

# **United Nations Conference on Succession of States in Respect of Treaties**

Vienna, Austria  
Resumed session  
31 July-23 August 1978

Document:-  
**A/CONF.80/C.1/SR.49**

## **49<sup>th</sup> Meeting of the Committee of the Whole**

Extract from volume II of the *Official Records of the United Nations Conference on Succession of States in Respect of Treaties (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

independent States for which paragraph 3 would be superfluous. But there might be cases where a part of the territory of a State was kept under the control of the State in the same way as a colony. It was therefore necessary to introduce an exception clause to deal with that type of situation in the future.

38. The CHAIRMAN invited the Committee to vote on the first part of the amendment by France and Switzerland (A/CONF.80/C.1/L.41/Rev.1, para. 2), the proposal to delete paragraph 1, subparagraph (a) of article 33.

*The amendment was rejected by 69 votes to 7, with 9 abstentions.*

39. The CHAIRMAN invited the Committee to vote on the amendment by the Federal Republic of Germany to paragraph 1, subparagraph (b) of article 33 (A/CONF.80/C.1/L.52).

*The amendment was rejected by 57 votes to 5, with 20 abstentions.*

40. The CHAIRMAN put to the vote paragraph 1 of article 33.

*Paragraph 1 of article 33 was approved by 77 votes to 3, with 5 abstentions.*

41. The CHAIRMAN put to the vote paragraph 2 of article 33.

*Paragraph 2 of article 33 was approved by 80 votes to none, with 3 abstentions.*

42. The CHAIRMAN suggested that voting on article 33 be suspended and resumed at the next meeting.

*It was so agreed.*

*The meeting rose at 1.05 p.m.*

## 49th MEETING

*Tuesday, 8 August 1978, at 5 p.m.*

*Chairman: Mr. RIAD (Egypt)*

Consideration of the question of succession of States in respect of treaties in accordance with resolutions 3496 (XXX) and 31/18 adopted by the General Assembly on 15 December 1975 and 24 November 1976

[Agenda item 11] *(continued)*

ARTICLE 33 (Succession of States in cases of separation of parts of a State)<sup>1</sup> *(concluded)*

1. The CHAIRMAN invited the Committee to continue voting on the amendments to article 33 and to vote first of

<sup>1</sup> For the list of amendments submitted, see 40th meeting, foot-note 9.

all on the second part of the amendment by France and Switzerland (A/CONF.80/C.1/L.41/Rev.1, para. 2), the proposal to delete paragraph 3 of the article. At the request of the Philippines delegation a vote would be taken by roll-call on the amendment by France and Switzerland to delete paragraph 3.

2. Mr. KOH (Singapore), said he wondered whether it was appropriate to vote on the amendment by France and Switzerland at the present juncture since, in his view, it was consequential on the amendment of the definition of "newly independent State".

3. Mr. VREEDZAAM (Suriname) said he also questioned the correctness of voting first on the joint amendment.

4. Mr. RITTER (Switzerland) said that in his delegation's view that part of the joint amendment to delete paragraph 3 was not consequential on any other amendment, except perhaps, insofar as the renumbering of article 34 and article 15 *bis* was concerned. His delegation had made it clear, when introducing its amendment, that the amended definition of paragraph 1, subparagraph (f) of article 2 could be taken separately.

5. Mr. ABOU-ALI (Egypt) proposed that the Committee vote first of all on paragraph 3 of the article under consideration.

6. Mr. MUSEUX (France) supported that proposal.

7. Mr. RYBAKOV (Union of Soviet Socialist Republics) said that although such a procedure would be logical, it would conflict with the rules of procedure. If paragraph 3 were deleted as a result of the vote on the joint amendment, there would be no question of voting on paragraph 3 at all. From a procedural point of view therefore, the Committee should vote first on the joint amendment.

8. Mr. MASUD (Pakistan) said he could not support the proposal to vote first on paragraph 3. Not only would it be against the rules of procedure as they concerned voting on amendments, but it would affect his own delegation's proposed amendment, which would not be pressed if the Franco-Swiss amendment were adopted.

9. Mr. TODOROV (Bulgaria) said he was in favour of voting on the joint amendment as the proper course of action. If that was rejected, paragraph 3 would stand, and the Committee would then have to vote on Pakistan's amendment (A/CONF.80/C.1/L.54).

10. The CHAIRMAN said that the Committee appeared to be generally in favour of voting first on the second part of the amendment by France and Switzerland (A/CONF.80/C.1/L.41/Rev.1, para. 2), the proposal to delete paragraph 3 of article 33. A vote would therefore be taken by roll-call and, according to the result a vote would then, if necessary, be taken on Pakistan's amendment.

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

*In favour:* Angola; Argentina; Austria; Bulgaria; Burundi; Byelorussian SSR; Canada; Cuba; Cyprus; Egypt; Ethiopia; France; German Democratic Republic; Germany, Federal Republic of; Ghana; Greece; Hungary; Indonesia; Iraq; Italy; Ivory Coast; Kenya; Liberia; Libyan Arab Jamahiriya; Madagascar; Malaysia; Mali, Mexico, Netherlands, Niger, Nigeria, Norway, Pakistan; Panama; Peru; Philippines; Poland; Portugal; Romania; Senegal; Sierra Leone; Spain; Switzerland; Tunisia; Uganda; Ukrainian SSR; Union of Soviet Socialist Republics; United Arab Emirates; United Republic of Tanzania; United States of America; Yemen; Zaire.

*Against:* Australia; Finland; Japan; Papua New Guinea; Singapore; Suriname; Trinidad and Tobago; Venezuela; Yugoslavia.

*Abstaining:* Belgium; Brazil; Czechoslovakia; Democratic Yemen; Denmark; Guyana; Holy See; India; Ireland; Israel; Jordan; Kuwait; Lebanon; New Zealand; Republic of Korea; Somalia; Sri Lanka; Swaziland; Sweden; Thailand; Turkey; United Kingdom of Great Britain and Northern Ireland.

*The amendment was adopted by 52 votes to 9, with 22 abstentions.*

11. The CHAIRMAN said that, paragraph 3 having now been deleted, Pakistan's amendment automatically fell. He invited the Committee to vote on article 33, as a whole, as amended.

*Article 33 as a whole, as amended, was adopted by 73 votes to 4, with 6 abstentions.*

12. Mr. KOH (Singapore), speaking in explanation of vote, said that Singapore had voted against the deletion of paragraph 3 because Singapore had become an independent State in circumstances closely analogous to those existing in the case of the formation of a newly independent State. Its treaty practice accorded with that of a newly independent State and the practice had been recognized by the international community.

13. Mr. ECONOMIDES (Greece), speaking in explanation of vote, said he had abstained in the vote on the joint amendment proposed by France and Switzerland because, although he could accept it in respect of new States legally formed by the separation of parts of a territory of a State, he could not do so in the case of the dissolution of a union of States or other composite States. He had also abstained in the vote on paragraph 1 of the International Law Commission's text for article 33 since that likewise failed to make the necessary distinction. He had voted in favour of the deletion of paragraph 3 of the Commission's text for article 33 because, although it sought to rectify the omission in paragraph 1, it was likely to prove ambiguous in interpretation.

14. Mr. NAKAGAWA (Japan), speaking in explanation of vote, said that he had voted against the deletion of paragraph 3 of article 33 because he considered that it would be better to have a safeguard clause in one form or

another in the event of cases analogous to those of newly independent States occurring in the future, despite the fact that the present formulation of paragraph 3 might not be satisfactory. However, he understood the position of the majority and would be ready to accept its decision; he had therefore voted in favour of the article as a whole.

15. Mr. PÉREZ CHIRIBOGA (Venezuela) said he had voted against the deletion of paragraph 3 for reasons which he had already explained at an earlier meeting<sup>2</sup>. He regretted that paragraph 3 had been deleted from article 33 of the draft as it would have constituted a positive rule. He had, however, voted in favour of the article as a whole since it would be a useful provision.

PROPOSED NEW ARTICLE 30 *bis* (Settlement of disputes)<sup>3</sup> (*concluded*)\*

16. The CHAIRMAN announced that the composition of the *Ad Hoc* Group on Peaceful Settlement of Disputes,<sup>4</sup> as communicated to him by the President of the Conference, was as follows: Brazil, Bulgaria, Czechoslovakia, Guyana, Iraq, Mali, Malaysia, Netherlands, Niger, Sri Lanka, Swaziland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela, as well as States having a particular interest in the subject.

*The meeting rose at 5.50 p.m.*

<sup>2</sup> See 42nd meeting, paras. 18-20.

<sup>3</sup> For the list of amendments submitted, see 44th meeting, foot-note 3.

\* Resumed from the 46th meeting.

<sup>4</sup> See 45th meeting, para. 71.

## 50th MEETING

*Monday, 14 August 1978, at 5 p.m.*

*Chairman:* Mr. RIAD (Egypt)

Consideration of the question of succession of States in respect of treaties in accordance with resolutions 3496 (XXX) and 31/18 adopted by the General Assembly on 15 December 1975 and 24 November 1976

[Agenda item 11] (*continued*)

FIRST REPORT OF THE INFORMAL CONSULTATIONS GROUP (A/CONF.80/C.1/L.59)<sup>1</sup>

<sup>1</sup> *Official Records of the United Nations Conference on Succession of States in Respect of Treaties*, vol. I, *Summary records of the plenary meetings and of the meetings of the Committee of the Whole* (United Nations publication, Sales No. E.78.V.8), p. 233, 34th meeting, paras. 7-8.