

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

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**4th meeting of the Committee of the Whole**

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the Law of Treaties between States and International Organizations or between  
International Organizations (Summary records of the plenary meetings  
and of the meetings of the Committee of the Whole)*

## 4th meeting

Friday, 21 February 1986, at 3.25 p.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)**

[Agenda item 11] (*continued*)

*Article 2 (Use of terms) (continued)*

*Subparagraph 1 (j) (concluded)*

1. Mr. WANG Houli (China) said that the central point of subparagraph 1 (j) was that the treaty-making capacity of an international organization could come only from the will of its member States as reflected in its constituent instruments; the term "rules of the organization" therefore meant not only the constituent instruments but also such relevant decisions, resolutions and established practice as were in conformity with the objectives and purposes specified in the constituent instruments. While the wording proposed in document A/CONF.129/C.1/L.2 was an improvement on the original subparagraph, it did not make it sufficiently clear that established practice too must conform to the constituent instruments. Also, as other representatives had indicated, the term "legally binding instruments" in the amendment was not wholly adequate, since legally binding acts were not confined to instruments. His delegation therefore suggested the following wording for the subparagraph: "(j) 'rules of the organization' means the constituent instruments of the organization and its relevant acts and established practice based on the constituent instruments". It was not necessary to specify that the term "relevant acts" included all relevant decisions and resolutions and similar acts of an international organization.

*Article 3 (International agreements not within the scope of the present articles)*

2. Mr. JESUS (Cape Verde) said that there was a lacuna in the text proposed by the International Law Commission, namely, in regard to international agreements between subjects of international law other than States and international organizations. His delegation had submitted a proposal to remedy that shortcoming (A/CONF.129/C.1/L.5 and Corr.1) and suggested that the new subparagraph which it had recommended should be placed after the existing subparagraph (ii) and become subparagraph (iii), with the present subparagraph (iii) becoming subparagraph (iv).

3. Mr. SCHRICKE (France), introducing the amendment proposed by his delegation (A/CONF.129/C.1/L.11), said that article 3 was at best of doubtful utility and at worst a possible source of confusion.

4. The scope of application of the draft articles as a whole was clearly defined in article 1 and further elaborated in article 2. Those two articles made it clear that the future convention could have no legal effect on international agreements other than those governed by international law and concluded in writing between one or more States and one or more international organizations or between international organizations. In 1968 the French delegation to the United Nations Conference on the Law of Treaties had pointed out, in connection with the text of article 3 of the draft articles on the law of treaties proposed by the International Law Commission, that article 3 merely restated the situation created by articles 1 and 2.<sup>1</sup> Thus article 3 would in any event be of little use. It could of course be said that since that Conference had nevertheless decided to include such an article in the Convention it approved in 1969, and since the present draft articles were intended to parallel that Convention, it would be appropriate to include a similar provision in it, amended as necessary to suit the different scope of the new articles.

5. The analogy, however, was deceptive. The purpose of the draft articles considered in 1968 had been more ambitious than that of the present draft, and indeed than the text finally adopted by the Conference. The goal of the draft articles on the law of treaties had been to establish the rules of the law of treaties in general, whether concluded by States or by other subjects of international law. It had therefore seemed sensible to specify that the text, despite its very broad scope of application, did not claim to be exhaustive or to impair either the validity of agreements outside its scope of application or the application of rules of international law other than those deriving from the Convention. In the event, the Conference had decided to restrict the scope of the 1969 Convention to treaties between States and had drafted article 3 to take that into account, making it clear that the provisions of the Convention would apply to the relations of States as between themselves under international agreements to which other subjects of international law were also parties.

6. The position at the present Conference was entirely different. The draft articles were an adaptation to a particular category of treaties of the rules set forth in the 1969 Convention. The grounds for dealing with the situation addressed by article 3 of that Convention were no longer present.

7. The fact that the present draft article 3 was of little use would not be sufficient justification for deleting it, if

<sup>1</sup> See *Official Records of the United Nations Conference on the Law of Treaties* (United Nations publication, Sales No. E.68.V.7), Summary records of the Committee of the Whole, 7th meeting, para. 56.

the article did not present the additional disadvantage of being a possible source of confusion. Its wording was indeed very complex, and undoubtedly it could hardly be otherwise; unlike article 3 of the 1969 Convention, it had to take into account not only the existence of international agreements other than the treaties covered by the draft articles but also the provisions of the 1969 Convention itself. It might prove very difficult, not to say controversial, to interpret, particularly in regard to its relationship with the 1969 Convention. Moreover, there was always the risk that, by seeking to list all the kinds of agreements that fell outside the scope of application of the proposed convention, the article might overlook one or more. The amendment proposed by the delegation of Cape Verde was an illustration of the kind of negative approach whereby the article sought to define what the scope of application was not, rather than what it was. As a positive approach to the situation, his delegation thus proposed that the article should be deleted.

8. Mr. HAYASHI (Japan) said that article 3 enumerated certain categories of international agreement to which the proposed convention would not apply, and safeguarded their legal force. While his delegation had no argument with the general thrust of the article, which it believed could be useful in the same way as article 3 of the 1969 Vienna Convention, it had some difficulty with the drafting of the first half of the article. The enumeration of the types of international agreement which would not be affected was not exhaustive and constituted a clear departure from article 3 of the Vienna Convention. As it stood, the text left out agreements between States, international agreements between States and subjects of international law other than States and international organizations, and international agreements between such other subjects of international law. It was clearly not the intention of the International Law Commission to deny protection to those agreements, and the gap should therefore be filled by making a change in the drafting. One way of doing that would be to follow the Commission's approach and try to expand the list of categories of agreement suitably, but the resulting text would be very cumbersome. An acceptable alternative to attempting to list all conceivable categories of agreement would be to refer to "certain international agreements", as suggested in the proposal put forward by his delegation in document A/CONF.129/C.1/L.9; that would considerably shorten and simplify article 3 without changing the Commission's intention or the substance of its text. He hoped that the new text would commend itself to the Committee as a compromise.

9. Mr. CASTROVIEJO (Spain) said that his delegation did not think article 3 was either superfluous or badly drafted. It was true that it was somewhat lengthy and detailed, but the topic required a series of distinctions and clarifications, without which its application to international agreements between States and international organizations could not be properly understood. He appreciated that some of those aspects might not seem appropriate to some delegations, including the reference in the final subparagraph of the article to "other subjects of international law". His delegation nevertheless considered that the reference was not out

of place in the article, and it urged that the text should be retained as it stood, as being the outcome of a compromise in the International Law Commission.

10. Mrs. THAKORE (India) said that her delegation had no difficulty with article 3 as adopted by the Commission. The article had the merit of clarity, although the wording was cumbersome. In view of the increasingly frequent conclusion of unwritten agreements, it was necessary to specify that the draft articles sought to govern only agreements in written form. The substitution of "subjects of international law" for the term "entities" had been an improvement, as the latter might have given rise to problems. The expression "subjects of international law" had, moreover, been used in the 1969 Vienna Convention. The requirement of the generally recognized principle that international agreements could only be concluded between subjects of international law had thus been met. Her delegation did not share the view that, since the scope of the draft articles as a whole was clearly indicated in article 1, article 3 could simply state that the articles did not apply to treaties to which one or more subjects of international law other than States or international organizations were parties. As her delegation found article 3 acceptable in its present form, she could not support the French proposal. The amendments proposed by Japan and Cape Verde might be referred to the Drafting Committee.

11. Mr. GAJA (Italy) said that his delegation had some misgivings about article 3. Although the text appeared to follow the corresponding article of the 1969 Vienna Convention closely and could thus be read as confirming that Convention, in fact it conveyed the impression that the draft articles were intended to provide a text on the law of treaties that would have a wider scope of application than the 1969 Vienna Convention. A safeguard clause of the magnitude of draft article 3 might appear to be appropriate in a convention covering the law of treaties in general, but it was less so in a convention with a more limited purpose. The reproduction of article 3 of the 1969 Convention could be a disservice to the earlier instrument, since it might be taken to indicate that the draft articles constituted a new version of that Convention. It might be wiser simply to express directly and clearly the idea underlying subparagraph (c), namely, that the draft convention was not intended to govern treaty relations between States but only relations between States and international organizations or between international organizations. That could be done either through a drafting change in article 1 or through wording added at the beginning or the end of the draft articles.

12. Mr. RASOOL (Pakistan) said he was aware of the danger of non-exhaustive lists which both the Cape Verde and the Japanese amendments sought to remedy. However, the Japanese amendment created the same uncertainty that it intended to remove, since the words "certain international agreements" gave rise to the question, which agreements? His delegation favoured the Cape Verde amendment, but opposed the French proposal to delete the article, which, as the Spanish representative had explained, had its value.

13. Mr. RIPHAGEN (Netherlands) said that the Commission's draft of article 3 had negative and positive elements. The negative part sought to enumerate those agreements which were not covered by the draft articles: since article 2, subparagraph 1 (a), set out the agreements which the draft articles did cover, other agreements must, by definition, fall outside its scope; consequently, that part of article 3 was technically superfluous. Subparagraphs (a) and (b) were useful but not strictly necessary; the words "if any" might be added to subparagraph (a) to avoid giving the impression that agreements not covered by the draft articles were no agreements at all. Subparagraph (b) simply meant that such agreements were governed by customary international law. The positive element in article 3 was subparagraph (c). If it was assumed that the only possible subjects of international law were States and international organizations, that subparagraph did not make sense, but at present, and perhaps increasingly in the future, there might be subjects of international law which were neither States nor international organizations. The World Bank, for example, had treaties with one or more States and entities other than States or international organizations. Such treaties were not covered by the present draft articles, but the relations between the States and international organizations which they involved were so covered. Article 3 was not therefore redundant, but it required redrafting. The Japanese amendment offered a possible solution to the problem.

14. Mr. PAWLAK (Poland) said that it would be better to redraft the article, despite its difficulties, than to delete it, since it was a useful provision.

15. Mr. MONNIER (Switzerland) agreed that the article was useful. Its positive element was not only subparagraph (c), since that was reinforced by subparagraphs (a) and (b). Paragraph (1) of the International Law Commission's commentary to the article (see A/CONF.129/4) had rightly mentioned, among the international agreements not covered by the draft articles, those involving entities such as the International Committee of the Red Cross (ICRC), which were neither States nor international organizations in the sense in which that term was used in the draft articles. ICRC concluded agreements with States to determine the status of Red Cross delegations in countries where they were active—an arrangement comparable with the headquarters agreement of an international organization—and to implement Red Cross activities in accordance with the 1949 Geneva Conventions and the Additional Protocols to those Conventions. It also concluded agreements with international organizations which were subjects of international law under the draft articles. It therefore seemed important to retain the positive elements in article 3, either in their present form or in a slightly simplified form as proposed in the Japanese amendment.

16. Sir John FREELAND (United Kingdom) said that the rationale and scope of article 3 of the Vienna Convention on the Law of Treaties were clear enough, but the situation was different in the present draft articles. He was not persuaded that such an article was needed at all. Certainly the text, both in the Commission's draft

and in the form which the Cape Verde amendment would give it, was too complicated. He would prefer something simpler and clearer along the lines of the Japanese proposal. There was also the question of the relationship between the 1969 Convention and the present draft articles. The clear intention of article 3 (c) of the former was that if one or more international organizations became parties to a treaty between States, that in no way affected the primacy of the relationship between the States parties. That situation should be preserved. His delegation was consulting with others with a view to tabling a fresh proposal for article 3.

17. Mr. ABDEL RAHMAN (Sudan) said that the present draft of article 3 was long and unwieldy, but everyone must be concerned with the principles it embodied. Such an article might avert future controversy, and consequently he could not agree to its deletion. The Japanese proposal would over-simplify the text. The Cape Verde amendment was more attractive, but he hoped that the efforts of the United Kingdom delegation might produce a constructive proposal acceptable to all.

18. Mr. MBAYE (Senegal) said he had experienced no particular difficulty in understanding the Commission's draft of article 3. The article was useful and took account of the evolution of the international community. However, the text might usefully be supplemented by the wording proposed by Cape Verde or something along those lines.

19. Mr. HAYES (Ireland) said that article 3 of the 1969 Vienna Convention was a safeguard clause designed to ensure that international agreements not covered by that Convention did not lose their validity on its entry into force. It was highly desirable that the draft articles should contain a similar clause, although it was more difficult to draft than the corresponding article of the 1969 Convention because it required detailed formulation. In attempting to identify specific kinds of agreements, the International Law Commission had incurred the risk of not being exhaustive. The Japanese proposal provided the most promising basis on which to achieve a shorter text; the words "certain international agreements", read in conjunction with article 2, did not suffer from uncertainty. His delegation could, however, support the Commission's draft, which it should be possible to improve.

20. Mr. BARRETO (Portugal) said that he could not agree to the deletion of article 3, which was very important. He could accept the Commission's draft, but its text was unwieldy and the same purpose could be achieved by more flexible wording such as that proposed by Japan.

21. Mr. TUERK (Austria) said he would welcome article 3 if it was improved. It should not define the area to which it did not apply or strive to provide an exhaustive list of international agreements, and it should lay stress on what was in the second half of the present text.

22. He could support the Japanese proposal were it not for the fact that the words "certain international agreements" lacked precision. He therefore suggested that the introductory wording of that proposed text

should be redrafted to read: "The fact that international agreements do not fall within the scope of the present articles shall not affect . . .".

23. Mr. HERRON (Australia) said that his delegation saw the need for a saving clause along the lines of the draft proposed by the International Law Commission, its purpose being to preserve the legal force and applicability of all international agreements not covered by article 2, subparagraph 1 (a) of the draft convention. However, the Commission's draft was cumbersome and not as comprehensive as it might be. The Japanese text covered the same ground more simply, but had been criticized for being uncertain. The change suggested by the representative of Austria might produce a misleading text. He therefore suggested that the introductory wording of the draft article proposed by Japan should read: "The fact that the present articles do not apply to international agreements other than international treaties referred to in article 2, subparagraph 1 (a), shall not affect . . .". That would result in the article having the same substance and effect as the text submitted by the International Law Commission.

24. Mr. ROSENSTOCK (United States of America) said that the Commission's idea of having a safeguard provision of the kind represented by draft article 3 was correct, and his delegation would support an article which had that effect. With Cape Verde's proposed addition, the article would have seven numbered sections and would be so complex as to make a subsequent explanation to parliamentarians extremely difficult. Japan's approach was simple and more suitable; if the wording it had proposed was insufficiently precise, it could be improved by the Drafting Committee.

25. Mr. NASCIMENTO e SILVA (Brazil) said he understood the difficulty in understanding article 3 as drafted by the International Law Commission. However, he hesitated to support the French proposal despite the excellent arguments in favour of it which the representative of France had put forward. In his view it might be better to eliminate the negative elements in the Commission's draft, but a majority of delegations seemed to consider that they should be included. If the Committee should prefer the Commission's draft, it might be improved by the insertion of the words "*inter alia*" after the words "do not apply". His delegation could also accept the Japanese amendment. At all events, the Drafting Committee, taking into account the comments made by the representatives of Austria and Australia, should be able to reword the Japanese text satisfactorily.

26. Mrs. DIAGO (Cuba) said that, although her delegation appreciated the arguments put forward by the International Law Commission in the commentary to the article, the wording of the article was unclear. It would best be improved in the way proposed by Cape Verde, whose amendment should be referred to the Drafting Committee.

27. Mr. AENA (Iraq) said that he was not in favour of deleting the whole of article 3. The Conference should try to clarify the Commission's text, particularly in order to take account of the subtle differences in legal status of international organizations, and make the arti-

cle speak more clearly about the link between it and other rules of international law which defined agreements not within the scope of the draft articles. The problem was essentially a drafting one, and in solving it care should be taken to avoid excessive detail and to simplify the two parts of the article.

28. Mr. JESUS (Cape Verde) said that his delegation could not support the proposal by France to delete the article altogether; that would create difficulties which would jeopardize the interpretation and application of the future convention. Nor could it support the wording proposed by Japan, because that text, despite its many merits, represented a major change in the approach to the subject from the one taken by the International Law Commission. The draft articles, for the first time in an international instrument laying down general rules of international law, recognized subjects of international law other than States and international organizations. The Japanese proposal, by removing that recognition, would jeopardize a major achievement of the Commission and the interests of an overwhelmingly large sector of the international community.

29. Mr. RUIZ CASTILLO (Nicaragua) said that his delegation approved the International Law Commission's draft of the article even though it was not readily understandable. It could not accept the French proposal. The Japanese proposal had the defect of not enumerating the kinds of international agreements involved. His delegation therefore considered that the Drafting Committee should be asked to redraft article 3 on the basis of the Commission's text and Cape Verde's proposal.

30. Mr. MORELLI (Peru) said that the Commission's text would be acceptable if it was made clearer and easier to read. The proposal by Japan provided an interesting formulation for the article, which the Drafting Committee should consider. In doing so, it should take care not to eliminate from the article any of the existing component parts, bearing in mind in particular the present subparagraph (c), to the importance of which the Netherlands representative had drawn attention.

31. Mr. RAMADAN (Egypt) said that his delegation approved, in principle, the Commission's text. However, the article did not include other international agreements which were subject to international law. As the International Law Commission stated in paragraph (1) of its commentary to article 3, "The development of world humanitarian law and its extension for the benefit of entities which have not yet been constituted as States will provide further examples of this kind, and there will even be agreements between one or more international organizations, one or more States and one or more entities which are neither States nor international organizations." The best way to fill the gap in the Commission's text was to expand its scope in the way proposed by the delegation of Cape Verde, and he suggested that that amendment be referred to the Drafting Committee.

32. Mr. HAYASHI (Japan) disagreed with the representative of Cape Verde that the wording proposed by the Japanese delegation removed recognition from subjects of international law other than States and inter-

national organizations. In any event, as all delegations would undoubtedly agree, the present Conference was not the appropriate forum in which to discuss the question of what constituted a subject of international law. The merit of Cape Verde's proposal was that it reinforced the Commission's approach to the matter, but the suggested new subparagraph would still not make the list of international agreements complete. At least two more categories would need to be added: agreements concluded between States, and those concluded between States and subjects of international law other than States and international organizations. That would make six categories, and the first half of the article would thus become extremely cumbersome. The Japanese delegation had therefore taken an alternative approach to the formulation of the article, which had resulted in the proposal in document A/CONF.129/C.1/L.9.

33. Mr. TEPAVICHAROV (Bulgaria) expressed support for the International Law Commission's text but at the same time agreed that the first half of the article was not exhaustive. However, rather than attempting to make the article more comprehensive by adding new categories of agreements, the Committee should seek to clarify it by means of small drafting changes, such as the insertion of the words "*inter alia*" suggested by Brazil.

34. Mr. CRUZ FABRES (Chile) said that the Committee should approve article 3 as drafted by the Commission, in view of its legal complexity. A safeguard clause was needed to prevent conflicts of application in cases where States had concluded treaties with international organizations such as the International Committee of the Red Cross, which was a non-governmental organization. The Swiss representative had rightly drawn attention to the situation of that organization.

35. Mr. JESUS (Cape Verde) said that the point he had wished to make about the Japanese proposal was that it excluded the reference which the International Law Commission, by using the words "subjects of international law other than States or organizations", seemed to be making in the draft articles to an important group of countries in the international community. That reference was of great value to his delegation. He was certainly aware that the Conference was not the place to settle the question of what a subject of international law was.

36. The Japanese representative had indicated that the Commission's analytical formulation, to which Cape Verde proposed the addition of a subparagraph which would make it even more analytical, left out two other categories of agreement that should be included if the list was to be exhaustive. If that were so, he would prefer those two categories to be mentioned rather than accept a general formula of the type Japan had suggested. However, having examined the categories of agreement which might fall within the purview of article 3, he had found none which were not mentioned in the Commission's text or his delegation's amendment. While fully agreeing with Japan's intentions, therefore, he could not support its proposal.

37. Mr. NETCHAEV (Union of Soviet Socialist Republics) said that his delegation associated itself with

those speakers who had been unable to support the French proposal, and agreed that the Commission's draft article was cumbersome and difficult to understand. However, his delegation found no substantive difficulties in the Commission's text. He shared the view that the drafting problems it presented could be solved by the Drafting Committee, which should aim at streamlining the text of the article.

38. Mr. SCHRICKE (France) said that, although article 3 had been designed as a safeguard clause, its effect would, paradoxically, be to jeopardize some international agreements. It was unlikely that any consensus could be achieved on the list of agreements to which the articles would not apply, and consequently, left as it was, the draft article would be a dangerous one. That was one of the reasons why his delegation had proposed its deletion. He did not believe that the text could be rescued by adding the words "in particular" at the beginning of the article; such an approach was unhelpful in that it would accord priority to some agreements over others.

39. Mr. BEN SOLTANE (Tunisia) said that article 3 was both useful and necessary and should be retained. The Japanese proposal had the demerit of being vague and would give rise to many difficulties. He therefore supported the amendment submitted by the representative of Cape Verde, but considered that the subparagraph it proposed should be placed after the existing subparagraph (iii).

40. Mr. FOROUTAN (Islamic Republic of Iran) said that, while article 3 was undoubtedly cumbersome and difficult to understand on a first reading, he could see advantages in retaining it. He associated his delegation with the views put forward by the representative of Cape Verde.

41. Mr. KERROUAZ (Algeria) said that article 3 was certainly restrictive and incomplete, yet he fully sympathized with the Commission's decision to include it in the draft as a safeguard clause. He was therefore unable to accept the proposal to delete it. Nor was the Japanese suggestion acceptable, since its effect would be to destroy the analytical formulation of the article. The best approach seemed to be the one advocated by the representative of Cape Verde. Like the representative of Tunisia, he believed that the proposed additional subparagraph should be placed after the existing subparagraph (iii).

42. Mr. VAN TONDER (Lesotho) said that his delegation did not agree that article 3 should be deleted. If the text was cumbersome or insufficiently exhaustive it should be improved, perhaps on the lines suggested by the representative of Cape Verde. Whatever improvements were made, the reference to subjects of international law should be retained.

43. Mr. HAYASHI (Japan) suggested that the proposals made by his own delegation and that of Cape Verde should be referred to the Drafting Committee.

44. Mr. OLUMOKU (Nigeria) said that the comments made in the course of the discussion and the arguments advanced in the International Law Commission's commentary to the article had convinced him of the need to retain the article. The change proposed by

Cape Verde would not give his delegation any difficulties.

45. Mr. REUTER (Expert Consultant) said that in drafting the article the Commission had been guided by the principle of strict adherence to the 1969 Vienna Convention, but its members would be quite content to see the existing text improved, streamlined or even deleted, if that was the wish of the Conference.

46. Several speakers had drawn attention to the last subparagraph of article 3. One problem which the Commission had not addressed was that article 3 of the 1969 Vienna Convention, by safeguarding the application of the rules of that instrument to relations between States parties to a treaty to which other subjects of international law were also parties, implied that there were two sets of rules on treaty law: general ones and the rules of the Vienna Convention. Draft article 3 introduced a third series of rules, those of the draft convention itself. Some representatives believed that problems might arise from that situation because of uncertainty as to the rules applying to relations between States when States and other entities were involved in treaties covered by the Convention. In such a case, States parties to the Vienna Convention would be bound by the provisions of that Convention. The draft convention would therefore need a provision stating clearly that for States parties to the 1969 Convention the provisions of that Convention would apply to the relations between them arising out of treaties falling within the scope of the draft convention. The problem, though unlikely to occur frequently, would arise in one

specific circumstance, namely if in the draft under discussion it was decided to introduce procedures for the settlement of disputes which were different from those in the Vienna Convention. Although the Commission had been aware of the issue, which was very complex, it had felt it best not to tackle it because of the risk of the draft articles being incompatible with the Vienna Convention. It was for the Conference to seek a solution to the problem.

47. The CHAIRMAN summarized the discussion on article 3 and asked the French delegation if, in the light of that discussion, it wished to uphold its request for deletion of the article.

48. Mr. SCHRICKE (France) said that, although his delegation held to its view that it would be best to delete article 3, it did not wish to obstruct the work of the Committee by insisting on its proposal. He hoped that his delegation's concerns would be duly taken into account by the Drafting Committee.

49. Mr. JESUS (Cape Verde) said that the Japanese amendment introduced questions which were not simply matters of drafting. Regarding his own amendment, it would be useful if a decision could be postponed until he had consulted with other delegations on the issue.

50. The CHAIRMAN said that, if he heard no objection, he would assume that the Committee wished to postpone a decision on article 3.

*It was so decided.*

*The meeting rose at 5.55 p.m.*

## 5th meeting

Monday, 24 February 1986, at 10.20 a.m.

*Chairman:* Mr. SHASH (Egypt)

*In the absence of the Chairman, Mr. Nascimento e Silva (Brazil), Vice-Chairman, took the Chair.*

**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)**

[Agenda item 11] (*continued*)

**Article 3** (International agreements not within the scope of the present articles) (*continued*)

1. Mr. WANG Houli (China) commended the Japanese delegation's concern to simplify article 3, but noted that its amendment (A/CONF.129/C.1/L.9) had not met with general approval and that, as a matter of principle, precision should have precedence over brevity. He believed that the Japanese proposal, as well as others made during the discussion, were in fact insufficiently precise. He could not accept deletions which

had also been proposed, and considered that the best course would be to invite the Drafting Committee to look into the possibility of simplifying the article.

2. Mr. ECONOMIDES (Greece) observed that, notwithstanding the Cape Verde amendment (A/CONF.129/C.1/L.5 and Corr.1), subparagraphs (i) to (iii) of article 3, which were already complex, did not take account of all eventualities. He referred in that connection to agreements between States, which were to be the subject of a special provision at the end of the projected convention establishing the relationship to the 1969 Vienna Convention on the Law of Treaties<sup>1</sup> and agreements between States and subjects of international law other than States or international organizations.

3. He wondered whether the Japanese proposal could not be amended to cover agreements not covered by the present text, such as agreements concluded by subjects of international law other than States or international

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