

# **United Nations Conference on the Law of Treaties**

Vienna, Austria  
First and Second sessions  
26 March – 24 May 1968 and 9 April – 22 May 1969

Document:-  
**A/CONF.39/D.C./R.56 to R.62 and A/CONF.39/D.C./R.64**

## **Observations of the Secretariat**

Extract from the *Official Records of the United Nations Conference on the Law of Treaties, First and Second Sessions (Documents of the Conference)*

## G.—OBSERVATIONS OF THE SECRETARIAT

### Documents A/CONF.39/D.C./R.56-R.62

#### OBSERVATIONS OF THE SECRETARIAT ON THE ARTICLES ADOPTED BY THE COMMITTEE OF THE WHOLE DURING THE FIRST SESSION OF THE CONFERENCE<sup>1</sup>

##### DOCUMENT A/CONF.39/D.C./R.56

Note on the observations of the Secretariat contained in documents A/CONF.39/D.C./R.57-R.62<sup>2</sup>

[Original: French]  
[28 February 1969]

1. On 18 May 1968, the Drafting Committee decided, pursuant to rule 48 of the rules of procedure, to coordinate and review at the beginning of the second session of the Conference the drafting of the articles of the draft convention adopted by the Committee of the Whole during the first session. In order to make its work easier, the Committee invited the Secretariat to examine the texts of the articles concerned in the five official languages of the Conference, with the help of the language services. Having examined these texts as requested, the Secretariat submits its observations in six documents bearing the symbols A/CONF.39/D.C./R.57 to 62.

2. Document A/CONF.39/D.C./R.57 contains the observations common to the English, French, Russian and Spanish texts and is being circulated in these four languages.

3. Document A/CONF.39/D.C./R.58, circulated in English only, contains the observations concerning the English text, other than those already given in document A/CONF.39/D.C./R.57.

4. Document A/CONF.39/D.C./R.59, circulated in French only, contains the observations concerning the French text, other than those already given in document A/CONF.39/D.C./R.57.

5. Document A/CONF.39/D.C./R.60, circulated in Spanish only, contains the observations concerning the Spanish text, other than those already given in document A/CONF.39/D.C./R.57.

6. Document A/CONF.39/D.C./R.61, circulated in Russian only, contains the observations concerning the Russian text, other than those already given in document A/CONF.39/D.C./R.57.

7. Document A/CONF.39/D.C./R.62, circulated in Chinese only, contains all the observations concerning the Chinese text.

<sup>1</sup> A/CONF.39/14, chap. III.

<sup>2</sup> Only those documents which concern the English text (A/CONF.39/D.C./R.57 and R.58) are reproduced in this section.

##### DOCUMENT A/CONF.39/D.C./R.57

Observations of the Secretariat common to the English, French, Russian and Spanish texts

[Original: French]  
[28 February 1969]

##### Article 4

Replace “*or to any treaty adopted*” by “*and to any treaty adopted*”.

The Convention applies to both categories of treaties and not to one *or* the other.

##### Article 6, paragraph 1

The existing wording of article 6, paragraph 1 seems to imply that provided the condition set out in subparagraph (b) is fulfilled any person may be considered as representing a State, even if he has no connexion with it. It should be noted that in the International Law Commission's text the words “a person is considered as representing a State” were accompanied by a restriction expressed by the word “*only*”. This word was deleted by the Committee of the Whole at the first session of the Conference on the recommendation of the Drafting Committee.

##### Article 39, paragraph 1

Paragraph 1, as now worded, signifies that it is the consent, and not the validity of the consent, which may be impeached only through the application of the present Convention. If the Drafting Committee considers that paragraph 1 should refer to the validity of the consent and not the consent itself, the words “or the consent of a State” should be replaced by “or *of* the consent of a State”.

##### Article 42

Delete the word “*inclusive*” after the words “articles 43 to 47” in the opening sentence.

This word is not used in article 14 after the words “articles 16 to 20”.

##### Article 74, paragraph 2

Sub-paragraphs (a), (b) and (c) are not on the same footing: sub-paragraph (a) can be read with the opening phrase of the paragraph, but this is not true of sub-paragraphs (b) and (c), which must be read with sub-paragraph (a). Sub-paragraph (a) should be combined with the opening phrase, sub-paragraphs (b) and (c)

should become sub-paragraphs (a) and (b) respectively, and the text should be amended elsewhere as necessary.

With these amendments, paragraph 2 would read as follows:

"2. Where the treaty is one for which there is a depositary, the latter shall notify the signatory States and the contracting States of the error and of the proposal to correct it and shall specify an appropriate time-limit within which objection may be raised. If, on the expiry of the time-limit:

"(a) no objection has been raised, *the depositary* shall make and initial the correction in the text and shall execute a *procès verbal* of the rectification of the text, and communicate a copy of it to the parties and to the States entitled to become parties to the treaty;

"(b) an objection has been raised to the proposed correction, *the depositary* shall communicate the objection to the signatory States and to the contracting States."

#### DOCUMENT A/CONF.39/D.C./R.58

#### Observations of the Secretariat concerning the English text

[English only]  
[28 February 1969]

##### Article 14, paragraph 1

Delete the words "*the provisions of*" in the expression "Without prejudice to *the provisions* of articles 16 to 20".

These words do not appear in the similar expressions used in articles 23*bis* and 62, paragraph 5.

##### Article 18, paragraph 3

Substitute "a" for "the" in the expression "the reservation made previously".

The reference is to reservations in general, as in paragraphs 1 and 2, both of which refer to "a reservation".

##### Article 21, paragraph 4

In the last phrase delete "*shall*" before "*apply*".

Paragraphs 1, 2 and 3 of article 21 are in the present tense but paragraph 4 is in the future. It would be more consistent to use the present throughout.

##### Article 29, paragraph 4

Substitute "*the*" for "a" in the expression "a meaning which best reconciles the texts".

There can be only *one* meaning which *best* reconciles the texts.

##### Article 39, paragraph 2

For the sake of uniformity it would be better to follow, as the Russian text does, the lines of article 51 and to redraft the opening phrase of paragraph 2 of article 39 to read:

"A treaty may be terminated or a party may denounce or withdraw from a treaty only . . .".

##### Article 53, paragraph 1

In sub-paragraph (b) substitute "implied by" for "implied from".

The present wording is not correct English.

##### Article 59, paragraph 1

The language services have been requested to find a better translation of the French word *portée* and the Spanish word *alcance* in sub-paragraph (b), which are at present rendered by "extent" in English.

The expression "extent of obligations" appears to have been introduced by the Drafting Committee to replace the words "scope of obligations" used in the text of the International Law Commission. The two expressions have the same meaning, though "scope of obligations" is perhaps the more usual; they both render the French and Spanish quite accurately.

##### Article 72, paragraph 1

1. In sub-paragraph (a) delete "*the*" before "*custody*". "The" does not appear before "custody" in sub-paragraph (c).

2. In sub-paragraph (f) substitute "*has been received or deposited*" for "*have been received or deposited*".

The subject of the verb ("the number") is singular.

**Document A/CONF.39/D.C./R.64**

**OBSERVATIONS OF THE SECRETARIAT RELATING TO THE ENGLISH, FRENCH, RUSSIAN AND SPANISH TEXTS OF ARTICLES REFERRED TO THE DRAFTING COMMITTEE DURING THE FIRST SESSION OF THE CONFERENCE, DISCUSSION OF WHICH WAS NOT COMPLETED IN THE COMMITTEE OF THE WHOLE**

[Original: English/French/Russian/Spanish]  
[10 April 1969]

*Note by the Secretariat*

At the request of the Chairman of the Drafting Committee, the Secretariat submits below its observations on the articles of the draft convention which were referred to the Drafting Committee, but discussion of which was not completed in the Committee of the Whole.

These observations, which were formulated with the assistance of the language services, are of the same kind as those contained in documents A/CONF.39/D.C./R.57-R.62.

*Observations concerning the English text*

*Article 17: Provisional text adopted by the Drafting Committee*<sup>3</sup>

*Paragraph 1*

In the first phrase substitute “authorized by *a* treaty” for “authorized by *the* treaty”.

<sup>3</sup> A/CONF.39/14, para. 185.

The reference is to treaties in general, not to a particular treaty previously mentioned; cf. paragraph 3 of the provisional text.

*Paragraph 2*

Substitute “the object and purpose of *a* treaty” for “the object and purpose of *the* treaty”.

Same reasons as above.

*Paragraph 3*

Substitute “*a* reservation requires” for “*the* reservation requires”.

The reference is to reservations in general, not to a particular reservation previously mentioned.

*Paragraph 4(a)*

Substitute “*a* reservation” for “*the* reservation”.

Same reasons as above; cf. paragraph 4(b) of the provisional text.

*Paragraph 4(c)*

Substitute “*a* State’s consent” for “*the* State’s consent”.

The reference is to any contracting State.