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53rd Meeting of the Committee of the Whole

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53rd MEETING

Thursday, 17 August 1978, at 11.45 a.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)

REPORT OF THE DRAFTING COMMITTEE ON THE TITLES AND TEXTS OF ARTICLES 30 TO 39 ADOPTED BY THE DRAFTING COMMITTEE (A/CONF.80/C.1/4)

1. Mr. YASSEEN (Chairman of the Drafting Committee), introducing the Drafting Committee's first report of the resumed session, said that the document in question (A/CONF.80/C.1/4) contained the titles and texts of articles 30 to 39 proposed by the Drafting Committee. It made no mention of the proposal for a new article 22 *bis* (A/CONF.80/C.1/L.28/Rev.1) which had been referred to the Drafting Committee at the 32nd meeting of the Committee of the Whole,¹ since that proposal had been withdrawn at the Committee's 40th meeting.²

2. In its work during the resumed session, the Drafting Committee had continued its practice of taking into account not only the titles and texts of articles as they had been referred to it by the Committee of the Whole and the amendments thereto which that body had formally transmitted to it as drafting suggestions, but also, as far as possible, suggestions made orally at meetings of the Committee of the Whole. It had also borne in mind the terminology of existing codification conventions, particularly the Vienna Convention on the Law of Treaties, with which the instrument that the Conference was preparing was closely linked. The Committee of the Whole and the plenary Conference might wish to bear in mind, when considering taking action on the basis of the reports of the Drafting Committee, that, in keeping with the practice of codification conferences, the Drafting Committee would review the entire text of the draft convention prior to its opening for signature, for the purpose of ensuring the greatest possible consistency in the terminology used in the various language versions.

3. Apart from the amendments that had been required by the change in the status of the articles, that had been referred to it, to that of provisions of a draft convention, a good many of the modifications which the Drafting

Committee had made to articles 30 to 39 were the consequence of changes that had been approved in other articles during the first part of the Conference in 1977. Thus, since the phrase "with the object and purpose of the treaty or would radically change the conditions for its operation"—in Spanish "*con el objeto y el fin del tratado o cambiaría radicalmente las condiciones de su ejecución*"—had been employed for purposes of clarity in the English and Spanish versions respectively of articles 14, 16 and 17, the Drafting Committee proposed that it should also be used in: article 30, paragraph 1 (*b*), and paragraph 3; article 31, paragraphs 3 and 6; article 32, paragraphs 2 and 5; article 33, paragraph 2 (*b*); article 34, subparagraph (*c*); article 35, paragraph 3; and article 36, paragraph 2.

4. The Committee had also noted that, in the English version of the articles, the expressions "falling within" and "falling under" and variations thereof had been used indiscriminately, whereas, as a general rule, throughout the French and Spanish versions, one or other of only two terms had been used systematically. For the sake of consistency, therefore, the Committee proposed that the English expression "falling under", corresponding to the French expressions, "*relevant de*" and the Spanish expressions, "*al que sea aplicable*", should be used whenever the reference was to an article or to a paragraph thereof, and that the term "falling within", corresponding to the terms "*appartenant à*" and "*que corresponda a*", should be used whenever the reference was to a category. Changes to that effect had been made in article 30, paragraph 2 (*a*); article 31, paragraphs 1 and 2; article 32, paragraph 1; article 35, paragraphs 1 and 2; and article 36, paragraph 1, of the English version, and in article 30, paragraph 2, subparagraphs (*a*) and (*b*), and article 32, paragraph 4 (*a*), of the French version.

5. As in the case of article 17 and other articles,³ conformity with the other language versions had been ensured by the replacement, where appropriate, of the French expression "*à l'égard du traité*" by the words "*au traité*". That change had been made in article 32, paragraphs 1 and 3—with a consequential amendment to article 32, paragraph 4—and in article 36, paragraphs 1 and 3. In order to ensure that the same tense was used in all languages, the Spanish version of article 30, paragraph 1, subparagraph (*a*), and paragraph 2, subparagraphs (*b*) and (*c*), and of article 34, subparagraph (*a*), had been amended by the substitution for the expression "*haya(n) convenido*" of the expression "*convengan*".

6. The other changes which the Drafting Committee had made concerned only individual articles, and he would therefore comment on them when introducing the provision concerned, beginning with article 30.

¹ *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 Committee of the Whole*, (United Nations publication, Sales No. E.78.V.8), p. 225, 32nd meeting, para. 13.

² See 40th meeting, para. 59.

³ *Official Records of the United Nations Conference on Succession of States in Respect of Treaties... (op. cit.)*, p. 235, 35th meeting, para. 8.

Article 30 (Effects of a uniting of States in respect of treaties in force at the date of the succession of States)⁴

7. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had decided to align the text of paragraph 2 (b) with that of paragraph 1 (a) by replacing the expression “all the parties” by the expression “the other States parties”, in all languages. For the sake of consistency with the other language versions, the French version of paragraph 2 had been amended by the replacement of the opening word “un” by the word “tout”, while the Spanish version of paragraph 2 (a) had been amended by the replacement of the expressions “en relación con” and “de notificación” by the expressions “respecto de” and “haga una notificación” respectively.

8. The CHAIRMAN said that, if there were no objections, he would take it that the Committee agreed to adopt on second reading the title and text of article 30 as proposed by the Drafting Committee.

It was so agreed.⁵

Article 31 (Effects of a uniting of States in respect of treaties not in force at the date of the succession of States)⁶

9. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had made no particular changes in either the title or the text of the article.

10. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 31 as proposed by the Drafting Committee.

It was so agreed.⁷

Article 32 (Effects of a uniting of States in respect of treaties signed by a predecessor State subject to ratification, acceptance or approval)⁸

11. Mr. YASSEEN (Chairman of the Drafting Committee) said that, in the Spanish version, the words “con sujeción a”, which had appeared in the title and the first paragraph of the article, had been replaced, as in the corresponding provisions of article 18, by the words “a reserva de”. The Spanish version had been further modified, for the purpose of conformity with the other languages, by the redrafting of the end of the introductory portion of

paragraph 4 to read “... respecto de la cual el tratado fue firmado por uno de los Estados predecesores, a menos:”, and by the replacement, in paragraph 4 (a) of the word “éste” by the words “el tratado”.

12. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 32 as proposed by the Drafting Committee.

It was so agreed.⁹

Article 33 (Succession of States in cases of separation of parts of a State)¹⁰

13. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had made no particular changes in either the title or the text of the article.

14. Mr. PÉREZ CHIRIBOGA (Venezuela) said he noted that the Drafting Committee had retained the difference between the wording of article 30, paragraph 1 (a), and article 33, paragraph 2 (a), to which his delegation¹¹ had drawn attention. Since the Expert Consultant had stated that he knew of no particular reason for that difference,¹² his delegation would be grateful if the Chairman of the Drafting Committee would explain why it had not been removed.

15. Mr. YASSEEN (Chairman of the Drafting Committee) replied that the Drafting Committee, when studying the text of article 33, had considered the point raised by the representative of Venezuela but had decided to retain the text proposed by the International Law Commission because it had felt that, since article 33 must be interpreted in the light of the general law of treaties, it would be perfectly clear what States were meant by the phrase “the States concerned”.

16. Mr. PÉREZ CHIRIBOGA (Venezuela) said that, while his delegation would not press for the amendment of article 33, it did wish to make it perfectly clear that it would have preferred to see a uniform wording of the provisions of articles 30 and 33 which he had mentioned.

17. Mr. FONT BLÁZQUEZ (Spain) said that, since article 33 referred to treaties that were already in force, it would seem logical to speak in paragraph 2 (a) of “the States parties”. His delegation would not, however, press the point.

18. Mr. YASSEEN (Chairman of the Drafting Committee) said he must make it clear that article 33 was to be

⁴ For earlier discussion of article 30, see 37th meeting, 38th meeting, paras. 2-70 and 39th meeting, paras. 1-58.

⁵ For the adoption of article 30 by the Conference, see 13th plenary meeting.

⁶ For earlier discussion of article 31, see 40th meeting, para. 19.

⁷ For the adoption of article 31 by the Conference, see 13th plenary meeting.

⁸ For earlier discussion of article 32, see 40th meeting, paras. 20-24.

⁹ For the adoption of article 32 by the Conference, see 13th plenary meeting.

¹⁰ For earlier discussion of article 33, see 40th meeting, paras. 25-58, 41st meeting, 42nd meeting, paras. 1-62, 47th meeting, paras. 32-44, 48th meeting and 49th meeting, paras. 1-15.

¹¹ See 47th meeting, para. 38.

¹² *Ibid.*, para. 40.

interpreted in the context of the law of treaties and that it was that which gave the phrase “the States concerned” its unambiguous meaning.

19. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 33 as proposed by the Drafting Committee.

*It was so agreed.*¹³

*Article 34 (Position if a State continues after separation of part of its territory)*¹⁴

20. Mr. YASSEEN (Chairman of the Drafting Committee) said that, for the purpose of conformity with article 33, paragraph 2 (a), the Drafting Committee proposed that subparagraph (a) of article 34 should read, in all language versions “the States concerned otherwise agree”. The Spanish version had been harmonized with that in other languages by the insertion, in the introductory portion of the article, of the words “del resto” before the words “de su territorio”.

21. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 34 as proposed by the Drafting Committee.

*It was so agreed.*¹⁵

*Article 35 (Participation in treaties not in force at the date of the succession of States in cases of separation of parts of a State)*¹⁶

22. Mr. YASSEEN (Chairman of the Drafting Committee) said that, after due consideration, the Drafting Committee had decided that it would be preferable, for reasons of clarity, not to replace the text proposed by the International Law Commission by the Finnish amendment (A/CONF.80/C.1/L.39) that had been submitted to it by the Committee as a drafting suggestion.¹⁷ The Drafting Committee had made no particular change to either the title or the text proposed by the International Law Commission.

23. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt

on second reading the title and text of article 35 as proposed by the Drafting Committee.

*It was so agreed.*¹⁸

*Article 36 (Participation in cases of separation of parts of a State in treaties signed by the predecessor State subject to ratification, acceptance or approval)*¹⁹

24. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee proposed that, as in the case of article 32, the title and the first paragraph of the Spanish version of the article be amended by the replacement of the words “con sujeción a” by the words “a reserva de”.

25. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 36 as proposed by the Drafting Committee.

*It was so agreed.*²⁰

*Article 37 (Notification)*²¹

26. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had preferred the text proposed by the International Law Commission to the Finnish amendment (A/CONF.80/C.1/L.40) that had been submitted to it by the Committee as a drafting suggestion.²² In addition, it had considered that the suggestion made by the representative of Italy²³ went beyond its terms of reference.

27. Some minor changes had been made to the International Law Commission's text. In paragraph 1 of the English version, the word “must” had been replaced by the word “shall”, in keeping with normal legal practice. Various changes had been made in the French and Spanish versions, in order to align them with those of article 21. Thus in the French version, the word “en” had been inserted before the word “fait” in paragraph 2, while in paragraph 3 (b), the words “aura été” had been replaced by the word “est”. In the Spanish version, paragraph 4 had been amended to read “... tratado o por otra causa, de informar a las partes o los Estados contratantes de la notificación o de toda comunicación a ella referente que haga el Estado sucesor”. For reasons of precision and conformity with the texts in other languages, the Spanish

¹³ For the adoption of article 33 by the Conference, see 13th plenary meeting.

¹⁴ For earlier discussion of article 34, see 41st meeting, paras. 63-64 and 42nd meeting, paras. 63-68.

¹⁵ For the adoption of article 34 by the Conference, see 13th plenary meeting.

¹⁶ For earlier discussion of article 35, see 43rd meeting, paras. 1-8.

¹⁷ See 43rd meeting, para. 3.

¹⁸ For the adoption of article 35 by the Conference, see 13th plenary meeting.

¹⁹ For earlier discussion of article 36, see 43rd meeting, paras. 5-6.

²⁰ For the adoption of article 36 by the Conference, see 13th plenary meeting.

²¹ For earlier discussion of article 37, see 43rd meeting, paras. 25-31.

²² See 43rd meeting, para. 31.

²³ *Ibid.*, para. 30.

version had been further amended by the insertion, in paragraph 5, of the word “*sólo*” after the word “*destinada*”.

28. Mr. MARESCA (Italy) said that his delegation appreciated that the suggestion it had made concerning article 37 had gone beyond the terms of reference of the Drafting Committee. In those circumstances, it would not request any change in the text now proposed by the Drafting Committee, but it did wish to state that it interpreted paragraph 2 of that text as in no way precluding the continuation, in cases where the recipient so agreed, of the well-established practice of the issuance by diplomatic missions, without the production of full powers, of notifications of the types in question.

29. The CHAIRMAN said that the Committee took note of the statement by the representative of Italy. If there were no objection he would assume that the Committee agreed to adopt, on second reading, the title and text of article 37 as proposed by the Drafting Committee.

*It was so agreed.*²⁴

*Article 38 (Cases of State responsibility and outbreak of hostilities)*²⁵

30. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had made no particular changes in either the title or the text of the article.

31. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 38 as proposed by the Drafting Committee.

*It was so agreed.*²⁶

*Article 39 (Cases of military occupation)*²⁷

32. Mr. YASSEEN (Chairman of the Drafting Committee) said that, in the English version of the article, the word “do” had been replaced by the word “shall”, in order better to reflect the legislative nature of the provision.

33. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 39 as proposed by the Drafting Committee.

*It was so agreed.*²⁸

²⁴ For the adoption of article 37 by the Conference, see 13th plenary meeting.

²⁵ For earlier discussion of article 38, see 43rd meeting, paras. 57-64.

²⁶ For the adoption of article 38 by the Conference, see 13th plenary meeting.

²⁷ For earlier discussion of article 39, see 43rd meeting, paras. 57-64.

²⁸ For the adoption of article 39 by the Conference, see 13th plenary meeting.

REPORT OF THE DRAFTING COMMITTEE ON THE TITLES AND TEXTS OF ARTICLES 6 AND 7 ADOPTED BY THE DRAFTING COMMITTEE (A/CONF.80/C.1/5)

*Article 6 (Questions of succession covered by the present Convention)*²⁹

34. Mr. YASSEEN (Chairman of the Drafting Committee) said that the text of article 6 had been provisionally adopted by the Committee of the Whole on the recommendation of the Informal Consultations Group and referred to the Drafting Committee. That text had been the original International Law Commission draft and the Drafting Committee had adopted it without change.

35. The CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to adopt on second reading the title and text of article 6 as proposed by the Drafting Committee.

*It was so agreed.*³⁰

*Article 7 (Temporal application of the present Convention)*³¹

36. Mr. YASSEEN (Chairman of the Drafting Committee) said that the text of article 7 had been provisionally adopted by the Committee of the Whole on the recommendation of the Informal Consultations Group and referred to the Drafting Committee.

37. Paragraph 1 was the International Law Commission's text without change. The Drafting Committee had made a number of drafting changes in paragraphs 2, 3 and 4. In paragraph 2, difficulties of interpretation had directly affected the wording: the original text did not impose any time-limit on a declaration by a successor State under that paragraph although, according to the second sentence, the agreement between two States making declarations accepting the retroactive application of the Convention would take effect “upon the entry into force of the Convention” between them. The Committee had reached the conclusion that the first sentence was to be interpreted in a literal sense; it had accordingly eliminated the discrepancy by replacing the words “such States” by the words “the States” and adding the phrase “making the declarations or upon the making of the declaration of acceptance, which-

²⁹ For earlier discussion of article 6 at the resumed session, see 50th meeting, paras. 1-42 and 51st meeting, paras. 4-9. For discussion of article 6 by the Committee of the Whole at the 1977 session, see *Official Records of the United Nations Conference on Succession of States in Respect of Treaties... (op. cit.)*, pp. 48-57, 58-64 and 233; 6th meeting, paras. 17-48, 7th meeting, 8th meeting, paras. 19-66, 9th meeting, paras. 1-17 and 34th meeting, paras. 7-8.

³⁰ For the adoption of article 6 by the Conference, see 14th plenary meeting.

³¹ For earlier discussion of article 7 at the resumed session, see 50th meeting, paras. 1-42, and 51st meeting, paras. 4-9. For the discussion of article 7 by the Committee of the Whole at the 1977 session, see *Official Records of the United Nations Conference on Succession of States in Respect of Treaties... (op. cit.)*, pp. 64-88 and 233, 9th meeting, paras. 18-55, 10th meeting, 11th meeting, 12th meeting, and 34th meeting, paras. 7-8.

ever is later". The remaining changes to paragraph 2 were designed only to clarify the text and bring the wording into line with that used elsewhere. To make the meaning clearer, the phrase "declare that it may apply" at the beginning of the paragraph had been replaced by "make a declaration". To lighten the text and make it legally more correct and precise, the words at the end of the first sentence, "declares its willingness to accept the declaration of a successor State", had been replaced by the phrase "make a declaration accepting the declaration of the successor State". At the end of the paragraph, the words "such succession" had been replaced by "that succession of States" since the term "succession of States" had been defined in article 2 and the word "such" was ambiguous. The word "then" at the end of the paragraph had been deleted as it had been rendered redundant by the other amendments.

38. Paragraph 3 had also raised a problem of interpretation. However, that problem was not related to the textual changes in paragraph 3 which, with one exception, had been designed merely to bring it into line with the preceding paragraph. The exception was the addition at the beginning of the second sentence of the words "upon the making of the declaration of acceptance", with the intention of specifying the date from which the declaration and its acceptance would take legal effect. Other changes to bring the text into line with that of paragraph 3 were the replacement at the beginning of the paragraph of the word "declare" by the phrase "make a declaration", of the phrase "declares its willingness to accept the declaration" by the phrase "declares its acceptance of the declaration" and of the words "such succession" by the words "that succession of States". The word "then" at the end of the paragraph had been deleted.

39. The most important change in paragraph 4 was the replacement of the term "deposit", referring to the notification, by the word "communication", which had been deemed more appropriate. Accordingly, the final phrase "deposit with him that notification and its terms" had been replaced by "communication to him of that notification and its terms". Furthermore, since, as was the invariable practice in the case of multilateral treaties concluded under the auspices of the United Nations, the Secretary-General would be the depositary of the Convention, the phrase "Secretary-General of the United Nations" had been replaced by "the depositary", as suggested by the French delegation.

40. At the request of the Committee of the Whole,³² the Drafting Committee had provided a title for article 7, namely, "Temporal application of the present Convention".

41. Sir Ian SINCLAIR (United Kingdom) said that the present text of paragraph 3 of article 7 restricted the possibility of making a declaration to the time of signing the Convention. That made paragraph 3 of limited value since the Convention was open for signature for only a limited period. He therefore proposed that the possibility of bringing about the provisional application of the

Convention be extended in order to make it possible for a State which became independent after the expiry date for the signature of the Convention to make a declaration under paragraph 3 that it would apply the provisions of the Convention provisionally. That could be done by amending the opening phrase to read "A successor State may at the time of signing or of expressing its consent to be bound by the present Convention ..." and amending the phrase "to any other signatory State" to read "to any other signatory or contracting State".

42. Mr. SCOTLAND (Guyana) said he supported the United Kingdom proposal. He wondered, however, if the reference in that proposal to the time of signing was necessary, though he had no objection to its retention if the Committee found the amendment acceptable. He also wondered whether paragraphs 2 and 3 took account of the situation where a State might sign the Convention and subsequently apply its provisions provisionally, without having made a decision on ratification.

43. Mrs. BOKOR-SZEGÖ (Hungary) said that if the United Kingdom amendment was adopted, there would be a gap in the Convention. The present text offered the possibility of making a provisional declaration of acceptance at the time of signing. If the United Kingdom amendment was adopted, the idea of provisional acceptance would fall. She therefore preferred the text as it stood.

44. Mr. ARIFF (Malaysia) said that, as he understood it, the purpose of paragraph 3 was to cover the situation where a successor State proposed to apply the Convention provisionally as an interim measure, without any intention of applying it permanently. The mere act of signing gave such a State a certain latitude, whereas expression of consent to be bound, in accordance with the United Kingdom formulation, suggested a definitive acceptance of the Convention which might subsequently prove undesirable.

45. Mr. STUTTERHEIM (Netherlands) said he supported the United Kingdom amendment in view of the fact that the Convention would be open for signature for only one year. The Netherlands Antilles was now preparing for independence but would not be ready within that period. It should be given an opportunity of applying the provisions of the Convention provisionally under paragraph 3.

46. Mr. YASSEEN (Chairman of the Drafting Committee) said that the Drafting Committee had given most careful thought to article 7 and was of the opinion that, if the expression "signing the Convention" were retained, paragraph 3, on provisional application, would be nothing more than a provisional paragraph because after a year or so, it could be a dead letter. The Drafting Committee had not wished to examine that matter, however, because such examination was beyond its competence.

47. If a successor State expressed its consent to be bound by the Convention, it thereby became a party to it and the Convention could be applied as it stood. What would be the position of that successor State if it wished its relations

³² See 51st meeting, para. 7.

with other signatory States which had not ratified the Convention to be subject to its provisions? It appeared from the present text of the article that such a State could not benefit from the provisional application of the Convention.

48. Speaking as the representative of the United Arab Emirates, he said that the Committee of the Whole should examine and clarify the question. It would seem undesirable to formulate the paragraph in such a way that it operated only for one year.

49. Mr. MAIGA (Mali), said that, according to the opening sentence of paragraph 2, a successor State might make a declaration "at the time of expressing its consent to be bound by the present Convention or at any time thereafter". The second sentence began with the phrase "Upon the entry into force of the Convention..."; he would like to ask the Chairman of the Drafting Committee to explain the scope of the paragraph, which his delegation had difficulty in interpreting. His misgivings about paragraph 3 had been increased by the United Kingdom amendment. In general terms, it was possible to have a separate paragraph regulating the provisional application of the Convention. However, he had difficulty in supporting a paragraph which laid down that provisional application was available for one year but that it could not be applied in respect of another signatory State unless the latter had ratified the Convention. The Drafting Committee had done its best but it was for the Committee of the Whole to state clearly exactly what its wishes were in the matter.

50. The CHAIRMAN suggested that further discussion of article 7 be deferred and that States with a particular interest in the article should consult informally among themselves.

51. The Drafting Committee had not yet taken a decision with regard to the division of the Convention into parts and the titles of those parts. He suggested that the Drafting Committee be requested to submit its recommendations to the Committee of the Whole.

*It was so agreed.*³³

The meeting rose at 1.10 p.m.

³³ For resumption of the discussion, see 56th meeting, paras. 1-15.

54th MEETING

Friday, 18 August 1978, at 11.35 a.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*)

SECOND REPORT OF THE INFORMAL CONSULTATIONS GROUP (A/CONF.80/C.1/L.62)¹

Articles 12 and 12 bis

Draft resolution concerning article 30

1. Mr. RITTER (Switzerland), Chairman of the Informal Consultations Group, said that the Group's second report (A/CONF.80/C.1/L.62) contained a proposed additional paragraph 3 to article 12 and a proposed new article 12 *bis*. Although those two provisions were submitted in the order in which they should appear in the convention, the Group had in fact approved the text of the proposed new article 12 *bis* before considering the proposed paragraph 3 to article 12. As stated in paragraph 5 of the report, the Group wished to emphasize the link between the proposed new article 12 *bis* and article 12.

2. There was one small drafting point: the Spanish-speaking members of the Group had pointed out that, in the Spanish version of the proposed paragraph 3 of article 12, the words "*obligaciones convencionales*" were not a correct rendering of the term "treaty obligations" and should be replaced by "*obligaciones derivadas de tratados*".

3. Lastly, the report also contained a proposed draft resolution concerning article 30, for consideration by the Committee.

4. Mr. MONCAYO (Argentina) said that the Informal Consultations Group had rightly emphasized the link between article 12 of the International Law Commission's draft and the proposed new article 12 *bis*, which established the pre-eminence of the "principles of international law affirming the permanent sovereignty of every people and every State over its natural wealth and resources". Only by establishing a direct relationship between the two rules, which together formed a coherent whole, would the new provision acquire its full significance and would the extent of its object and purpose so far as succession of States in respect of treaties was concerned be completely understood.

5. Before analysing the content of the new provision, it was first necessary to consider the nature of article 12 as proposed by the International Law Commission. There was no doubt that it presented the Conference with one of its most complex problems. Indeed, at the 20th meeting of the Committee, held on 20 April 1977, the Expert Consultant had himself pointed out that, from the point of view of drafting and purport, article 12 was the most difficult of all those drafted by the International Law Commission.² The Italian representative, for his part, had deemed it to be the most important article in the draft, yet at the same time one of the most ambiguous and had even referred to it as something of a nightmare.³ Many other delegations had

¹ See 50th meeting, foot-note 1.

² *Official Records of the United Nations Conference on Succession of States in Respect of Treaties*, vol. I, *Summary records of the plenary meetings and the meetings of the Committee of the Whole* (United Nations publication, Sales No. E.78.V.8), p. 140, 20th meeting, para. 34.

³ *Ibid.*, p. 142, 21st meeting, paras. 14-15.