

3. Ecjdi TaKoe ochOBaHue KacaeTca AHHIB OT#ejibHbix noxoxcehmit, to Ha Hero moxcho ccwxaTbca TOJibKO B OTHomeHHM arax nojioxceHMä, Korpa:

- a) Ha3BaHHbie noxoxceHMa oTaejiMMM ot ocTaxbHon nacTM flo-roiBÖpa B OTHOHieHMM MX npHMeneHMK;
b) M3 florosopa BHTeKaer hjim hbbim oöpa30M ycaHosxeHO, hto npHHHTHC 3TMX nOXOXceHMM He COCTaBXKAO CymeCTBeHHOfo ochOBaHMa corjiacna Apyro yacniHKa mam ppyrax ynacTKmkob Ha oQa3aTejibHOCTb Boero Aorosopa b pexoM; m
c) nroAoxxcCHMe BbinoxBeHna ocTaxbHon nacrn florosopa He Öbixo-Öbi HecnpaBeflJiMBbLM.

4. B cjiynaHX, nöflnaflawmMX nop «eücTBMe CTareñ 49 M 50, rocy-flapCTBO, MMeioipee npaso ocbixaTbca Ha oömah mjim noAKyn, moxkt flejiaTb aro jimÖo b OTHOHieHMM Bcero Aorosopa, jihöo, b npe^ycMOTpeHHbix nyHKTOM 3 cjiyaaax. b • OTHpmeiniM jimihb ero OTfleJibHHX nojioxceHMM.

5. B cxyanax, noAnaxaioipnx non xeüCTBHe craTeü 51, 52 M 53, ^ejimMOCTb noxpxcefmn norOBopa He AonyckaETca.

CraTba 45

yipaia npaBa cebixaxca Ha ochOBamie HeAeHTbHTexbHOCTH hjim npeKpameHHa porocopa, Bbixoxa »3 Hero mam npHOCTaHOBJieHiia ero AOMCTBiia

rocyapcTBO He BnpaBe öoxbme cebuiaTbca Ha ochosaimie He-AeMCTBMTejibHocrM hjim npeKpaieHMx poroBopa, Bbixopa M3 Hero mjim npMOcraHOBJieHMa ero AeficBMa Ha ochocb craTeñ 46—50 mjim craTeñ 60 m 62, ecjim, nocne toto KaK eMy crano m3böctho o cpaKTax:

- a) oho onpepeHHO corxaxocb, hto «oroBop, b 3a©McnMOCTn ot cxyana, AeMCTEMTeaEH, coxpaHaET cnxy mjim ocraeTca b A'SHTBMM; jimÖo
b) oho aoxxcho b CMJiy ero nosefleHiia cwraTbca MOXnaxnBO CORjiaCMBiimMCH C TeM, HTO AOPOBOp, B 3aBMCMMOCTM OT Cnyax, neiICTBMTejieH, coxpaHaET cnjuy mjim ocraeTca b penCTBMM.

PA3HEJI 2: HEPEICTBMTejibHOCTb BOPOBOPOB

CraTba 46

üojiojKeHHa BHyTpeHHero npaBa, Kacaioipieca KOMneTeipin 3aKaionaTb aoroEopw

1. PocyflapCTBO He BnpaBe ccwxaTbca Ha to oÖCToaTexbCTBO, hto ero coniacMe Ha oöa3aTeji>HOCTb nnsi Hero poroBopa öbixo BwpaxceHO b HapymeHMe toto mjim mhoto noxoxceHMa ero BHyTpeH-Hero npaBa, Kacaioiperoc KOJvineTeHipiM 3aKjnoaaTb poroBopbi, Ha ochOBaHMe HepeüCTBMTexbHOCTK ero corxacna, ecxw tojibko AaHHoe HapymeHMe He 6bixo aBHMM m He Kacajioeb hopmh ero BHyTpeHHero npaBa ocoöo BaxcHoro 3HaneHna.

2. HapymeHMe aBaeerca aBHbim, ecjim oho SyneT oöbëkmbho OHeBMflHbim fljia xioöoro rocyapcTba, xeñcTuyioipero b stom Bonpoc AobpocoBecTHO m b cootbëctbmm c oöbihhom npaKTM-KOM.

CraTba 47

CnepnaJibHbie orpamiHemia npaBOMonna Ha Bbipaxceinie corJiacHH rocyflapCTBa

Ecxn npaBOMonne npxcTaBMTexa Ha Bbipaxcenne corxacn a rocyapcTea aa oöa3aTejibHocrb ab a Hero KomcpeTHoro porosopa oöyxoBxeHO cnepnaxbHbiM orpaHMHeHMCM, to Ha HecoÖiOaeHne npeflCTaBHTeaEM Tanoro orpaHMHeima HeabSa ccwaaTbca Kai< Ha ochOBaHne HeAeMCTBMTejibHOCTM BbipaxceHHoro mm comaemh, ecyMOM, KOTopaä npMHMMaeTca m npM3HaETca MexcAyHapoAHbiM TOJibKO ApyrMe ynacTBOBaBmue b iieperoBopax rocy^apcTba ne

SbiJiM yBeAOMjieHH 06 orpammeroiM ao BwpaxceHMa npeACTaBHTe-jiem Tajcoro cornacMa.

CraTba 48

Omiibiia

rocyapcTBO Bnpase cebuiaTbca Ha ouiMBKy S Aorosope Kai< Ha ochOBaHMe HeAeMCTBMTeAbHOCTM ero coraacMa Ha oöa3aTejib-HOCTb AJM Hero SToro AoroBopa, ecjim oimSica Kacaerca (JJaKTA MAM CMTyaipiM, KOTophie, no npeAHOAOXceHMio aroro rocyAapcraa, cymeCTBOBajin npM 3aKAK)neHMM Aorosopa M npeAcraBJiajim coBoü cymeCTBeHHyib ocaoBy Ana ero corjiacna.Ha oöa3areAbHocTb Axa Hero AauHoro Aorempoa.

2. riyHKT 1 He npMMemeTca, ecjm Ha3BaHHoe rocyAapcTBO CBOMM noB-eAeimeM cnocobeTBOBajio B03HMKHO@eHMio 3TOM OIHMSKM MJIM oßCTOaTeJibCTBa 6MJIH TaxoBbi, HTO 3TO rocyAapcTBO AOAJKHO SBIAO OßpaTMTb BHMMaHMe Ha B03MOJKHyio OHIMÖKy.

3. OrnñBKa, OTHOCamaaca TOABKO K cJioPMyjpmoBKe Texcra AO-roBopa, He BJinaET Ha ero AeüepBMTejibHOCTb, b CTOM caynae npM-M©Haerca CraTba 79.

CraTba 49

OÖMan

ECAM rocyAapcTBO 3aKaioHMJio AoroBop noA BjiMaimeM oßMaH-bix AeMCTBMM Apyro ynacTBOBaBmero b neperocpax rocyAap-CTBa, TO OHO BnpaBe cebuiaTbca Ha oßMaH KaK Ha ochOBaHMe ne-AeüCTBMTeAbHOcrM CBoero coraacMa Ha oSasareabHOCTb Aaa Hero Aorosopa.

CraTba 50

HOAKyn npeACTaBHTeaa rocyAapCTBa

ECAM coraacMe rocyAapCTBa Ha OÖa3aTenbHOCTb nna Hero nora-Bopa 5buio Bbipa>Keno b pe3yji6TaTe npaMoro MJIM KOBCBHiuro CnyAryna ero npeACTaMTena ApyrMM yHacTBOBaBurMM b neper-Bopax rocyAapcTBOM, to nepiBoe. rocyAapcTBO BnpaBe ccwaaTbca na TaKOU noApyH KaK Ha ochOBaHMe neAeñTBMTelbHOCTM ero coraacMa Ha oöa3aTeabHOCTb nny Hero TaKoro AoroBopa.

CraTba 51

IpHHyJKaeHMe npeACTaBHTejw rocyAapCTBa

CoraacMe rocyAapcra Ha oöa3aTenbHOCTb nnn Hero AoroBopa, KOTOpoe Bbuio BbipaJKeHo b pe3yjn>TaTe npMHyJKaeiDia ero npeA-CTaEWTena aömctbmxmm mam yrp03aMM, HaHpaBaEHbimM npOTMB Hero, He MMeer HMKaKoro lopMAMeCKoro 3HaneHMa.

CraTba 52

npMHyJKaemie rocyAapCTBa nocpeACTBOM yrp03w cmaöH MJIM ee npHMëHeHHB

HoroBop HBAaeTca hmhtoxchm, ecjm ero 3aKaioHeHMe abmaoeb pebyAbTaTOM yrp03H chaom mjim ee npMMeHeHMa b HapymeHMe npMHipmoB MexcAyHapoAHoro npaBa, BonAomeHHbix .B YcTae Op-raHM3anMM OöbeAMHeHHbix HaqMM-

CraTba 53

HoroBopbi, npOTiiROpenamne MMnepaTMBHOii HopMe oömero MexcAyHapoAHoro npaBa (jus cogens)

floroBop aBAaeTca HMHTOXCHM, eCAM b MOMeHT 3aKAKMeHMa OH npOTMBopenMT MMiepaTMBHOM HopMe oömero MexcAyHapoAHoro npa. tlocKOAbKy 3TO Kacaerca HacToameü KOKBCHAMIM, MMne-paTHBHaä HopMa oömero MexcAyHapoAHoro npa. aBAaeerca Hop-cyMOM, KOTopaä npMHMMaeTca m npM3HaETca MexcAyHapoAHbiM oooömectBOM rocyAapcTB b pexoM KaK Hopwa, OTKAOHeHpe OT