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99th meeting of the Committee of the Whole

Extract from the *Official Records of the United Nations Conference on the Law of Treaties, Second Session (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

also safeguarded the lawful rights of the parties to the dispute.

70. Mr. KRISHNA RAO (India), replying to representatives who had criticized the relevance of the passage he had quoted at the 96th meeting, said that the Court, in its judgement in the *North Sea Continental Shelf* cases, had stated that the parties were under an obligation to enter into negotiations with a view to arriving at an agreement; it had shown itself more realistic on that point than the sponsors of article 62 *bis* by stating that judicial or arbitral settlement was not universally accepted. The representative of the Federal Republic of Germany had referred to that passage at the previous meeting and had given his interpretation of the Court's decision. Delegations could form their own opinion on the subject by consulting the relevant portion of the Court's judgement.

71. In reply to the comments of the Netherlands representative on the same point, he said that the case in question had been referred to the Court by mutual consent of the parties and not by the means advocated in the nineteen-State amendment, namely arbitration or judicial settlement.

The meeting rose at 1 p.m.

NINETY-NINTH MEETING

Tuesday, 22 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 and 62 quater (continued)*¹

1. The CHAIRMAN invited the Committee to reach a decision on the three proposed new articles 62 *bis*, 62 *ter* and 63 *quater*.

2. Mr. DADZIE (Ghana) said that at its first session the Conference had reached the point when it had become saturated with proposals for machinery for the settlement of disputes regarding the application of treaties. Although some proposals had been carefully thought out, it had been obvious that none would obtain general acceptance. Wisdom had prevailed at that stage, and a vital decision had been taken which had made it possible to resume consideration of the subject at the present session with great hopes. Once again, however, a similar situation had been reached. Was the Conference now to run the risk of ruining the achievements of two years' painstaking effort? In his view, it would be far wiser to continue the attempt to

reach a compromise solution, and his delegation was working on such a compromise at that moment. He therefore formally moved the adjournment of the debate on the proposed new article 62 *bis* for forty-eight hours, under rule 25 of the rules of procedure.

3. The CHAIRMAN said that, under rule 25, two representatives might speak in favour of, and two against, the motion for adjournment.

4. Mr. ABED (Tunisia) said that to adjourn the debate at that stage after spending many days in discussing article 62 *bis* did not, in his delegation's view, constitute a solution. Continued postponement would merely delay the Committee's work, and the time had come to proceed to a vote, particularly since the proposed article 62 *bis* already represented a compromise.

5. Mr. NEMECEK (Czechoslovakia) said that his delegation supported the Ghanaian representative's proposal for adjournment, since informal discussions were still continuing which should lead to a compromise proposal. Adjournment could not do any harm, and should help to promote a harmonious atmosphere in the Committee's work.

6. Mr. NASCIMENTO E SILVA (Brazil) said that, although his delegation was a prospective loser in the vote about to be taken, he was in favour of proceeding to the vote immediately. The Committee had had a whole year in which to consider the subject, and another forty-eight hours was not likely to make any difference. Once the vote had been taken, delegations would know how they stood and what further action to take. If no proposal received a two-thirds majority, further efforts could be made to reach a compromise solution.

7. Mr. BHOI (Kenya) said he supported the motion for adjournment since he believed that a last-ditch effort might help to achieve a compromise.

8. The CHAIRMAN put to the vote the Ghanaian representative's motion for adjournment of the debate for forty-eight hours.

The motion for adjournment was rejected by 46 votes to 44, with 7 abstentions.

9. The CHAIRMAN said that one or two delegations wished to explain their intended votes in advance. As soon as they had done so he would put to the vote all the amendments before the Committee for, or relating to, the proposed new articles 62 *bis*, 62 *ter* and 62 *quater*.

10. Mr. EL HASSIN EL HASSAN (Sudan) said that his delegation was against the inclusion in the convention of any form of provision for the compulsory settlement of disputes. The convention was intended to apply to all treaties and it was therefore essential that the freedom of choice of the parties should be safeguarded. Article 62 was adequate for that purpose. Moreover, since its purpose was to codify international law, the convention should be acceptable to as many delegations as possible. The opposition expressed to article 62 *bis* would lessen the chances of the convention

¹ For the resumption of the discussion of the proposed new article 76, see 100th meeting.

being accepted if such an article were included in it. His delegation was, however, in favour of the amendment by India, Indonesia, the United Republic of Tanzania and Yugoslavia (A/CONF.39/C.1/L.398) which would make article 62 *bis* optional, and he hoped that that amendment would meet the wishes of all delegations.

11. Mr. FUJISAKI (Japan) said that if his delegation's amendment (A/CONF.39/C.1/L.339) was rejected, he would vote in favour of the nineteen-State amendment (A/CONF.39/C.1/L.352/Rev.3 and Corr.1 and Add.1 and 2) which fulfilled the minimum requirements for ensuring an impartial solution to disputes and was the best compromise formula available at that time. He could not support the amendments by Thailand (A/CONF.39/C.1/L.387) and by India, Indonesia, the United Republic of Tanzania and Yugoslavia (A/CONF.39/C.1/L.398), because they would destroy the whole system of compulsory settlement of disputes. He would, however, vote for the amendment by Ceylon (A/CONF.39/C.1/L.395) which would not prejudice the basic principle of article 62 *bis*.

12. Mr. DADZIE (Ghana) said his delegation's position was that the convention should include an effective means of settling disputes. An effective means did not necessarily mean what was acceptable to the majority; in order to be effective, any system proposed must command acceptance by the international community as a whole. Consequently, having been prevented from continuing the search for another compromise, his delegation had no choice but to vote against the proposed article 62 *bis*.

13. Mr. VARGAS (Chile) requested a roll-call vote on all the amendments and sub-amendments to the draft articles concerning the proposed new articles 62 *bis*, 62 *ter*, and 62 *quater*.

14. The CHAIRMAN invited the Committee to vote first on the amendment by Switzerland proposing a new article 62 *bis* (A/CONF.39/C.1/L.377).

Austria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Austria, Barbados, Belgium, Cambodia, Canada, Chile, Denmark, Dominican Republic, Federal Republic of Germany, Finland, France, Greece, Holy See, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, Philippines, Republic of Korea, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Australia.

Against: Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Ethiopia, Ghana, Hungary, India, Indonesia, Iran, Iraq, Israel, Kenya, Kuwait, Libya, Malaysia, Mauritius, Mexico, Mongolia, Nigeria, Pakistan, Panama, Poland, Romania, Saudi Arabia, Sierra Leone, South Africa, Sudan, Syria, Thailand, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yugoslavia, Afghanistan, Algeria, Argentina.

Abstaining: Central African Republic, Ceylon, China, Colombia, Costa Rica, Ecuador, El Salvador, Gabon, Guatemala, Guyana, Honduras, Ivory Coast, Jamaica, Lebanon,

Madagascar, Netherlands, Peru, Portugal, Republic of Viet-Nam, Senegal, Singapore, Spain, Sweden, Trinidad and Tobago, Tunisia, United States of America, Zambia.

The Swiss amendment (A/CONF.39/C.1/L.377) was rejected by 47 votes to 28, with 27 abstentions.

15. The CHAIRMAN invited the Committee to vote on the amendment by Japan (A/CONF.39/C.1/L.339) which had been resubmitted in connexion with the proposed new article 62 *bis*.

Tunisia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United Kingdom of Great Britain and Northern Ireland, Uruguay, Australia, Austria, Barbados, Belgium, Cambodia, Canada, Chile, China, Denmark, Dominican Republic, El Salvador, Federal Republic of Germany, Finland, France, Holy See, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Mauritius, Monaco, New Zealand, Norway, Pakistan, Philippines, Republic of Korea, Republic of Viet-Nam, Switzerland.

Against: Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yugoslavia, Zambia, Afghanistan, Algeria, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Ecuador, Ethiopia, Gabon, Ghana, Hungary, India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Kenya, Kuwait, Libya, Malaysia, Mongolia, Nigeria, Panama, Poland, Romania, Saudi Arabia, Senegal, Sierra Leone, South Africa, Spain, Sudan, Syria, Thailand.

Abstaining: Turkey, United States, of America, Central African Republic, Ceylon, Colombia, Costa Rica, Greece, Guatemala, Guyana, Honduras, Jamaica, Lebanon, Madagascar, Mexico, Netherlands, Peru, Portugal, Singapore, Sweden, Trinidad and Tobago.

The Japanese amendment (A/CONF.39/C.1/L.339) was rejected by 51 votes to 31, with 20 abstentions.

16. The CHAIRMAN invited the Committee to vote on the sub-amendment submitted by India, Indonesia, the United Republic of Tanzania and Yugoslavia (A/CONF.39/C.1/398) to the amendment by Austria, Bolivia, Central African Republic, Colombia, Costa Rica, Dahomey, Denmark, Finland, Gabon, Ivory Coast, Lebanon, Madagascar, Malta, Mauritius, Netherlands, Peru, Sweden, Tunisia and Uganda A/CONF.39/C.1/L.352/Rev.3 and Corr.1 and Add.1 and 2).

Afghanistan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Afghanistan, Algeria, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, Ethiopia, Hungary, India, Indonesia, Iran, Iraq, Israel, Kuwait, Libya, Malaysia, Mongolia, Poland, Romania, Saudi Arabia, Sierra Leone, Singapore, South Africa, Sudan, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yugoslavia.

Against: Australia, Austria, Barbados, Belgium, Canada, Central African Republic, Ceylon, Chile, China, Colombia,

Denmark, El Salvador, Federal Republic of Germany, Finland, France, Gabon, Greece, Guyana, Holy See, Honduras, Ireland, Italy, Ivory Coast, Jamaica, Japan, Lebanon, Liechtenstein, Luxembourg, Mexico, Monaco, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Republic of Viet-Nam, Senegal, Spain, Sweden, Switzerland, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Zambia.

Abstaining: Argentina, Bolivia, Cameroon, Costa Rica, Cyprus, Dominican Republic, Ecuador, Ghana, Guatemala, Kenya, Liberia, Madagascar, Mauritius, Nigeria, Portugal, Republic of Korea, Trinidad and Tobago, Turkey, Uganda.

The sub-amendment (A/CONF.39/C.1/L.398) was rejected by 47 votes to 37, with 19 abstentions.

17. The CHAIRMAN invited the Committee to vote on the amendment proposing a new article 62 *bis* by Austria, Bolivia, Central African Republic, Colombia, Costa Rica, Dahomey, Denmark, Finland, Gabon, Ivory Coast, Lebanon, Madagascar, Malta, Mauritius, Netherlands, Peru, Sweden, Tunisia and Uganda (A/CONF.39/C.1/L.352/Rev.3 and Corr.1 and Add.1 and 2).

Brazil, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Cameroon, Canada, Central African Republic, Ceylon, China, Colombia, Costa Rica, Denmark, Ecuador, El Salvador, Federal Republic of Germany, Finland, France, Gabon, Greece, Guyana, Holy See, Honduras, Ireland, Italy, Ivory Coast, Jamaica, Japan, Lebanon, Liechtenstein, Luxembourg, Madagascar, Mauritius, Mexico, Monaco, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Republic of Korea, Republic of Viet-Nam, Senegal, Sweden, Switzerland, Trinidad and Tobago, Tunisia, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Zambia, Australia, Austria, Barbados, Belgium, Bolivia.

Against: Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ethiopia, Ghana, Hungary, India, Indonesia, Iran, Iraq, Israel, Kuwait, Libya, Malaysia, Mongolia, Poland, Romania, Saudi Arabia, Sierra Leone, South Africa, Sudan, Syria, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Afghanistan, Algeria.

Abstaining: Cambodia, Chile, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, Guatemala, Kenya, Liberia, Nigeria, Portugal, Singapore, Spain, Yugoslavia, Argentina.

The nineteen-State amendment (A/CONF.39/C.1/L.352/Rev.3 and Corr.1 and Add.1 and 2) was adopted by 54 votes to 34, with 14 abstentions.

18. Mr. DE CASTRO (Spain) said that he wished to withdraw his amendment (A/CONF.39/C.1/L.391) but to reserve the right to resubmit it at a later stage in the session.

19. The CHAIRMAN said that the amendment by Thailand (A/CONF.39/C.1/L.387) had also been withdrawn. He invited the Committee to vote on the amendment by Ceylon for a new article 62 *ter* (A/CONF.39/C.1/L.395).

Trinidad and Tobago, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Trinidad and Tobago, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Zambia, Austria, Belgium, Canada, Ceylon, Chile, Cyprus, Denmark, Federal Republic of Germany, Finland, Guatemala, Ireland, Israel, Jamaica, Japan, Kenya, Lebanon, Liechtenstein, Mauritius, Mexico, Pakistan, Peru, Republic of Korea, Sweden.

Against: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Venezuela, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cuba, Ecuador, El Salvador, France, Gabon, Greece, Hungary, India, Indonesia, Italy, Ivory Coast, Kuwait, Malaysia, Monaco, Mongolia, Poland, Romania, Saudi Arabia, South Africa, Thailand.

Abstaining: Tunisia, Turkey, United Arab Republic, United States of America, Yugoslavia, Afghanistan, Algeria, Argentina, Australia, Barbados, Brazil, Cambodia, Cameroon, Central African Republic, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Czechoslovakia, Ethiopia, Ghana, Guyana, Holy See, Honduras, Iran, Iraq, Liberia, Libya, Luxembourg, Madagascar, Netherlands, New Zealand, Nigeria, Norway, Panama, Philippines, Portugal, Republic of Viet-Nam, Senegal, Sierra Leone, Singapore, Spain, Sudan, Switzerland, Syria.

The amendment by Ceylon (A/CONF.39/C.1/L.395) was rejected, 28 votes being cast in favour and 28 against, with 46 abstentions.

20. Mr. HOSTERT (Luxembourg) said that he wished to withdraw his amendment proposing a new article 62 *ter* (A/CONF.39/C.1/L.397 and Corr.1) but to reserve the right to resubmit it later in the session.

21. The CHAIRMAN invited the Committee to vote on the Swiss amendment proposing a new article 62 *quater* (A/CONF.39/C.1/L.393 and Corr.1).

Thailand, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Argentina, Australia, Austria, Barbados, Belgium, Brazil, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Denmark, Federal Republic of Germany, Finland, France, Guatemala, Guyana, Holy See, Honduras, Ireland, Israel, Italy, Japan, Lebanon, Liechtenstein, Luxembourg, Mauritius, Mexico, Monaco, New Zealand, Norway, Peru, Philippines, Portugal, Republic of Korea, Republic of Viet-Nam, South Africa, Sweden, Switzerland.

Against: Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Algeria, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ecuador, Hungary, India, Indonesia, Malaysia, Mongolia, Poland, Romania, Syria.

Abstaining: Tunisia, Uganda, Venezuela, Yugoslavia, Zambia, Afghanistan, Cambodia, Cameroon, Central African Republic, Congo (Brazzaville), Congo (Democratic Republic of), Cyprus, El Salvador, Ethiopia, Gabon, Ghana, Greece, Iran, Iraq, Ivory Coast, Jamaica, Kenya, Kuwait, Liberia, Libya, Madagascar, Netherlands, Nigeria, Pakistan, Panama, Saudi Arabia, Senegal, Sierra Leone, Singapore, Spain, Sudan.

The Swiss amendment (A/CONF.39/C.1/L.393 and Corr.1) was adopted by 45 votes to 21, with 36 abstentions.

22. The CHAIRMAN suggested that article 62 *bis* be now referred to the Drafting Committee, together with the Swiss proposal for a new article 62 *quater* (A/CONF.39/C.1/L.393 and Corr.1), which had been adopted.

*It was so agreed.*²

23. Mr. SEOW (Singapore), explaining his votes, said that although Singapore subscribed to the principle that any dispute regarding the validity, termination or suspension of a treaty should be settled on the basis of law and justice, his delegation had nevertheless abstained from voting on article 62 *bis* in its several forms. In view of the fact that the convention on the law of treaties would have general application and that certain treaties, by their very nature, were not justiciable according to law, his delegation felt that a settlement provision of such general application would not perhaps be appropriate. In any event, in most of his country's treaties with other friendly countries, provision was made for settlement procedures and it was the intention of Singapore to continue with that practice.

TEXTS PROPOSED BY THE DRAFTING COMMITTEE

24. The CHAIRMAN invited the Chairman of the Drafting Committee to introduce articles 8, 55 and 66 as adopted by the Drafting Committee.

*Article 8 (Adoption of the text)*³

25. Mr. YASSEEN, Chairman of the Drafting Committee, said that the text proposed for article 8 by the Drafting Committee read:

Article 8

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.

2. The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States participating in the conference, unless by the same majority they shall decide to apply a different rule.

26. As a result of the decisions taken by the Committee of the Whole at its 91st meeting the only amendments to be considered by the Drafting Committee had been those by Austria (A/CONF.39/C.1/L.379) and by Ceylon (A/CONF.39/C.1/L.43). The Drafting Committee had accepted the amendment by Austria to replace in paragraph 1 the words "the unanimous consent of the States" by the words "the consent of all the States". The Committee had felt that that amendment would render the text more flexible. It

² For the resumption of the discussion in the Committee of the Whole, see 105th meeting.

³ For earlier discussion of article 8, see 91st meeting, paras. 27-33.

had not accepted the amendment by Ceylon to add a new paragraph 3 reading: "3. The adoption of the text of a treaty by an international organization takes place by action of a competent organ of such organization according to its rules."

27. The Drafting Committee had taken the view that, although that proposed provision might be correct, it was not necessary and was not even useful, because the question with which it dealt was already covered by article 4, which contained a general reservation with regard to the practice of international organizations.

28. The Drafting Committee had made certain drafting changes to the French version of the article, in accordance with rule 48 of the rules of procedure.

*Article 8 was approved.*⁴

*Article 55 (Temporary suspension of the operation of a multilateral treaty by consent between certain of the parties only)*⁵

29. Mr. YASSEEN, Chairman of the Drafting Committee, said that the text proposed for article 55 by the Drafting Committee read:

Article 55

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

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

(b) The suspension 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) Is not incompatible with the object and purpose of the treaty.

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 those provisions of the treaty the operation of which they intend to suspend.

30. At the first session, the Committee of the Whole had adopted the principle contained in a six-State amendment proposing a new wording for article 55 (A/CONF.39/C.1/L.321 and Add.1) and had referred to the Drafting Committee three amendments by Australia (A/CONF.39/C.1/L.324), France (A/CONF.39/C.1/L.47) and Peru (A/CONF.39/C.1/L.305) respectively. At the present session, the amendments by Australia and France had been withdrawn.

31. The Drafting Committee had recast the wording proposed in the six-State amendment in order to bring it into line with that of article 37 because, as the International Law Commission had noted in its commentary to article 55, articles 37 and 55 dealt with two analogous questions. The first dealt with agreements for the

⁴ For further discussion and adoption of article 8, see 8th and 9th plenary meetings.

⁵ For earlier discussion of article 55, see 86th meeting, paras. 13-18.

purpose of modifying multilateral treaties between certain of the parties only while the second dealt with agreements to suspend the operation of a multilateral treaty temporarily as between certain of the parties only.

32. The Peruvian amendment (A/CONF.39/C.1/L.305) proposed the insertion in article 55 of a provision making it obligatory for parties wishing to conclude an agreement to suspend the operation of a multilateral treaty as between themselves alone to notify the other parties of their intention. A provision of that kind was also included in the six-State amendment and the Drafting Committee had considered it necessary to include it. It had covered that point by means of paragraph 2 of the text it now proposed.

33. He had been asked by the Drafting Committee to clarify the meaning and scope of the opening clause of paragraph 1, which read "Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if...". The Drafting Committee considered that, by referring to an agreement to suspend the "operation of provisions" of the treaty, that provision permitted the conclusion of agreements to suspend the operation either of some of the provisions of the treaty only, or of all the provisions of the treaty.

*Article 55 was approved.*⁶

*Article 66 (Consequences of the termination of a treaty)*⁷

34. Mr. YASSEEN, Chairman of the Drafting Committee, said that the text proposed for article 66 by the Drafting Committee read:

Article 66

1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:

(a) Releases the parties from any obligation further to perform the treaty;

(b) Does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.

2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

35. At the first session, the Committee of the Whole had referred article 66 to the Drafting Committee with only one amendment, that by France (A/CONF.39/C.1/L.49). That amendment had been withdrawn at the second session and the Committee of the Whole, at its 86th meeting, had approved in principle the text formulated by the International Law Commission. The Drafting Committee had accordingly confined itself to making some slight drafting changes in the French,

Russian and Spanish versions of article 66, in accordance with rule 48 of the rules of procedure.

*Article 66 was approved.*⁸

The meeting rose at 5.20 p.m.

⁸ For the adoption of article 66, see 23rd plenary meeting.

ONE HUNDREDTH MEETING

Wednesday, 23 April 1969, at 11 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)

*Final clauses (including proposed new articles 76 and 77)*¹

1. The CHAIRMAN invited the Committee to consider proposals relating to the final clauses, including proposals for new articles to be numbered 76 and 77.

2. As the proposed new article 76 submitted by the Spanish delegation (A/CONF.39/C.1/L.392) derived from that delegation's amendment to article 62 *bis* (A/CONF.39/C.1/L.391) which had been withdrawn at the previous meeting, that proposal too might be regarded as withdrawn.

3. The proposal by Switzerland (A/CONF.39/C.1/L.250) for a new article 76 was still before the Committee.

4. Mr. NASCIMENTO E SILVA (Brazil) said that the proposal of which his delegation was a co-sponsor (A/CONF.39/C.1/L.386/Rev.1) was based on the formula adopted in the Vienna Conventions of 1961 and 1963 on Diplomatic and Consular Relations, with some changes necessitated by certain provisions in the future convention on the law of treaties.

¹ Proposals of a general character for the final clauses had been submitted by Brazil and the United Kingdom of Great Britain and Northern Ireland (A/CONF.39/C.1/L.386/Rev.1) and by Hungary, Poland, Romania and the Union of Soviet Socialist Republics (A/CONF.39/C.1/L.389 and Corr.1).

Amendments to the proposal by Brazil and the United Kingdom of Great Britain and Northern Ireland had been submitted by Ghana and India (A/CONF.39/C.1/L.394) and by Switzerland (A/CONF.39/C.1/L.396).

Proposals for a new article 76 had been submitted by Switzerland (A/CONF.39/C.1/L.250) and by Spain (A/CONF.39/C.1/L.392) (see 92nd meeting, para. 4).

Proposals for a new article 77 had been submitted by Venezuela (A/CONF.39/C.1/L.399) and by Brazil, Chile, Kenya, Sweden and Tunisia (A/CONF.39/C.1/L.400). Amendments to the latter proposal had been submitted by Spain (A/CONF.39/C.1/L.401) and by Iran (A/CONF.39/C.1/L.402). Subsequently a further proposal (A/CONF.39/C.1/L.403) was submitted by Brazil, Chile, Iran, Kenya, Sweden, Tunisia and Venezuela.

⁶ For the adoption of article 55, see 21st plenary meeting.

⁷ See 86th meeting, para. 19.