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principle of universality was one of them. It was a principle that nobody denied. If it was desired to define it, it would be quite possible to do so. That such a thing was possible was demonstrated by the work of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. That Committee had already formulated such principles as the sovereign equality of States, *pacta sunt servanda,* and the peaceful settlement of international disputes. There was no reason why it should not be possible to define the term " general multilateral treaty ".

59. It had also been said that participation by all States in general multilateral treaties would upset political relations among States and give rise to serious difficulties. That argument was unsound, since that practice had been followed in the Moscow Treaty of 1963 and in many other treaties and had not led to political complications. The United States representative had stated that if a wording were adopted providing that all States might be parties to general multilateral treaties, certain States might advance their participation in such treaties as an argument for demanding admission to international organizations. That assertion was illogical, since article 5 *bis* covered only participation in general multilateral treaties, not in international organizations.

60. The representative of the Federal Republic of Germany had maintained that an article 5 *bis* would not be needed in the convention since, in practice, some treaties provided for participation by all States. That argument was unconvincing, since the Conference's task was to draw up a convention embodying all the elements of State practice.

61. Those who were against including a provision on the principle of universality were upholders not of law, but of illegality. The efforts by certain States to prevent the adoption of that principle were calculated to establish a discriminatory practice in the convention.

62. The Conference's duty was to lay down norms of international law in order to contribute to the development of co-operation among all States in the interests of the international community.

63. The USSR delegation therefore supported the new draft article 5 *bis* (A/CONF.39/C.1/L.388 and Add.1) and was ready to collaborate with other delegations in finding a solution to the problem.

64. Mr. KHASHBAT (Mongolia) said that all States, as members of the international community, had the right to become parties to general multilateral treaties. That right had been recognized in international practice, particularly in connexion with disarmament and outer space. Some States no doubt applied a discriminatory policy with regard to other States for political or social reasons, but that did not alter the fact that any attempt to restrict the principle of universality was contrary to the United Nations Charter and that the convention on the law of treaties would not be complete if the principle of universality was not clearly stated in it.

65. The earlier draft of article 5 *bis* had been amended so that the new version (A/CONF.39/C.1/L.388 and Add.1) should be acceptable to all delegations.

The meeting rose at 12.50 p.m.

NINETY-FIRST MEETING

Wednesday, 16 April 1969, at 3.30 p.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)*

Proposed new article 5 bis (The right of participation in treaties) *(continued)* [1]

1. Mr. FATTAL (Lebanon) said that the time had come to speak plainly about the real problem represented by the proposed article 5 *bis.* It was the problem of the political divisions and opposing régimes in China, Germany, Viet-Nam and Korea. It was a problem that both the Eastern and the Western Powers had failed to solve by political and diplomatic means over a period of twenty years, and that the Eastern States were now attempting to solve by presenting it to the Conference in the respectable guise of a problem of the progressive development of international law.

2. The universality of general multilateral treaties was already ensured in fact by United Nations practice, since nearly all States were Members either of the United Nations itself, or of one or more of its specialized agencies, or were parties to the Statute of the International Court of Justice. The four exceptions were the People's Republic of China, the German Democratic Republic, North Viet-Nam, and North Korea.

3. The whole purpose of article 5 *bis* was to embroil the Conference in the problem of the four divided countries. But however important that problem might be, there was no justification for attempting to transfer it from the sphere of politics to the sphere of law. It was essentially a problem for the United Nations. And in any case it was most unlikely that the present Conference would be more successful in dealing with it than the United Nations had so far been.

4. It had been claimed that the principle of the sovereign equality of States required that all States should be able to participate in the international legislative process. By nature, legislation was valid *erga omnes,* but of how many treaties was that true? It did not even apply to the United Nations Charter, with the exception of the principles set forth in Article 2. The principle of universality could not be severed from the principle of validity *erga omnes.* It would be convenient, but hardly logical, if a State were free to insist on being

[1] For the new text (A/CONF.39/C.1/L.388 and Add.1), see 89th meeting, footnote 3.

allowed to participate in some treaties because they were general and multilateral, while reserving its freedom to ignore other treaties of the same nature. Such a situation would make a mockery of the principle of free consent, which was the real keystone of the sovereignty of States. Furthermore, the rule *res inter alios acta* would be meaningless if each State were permitted to interpret it as it wished. The United Nations had striven to promote the development of treaty law, but was hampered by the fact that the international community did not constitute an integrated society.

5. It was edifying to note the actual number of accessions to the various multilateral treaties for which the United Nations Secretary-General acted as the depositary.[2] At 31 December 1967, the Revised General Act for the Pacific Settlement of International Disputes of 1949 had attracted 6 acceptances; the 1961 Vienna Convention on Diplomatic Relations, 65 acceptances; the 1963 Vienna Convention on Consular Relations, 27 acceptances; the Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the compulsory settlement of disputes, 29 acceptances; the International Convention on the Elimination of All Forms of Racial Discrimination of 1966, 18 acceptances; the 1958 Convention on the Territorial Sea and the Contiguous Zone, 33 acceptances; the 1958 Convention on the High Seas, 40 acceptances; the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas, 25 acceptances, and the 1958 Convention on the Continental Shelf, 37 acceptances. Only the Charter of the United Nations itself had been accepted by almost every State. That list was sufficient to show the practical meaning of universality. It could only be hoped that progress would be more rapid in the future than it had been so far.

6. Mr. BILOA TANG (Cameroon) said that accession to the convention or to a general multilateral treaty, which was the point at issue in the proposed new article 5 *bis*, involved the problem of divided States and of the non-recognition of some States by others. It was, of course, for each State to decide whether or not to recognize another State. In the case of divided States, Cameroon had always taken the view that the question should be resolved on the basis of the principle of self-determination.

7. Some delegations argued that a general multilateral treaty should be open to accession by all States, on the ground that that would contribute to the progressive development of international law. Others felt that it should not be open to any territorial entity which called itself a State, if it was not legally recognized as such by the majority of the members of the international community. In other words, they adopted the restrictive formula applied in the United Nations.

8. His delegation believed that it was not desirable to draft a convention without deciding the question of accession. Even if a treaty were open to accession by any State or territorial entity, a party to the treaty could, in the exercise of its sovereign right to contract treaty obligations, make it clear, by entering a reservation, that it did not recognize another party to the treaty as constituting a State and would not therefore be bound, in regard to that party, by its treaty obligations. If the majority of the States parties to a treaty adopted that position with regard to a particular territorial entity, the latter's accession to the treaty would be meaningless except in its relations with States which had recognized it.

9. In short, while his delegation did not reject the principle of universality in general multilateral treaties, it recognized that the question gave rise both to difficulties and to objections.

10. Mr. AMATAYAKUL (Thailand) said that his delegation had already made it clear during the discussion on article 8 that it was not in favour of attempting to subdivide multilateral treaties into categories, as was done in the Syrian amendment to article 2 (A/CONF.39/C.1/L.385). Thailand supported the principle of universality, and recognized that it was a sovereign right of a State to send a representative to participate in the negotiation of a treaty, and to conclude a treaty; but what was known as the Vienna formula sufficiently upheld that principle. Thailand believed that it was an abuse of the principle of sovereign equality to attempt to oblige a State to consent to the participation in a treaty, however broad its scope, of any other State, without proving the latter's capability of becoming a party to the treaty. A treaty must represent a concurrence of wills.

11. Moreover it was not in the interest of the security of international relations to deny States the legitimate right to decide for themselves whether, and to what extent, territorial entities designating themselves States should be allowed to accede to a treaty. Consequently his delegation opposed the adoption of article 5 *bis*.

12. Mr. MARESCA (Italy) said that the new draft (A/CONF.39/C.1/L.388 and Add.1) of a proposed article 5 *bis* was an improvement on the previous proposal in two respects: it obviated the need for a definition of the term " general multilateral treaty ", and it did not thrust forward the principle of universality, which had no place in law. It merely described the sort of treaty which, the sponsors felt, should be open to accession by all States. It referred to the codification or progressive development of norms of international law and to the fact that the treaty must be of interest to the international community of States as a whole.

13. The real point at issue was whether the proposed formula was necessary, or even acceptable from the legal and diplomatic standpoint. If it was a matter of pure codification, all States, even those not recognized by others, were already covered by the principles and rules of customary law; there was therefore no need to enlarge the scope of a convention the only purpose of which was codification. In the case of conventions concerned with the progressive development of international law, the will of States remained the essential

[2] See *Multilateral Treaties in respect of which the Secretary-General performs depositary functions* (United Nations publication, Sales No.: E.68.V.3).

factor because no new rules of law could be laid down unless they were acceptable to the States concerned. A State could not be allowed to accede to a treaty simply because it wished to do so, even if such accession were deemed to be in the interest of the international community as a whole.

14. The present Conference had been convened by the United Nations and must therefore abide by United Nations rules governing diplomatic conferences. It had received specific terms of reference and could not go beyond them. However, under the so-called Vienna formula, it could give a sovereign organ such as the General Assembly the legal capacity to enlarge the scope of the clauses of the convention dealing with accession. Additional States might then be invited to accede.

15. His delegation firmly maintained its view that it would not be appropriate for the present Conference to include the proposed new article 5 *bis* in the convention.

16. Mr. DE LA GUARDIA (Argentina) said that his delegation regretted that it could not support the amendment (A/CONF.39/C.1/L.388 and Add.1). The principle of universality, about which almost everything possible had already been said, was a very important one and deserved consideration, but even more important was the principle of consent, or the autonomy of the will, which meant not only freedom to decide the object of the agreement but also freedom to decide with whom the agreement was to be concluded.

17. Interesting views had been expressed during the discussion, supported by learned quotations, to show that the admission of all States to general multilateral treaties, that was to say, treaties whose purpose was of concern to the international community as a whole, by no means implied the recognition of States which other States did not wish to recognize as such.

18. His delegation, however, believed that participation in a treaty, while creating legal effects among the parties — which was the purpose of a treaty — also created effects between those participating States which did not recognize each other. A juridical relationship was inevitably created between a State which did not recognize some other entity as a State and that other entity, a relationship, if imposed as a binding general norm of the kind proposed in article 5 *bis,* would in most cases be neither desired nor consented to; in other words, a binding general norm requiring the participation of all States would be contrary to the general principle of consent.

19. His delegation believed that negotiating States should be left free to decide whether they were to be legally bound only to those States which they recognized, or whether they should be bound to political entities which they did not recognize as States. In the latter case, he questioned whether the treaty would be a true treaty, since the definition given in article 2(*a*) spoke of " an international agreement concluded between States ". It was very difficult to segregate the question of participation from that of recognition. His delegation would vote against the proposed article 5 *bis.*

20. Mr. MUUKA (Zambia) said that the proposed article dealt with one of the fundamental principles of the law of treaties. It was a harsh fact of power politics that up to the present time certain States had been debarred from participating in multilateral treaties. The participation of all States in such treaties was called for by a fundamental principle of *jus cogens,* namely, the sovereign equality of States. To confine the type of multilateral treaty referred to in article 5 *bis* to the participation of certain States would be inconsistent with the very nature of such treaties and would hamper the progressive development of international law. His delegation believed that the progressive development of international law could best be served if every State interested in the subject-matter of a treaty were encouraged to become a party to it.

21. States which did not apply treaties because they were denied accession to them could not be blamed if they did not apply the principles underlying such treaties. It was illogical to expect such States to accept certain principles of international law while at the same time denying them the possibility of participating in a universal instrument. The consensual element in that type of treaty ought to be limited; the individual will should be subsumed in the interests of the international community.

22. One of the objections put forward to article 5 *bis* would seem to be the issue of recognition. Recognition was a politico-juridical fact and States objecting to the article might feel that the admission to a treaty of a State which they did not wish to recognize would strengthen the position of that State's government and imply recognition of that State. In his opinion, that objection was untenable, inasmuch as participation in a multilateral treaty did not involve recognition of a participating State or government. To dispel any doubts, however, States could retain their freedom of action either by refusing to accept obligations flowing from the treaty vis-à-vis a State or government which they did not recognize, or by making a declaration to the effect that participation in a treaty did not imply recognition of that State.

23. Despite what the United States representative had said, he (Mr. Muuka) considered that the meaning of the amendment was perfectly clear and that the Indian representative had adequately disposed of the difficulties which were supposed to lurk behind it. Nor did his delegation feel that the difficulties envisaged with regard to the problem of depositaries was an insuperable one, since the Nuclear Test Ban Treaty clearly showed that such obstacles could be overcome. After all, it was not for the depositary but rather for each individual State to decide wheither it regarded another party to a multilateral treaty as a State.

24. Mr. HAYTA (Turkey) said that for the same sound reasons as those advanced by a number of speakers, his delegation would be obliged to vote against the amendment (A/CONF.39/C.1/L.388 and Add.1).

25. The CHAIRMAN suggested that the Committee defer further consideration of article 5 *bis* in order to permit the continuance of informal consultations.

It was so agreed.[3]

Article 8 (Adoption of the text) *(resumed from the 85th meeting)* [4]

26. The CHAIRMAN invited the Chairman of the Drafting Committee to make a statement about article 8.

27. Mr. YASSEEN, Chairman of the Drafting Committee, said that the Drafting Committee had instructed him to report that, since it had not received the necessary instructions from the Committee of the Whole, it had not been able to take a decision on the amendments to article 8 referred to it at the 15th meeting,[5] namely, the Peruvian amendments to paragraphs 1 and 2 (A/CONF.39/C.1/L.101 and Corr.1) and the Tanzanian amendment to paragraph 2 (A/CONF.39/C.1/L.103). The Drafting Committee had found that each of those amendments raised questions of substance which must be settled by the Committee of the Whole. For the same reason, the Drafting Committee had not been able to take a decision on the Australian amendment to paragraph 2 (A/CONF.39/C.1/L.380), submitted at the second session, which had also been referred to it.[6]

28. Mr. SINCLAIR (United Kingdom) said that his delegation favoured the International Law Commission's text of article 8, read in the light of the concluding sentences of paragraph (2) of the commentary to that article: " Unanimity remains the general rule for bilateral treaties and for treaties drawn up between few States. But for other multilateral treaties, a different general rule must be specified, although, of course, it will always be open to the States concerned to apply the rule of unanimity in a particular case if they should so decide. " [7]

29. The various amendments which had been proposed to article 8 were therefore unacceptable to the United Kingdom delegation. The Tanzanian amendment (A/CONF.39/C.1/L.103) raised a question of substance and not simply one of procedure. His delegation felt, moreover, that the two-thirds majority rule should be retained for the purposes of any decision to apply a different rule and it therefore opposed that amendment.

30. With regard to the Peruvian amendments (A/CONF.39/C.1/L.101 and Corr.1), it would be very difficult to make a distinction between the cases covered by the provisions of the two paragraphs of article 8 if the text were amended as proposed. The amended text gave no real indication of what was meant by a " limited or restricted " number of States for purposes of the application of paragraph 1 or by a " substantial " number of States for purposes of the application of paragraph 2.

31. By the same token, his delegation found it difficult to accept the concept of a " general " international conference, which the Australian amendment (A/CONF.39/C.1/L.380) introduced. The implication of that amendment was that all international conferences other than those described as " general " would fall under the unanimity rule laid down in paragraph 1 of article 8. His delegation believed that it was not advisable to establish of necessity a unanimity rule for such conferences as regional conferences.

32. The CHAIRMAN invited the Committee to vote on the four amendments to article 8.

The Peruvian amendment (A/CONF.39/C.1/L.101 and Corr.1) to paragraph 1 was rejected by 55 votes to 13, with 21 abstentions.

The Peruvian amendment to paragraph 2 was rejected by 54 votes to 11, with 29 abstentions.

The Australian amendment (A/CONF.39/C.1/L.380) was rejected by 48 votes to 24, with 20 abstentions.

The Tanzanian amendment (A/CONF.39/C.1/L.103) was rejected by 51 votes to 27, with 16 abstentions.

33. The CHAIRMAN suggested that, in the light of those clear decisions, article 8 should be referred back to the Drafting Committee.

It was so agreed.[8]

TEXTS PROPOSED BY THE DRAFTING COMMITTEE

34. The CHAIRMAN invited the Chairman of the Drafting Committee to introduce articles 26, 36 and 37 as adopted by the Drafting Committee.

Article 26 (Application of successive treaties relating to the same subject-matter) [9]

35. Mr. YASSEEN, Chairman of the Drafting Committee, said that the text proposed for article 26 by the Drafting Committee read:

Article 26

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

2. When a treaty specifics that it is subject to, or that it is

[3] For the resumption of the discussion in the Committee of the Whole, see 105th meeting.

[4] For the list of the amendments submitted to article 8, see 84th meeting, footnotes 2 and 3. The amendments by France (A/CONF.39/C.1/L.30) and the Ukrainian Soviet Socialist Republic (A/CONF.39/C.1./L.51/Rev.1), and the sub-amendment by Czechoslovakia (A/CONF.39/C.1/L.102) to the French amendment had been withdrawn.

[5] See 15th meeting, para. 40.

[6] See 85th meeting, para. 22.

[7] See *Yearbook of the International Law Commission, 1966*, vol. II, p. 194.

[8] For the resumption of the discussion in the Committee of the Whole, see 99th meeting.

[9] For earlier discussion of article 26, see 85th meeting, paras. 38-45.

not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.

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

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

(*a*) As between States parties to both treaties the same rule applies as in paragraph 3;

(*b*) As between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.

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

36. At the first session, the Committee of the Whole had referred to the Drafting Committee five amendments relating to article 26.[10] The amendment by France (A/CONF.39/C.1/L.44) had been withdrawn at the 84th meeting. Of the four remaining amendments, the Drafting Committee had adopted the amendment by Romania and Sweden (A/CONF.39/C.1/L.204) to replace sub-paragraphs (*b*) and (*c*) of paragraph 4 by a single sub-paragraph. In addition, in accordance with its mandate under the provisions of the last sentence of rule 48 of the rules of procedure, the Drafting Committee had made certain drafting changes in the English, French, Spanish and Russian texts of article 26.

37. The Drafting Committee had asked him to clarify the meaning which it attached to the last phrase of paragraph 3; that passage raised the problem of the construction to be placed on the concepts of compatibility and incompatibility. In the view of the Drafting Committee, the mere fact that there was a difference between the provisions of a later treaty and those of an earlier treaty did not necessarily mean that there existed an incompatibility within the meaning of the last phrase of paragraph 3. In point of fact, maintenance in force of the provisions of the earlier treaty might be justified by circumstances or by the intention of the parties. That would be so for example, in the following case. If a small number of States concluded a consular convention granting wide privileges and immunities, and those same States later concluded with other States a consular convention having a much larger number of parties but providing for a more restricted régime, the earlier convention would continue to govern relations between the States parties thereto if the circumstances or the intention of the parties justified its maintenance in force.

38. Sir Humphrey WALDOCK (Expert Consultant), said that he wished to reply to the questions asked by the United Kingdom representative at the 85th meeting.[11]

39. First, he thought that the United Kingdom representative had been correct in assuming that, for purposes of determining which of two treaties was the later one, the relevant date should be that of the adoption of the treaty and not that of its entry into force. His own understanding of the intentions of the International Law Commission confirmed that assumption. The notion behind it was that, when the second treaty was adopted, there was a new legislative intention; that intention, as expressed in the later instrument, should therefore be taken as intended to prevail over the intention expressed in the earlier instrument. That being so, it was inevitable that the date of adoption should be the relevant one.

40. Another question, however, arose: that of the date at which the rules contained in article 26 would have effect for each individual party. In that connexion, the date of entry into force of a treaty for a particular party was relevant for purposes of determining the moment at which that party would be bound by the obligations arising under article 26. The provisions of that article referred to " States parties "; they therefore applied only when States had become parties to the two treaties.

41. On the second point raised by the United Kingdom delegation, concerning the words " relating to the same subject-matter ", he agreed that those words should not be held to cover cases where a general treaty impinged indirectly on the content of a particular provision of an earlier treaty; in such cases, the question involved such principles as *generalia specialibus non derogant*.

42. Lastly, the United Kingdom representative seemed to him to be correct in interpreting the provisions of article 26 as laying down a residuary rule. Paragraph 2 of article 26 made that position clear by stating that, when a treaty contained specific provisions on the subject of compatibility, those provisions would prevail. The rules in paragraphs 3, 4 and 5 were thus designed essentially as residuary rules.

Article 26 was approved.[12]

Article 36 (Amendment of multilateral treaties) [13]

43. Mr. YASSEEN, Chairman of the Drafting Committee, said that the text proposed for article 36 by the Drafting Committee read:

Article 36

1. Unless the treaty otherwise provides, the amendment of multilateral treaties shall be governed by the following paragraphs.

2. Any proposal to amend a multilateral treaty as between all the parties must be notified to every contracting State, each one of which shall have the right to take part in:

(*a*) The decision as to the action to be taken in regard to such proposal;

(*b*) The negotiation and conclusion of any agreement for the amendment of the treaty.

[10] See 31st meeting, paras. 4-36.

[11] Paras. 40 and 41.

[12] For further discussion and adoption of article 26, see 13th plenary meeting.

[13] See 86th meeting, para. 1.

3. Every State entitled to become a party to the treaty shall also be entitled to become a party to the treaty as amended.

4. The amending agreement does not bind any State already a party to the treaty which does not become a party to the amending agreement; and article 26, paragraph 4 (*b*), applies in relation to such State.

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

(*a*) Be considered as a party to the treaty as amended; and

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

44. At the first session, the Committee of the Whole had referred article 36 to the Drafting Committee with the amendments by France (A/CONF.39/C.1/L.45) and the Netherlands (A/CONF.39/C.1/L.232). The French amendment had been withdrawn at the 84th meeting.

45. The Drafting Committee had adopted the Netherlands amendment to replace in paragraph 2 the words " to every party, each one of which " by the words " to every contracting State, each one of which ". It had also made a number of drafting changes, in accordance with rule 48 of the rules of procedure.

Article 36 was approved.[14]

Article 37 (Agreements to modify multilateral treaties between certain of the parties only) [15]

46. Mr. YASSEEN, Chairman of the Drafting Committee, said that the text proposed for article 37 by the Drafting Committee read:

Article 37

1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves alone if:

(*a*) The possibility of such a modification is provided for by the treaty; or

(*b*) The modification in question is not prohibited by the treaty and:

(*i*) Does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

(*ii*) Does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.

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

47. At the first session, the Committee of the Whole had referred article 37 to the Drafting Committee with the amendments submitted by Czechoslovakia (A/CONF.39/C.1/L.238) and by Bulgaria, Romania and Syria (A/CONF.39/C.1/L.240). Amendments by France (A/CONF.39/C.1/L.46) and Australia (A/CONF.39/C.1/L.237) had been left in abeyance.[16] At the 84th meeting the French amendment had been withdrawn. The Australian amendment had been rejected at the 86th meeting.

48. The Drafting Committee had taken the view that the amendment by Czechoslovakia was unnecessary because its substance was already contained in the text. On the other hand, it had adopted with a slightly altered wording the joint amendment by Bulgaria, Romania and Syria. It had also made certain drafting changes in accordance with rule 48 of the rules of procedure.

Article 37 was approved.[17]

The meeting rose at 5 p.m.

[14] For the adoption of article 36, see 16th plenary meeting.

[15] For earlier discussion of article 37, see 86th meeting, paras. 2-12.

[16] See 37th meeting, paras. 55 and 56, and footnote 5 to the record of that meeting.

[17] For the adoption of article 37, see 16th plenary meeting.

NINETY-SECOND MEETING

Thursday, 17 April 1969, at 3.20 p.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)*

Proposed new articles 62 bis, *62* ter, *62* quater *and 76* [1]

1. The CHAIRMAN invited the Committee to consider together the four proposed new articles, numbered 62 *bis,* 62 *ter,* 62 *quater* and 76.

2. In the case of article 62 *bis,* the thirteen-State amendment (A/CONF.39/C.1/L.352/Rev. 2) originally submitted at the first session had now been replaced by a nineteen-State amendment (A/CONF.39/C.1/L.352/Rev.3 and Corr.1 and Add.1 and 2),[2] while there was also before the Committee the proposal by Switzerland (A/CONF.39/C.1/L.377). The amendments to article 62 submitted at the first session by the United States (A/CONF.39/C.1/L.355) and Uruguay (A/CONF.39/C.1/L.343) had been withdrawn on the understanding that the sponsors reserved the right to resubmit them at the second session in connexion with the proposed new article 62 *bis.* The Japanese amendment to article 62 (A/CONF.39/C.1/L.339) would be considered in connexion with the proposed new article 62 *bis,* as requested by the Japanese delegation.

[1] For the texts of these and related proposals, see the report of the Committee of the Whole on its work at the second session (A/CONF.39/15 and Corr.2), paras. 98, 108, 115 and 131.

[2] The sponsors were Austria, Bolivia, Central African Republic, Colombia, Costa Rica, Dahomey, Denmark, Finland, Gabon, Ivory Coast, Lebanon, Madagascar, Malta, Mauritius, Netherlands, Peru, Sweden, Tunisia and Uganda.