

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

Vienna, Austria
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29th meeting of the Committee of the Whole

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not support the amendments that called for such jurisdiction. He failed to understand how, when only some 40 States accepted that jurisdiction, in many cases with reservations, certain delegations were anxious to provide for it in the draft convention. His delegation was not opposed in principle to the submission of disputes to any court, arbitral tribunal, conciliation commission, or other such organ, but such submission must be voluntary and have the consent of the parties.

107. The CHAIRMAN said that, in the light of the debate, he took it that the Committee wished to defer its decision on article 66 and the amendments thereto, so that those matters could be considered in consultations to be held under the chairmanship of the President of the Conference.

It was so decided.

The meeting rose at 5.40 p.m.

29th meeting

Monday, 17 March 1986, at 5.15 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 3 (International agreements not within the scope of the present articles) (*concluded*)*

1. The CHAIRMAN drew attention to the text of article 3 reproduced in document A/CONF.129/C.1/L.75. The text had been agreed by delegations in consultations held under the chairmanship of the President of the Conference. If he heard no objection, he would take it that the Committee adopted that text and referred it to the Drafting Committee.

It was so decided.

Preamble

2. The CHAIRMAN drew attention to the text of the preamble to the draft convention, which was reproduced in document A/CONF.129/C.1/L.77. That wording had also been agreed by delegations in consultations held under the chairmanship of the President of the Conference. It was based on the formal proposals submitted to the Committee by Brazil and India (A/CONF.129/C.1/L.71) and by Czechoslovakia, the German Democratic Republic and the Ukrainian Soviet Socialist Republic (A/CONF.129/C.1/L.72), as well as on various informal proposals. If there was no objection, he would take it that the Committee adopted the preamble reproduced in document A/CONF.129/C.1/L.77 and referred it to the Drafting Committee.

It was so decided.

Article 66 (Procedures for arbitration and conciliation) *and*

Annex (Arbitration and conciliation procedures established in application of article 66) (*continued*)

Statement by the President of the Conference

3. Mr. ZEMANEK (Austria), President of the Conference, said that the General Committee had reviewed the results of attempts which delegations had made informally to agree on a text for article 66 which would be generally acceptable. It had come to the conclusion that there was no immediate prospect of any such agreement. It therefore recommended that the Committee of the Whole should take an indicative vote by roll-call on each of the amendments which had been submitted to article 66 as drafted by the International Law Commission. The results of the votes should assist delegations in deciding whether to hold further consultations with a view to working out a text that would command the widest possible support. The General Committee further recommended that the Committee should meet the following day in order to take a vote on article 66 and the annex, if there was no indication by then that general agreement on the matter had been or was about to be reached, and also in order to deal with the final clauses of the draft convention. Those recommendations were made in accordance with rule 63 of the rules of procedure.

4. The CHAIRMAN observed that the amendments to the annex proposed by the Soviet Union, the European Economic Community and the Netherlands (A/CONF.129/C.1/L.61, L.64, and L.67, respectively) were excluded from the procedure recommended by the General Committee, the reason being that the first of those proposals was consequential upon the Soviet Union's proposal for article 66 (A/CONF.129/C.1/L.60) and the other two were of a drafting nature.

5. Unless he heard any objection, he would take it that the Committee wished to adopt the procedure recommended by the General Committee.

It was so decided.

6. The CHAIRMAN invited the Committee to take an indicative vote by roll-call on the amendments proposed to article 66. It would be unable to vote on the United Nations proposal (A/CONF.129/C.1/L.66), since, in accordance with rule 60 (1) (d) of the rules of procedure, a vote on that proposal would require to be

* Resumed from the 5th meeting.

requested formally by a State, and no such request had been made.

7. He therefore invited the Committee to vote, in an indicative vote, first on the amendment proposed by the Soviet Union (A/CONF.129/C.1/L.60).

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

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

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

Abstaining: Bahrain, Bangladesh, Barbados, Burkina Faso, Cameroon, Congo, Côte d'Ivoire, Egypt, France, Gabon, Guatemala, India, Iraq, Israel, Kenya, Kuwait, Lebanon, Madagascar, Morocco, Oman, Pakistan, Philippines, Qatar, Republic of Korea, Saudi Arabia, Thailand, Tunisia, United Arab Emirates, Zaire, Zambia.

8. The CHAIRMAN invited the Committee to vote, in an indicative vote, on the amendment submitted by Algeria, China and Tunisia (A/CONF.129/C.1/L.68).

The Union of Soviet Socialist Republics, having been drawn by lot by the Chairman, was called upon to vote first.

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

Against: Australia, Austria, Belgium, Canada, Chile, Colombia, Cyprus, Denmark, Finland, Germany, Federal Republic of, Greece, Holy See, Ireland, Italy, Japan, Kenya, Lesotho, Liechtenstein, Mexico, Netherlands, New Zealand, Nigeria, Norway, Portugal, Spain, Sudan, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bahrain, Barbados, Brazil, Cameroon, Côte d'Ivoire, Egypt, France, Gabon, Guatemala, India, Iraq, Israel, Kuwait, Lebanon, Madagascar, Morocco, Oman, Pakistan, Philippines, Qatar, Republic of Korea, Saudi Arabia, Senegal, Thailand, United Arab Emirates, Yugoslavia, Zambia.

9. The CHAIRMAN invited the Committee to vote, in an indicative vote, on the eight-Power amendment (A/CONF.129/C.1/L.29/Rev.1).

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

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

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

Abstaining: Argentina, Bahrain, Brazil, Cameroon, Egypt, France, Gabon, Guatemala, Iraq, Israel, Jordan, Lebanon, Madagascar, Morocco, Oman, Philippines, Qatar, Saudi Arabia, Senegal, Thailand, United Arab Emirates, Zaire.

Article 80 (Registration and publication of treaties)

10. The CHAIRMAN drew the Committee's attention to an amendment submitted by Egypt to article 80, which had been referred by the Conference directly to the Drafting Committee. He considered that rule 28, subparagraph 2 (a), of the rules of procedure was applicable, and he invited the delegation of Egypt to introduce the amendment.

11. Mr. RAMADAN (Egypt), introducing his delegation's amendment (A/CONF.129/C.1/L.78), said that, in the light of the International Law Commission's commentary to article 80 (see A/CONF.129/4), his delegation proposed that the expression "filing and recording" should be reserved for the type of treaty to which an international organization was a party, while the word "registration" should apply only to treaties between States. There were three reasons for this. First, the concept of registration of international treaties had developed originally as a means of avoiding the undesirable consequences of secret treaties between States, and to encourage open diplomacy. It was unlikely that one or more international organizations would conclude a secret treaty, particularly in view of the fact that their existence was based on the intention to promote social and economic progress and international security. Secondly, Article 102 of the Charter, of the United Nations applied only to the registration of treaties entered into by States Members of that organization. Thirdly, it was his understanding that the Secretariat of the United Nations had a single procedure for the "registration" of treaties to which only States were parties and for the "recording" of treaties to which international organizations were parties. His delegation

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

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

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

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

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

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

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

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

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

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

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

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

The meeting rose at 6.25 p.m.

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

30th meeting

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

Chairman: Mr. SHASH (Egypt)

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

[Agenda item 11] (*concluded*)

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

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