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The United States amendment to articles 27 and 28 (A/CONF.39/C.1/L.156) was rejected by 66 votes to 8, with 10 abstentions.

The amendment by the Republic of Viet-Nam to articles 27 and 28 (A/CONF.39/C.1/L.199) was rejected by 70 votes to 3, with 9 abstentions.

76. Mr. BADEN-SEMPER (Trinidad and Tobago) asked whether the rejection of those amendments would preclude the Drafting Committee from using any of the ideas which they contained.

77. The CHAIRMAN said that, since the two amendments had been rejected, no part of them would be referred to the Drafting Committee.

78. He invited the Committee to vote on the amendment by Ceylon to article 27.

The amendment by Ceylon (A/CONF.39/C.1/L.212) was rejected by 29 votes to 9, with 49 abstentions.

79. The CHAIRMAN said that the amendments to article 27 by the Philippines (A/CONF.39/C.1/L.174), Pakistan (A/CONF.39/C.1/L.182), the Ukrainian Soviet Socialist Republic (A/CONF.39/C.1/L.201), Romania (A/CONF.39/C.1/L.203), Australia (A/CONF.39/C.1/L.210), Greece (A/CONF.39/C.1/L.213), the Federal Republic of Germany (A/CONF.39/C.1/L.214) and Spain (A/CONF.39/C.1/L.216) would be referred to the Drafting Committee.

80. Mr. KHLESTOV (Union of Soviet Socialist Republics) said that the amendment by the Federal Republic of Germany (A/CONF.39/C.1/L.214) involved a point of substance and it should be put to the vote.

81. The CHAIRMAN said that the representative of the Federal Republic of Germany clearly stated that his amendment was one of drafting and had asked that it should not be put to the vote. Where a quasi-substantive amendment was not insisted upon by its sponsor, the implication was that it was withdrawn and that the fate of the amendment in the Drafting Committee was immaterial to the sponsor.

82. He invited the Committee to vote on the Tanzanian amendment to article 28.

The amendment by the United Republic of Tanzania (A/CONF.39/C.1/L.215) was rejected by 54 votes to 8, with 25 abstentions.

83. The CHAIRMAN said that the Spanish amendment to article 28 (A/CONF.39/C.1/L.217) would be referred to the Drafting Committee.

84. If there were no objections, he would take it that the Committee accepted articles 27 and 28, which could be referred to the Drafting Committee with the drafting amendments already mentioned.

It was so agreed. [13]

The meeting rose at 5.55 p. m.

[13] For resumption of the discussion on articles 27 and 28, see 74th meeting.

THIRTY-FOURTH MEETING

Tuesday, 23 April 1968, at 10.55 a.m.

Chairman: Mr. ELIAS (Nigeria)

Consideration of the question of the law of treaties in accordance with resolution 2166 (XXI) adopted by the General Assembly on 5 December 1966 *(continued)*

Texts proposed by the Drafting Committee

1. The CHAIRMAN invited the Chairman of the Drafting Committee to make a statement on article 8 and to introduce the text of articles 6 and 7 adopted by that Committee.

Article 8 (Adoption of the text)

2. Mr. YASSEEN, Chairman of the Drafting Committee, explained that in the absence of specific instructions from the Committee of the Whole, the Drafting Committee had been unable to prepare a text for article 8.[1]

Article 6 (Full powers to represent the State in the conclusion of treaties) [2]

3. Mr. YASSEEN, Chairman of the Drafting Committee, said that the text for article 6 adopted by the Drafting Committee read as follows:

"*Article 6*

" 1. A person is considered as representing a State for the purpose of adopting or authenticating the text of a treaty or for the purpose of expressing the consent of the State to be bound by a treaty if:

"(*a*) he produces appropriate full powers; or

"(*b*) it appears from the practice of the States concerned or from other circumstances that their intention was to dispense with full powers.

" 2. In virtue of their functions and without having to produce full powers, the following are considered as representing their State:

"(*a*) Heads of State, Heads of Government and Ministers for Foreign Affairs, for the purpose of performing all acts relating to the conclusion of a treaty;

"(*b*) Heads of diplomatic missions, for the purpose of adopting the text of a treaty between the accrediting State and the State to which they are accredited;

"(*c*) representatives accredited by States to an international conference or to an international organization or one of its organs, for the purpose of the adoption of the text of a treaty in that conference, organization or organ."

4. The words " Except as provided in paragraph 2 ", at the beginning of paragraph 1, had been deleted as not being absolutely necessary. In the opening sentence the affirmative form had been substituted for the negative, in order to make the text more flexible.

5. In accordance with the amendment submitted by the United States (A/CONF.39/C.1/L.90), the Drafting Com-

[1] At the 80th meeting, further consideration of article 8 was deferred until the second session of the Conference. See also 15th meeting, footnote 4.

[2] For earlier discussion of article 6, see 13th meeting.

mittee had included the words " the practice of the States concerned " in paragraph 1(*b*). In that connexion, the Drafting Committee believed that several problems relating to the question of full powers could be solved by referring to the practice of States. In States where a Minister was responsible for a certain sector of foreign affairs, for example the Minister for Commonwealth Relations in the United Kingdom and the Minister for International Trade in some other countries, the reference to " the practice of the States concerned " might relieve the Minister of the need to produce full powers when negotiating a treaty on a matter within his competence.

6. In paragraph 2(*c*), the Drafting Committee had replaced the words " to an organ of an international organization " by the words " to an international organization or one of its organs " and the words " in that conference or organ " by the words " in that conference, organization or organ ", in order to give effect to the amendments submitted by Hungary and Poland (A/CONF.39/C.1/L.78 and Add.1) and by the United States (A/CONF.39/C.1/L.90). For contemporary practice showed that some representatives were accredited not merely to an organ of an international organization, but to the organization as a whole. The Drafting Committee wished to emphasize that the expression " representatives accredited by States " at the beginning of sub-paragraph (*c*) did not refer to all members of a delegation or diplomatic mission, but only to those entitled to represent their country.

7. The Drafting Committee had decided not to refer to negotiation in the article, as proposed by Hungary and Poland (A/CONF.39/C.1/L.78 and Add.1) for fear that that might curtail the freedom of diplomacy.

8. With regard to the proposal by Italy (A/CONF.39/C.1/L.83) to add at the end of paragraph 2(*b*) the phrase " and for the purpose of concluding an agreement between those States in conformity with diplomatic practice, in particular, in the form of an exchange of notes ", the Drafting Committee had considered that the reference to " the practice of the States concerned " in paragraph 1(*b*) made that addition unnecessary.

9. Lastly, the Drafting Committee had decided against the United States proposal (A/CONF.39/C.1/L.90) to add a new paragraph 3, since it was self-evident that States always had the right to require full powers for the performance of an international act relating to the conclusion of a treaty.

10. The CHAIRMAN invited the Committee to take a decision on article 6.

11. Mr. DE LA GUARDIA (Argentina) asked that article 6 be put to the vote, so that his delegation could abstain.

12. Mr. CARMONA (Venezuela) asked for a separate vote on paragraph 1(*b*).

13. Mr. BARROS (Chile) said that the Spanish version of article 6 was not satisfactory. He suggested that an informal working party composed of members of Spanish-speaking delegations be set up to revise the text of that article and of the whole convention.

14. Mr. JAGOTA (India), referring to paragraph 2(*c*) of the English text, suggested that instead of the words " for the purpose of the adoption " the words " for the purpose of adopting " should be used, as in paragraph 1 and paragraph 2(*b*), in order to make the wording of the article more uniform.

15. Mr. DADZIE (Ghana) said that in paragraph 2(*b*), it would be better to use the words " sending State and receiving State " instead of the words " accrediting State and the State to which they are accredited ".

16. Mr. KHLESTOV (Union of Soviet Socialist Republics) asked whether the vote on article 6 was to be on the substance or on the drafting. The Committee had adopted the substance of article 6 before referring it to the Drafting Committee, so it should now vote on the drafting of the article.

17. Mr. HARRY (Australia) observed that it was very difficult at that stage to make a distinction between a vote on the substance and a vote on the drafting of an article. It seemed that the Committee was called upon to take a decision on a precise text. Opinions might differ on whether the changes made by the Drafting Committee altered the substance of the article, but the fact remained that the convention would be interpreted according to its terms. Any changes in the text of an article must therefore be submitted to the Committee of the Whole for approval before it was put before the plenary Conference. Texts revised by a working party set up for the purpose must also be submitted to the Committee of the Whole.

18. Mr. KEARNEY (United States of America) asked how the Committee could determine whether a delegation was voting on the substance or the drafting of an article.

19. Mr. DE LA GUARDIA (Argentina) said that during the work of the Drafting Committee, his delegation had expressed reservations about article 6, paragraph 2(*c*), because it could not accept an amendment adopted by the Drafting Committee. He therefore asked for a separate vote on paragraph 2(*c*), because, in his view, the vote should be on the substance of the article.

20. Mr. TABIBI (Afghanistan) said that the Committee had voted on the substance of article 6 before referring it to the Drafting Committee. If delegations wished to propose amendments to the text adopted by the Drafting Committee, they should submit them to the plenary Conference. To vote on the substance of the texts submitted by the Drafting Committee would be contrary to the procedure followed hitherto.

21. Mr. MARESCA (Italy) said he thought the changes made by the Drafting Committee had improved the text of article 6. Nevertheless, he wished to point out that the formula " the practice of the States concerned " did not cover the case the Italian delegation had had in mind when it had proposed an addition to paragraph 2(*b*). According to diplomatic practice, the head of a diplomatic mission could be authorized to express his Government's consent when an agreement was concluded in the form of an exchange of notes. Consequently, his delegation would be unable to vote in favour of article 6.

22. Mr. SEPULVEDA AMOR (Mexico) said his delegation could not accept the new text submitted by the Drafting Committee. It therefore supported the Chilean representative's proposal that a working party be set up to review the Spanish version of the article.

23. Mr. ZEMANEK (Austria) said he thought there had been a misunderstanding. So far, the Committee, before referring articles to the Drafting Committee, had voted, not on the text of the articles, but on the proposed amendments to them. Consequently, a delegation might wish to abstain from voting on the text of an article.

24. Mr. KHLESTOV (Union of Soviet Socialist Republics) said he thought that reference of an article to the Drafting Committee with the proposed amendments implied that the Committee of the Whole had adopted the substance of the article, and was asking the Drafting Committee to incorporate the proposed amendments. If that were so, the Committee of the Whole should now vote only on the drafting of article 6. If some delegations wished to revert to questions of substance, the Committee should modify the procedure followed hitherto. If delegations considered that the changes made in the text by the Drafting Committee altered the substance of the article, the Committee should take a decision on the substance by a two-thirds majority vote. The rules of procedure must be clearly established. A delegation could not be prevented from raising a question of substance unless the Committee had adopted a rule of procedure to that effect.

25. Mr. WERSHOF (Canada) said that the difficulty arose from the fact that the present Conference had not followed the same procedure as previous codification conferences, at which the Committee of the Whole had voted on the substance of the articles and amendments and then referred them to the Drafting Committee, which, after preparing the new text of the articles, had reported to the plenary session of the Conference and not back to the Committee of the Whole. If, at the present Conference, the Committee of the Whole had voted on the substance of the articles and amendments before referring the articles to the Drafting Committee, the Committee of the Whole would only need to decide, perhaps by vote, on the drafting of article 6 as proposed by the Drafting Committee; but that was not the case. At the 13th meeting the Committee of the Whole had rejected by vote the amendment submitted by Sweden and Venezuela (A/CONF.39/C.1/L.68/Rev.1). Some other proposed amendments to article 6 had been withdrawn. The Chairman had then said that article 6 and amendments which had not been withdrawn would be referred to the Drafting Committee. That statement did not in any way imply that the Committee of the Whole had adopted the substance of article 6.

26. Furthermore, the Drafting Committee had amended paragraphs 1 (*b*) and 2 (*c*) of article 6, in accordance with amendments which had never been put to the vote in the Committee of the Whole. Consequently, it was essential that a vote be taken now on the substance of article 6, so that delegations could record their agreement or disagreement with the changes made by the Drafting Committee. Delegations were also entitled to ask for a separate vote on any sub-paragraph; if that was objected to under the rules of procedure, the Chairman should put to the vote the request for a separate vote. If the principle invoked by the representatives of Afghanistan and the USSR was to be adopted, according to which the Committee of the Whole could not vote on the substance of an article after it had been referred to the Drafting Committee, the Committee of the Whole must vote on every substantive amendment and on the substance of the whole article in the first place before referring it to the Drafting Committee, and thereafter make sure that the changes made by the latter did not alter the substance in any way.

27. Mr. BLIX (Sweden) thought that the main difficulty arose from the fact that the articles examined by the Drafting Committee were again submitted to the Committee of the Whole, whereas at previous conferences they had been submitted to the plenary conference. When the Committee of the Whole referred an article to the Drafting Committee, it had taken a decision on the substance, whether it had formally approved the article or not. The amendments relating to substance had been adopted or rejected by the Committee. With regard to article 6, for example, Sweden and Venezuela had submitted an amendment (A/CONF.39/C.1/L.68/Rev.1) which had been rejected. The Committee need not vote a second time. Of course, there were borderline cases. The correct procedure for dealing with them would be to allow a second vote to be taken in the plenary conference, where a two-thirds majority would be required. There was nothing to prevent delegations from submitting amendments to the plenary Conference if they wished. At the present stage, the members of the Committee should confine themselves to making comments. The Drafting Committee might perhaps re-examine the controversial issues and submit its comments to the plenary Conference, where the final vote would be taken. For the time being, the Committee was not called upon to vote on the substance of article 6.

28. Mr. TABIBI (Afghanistan) said that the matter under discussion was a very important one which might hinder the Conference's work and set a regrettable precedent for future United Nations conferences. According to the rules of procedure, the draft articles adopted by the International Law Commission constituted the basic proposal for discussion by the Conference (rule 29) and all amendments should be based on that text (rule 30). It was true that the procedure adopted by the present Conference departed to some extent from the normal procedure, because the General Assembly had decided that two sessions of the Conference would be held. That complicated the position; but in so far as article 6 was concerned, the Committee had voted on the substance and referred the text to the Drafting Committee. The Drafting Committee's task was to perfect the wording of the articles. It could not take decisions on substance. Delegations which did not approve of article 6 could submit amendments to the plenary Conference, but for the time being, the Committee of the Whole should confine itself to giving its decision on the work of the Drafting Committee.

29. Mr. DE LA GUARDIA (Argentina) said he agreed that it would be illogical to vote a second time on amendments that had been rejected or adopted. As to article 6, paragraph 2(*c*), the Committee had never formally accepted the addition of the words " to an international organization ". That amendment (A/CONF.39/C.1/L.90) had been referred direct to the Drafting Committee. Was it a matter of drafting or of substance? It was obviously a borderline case. It would, however, be necessary to take a decision on the matter.

30. The CHAIRMAN said the best course would be to take separate votes on paragraph 1(*b*) and paragraph 2(*c*) before putting article 6 to the vote as a whole.

It was so decided.

Paragraph 1, sub-paragraph (b) was approved by 83 votes to 3, with 5 abstentions.

Paragraph 2, sub-paragraph (c) was approved by 84 votes to 1, with 3 abstentions.

The remainder of article 6 was approved by 88 votes to none, with 2 abstentions.

Article 6 as a whole was approved by 88 votes to none, with 4 abstentions.

31. In reply to a question by Mr. KEMPFF MERCADO (Bolivia) regarding the appointment of a working party to revise the Spanish text, the CHAIRMAN said that the Drafting Committee would consider the matter and report to the Committee of the Whole.

Article 7 (Subsequent confirmation of an act performed without authority) [3]

32. Mr. YASSEEN, Chairman of the Drafting Committee, said that that Committee had adopted the following text for article 7:

"*Article 7*

"An act relating to the conclusion of a treaty performed by a person who cannot be considered under article 6 as representing his State for that purpose is without legal effect unless afterwards confirmed by the competent authority of that State."

33. The Drafting Committee had made only a few changes in the original text. The words " competent authority of the State " had been replaced by the words " competent authority of that State ", which seemed more precise. In the French text the words " *d'après l'article 6* " had been replaced by the words " *en vertu de l'article 6* ". The Committee had found that the amendment by Spain (A/CONF.39/C.1/L.37) unduly widened the scope of the draft article submitted by the International Law Commission and had not thought fit to accept it. No decision had been taken on the proposals by Japan (A/CONF.39/C.1/L.98) and Singapore (A/CONF.39/C.1/L.96) to transfer article 7 to another part of the convention. The Drafting Committee had taken the view that questions relating to the arrangement of the articles in the convention should be discussed at a later stage.

34. Mr. ARIFF (Malaysia) reminded the Committee that he had submitted an amendment to article 7 (A/CONF.39/C.1/L.99) intended to fill a gap in the International Law Commission's text, which did not state how the act of concluding a treaty performed by a person not representing a State was to be confirmed by the competent authority of the State. The insertion of the words " expressly or by necessary implication " would have filled that gap. Unfortunately, when he submitted his amendment, the text had not yet been circulated, so that the members of the Committee had probably not had an opportunity of examining it thoroughly and it had consequently been rejected. If the Committee of the Whole had referred the amendment to the Drafting Committee, it might have been taken into account. In view of the importance of the matter, the Malaysian delegation could not accept the text of article 7 as it stood. It would therefore vote against the text, if it was put to the vote.

35. The CHAIRMAN said he would take note of the comments made by the representative of Malaysia. He then put to the vote the text of article 7 adopted by the Drafting Committee.

The article was approved by 87 votes to 2, with 1 abstention.

36. Mr. BLIX (Sweden) said he did not think the procedure applied to the articles adopted by the Drafting Committee was quite clear. It might be advisable for the General Committee of the Conference to look into the matter.

37. The CHAIRMAN said that the question would be referred to the General Committee of the Conference for consideration. Meanwhile, if any delegation thought that a text adopted by the Drafting Committee departed from the decision taken by the Committee of the Whole it could have the floor to comment on the matter in the same way as earlier in the meeting.

38. He invited the Committee to resume consideration of the draft articles adopted by the International Law Commission.

Article 29 (Interpretation of treaties in two or more languages) [4]

39. Mr. KEARNEY (United States of America) said that the amendment submitted by his delegation (A/CONF.39/C.1/L.197) was intended to make the wording of article 29 more precise. The proposal regarding paragraph 1 was to replace the word " text " after the word " particular " by the words " language version ". The reason for the change was that the word " text " was used in two different senses in that paragraph.

40. The amendment to paragraph 3 clarified the meaning. The presumption stated should, in his opinion, constitue a separate paragraph, in which the word " text " would be replaced by the words " language version ". As worded by the International Law Commission, paragraph 3 raised difficulty, because the second sentence laid down two rules for settling differences concerning the meaning of terms: recourse could be had to the means of interpretation specified in articles 27 and 28, and if that failed, a meaning could be adopted which reconciled the texts as far as possible. The last phrase was merely an invitation to effect some sort of compromise, but without any indication of the basis for the compromise. Moreover, in many cases reconciliation was impossible. That had been the problem in the *Mavrommatis Palestine Concessions* case decided by the Permanent Court of International Justice, with regard to the terms " public control " in English and " *contrôle public* " in French.[5] The Court had settled on a meaning which it considered to harmonize the French and English versions, because

[3] For earlier discussion of article 7, see 14th meeting.

[4] The following amendments had been submitted: United States of America, A/CONF.39/C.1/L.197; Republic of Viet-Nam, A/CONF.39/C.1/L.209. Australia submitted a sub-amendment (A/CONF.39/C.1/L.219) to the United States amendment.

[5] *P.C.I.J.* (1924), Series A, No. 2, p. 20.

it was the meaning most consonant with the object and purpose of the treaty as the Court saw it.

41. The difficulties were particularly serious when the treaty dealt with legal problems and two or more systems of law were involved. It often happened that there was no legal concept in one system which corresponded to a legal concept in the other. An equivalent term was employed, but it rarely expressed the legal concept in question. The term " trustee " as used in financial agreements was a case in point.

42. Those were the considerations which had led the United States delegation to propose the addition of a new paragraph 4. The aim was simply to offer the Committee of the Whole a more precise text, and the amendment could be referred to the Drafting Committee. In view of the discussion which had just taken place, however, he would have no objection to the amendment being put to the vote if some delegations thought it raised a question of substance.

43. The CHAIRMAN said he thought it would be preferable for the United States amendment to be put to the vote.

44. Mr. PHAN-VAN-THINH (Republic of Viet-Nam) said that his delegation's amendment (A/CONF.39/C.1/L.209) followed from its amendments to articles 27 and 28 (A/CONF.39/C.1/L.199). It was designed to expand the means of interpreting treaties drawn up in two or more languages.

45. The solution proposed in the last phrase of paragraph 3 might raise many difficulties in the interpretation of a treaty of that kind. The International Law Commission had suggested a sort of compromise, but without specifying the basis for it. In the opinion of his delegation, it was the object and purpose of the treaty which could serve as a basis for a compromise, since they were, quite naturally, essential reference elements which could be of great help in overcoming difficulties of interpretation where a treaty itself provided no precise solution.

46. The International Law Commission itself had frequently stressed the importance of the object and purpose of a treaty, in particular in article 16, sub-paragraph (*c*), and in article 27, paragraph 1.

47. He thought his delegation's amendment was purely a matter of drafting.

48. Mr. HARRY (Australia), introducing his delegation's sub-amendment (A/CONF.39/C.1/L.219) to the United States proposal, said that the International Law Commission had pointed out in paragraph (6) of its commentary that few plurilingual treaties containing more than one or two articles were without some discrepancy between the texts. That was confirmed by the request of the Chilean representative that a working party be set up to examine the Spanish version of article 6.

49. The International Law Commission had also noted that a plurilingual treaty might provide that in the event of divergence between the texts a specified text was to prevail. But it was a fact of international life that those States which had secured for their own language the status of an official language were seldom willing that another national language should prevail.

50. The Commission had also mentioned that where the language of one State was not understood by the other or where neither State wished to recognize the supremacy of the other's language, a bilateral treaty sometimes included a text in a third language which was authoritative in case of divergence. The 1957 Treaty of Friendship between Japan and Ethiopia was a case in point.[6] But where multilateral treaties were concerned, was there a language sufficiently neutral to prevail over the great official languages?

51. Pending agreement on a language whose neutrality was universally recognized, as that of Latin had once been—such as the modern international language, Esperanto—a rule should be framed to deal with the situation which arose when there were several equally authoritative versions of a convention and no neutral version to refer to.

52. The Australian delegation thought that the International Law Commission had been right to provide that articles 27 and 28 should be applied first. However, he had doubts about the value of the last phrase of article 29, paragraph 3. In his opinion, it was necessary to lay down a principle to which reference must be made when seeking a meaning that would reconcile the texts. His delegation supported the amendments submitted by the Republic of Viet-Nam (A/CONF.39/C.1/L.209) and the United States (A/CONF. 39/C.1/L.197), the purpose of which was to ensure the adoption of the meaning most consonant with the object and purpose of the treaty. It was necessary to try to reconcile the texts, however, because a meaning could not be adopted which bore no relation to them.

53. The Australian amendment would not set aside the solution proposed by the Commission, since its aim was that the parties should adopt the meaning which best reconciled the two versions, provided that it was consonant with the object and purpose of the treaty.

54. Mr. STREZOV (Bulgaria) said he was in favour of the International Law Commission's text, but wished to call the Drafting Committee's attention to paragraph 3 of article 29. The phrase " a meaning which as far as possible reconciles the texts " seemed to him to be acceptable, but it would nevertheless be advisable to attach greater importance to the language in which the treaty had been originally drafted. That question had been raised in the International Law Commission and some of its members had even spoken of a legal presumption in favour of the language in which the treaty had originally been drafted.

55. Mr. KUO (China) said that the present wording of article 29 was acceptable. He was in favour of that part of the United States amendment (A/CONF.39/C.1/L.197) which divided paragraph 3 into two separate paragraphs, and of the amendments submitted by the Republic of Viet-Nam (A/CONF.39/C.1/L.209) and Australia (A/CONF.39/C.1/L.219), which improved the International Law Commission's text. As to the United States amendment to paragraph 1, he was not convinced that it was the word " version " that was most often used in treaties to designate a text in a particular language. But that was a matter of drafting which should be settled by the Drafting Committee.

[6] United Nations, *Treaty Series*, vol. 325, p. 101.

56. Mr. DE BRESSON (France) said he was in favour of article 29 as drafted by the International Law Commission, but he had no objection to the United States proposal to divide paragraph 3 into two separate paragraphs. He doubted whether there would be any advantage in replacing the word " text " by the word " version ". In the language of diplomacy, the word " text " was used to refer to texts drawn up in different languages and he was therefore in favour of retaining it. He supported the Australian sub-amendment (A/CONF.39/C.1/L.219).

57. Mr. MARTINEZ CARO (Spain) supported the amendments submitted by the United States (A/CONF. 39/C.1/L.197), the Republic of Viet-Nam (A/CONF.39/ C.1/L.209) and Australia (A/CONF.39/C.1/L.219), which improved the wording of article 29.

58. The Spanish delegation thought it necessary to insert in paragraph 3 the phrase " a meaning shall be adopted which is most consonant with the object and purpose of the treaty ".

59. The various amendments should be referred to the Drafting Committee so that it could work out an appropriate formula.

60. Mr. MARESCA (Italy) said that the International Law Commission's text was acceptable, but he thought the United States amendment (A/CONF.39/C.1/L.197) greatly improved the wording. The history of diplomacy had shown that it was not always easy to adopt a meaning which reconciled the different texts and that it was sometimes necessary to have recourse to objective elements such as the purpose of a treaty. For those reasons, he supported the United States amendment and the Australian sub-amendment which combined the International Law Commission's text with the new formula proposed by the United States.

61. Mr. SINCLAIR (United Kingdom) said that the text of article 29 was acceptable on the whole, but the second sentence of paragraph 3 gave rise to some difficulties because the differences of meaning disclosed might be irreconcilable.

62. His delegation considered the United States proposal a useful one, but it preferred the Australian sub-amendment which, while retaining the possibility of adopting a meaning that reconciled the texts, also prescribed the adoption of a meaning consonant with the object and purpose of the treaty.

63. Mr. KHLESTOV (Union of Soviet Socialist Republics) said that the text of article 29 provided a satisfactory solution of the problem of interpretation of a treaty in several languages.

64. The first part of the United States amendment was a matter of drafting; it improved the wording of the article. However, his delegation saw no point in stating that a meaning should be adopted which was most consonant with the object and purpose of the treaty; it found the International Law Commission's text more satisfactory.

65. He saw no objection to asking the Drafting Committee to study the various amendments.

66. Mr. ROSENNE (Israel) said he supported the United States amendment to paragraph 1 and also the proposal to divide paragraph 3 into two separate paragraphs. He doubted whether it would be useful to make a specific reference to the object and purpose of the treaty, as that expression already appeared in article 27, paragraph 1, and articles 27 and 28 were expressly mentioned in article 29. He was in favour of the present text of article 29, subject to examination by the Drafting Committee.

67. Sir Humphrey WALDOCK (Expert Consultant), referring to the United States proposal to replace the word " text " by the word " version ", said that the International Law Commission had studied that question in detail. In current practice, the final clauses of treaties referred to different " texts " in different languages and codification conventions also used the word " text ". There was another technical reason for choosing that word: there were versions known as " official versions " which were not authoritative, and as the International Law Commission had established a difference between authentication and adoption and had made authentication a separate process in the conclusion of treaties, the distinction between a " text " and a " version " must be maintained, the " text " being a document which had been authenticated.

68. Mr. BADEN-SEMPER (Trinidad and Tobago) said that the United States amendment adding a new paragraph was a matter of substance and should be put to the vote. The interpretation of a treaty by recourse to its object and purpose was already covered in article 29, since the International Law Commission's text referred back to articles 27 and 28.

69. Mr. FRANCIS (Jamaica) observed that the United States amendment appeared to omit a reference to article 28. It should be remembered, however, that the United States had submitted an amendment combining articles 27 and 28 in a single article (A/CONF. 39/C.1/ L.156). Presumably the United States amendment was intended to include a reference to articles 27 and 28, and was therefore only a matter of drafting.

70. Mr. KEARNEY (United States of America) confirmed that the reason why only article 27 had been mentioned was that the United States amendment to articles 27 and 28 (A/CONF.39/C.1/L.156) combined those articles; hence article 28 should be referred to in his delegation's amendment to article 29.

71. The CHAIRMAN proposed that article 29 be referred to the Drafting Committee.

It was so decided.[7]

72. The CHAIRMAN welcomed Mr. Žourek, a former member of the International Law Commission, who had been the Expert Consultant at the 1963 Conference on Consular Relations.

73. Mr. ŽOUREK (Czechoslovakia) thanked the Chairman for his words of welcome and said he was particularly glad to be taking part in the Conference convened to codify such a very important branch of international law.

The meeting rose at 1 p.m.

[7] For resumption of discussion, see 74th meeting.