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international law tended to repudiate practices inspired by discrimination and domination and to replace them by arrangements based on mutual understanding and collaboration? Such an interpretation would come close to the common ideal of justice shared by all men of goodwill regardless of their differences.

The meeting rose at 5.55 p.m.

FORTY-SIXTH MEETING

Tuesday, 30 April 1968, at 8.55 p.m.

Chairman: Mr. ELIAS (Nigeria)

Consideration of the question of the law of treaties in accordance with resolution 2166 (XXI) adopted by the General Assembly on 5 December 1966 *(continued)*

Article 46 (Fraud) and *Article 47* (Corruption of a representative of the State) *(continued)*

1. The CHAIRMAN invited the Committee to continue its consideration of articles 46 and 47 of the International Law Commission's draft.

2. Mr. TABIBI (Afghanistan) said that the International Law Commission had been right in allotting an important place to the notion of fraud, thereby following the advice of three special rapporteurs on the law of treaties. Fraud had always existed and the growing number of technical and scientific treaties, together with the low technological level of the developing countries that were primarily affected by those treaties, increased the opportunities for fraudulent practices. The International Law Commission had rightly drawn a distinction between fraud and error. Fraud was characterized by the element of intention. It was normal that such an intentional act should make it possible for the injured party to terminate the treaty. Consequently, his delegation was in favour of retaining the text of article 46 as drafted by the International Law Commission.

3. Mr. GYEKE-DARKO (Ghana) said he approved of the principle in article 46. It was confirmed by eminent authorities such as McNair, and the International Law Commission had rightly noted in its commentary that fraud " destroys the whole basis of mutual confidence between the parties ". Fraud was a legal reality and the Commission had done right to formulate an article on it.

4. Those delegations that advocated the deletion of article 46 had based themselves on the paucity of precedents and on the fact that doctrine offered little guidance. Aware of those limitations, the International Law Commission had confined itself to formulating the broad notion of fraud, using the expression to include any false statements, misrepresentations or other deceitful proceedings intended to inveigle a State into giving its consent to a treaty. In defining the notion of fraud in international law, it had acted as a pioneer.

5. He was not in favour of the amendment by the Republic of Viet-Nam (A/CONF.39/C.1/L.234/Rev.1), since the expression " fraudulent devices " seemed less precise than that of " fraudulent conduct " used in the draft of article 46.

6. He was opposed to the Venezuelan amendments (A/CONF.39/C.1/L.259 and Add.1) and A/CONF.39/C.1/L.261 and Add.1), which, in the case of a multilateral treaty, would vitiate the treaty vis-à-vis all parties, whereas the Commission's text of articles 46 and 47 had the merit of saving the treaty as between the other parties, whose consent had not been obtained either by fraud or corruption. The Commission's text was also preferable in that it subordinated the invalidation of a treaty to the exercise by the injured State of the right to invoke defective consent. Finally, it was pointless to qualify fraudulent conduct by the adverb " deliberately ", as intention was implicit in the notion of fraud.

7. Although he understood the concern felt by the United States delegation, he could not support its amendment (A/CONF.39/C.1/L.276) for the reasons already explained in connexion with article 45. Difficulties would arise when it came to defining what was meant by the words " in reasonable reliance upon ". For the same reasons as those given in connexion with paragraph 1 (*b*) of article 45, his delegation would ask for a separate vote on the expression " or to the performance of the treaty " in the United States amendment.

8. With reference to the Australian amendments (A/CONF.39/C.1/L.282 and L.283), he believed that the adoption of article 42 would meet the situation envisaged in those amendments.

9. His delegation was in favour of retaining articles 46 and 47 of the draft, although the Peruvian amendment (A/CONF.39/C.1/L.229) to article 47 would be acceptable.

10. Mr. FUJISAKI (Japan) said that his delegation, with those of Chile and Mexico, proposed the deletion of article 47 (A/CONF.39/C.1/L.264 and Add.1) for three reasons. First, the idea of corruption was quite new in international law; the International Law Commission's commentary did not cite any case that could justify such an innovation. Secondly, it was to be expected that sovereign States would be represented by men of integrity. In contrast with the case of coercion, a person could not be corrupted against his will. Therefore the State that had chosen a representative who was susceptible to temptation should suffer the consequences of its mistaken choice. Thirdly, in the absence of precedents and universally accepted criteria, it might be difficult to differentiate between acts intended to weigh heavily on the will of the representative, and normal acts of courtesy or small favours. His delegation was opposed to a provision which it deemed not only unnecessary and unfair, but, to say the least, undignified.

11. Mr. POP (Romania) said that the rules defining the consequences of fraud, the purpose of which was not only to invalidate acts resulting from such practices but also to prevent them, were inherent in every legal system, including, of course, the international legal system. Since international relations were increasingly based on ethics, and in particular on good faith, it was consistent with that trend to include the notion of fraud as a ground of invalidity in the future convention. The intention was to eliminate the methods of so-called traditional diplomacy. The International Law Commission had merely applied the well-known maxim *fraus omnia corrumpit.*

12. Fraud was distinct from error and should therefore be the subject of a separate provision. Not only was the notion of fraud discussed at great length in international

law text-books, but fraud was met with in practice, even if examples were little known, for obvious reasons.

13. The Romanian delegation was in favour of retaining article 46 and was opposed to any restriction which might hamper its application to the various forms of fraud.

14. Mr. BENYI (Hungary) said he too thought that States which resorted to fraudulent devices in the negotiation of treaties should be dealt with severely; the Latin maxim cited by the previous speaker might be applied in international law in the language adopted by the International Law Commission. It was natural to require States to conduct themselves correctly and the Commission had been right in holding that fraud struck at the root of treaties and destroyed the whole basis of mutual confidence between the parties.

15. With regard to the legal consequences of the noxious practices covered by articles 46 and 47, the Hungarian delegation shared the view expressed in the amendments of Congo (Brazzaville) and Venezuela (A/CONF.39/C.1/L.259 and Add.1, and A/CONF.39/C.1/L.261 and Add.1). In cases of fraud, corruption and coercion, the injured State was the victim of an unlawful act committed by the other party, but that was not so in cases of error. It followed, therefore, that the effects of fraud and corruption should be the same, from the legal point of view, as in the cases covered by articles 48 and 49. By stating that treaties concluded as a result of such practices were void, the two amendments by Congo (Brazzaville) and Venezuela were likely to give greater security to a State which had been victimized in that way. The Hungarian delegation therefore opposed the amendments by Chile (A/CONF.39/C.1/L.263 and Add.1 and L.264 and Add.1) to delete articles 46 and 47 and supported the amendments by Congo (Brazzaville) and Venezuela.

16. Mr. MARTINEZ CARO (Spain) said that in article 46 the International Law Commission had stated clearly and simply a fundamental rule of the law of treaties. It was once again an application of the principle of good faith. The Spanish delegation therefore whole-heartedly supported it. The rule in article 47 met the requirements of both justice and ethics. It reflected the fundamental idea of the law of treaties that the consent of States must be perfectly free and flawless. It had been objected that the rule was an innovation and had disadvantages from the legal as well as from the sociological and political standpoints. From the legal standpoint, it had been said that the notion of corruption was vague and difficult to prove. But the internal criminal law of all States contained provisions relating to the corruption of officials, including those most worthy of respect, namely the judges. There were two essential elements in corruption: first, the existence of inducements, promises or gifts before the expression of consent and, secondly, the existence of a relationship between those inducements, promises or gifts and the result sought, namely, to divert the representative's will in a direction advantageous to the corrupter. The difficulties with regard to evidence were no greater than in the case of other articles already adopted and, in any event, the problem was not insuperable.

17. Another objection had been that corruption was a form of fraud and that its legal effects were the same as those of coercion. In fact, fraud related to the will of the State itself, whereas corruption concerned the representative of a State. Obviously, in the last analysis, the will of the State might be impaired, but the Commission had rightly stated in its commentary that corruption was a special case which demanded separate treatment, all the more since cases of corruption might be far more frequent than cases of coercion, fraud or error.

18. The sociological arguments were no more decisive than the legal arguments. They were evidence of a false modesty and a refusal to face international realities. He could not understand how it could be maintained that article 47 endangered the stability of treaties by introducing an additional ground of invalidity, based on a non-existent practice, and on which doctrine threw little light. As long ago as the first Hague Peace Conference, the Russian Government had proposed a rule that an arbitral award obtained by corruption should be void. A speaker in the International Law Commission had claimed that corruption had been current practice in the colonialist epoch and was still frequent in neo-colonialist activities. The argument based on the lack of precedents was unconvincing. The criminal codes of all countries contained provisions relating to various offences which were very seldom committed. Even if corruption was relatively infrequent, that did not mean that a provision in the convention was unnecessary. The deletion of article 47 would be a retrograde step in international morality, which it was the purpose of the future convention to safeguard. Article 47 was not engendered by a pessimistic view of the conduct of States. It was merely a warning, which was all the more necessary now that the role of ratification was shrinking while the number of technical and economic treaties was increasing.

19. Mr. KEMPFF MERCADO (Bolivia) said he supported the amendment to article 46 submitted by Venezuela and Congo (Brazzaville) (A/CONF.39/C.1/L.259 and Add.1) because when a State was deliberately guilty of fraudulent conduct, the resulting treaty was an absolute nullity. It was no longer a question of a defect of consent; the treaty was non-existent once the essential element of good faith disappeared. If that amendment was rejected, his delegation would support article 46 as drafted by the International Law Commission, because it offered legitimate protection to the State which was the victim of fraud. The same was true of article 47. Those articles would only be applied rarely but it was essential to include provisions to that effect in a convention of such scope.

20. His delegation congratulated the Commission on its innovating and progressive attitude to the topics dealt with in Part V of the draft. The Commission had produced a wise and balanced text embodying principles which would contribute to the development of positive treaty law.

21. Mr. JIMÉNEZ DE ARÉCHAGA (Uruguay) said he opposed the amendment by Chile and Malaysia (A/CONF.39/C.1/L.263 and Add.1) to delete article 46; one of the reasons why article 46 was necessary was that fraud could take widely different forms. On the other hand, he supported the amendment to delete article 47 submitted by Chile, Japan and Mexico (A/CONF.39/C.1/L.264 and Add.1), because corruption was a form of fraud. The corruption by one State of the representative of another State who was negotiating with it, was obvi-

ously fraudulent conduct on the part of the first State and came within the provisions of article 46. He did not share the view of the Chilean representative that article 46 would duplicate article 45. Fraud certainly created an error, but it was an error provoked by a State and quite separate from a mere unintentional error. Moreover, article 41, paragraph 4, gave the State that was a victim of fraud a remedy not granted to a State that was a victim of an error, that of invalidating either the whole or a part of the treaty.

22. He opposed the United States amendment (A/CONF. 39/C.1/L.276), which introduced a reservation which would be appropriate in the case of error but not in that of fraud, and the Australian amendment (A/CONF. 39/C.1/L.282), the content of which was closely linked with that of article 42, about which the Committee of the Whole had postponed its decision. Originally, the International Law Commission had inserted clauses of that kind in each article, but they had been consolidated in article 42, to which the Australian proposal could relate. He also opposed the amendment by the Republic of Viet-Nam (A/CONF.39/C.1/L.234/Rev.1), which introduced a notion, taken directly from the French civil code, that had recently been set aside by the French courts. He could not support the Peruvian amendment (A/CONF. 39/C.1/L.229), because he favoured the deletion of article 47.

23. The amendments to article 46 (A/CONF.39/C.1/L.259 and Add.1) and article 47 (A/CONF.39/C.1/L.261 and Add.1), submitted by Congo (Brazzaville) and Venezuela involved a radical alteration in the structure of those articles. In the amendment to the article on fraud, fraud was transformed into a vitiating factor which determined the absolute nullity of all the clauses of the treaty with respect to all the contracting parties. His objection to those amendments was not merely that there was no system of internal law in which fraud entailed absolute nullity but also that, at the international level, the Venezuelan text might injure rather than benefit the victim of the fraud. The International Law Commission's wording offered the defrauded State two possibilities: the continuation of the treaty or the choice between the partial or total invalidity of the treaty. The proposed formula was also too wide, since with a multilateral treaty one State might have been defrauded by another contracting State, but the treaty might nevertheless remain in force for the other contracting parties. The Venezuelan amendments declared the treaty absolutely void *erga omnes* and thus impaired the legitimate rights of other States. That would conflict with one of the fundamental legal principles on the subject, namely, that fraud should only harm its perpetrator.

24. Mr. SINCLAIR (United Kingdom) said that in its written comments his Government had expressed doubts about the value of including article 46 in the draft. After a careful study of the International Law Commission's documents, his delegation continued to doubt the need for retaining the article, because although it was prepared to accept the principle that fraud could vitiate consent, it wished to point out that examples of fraud were exceedingly rare and that the retention of article 46 might encourage States to invoke grounds of fraud more frequently. The Soviet representative had been unable, on the evidence of various textbooks, to cite more than two cases of fraud, which showed that fraud in treaties was extremely rare and that it was not really necessary to insert a provision on fraud in the convention.

25. He was not satisfied with the wording of article 46, because the terms "fraudulent conduct" and "fraud" were not defined in the International Law Commission's text and had no precise meaning in international law. The commentary rightly pointed out that those terms should not be defined in terms of the conceptions of internal law. There were wide differences of meaning between the notion of "fraud" and that of "*dol*".

26. Moreover, the commentary said: "These words are not intended to convey that all the detailed connotations given to them in internal law are necessarily applicable in international law. It is the broad concept comprised in each of these words, rather than its detailed applications in internal law, that is dealt with in the present article." But what was meant by "broad concept"? A case of "*dol*" or "fraud" could be identified when it occurred, but there was a risk that the vagueness of the terminology might be a source of unfounded allegations of fraud in the future.

27. It was noteworthy that neither the commentary to article 47 nor the legal textbooks which dealt with diplomatic history mentioned cases of corruption. There was a difference between the problem of corruption and that of coercion of the representative of a State, dealt with in article 48. In his opinion, the Committee should adopt the conclusion that corruption was such a rare occurrence that it should not be regarded as a separate ground of invalidity. Moreover, the notion of corruption was very imprecise and difficult to define. Retention of the existing wording of article 47, particularly of the word "indirectly", might represent an unnecessary threat to the stability of treaties.

28. He supported the amendment by Chile and Malaysia (A/CONF.39/C.1/L.263 and Add.1) for the deletion of article 46. If that amendment were rejected, he would vote for the United States amendment (A/CONF.39/C.1/L.276), which usefully clarified the text of the article, and the Australian amendment (A/CONF.39/C.1/L.282). But he was opposed to the amendment by Venezuela and Congo (Brazzaville) (A/CONF.39/C.1/L.259 and Add.1), which radically transformed the effect of the article by providing that fraudulent conduct was a ground of invalidity *ab initio*.

29. With regard to article 47, he supported the amendment by Chile, Japan and Mexico (A/CONF.39/C.1/L.264 and Add.1) for its deletion. If that amendment were rejected, he would vote in favour of the amendments by Australia (A/CONF.39/C.1/L.283) and Peru (A/CONF.39/C.1/L.229). He was opposed to the amendment by Venezuela and Congo (Brazzaville) (A/CONF.39/C.1/L.261 and Add.1), which repeated the ideas expressed in their amendment to article 46.

30. Mr. CUENDET (Switzerland) said he was opposed to the amendment by Chile and Malaysia (A/CONF.39/C.1/L.263 and Add.1) to delete article 46 because he considered that a general article on fraud had its place in the convention alongside articles on error and coercion.

31. On the other hand, an article on corruption did not seem to him to be essential, as the convention was not

intended to serve as a penal code and the reference to specific forms of fraudulent conduct, among which corruption should be included, was displeasing. Article 47 was wrong in exaggerating the role of the plenipotentiary and the influence he could exercise today. For those reasons, his delegation supported the amendment by Chile, Japan and Mexico (A/CONF.39/C.1/L.264 and Add.1) to delete article 47.

32. Some amendments sought to clarify the notion of fraud. That notion was not defined in internal codes and however detailed a definition might be, it could only be useful if applied by an independent and impartial body which, if formed, would easily be able to establish whether or not there had been fraud.

33. His delegation must oppose the two amendments by Congo (Brazzaville) and Venezuela (A/CONF.39/C.1/L.259 and Add.1, L.261 and Add.1), in the light of the directly conflicting amendment submitted by Switzerland to article 39 (A/CONF.39/C.1/L.121). In civil law, the sanction for defect of consent had always been invalidation and there was no need to depart from the system adopted by the International Law Commission which made no difference between the two cases of invalidity, to which it applied the same procedure. He supported the principle of the Australian amendment (A/CONF.39/C.1/L.283).

34. Mr. ARIFF (Malaysia) said that in the contemporary practice of international law, States were usually represented by officials of high standing. Was it conceivable that such persons, who were specially chosen for their competence and integrity, would stoop so low as to commit fraud in order to procure the conclusion of a treaty that would be advantageous to the State they represented. The International Law Commission itself recognized in its commentary to article 46 that cases of fraud were likely to be rare and it did not cite a single case in support of its proposed innovation. It seemed inconceivable, at least in the present practice of States, that representatives should resort to deceit and fraud. There was a danger that an article like article 46 would cast doubt on the integrity of representatives. It ought to be possible to rely, purely and simply, on the principle of good faith. Consequently, his delegation supported the amendment to delete article 46, submitted by Chile and Malaysia (A/CONF.39/C.1/L.263 and Add.1) and the amendment to delete article 47 submitted by Chile, Japan and Mexico (A/CONF.39/C.1/L.264 and Add.1).

35. Mr. MARESCA (Italy) said that at first, when reading the text of article 46, he had thought that it was impossible for a State to induce another State to conclude a treaty by fraudulent devices, but after some reflection, he had come to the conclusion that codification should not stop half-way. Certain defects in consent, such as fraud and error, could not be left out. The rules concerning fraud should aim at giving real protection to a State which was a victim of fraud and should be couched in traditional language.

36. He was opposed to the amendment by Congo (Brazzaville) and Venezuela (A/CONF.39/C.1/L.259 and Add.1), since fraud was not a ground of absolute nullity, but a ground for invalidating consent. With regard to the amendment of the Republic of Viet-Nam (A/CONF.39/C.1/L.234/Rev.1), he could see no reason for departing from the formula of the International Law Commission. The advantage of the United States amendment (A/CONF.39/C.1/L.276) was that it made the possibility for a State to invoke fraud conditional on the fact that the fraudulent conduct of another State concerned a situation of material importance to its consent to be bound by the treaty; if the fraud concerned only something of minor importance, it could not, in his opinion, be invoked.

37. The Italian delegation considered that fraud should not cover other cases, such as the interpretation of a treaty. It was a distortion of historical truth to quote as an example of fraud a certain treaty concluded by Italy. The text of the treaty in question had been drawn up in different languages and had given rise to different interpretations, a case covered by article 29. However, the mere fact that it had been possible to cite a difference in interpretation resulting from the use of two different languages as a case of fraud showed how necessary it was to provide some adequate procedure to decide cases of invalidity.

38. Mr. GARCIA-ORTIZ (Ecuador) said that the cases covered by article 47, though very unlikely, might nevertheless occur. To penalize corruption by invalidating the treaty was logical. Corruption, when discovered, should entail the absolute nullity of a treaty, since it was hardly likely that the injured State would be prepared to validate such an immoral proceeding by subsequently ratifying the treaty.

39. It should be noted in connexion with the Peruvian amendment (A/CONF.39/C.1/L.229) that ratification was one of the stages in the conclusion of treaties which was the fruit of the negotiation, and it could not remedy the defects in a treaty. The Peruvian amendment would confer upon ratification a retroactive effect which it did not possess, since the effects of ratification could not occur before ratification, unless the treaty expressly so provided. The Ecuadorian delegation was in favour of article 47 and therefore could not support the Peruvian amendment.

40. He could support the Congo (Brazzaville) and Venezuelan amendment (A/CONF.39/C.1/L.261 and Add.1) and the Australian amendment (A/CONF.39/C.1/L.283), but was opposed to the joint amendment by Chile, Japan and Mexico (A/CONF.39/C.1/L.264 and Add.1), since it must be admitted that the possibility of the corruption of the representative of a State still existed.

41. With regard to article 46, the Ecuadorian delegation was in favour of the Congo (Brazzaville) and Venezuelan amendment (A/CONF.39/C.1/L.259 and Add.1); if that amendment was not adopted, it would vote for the retention of the existing text of article 46.

42. Lastly, it was wrong to assimilate fraud with error, since they afforded two completely different grounds of invalidity.

43. Mr. MOUDILENO (Congo, Brazzaville) said he did not accept the view that the notion of fraud was hard to define, since everyone knew exactly what it covered. Fraud could not be treated on the same footing as error because, though both of them led to the same result, each took an entirely different course. Fraud differed from error in that it implied wrongful intent. Moreover, article 45

dealt only with cases of relative invalidity and did not cover fraud, which could not result in the same kind of invalidity. Some representatives had argued that cases of corruption were so rare that they did not merit the Committee's attention, but he himself believed that statistics would provide evidence to the contrary. And it was no more unseemly to mention corruption than it was to speak of fraud or error.

44. He did not agree with the Italian representative that fraud and corruption should be subject to the sanction of relative nullity, since instances were increasingly frequent and should entail absolute nullity, which would protect small States, the chief victims.

The meeting rose at 10.40 p.m.

FORTY-SEVENTH MEETING

Thursday, 2 May 1968, at 10.50 a.m.

Chairman: Mr. ELIAS (Nigeria)

Consideration of the question of the law of treaties in accordance with resolution 2166 (XXI) adopted by the General Assembly on 5 December 1966 *(continued)*

Article 46 (Fraud) and *Article 47* (Corruption of a representative of the State) *(continued)*

1. The CHAIRMAN invited the Committee to continue its consideration of articles 46 and 47 of the International Law Commission's draft.

2. Mr. MWENDWA (Kenya) said that his delegation fully supported the International Law Commission's texts of articles 46 and 47. Some delegations had claimed the scarcity of precedents for fraud and corruption as a ground for deleting the articles, while others had put forward the integrity and honesty of high State officials for the same purpose. But the suggestion that fraud and corruption did not exist was unrealistic, and his delegation categorically rejected the idea that fraud and corruption should not be eliminated from international relations.

3. It was not surprising that there were few precedents in the matter, for fraudulent and corrupt agreements were made with extreme caution and great guile. No talk of lofty ideals could wipe out the memory of treaties induced through corruption to secure concessions, treaties induced through fraud to gain territorial advantage. Now that " gunboat " diplomacy was becoming a thing of the past, it was to be feared that fraud and corruption would be used more extensively as a substitute. Indeed, the intelligence services of some States seemed to be almost exclusively engaged in devising methods of corruptly and fraudulently imposing their will on other States, and it was hardly to be expected that in so doing, the sphere of treaties would remain unexploited. The Commission had therefore been right to include provisions on fraud and corruption among the elements which vitiated consent, since they affected the very essence of treaty relations.

4. The amendments submitted by Venezuela and the Congo (Brazzaville) (A/CONF.39/C.1/L.259 and Add.1 and L.261 and Add.1) had some technical merit, since consent to a treaty induced by fraud and corruption was worthless *ab initio* for the purpose of concluding a treaty. But the Commission's view that the treaty was voidable at the option of the State whose consent had been procured by fraud or corruption was more realistic, for the offending State should not be enabled to benefit in any way, even negatively, from its action; it was not impossible for a treaty fraudulently or corruptly induced to be a benefit to the aggrieved State and a burden to the State which had used fraud and corruption, and in such cases, if the treaty were declared void, the offending State would automatically be released from its obligations under the treaty. The Commission's proposal that such treaties should be voidable at the option of the aggrieved State was more practical, and the Kenyan delegation would accordingly abstain from the vote on the two Venezuelan amendments. It would vote against the other amendments, believing that they would impair the effectiveness of the Commission's draft.

5. Mr. EVRIGENIS (Greece) said that scarcity of precedents might at first sight appear to be a strong argument for deleting articles 46 and 47, as might the fact that the basic concepts of those provisions were so difficult to specify that attempts to invoke them might open the way to abuses liable to weaken international contractual obligations. That argument applied less to article 46, since the concept of fraud was already rooted in all national legal systems, than to article 47, which boldly inaugurated a new institution of international law.

6. Despite some hesitation, the Greek delegation would vote for the retention of the two articles as drafted by the International Law Commission, for two reasons. First, deletion of the provisions would upset the balance of Part V of the draft which, with the present wording of article 39, was intended to contain, in principle, an exhaustive list of the grounds of invalidity: even if some delegations attached little importance to some of those grounds and others none, the reasonable solution would be to retain them in accordance with the principle of exhaustive enumeration. Secondly, the moral effect of the articles in question on international relations should not be underestimated. His delegation nevertheless reserved the right to return to those provisions during the discussion of article 62, on the procedure for their application, since it attached great importance to the ultimate text of the guarantees for the implementation of Part V.

7. His delegation would vote for the Australian amendments (A/CONF.39/C.1/L.282 and L.283). The United States amendment to article 46 (A/CONF.39/C.1/L.276) was inspired by a legitimate concern to delimit fraud and base it on objective criteria. But the Commission's text should, he thought, itself be understood as relating to fraud involving some aspect of the object of the treaty of major importance, the importance to be determined by objective tests. If the Expert Consultant would confirm his interpretation of the Commission's text, his delegation would vote for it with greater confidence.

8. Mr. MATINE-DAFTARY (Iran) said his delegation could not agree with the arguments advanced in favour of deleting articles 46 and 47. The scepticism of the representatives of some western countries with regard to those articles was understandable, for they probably