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blics), speaking on a point of order, said that under rule 39 of the rules of procedure, when the President had announced the beginning of the voting, no representative was allowed to interrupt the voting procedure unless he was speaking on a point of order relating to the actual conduct of the voting.

30. The PRESIDENT confirmed that under rule 39 of the rules of procedure, the Netherlands representative could not speak except on a question connected with the voting.

31. Mr. ESCHAUZIER (Netherlands) said that it had not been his intention to speak on a point of order but to make a few comments on article 62 *bis*. Among other things, he had wished to express his sincere regret to the representatives of India, Nigeria and Ghana, with whom he had co-operated closely, at not having been able to reach an agreement. He would still like to make a few comments, but would refrain from doing so because of rule 39 of the rules of procedure.

At the request of the representative of Australia, the vote was taken by roll-call.

Argentina, having been drawn by lot by the President, was called upon to vote first.

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

Against: Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, Ethiopia, Hungary, India, Indonesia, Iran, Iraq, Kenya, Kuwait, Malaysia, Mongolia, Morocco, Nepal, Nigeria, Poland, Romania, Saudi Arabia, Sierra Leone, South Africa, Sudan, Syria, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yugoslavia, Afghanistan, Algeria.

Abstaining: Argentina, Brazil, Ghana, Israel, Liberia, Libya, Singapore, Thailand, Trinidad and Tobago, Zambia.

The result of the vote was 62 in favour and 37 against, with 10 abstentions.

Article 62 bis *and annex I to the convention were not adopted, having failed to obtain the required two-thirds majority.*

32. Mr. BADEN-SEMPER (Trinidad and Tobago), explaining why his delegation had decided to abstain on article 62 *bis*, said that during the last few days, sincere efforts had been made to arrive at a compromise which might have obtained wide support in the Conference. In spite of those efforts, the Conference had had to vote on a provision which failed to take into account the negotiations held. His delegation had not been prepared to vote in favour of a provision which might have divided the Conference and had threatened to exclude a large minority of the international community from a very important convention.

The meeting rose at 1 p.m.

TWENTY-EIGHTH PLENARY MEETING

Friday, 16 May 1969, at 3.35 p.m.

President: Mr. AGO (Italy)

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)*

ARTICLES APPROVED BY THE COMMITTEE OF THE WHOLE *(continued)*

Article 62 bis (Procedures for conciliation and arbitration) *and annex I to the convention* (continued)

1. The PRESIDENT invited representatives to continue their explanations of vote on article 62 *bis*.

2. Mr. BINDSCHEDLER (Switzerland) said that the explanation of his delegation's vote would have been the same had article 62 *bis* been adopted. Switzerland had voted in favour of article 62 *bis* only because it was better than nothing at all. It did not wish to become identified with the content of an article which was inadequate in a number of important respects, as the representative of Sweden had pointed out. First, there was the composition of the conciliation commission or arbitral tribunal. Under the article, the power of decision was left to a single person, the chairman. That might be satisfactory in interpreting technical conventions, such as air navigation agreements, but would hardly do for more important disputes. Secondly, the article would have led to the establishment of additional organs for which there was really no need. Thirdly, the procedure proposed for the settlement of disputes would have hampered the consistent development of international law; a particular arbitral tribunal might find that a specific norm constituted *jus cogens* while another tribunal might decide that the same norm constituted *jus dispositivum*.

3. Again, the article made no mention of the International Court of Justice. Had article 62 *bis* been adopted, the Court would have been quietly bypassed. Some of the Court's judgements might be open to criticism, but that did not mean that the institution itself should be condemned. It was, after all, a principal organ of the United Nations. Moreover, some thought should be given to the future. The Court had the advantage of being an institution whose composition was known. The States parties to its Statute were free to appoint the judges with the best qualifications; they could even amend the Court's Statute and rules of pro-

cedure. That might become necessary in the near future, since there were a number of gaps to be filled. Moreover, the Court provided an assurance of uniformity in case law, because it endeavoured to avoid inconsistency in its decisions.

4. Attempts had been made to reach a compromise on article 62 *bis,* but they had failed because the compulsory settlement of international disputes did not lend itself to compromise. Some States were in favour of it while others would accept it, but only for bilateral treaties and in specific cases; still others were opposed to compulsory settlement as a matter of principle. That was the present position, but he hoped that one day ideological and political differences would have narrowed sufficiently to allow a universally acceptable system to be established. Switzerland would continue to work towards that goal.

5. Mr. TOPANDE MAKOMBO (Central African Republic) said that he had abstained from voting on article 62 pending a decision on article 62 *bis,* of which his delegation had been a co-sponsor. Since article 62 *bis* had not been adopted, it had no cause to regret its abstention on article 62.

6. Mr. RUIZ VARELA (Colombia) said that the Conference's failure to adopt article 62 *bis,* of which his delegation had been a co-sponsor, was most regrettable. All that was left was the procedure laid down in article 62 with respect to the invalidity, termination, withdrawal from or suspension of the operation of a treaty.

7. The Colombian delegation had voted in favour of article 62 in the hope that article 62 *bis* would be adopted. It was clear now that political factors had once again been allowed to prevail over legal considerations. Article 62 was manifestly inadequate for the settlement of disputes arising from international treaties. Reference was made in the article to the conventional procedures for settlement mentioned in Article 33 of the United Nations Charter. The parties to a dispute would select whatever procedure they wished, no compulsory machinery being provided. The purpose of article 62 *bis* had been precisely to establish an automatic procedure for the settlement of disputes arising from treaties and to do so in a way which safeguarded the autonomy and sovereignty of the parties and, in particular, the stability of international relations based on treaties.

8. Some delegations had argued that it was still too soon for the international community to accept compulsory methods for the settlement of disputes arising from treaties. That was a surprising argument considering that the United Nations Charter, together with its Article 33, had been signed as long ago as 1945. Inter-State practice showed that the time had come to adapt the content, scope and practical application of Article 33 of Charter to the requirements of the present-day world.

9. Mr. REDONDO-GOMEZ (Costa Rica) said that his delegation had co-sponsored article 62 *bis* in the firm conviction that some practical and effective machinery was required for the settlement of disputes arising out of treaties. The article had not been adopted and it remained for him to express regret that the Conference had lost an opportunity to provide the international community with an instrument which would have contributed to the stability and harmony of relations between States.

10. Mr. TODORIC (Yugoslavia) said that his delegation had voted against article 62 *bis,* not because it objected to compulsory arbitration but because the article had failed to commend itself to a great many countries. Yugoslavia was convinced that the convention on the law of treaties should be the product of general agreement and that the machinery it provided for the settlement of disputes should be acceptable to as many States as possible. Only thus would the interests of the international community and the cause of friendly and peaceful co-operation among States be served, in accordance with the principles of the United Nations Charter.

11. Mr. FATTAL (Lebanon) said that there was no need to feel disappointed over the result of the vote on article 62 *bis.* Sixty-two States, representing every tendency except Marxism, had voted in favour of the article, a record figure compared with the number of votes cast for similar provisions at earlier Conferences. After all, sixty-three vote constituted an absolute majority in the United Nations General Assembly. The seed had been sown and would slowly bear fruit.

12. Mr. MOLINA ORANTES (Guatemala) said that his delegation had voted in favour of article 62 *bis* because the new text submitted to the Conference took account in a satisfactory manner of the comments by the Guatemalan representative at the 97th meeting of the Committee of the Whole on some questions of procedure. It was only because of those questions that his delegation had been obliged to abstain from voting at the Committee stage.

13. Mr. KHLESTOV (Union of Soviet Socialist Republics) said he was very satisfied with the result of the vote on article 62 *bis*; thirty-seven countries, representing every different shade of social and other system, had voted against that article, and his own delegation, like the other delegations of socialist countries, had been among them. The rejection of article 62 *bis* now opened the way for serious negotiations for a compromise solution. It was clear that different countries attached great importance to different questions; for some it was the principle of universality, for others it was procedure, and there were yet other approaches. The present circumstances offered favourable opportunities for arriving at a compromise, and every delegation should consider how many steps it could possibly take towards achieving the complex solution which would lead to a generally acceptable convention on the law of treaties. It should be remembered that the convention represented twenty years' work by the International Law Commission, and two years' work in the General Assembly and the Conference.

14. Mr. N'DONG (Gabon) said that the votes of his

delegation in favour of the various articles dealing with the invalidity of treaties had of course been conditional upon the adoption of article 62 *bis*. Following the rejection of article 62 *bis*, his Government would find it difficult to subscribe to a convention which did not include sufficient safeguards on the procedure applicable to the settlement of disputes. The rejection of the formula for a compulsory procedure naturally left the door open to the manœuvres mentioned in articles 46 to 50, against which article 62 *bis* would have protected States. It was the whole future of international treaty relations that was thus threatened.

15. He therefore wished to place on record the fact that his delegation would be obliged to renconsider its position when the time came to vote on the convention as a whole.

16. Mr. MUTUALE (Democratic Republic of the Congo) said that his delegation had voted against article 62 *bis* for the reasons he had stated at an earlier meeting, not because his country belonged to any ideological camp, Marxist or other.

17. Mr. BILOA TANG (Cameroon) said that his delegation did not feel any regret or bitterness following the vote on article 62 *bis*. His delegation was one of those which felt that article 62, with its reference to Article 33 of the Charter, was not sufficient and that article 62 *bis* provided the essential complement to article 62. Article 62 *bis* reflected up-to-date concepts in international law. The fact that the machinery for the compulsory settlement of disputes had not always been used was no reason for discarding it. It was the duty of jurists not only to formulate the rules of law but, even more important, to ensure that they were applied. His delegation hoped that a satisfactory solution to the problem might still be found.

18. Mr. KEARNEY (United States of America) said that the United States had always supported all the articles in Part V; it had also proposed improvements, some of which had been accepted. But, in supporting those articles, not only at the first and second sessions in the Committee of the Whole, but before that in the Sixth Committee, and again before that in its comments to the United Nations on the draft articles, the United States had always made one point perfectly clear, which was that it could only accept articles such as those in Part V if the convention contained an adequate system for the impartial settlement of disputes.

19. He was gratified that so many other States, such a large majority, had agreed with the United States, as shown by the vote at the previous meeting. However, as a result of that vote, a minority of the Conference had deleted from the convention the safeguards which the United States had always regarded as essential, and as a consequence his delegation was faced with a difficult problem. Although it supported Part V, he did not see how in good conscience it could vote for any of the remaining articles in Part V in the absence of any satisfactory means of settling disputes.

20. His delegation could, of course, now begin to vote against the remaining articles in Part V, but he did not consider that that was a reasonable position to take, because it might be that the Conference had not yet exhausted all possible remedies to the situation; he would be reluctant to put himself in a somewhat similar position to that of many representatives who had stated at the previous meeting that they would vote against article 62 *bis* because they were in favour of an adequate method of third-party settlement of disputes. The United States had therefore decided to abstain from voting on the remaining articles in Part V, and would consequently be obliged to abstain also from voting on the excellent technical amendment to article 63 by the Federal Republic of Germany.

21. The United States would remain open to any suggestions for a reintroduction into the convention of adequate means for third-party settlement of disputes. The record showed, and most delegations would confirm, that the United States had laboured hard to find a solution acceptable to as broad a group of delegations as possible. At the present stage he was not aware that any such solution was still possible, but he would remain receptive to any proposal that might be made.

22. Sir Francis VALLAT (United Kingdom) said that his delegation fully shared the views just expressed by the United States representative.

23. Mr. KRISHNA RAO (India) said that what had happened at the previous meeting represented a victory for no one, and a defeat for no one. He was most grateful to the representatives of the Netherlands, Sweden, Nigeria, the United States of America and the Union of Soviet Socialist Republics, as well as to others who had participated in the search for a compromise in the past few days. He fully understood what had led the United States representative to make his last statement, although he himself would prefer not to refer to a majority or minority vote; he had never believed in a vote, and had always preferred to work towards a compromise.

24. He would appeal to the representatives of the United States of America and the United Kingdom not to give up hope of reaching an agreement; efforts should still be made to seek some formula that could win the approval of all sides at the Conference. Until that was achieved, it would be a mistake to give up. Even if the final result was failure, at least there would be the consolation of having tried, instead of just resorting to non-participation or abstention. Those delegations that did not like article 62 *bis* believed in a compromise solution, and would continue to work for such a solution.

25. Mr. YAPOBI (Ivory Coast), referring to the appeal by the representative of India, said that the Ivory Coast believed there was still time to find a solution that would enable all the States participating in the Conference to vote for a compromise formula and sign the convention. His delegation therefore felt no bitterness about what had happened over article 62 *bis*. However, if a compromise solution could not be found, the Ivory Coast would, to its regret, be unable to sign the convention, since its Government, and certain other African

Governments, considered that the guarantee required in relation to Part V of the convention was in fact the guarantee provided in article 62 *bis*.

26. He much regretted that at the previous meeting procedural grounds had been invoked to prevent the representative of the Netherlands from putting before the Conference, on behalf of those delegations which had sponsored the article, a compromise proposal concerning article 62 *bis*. Those delegations had decided during private consultations that if no solution could be found, the representative of the Netherlands would propose a strict limit to the application of article 62 *bis*, and that was what he had intended to do. The invocation of the rules of procedure on a technical point had prevented the possibility of reaching a solution. Nevertheless his delegation hoped that a solution might still be found, and would therefore continue to vote for the articles in Part V.

27. The PRESIDENT said that he believed that the procedure he had adopted at the preceding meeting with respect to the Netherlands request to make a statement had been entirely correct. He hoped, however, like the representative of the Ivory Coast and other speakers, that a solution might still be found to the problem of article 62 *bis*.

28. He invited the Conference to consider article 63.

Article 63 [1]

Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty

1. Any act for the purpose of declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 62 shall be carried out through an instrument communicated to the other parties.

2. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

29. Mr. FLEISCHHAUER (Federal Republic of Germany) said that his delegation proposed (A/CONF.39/L.37) that article 63 be replaced by a text reading:

1. The notification provided for under article 62, paragraph 1, has to be made in writing.

2. Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 62 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

30. Paragraph 2 of that text reproduced article 63 as adopted by the Committee of the Whole, except that it combined the two paragraphs into one.

31. The essential purpose of his amendment was to introduce a new paragraph 1 to make the written form mandatory for the notification provided for under article 62, paragraph 1, instead of only for instruments in pursuance of paragraphs 2 and 3 and article 62.

32. A proposal on those lines (A/CONF.39/C.1/L.349 and Corr.1) had been made by Switzerland in the Committee of the Whole but had been rejected after the Expert Consultant had confirmed that the notifications provided for in article 62, paragraph 1, should be carried out in accordance with article 73 on notifications. His delegation had since given careful consideration to the matter and had ascertained that nowhere in the convention, neither in article 62, paragraph 1 nor in article 73, nor under general international law, was there any express provision to the effect that notifications must be made in writing. It was true that notifications need not always be made in written form and that sometimes such a requirement might be going too far. On the other hand, international practice showed that there had been cases in which oral notifications had created uncertainties and difficulties for all the parties concerned. It was sufficient in that respect to refer to the well-known case of the Ihlen declaration.[2]

33. If a State invoked, under the provisions of the convention on the law of treaties, either a defect in its consent to be bound by the treaty or a ground for impeaching the validity of the treaty, for terminating or withdrawing from it or for suspending its operation, the situation called for the greatest possible clarity. The State receiving the notification provided for in article 62, paragraph 1, or the depositary through whom the notification was carried out, must know exactly where they stood. The very principle of *pacta sunt servanda* called for the greatest caution and the manifold political, financial, economic and technical interests which were at stake if the procedure provided for under article 62 was initiated made it unthinkable that any doubts should be permitted as to whether that procedure had been initiated, and, if so, on what precise grounds. His delegation therefore believed that the written form was essential for the notification provided for under article 62, paragraph 1.

34. His delegation did not believe, on the other hand, that for notifications under article 62, paragraph 1, an instrument of the solemn kind provided for under the present article 63 with regard to notifications under article 62, paragraphs 2 and 3, was necessary. Any written form should be allowed for the purpose of initiating the procedure — note verbale, memorandum or other instrument, even without a formal signature by the Head of State, Head of Government or Minister for Foreign Affairs; and specific full powers should not be required. For that reason, his delegation had refrained from simply extending the provisions of the present article 63 to the notifications under article 62, paragraph 1, and had proposed instead a new paragraph which simply required that the notification must be made in writing, leaving the precise form to the choice of the State concerned.

[1] For the discussion of article 63 in the Committee of the Whole, see 74th, 81st and 83rd meetings.

An amendment was submitted to the plenary Conference by the Federal Republic of Germany (A/CONF.39/L.37).

[2] See *P.C.I.J., Legal Status of Eastern Greenland* (Series A/B, No. 53).

35. The PRESIDENT invited the Conference to vote on the amendment to article 63 proposed by the Federal Republic of Germany, which had the effect of replacing the whole of article 63 by a new text.

The amendment to article 63 proposed by the Federal Republic of Germany (A/CONF.39/L.37), was adopted by 68 votes to 1, with 29 abstentions.

36. The PRESIDENT said that since the amendment entirely replaced the Committee of the Whole's text of article 63, the original text of article 63 automatically fell and could not be voted on.

37. Mr. ESCUDERO (Ecuador) said that he had voted against the amendment by the Federal Republic of Germany because he considered that paragraph 1 of that amendment was redundant. Paragraph 1 of the original text of article 63 included the words " through an instrument "; that must mean in writing, since he believed that there was no such thing as a verbal instrument.

38. Mr. YAPOBI (Ivory Coast) said he had abstained from voting on the amended version of article 63 for the reasons already given by the representative of Ecuador.

39. Mr. ABED (Tunisia) said that, as one of the sponsors of article 62 *bis,* he had abstained from voting on the amendment by the Federal Republic of Germany for the same reasons as those given earlier by the United States representative.

Article 64 [3]

Revocation of notifications and instruments provided for in articles 62 and 63

A notification or instrument provided for in articles 62 or 63 may be revoked at any time before it takes effect.

Article 64 was adopted by 94 votes to none, with 8 abstentions.

40. Mr. BILOA TANG (Cameroon) said that he thought that the French version of article 64 should read " *avant qu'ils n'aient pris effet* " instead of " *avant qu'ils aient pris effet* ".

41. The PRESIDENT said that the Drafting Committee would take that comment into account.

Statement by the Chairman of the Drafting Committee on articles 2, 31, 32 and 22 and on the proposal for a new article to be inserted between articles 23 and 23 bis.

42. Mr. YASSEEN, Chairman of the Drafting Committee, said that the Drafting Committee had considered, at the Conference's request, the amendment submitted by Belgium (A/CONF.39/L.8) to article 2, paragraph 2. The text proposed by the Committee to the Conference read:

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

43. The purpose of the Belgian amendment was to replace the phrase " are without prejudice to " by the words " do not affect ", but the Committee considered that the former term was more suitable in the context. The question whether an international convention might in the long run affect the terminology used by the legislators of a State concerned that State only, and the Committee therefore could not recommend the adoption of the Belgian amendment.

44. When considering the Belgian amendment, the Drafting Committee had reviewed article 2 as a whole and had noted that sub-paragraph 1 (*h*) provided that " 'third State' means a State not a party to the treaty ". It considered that the expression " third State ", rather than the periphrasis " a State which is not a party to a treaty ", should be used in articles 31 and 32 and had altered the wording of those two articles accordingly.

45. The Drafting Committee had also considered at the Conference's request some oral suggestions regarding article 22, and a new article proposed by Yugoslavia.

46. The Drafting Committee considered that the suggestions regarding article 22 would not be any improvement and it had not therefore proposed any change in the text of article 22 which the Conference had adopted at the 11th plenary meeting.[4]

47. The new article proposed by Yugoslavia (A/CONF.39/L.24) [5] was intended to be inserted between articles 23 and 23 *bis* and read " Every treaty applied provisionally in whole or in part is binding on the contracting States and must be performed in good faith ". The Drafting Committee considered that that was self-evident and that provisional application also fell within the scope of article 23 on the *pacta sunt servanda* rule. Contrary to the decision that had been taken in Vienna more than 150 years before, the Drafting Committee considered that it would be better not to state such an obvious fact. The principle of *pacta sunt servanda* was a general rule, and it could only weaken it to emphasize that it applied to a particular case. The Committee therefore did not recommend the adoption of the proposed new article.

Article 2 (Use of terms)

48. The PRESIDENT invited the Conference to vote on article 2. [6]

Article 2 was adopted by 94 votes to none, with 3 abstentions.

Article 31 [7]

Treaties providing for obligations for third States

An obligation arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to be the

[3] Article 64 was approved by the Committee of the Whole without discussion. See 74th and 83rd meetings.

[4] For a further statement on article 22, see 29th plenary meeting.

[5] In its original form (A/CONF.39/L.21) this was an amendment to article 23. See 12th plenary meeting.

[6] For text, see 7th plenary meeting.

[7] For the discussion of articles 31 and 32, see 14th plenary meeting.

means of establishing the obligation and the third State expressly accepts that obligation in writing.

Article 32 [7]

Treaties providing for rights for third States

1. A right arises for a third State from a provision of a treaty if the parties to the treaty intend the provision to accord that right either to the third State, or to a group of States to which it belongs, or to all States, and the third State assents thereto. Its assent shall be presumed so long as the contrary is not indicated, unless the treaty otherwise provides.

2. A State exercising a right in accordance with paragraph 1 shall comply with the conditions for its exercise provided for in the treaty or established in corformity with the treaty.

49. The PRESIDENT said that the Conference had already adopted articles 31 and 32, but consequential redrafting had been made necessary by the definition of " third State " adopted in article 2, paragraph 1(*h*). He proposed that the Conference therefore decide to treat the texts of articles 31 and 32 as revised by the Drafting Committee as having been adopted.

It was so agreed.

The meeting rose at 4.50 p.m.

TWENTY-NINTH PLENARY MEETING

Monday, 19 May 1969, at 10.30 a.m.

President: Mr. AGO (Italy)

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)*

ARTICLES APPROVED BY THE COMMITTEE OF THE WHOLE *(continued)*

Article 62 bis (Procedures for conciliation and arbitration) *and annex I to the convention* (resumed from the previous meeting)

1. Mr. JAGOTA (India) said he had been instructed to emphasize or two points in the statement made at the 28th meeting by the Chairman of the Indian delegation, who was at present absent. Mr. Krishna Rao had appealed to certain delegations to adopt a constructive attitude towards the convention, even though some articles to which they attached great importance had not secured the necessary majority. He had expressed his gratitude to the representatives of the Netherlands, Sweden, Nigeria, the United States of America and the Union of Soviet Socialist Republics, who had striven to find a compromise solution, and had regretted that their efforts had not been successful. He had expressed the hope that participants in the Conference would continue to search for a compromise. In paying a tribute to those delegations, Mr. Krishna Rao had not intended to overlook the efforts made by other delegations, such as those of Ghana and Afghanistan, and by the President. Negotiations with a view to a compromise were continuing, and it was to be hoped that the Conference would soon be considering a proposal which would be acceptable to a large majority of States.

Article 22 (Provisional application) (*resumed from the 11th plenary meeting*)

2. Mrs. WERNER (Poland) reminded the Conference that at the 11th plenary meeting [1] the Polish representative had suggested that paragraph 2 should be amended to read: " . . . the provisional application of a treaty . . . shall be terminated six months after that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty ". That suggestion had been intended to safeguard the interests of States which applied a treaty provisionally and were then faced with the case where one of them suddenly decided to terminate the provisional application. In that connexion, her delegation had thought that the amendment submitted by Yugoslavia (A/CONF.39/L.24) was also justified. It indicated clearly that the *pacta sunt servanda* principle laid down in article 23 was likewise valid for treaties applied provisionally. In international practice, treaties were often applied provisionally, and her delegation thought it necessary to provide suitable guarantees to safeguard the security of treaty relations.

3. Since those suggestions had not been accepted by the Drafting Committee,[2] she wished to state that, according to the Polish delegation's interpretation and in the light of the explanations given by the Chairman of the Drafting Committee, the *pacta sunt servanda* principle was fully applicable to the case where a treaty was applied provisionally; and that the prmciple of good faith should likewise prevail when the provisional application of a treaty was terminated. It was on that understanding that her delegation had voted in favour of article 22.

Statement by the Chairman of the Drafting Committee on articles 4, 7, 10 bis, *18, 19 and 20*

4. Mr. YASSEEN, Chairman of the Drafting Committee, said that the Drafting Committee had examined the amendments relating to articles 4, 7, 10 *bis* and 19 referred to it by the Conference. In accordance with the Conference's instructions, it had also revised the text adopted by the Conference for article 20. After reviewing the articles, the Committee had made no changes except in article 20 and, consequentially, in article 18.

5. With regard to article 4 (Treaties constituting international organizations and treaties adopted within an international organization), the Conference had referred to the Drafting Committee [3] a Romanian amendment (A/CONF.39/L.9) to replace, in article 4, the expression

[1] Para. 88.

[2] See 28th plenary meeting, para. 46.

[3] See 7th plenary meeting, paras. 31 and 32.