

**United Nations Conference on the Law of Treaties between States
and International Organizations or between International Organizations**

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30th meeting of the Committee of the Whole

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and of the meetings of the Committee of the Whole)*

would be grateful if the representative of the United Nations would confirm that understanding.

12. Mr. BERMAN (United Kingdom), speaking on a point of order, asked whether it was appropriate for an article to be discussed in the Committee of the Whole before the latter had decided that the article was properly before it.

13. The CHAIRMAN asked if the Committee of the Whole wished to give substantive consideration to article 80 and to consider the amendment proposed by Egypt.

14. Mr. BERMAN (United Kingdom) said that he did not wish his intervention to be regarded as an objection to substantive consideration of article 80 by the Committee. However, as a procedural matter, he was somewhat perplexed by the situation which had arisen, inasmuch as it was now seemingly proposed to reopen substantive discussion of an article in respect of which the Drafting Committee had already completed its deliberations. He wondered if the Chairman of the Drafting Committee could provide any clarification of the matter.

15. The CHAIRMAN observed that under rule 28, subparagraph 2 (a), of the rules of procedure, the Committee of the Whole could decide to give substantive consideration to a particular article of the basic proposal that had been referred directly to the Drafting Committee, which was the case of article 80.

16. Mr. AL-KHASAWNEH (Jordan), Chairman of the Drafting Committee, recalled that article 80 had been referred directly to the Drafting Committee at the beginning of the Conference. Since the article had now been provisionally adopted by the Drafting Committee, which would shortly be called upon to report to the Conference, it would greatly complicate matters if substantive discussion of the article were reopened.

17. Mr. GAJA (Italy) said that it had always been his understanding that Article 102 of the Charter of the United Nations applied also to treaties between States and international organizations. He suggested that the representative of the United Nations might be asked to clarify the matter.

18. Mr. SZASZ (United Nations) said that within the Secretariat of the United Nations there were two pro-

cedures for the recording of a treaty: "registration" in accordance with Article 102 of the Charter and the regulations adopted pursuant to that article, on the one hand, and application of the rules relating to the "filing and recording" of treaties not subject to that Article, on the other. The latter procedure applied equally to non-member States, international organizations or any other entity. It had existed at the time of adoption of the 1969 Vienna Convention on the Law of Treaties,¹ which was why the International Law Commission had retained the language of that Convention for article 80 of the proposed new convention. From the Secretariat's point of view, the provision in article 80 of the 1969 Vienna Convention had proved adequate, and a similar provision would be adequate in the future convention. The differences in procedure existed only within the Secretariat, and no distinction was made between treaties to which States only were parties and other treaties, either in their submission for registration or recording or in their publication, since they appeared in the same monthly statement and volume of the United Nations *Treaty Series*.

19. Mr. RAMADAN (Egypt) said that in the light of the explanations given by the representative of the United Nations, his delegation withdrew its amendment contained in document A/CONF.129/C.1/L.78.

20. Mr. NETCHAEV (Union of Soviet Socialist Republics) suggested that the future convention might usefully reflect the practice of the Secretariat of the United Nations regarding the registration or filing and recording of treaties involving States and international organizations.

21. Mr. BERMAN (United Kingdom) reiterated that his delegation had not wished to make a formal objection to the amendment proposed by Egypt, and recognized the latter's right to request a reopening of substantive discussion. However, he believed it was appropriate for the Egyptian amendment to have been withdrawn.

The meeting rose at 6.25 p.m.

¹ *Official Records of the United Nations Conference on the Law of Treaties* (United Nations publication, Sales No. E.70.V.5), p. 287.

30th meeting

Wednesday, 19 March 1986, at 10.25 a.m.

Chairman: Mr. SHASH (Egypt)

Consideration of the question of the law of treaties between States and international organizations or between international organizations, in accordance with General Assembly resolutions 37/112 of 16 December 1982, 38/139 of 19 December 1983, 39/86 of 13 December 1984 and 40/76 of 11 December 1985 (A/CONF.129/4) and A/CONF.129/9)

[Agenda item 11] (*concluded*)

Article 66 (Procedures for arbitration and conciliation) and Annex (Arbitration and conciliation procedures established in application of article 66) (*concluded*)

1. The CHAIRMAN said he was informed that delegations had not reached agreement on a text for article 66 and the annex which would command general support. The Committee would therefore have to vote

on the various proposals for those provisions. In accordance with rule 41 of the rules of procedure, it would vote in the following order on the amendments proposed to the International Law Commission's text for article 66: the Soviet Union proposal (A/CONF.129/C.1/L.60), the proposal of Austria, Colombia, Ireland, Japan, Mexico, Netherlands, Nigeria and Switzerland (A/CONF.129/C.1/L.69/Rev.2) and the proposal by Algeria, China and Tunisia (A/CONF.129/C.1/L.68). The Committee would not vote on the United Nations proposal (A/CONF.129/C.1/L.66), since no State had requested that.

2. With regard to the proposal for amending the Commission's text of the annex, a decision on the Soviet Union's wording (A/CONF.129/C.1/L.61, para. 2) would depend on the decision taken on the Soviet Union's proposal for article 66 (A/CONF.129/C.1/L.60); the European Economic Community's proposal (A/CONF.129/C.1/L.64) would not be voted on, since no State had requested that; while the proposal by the Soviet Union for section I, subparagraph 2 (b), of the annex (A/CONF.129/C.1/L.61, para. 1) and the proposal by the Netherlands (A/CONF.129/C.1/L.67) were drafting matters which did not require a vote.

3. He invited the Committee to vote on the Soviet Union proposal for article 66 (A/CONF.129/C.1/L.60).

At the request of the representative of Japan, a recorded vote was taken.

In favour: Algeria, Angola, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, German Democratic Republic, Hungary, Iran (Islamic Republic of), Mozambique, Peru, Poland, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yemen.

Against: Australia, Austria, Barbados, Belgium, Brazil, Canada, Chile, China,¹ Colombia, Cyprus, Denmark, Finland, Gabon, Germany, Federal Republic of, Greece, Holy See, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Portugal, Spain, Sudan, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia.

Abstaining: Argentina, Bahrain, Burkina Faso, Cameroon, Congo, Côte d'Ivoire, Egypt, France, Guatemala, India, Indonesia, Iraq, Israel, Kenya, Kuwait, Madagascar, Malta, Morocco, Oman, Panama, Philippines, Qatar, Republic of Korea, Saudi Arabia, Senegal, Thailand, Tunisia, United Arab Emirates, Viet Nam, Zaire, Zambia.

The amendment proposed by the Soviet Union (A/CONF.129/C.1/L.60) was rejected by 36 votes to 17, with 31 abstentions.

4. Mr. WANG Houli (China) said that, owing to a misunderstanding, the vote recorded for his delegation had related to the eight-Power proposal and not to the Soviet Union proposal. His delegation was in favour of the Soviet Union proposal for article 66.

5. The CHAIRMAN invited the Netherlands representative to introduce the revised version of the eight-Power proposal (A/CONF.129/C.1/L.69/Rev.2).

6. Mr. RIPHAGEN (Netherlands) said that the only difference between the new proposal and the one in document A/CONF.129/C.1/L.69/Rev.1 was the insertion of the words "or, where appropriate, the competent organ of the organization concerned" after the words "Security Council" in the original proposed subparagraph 2 (b). The new words were intended to provide for the situation in which an international organization requested an advisory opinion from the International Court of Justice. The insertion had been made at the request of a number of specialized agencies and involved no substantive change.

7. The CHAIRMAN invited the Committee to vote on the proposal of Austria, Colombia, Ireland, Japan, Mexico, Netherlands, Nigeria and Switzerland (A/CONF.129/C.1/L.69/Rev.2).

At the request of the representatives of France and Colombia, a vote was taken by roll-call.

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

In favour: Australia, Austria, Barbados, Belgium, Canada, Chile, Colombia, Cyprus, Denmark, Finland, Germany, Federal Republic of, Greece, Holy See, Iceland, India, Ireland, Italy, Japan, Jordan, Kenya, Kuwait, Lebanon, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Portugal, Republic of Korea, Spain, Sudan, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Zambia.

Against: Algeria, Angola, Argentina, Bulgaria, Burkina Faso, Byelorussian Soviet Socialist Republic, China, Cuba, Czechoslovakia, Democratic People's Republic of Korea, Egypt, German Democratic Republic, Hungary, Indonesia, Iran (Islamic Republic of), Mozambique, Peru, Poland, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Viet Nam.

Abstaining: Bahrain, Brazil, Cameroon, Congo, Côte d'Ivoire, Ecuador, France, Gabon, Guatemala, Iraq, Israel, Madagascar, Malta, Morocco, Oman, Panama, Philippines, Qatar, Saudi Arabia, Senegal, Thailand, United Arab Emirates, Yemen, Zaire.

The amendment proposed by Austria, Colombia, Ireland, Japan, Mexico, the Netherlands, Nigeria and Switzerland (A/CONF.129/C.1/L.69/Rev.2) was adopted by 40 votes to 24, with 24 abstentions.

8. The CHAIRMAN said that, in view of the result of the vote on the eight-Power proposal, the Committee would not need to vote on the proposal by Algeria, China and Tunisia (A/CONF.129/C.1/L.68). Unless he heard any objection, he would take it that the Committee of the Whole adopted article 66 as proposed by the International Law Commission and amended, as well as the annex proposed by the Commission, and referred them to the Drafting Committee together with the Soviet Union proposal for section I, subparagraph 2 (b), of the annex (A/CONF.129/C.1/L.61, para. 1) and the

¹ See the statement by the delegation of China in paragraph 4 below.

Netherlands proposal for section III of the annex (A/CONF.129/C.1/L.67).

It was so decided.

9. Mr. GILL (India) said that his delegation had voted in favour of the eight-Power amendment for the reasons it had given in its statement at the 26th meeting on disputes arising out of articles 53 and 64 of the draft convention. Its vote indicated that it continued to believe that there should be mandatory procedures for the settlement of disputes, with recourse to arbitration or conciliation only with the consent of both parties.

10. Mr. SAHOVIC (Yugoslavia) said that his delegation had voted in favour of the eight-Power amendment because it contained two elements which it regarded as decisive: a régime based on article 66 of the 1969 Vienna Convention on the Law of Treaties², which Yugoslavia had ratified without reservation and which provided for recourse to the International Court of Justice, and the idea underlying the Commission's proposal.

11. Mr. RASOOL (Pakistan) said that his delegation had voted in favour of the eight-Power amendment because it was in line with the corresponding provision of the 1969 Vienna Convention. However, it reserved its position on subparagraph 2 (e) of the article, which made an advisory opinion of the International Court of Justice binding. That situation was a departure from normal practice. While favouring a compulsory procedure for articles 53 and 64 because of their sacrosanct nature, it was opposed to a binding character being attributed to advisory opinions of the Court.

12. Mr. GÜNEY (Turkey) said that his delegation's vote on the Soviet Union and eight-Power amendments reflected the views expressed in the statement it had made at the 26th meeting.

13. Mr. TEPAVICHAROV (Bulgaria) said that his delegation had voted against the eight-Power amendment because it believed that a conference which was codifying international law, and in particular dealing with a problem such as the settlement of disputes, should adopt a régime which commanded general support. In the view of his delegation, the decision to adopt the eight-Power amendment amounted to denying the Conference a valid text to consider on the settlement of disputes.

14. Mr. ALMODÓVAR (Cuba) said that his delegation had voted against the eight-Power amendment on the principle which it had maintained about article 66 from the outset: that it could not accept any system involving a compulsory supranational dispute procedure whereby decisions, the nature and scope of which could not be foreseen, could be imposed on the parties to a dispute.

15. Mr. AL-KHASAWNEH (Jordan) said that his delegation had voted in favour of the eight-Power amendment because it believed that a State party to a treaty was bound to resort to the settlement procedure for which that proposal provided. The Conference

should reaffirm the principle of the sovereignty of international law, on which his delegation's support for the amendment had been based. Any action which weakened that principle would be harmful to the international community as a whole.

16. Mr. NETCHAEV (Union of Soviet Socialist Republics) said that his delegation had voted against the eight-Power amendment because it believed that in regard to every dispute there should be agreement by all the States concerned to refer the matter to a particular body. Furthermore, the Conference was codifying generally recognized rules of international law; it should not, therefore, codify rules which were not recognized by a majority of States, and the compulsory jurisdiction procedure had been recognized by less than one third of the world's States.

17. Mr. KHARMA (Lebanon) said that his delegation had voted in favour of the system proposed in the eight-Power amendment because that régime was in line with the one established by the 1969 Vienna Convention. However, it had reservations about the provision in subparagraph 2 (e) of the article.

18. Mr. RODRÍGUEZ CEDEÑO (Venezuela) said that his delegation had voted against the eight-Power amendment since it considered that the procedure for the settlement of international disputes should, irrespective of the nature of the dispute, be based on the consent of all the parties concerned. In addition, it questioned whether the advisory opinions of the International Court of Justice could be considered as binding. It maintained the views which it had expressed at the 26th meeting.

19. Mr. PALOMO (Guatemala) said that his delegation had abstained from voting on the eight-Power amendment because it considered that the procedure established for determining the content of peremptory norms of international law was purely formalistic and would not enable the nature, scope and essence of those norms to be determined with any clarity or precision. Furthermore, his delegation had serious reservations about the advisability of providing for an arbitration or conciliation procedure which imposed a decision on the parties concerned.

20. Mr. MORELLI (Peru) said that the régime which the Committee had adopted, with its provision for compulsory jurisdiction, would hamper the exercise by States of sovereignty in choosing the most suitable means of settling disputes peacefully. What had been a reasonable proposal to set up machinery for that purpose had been distorted by the Committee's decision, in accordance with which an *ultra vires* and mandatory character was imparted to institutions to which the international community had not given that character, such as conciliation, arbitration and the advisory opinion procedure of the International Court of Justice. In the case of arbitration, the purpose of the institution was to settle disputes through arbitrators appointed by the parties acting in accordance with the law. Consequently, it was a legal procedure involving the impartial application of rules binding on both parties, and the binding force of those rules arose from the fact that two or more States, in the full exercise of their sovereignty, agreed to submit the dispute to arbitral settlement. It

² See *Official Records of the United Nations Conference on the Law of Treaties* (United Nations publication, Sales No. E.70.V.5), p. 287.

was regrettable that the adoption of the eight-Power amendment did not attempt to reconcile the various points of view which existed about the settlement-of-disputes provisions, and that it did not reflect the spirit of established norms, such as those of the 1969 Vienna Convention. It was likely that the considerable number of States participating in the Conference whose views had been ignored would enter reservations to the convention or find themselves unable to ratify it. In his delegation's opinion, the adoption of the eight-Power amendment did not mean that the rule it contained was sufficiently accepted by the international community to make a contribution to the progressive development of international law.

21. Mr. RASSOLKO (Byelorussian Soviet Socialist Republic) said that his delegation had voted against the eight-Power amendment because that proposal envisaged an arbitration and conciliation procedure incompatible with his country's position on the matter, namely, that in every case of a dispute, all the parties concerned should agree beforehand to submit the dispute to the International Court of Justice. Furthermore, an international organization could not legally have recourse to the Court because, according to the Statute of the Court, only States could be parties to a case dealt with by that body.

22. Mr. POEGGEL (German Democratic Republic) said that his delegation could not accept a compulsory jurisdiction procedure in respect of disputes involving *jus cogens*. In view of the legal importance and political nature of *jus cogens*, the settlement of such disputes should not be left to a so-called neutral body.

23. Mr. AL-MUBARAKY (Kuwait) said that the régime adopted by the Committee constituted a step forward, and one which was in conformity with article 66 of the 1969 Vienna Convention.

24. Mr. RADY (Egypt) said that his delegation had voted against the eight-Power amendment because it was convinced that there had to be agreement between the parties to a dispute about the means to be adopted to settle it. The means must not itself be a subject for dispute.

25. Mr. FISCHER (Holy See) said that his delegation had voted in favour of the eight-Power amendment because it reflected the position taken for centuries by the Holy See in regard to the settlement of disputes. Popes had acted as arbitrators or conciliators for over a thousand years, and in many cases had peacefully settled disputes which would otherwise have led to war. His delegation was convinced that the law was sovereign and that compulsory machinery was needed to settle disputes arising from matters regulated by the proposed convention.

26. Mr. LÊ BÁ CÁP (Viet Nam) said that his delegation had voted against the eight-Power amendment because it believed strongly in the need for direct negotiations between the parties to a dispute in regard to the selection of the means of settling it.

27. Mr. SZASZ (United Nations) said that paragraphs 9 and 14 of the annex to the draft convention provided that the expenses of arbitral tribunals and conciliation commissions established in pursuance of

the annex would be borne by the United Nations. It would therefore be necessary for the United Nations General Assembly to take note of and approve the provisions of those paragraphs. The United Nations would submit a draft resolution to the Conference inviting it to request the General Assembly to take that action.³

Article 81 (Signature)

Article 82 (Ratification or act of formal confirmation)

Article 83 (Accession)

Article 84 (Entry into force)

Article 85 (Authentic texts)

28. Mr. NETCHAEV (Union of Soviet Socialist Republics), introducing his delegation's proposal for the final clauses of the draft convention (A/CONF.129/C.1/L.76 and Corr.1), said that it sought to distinguish between States and international organizations as subjects of international law.

29. In principle, his delegation could accept the text of the final clauses proposed by Brazil, Cameroon, Egypt, India and Yugoslavia (A/CONF.129/C.1/L.79), but it could not approve the provision in that proposal which would allow international organizations to sign the future convention. The reasons for that were, first, that the purpose of the present Conference was codification, and there had never been a codification conference at which international organizations, participating at the invitation of States and the General Assembly, had signed the text of a convention elaborated by States; secondly, since the decisions taken at the present Conference were adopted by voting or other procedures in which observers could not participate, it would be appropriate for the draft convention to contain a provision whereby international organizations could accede to the convention at any time, even before it entered into force.

30. Mr. RAMADAN (Egypt), introducing the proposal for the final clauses submitted by Brazil, Cameroon, his own country, India and Yugoslavia (A/CONF.129/C.1/L.79), said that it was necessary, from both the legal and the procedural points of view, formally to place before the Committee the text of the draft final clauses which the General Assembly had referred to the Conference in annex III to resolution 40/76. The five Powers which sponsored the proposal believed that the text in question was suitable for use in the draft convention because it was based on the 1969 Vienna Convention and because it took into consideration the interests of all those concerned. For example, article 81, subparagraph (c), provided that the convention would be open for signature by international organizations which had been invited to participate in the Conference, and article 84, paragraph 1, provided that the entry into force of the convention depended upon the deposit of a specific number of instruments of ratification or accession by States or by Namibia.

³ Subsequently circulated as document A/CONF.129/L.4.

31. He was authorized by the delegations of the countries of the Group of 77 to state that they endorsed the text of the final clauses reproduced in the attachment to the note by the Secretary-General circulated to the Conference under the symbol A/CONF.129/9. The five Powers proposed that in article 84, paragraph 1, the number of instruments of ratification or accession required for the entry into force of the convention should be 25. That text should therefore be completed by the insertion of the word "twenty-fifth" before the word "instrument" in that paragraph.

32. Mr. YIN Yubiao (China) supported the proposal that the required number of instruments of ratification or accession should be 25.

33. Mr. BERMAN (United Kingdom) introduced the amendment proposed by his delegation and that of the Netherlands (A/CONF.129/C.1/L.80) to the five-Power proposal for article 84 as orally amended by its sponsors. He said that the requirement of 35 instruments of ratification or accession by States or by Namibia suggested by the United Kingdom and the Netherlands was the same as the corresponding requirements of the 1969 Vienna Convention. The proposed requirement of five instruments for acts of formal confirmation or accession by international organizations represented roughly the same ratio of instruments to the number of such organizations as the figure of 35 represented to the total number of States members of the international community eligible to become parties to the future convention.

34. The CHAIRMAN invited the Committee to vote on the proposals by the Soviet Union (A/CONF.129/C.1/L.76 and Corr.1), the Netherlands and the United Kingdom (A/CONF.129/C.1/L.80) and Brazil, Cameroon, Egypt, India and Yugoslavia (A/CONF.129/C.1/L.79), as completed orally by its sponsors. In accordance with rules 41 and 42 of the rules of procedure, the proposals should be voted on in that order.

35. Mr. BERMAN (United Kingdom) requested that the proposed final clauses should be voted upon article by article.

36. The CHAIRMAN said that, unless he heard any objection, he would take it that the Committee agreed to that request.

It was so decided.

Article 81

At the request of the representative of Egypt, a vote was taken by roll-call on the Soviet Union proposal (A/CONF.129/C.1/L.76).

The Federal Republic of Germany, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Democratic People's Republic of Korea, German Democratic Republic, Hungary, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Viet Nam.

Against: Australia, Austria, Barbados, Belgium, Brazil, Cameroon, Canada, Chile, Colombia, Den-

mark, Egypt, Finland, France, Gabon, Germany, Federal Republic of, Greece, Guatemala, Holy See, Indonesia, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Portugal, Spain, Sudan, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Zambia.

Abstaining: Algeria, Angola, Argentina, Bahrain, Burkina Faso, China, Congo, Côte d'Ivoire, Cyprus, Ecuador, India, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kenya, Kuwait, Lebanon, Madagascar, Morocco, Mozambique, Oman, Panama, Peru, Philippines, Qatar, Republic of Korea, Saudi Arabia, Senegal, Thailand, Tunisia, Turkey, United Arab Emirates, Venezuela, Yemen, Zaire.

The text proposed by the Soviet Union for article 81 was rejected by 40 votes to 12, with 36 abstentions.

37. The CHAIRMAN said that, in view of the result of the vote, he would take it, unless he heard any objection, that the Committee adopted the text of article 81 proposed by Brazil, Cameroon, Egypt, India and Yugoslavia in document A/CONF.129/C.1/L.79.

It was so decided.

Article 82

At the request of the representative of Egypt, a vote was taken by roll-call on the Soviet Union proposal (A/CONF.129/C.1/L.76).

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

In favour: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Democratic People's Republic of Korea, German Democratic Republic, Hungary, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Viet Nam.

Against: Australia, Austria, Belgium, Brazil, Cameroon, Canada, Chile, Colombia, Denmark, Egypt, Finland, France, Gabon, Germany, Federal Republic of, Greece, Guatemala, Holy See, Indonesia, Ireland, Italy, Japan, Kenya, Liechtenstein, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Portugal, Senegal, Spain, Sudan, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Zambia.

Abstaining: Algeria, Angola, Argentina, Bahrain, Barbados, Burkina Faso, China, Congo, Côte d'Ivoire, Cyprus, India, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Madagascar, Morocco, Mozambique, Oman, Panama, Peru, Philippines, Qatar, Republic of Korea, Saudi Arabia, Thailand, Tunisia, Turkey, United Arab Emirates, Venezuela, Yemen, Zaire.

The text proposed by the Soviet Union for article 82 was rejected by 41 votes to 12, with 34 abstentions.

38. The CHAIRMAN said that, in view of the result of the vote, he would take it, unless he heard any objection, that the Committee adopted the text of article 82

proposed by Brazil, Cameroon, Egypt, India and Yugoslavia in document A/CONF.129/C.1/L.79.

It was so decided.

Article 83

39. The CHAIRMAN noted that the proposal of the Soviet Union (A/CONF.129/C.1/L.76) and that of the five Powers (A/CONF.129/C.1/L.79) contained identical texts for article 83. If he heard no objection, he would take it that the Committee adopted the text in question.

It was so decided.

Article 84

40. Mr. BERMAN (United Kingdom) withdrew the proposal made by the Netherlands and the United Kingdom (A/CONF.129/C.1/L.80).

41. Mr. NETCHAEV (Union of Soviet Socialist Republics) moved the suspension of the meeting in order to allow delegations to engage in informal consultations on the number of instruments of ratification or accession to be specified in article 84, paragraph 1. In all other respects the texts of the two proposals before the Committee for article 84 were identical.

The meeting was suspended at 12.15 p.m. and resumed at 12.40 p.m.

42. Mr. RAMADAN (Egypt), speaking on behalf of the sponsors of the proposal in document A/CONF.129/C.1/L.79, as completed orally, said that in the informal consultations which had just been held delegations had agreed that the number of instruments of ratification or accession to be stipulated in article 84, paragraph 1, should be 35. The sponsors therefore amended their proposal by replacing the word "twenty-fifth" in that paragraph by the word "thirty-fifth".

43. Mr. TEPAVICHAROV (Bulgaria) said that the members of the East European group of countries approved the amendment proposal.

44. Mr. NETCHAEV (Union of Soviet Socialist Republics) agreed. He suggested that the Committee should not now take separate decisions on articles 84 and 85.

45. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee adopted the wording for articles 84 and 85 at present before it, with the word "thirty-fifth" inserted before the word "instrument" in paragraph 1 of article 84, and that it referred articles 81 to 85 to the Drafting Committee.

It was so decided.

46. Mr. BERMAN (United Kingdom) said that his delegation's participation in the general agreement on the provisions which had just been adopted reflected the spirit in which lengthy negotiations had been conducted on the final clauses of the proposed convention before the Conference had taken place. The distinction drawn between the international organizations referred to in subparagraph 1 (c) of article 81 and in article 82, on the one hand, and those referred to in article 83, on the other—between those international organizations invited to participate in the present Conference and other international organizations—was highly convenient,

but did not necessarily correspond to all the aspects of treaty-making covered by the draft convention. It was article 83 which contained a reference to treaty-making capacity and corresponded to normal practice in that regard. His delegation understood the wording of articles 81 to 85 adopted by the Committee of the Whole as not introducing any departure in substance from the articles so far adopted by the Conference in plenary session.

Adoption of the report of the Committee of the Whole

47. Mrs. THAKORE (India), Rapporteur, introducing the report of the Committee of the Whole (A/CONF.129/C.1/L.74 and Add.1-5, 7-8), said that the sections of the report relating to article 66 and the annex and to the final clauses were not yet available, since those provisions had only just been adopted by the Committee. It was her intention to report on the Committee's deliberations on article 66 and the annex (see A/CONF.129/C.1/L.74/Add.6 and Corr.1) and on the proceedings relating to the final clauses (see A/CONF.129/C.1/L.74/Add.9).

48. The report consisted of three chapters. Chapter II constituted the major part of the report and described the work of the Committee on agenda item 11. The Committee had examined 23 articles of the basic proposal requiring substantive consideration, the annex entitled "Arbitration and conciliation procedures established in application of article 66" and proposals for a new article. In addition, it had prepared the preamble and the final clauses of the convention. The Conference had referred the remaining articles of the basic proposal directly to the Drafting Committee. The results of the work of the Drafting Committee were contained in that Committee's reports (A/CONF.129/11 and Add.1-3) and did not form part of the report of the Committee of the Whole.

49. The report of the Committee of the Whole was designed to be read in conjunction with the summary records of its meetings. Delegations were requested to draw the secretariat's attention in writing, as soon as possible, to any inaccuracies which the report contained.

50. The CHAIRMAN thanked the Rapporteur for her statement. He suggested that the Committee, in order to avoid holding a meeting exclusively for the purpose of adopting the two outstanding portions of the report, should entrust the Rapporteur with the task of completing those portions with the help of the secretariat and in accordance with the pattern she had followed for the rest of the report; and that it should adopt the report in that form.

It was so decided.

51. The CHAIRMAN said that, with the adoption of its report, the Committee of the Whole had now completed its work. He paid tribute to the other officers and to the members of delegations and the secretariat for their contribution to the successful outcome of the Committee's proceedings.

The meeting rose at 1.05 p.m.