General of the United Nations.

ARTICLE 71  
ACCESSION

This Convention shall remain open for accession by states and the other entities referred to in Article 69, paragraph 1. The instruments of accession shall be deposited with the Secretary-General of the United Nations.\*

ARTICLE 72  
ENTRY INTO FORCE

1. This Convention shall enter into force 90 days\* after the date of deposit of the 30th instrument of ratification or accession.
2. For each state ratifying or acceding to this Convention after the deposit of the 30th instrument of ratification or accession, the Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession, subject to paragraph 1.

ARTICLE 73  
RELATION TO OTHER CONVENTIONS AND INTERNATIONAL AGREEMENTS

1. This Convention shall not affect the rights and obligations of the Contracting Parties which arise from other agreements compatible with this Convention and which do not

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\* *Vice* in the 1 October 1984 version: “This Convention is subject to ratification by States and other entities referred to in Art. 69, paragraph 1 b), c), d), and e), and to formal confirmation by the entities referred to in Art. 69, paragraph 1 f). The instruments of ratification and of formal confirmation shall be deposited with the Secretary-General of the United Nations.”

\* *Vice* in the 1 October 1984 version: “12 months.”

affect the rights of other Contracting Parties nor the performance of their obligations under this Convention.

2. Two or more Contracting Parties may conclude agreements modifying or suspending the operation of provisions of this Convention, applicable solely to the relations between them, provided that such agreements do not relate to a provision from which derogation is incompatible with the effective execution of the object and purposes of this Convention, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the rights of other Contracting Parties nor the performance of their obligations under this Convention.

3. Contracting Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other Contracting Parties, through the depositary of this Convention, of their intention to conclude the agreement and of the modification or suspension for which it provides.

4. This Article does not affect international agreements expressly permitted or preserved by other Articles of this Convention.

#### ARTICLE 74 DENUNCIATION

1. A Contracting Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Convention and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. A state shall not be discharged by reason of the denunciation from the financial and contractual obligations which accrued while it was a party to this Convention, nor shall the denunciation affect any right, obligation or legal situation of that state created through the execution of this Convention prior to its termination for that state.

3. The denunciation shall not in any way affect the duty of any Contracting Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

ARTICLE 75  
DEPOSITARY

1. The Secretary-General of the United Nations shall be the depositary of this Convention and amendments thereto.
2. In addition to this function as depositary, the Secretary-General shall:
  - (a) report to all Contracting Parties and competent international organizations on issues of a general nature that have arisen with respect to this Convention,
  - (b) notify Contracting Parties of agreements in accordance with Article 73, paragraph 4,
  - (c) convene necessary meetings of Contracting Parties in accordance with this Convention.

ARTICLE 76  
AUTHENTIC TEXT

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

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