

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

Vienna, Austria  
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**A/CONF.129/C.1/SR.10**

**10th meeting of the Committee of the Whole**

Extract from Volume I of the *Official Records of the United Nations Conference on 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)*

74. Mr. LIJONG PIL (Democratic People's Republic of Korea) said that he was in favour of greater flexibility in paragraph 2. A flexible approach in the matter of international conferences would cope with all eventualities in future treaty-making. On that basis, the Chinese and Soviet Union amendments were acceptable to his delegation, since they had a common denominator and provided ample opportunity for a decision to be taken regarding the procedures of international conferences in the light of developments.

75. Mr. VASSILENKO (Ukrainian Soviet Socialist Republic) said that, as formulated, paragraph 2 was unsatisfactory and equated States with international organizations for the purpose of adopting the texts of treaties. Other situations, quite apart from the one envisaged in paragraph 2, could, however, be visualized. He had in mind, for instance, the case of a treaty concluded between many States with the participation of one or more international organizations, or of a treaty concluded between an equal number of States and international organizations, or again of a treaty concluded at an international conference where the majority of participants were international organizations and there were only one or two States. There was also the case where a treaty was concluded and adopted between international organizations alone. It was not possible to find a solution for each one of the manifold combinations of those four basic variants under the present, or indeed any other, draft convention. Paragraph 2 should therefore be modified to provide for the maximum flexibility. His delegation believed that the Soviet Union proposal provided an appropriate solution, and would consider it appropriate if a third paragraph were added to the article to cover the case of the text of treaties drawn up at international conferences in which only international organizations took part.

76. Mr. SKIBSTED (Denmark) said his delegation supported the article as drafted, since it served the objective of ensuring that international organizations should be placed on the same footing as States when treaties between States and international organizations were being drawn up. It also laid down a flexible rule that would help to prevent international conferences

from failing because of procedural disagreements. There was some risk of that happening with the Soviet Union proposal, and the amendment was therefore unacceptable to his delegation. The eight-organization amendment would add a positive element to the Commission's draft, and his delegation would have no difficulty in supporting it.

77. Mr. RIPHAGEN (Netherlands) said that, according to his reading of the Commission's draft, its purpose was not to confer the right to participate in a given conference on any State or international organization. Indeed, there was no general rule that established such a right. Further, as he understood them, the words "participating in its drawing up" in paragraph 1 signified that an international organization had the right to put proposals to the conference and to vote on proposals, while paragraph 2, read in the light of paragraph 1, merely provided that, if a State or international organization participated in that way, it should also take part in deciding how the text was to be adopted, in other words, in adopting the rules of procedure. That seemed to be only logical. On that basis, therefore, the Commission's draft was acceptable to his delegation.

78. Referring to the proposed amendments, he said that his delegation was willing to support the eight-organization amendment, which was mainly concerned with a point of drafting. It did, however, provide for the possibility of a conference composed of international organizations alone, such as, for instance, one convened with a view to conferring a uniform status on international civil servants. The Commission's draft did not exclude such a possibility, but the amendment would make the position absolutely clear.

79. The French amendment was also concerned with a point of drafting and did not say anything different from the Commission's draft. In that connection, he considered that the Conference should not try to introduce more into article 9 than the Commission intended. The question of the composition of international conferences, for instance, was best left to international practice.

*The meeting rose at 12.55 p.m.*

## 10th meeting

Wednesday, 26 February 1986, at 3.20 p.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 7 (Powers and full powers) (continued)\**

1. The CHAIRMAN suggested that the Committee should establish a working group on article 7, composed of the sponsors of the amendments and of specially interested delegations, and chaired by Mr. Pisk (Czechoslovakia). A similar procedure might be adopted with other articles to be considered by the

\* Resumed from the 8th meeting.

Committee. If he saw no objection, he would take it that the Committee accepted his suggestion.

*It was so agreed.*

*Article 9 (Adoption of the text) (continued)*

*Paragraph 2 (continued)*

2. Mr. GILL (India) said that his delegation had no difficulty with the International Law Commission's draft of paragraph 2, which contained a useful residual rule in the form of the proviso safeguarding the autonomy of international conferences. It therefore covered the substance of the Chinese and Soviet Union proposals (A/CONF.129/C.1/L.17 and A/CONF.129/C.1/L.30). His delegation could accept the changes proposed by the Council of Europe and other international organizations in document A/CONF.129/C.1/L.22, which filled a gap in the existing text, as well as the World Bank amendment to paragraph 1 of the article (A/CONF.129/C.1/L.23), which took account of practice. The Conference must look to the future and adopt a practical approach to the subject-matter of the draft convention.

3. With regard to the question raised by the Bulgarian representative at the previous meeting, he thought that the two-thirds majority for which the paragraph provided meant two-thirds of the aggregate of States and international organizations present and voting.

4. Mr. HAYASHI (Japan) said his delegation was convinced that the wisest course was to adopt the Commission's text, which, as the United States had said at the previous meeting, had the merit of containing a residual rule. Also, the text did not exclude the possibility of other rules being adopted, including a consensus requirement. The difference between the French proposal (A/CONF.129/C.1/L.28) and the Commission's text was a matter of drafting, and both texts should be referred to the Drafting Committee.

5. Mr. CORREIA (Angola) said his delegation had no great difficulty in accepting the original text: the rules it embodied were not new, but they were being applied to a new category of entities, namely, international organizations. However, the formulation of the paragraph was not sufficiently clear. In regard to conferences in which both States and international organizations participated, it was best to maintain the distinction between them in regard to their status and allow States to decide whether the international organizations should participate in the conference on an equal footing.

6. His delegation could support the Soviet Union proposal and also the Chinese amendment, provided the Commission's text was given the formulation he had recommended. In substance, the difference between the Soviet Union and Chinese proposals was simply a question of form.

7. Mr. HALTTUNEN (Finland) said that paragraph 2, as drafted by the Commission, was of a procedural nature in that it concerned the majority required for the adoption of a treaty between States and international organizations at an international conference. However, that was not the problem in practice. At such a conference the States taking part might be

members of an international organization also participating; if that organization became a party to the treaty but some of its member States did not, those States would be third parties to the treaty, although as member States of the organization it might give them rights or obligations. The matter would require consideration in connection with part IV of the draft articles on the amendment and modification of treaties. His delegation saw some merit in the amendment proposed by eight international organizations, which spelt out a basic rule.

8. Mr. NEGREIROS (Peru) said that an article regulating the participation of States and international organizations in the adoption of the text of a treaty required careful study, especially as far as adoption at an international conference was concerned. An international conference was a negotiating process, in which the viewpoints of the participants had of necessity to undergo modification. Accordingly, the different way in which decisions were taken by States and international organizations had to be borne in mind. A State had an Executive Power in which decision-making was concentrated, but no organ of an international organization possessing similar competence had yet been defined. Representatives of international organizations might therefore find it difficult to obtain instructions which would allow them to accept the suggestions which were bound to emerge during the negotiating process, particularly if the organ with competence to instruct them was a collegiate body which only met periodically.

9. For these reasons it would be advisable to make provisions that, without necessarily being rigid, would avoid the adopting of articles in this respect which would be inoperable. His delegation therefore supported the Chinese amendment; it understood it as meeting the same concern as the Soviet Union proposal, which it likewise considered appropriate.

10. Mr. ALMODÓVAR (Cuba) said that representatives of States had expressed concern that the International Law Commission's text of paragraph 2 might allow international organizations to vote on the adoption of the text of a treaty on an equal footing with States. That concern was justified, since international organizations were created by States; even if a group of international organizations was to meet and create another international organization, it would be on the basis of powers given them by States. Mention had been made of the paradox that, at a conference, a group of States which had set up an international organization which also participated in the conference might not vote in the same way as the representative of that organization. That was the point of the amendment proposed by Egypt (A/CONF.129/C.1/L.31). Also, concern had been expressed by some delegations that, in default of other rules, conferences would have to fall back on the unanimity rule set out in paragraph 1 of article 9. The article needed to be formulated in such a way that it did not create an embarrassing situation for States, which were the principal subjects of international law.

11. The Chinese amendment might seem acceptable in principle, but, viewed in its broadest sense, it could

permit a situation in which a conference of international organizations could establish a procedure which the participating States found unacceptable. The Soviet Union proposal seemed a more flexible solution to the problem, and it might be possible to reconcile it with the Chinese amendment.

12. Mr. VOGHEL (Canada) said that his delegation considered the most acceptable course would be to approve the Commission's draft, which was precise but left the participants the option of adopting what rules they pleased, thereby giving the paragraph the flexibility sought by the various amendments. His delegation could also accept the French proposal, but considered the Commission's draft a better text.

13. Mr. EIRIKSSON (Iceland) said that his delegation supported the French proposal.

14. Mr. CASTROVIEJO (Spain) said that his delegation had difficulty in understanding how an international conference concerned with the adoption of a treaty between States and international organizations could limit the participation of those organizations in the conference. The most satisfactory proposal for altering the article was the one submitted by eight international organizations, and his delegation supported it.

15. Mr. REUTER (Expert Consultant) said that he was sufficiently optimistic to hope that everyone would agree, if not on the text of the paragraph, at least on the Commission's intention in proposing it. Its antecedent, article 9, paragraph 2, of the 1969 Vienna Convention on the Law of Treaties,<sup>1</sup> had originated in a simple question posed by the eminent lawyer Sir Gerald Fitzmaurice in one of the Commission's early reports on the topic of the law of treaties: when international conferences met, worked out their rules of procedure and decided on a particular majority for the adoption of treaties, what was the legal rule by which they decided what that majority should be? There must be, in fact, a rule about how to adopt a rule. The one incorporated in the 1969 Convention, and inspired by United Nations practice, was that the decision of a conference on the treaty-adoption majority required a two-thirds majority itself. That gave the conference considerable latitude and was also a matter of common sense, since, when a large number of States were involved in negotiations, as at a conference, the traditional unanimity rule for the adoption of treaties became inappropriate.

16. But the paragraph did not answer the fundamental question, what was a conference? If a meeting was not a conference, the unanimity rule held. A frivolous answer might be that a meeting became a conference when it was not possible to accommodate all the participants around a table, but a proper reply was yet to be found.

17. The next point was that it would normally be States which decided what organization or what organizations, probably only few in number, would be invited to a conference in which both States and organizations participated, and whether they wished that organiza-

tion or organizations to participate in the treaty. It was that characteristic—the fact that the initiative in such matters normally rested with States, that the decision to invite was a political one—which had led the Commission to include in the draft articles a paragraph modelled on article 9, paragraph 2, of the 1969 Convention. He did not feel that the paragraph, looked at from that point of view, placed organizations on the same footing as States. The Commission had not taken a stand on the highly political question whether it was the right of an international organization to participate in international conferences, nor did he feel that the Conference had to consider it. What it had done, however, was to express in the article the idea that, once an entity was required to be a party to a treaty, there had to be a certain equality between all the parties to it; otherwise the words "convention" and "treaty" would become meaningless. That was the sole intention of the text: he acknowledged that the wording was not entirely clear, but at least its meaning was explained in the International Law Commission's commentary to the article (see A/CONF.129/4).

18. Mr. SCHRICKE (France) said that the first point was whether the rule in article 9, paragraph 2, should be extended to conferences involving only international organizations. The Commission had not tackled the question, for the reasons given in the commentary, but a large number of international organizations appeared to consider that extension desirable and had consequently proposed the amendment in document A/CONF.129/C.1/L.22.

19. With paragraph 2 as it stood, the adoption of treaties between international organizations would be governed by the unanimity rule in paragraph 1, which would not satisfy the international organizations and which was, after all, illogical. Accordingly, the French delegation saw no reasons why the draft should not contain the two-thirds majority rule. The French proposal followed that line. By referring simply to "a treaty", it should meet the concerns of those delegations which wanted the text to be applicable to both types of treaties, as well as to both types of conferences.

20. Regarding the rights of international organizations, his delegation did not wish to take a position on the general question—which, as the Expert Consultant had said, was not before the Conference—whether international organizations were entitled generally to participate in international conferences, or what their status was. It did, however, consider, that article 9 should settle the question whether international organizations had voting rights when they participated in conferences. The French proposal settled it implicitly by making the required voting majority two-thirds of the participants present and voting, instead of the States and organizations present and voting.

21. His delegation had certain difficulties with the Chinese amendment in that it was superimposed on paragraphs 1 and 2. Paragraph 1 stated the principle of unanimity; paragraph 2 established an exception to that principle for international conferences, namely the two-thirds majority rule, and made it possible to derogate from that exception by a decision taken by the

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

same majority. Thus the Chinese amendment posed a problem in that it provided an exception both to the principle itself and to the exception. That might create a practical difficulty; for example, an international treaty-making conference might have rules of procedure less precise than those of the present conference, perhaps not specifying by what majority the treaty should be adopted. If so, according to paragraph 2 of the Commission's text, a two-thirds majority would be required, but under the proposed paragraph 3 it could be argued that unanimity was required. The conference would consequently have the difficult task of choosing between two conflicting rules.

22. Unlike the Commission's draft and the French proposal, both of which set a two-thirds majority, the proposal by the Soviet Union did not define the conditions according to which participants in a conference should adopt the text of a treaty. It left the matter open; if paragraph 1 was applied, it might be thought that unanimity was required.

23. Mr. WANG Houli (China) said that the desire for a flexible text, something called for by many delegations, had prompted his delegation's proposal. It was intended to cover international conferences in which States and international organizations participated on an equal footing as well as those at which they participated with a different status, such as at the present conference. It also covered international conferences at which the participants were exclusively international organizations. In that sense, there were some similarities between the proposal by the Soviet Union and the Chinese proposal. However, the Chinese proposal had maintained paragraph 2 of the article, and therefore it might be acceptable to more delegations. His delegation was ready to consult other interested delegations informally with a view to finding a satisfactory formulation for the article.

24. Mr. RAMADAN (Egypt) said that his delegation was certainly among those which believed that international organizations had the capacity under international law to participate in the preparation of treaties and be parties to them. Furthermore, it did not rule out the idea that at certain conferences international organizations should be allowed to vote on the adoption of a treaty.

25. The representatives of Austria and Cape Verde had indicated at the previous meeting that there were some conferences at which voting on the adoption of a treaty had to be restricted to States, and others where international organizations might participate in the vote. The present Conference was an example of the former. For the latter, the possibility remained open, under the last part of the Egyptian proposal, for the State or States initiating the conference to decide that the organizations might vote on the adoption of the treaty.

26. International organizations, as the Expert Consultant had indicated, constituted the technical means whereby States members of those organizations could realize their interests; any treaty signed at a conference held under the auspices of such organizations would bind members who voted against it as well as those who voted in favour of it. The Egyptian proposal therefore

stated, as the basic rule, that States had the right to vote on the adoption of a treaty and, as an exception to that rule, that international organizations could have that right. His delegation was nevertheless prepared to cooperate with other interested delegations in seeking a generally acceptable formulation for article 9, paragraph 2. The last part of the Egyptian proposal was similar in effect to the Chinese amendment. In regard to the proposal made by eight international organizations, he suggested that, in order to cover international conferences at which the participants were international organizations only, a provision might be inserted in the paragraph as it stood.

27. Mr. ECONOMIDES (Greece) said that, under the provision proposed by Egypt, States could certainly make treaties drawn up by States open to accession by organizations. Nevertheless, in his view, the Egyptian proposal would have the effect of depriving international organizations of the possibility of being a party to treaty negotiations and of participating in the preparation and adoption of treaties as defined in article 2 of the draft. For if an organization which had participated in a conference had no right to vote on the adoption of the treaty, in reality its capacity to be a party to the negotiations was not acknowledged, which was contrary to the draft convention. His delegation continued to believe that an organization which participated in a conference to conclude a convention between States and international organizations had to be placed on a strictly equal footing with States, because if that were not the case, there would, to echo the words of the Expert Consultant, be neither convention nor treaty, nor even a treaty procedure.

28. The CHAIRMAN said that the changes proposed to article 9, paragraph 2, were aimed at providing a flexible rule which would leave room for the future development of international law. However, the discussion had shown that some of the formulations suggested would permit only a very rigid interpretation, while others were so flexible that they might scarcely be said to embody a rule at all.

29. The issue in article 9 was linked to the larger question of the treaty-making capacity of international organizations and their participation in treaty-making conferences. The amendment submitted by eight international organizations dealt explicitly with the adoption of a treaty between international organizations, a matter which was implicit in the French proposal as well.

30. If the Committee agreed that international organizations could hold conferences with the authority to adopt treaties, that situation could be catered for in the draft with relatively minor changes.

31. The Expert Consultant had drawn attention to the question of who was to adopt the rules of procedure of international conferences, a matter on which article 9, paragraph 2, had a considerable bearing. The problem might have arisen, for example, in respect of rule 63 of the rules of procedure of the present Conference. As had been said, the rule in that paragraph was intended to be residual. He suggested that the paragraph and the various proposals for it should be referred to the working group chaired by Mr. Pisk (Czechoslovakia).

*It was so agreed.*

**Article 11** (Means of expressing consent to be bound by a treaty)

*Paragraph 2*

32. Mr. ROSENSTOCK (United States of America) said that the issue raised by paragraph 2 had already been considered in connection with the definition in article 2, subparagraph 1 (*b bis*), of an "act of formal confirmation". He therefore questioned the need for a further detailed discussion on the matter. In other respects the paragraph posed no problems.

33. Mr. ULLRICH (German Democratic Republic), introducing his delegation's amendment (A/CONF.129/C.1/L.12), said that the Commission's text correctly enumerated the technical possibilities of expressing the consent of an international organization to be bound by a treaty. However, in proposing its amendment, his delegation had been guided by the notion that the consent had far-reaching legal consequences; the intention of the amendment was therefore to make it clear that an international organization's consent to be bound by a treaty would only take effect if the consent was expressed in terms compatible with the rules of that organization as defined in article 2, subparagraph 1 (*j*). The amendment was also linked with article 6, on the capacity of international organizations to conclude treaties, and was based on the assumption that an acceptable definition of "rules of the organization" could be formulated. In short, the proposed additional sentence was designed to establish a logical relationship between the rules of the organization, the capacity of international organizations to conclude treaties, and the consent of an international organization to be bound by a treaty.

34. Mr. GAJA (Italy) said that, if there was such a notion as the rules of an organization, those rules must surely apply to the way in which the consent of an international organization to be bound by a treaty was expressed. As it stood, the amendment seemed to be at variance with the provisions of article 46. Article 11, paragraph 2, should be examined in that light.

35. Mr. NETCHAEV (Union of Soviet Socialist Republics) said that the paragraph as drafted by the Commission was acceptable, but that he also saw merit in the amendment proposed by the German Democratic Republic. The issue it raised was not complex and could usefully be referred to the Drafting Committee.

36. The CHAIRMAN said that one way of dealing with the issue might be to add the words "in accordance with the rules of that organization" after the words "may be expressed".

37. Mr. JESUS (Cape Verde) agreed with the United States representative that the Committee should not discuss the questions raised by the paragraph unnecessarily. His delegation felt that the point at issue in the amendment by the German Democratic Republic was taken care of in article 6, since the capacity of international organizations to conclude treaties surely included signature and the deposit of instruments of ratification or formal confirmation. It would be best to adhere to the Commission's text, with the proviso that the wording should be amended in accordance with

whatever decision was finally taken regarding the use of the terms "ratification" and "act of formal confirmation".

38. Mr. CRUZ FABRES (Chile) said that, since the subject had arisen in the discussion on earlier articles, it would be best to refer paragraph 2 to the Drafting Committee.

39. Mr. HAFNER (Austria) agreed, and pointed out that the structure of article 11 was closely linked with that of article 2, subparagraphs 1 (*b*) and (*b bis*). His delegation had suggested (2nd meeting) that those two subparagraphs should be merged, and that suggestion should be kept in mind in considering the structure of article 11.

40. Mr. DEVLIN (World Health Organization) said that he was less certain than some other speakers that the point raised by the proposed amendment to paragraph 2 was purely a matter of drafting, since the amendment was open to several interpretations. One possible interpretation was that the means of expressing consent should be in accordance with the rules of the organization concerned. However, it was unlikely that the rules of an international organization would cover the specific question of the means of expressing consent.

41. Mr. RASOOL (Pakistan) said that his delegation had no problem with the Commission's text. Discussion of the amendment should be postponed until the term "rules of the organization" was considered. He agreed with earlier speakers that the article should be referred to the Drafting Committee.

42. Mr. HARDY (European Economic Community) said that the International Law Commission's wording of article 11 was acceptable, but that the words "formal confirmation" would require further discussion.

43. The amendment proposed by the delegation of the German Democratic Republic raised issues which fell more properly within the scope of article 6. He had commented on the interpretation of the term "rules of the organization" in an earlier statement (6th meeting). In his view, it was for the international organization itself to determine how its rules were to be applied. The question was not solely one of drafting and the consideration of the amendment should be deferred until article 46 was discussed.

44. Mrs. DIAGO (Cuba) said that both the paragraph and the amendment should be sent to the Drafting Committee.

45. Mr. VASSILENKO (Ukrainian Soviet Socialist Republic) said that the amendment was a substantive improvement on the Commission's text. The fact that article 46 raised a related issue, as the representative of Italy had pointed out, should not deter the Committee from trying to improve article 11. He therefore agreed with the representative of Cuba that the Drafting Committee should examine the article and the amendment.

46. The attachment to the Secretary-General's note (A/CONF.129/8) indicated that paragraph 2 of article 11 was closely linked with article 14, paragraph 3, and articles 16, 18 and 19, paragraph 2. The Drafting Committee should bear that in mind when discussing it.

47. The CHAIRMAN suggested that article 11, paragraph 2, and the amendment should be referred to the Drafting Committee on the understanding that the latter would refer them back to the Committee of the Whole if it considered that a question of substance was involved.

48. Mr. ECONOMIDES (Greece) said that article 11 provided how consent to be bound by a treaty should be expressed. Such means as signature, ratification and approval were generally regulated by general international law, not by the rules of the organization. His delegation therefore proposed that the words "and the rules of general international law" should be inserted in the German Democratic Republic's amendment after the words "in accordance with the rules of that organization". If that was done, his delegation would have no objection to the amendment being referred to the Drafting Committee.

49. Mr. MONNIER (Switzerland) said that the discussion showed that the amendment was not merely a drafting matter. His delegation would oppose any change which sought to accommodate the idea underlying the amendment.

50. Mr. RIPHAGEN (Netherlands) said that the text proposed by the German Democratic Republic raised a substantive issue. If the paragraph and the amendment were referred to the Drafting Committee on the understanding that the amendment was a drafting matter, his delegation would have to reserve its position on them. There was no agreement yet on the substance of the amendment, or even on whether it involved a question of substance.

51. Mr. PISK (Czechoslovakia) supported the suggestion that article 11, paragraph 2, and the amendment by the German Democratic Republic be referred to the Drafting Committee.

52. Mr. JESUS (Cape Verde) said that his delegation was one which believed that the amendment made a substantive change in the draft article. Furthermore, the concluding words of the sentence it proposed affected other articles, in particular article 46. The amendment should be discussed thoroughly in the Committee of the Whole.

53. Mr. RASSOLKO (Byelorussian Soviet Socialist Republic) supported the Chairman's suggestion that article 11, paragraph 2, and the amendment by the German Democratic Republic should be referred to the Drafting Committee.

54. Mr. WOKALEK (Federal Republic of Germany) suggested that the Committee of the Whole should postpone the discussion until it took up article 46.

55. Mr. RAMADAN (Egypt) said that the amendment was certainly related to article 46.

56. Mr. NORDENFELT (Sweden) opposed the suggestion that the amendment should be referred to the Drafting Committee. In his opinion, it was of a substantive nature and concerned not only articles 2 and 46 but also article 27, paragraph 2.

57. Mr. RIPHAGEN (Netherlands) said that the Committee of the Whole, if it referred the amendment to the Drafting Committee, should ask it to decide whether the amendment necessitated an addition of a

drafting nature to article 2. He felt sure that the Drafting Committee would see the amendment as a matter of substance and refer it back to the Committee of the Whole.

58. Mr. AL-KHASAWNEH (Jordan) said that the matter was one of substance. Speaking as the Chairman of the Drafting Committee, he too believed that the Drafting Committee would return the amendment to the Committee of the Whole.

59. Mr. ECONOMIDES (Greece), expanding on the point he had raised earlier, said that article 11, paragraph 2, determined and enumerated the ways in which an international organization expressed its consent to be bound by a treaty. He would take as an example the case of an international organization which expressed its consent to a treaty by an act of formal confirmation. The Committee had heard that at present such an act was provided for in only a very small number of organizations and seldom formed part even of their practice. That being so, he would like the representative of the German Democratic Republic to consider the following situation: the consenting organization might be told that it had expressed its consent in a manner not in keeping with its rules and therefore invalidly; it might then reply that, since it possessed the right to enter into a treaty of the kind in question and was a party to the draft convention, it had chosen to consent to it by an act of formal confirmation instead of by some other means, despite the fact that, *stricto sensu*, such an act was not in conformity with its rules. It was to cover that situation that he had proposed an addition to the sentence suggested by the German Democratic Republic, to the effect that consent should be expressed in accordance not only with the rules of the organization but also with international law in general.

60. Mr. HERRON (Australia) said that the amendment of the German Democratic Republic had been clearly identified as raising a point of substance. If its proposer and supporters insisted on dealing with it under article 11, the Committee of the Whole had no option but to consider the point immediately. It might, however, refer the paragraph and the amendment to the Drafting Committee for a decision whether, in the light of the structure of the entire draft, it was appropriate to deal with the amendment under article 11 or elsewhere. If the Drafting Committee decided that the amendment should be dealt with elsewhere, it would be able to consider article 11 and refer the amendment back to the Committee of the Whole as a matter of substance.

61. Mr. TEPAVICHAROV (Bulgaria) said that the Committee did not seem to be making any progress in its discussion of article 11, paragraph 2. He therefore proposed the adjournment of the meeting under rule 25 of the rules of procedure in order to give delegations an opportunity to engage in consultations.

62. The CHAIRMAN said that under that rule the Bulgarian motion could not be debated. He would therefore assume, unless he heard any objection, that the Committee agreed to adjourn the meeting.

*It was so decided.*

*The meeting rose at 5.55 p.m.*