

**United Nations Conference on Succession of States
in respect of State Property, Archives and Debts**

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6th plenary meeting

Extract from Volume I of the *Official Records of the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

2. If there was no objection, he would take it that the Conference approved the General Committee's recommendation.

It was so decided.

The meeting rose at 10.15 a.m.

6th plenary meeting

Tuesday, 5 April 1983, at 3.15 p.m.

President: Mr. SEIDL-HOHENFELDERN (Austria)

Consideration of the question of succession of States in respect of State property, archives and debts, in accordance with General Assembly resolutions 36/113 of 10 December 1981 and 37/11 of 15 November 1982
[Agenda item 11]

REPORTS OF THE DRAFTING COMMITTEE
(A/CONF.117/10 and Add.1-3)

REPORT OF THE COMMITTEE OF THE WHOLE
(A/CONF.117/11 and Add.1-12)

1. The PRESIDENT drew attention to the strict timetable which the Conference would have to follow if it was to conclude its work successfully on time. Accordingly he urged delegations to exercise self-restraint as regards the length and number of their statements.

2. He recalled that the Committee of the Whole, at its 12th meeting on 9 March 1983, had agreed, following the usual practice of codification conferences, to entrust to the Drafting Committee the task of preparing a draft preamble and draft final clauses and that such drafts should be reported directly to the Conference at a plenary meeting. In addition, the Committee of the Whole, at its 39th meeting held on 29 March 1983, had agreed that the Drafting Committee should submit directly to the Conference its reports on the articles referred to it by the Committee of the Whole, with the exception of three articles which had been the subject of specific requests addressed to the Drafting Committee requiring consideration by the Committee of the Whole. That procedure was in conformity with paragraph 2 of rule 47 of the rules of procedure which provided that the Drafting Committee should "report as appropriate either to the Conference or to the Committee of the Whole".

3. Thus, in the first report of the Drafting Committee (A/CONF.117/10), articles A to E constituted the final clauses adopted by the Drafting Committee and submitted to the plenary Conference in accordance with the usual practice and pursuant to the decision taken by the Committee of the Whole on 9 March. In addition, the report contained the titles and texts of articles 1 to 12, 12 *bis*, 13, 14, 16 to 22, 24, 24 *bis*, 25, 26 and 28 to 39 as adopted by the Drafting Committee and referred directly to the plenary pursuant to the above-mentioned decision of the Committee of the Whole,

4. As to the procedure to be followed, it was his intention to give the floor to the Rapporteur of the Committee of the Whole to introduce that Committee's

report and then to the Chairman of the Drafting Committee to introduce the first report of the Drafting Committee. He would then submit each article to the Conference, in numerical order, for its decision. The articles retained their numbering for the moment, to facilitate their identification at the plenary stage, but it went without saying that such articles as article 12 *bis* and 24 *bis* would be numbered in the correct order in the final text of the convention, and other articles would be renumbered accordingly. The titles of the various Parts and sections of the convention, as well as the title of the convention, would not be submitted for decision until after all the articles and the preamble had been adopted.

5. The majorities required for decisions of the Conference were specified in rule 34 of the rules of procedure. Decisions of the Conference on all matters of substance would be taken by a two-thirds majority of the representatives present and voting; decisions of the Conference on matters of procedure would be taken by a majority of the representatives present and voting; and, if the question should arise as to whether a matter was one of procedure or one of substance, the President of the Conference would rule on the question. An appeal against such a ruling would be put to the vote immediately and the President's ruling would stand unless overruled by a majority of the representatives present and voting.

6. He invited the Rapporteur of the Committee of the Whole to introduce the report of that Committee.

7. Mrs. THAKORE (India), Rapporteur of the Committee of the Whole, said that the Committee's report (A/CONF.117/11 and Add.1-12) followed closely the pattern of the reports of previous codification conferences; it was a comprehensive document, containing a record of the discussions on the basic proposal, namely, the draft articles on succession of States in respect of State property, archives and debts adopted by the International Law Commission at its 33rd session (A/CONF.117/4).¹ The report reproduced the texts of all the amendments submitted to the draft articles and the Committee's final decisions thereon. The report showed that the Committee of the Whole had discussed the draft mainly article by article, in the numerical order of the articles and the related amendments. As a result of the Committee's decision to take up Part I (General provisions), namely articles 1 to 6,

¹ See sect. B of vol. II.

at the concluding stage of its work, the proceedings relating to those six articles were to be found at the end of chapter II (A/CONF.117/11/Add.10). For the rest, the report dealt with the articles in the order of numbering.

8. In accordance with the decision taken by the Committee of the Whole at its 39th meeting, the Drafting Committee would submit directly to the plenary its report on the articles referred to it, in conformity with rule 47 of the rules of procedure, with the exception of articles 15, 23 and 27, on which the Drafting Committee had already submitted its recommendations on specific drafting points; those recommendations had been approved by the Committee of the Whole at its 42nd meeting. The Drafting Committee would also submit to the plenary its report on the drafts of the preamble and the final clauses, the preparation of which had been entrusted to it by the Committee of the Whole at its 12th meeting on 9 March 1983. A checklist of the documents submitted to the Committee of the Whole would be included in the final version of the report, which would be reproduced in the printed official records of the Conference. She added that the report was to be read in conjunction with the corresponding summary records of the Committee of the Whole.

9. The PRESIDENT invited the Chairman of the Drafting Committee to introduce the report of that Committee.

10. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the first report of the Drafting Committee (A/CONF.117/10) contained the titles and texts adopted by that Committee for articles 1 to 12, 12 *bis*, 13, 14, 16 to 22, 24, 24 *bis*, 25, 26 and 28 to 39. In view of the specific request addressed to it by the Committee of the Whole with regard to articles 15, 23 and 27, the titles and texts adopted by the Drafting Committee for those three articles had been submitted to the Committee of the Whole and, as adopted by that Committee, were before the plenary (A/CONF.117/10/Add.1).

11. Document A/CONF.117/10 also contained the titles of the Parts of the draft and the sections thereof, as well as the title of the convention, as adopted by the Drafting Committee. In addition, it included the titles and texts adopted by the Drafting Committee for articles A to E (Final provisions), on which the Committee had been requested to report direct to the plenary by a decision of the Committee of the Whole taken at its 12th meeting.

12. Commenting on a question to which the Drafting Committee had paid particular attention and the resolution of which had implied consequential changes throughout the draft, he referred to the statement he had made at the 26th meeting of the Committee of the Whole, when he had drawn attention to the problem that had arisen during the Drafting Committee's consideration of article 13 concerning the relationship between the expression "State property of the predecessor State" and the definition of "State property" found in article 8; analogous questions had arisen in connection with other articles, particularly article 19 and article 31. Pursuant to the authorization given by the Committee of the Whole to the Drafting Committee to deal

with those problems, the members of the Drafting Committee had found it possible to agree on a solution which consisted of making a change, strictly of a drafting nature, in both articles 8 and 19, so as to make more explicit the generally agreed meaning attributed to the definitions contained therein. That had been achieved by adding the words "of the predecessor State" after the expressions "State property" in article 8 and "State archives" in article 19, words which had already been used to qualify those two expressions in several other articles in each of Parts II and III. Such drafting precision had been generally found appropriate for articles 8 and 19 in view of the reference in both articles to the internal law of the predecessor State, a reference which did not however appear in article 31 concerning the definition of "State debt". In the event, the Drafting Committee had agreed that the general understanding of the meaning of the provision of article 31 could properly be made more explicit by simply adding the word "predecessor" between the indefinite article "a" and the noun "State" in the phrase "financial obligation of a State". In consequence of the drafting changes in those definitional articles, the words "of the predecessor State", already embodied in several articles, had been added to the text of individual articles throughout the draft, as and where appropriate, so as to ensure the harmonization of the corresponding provisions in the draft as a whole.

13. The PRESIDENT invited the Conference to consider the texts and titles of articles adopted by the Drafting Committee.

Article 1 (Scope of the present Convention)

14. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, pointed out that, with the exception of the changes mentioned in his general remarks, no changes had been made to the title or text of article 1. The Drafting Committee wished, however, to confirm the generally held view that the phrase "State property, archives and debts" in the English text must be given its natural and grammatically logical interpretation, which was, that the phrase in question referred to State property, State archives and State debts, as was clear in the other language versions.

15. The PRESIDENT invited the Conference to vote on article 1 as proposed by the Drafting Committee.

16. Mr. TÜRK (Austria) suggested that the English text of article 1 would be clearer if the concluding phrase was amended to read "State property, State archives and State debts". The French and Spanish texts seemed more precise than the English text.

17. Mr. SHASH (Egypt) supported the proposal of the representative of Austria. In his view, the Arabic text reflected the meaning correctly.

18. Mr. GUILLAUME (France) said that the word "*Etat*" should be used in the singular in the French text of article 1.

19. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the typographical error pointed out by the representative of France would be corrected.

20. In reply to the representative of Austria, he said that the Drafting Committee had considered the pos-

sibility of adding “State” before both “archives” and “debts”, but had concluded, in agreement with its English-speaking members, that it was sufficient to mention “State” only once. The article clearly referred to State property, State archives and State debts and there could be no possible misunderstanding.

21. Mr. TÜRK (Austria) said that he would defer to the English-speaking delegations on the point he had raised but would nevertheless appreciate an explanation from one of them.

22. Mr. MARCHAHA (Syrian Arab Republic) said that he wished to enter a formal reservation with respect to the Arabic term used to render the words “State property” which, in his delegation’s view, was incorrect. The reservation applied to all those articles of the draft convention where the term appeared.

23. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that, in dealing with the Arabic and Russian texts, the Drafting Committee had entrusted the task of making consequential changes to the representatives of Iraq and of the Union of Soviet Socialist Republics, respectively. In the absence of a Chinese-speaking representative, the Secretariat had been given exclusive responsibility for the Chinese text.

24. Mr. JOMARD (Iraq) said that the term referred to by the Syrian representative had been discussed at length among the Arabic-speaking delegations, all of whom, with the sole exception of the delegation of the Syrian Arab Republic, had agreed that the term in question was the most appropriate.

25. Mr. MARCHAHA (Syrian Arab Republic) said that he would not press the matter to a vote but wished to record his formal reservation.

26. Mr. EDWARDS (United Kingdom) said that the problem raised by the Austrian delegation had, of course, been discussed in the Drafting Committee. The possibility of employing the phrase “of the State” after the words “property, archives and debts”, had been considered and eventually rejected as being somewhat clumsy. The meaning of the English text was quite clear and any possibility of misinterpretation would be dissipated by referring to the record of the current meeting and to the text of the International Law Commission’s commentary.

The title and text of article 1 were adopted by 68 votes to none.

Article 2 (Use of terms)

27. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that no changes had been made by the Drafting Committee in the title or text of the article as referred to the Committee. As requested by the Committee of the Whole, the desirability of including definitions of the terms “State property”, “State archives” and “State debt” in article 2 had been considered. The Drafting Committee had decided that it was desirable to retain definitional articles on those concepts in the relevant Parts of the draft convention, considering it more appropriate to maintain each Part as a self-contained unit including an article defining the meaning to be given to the particular subject matter dealt with in the Part in question.

The title and text of article 2 were adopted by 64 votes to none, with 6 abstentions.

28. Mr. GUILLAUME (France) said that his delegation had abstained in the voting because, for reasons explained in the Committee of the Whole, it was not satisfied with the text of paragraph 1(a) and did not consider that the establishment of a special category of “newly independent State” in paragraph 1(e) was in conformity with international law.

29. Mr. EDWARDS (United Kingdom), explaining his delegation’s abstention in the voting on article 2, referred to the amendment (A/CONF.117/C.1/L.56) which it had submitted to the Committee of the Whole and ultimately withdrawn after lengthy discussion. As he had said on that occasion, the definition of “predecessor State” failed to reflect his country’s practice, and paragraph 2 of article 2 was also unsatisfactory in that it failed to cover the numerous possibilities of misunderstanding which arose as a result.

Article 3 (Cases of succession of States covered by the present Convention)

30. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that no changes had been made in article 3 other than one to which he had alluded in his general remarks.

The title and text of article 3 were adopted without a vote.

31. Mr. GUILLAUME (France) said that he did not oppose the voting procedure adopted but wished it to be put on record that, had the article been put to the vote, his delegation would have abstained.

Article 4 (Temporal application of the present Convention)

32. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that no changes had been introduced in article 4 by the Drafting Committee other than those required to ensure complete alignment with the corresponding provision of the 1978 Vienna Convention on Succession of States in Respect of Treaties.²

The title and text of article 4 were adopted without a vote.

33. Mr. GUILLAUME (France) said that, if article 4 had been put to the vote, he would have voted against it. The French delegation interpreted the text as meaning that the convention applied only to State successions which would occur after the entry into force of the convention and between States parties to it. The convention did not reflect any obligatory custom or, *a fortiori*, any peremptory and absolute rule of public international law, described by some as *jus cogens*, a concept which, incidentally, France had never accepted.

Article 5 (Succession in respect of other matters)

34. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that no change had

² *Official Records of the United Nations Conference on Succession of States in Respect of Treaties*, vol. III (United Nations publication, Sales No. E.79.V.10), p. 185.

been made in the title or text of article 5 beyond that mentioned in his general remarks.

The title and text of article 5 were adopted without a vote.

Article 6 (Rights and obligations of natural or juridical persons)

35. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that no change other than that already mentioned had been introduced by the Drafting Committee in article 6.

The title and text of article 6 were adopted without a vote.

Article 7 (Scope of the present Part)

36. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that, besides the change noted earlier with regard to "definitional" questions which affected article 7 and later articles, the Drafting Committee had decided to keep the article unchanged with the exception of its title. With a view to achieving greater economy and clarity, the Committee had deleted the words "the articles in" from the title only. Similar changes had been made in the titles of the corresponding articles 18 and 30 in Parts III and IV respectively.

The title and text of article 7 were adopted without a vote.

37. Mr. GUILLAUME (France) said that, if article 7 had been put to the vote, his delegation would have abstained because it considered that article to be a duplication of article 1.

Article 8 (State property)

38. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that, besides the changes, already explained, to the three "definitional" articles appearing at the beginning of Parts II, III and IV respectively, the only change made by the Drafting Committee in article 8 affected the French version, where the word "*l'expression*", already used in article 2, had been inserted in order to highlight the definitional character of the provision. Similar changes had been made in the corresponding articles 19 and 31 in Parts III and IV, respectively.

39. On the instructions of the Committee of the Whole, the Drafting Committee had considered an amendment to article 8 submitted by France (A/CONF.117/C.1/L.5) which had not been pressed to a vote, and had agreed that the basic ideas contained in the amendment were implicitly incorporated in the text of article 8 and that there was therefore no need to add any further provision to the article. Furthermore, it had been noted that, while State archives could be considered to be State property and thus to be covered by the provisions of Part II of the convention, it was clearly established by the text of the convention, and in particular by Part III, that State archives constituted a special type of State property which warranted a special régime within the terms of the convention.

40. Replying to a question by Mr. MIKULKA (Czechoslovakia), he said that the Drafting Committee had decided to omit the words "of the predecessor State"

from the title of the article although they appeared in its text, in order to keep the title short and, at the same time, sufficiently expressive. Similar action had been taken with regard to articles 19 and 31.

41. After a discussion concerning the Arabic text of the article in which Mr. MARCHAHA (Syrian Arab Republic) and Mr. SHASH (Egypt) took part, the PRESIDENT put article 8 to the vote.

The title and text of article 8 were adopted by 69 votes to none.

Article 9 (Effects of the passing of State property)

42. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the Drafting Committee had amended the text of article 9 to incorporate the changes required as the result of the adoption by the Committee of the Whole of the report of the Working Group on article 32. No other changes had been made in the article with the exception of two alignments. First, the English text had been brought into line with other versions by the replacement of the phrase "to such of the State property as passes" by the phrase "to the State property which passes". Similar changes had been made in the English text of the corresponding articles 20 and 32 in Parts III and IV, respectively. The comma after the words "which passes to the successor State" should be deleted. Secondly, the French and Spanish texts had been aligned with the English text by the replacement of the words "*conformément aux*" by the words "*selon les*" and of the words "*de conformidad con*" by the word "*según*", respectively. The same changes appeared in articles 20 and 32.

43. Mr. GUILLAUME (France) observed that the comma after the words "*l'Etat successeur*" should probably be deleted from the French version as it had been in the English.

44. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, confirmed that the comma should be removed in both the French and the Spanish versions so as to align them on the English.

45. Mr. NATHAN (Israel) said that it might be desirable to include the words "of the predecessor State" after the words "State property" so as to make the text correspond to the definition in article 8.

46. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the Committee had considered the question of adding those words in the distinct context of each pertinent article and had concluded that there was no need to do so in every case. It was a question of emphasis; article 9 was concerned with the effects of passing and, clearly, once State property had passed, it was no longer the property of the predecessor State.

47. Mr. MIKULKA (Czechoslovakia) asked why the Drafting Committee had none the less chosen to include the words "of the predecessor State" in article 10, where the context was virtually identical to that of article 9.

48. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, pointed out that the phrase "of the predecessor State" in article 10 had not been inserted by the Drafting Committee; it had already been

present in the original draft article of the International Law Commission.

49. The two contexts were in fact different; article 10 was concerned with the date of the passing of State property, whereas article 9 dealt with the effects of that passing. Once the property in question had passed to the successor State, there was no longer any need to refer to it as the property of the predecessor State.

50. Mr. KOLOMA (Mozambique) noted that his concerns were similar to those voiced by the representative of Israel. He saw certain inconsistencies between the definition contained in article 8 and its application in article 9 and between the title of the definition and the body of the definition itself.

51. Article 8 defined not "State property" but specifically the State property of the predecessor State, whilst article 9 spoke only of the effects of passing of State property, without further elaboration. Since the definition in article 8 was intended to apply generally in the Part relating to State property, it was essential to ensure consistency.

52. Mr. ROSENSTOCK (United States of America) said that the suggestion for adding the words "of the predecessor State" was unfortunately correct; it would make the text rather cumbersome but was unavoidable.

53. In the original form of article 8, as drafted by the Commission, it had been clear that the definition of "State property" must mean the State property of the predecessor State, since that property was the only property subject to passing. The words "of the predecessor State" would accordingly have been redundant in subsequent articles. The decision to make the definition more specific by adding those words in article 8 however rendered it necessary to use the same wording consistently in later articles. It would therefore be preferable to include the words "of the predecessor State" at the beginning of article 9.

54. Mr. BINTOU'A-TSHIABOLA (Zaire) said that since article 7 very clearly stated that the articles in the Part in question applied to the effects of a succession of States in respect of State property of the predecessor State, he did not see that the absence of the words "of the predecessor State" in article 9 could really be a source of confusion. However he was ready to agree to their insertion if it was generally considered appropriate.

55. Mr. ECONOMIDES (Greece) said that he shared the view of the representative of the United States. If the proposed insertion was made at the beginning however the later reference to the predecessor State would become redundant and should be replaced by the words "of that State".

56. Mr. RASUL (Pakistan) said that his delegation had no difficulties with the Drafting Committee's version of article 9 as it stood. He felt that the introduction of the words "of the predecessor State" might overburden the text and lead to further complications. It was his understanding that every reference to "State property" in the context of passing was automatically a reference to the definition in article 8. If it was decided to make such a modification, however, the representative of

Greece had been correct in pointing out that a consequential change would have to be made later in the text.

57. Mr. MONCEF BENOUNICHE (Algeria) said that the words which it was proposed to insert would be redundant, since the property covered by article 9 was clearly defined in article 8. The text proposed by the Drafting Committee was fully satisfactory.

58. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that he appreciated the concern for consistency voiced by a number of delegations. That had been a concern of the Drafting Committee also, and the omission of the words "of the predecessor State" in article 9 might well have been an oversight on its part. He had no objection to their insertion and agreed that, if those words were added, the later reference to the predecessor State would have to be replaced by reference to "that State".

59. He noted that the same question might arise later in connection with articles 13 to 17, which had originally contained the same expression.

60. Mr. ROSENSTOCK (United States of America) formally proposed that the words "of the predecessor State" should be inserted between the words "State property" and "entails" and that, after the words "the extinction of the rights", the phrase "of the predecessor State" should be replaced by the words "of that State".

61. The PRESIDENT invited the Conference to vote on the oral amendment of the United States.

The amendment was adopted by 37 votes to none with 26 abstentions.

62. Mr. JOMARD (Iraq) said that the Arabic version of article 9 was not sufficiently clear. He proposed that the term "yu'addi ila" should be used instead of "yastatbi" as a translation for the English word "entails".

63. Mr. SHASH (Egypt) said that the proposal of the representative of Iraq would be a considerable improvement of the Arabic text.

64. Mr. TARCICI (Yemen) said that he also supported the revision proposed by the representative of Iraq.

65. Mr. A. BIN DAAR (United Arab Emirates) said that it was not clear to him why the latter part of article 9 had been drafted in the form in which it stood. The following formulation would have been better: ". . . State property which, subject to the provisions of the articles in the present Part, passes to the successor State".

66. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the text submitted by the Committee was the outcome of long and difficult negotiation. The expression "subject to the provisions of the articles in the present Part" in English had a number of connotations and had the particular advantage of being very neutral. If it had been placed in any other position in the article, however, it could have been taken as referring back not only to "passing" but also to "extinction" and "arising" of rights and might also have had a negative implication, shifting the em-

phasis to the idea that property did not pass unless provided for by the articles of the present Part.

67. As it stood, the English text had proved acceptable to all members of the Drafting Committee.

68. Mr. THIAM (Senegal) said that, in the French version of article 9, the expression “*conformément aux*” would be preferable to “*selon*”. The former expression was more precise and its use had never been contested in the Committee of the Whole.

69. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, noted that many members of the Drafting Committee, and he personally, had expressed a preference for “*conformément aux*”, which had corresponded to the English phrase “in accordance with” in the Commission’s draft article. Had the Drafting Committee had a free hand, it would have retained both those wordings but, since the version in English—the drafting language—had been changed to “subject to” before the article had been referred to the Drafting Committee, it had then become necessary to modify the French and Spanish versions for the sake of concordance. The correct French equivalent of “subject to” was “*sous réserve de*”. However, that expression was less flexible and for that reason the Drafting Committee had eventually—as he had mentioned in his remarks introducing article 9—opted for the word “*selon*” in the French version and for “*según*” in the Spanish.

70. Mr. MUCHUI (Kenya) said that he wished to place on record that his delegation had favoured the original English wording “in accordance with” and had accepted “subject to” only reluctantly as part of a package.

71. Mr. ROSENSTOCK (United States of America) stressed that the words “subject to” had been an essential element in reaching agreement on a package which had related to three articles and had enabled certain delegations to withdraw a number of amendments. It was thus absolutely necessary to retain that wording in English in article 9 and in other parts of the convention.

72. Mr. ROMANOV (Executive Secretary of the Conference) recalled that it had been suggested that the French and Spanish equivalents of the term “subject to” in article 9, and also the Arabic translation of “entails”, should be changed.

73. Mr. THIAM (Senegal) considered that, in the French text of the article, the expression “*conformément aux*” was preferable to “*sous réserve des*”.

74. Mr. GUILLAUME (France) said that the existing text was indeed unsatisfactory since “*sous réserve des*” did not fully convey the meaning of “subject to”. Some delegations had expressed a preference for “*conformément aux*”, but he pointed out that that phrase was not equivalent to “subject to”. He therefore suggested the translation “*sous les conditions prévues par*”.

75. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the problem did not arise in the English text, since the phrase “subject to” had been decided upon in the Committee of the Whole

after lengthy discussion. Consultations with the French- and Spanish-speaking delegations had, however, revealed that there were strong objections to “*sous réserve des*” and “*salvo*” as equivalents of the expression.

76. Mr. THIAM (Senegal) said that it was not his impression that the wording “subject to” had been arrived at by the Committee of the Whole and that the term “*conformément aux*” was in any case preferable on its own merits. He would not, however, press the point.

77. Mr. MONNIER (Switzerland) drew attention to the fact that, in articles 8 and 12 *bis*, the French equivalent of the phrase “according to” was “*conformément aux*”. It would therefore be inappropriate to render “subject to” in article 9 by the same French expression.

78. Mr. BINTOU’A-TSHIABOLA (Zaire) and Mr. ASSI (Lebanon) said that they shared the same misgivings as the representative of France regarding “*sous réserve des*”, and agreed that “*sous les conditions prévues par*” was preferable.

79. Mr. PASTOR RIDRUEJO (Spain) said that, taking the French delegation’s proposed wording as a basis, the phrase “subject to” could be rendered in Spanish by “*con sujeción a las disposiciones de*”.

80. The PRESIDENT pointed out that, in the text of article 9 as submitted by the International Law Commission (A/CONF.117/4), there were no commas, but that a comma appeared between “State” and “subject to” in the revised draft proposed by the Drafting Committee. He wondered whether the comma should be eliminated.

81. Mr. ROSENSTOCK (United States of America) considered that the comma was grammatically important in the English text and should be retained.

82. Mr. PASTOR RIDRUEJO (Spain) said that he felt that the comma should also be retained in the Spanish version.

83. Mr. GUILLAUME (France) said that the words “*sous les conditions prévues par*” constituted a dependent clause qualifying “*qui passent*” and that the comma was redundant in the French text.

84. Mr. SHASH (Egypt) said that, in voting on the article, his delegation would take the English text as the basis for its vote. The proposed French and Spanish versions would, however, prove useful in sorting out drafting difficulties in the Arabic text, which would be finalized through consultations among the Arabic-speaking delegations.

85. The PRESIDENT invited the Conference to proceed to a vote on article 9 as orally amended and revised.

The title and text of article 9 were adopted by 68 votes to none.

86. The PRESIDENT said that a number of delegations wished to explain their votes.

87. Mr. EDWARDS (United Kingdom) said that his delegation had voted in favour of the article on the understanding that the “extinction” and “arising” of rights referred to in the article were simultaneous

events and that the State property would pass together with any obligations attaching thereto. In the Committee of the Whole his delegation had abstained in the voting on article 9 for the reasons it had stated at the time. He recalled that those reasons related to the unsatisfactory nature of the terms "extinction" and "arising" of rights.

88. Mr. RASUL (Pakistan) said that his delegation had regarded the amendment proposed by the United States as being of little importance and had therefore abstained in voting on that amendment. It had however voted in favour of the article as amended.

89. Mr. GUILLAUME (France) said that his delegation had voted in favour of the article for the reasons stated by the United Kingdom and subject to the same reservations.

90. Mr. OESTERHELT (Federal Republic of Germany) said that his delegation shared the views expressed by the United Kingdom. It also wished to draw attention to its earlier statements on article 9 in the discussions in the Committee of the Whole.

91. Mr. AL-KHASAWNEH (Jordan) said that his delegation had voted in favour of article 9 but that it did not consider that the notions of concomitance or simultaneity should be read into the article.

92. Mr. TARCICI (Yemen) said that the Arabic text should only be considered as having been formally adopted after the Arabic-speaking delegations had met to consult on the most appropriate wording in Arabic.

The meeting rose at 6.10 p.m.

7th plenary meeting

Wednesday, 6 April 1983, at 10.55 a.m.

President: Mr. SEIDL-HOHENFELDERN (Austria)

Consideration of the question of succession of States in respect of State property, archives and debts, in accordance with General Assembly resolutions 36/113 of 10 December 1981 and 37/11 of 15 November 1982 (continued)

[Agenda item 11]

ARABIC VERSION OF THE DRAFT CONVENTION

1. Mr. SHASH (Egypt), speaking on behalf of the Arabic-speaking group of delegations, proposed that, in order to save the time of the Conference and still produce a text acceptable in all languages, the Arabic-speaking group should review the Arabic version of the draft convention in collaboration with the Secretariat.

2. Mr. JOMARD (Iraq), supporting the proposal of the Egyptian representative, said that the text of the Arabic version of the draft convention contained a number of errors. He himself had submitted a number of corrections and had prepared some text for the secretariat of the Conference. The secretariat had, however, retained the original Arabic text. Account should be taken of the corrections submitted by the Arabic-speaking delegations. He would submit his comments again to the Secretariat.

3. The PRESIDENT took note of the statements made by the representatives of Egypt and Iraq.

REPORTS OF THE DRAFTING COMMITTEE (continued)
(A/CONF.117/10 and Add.1-3)

**REPORT OF THE COMMITTEE
OF THE WHOLE (continued)**
(A/CONF.117/11 and Add.1-12)

Article 10 (Date of the passing of State property)

The title and text of article 10 were adopted without a vote.

Article 11 (Passing of State property without compensation)

4. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the Drafting Committee, as a consequence of its decision relating to draft articles containing definitions and taking into account an oral amendment to article 11 which had been referred to it, had decided to replace the phrase "State property from the predecessor State" in the English version of the article by the phrase "State property of the predecessor State".

The title and text of article 11 were adopted without a vote.

Article 12 (Absence of effect of a succession of States on the property of a third State)

The title and text of article 12 were adopted without a vote.

Article 12 bis (Preservation and safety of State property)

5. Mr. SUCHARITKUL (Thailand), Chairman of the Drafting Committee, said that the Committee had decided to rearrange the order of certain phrases in order to improve the clarity of the article and achieve a greater degree of precision in its wording. Thus, in the English version, the final phrase "which, according to the provisions of the articles of the present Part, passes to the successor State" had been revised to read "which passes to the successor State in accordance with those provisions". Corresponding revisions had been made in the other language versions. He wished, however, to emphasize that those changes did not alter the substance of the article. In addition, in the French and Spanish versions of the title the words "sauvegarde" and "salvaguardia" had been replaced by "préservation" and "conservación" respectively, in