

UNITED NATIONS CONFERENCE ON THE LAW OF TREATIES

First and second sessions

Vienna, 26 March—24 May 1968 and 9 April—22 May 1969

OFFICIAL RECORDS

Documents of the Conference



UNITED NATIONS

New York, 1971

A.—REPORTS OF THE CREDENTIALS COMMITTEE

Document A/CONF.39/9 *

REPORT OF THE CREDENTIALS COMMITTEE ON THE FIRST SESSION OF THE CONFERENCE

[Original: English]
[21 May 1968]

1. At its second and third plenary meetings, held on 27 March 1968, the Conference, in accordance with rule 4 of its rules of procedure (A/CONF.39/10), appointed a Credentials Committee consisting of the following States: Ceylon, Dominican Republic, Japan, Madagascar, Mali, Mexico, Switzerland, the Union of Soviet Socialist Republics and the United States of America.

2. The Credentials Committee met on 16 May 1968.

3. Mr. Eduardo Suarez (Mexico) was unanimously elected Chairman.

4. The Secretariat reported to the Committee as follows:

(a) Credentials for the representatives of the following States issued by the Head of State or Government or the Minister for Foreign Affairs had been submitted to the Executive Secretary of the Conference in accordance with rule 3 of the rules of procedure: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Central African Republic, Ceylon, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Ethiopia, Federal Republic of Germany, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Guyana, Holy See, Honduras, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Kuwait, Lebanon, Liberia, Liechtenstein, Madagascar, Malaysia, Mali, Mauritania, Mexico, Monaco, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Viet-Nam, Romania, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Spain, Sweden, Switzerland, Syria, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yugoslavia, Zambia.

(b) In the case of the representative of Mauritius, an authorization to represent his Government at the Conference had been received by cable from the Head of Government.

(c) The name of the representative of Yemen had been submitted in a letter from the Permanent Mission of that State to the United Nations.

5. The representative of the Union of Soviet Socialist Republics raised the question of the representation of China and stated that the participation in the Conference of the representatives of the Chiang Kai-shek régime was unlawful. He said that only representatives appointed by the Government of the People's Republic of China were qualified to represent China at the Conference. He further stated that the delegation of the Union of Soviet Socialist Republics could not recognize credentials submitted on behalf of China by any other persons and requested that those credentials should be considered as not valid.

6. The representatives of Ceylon and Mali supported the views expressed by the representative of the Soviet Union. The representative of Ceylon stressed that the responsibilities of the Committee required that, in examining the credentials, it should make certain that the persons holding the credentials were the true representatives of the State concerned. He held that the representatives of the Chiang Kai-shek régime had no legitimate right to speak on behalf of China, which was properly represented by the Government of the People's Republic of China.

7. The representative of Japan stated that the question of the representation of China was not within the competence of the Committee. In his view, the Committee's task was limited to the question whether the credentials of participating States were duly issued in accordance with rule 3 of the rules of procedure of the Conference. The credentials of the representatives of the Republic of China having been issued by the competent authorities, he saw no ground to challenge the validity of such credentials. Accordingly, the representative of Japan considered that the statement made by the representative of the Union of Soviet Socialist Republics was out of order.

8. The representative of the United States of America endorsed the views expressed by the representative of Japan. The representative of the United States of America further stated that the issue had already been decided by General Assembly resolution 2166 (XXI) by which the Conference was convened. He added that under operative paragraph 4 of resolution 2166 (XXI) the Government of the Republic of China, a Member of the United Nations and of the specialized agencies, was fully entitled to participate in the Conference.

* Incorporating A/CONF.39/9/Corr.2.

The representative of Switzerland declared that his delegation would abstain on the question. He pointed out that Switzerland had recognized the People's Republic of China. However, he said his country had been invited to participate in the Conference by the competent organs of the United Nations in their present composition, which as an invited State, not a member of the United Nations, Switzerland did not feel called upon to comment.

The Chairman referred to General Assembly resolution 2166 (XXI) in which the General Assembly invited the Secretary-General of the United Nations to convene the Conference on the Law of Treaties and to invite States Members of the United Nations, States Members of the specialized agencies, States Parties to the Statute of the International Court of Justice and States Members of the General Assembly to participate in the Conference. As the Secretary-General pursuant to the said resolution, invited the Government of the Republic of China to attend the Conference, only question within the competence of the Credentials Committee was whether the credentials issued by the Government of the Republic of China were in proper form. The Chairman then stated that since those credentials were issued in accordance with rule 3 of the rules of procedure, the proposal of the representative of the Union of Soviet Socialist Republics was out of order.

The representative of the Union of Soviet Socialist Republics challenged the Chairman's ruling. The Committee upheld the Chairman's ruling by rejecting the challenge by 5 votes to 3, with 1 abstention.

The representative of Mali expressed formal reservations concerning the credentials of the representatives of South Africa, since they emanated from a racist and apartheid régime which practised apartheid and defied the United Nations Charter, and not from the people of South Africa. He believed that those credentials should be rejected.

The representatives of the Union of Soviet Socialist Republics and Madagascar associated themselves with the views expressed by the representative of Mali. The representative of the Union of Soviet Socialist Republics stated that his delegation had repeatedly expressed its opposition to the minority Government of South Africa, which deprived the rightful masters of the country of their rights and freedom and which had persistently flouted the General Assembly resolutions calling upon it to end its policies of apartheid and racial discrimination.

14. The representative of the United States of America stated that his Government also categorically rejected the policies of racial discrimination and apartheid practised by the Government of South Africa. He was of the view, however, that his Government's detestation of those policies did not affect the validity of the credentials of the South African delegation, which fulfilled the requirements of rule 3 of the rules of procedure of the Conference.

15. The representative of the Union of Soviet Socialist Republics stated that his delegation did not recognize the credentials of the representatives of South Viet-Nam as the lawful representatives of the people of South Viet-Nam. The representative of Mali supported the views expressed by the representative of the Union of Soviet Socialist Republics and stated that his country had recognized the Democratic Republic of Viet-Nam.

16. The representative of Japan stated that the Republic of Viet-Nam was invited by the Secretary-General in accordance with General Assembly resolution 2166 (XXI) and that the credentials of its representatives at the Conference had been duly issued by the competent authorities of the country.

17. The Chairman proposed that the Credentials Committee should find in order all the representatives' credentials received and submit to the Conference a report with a recommendation that it be approved. All the reservations expressed in the Committee concerning the representation of China, the Republic of Viet-Nam and South Africa would be recorded in the Committee's report to the Conference.

18. The Chairman's proposal was unanimously adopted.

19. The representative of the Union of Soviet Socialist Republics said that his vote in favour of the report of the Credentials Committee should not be interpreted as signifying consent by his delegation to recognize the credentials of the representatives of the Chiang Kai-shek régime, South Africa and South Viet-Nam. The representative of Mali stated that his vote should not be construed as a recognition of the credentials of the representatives of China, the Republic of Viet-Nam and South Africa. The representative of Ceylon stated that he would vote for the report on the understanding that the reservations made during the debate would be recorded in the report.

20. Accordingly, the Credentials Committee recommends that the Conference approve its report.

first session (A/CONF.39/9) was approved by the Conference at its fifth plenary meeting, held on 24 May 1968. At the same meeting, the President of the Conference said that the remarks made during the consideration of the Committee's report would be noted.

2. Mali having been unable to attend the second session, the Conference, at its 30th plenary meeting, held on 19 May 1969, appointed the United Republic of Tanzania to replace Mali as a member of the Credentials Committee.

3. The Credentials Committee, during the second session, met on 20 May 1969.

4. As provided in rules 3 and 4 of the rules of procedure, the Credentials Committee examined only the credentials of representatives newly accredited to the second session of the Conference, namely the credentials submitted for representatives of States which did not participate in the first session of the Conference and the credentials superseding or supplementing previous ones submitted for representatives of States which participated in the first session of the Conference.

5. The Secretariat reported to the Committee as follows:

(a) Formal credentials issued by the Head of State or Government or by the Minister for Foreign Affairs, as provided for in rule 3 of the rules of procedure of the Conference, had been submitted to the Executive Secretary of the Conference for representatives of eleven out of the twelve participating States which did not attend the first session, namely: Barbados, Burma, Cameroon, El Salvador, Lesotho, Libya, Luxembourg, Malta, Panama, Sudan and Uganda. In the case of the representative of Iceland, an authorization to represent his Government at the Conference had been received by cable from the Minister for Foreign Affairs.

(b) Formal new credentials superseding or supplementing previous credentials had been submitted to the Executive Secretary of the Conference for representatives of sixty-one States which participated in the first session of the Conference. The participating States which had submitted formal new credentials were: Afghanistan, Algeria, Australia, Austria, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Central African Republic, Ceylon, Colombia, Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Denmark, Ecuador, Federal Republic of Germany, Finland, France, Gabon, Greece, Guatemala, Guyana, Holy See, Indonesia, Iran, Israel, Kenya, Kuwait, Liechtenstein, Madagascar, Malaysia, Mauritius, Mexico, Mongolia, Nepal, Netherlands, New Zealand, Pakistan, Philippines, Poland, Portugal, Republic of Korea, Republic of Viet-Nam, Romania, San Marino, Senegal, Singapore, Syria, Thailand, Trinidad and Tobago, Turkey, Ukrainian Soviet Socialist Republic, United Arab Republic, United Republic of Tanzania, Venezuela and Zambia. All those formal new credentials had been issued by the Head of the State or Government or by the Minister for Foreign Affairs, as provided for in rule 3 of the rules of procedure of the Conference. Representatives of the Dominican Republic and Sierra

Leone had been authorized to represent their respective Governments at the Conference by cable from the Minister for Foreign Affairs.

6. After recalling that the Credentials Committee was at present confining itself to the examination of the credentials presented at the second session of the Conference, the representative of the Union of Soviet Socialist Republics stated that his delegation could not recognize the credentials of the persons claiming to represent South Viet-Nam and South Korea, since the Saigon ruling group and the Seoul régime could not be regarded as representing the people of South Viet-Nam and the people of South Korea respectively. The representative of the United Republic of Tanzania supported the views expressed by the representative of the Union of Soviet Socialist Republics. He added that once these countries were united and democracy and sent their true representatives to international conferences, his delegation would be happy to recognize the credentials of their representatives.

7. The representative of Japan stated that the Republic of Korea had been duly invited by the Secretary-General of the United Nations in accordance with resolution 2166 (XXI) of the General Assembly and that there was no ground for challenging the validity of the credentials of its representatives which had been issued by the competent authorities of the Republic of Korea. The representative of the United States of America stated that the Republic of Viet-Nam had been invited by the Secretary-General of the United Nations in accordance with General Assembly resolution 2166 (XXI), that the credentials of its representatives at the Conference had been duly issued by the competent authorities of the country and that consequently no ground existed for challenging their validity.

8. The Chairman proposed that the Credentials Committee should find all credentials of representatives examined by the Committee at the second session in order and submit to the Conference a report with the recommendation that it be approved. All the reservations expressed in the Committee concerning the representation of the Republic of Korea and of the Republic of Viet-Nam would be recorded in the Committee's report to the Conference.

9. The Chairman's proposal was unanimously adopted.

10. The representative of the Union of Soviet Socialist Republics declared that his vote in favour of the report of the Credentials Committee should not be interpreted as signifying his delegation's consent to recognize the credentials of the representatives of the South Viet-Nam and South Korean authorities. The representative of the United Republic of Tanzania stated that his vote should not be construed as a recognition of the credentials submitted on behalf of South Korea and South Viet-Nam.

11. Accordingly, the Credentials Committee recommends that the Conference approve its report.

Document A/CONF.39/23/Rev.1

REPORT OF THE CREDENTIALS COMMITTEE ON THE SECOND SESSION OF THE CONFERENCE

(Original: English)

[21 May 1969]

During the first session, at its second and third plenary sessions, held on 27 March 1968, the Conference, in accordance with rule 4 of its rules of procedure (A/CONF.39/9), appointed a Credentials Committee consisting of the following States: Ceylon, Dominican Republic,

Japan, Madagascar, Mali, Mexico, Switzerland, the Union of Soviet Socialist Republics and the United States of America. Mr. Eduardo Suarez (Mexico) was unanimously elected Chairman by the Credentials Committee. The report of the Credentials Committee on the

Introduction

A. The basis of the present report

1. At its fourteenth session the Commission provisionally adopted part I of its draft articles on the law of treaties, consisting of twenty-nine articles on the conclusion, entry into force and registration of treaties (A/5209, chapter II, paragraph 23). At the same time the Commission decided, in accordance with articles 16 and 21 of its Statute, to transmit this draft, through the Secretary-General, to Governments for their observations (*ibid.*, paragraph 19). The Commission further decided to continue its study of the law of treaties at

though related in some ways to those of the termination and obsolescence of treaties, relates to a different legal process raising complicated problems of its own, and must therefore be left for separate treatment. State succession is another topic which has points of contact with termination and obsolescence of treaties; but here again, State succession is really a special process which the Commission has for that reason already decided to take up as a separate topic.

4. The present group of articles deals with a number of grounds upon which a State may claim that a treaty into which it has entered is not binding upon it. Some of these grounds, like the effect of constitutional limitations, conflict with prior treaties and the doctrine of

Draft articles of the International Law Commission

67

procured by means contrary to the most fundamental principles of the Charter of the United Nations.

(7) The question of the time element in the application of the article was raised in the comments of Governments from two points of view: (a) the undesirability of allowing the rule contained in the article to operate retroactively upon treaties concluded prior to the establishment of the modern law regarding recourse to the threat or use of force; and (b) the date from which that law should be considered as having been in operation. The Commission considered that there is no question of the article having retroactive effects on the validity of treaties concluded prior to the establishment of the modern law.⁵⁰ "A juridical fact must be appreciated in the light of the law contemporary with it."⁵¹ The present article concerns the conditions for the valid conclusion of a treaty—the conditions, that is, for the creation of a legal relation by treaty. An evolution of the law governing the conditions for the carrying out of a legal act does not operate to deprive of validity a legal act already accomplished in conformity with the law previously in force. The rule codified in the present article cannot therefore be properly understood as depriving of validity *ab initio* a peace treaty or other treaty procured by coercion prior to the establishment of the modern law regarding the threat or use of force.

(8) As to the date from which the modern law should be considered as in force for the purposes of the present article, the Commission considered that it would be illogical and unacceptable to formulate the rule as one applicable only from the date of the conclusion of a convention on the law of treaties. As pointed out in paragraph (1) above, the invalidity of a treaty procured by the illegal threat or use of force is a principle which is *lex lata*. Moreover, whatever differences of opinion there may be about the state of the law prior to the establishment of the United Nations, the great majority of international lawyers to-day unhesitatingly hold that Article 2, paragraph 4, together with other provisions of the Charter, authoritatively declares the modern customary law regarding the threat or use of force. The present article, by its formulation, recognizes by implication that the rule which it lays down is applicable at any rate to all treaties concluded since the entry into force of the Charter. On the other hand, the Commission did not think that it was part of its function, in codifying the modern law of treaties, to specify on what precise date in the past an existing general rule in another branch of international law came to be established as such. Accordingly, it did not feel that it should go beyond the temporal indication given by the reference in the article to "the principles of the Charter of the United Nations".

Article 50.⁵² Treaties conflicting with a peremptory norm of general international law (*jus cogens*)

A treaty is void if it conflicts with a peremptory norm of general international law from which no derogation is

permitted and which can be modified only by a subsequent norm of general international law having the same character.

Commentary

(1) The view that in the last analysis there is no rule of international law from which States cannot at their own free will contract out has become increasingly difficult to sustain, although some jurists deny the existence of any rules of *jus cogens* in international law, since in their view even the most general rules still fall short of being universal. The Commission pointed out that the law of the Charter concerning the prohibition of the use of force in itself constitutes a conspicuous example of a rule in international law having the character of *jus cogens*. Moreover, if some Governments in their comments have expressed doubts as to the advisability of this article unless it is accompanied by provision for independent adjudication, only one questioned the existence of rules of *jus cogens* in the international law of to-day. Accordingly, the Commission concluded that in codifying the law of treaties it must start from the basis that to-day there are certain rules from which States are not competent to derogate at all by a treaty arrangement, and which may be changed only by another rule of the same character.

(2) The formulation of the article is not free from difficulty, since there is no simple criterion by which to identify a general rule of international law as having the character of *jus cogens*. Moreover, the majority of the general rules of international law do not have that character, and States may contract out of them by treaty. It would therefore be going much too far to state that a treaty is void if its provisions conflict with a rule of general international law. Nor would it be correct to say that a provision in a treaty possesses the character of *jus cogens* merely because the parties have stipulated that no derogation from that provision is to be permitted, so that another treaty which conflicted with that provision would be void. Such a stipulation may be inserted in any treaty with respect to any subject-matter for any reasons which may seem good to the parties. The conclusion by a party of a later treaty derogating from such a stipulation may, of course, engage its responsibility for a breach of the earlier treaty. But the breach of the stipulation does not, simply as such, render the treaty void (see article 26). It is not the form of a general rule of international law but the particular nature of the subject-matter with which it deals that may, in the opinion of the Commission, give it the character of *jus cogens*.

(3) The emergence of rules having the character of *jus cogens* is comparatively recent, while international law is in process of rapid development. The Commission considered the right course to be to provide in general terms that a treaty is void if it conflicts with a rule of *jus cogens* and to leave the full content of this rule to be worked out in State practice and in the jurisprudence of international tribunals. Some members of the Commission felt that there might be advantage in specifying, by way of illustration, some of the most obvious and best settled rules of *jus cogens* in order to indicate by these examples the general nature and scope of the rule con-

⁵⁰ See also paragraph (6) of the commentary on article 50.

⁵¹ *Island of Palmas arbitration, Reports of International Arbitral Awards*, vol. II, p. 845.

⁵² 1963 draft, article 37.

coercion of the State, should render the treaty *ipso facto* void or whether it should merely entitle it to invoke the coercion of its representative as invalidating its consent to the treaty. It concluded that the use of coercion against the representative of a State for the purpose of procuring the conclusion of a treaty would be a matter of such gravity that the article should provide for the absolute nullity of a consent to a treaty so obtained.

Article 49.²²⁴ Coercion of a State by the threat or use of force

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of the Charter of the United Nations.

Commentary

(1) The traditional doctrine prior to the Covenant of the League of Nations was that the validity of a treaty was not affected by the fact that it had been brought about by the threat or use of force. However, this doctrine was simply a reflection of the general attitude of international law during that era towards the legality of the use of force for the settlement of international disputes. With the Covenant and the Pact of Paris there began to develop a strong body of opinion which held that such treaties should no longer be recognized as legally valid. The endorsement of the criminality of aggressive war in the Charters of the Allied Military Tribunals for the trial of the Axis war criminals, the clear-cut prohibition of the threat or use of force in Article 2(4) of the Charter of the United Nations, together with the practice of the United Nations itself, have reinforced and consolidated this development in the law. The Commission considers that these developments justify the conclusion that the invalidity of a treaty procured by the illegal threat or use of force is a principle which is *lex lata* in the international law of to-day.

(2) Some jurists, it is true, while not disputing the moral value of the principle, have hesitated to accept it as a legal rule. They fear that to recognize the principle as a legal rule may open the door to the evasion of treaties by encouraging unfounded assertions of coercion, and that the rule will be ineffective because the same threat or compulsion that procured the conclusion of the treaty will also procure its execution, whether the law regards it as valid or invalid. These objections do not appear to the Commission to be of such a kind as to call for the omission from the present articles of a ground of invalidity springing from the most fundamental provisions of the Charter, the relevance of which in the law of treaties as in other branches of international law cannot to-day be regarded as open to question.

(3) If the notion of coercion is confined, as the Commission thinks it must be, to a threat or use of force in violation of the principles of the Charter, this ground of invalidity would not appear to be any more open to the possibility of illegitimate attempts to evade treaty obligations than other grounds. Some members of the

Commission expressed the view that any other forms of pressure, such as a threat to strangle the economy of a country, ought to be stated in the article as falling within the concept of coercion. The Commission, however, decided to define coercion in terms of a "threat or use of force in violation of the principles of the Charter", and considered that the precise scope of the acts covered by this definition should be left to be determined in practice by interpretation of the relevant provisions of the Charter.

(4) Again, even if sometimes a State should initially be successful in achieving its objects by a threat or use of force, it cannot be assumed in the circumstances of to-day that a rule nullifying a treaty procured by such unlawful means would not prove meaningful and effective. The existence, universal character and effective functioning of the United Nations in themselves provide for the necessary framework for the operation of the rule formulated in the present article.

(5) The Commission considered that the rule should be stated in as simple and categorical terms as possible. The article therefore provides that "A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of the Charter of the United Nations". The principles regarding the threat or use of force laid down in the Charter are, in the opinion of the Commission, rules of general international law which are to-day of universal application. It accordingly appears to be both legitimate and appropriate to frame the article in terms of the principles of the Charter. At the same time, the phrase "violation of the principles of the Charter" has been chosen rather than "violation of the Charter", in order that the article should not appear to be confined in its application to Members of the United Nations. Clearly the same rule would apply in the event of an individual State's being coerced into expressing its consent to be bound by a multilateral treaty. The Commission discussed whether it should add a second paragraph to the article specifically applying the rule to such a case, but concluded that this was unnecessary, since the nullity of the consent so procured is beyond question implicit in the general rule stated in the article.

(6) The Commission further considered that a treaty procured by a threat or use of force in violation of the principles of the Charter must be characterized as void, rather than as voidable at the instance of the injured party. The prohibitions on the threat or use of force contained in the Charter are rules of international law the observance of which is legally a matter of concern to every State. Even if it were conceivable that after being liberated from the influence of a threat or of a use of force a State might wish to allow a treaty procured from it by such means, the Commission considered it essential that the treaty should be regarded in law as void *ab initio*. This would enable the State concerned to take its decision in regard to the maintenance of the treaty in a position of full legal equality with the other State. If, therefore, the treaty were maintained in force, it would in effect be by the conclusion of a new treaty and not by the recognition of the validity of a treaty

²²⁴ 1963 draft, article 36.

Gonzalez & Padilla, The International Centre for the Settlement of Investment Disputes: An Assessment from the Philippine Perspective, 59 *Philippine L.J.* 222 (1984)

Lattanzi, Convenzione di Washington sulle controversie relative ad investimenti e invalidità delle sentenze arbitrali, 70 *Riv. Dir. Int'le* 521 (1987)

Lauterpacht, The World Bank Convention on the Settlement of International Investment Disputes, in *Recueil d'Etudes de Droit International en Hommage à Paul Guggenheim* 642 (Geneva 1968)

Masood, Law Applicable in Arbitration of Investment Disputes under the World Bank Convention, 15 *J. Ind. L. Inst.* 311 (1973)

Note, Confidentiality in ICSID Arbitration after AMCO ASIA CORP. v. INDONESIA: Watchword or White Elephant? 10 *Fordham Int'l L.J.* 93 (1986)

O'Hare, The Convention on the Settlement of Investment Disputes, 6 *Stan. J. Int'l Studies* 146 (1972)

Rodley, Some Aspects of the World Bank Convention on the Settlement of Investment Disputes, 1966 *Can. Y.B. Int'l L.* 43

Roulet, La Convention du 18 mars 1965 pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats, 22 *Ann. Suisse Droit Int'l* 121 (1965)

Sacerdoti, La Convenzione di Washington del 1965 per la soluzione delle controversie tra Stati e nazionali di altri Stati in materia di investimenti, 5 *Riv. Dir. Int'le Priv. & Proc.* 614 (1969)

_____, La convenzione di Washington del 1965: bilancio di un ventennio dell'ICSID, 23 *Riv. Dir. Int'le Priv. & Proc.* 13 (1987)

Santos, International Commercial Arbitration, in *Commercial Arbitration* 122 (J. Ricalde ed. 1983)

Sprague, A Courageous Course for Latin America: Urging the Ratification of the ICSID, 5 *Houston J. Int'l L.* 157 (1982)

Sutherland, The World Bank Convention on the Settlement of Investment Disputes, 28 *Int'l & Comp. L.Q.* 367 (1979)

Szasz, The Investment Disputes Convention and Latin America, 11 *Va. J. Int'l L.* 256 (1971)

Tita, Gli arbitrati predisposti dalle convenzioni ICSID e MIGA e la surroga assicurativa, 23 *Riv. Dir. Int'le Priv. & Proc.* 497 (1987)

van den Berg, Recent Enforcement Problems under the New York and ICSID Conventions, 5 *Arb. Int'l* 2 (1989)

_____, Some Recent Problems in the Practice of Enforcement under the New York and ICSID Conventions, 2 *ICSID Rev. - Foreign Investment L.J.* 439 (1987)

Vitanyi, Quelques réflexions sur la Convention pour le règlement des différends relatifs aux investissements entre Etats et ressortissants d'autres Etats, in *New Directions in International Law: Essays in Honour of Wolfgang Abendroth* 193 (Frankfurt 1982)

procured by means contrary to the most fundamental principles of the Charter of the United Nations.

(7) The question of the time element in the application of the article was raised in the comments of Governments from two points of view: (a) the undesirability of allowing the rule contained in the article to operate retroactively upon treaties concluded prior to the establishment of the modern law regarding recourse to the threat or use of force; and (b) the date from which that law should be considered as having been in operation. The Commission considered that there is no question of the article having retroactive effects on the validity of treaties concluded prior to the establishment of the modern law.²²⁵ "A juridical fact must be appreciated in the light of the law contemporary with it."²²⁶ The present article concerns the conditions for the valid conclusion of a treaty—the conditions, that is, for the creation of a legal relation by treaty. An evolution of the law governing the conditions for the carrying out of a legal act does not operate to deprive of validity a legal act already accomplished in conformity with the law previously in force. The rule codified in the present article cannot therefore be properly understood as depriving of validity *ab initio* a peace treaty or other treaty procured by coercion prior to the establishment of the modern law regarding the threat or use of force.

As to the date from which the modern law should be considered as in force for the purposes of the present article, the Commission considered that it would be illogical and unacceptable to formulate the rule as one applicable only from the date of the conclusion of a convention on the law of treaties. As pointed out in paragraph (1) above, the invalidity of a treaty procured by the illegal threat or use of force is a principle which is *lex lata*. Moreover, whatever differences of opinion there may be about the state of the law prior to the establishment of the United Nations, the great majority of international lawyers to-day unhesitatingly hold that Article 2, paragraph 4, together with other provisions of the Charter, authoritatively declares the modern customary law regarding the threat or use of force. The present article, by its formulation, recognizes by implication that the rule which it lays down is applicable at any rate to all treaties concluded since the entry into force of the Charter. On the other hand, the Commission did not think that it was part of its function, in codifying the modern law of treaties, to specify on what precise date in the past an existing general rule in another branch of international law came to be established as such. Accordingly, it did not feel that it should go beyond the temporal indication given by the reference in the article to "the principles of the Charter of the United Nations".

Article 50.²²⁷ Treaties conflicting with a peremptory norm of general international law (*jus cogens*)

A treaty is void if it conflicts with a peremptory norm of general international law from which no derogation is

permitted and which can be modified only by a subsequent norm of general international law having the same character.

Commentary

(1) The view that in the last analysis there is no rule of international law from which States cannot at their own free will contract out has become increasingly difficult to sustain, although some jurists deny the existence of any rules of *jus cogens* in international law, since in their view even the most general rules still fall short of being universal. The Commission pointed out that the law of the Charter concerning the prohibition of the use of force in itself constitutes a conspicuous example of a rule in international law having the character of *jus cogens*. Moreover, if some Governments in their comments have expressed doubts as to the advisability of this article unless it is accompanied by provision for independent adjudication, only one questioned the existence of rules of *jus cogens* in the international law of to-day. Accordingly, the Commission concluded that in codifying the law of treaties it must start from the basis that to-day there are certain rules from which States are not competent to derogate at all by a treaty arrangement, and which may be changed only by another rule of the same character.

(2) The formulation of the article is not free from difficulty, since there is no simple criterion by which to identify a general rule of international law as having the character of *jus cogens*. Moreover, the majority of the general rules of international law do not have that character, and States may contract out of them by treaty. It would therefore be going much too far to state that a treaty is void if its provisions conflict with a rule of general international law. Nor would it be correct to say that a provision in a treaty possesses the character of *jus cogens* merely because the parties have stipulated that no derogation from that provision is to be permitted, so that another treaty which conflicted with that provision would be void. Such a stipulation may be inserted in any treaty with respect to any subject-matter for any reasons which may seem good to the parties. The conclusion by a party of a later treaty derogating from such a stipulation may, of course, engage its responsibility for a breach of the earlier treaty. But the breach of the stipulation does not, simply as such, render the treaty void (see article 26). It is not the form of a general rule of international law but the particular nature of the subject-matter with which it deals that may, in the opinion of the Commission, give it the character of *jus cogens*.

(3) The emergence of rules having the character of *jus cogens* is comparatively recent, while international law is in process of rapid development. The Commission considered the right course to be to provide in general terms that a treaty is void if it conflicts with a rule of *jus cogens* and to leave the full content of this rule to be worked out in State practice and in the jurisprudence of international tribunals. Some members of the Commission felt that there might be advantage in specifying, by way of illustration, some of the most obvious and best settled rules of *jus cogens* in order to indicate by these examples the general nature and scope of the rule con-

²²⁵ See also paragraph (6) of the commentary on article 50.

²²⁶ *Island of Palmas arbitration, Reports of International Arbitral Awards*, vol. 11, p. 845.

²²⁷ 1963 draft, article 37.

tained in the article. Examples suggested included (a) a treaty contemplating an unlawful use of force contrary to the principles of the Charter, (b) a treaty contemplating the performance of any other act criminal under international law, and (c) a treaty contemplating or conniving at the commission of acts, such as trade in slaves, piracy or genocide, in the suppression of which every State is called upon to co-operate. Other members expressed the view that, if examples were given, it would be undesirable to appear to limit the scope of the article to cases involving acts which constitute crimes under international law; treaties violating human rights, the equality of States or the principle of self-determination were mentioned as other possible examples. The Commission decided against including any examples of rules of *jus cogens* in the article for two reasons. First, the mention of some cases of treaties void for conflict with a rule of *jus cogens* might, even with the most careful drafting, lead to misunderstanding as to the position concerning other cases not mentioned in the article. Secondly, if the Commission were to attempt to draw up, even on a selective basis, a list of the rules of international law which are to be regarded as having the character of *jus cogens*, it might find itself engaged in a prolonged study of matters which fall outside the scope of the present articles.

(4) Accordingly, the article simply provides that a treaty is void "if it conflicts with a peremptory norm of general international law from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character". This provision makes it plain that nullity attaches to a treaty under the article only if the rule with which it conflicts is a peremptory norm of general international law from which no derogation is permitted, even by agreement between particular States. On the other hand, it would clearly be wrong to regard even rules of *jus cogens* as immutable and incapable of modification in the light of future developments. As a modification of a rule of *jus cogens* would to-day most probably be effected through a general multilateral treaty, the Commission thought it desirable to indicate that such a treaty would fall outside the scope of the article. The article, therefore, defines rules of *jus cogens* as peremptory norms of general international law from which no derogation is permitted "and which can be modified only by a subsequent norm of general international law having the same character".

(5) The Commission thinks it desirable to state its point of view with regard to two matters raised in the comments of Governments. The first, already mentioned above, concerns the difficulty of applying the article in a satisfactory manner unless it is accompanied by a system of independent adjudication or by some provision for an authoritative determination of the rules which are rules of *jus cogens*. The Commission considered that the question of the means of resolving a dispute regarding the invalidity of a treaty, if it may have particular importance in connexion with the present article, is a general one affecting the application of all the articles on the invalidity, termination and suspension of the operation of treaties. It has sought, so far as is practicable in the present state of international opinion regarding acceptance of compulsory means of pacific settlement, to cover the question

by the procedural safeguards laid down in article 62. This article is designed to exclude the arbitrary determination of the invalidity, termination or suspension of a treaty by an individual State such as has happened not infrequently in the past and to ensure that recourse shall be had to the means of peaceful settlement indicated in Article 33 of the Charter. In the Commission's view, the position is essentially the same in the cases of an alleged conflict with a rule of *jus cogens* as in the case of other grounds of invalidity alleged by a State.

(6) The second matter is the non-retroactive character of the rule in the present article. The article has to be read in conjunction with article 61 (Emergence of a new rule of *jus cogens*), and in the view of the Commission, there is no question of the present article having retroactive effects. It concerns cases where a treaty is void *at the time of its conclusion* by reason of the fact that its provisions are in conflict with an already existing rule of *jus cogens*. The treaty is wholly void because its actual conclusion conflicts with a peremptory norm of general international law from which no States may derogate even by mutual consent. Article 61, on the other hand, concerns cases where a treaty, valid when concluded, becomes void and terminates by reason of the subsequent establishment of a new rule of *jus cogens* with which its provisions are in conflict. The words "becomes void and terminates" make it quite clear, the Commission considered, that the emergence of a new rule of *jus cogens* is not to have retroactive effects on the validity of a treaty. The invalidity is to attach only as from the time of the establishment of the new rule of *jus cogens*. The non-retroactive character of the rules in articles 50 and 61 is further underlined in article 67, paragraph 2 of which provides in the most express manner that the *termination* of a treaty as a result of the emergence of a new rule of *jus cogens* is not to have retroactive effects.

Section 3: Termination and suspension of the operation of treaties

Article 51.²²⁴ Termination of or withdrawal from a treaty by consent of the parties

A treaty may be terminated or a party may withdraw from a treaty:

(a) In conformity with a provision of the treaty allowing such termination or withdrawal; or

(b) At any time by consent of all the parties.

Commentary

(1) The majority of modern treaties contain clauses fixing their duration or the date of their termination or a condition or event which is to bring about their termination, or providing for a right to denounce or withdraw from the treaty. In these cases the termination of the treaty is brought about by the provisions of the treaty itself, and how and when this is to happen is essentially a question of interpreting and applying the treaty. The present article sets out the basic rules governing the termination of a treaty through the application of its own provisions.

²²⁴ 1963 draft, article 38.

(2) The treaty clauses are very varied.²²⁹ Many treaties provide that they are to remain in force for a specified period of years or until a particular date or event; others provide for the termination of the treaty through the operation of a resolutive condition. Specific periods fixed by individual treaties may be of very different lengths, periods between one and twelve years being usual but longer periods up to twenty, fifty and even ninety-nine years being sometimes found. More common in modern practice are treaties which fix a comparatively short initial period for their duration, such as five or ten years, but at the same time provide for their continuance in force after the expiry of the period subject to a right of denunciation or withdrawal. These provisions normally take the form either of an indefinite continuance in force of the treaty subject to a right of denunciation on six or twelve months' notice, or of a renewal of the treaty for successive periods of years subject to a right of denunciation or withdrawal on giving notice to that effect six months before the expiry of each period. Some treaties fix no period for their duration and simply provide for a right to denounce or withdraw from the treaty, either with or without a period of notice. Occasionally, a treaty which fixes a single specific period, such as five or ten years, for its duration allows a right of denunciation or withdrawal even during the currency of the period.

(3) The Commission considered that, whatever may be the provisions of a treaty regarding its own termination, it is always possible for all the parties to agree together to put an end to the treaty. It also considered that the particular form which such an agreement may take is a matter for the parties themselves to decide in each case. The theory has sometimes been advanced that an agreement terminating a treaty must be cast in the same form as the treaty which is to be terminated or at least constitute a treaty form of equal weight. The Commission, however, concluded that this theory reflects the constitutional practice of particular States²³⁰ and not a rule of international law. In its opinion, international law does not accept the theory of the "*acte contraire*". The States concerned are always free to choose the form in which they arrive at their agreement to terminate the treaty. In doing so, they will doubtless take into account their own constitutional requirements, but international law requires no more than that they should consent to the treaty's termination. At the same time, the Commission considered it important to underline that, when a treaty is terminated otherwise than under its provisions, the consent of all the parties is necessary. The termination, unlike the amendment, of a treaty necessarily deprives all the parties of all their rights and, in consequence, the consent of all of them is necessary.

(4) The Commission gave careful consideration to the question whether, at any rate for a certain period of time after the adoption of the text of a treaty, the consent even of all the parties should not be regarded as sufficient for

its termination. It appreciated that the other States still entitled to become parties to the treaty have a certain interest in the matter; and it examined the possibility of providing that until the expiry of a specified period of years the consent of not less than two-thirds of all the States which adopted the text should be necessary. Such a provision might, it was suggested, be particularly needed in the case of treaties brought into force on the deposit only of very few instruments of ratification, etc. Although the comments of some Governments appeared not to be unfavourable to the inclusion of such a provision, the Commission concluded that it might introduce an undesirable complication into the operation of the rule regarding termination by consent of the parties. Nor did it understand this question ever to have given rise to difficulties in practice. Accordingly, it decided not to insert any provision on the point in the article.

(5) The article is thus confined to two clear and simple rules. A treaty may be terminated or a party may terminate its own participation in a treaty by agreement in two ways: (a) in conformity with the treaty, and (b) at any time by consent of all the parties.

Article 52.²³¹ Reduction of the parties to a multilateral treaty below the number necessary for its entry into force

Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number specified in the treaty as necessary for its entry into force.

Commentary

(1) A multilateral treaty which is subject to denunciation or withdrawal sometimes provides for termination of the treaty itself, if denunciations or withdrawals should reduce the number of parties below a certain figure. For example, the Convention on the Political Rights of Women²³² states that it "shall cease to be in force as from the date when the denunciation which reduces the number of parties to less than six becomes effective". In some cases the minimum number of surviving parties required to keep the treaty alive is even smaller, e.g. five in the case of the Customs Convention on the Temporary Importation of Commercial Road Vehicles²³³ and three in the case of the Convention Regarding the Measurement and Registration of Vessels Employed in Inland Navigation.²³⁴ In other cases a larger number of parties is required. Clearly, provisions of this kind establish a resolutive condition and the termination of the treaty, should it occur, falls under article 51, sub-paragraph (a).

(2) A further point arises, however, as to whether a multilateral treaty, the entry into force of which was made dependent upon its ratification, acceptance, etc. by a given minimum number of States, automatically ceases to be in force, should the parties afterwards fall

²²⁹ See *Handbook of Final Clauses* (ST/LEG/6), pp. 54-73.

²³⁰ See an observation of the United States representative at the 49th meeting of the Social Committee of the Economic and Social Council (E/AC.7/SR.49, p. 8) to which Sir G. Fitzmaurice drew attention.

²³¹ 1963 draft, article 38, para. 3(b).

²³² *United Nations Treaty Series*, vol. 193, p. 135, art. 8.

²³³ *Handbook of Final Clauses* (ST/LEG/6), p. 58.

²³⁴ *Ibid.*, pp. 72 and 73.

C.—REPORTS OF THE COMMITTEE OF THE WHOLE

DOCUMENT A/CONF.39/14

Report of the Committee of the Whole on its work at the first session of the Conference

[Original: English]
[1 May 1969]

CONTENTS

	Paragraphs	Page
Chapter I. Introduction	1-21	107
A. Submission of the report	1-2	107
B. Expression of thanks	3-5	107
C. Election of officers and of the Drafting Committee: Secretariat of the Conference	6-7	107
D. Basic proposal and background documentation	8-9	107
(i) Basic proposal	8	107
(ii) Background documentation	9	107
E. Meetings, organization of work and reports of the Drafting Committee	10-16	108
(i) Meetings	10	108
(ii) Organization of work	11-14	108
(iii) Reports of the Drafting Committee	15-16	108
F. Organization of the report of the Committee of the Whole; summary records, and statements for the report	17-21	109
(i) Organization of the report	17-19	109
(ii) Summary records	20	109
(iii) Statements for the report	21	109
 Chapter II. Consideration by the Committee of the Whole of the draft articles on the Law of Treaties	 22-700	 110
PART I. INTRODUCTION	22-57	110
<i>Article 1</i> (The scope of the present articles)	22-32	110
A. International Law Commission text	22	110
B. Amendments	23-24	110
C. Proceedings of the Committee of the Whole	25-32	110
(i) Meetings	25	110
(ii) Initial consideration	26-28	110
(iii) Consideration of the reports of the Drafting Committee	29-30	110
(iv) Texts adopted by the Committee of the Whole	31-32	110
(a) Text of article 1	31	110
(b) Draft resolution	32	110
<i>Article 2</i> (Use of terms)	33-40	111
A. International Law Commission text	33	111
B. Amendments	34-35	111
C. Proceedings of the Committee of the Whole	36-40	113
(i) Meetings	36	113
(ii) Consideration	37-39	113
(iii) Decision	40	113
<i>Article 3</i> (International agreements not within the scope of the present articles)	41-43	113
A. International Law Commission text	41	113
B. Amendments	42-43	113
C. Proceedings of the Committee of the Whole	44-48	114
(i) Meetings	44	114
(ii) Initial consideration	45-46	114
(iii) Consideration of the report of the Drafting Committee	47	114
(iv) Text adopted by the Committee of the Whole	48	114

CONTENTS (continued)

	Paragraphs	Page
<i>Article 4</i> (Treaties which are constituent instruments of international organizations or which are adopted within international organizations)	49-57	114
A. International Law Commission text	49	114
B. Amendments	50-51	114
C. Proceedings of the Committee of the Whole	52-57	115
(i) Meetings	52	115
(ii) Initial consideration	53-55	115
(iii) Consideration of the report of the Drafting Committee	56	116
(iv) Text adopted by the Committee of the Whole	57	116
PART II. CONCLUSION AND ENTRY INTO FORCE OF TREATIES	58-230	116
<i>Section 1: Conclusion of treaties</i>	58-171	116
<i>Article 5</i> (Capacity of States to conclude treaties)	58-66	116
A. International Law Commission text	58	116
B. Amendments	59-60	116
C. Proceedings of the Committee of the Whole	61-66	117
(i) Meetings	61	117
(ii) Initial consideration	62-63	117
(iii) Consideration of the report of the Drafting Committee	64-65	118
(iv) Text adopted by the Committee of the Whole	66	118
<i>Article 5bis</i> (The right of participation in treaties)	67-69	118
A. Proposed new article	67	118
B. Proceedings of the Committee of the Whole	68-69	119
(i) Meetings and consideration	68	119
(ii) Decision	69	119
<i>Article 6</i> (Full powers to represent the State in the conclusion of treaties)	70-79	119
A. International Law Commission text	70	119
B. Amendments	71-72	119
C. Proceedings of the Committee of the Whole	73-79	120
(i) Meetings	73	120
(ii) Initial consideration	74-76	120
(iii) Consideration of the report of the Drafting Committee	77-78	120
(iv) Text adopted by the Committee of the Whole	79	121
<i>Article 7</i> (Subsequent confirmation of an act performed without authority)	80-88	121
A. International Law Commission text	80	121
B. Amendments	81-82	121
C. Proceedings of the Committee of the Whole	83-88	121
(i) Meetings	83	121
(ii) Initial consideration	84-86	121
(iii) Consideration of the report of the Drafting Committee	87	122
(iv) Text adopted by the Committee of the Whole	88	122
<i>Article 8</i> (Adoption of the text)	89-95	122
A. International Law Commission text	89	122
B. Amendments	90-91	122
C. Proceedings of the Committee of the Whole	92-95	123
(i) Meetings	92	123
(ii) Consideration	93-94	123
(iii) Decision	95	123
<i>Article 9</i> (Authentication of the text)	96-101	123
A. International Law Commission text	96	123
B. Amendments	97	123
C. Proceedings of the Committee of the Whole	98-101	123
(i) Meetings	98	123
(ii) Initial consideration	99	123
(iii) Consideration of the report of the Drafting Committee	100	123
(iv) Text adopted by the Committee of the Whole	101	123
<i>Article 9bis</i> (Consent to be bound by a treaty) and <i>article 12bis</i> (Other methods of expressing consent to be bound by a treaty)	102-108	123
A. Proposed new articles	103-104	124

CONTENTS (continued)

	Paragraphs	Page
B. Proceedings of the Committee of the Whole	105-108	124
(i) Meetings	105	124
(ii) Initial consideration	106	124
(iii) Consideration of the report of the Drafting Committee	107	124
(iv) Text adopted by the Committee of the Whole	108	124
<i>Question of a subsidiary rule in favour of signature or of ratification (including article 11bis)</i>	109-116	124
A. International Law Commission text	110	124
B. Amendments	111-112	125
C. Proceedings of the Committee of the Whole	113-116	125
(i) Meetings	113	125
(ii) Consideration	114-115	125
(iii) Decision	116	125
<i>Article 10</i> (Consent to be bound by a treaty expressed by signature)	117-126	126
A. International Law Commission text	117	126
B. Amendments	118-119	126
C. Proceedings of the Committee of the Whole	120-126	126
(i) Meetings	120	126
(ii) Initial consideration	121-124	126
(iii) Consideration of the report of the Drafting Committee	125	126
(iv) Text adopted by the Committee of the Whole	126	127
<i>Article 10bis</i> (Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty)	127-131	127
A. Proposed new article	127	127
B. Proceedings of the Committee of the Whole	128-131	127
(i) Meetings	128	127
(ii) Initial consideration	129	127
(iii) Consideration of the report of the Drafting Committee	130	127
(iv) Text adopted by the Committee of the Whole	131	127
<i>Article 11</i> (Consent to be bound by a treaty expressed by ratification, acceptance or approval)	132-138	127
A. International Law Commission text	132	127
B. Amendments	133-134	127
C. Proceedings of the Committee of the Whole	135-138	128
(i) Meetings	135	128
(ii) Initial consideration	136	128
(iii) Consideration of the report of the Drafting Committee	137	128
(iv) Text adopted by the Committee of the Whole	138	128
<i>Article 11bis</i>	139	128
<i>Article 12</i> (Consent to be bound by a treaty expressed by accession)	140-147	128
A. International Law Commission text	140	128
B. Amendments	141-142	128
C. Proceedings of the Committee of the Whole	143-147	128
(i) Meetings	143	128
(ii) Consideration	144-146	128
(iii) Decision	147	129
<i>Article 12bis</i> (Other methods of expressing consent to be bound by a treaty)	148	129
<i>Article 13</i> (Exchange or deposit of instruments of ratification, acceptance, approval or accession)	149-155	129
A. International Law Commission text	149	129
B. Amendments	150-151	129
C. Proceedings of the Committee of the Whole	152-155	129
(i) Meetings	152	129
(ii) Initial consideration	153	129
(iii) Consideration of the report of the Drafting Committee	154	129
(iv) Text adopted by the Committee of the Whole	155	129
<i>Article 14</i> (Consent relating to a part of a treaty and choice of differing provisions)	156-161	129
A. International Law Commission text	156	129
B. Amendments	157	130

CONTENTS (continued)

	Paragraph	Page
C. Proceedings of the Committee of the Whole	158-161	130
(i) Meetings	158	130
(ii) Initial consideration	159	130
(iii) Consideration of the report of the Drafting Committee	160	130
(iv) Text adopted by the Committee of the Whole	161	130
Article 15 (Obligation of a State not to frustrate the object of a treaty prior to its entry into force)	162-171	130
A. International Law Commission text	162	130
B. Amendments	163-164	130
C. Proceedings of the Committee of the Whole	165-171	131
(i) Meetings	165	131
(ii) Initial consideration	166-169	131
(iii) Consideration of the report of the Drafting Committee	170	132
(iv) Text adopted by the Committee of the Whole	171	132
Section 2: Reservations to multilateral treaties	172-211	132
Article 16 (Formulation of reservations) and article 17 (Acceptance of and objection to reservations)	172-189	132
A. International Law Commission text	173	132
B. Amendments	174-179	133
C. Proceedings of the Committee of the Whole	180-189	136
(i) Meetings	180	136
(ii) Initial consideration	181-183	136
(iii) Consideration of the report of the Drafting Committee	184-187	137
(iv) Text adopted by the Committee of the Whole and decision	188-189	138
Article 18 (Procedure regarding reservations)	190-196	138
A. International Law Commission text	190	138
B. Amendments	191-192	138
C. Proceedings of the Committee of the Whole	193-196	139
(i) Meetings	193	139
(ii) Initial consideration	194	139
(iii) Consideration of the report of the Drafting Committee	195	139
(iv) Text adopted by the Committee of the Whole	196	139
Article 19 (Legal effects of reservations)	197-204	139
A. International Law Commission text	197	139
B. Amendments	198-199	139
C. Proceedings of the Committee of the Whole	200-204	140
(i) Meetings	200	140
(ii) Initial consideration	201-202	140
(iii) Consideration of the report of the Drafting Committee	203	140
(iv) Text adopted by the Committee of the Whole	204	140
Article 20 (Withdrawal of reservations)	205-211	141
A. International Law Commission text	205	141
B. Amendments	206-207	141
C. Proceedings of the Committee of the Whole	208-211	141
(i) Meetings	208	141
(ii) Initial consideration	209	141
(iii) Consideration of the report of the Drafting Committee	210	141
(iv) Text adopted by the Committee of the Whole	211	142
Section 3: Entry into force of treaties	212-230	142
Article 21 (Entry into force)	212-221	142
A. International Law Commission text	212	142
B. Amendments	213-214	142
C. Proceedings of the Committee of the Whole	215-221	142
(i) Meetings	215	142
(ii) Initial consideration	216-217	142
(iii) Consideration of the report of the Drafting Committee	218-220	143
(iv) Text adopted by the Committee of the Whole	221	143
Article 22 (Entry into force provisionally)	222-230	143
A. International Law Commission text	222	143

CONTENTS (continued)

	Paragraph	Page
B. Amendments	223-224	143
C. Proceedings of the Committee of the Whole	225-230	144
(i) Meetings	225	144
(ii) Initial consideration	226-228	144
(iii) Consideration of the report of the Drafting Committee	229	144
(iv) Text adopted by the Committee of the Whole	230	144
PART III. OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES	231-317	145
Section 1: Observance of treaties	231-240	145
Article 23 (Facts <i>ante servanda</i>) and article 23bis	231-240	145
A. International Law Commission text	231	145
B. Amendments	232-233	145
C. Proceedings of the Committee of the Whole	234-240	145
(i) Meetings	234	145
(ii) Initial consideration	235-236	145
(iii) Consideration of the report of the Drafting Committee	237-238	145
(iv) Texts adopted by the Committee of the Whole	239-240	145
Section 2: Application of treaties	241-263	146
Article 24 (Non-retroactivity of treaties)	241-248	146
A. International Law Commission text	241	146
B. Amendments	242-243	146
C. Proceedings of the Committee of the Whole	244-248	146
(i) Meetings	244	146
(ii) Initial consideration	245-246	146
(iii) Consideration of the report of the Drafting Committee	247	146
(iv) Text adopted by the Committee of the Whole	248	146
Article 25 (Application of treaties to territory)	249-256	147
A. International Law Commission text	249	147
B. Amendments	250-251	147
C. Proceedings of the Committee of the Whole	252-256	147
(i) Meetings	252	147
(ii) Initial consideration	253-254	147
(iii) Consideration of the report of the Drafting Committee	255	147
(iv) Text adopted by the Committee of the Whole	256	147
Article 26 (Application of successive treaties relating to the same subject-matter)	257-263	147
A. International Law Commission text	257	147
B. Amendments	258-259	147
C. Proceedings of the Committee of the Whole	260-263	148
(i) Meetings	260	148
(ii) Consideration	261-262	148
(iii) Decision	263	148
Section 3: Interpretation of treaties	264-282	148
Article 27 (General rule of interpretation) and article 28 (Supplementary means of interpretation)	264-275	148
A. International Law Commission text	265	148
B. Amendments	266-269	149
C. Proceedings of the Committee of the Whole	270-275	150
(i) Meetings	270	150
(ii) Initial consideration	271-272	150
(iii) Consideration of the report of the Drafting Committee	273	150
(iv) Texts adopted by the Committee of the Whole	274-275	150
Article 29 (Interpretation of treaties in two or more languages)	276-282	151
A. International Law Commission text	276	151
B. Amendments	277-278	151
C. Proceedings of the Committee of the Whole	279-282	151
(i) Meetings	279	151
(ii) Initial consideration	280	152
(iii) Consideration of the report of the Drafting Committee	281	152
(iv) Text adopted by the Committee of the Whole	282	152

CONTENTS (continued)

<i>Section 4: Treaties and third States</i>	283-317	152
<i>Article 30 (General rule regarding third States)</i>	283-290	152
A. International Law Commission text	283	152
B. Amendments	284-285	152
C. Proceedings of the Committee of the Whole	286-290	152
(i) Meetings	286	152
(ii) Initial consideration	287-288	152
(iii) Consideration of the report of the Drafting Committee	289	152
(iv) Text adopted by the Committee of the Whole	290	153
<i>Article 31 (Treaties providing for obligations for third States) and article 32 (Treaties providing for rights for third States)</i>	291-301	153
A. International Law Commission text	292	153
B. Amendments	293-294	153
C. Proceedings of the Committee of the Whole	295-301	153
(i) Meetings	295	153
(ii) Initial consideration	296-298	153
(iii) Consideration of the report of the Drafting Committee	299	153
(iv) Texts adopted by the Committee of the Whole	300-301	153
<i>Article 33 (Revocation or modification of obligations or rights of third States)</i>	302-309	154
A. International Law Commission text	302	154
B. Amendments	303-304	154
C. Proceedings of the Committee of the Whole	305-309	154
(i) Meetings	305	154
(ii) Initial consideration	306-307	154
(iii) Consideration of the report of the Drafting Committee	308	154
(iv) Text adopted by the Committee of the Whole	309	154
<i>Article 34 (Rules in a treaty becoming binding through international custom)</i>	310-317	154
A. International Law Commission text	310	154
B. Amendments	311-312	155
C. Proceedings of the Committee of the Whole	313-317	155
(i) Meetings	313	155
(ii) Initial consideration	314-315	155
(iii) Consideration of the report of the Drafting Committee	316	155
(iv) Text adopted by the Committee of the Whole	317	155
PART IV. AMENDMENT AND MODIFICATION OF TREATIES	318-348	155
<i>Article 35 (General rule regarding the amendment of treaties)</i>	318-326	155
A. International Law Commission text	319	155
B. Amendments	320-321	156
C. Proceedings of the Committee of the Whole	322-326	156
(i) Meetings	322	156
(ii) Initial consideration	323-324	156
(iii) Consideration of the report of the Drafting Committee	325	156
(iv) Text adopted by the Committee of the Whole	326	156
<i>Article 36 (Amendment of multilateral treaties)</i>	327-334	156
A. International Law Commission text	328	156
B. Amendments	329-330	156
C. Proceedings of the Committee of the Whole	331-334	157
(i) Meetings	331	157
(ii) Consideration	332-333	157
(iii) Decision	334	157
<i>Article 37 (Agreements to modify multilateral treaties between certain of the parties only)</i>	335-341	157
A. International Law Commission text	335	157
B. Amendments	336-337	157
C. Proceedings of the Committee of the Whole	338-341	157
(i) Meetings	338	157
(ii) Consideration	339-340	157
(iii) Decision	341	158

CONTENTS (continued)

<i>Article 38 (Modification of treaties by subsequent practice)</i>	342-348	158
A. International Law Commission text	342	158
B. Amendments	343-344	158
C. Proceedings of the Committee of the Whole	345-348	158
(i) Meetings	345	158
(ii) Consideration	346-347	158
(iii) Decision	348	158
PART V. INVALIDITY, TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES	349-633	158
<i>Section 1: General provisions</i>	349-359	158
<i>Article 39 (Validity and continuance in force of treaties)</i>	349	158
A. International Law Commission text	350-351	159
B. Amendments	352-359	159
C. Proceedings of the Committee of the Whole	352	159
(i) Meetings	353-357	159
(ii) Initial consideration	358	160
(iii) Consideration of the report of the Drafting Committee	359	160
(iv) Text adopted by the Committee of the Whole	360-366	160
<i>Article 40 (Obligations under other rules of international law)</i>	360	160
A. International Law Commission text	361-362	160
B. Amendments	363-366	160
C. Proceedings of the Committee of the Whole	363	160
(i) Meetings	364	160
(ii) Initial consideration	365	160
(iii) Consideration of the report of the Drafting Committee	366	160
(iv) Text adopted by the Committee of the Whole	367-379	160
<i>Article 41 (Separability of treaty provisions)</i>	367	160
A. International Law Commission text	368-369	161
B. Amendments	370-379	162
C. Proceedings of the Committee of the Whole	370	162
(i) Meetings	371-374	162
(ii) Initial consideration	375-378	163
(iii) Consideration of the report of the Drafting Committee	379	163
(iv) Text adopted by the Committee of the Whole	380-391	163
<i>Article 42 (Loss of a right to invoke a ground for invalidating, terminating, withdrawing from or suspending the operation of a treaty)</i>	380	163
A. International Law Commission text	381-382	163
B. Amendments	383-391	164
C. Proceedings of the Committee of the Whole	383	164
(i) Meetings	384-387	164
(ii) Initial consideration	388-390	165
(iii) Consideration of the report of the Drafting Committee	391	165
(iv) Text adopted by the Committee of the Whole	392-470	165
<i>Section 2: Invalidity of treaties</i>	392-400	165
<i>Article 43 (Provisions of internal law regarding competence to conclude a treaty)</i>	392	165
A. International Law Commission text	393-394	165
B. Amendments	395-400	166
C. Proceedings of the Committee of the Whole	395	166
(i) Meetings	396-398	166
(ii) Initial consideration	399	166
(iii) Consideration of the report of the Drafting Committee	400	166
(iv) Text adopted by the Committee of the Whole	401-409	166
<i>Article 44 (Specific restrictions on authority to express the consent of the State)</i>	401	166
A. International Law Commission text	402-403	166
B. Amendments	404-409	167
C. Proceedings of the Committee of the Whole	404	167
(i) Meetings	405-407	167
(ii) Initial consideration	408	167
(iii) Consideration of the report of the Drafting Committee	409	167
(iv) Text adopted by the Committee of the Whole		

CONTENTS (continued)

	Paragraphs	Page
Article 45 (Error)	410-418	167
A. International Law Commission text	410	167
B. Amendments	411-412	168
C. Proceedings of the Committee of the Whole	413-418	168
(i) Meetings	413	168
(ii) Initial consideration	414-416	168
(iii) Consideration of the report of the Drafting Committee	417	168
(iv) Text adopted by the Committee of the Whole	418	168
Article 46 (Fraud)	419-428	168
A. International Law Commission text	420	168
B. Amendments	421-422	169
C. Proceedings of the Committee of the Whole	423-428	169
(i) Meetings	423	169
(ii) Initial consideration	424-426	169
(iii) Consideration of the report of the Drafting Committee	427	169
(iv) Text adopted by the Committee of the Whole	428	169
Article 47 (Corruption of a representative of the State)	429-437	169
A. International Law Commission text	430	170
B. Amendments	431-432	170
C. Proceedings of the Committee of the Whole	433-437	170
(i) Meetings	433	170
(ii) Initial consideration	434-435	170
(iii) Consideration of the report of the Drafting Committee	436	170
(iv) Text adopted by the Committee of the Whole	437	170
Article 48 (Coercion of a representative of the State)	438-446	171
A. International Law Commission text	438	171
B. Amendments	439-440	171
C. Proceedings of the Committee of the Whole	441-446	171
(i) Meetings	441	171
(ii) Initial consideration	442-444	171
(iii) Consideration of the report of the Drafting Committee	445	171
(iv) Text adopted by the Committee of the Whole	446	171
Article 49 (Coercion of a State by the threat or use of force)	447-459	171
A. International Law Commission text	447	171
B. Amendments and draft declaration	448-450	171
(i) Amendments	448-449	171
(ii) Draft declaration	450	172
C. Proceedings of the Committee of the Whole	451-459	172
(i) Meetings	451	172
(ii) Initial consideration	452-456	172
(iii) Consideration of the report of the Drafting Committee	457	173
(iv) Texts adopted by the Committee of the Whole	458-459	173
(a) Text of article 49	458	173
(b) Draft resolution	459	173
Article 50 (Treaties conflicting with a peremptory norm of general international law (<i>jus cogens</i>))	460-470	173
A. International Law Commission text	460	173
B. Amendments	461-462	173
C. Proceedings of the Committee of the Whole	463-470	174
(i) Meetings	463	174
(ii) Initial consideration	464-466	174
(iii) Consideration of the report of the Drafting Committee	467-469	175
(iv) Text adopted by the Committee of the Whole	470	175
Section 3: Termination and suspension of the operation of treaties	471-507	175
Article 51 (Termination of or withdrawal from a treaty by consent of the parties)	471-477	175
A. International Law Commission text	471	175
B. Amendments	472-473	175
C. Proceedings of the Committee of the Whole	474-477	176
(i) Meetings	474	176

CONTENTS (continued)

	Paragraphs	Page
(ii) Initial consideration	475	176
(iii) Consideration of the report of the Drafting Committee	476	176
(iv) Text adopted by the Committee of the Whole	477	176
Article 52 (Reduction of the parties to a multilateral treaty below the number necessary for its entry into force)	478-484	176
A. International Law Commission text	478	176
B. Amendments	479-480	176
C. Proceedings of the Committee of the Whole	481-484	176
(i) Meetings	481	176
(ii) Initial consideration	482	176
(iii) Consideration of the report of the Drafting Committee	483	177
(iv) Text adopted by the Committee of the Whole	484	177
Article 53 (Denunciation of a treaty containing no provision regarding termination)	485-495	177
A. International Law Commission text	485	177
B. Amendments	486-487	177
C. Proceedings of the Committee of the Whole	488-495	177
(i) Meetings	488	177
(ii) Initial consideration	489-491	177
(iii) Consideration of the report of the Drafting Committee	492-494	177
(iv) Text adopted by the Committee of the Whole	495	178
Article 54 (Suspension of the operation of a treaty by consent of the parties)	496-502	178
A. International Law Commission text	496	178
B. Amendments	497-498	178
C. Proceedings of the Committee of the Whole	499-502	178
(i) Meetings	499	178
(ii) Initial consideration	500	178
(iii) Consideration of the report of the Drafting Committee	501	178
(iv) Text adopted by the Committee of the Whole	502	178
Article 55 (Temporary suspension of the operation of a multilateral treaty by consent between certain of the parties only)	503-511	178
A. International Law Commission text	503	178
B. Amendments	504-505	178
C. Proceedings of the Committee of the Whole	506-511	179
(i) Meetings	506	179
(ii) Consideration	507-510	179
(iii) Decision	511	179
Article 56 (Termination or suspension of the operation of a treaty implied from emerging into a subsequent treaty)	512-519	180
A. International Law Commission text	512	180
B. Amendments	513-514	180
C. Proceedings of the Committee of the Whole	515-519	180
(i) Meetings	515	180
(ii) Initial consideration	516-517	180
(iii) Consideration of the report of the Drafting Committee	518	180
(iv) Text adopted by the Committee of the Whole	519	181
Article 57 (Termination or suspension of the operation of a treaty as a consequence of its breach)	520-528	181
A. International Law Commission text	520	181
B. Amendments	521-522	181
C. Proceedings of the Committee of the Whole	523-528	182
(i) Meetings	523	182
(ii) Initial consideration	524-526	182
(iii) Consideration of the report of the Drafting Committee	527	182
(iv) Text adopted by the Committee of the Whole	528	182
Article 58 (Supervening impossibility of performance)	529-537	182
A. International Law Commission text	529	182
B. Amendments	530-531	182
C. Proceedings of the Committee of the Whole	532-537	183
(i) Meetings	532	183

CONTENTS (continued)

	Paragraphs	Page
(ii) Initial consideration	533-535	183
(iii) Consideration of the report of the Drafting Committee	536	183
(iv) Text adopted by the Committee of the Whole	537	183
<i>Article 59 (Fundamental change of circumstances)</i>	538-546	183
A. International Law Commission text	538	183
B. Amendments	539-540	183
C. Proceedings of the Committee of the Whole	541-546	184
(i) Meetings	541	184
(ii) Initial consideration	542-544	184
(iii) Consideration of the report of the Drafting Committee	545	184
(iv) Text adopted by the Committee of the Whole	546	184
<i>Article 60 (Severance of diplomatic relations) and article 60bis</i>	547-558	185
A. International Law Commission text	547	185
B. Amendments	548-549	185
C. Proceedings of the Committee of the Whole	550-558	185
(i) Meetings	550	185
(ii) Initial consideration	551-553	185
(iii) Consideration of the report of the Drafting Committee	554-556	185
(iv) Text adopted by the Committee of the Whole	557-558	185
<i>Article 61 (Emergence of a new peremptory norm of general international law)</i>	559-567	186
A. International Law Commission text	559	186
B. Amendments	560-561	186
C. Proceedings of the Committee of the Whole	562-567	186
(i) Meetings	562	186
(ii) Initial consideration	563-564	186
(iii) Consideration of the report of the Drafting Committee	565-566	186
(iv) Text adopted by the Committee of the Whole	567	186
<i>Section 4: Procedure</i>	568-598	186
<i>Article 62 (Procedure to be followed in cases of invalidity, termination, withdrawal from or suspension of the operation of a treaty)</i>	568-581	186
A. International Law Commission text	568	186
B. Amendments and draft resolutions	569-572	187
I. Amendments	569-571	187
II. Draft resolutions	572	191
C. Proceedings of the Committee of the Whole	573-581	192
(i) Meetings	573	192
(ii) Initial consideration	574-579	192
(iii) Consideration of the report of the Drafting Committee	580	192
(iv) Text adopted by the Committee of the Whole	581	192
<i>Article 62bis</i>	582-584	193
A. Proposed new article	582-583	193
B. Proceedings of the Committee of the Whole	584	194
Meetings, consideration and decision	584	194
<i>Article 63 (Instruments for declaring invalid, terminating, withdrawing from or suspending the operation of a treaty)</i>	585-592	194
A. International Law Commission text	585	194
B. Amendments	586-587	194
C. Proceedings of the Committee of the Whole	588-592	194
(i) Meetings	588	194
(ii) Initial consideration	589-590	194
(iii) Consideration of the report of the Drafting Committee	591	194
(iv) Text adopted by the Committee of the Whole	592	194
<i>Article 64 (Revocation of notifications and instruments provided for in articles 62 and 63)</i>	593-598	195
A. International Law Commission text	593	195
B. Amendments	594	195
C. Proceedings of the Committee of the Whole	595-598	195
(i) Meetings	595	195
(ii) Initial consideration	596	195

CONTENTS (continued)

	Paragraphs	Page
(iii) Consideration of the report of the Drafting Committee	597	195
(iv) Text adopted by the Committee of the Whole	598	195
<i>Section 5: Consequences of the invalidity, termination or suspension of the operation of a treaty</i>	599-633	195
<i>Article 65 (Consequences of the invalidity of a treaty)</i>	599-630	195
A. International Law Commission text	599	195
B. Amendments	600-601	195
C. Proceedings of the Committee of the Whole	602-610	196
(i) Meetings	602	196
(ii) Initial consideration	603-605	196
(iii) Consideration of the report of the Drafting Committee	606-609	196
(iv) Text adopted by the Committee of the Whole	610	196
<i>Article 66 (Consequences of the termination of a treaty)</i>	611-617	197
A. International Law Commission text	611	197
B. Amendments	612-613	197
C. Proceedings of the Committee of the Whole	614-617	197
(i) Meetings	614	197
(ii) Consideration	615-616	197
(iii) Decision	617	197
<i>Article 67 (Consequences of the nullity or termination of a treaty conflicting with a peremptory norm of general international law)</i>	618-623	197
A. International Law Commission text	618	197
B. Amendments	619-620	197
C. Proceedings of the Committee of the Whole	621-623	198
(i) Meetings	621	198
(ii) Consideration	622-624	198
(iii) Text adopted by the Committee of the Whole	625	198
<i>Article 68 (Consequences of the suspension of the operation of a treaty)</i>	626-633	198
A. International Law Commission text	626	198
B. Amendments	627-628	198
C. Proceedings of the Committee of the Whole	629-633	198
(i) Meetings	629	198
(ii) Initial consideration	630-631	198
(iii) Consideration of the report of the Drafting Committee	632	198
(iv) Text adopted by the Committee of the Whole	633	199
<i>PART VI. MISCELLANEOUS PROVISIONS</i>	634-651	199
<i>Article 69 (Cases of State succession and State responsibility)</i>	634-641	199
A. International Law Commission text	634	199
B. Amendments	635-636	199
C. Proceedings of the Committee of the Whole	637-641	199
(i) Meetings	637	199
(ii) Initial consideration	638-639	199
(iii) Consideration of the report of the Drafting Committee	640	199
(iv) Text adopted by the Committee of the Whole	641	199
<i>Article 69bis</i>	642	199
<i>Article 70 (Case of an aggressor State)</i>	643-651	200
A. International Law Commission text	643	200
B. Amendments	644-645	200
C. Proceedings of the Committee of the Whole	646-651	200
(i) Meetings	646	200
(ii) Initial consideration	647-649	200
(iii) Consideration of the report of the Drafting Committee	650	200
(iv) Text adopted by the Committee of the Whole	651	200
<i>PART VII. DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION</i>	652-662	200
<i>Article 71 (Depositaries of treaties) and article 72 (Functions of depositaries)</i>	652-667	200
A. International Law Commission text	653	200
B. Amendments	654-657	201

CONTENTS (continued)

	Paragraphs	Page
C. Proceedings of the Committee of the Whole	658-667	202
(i) Meetings	658	202
(ii) Initial consideration	659-661	202
(iii) Consideration of the report of the Drafting Committee	662-665	203
(iv) Text adopted by the Committee of the Whole	666-667	203
Article 73 (Notifications and communications)	668-673	204
A. International Law Commission text	668	204
B. Amendments	669	204
C. Proceedings of the Committee of the Whole	670-673	204
(i) Meetings	670	204
(ii) Initial consideration	671	204
(iii) Consideration of the report of the Drafting Committee	672	204
(iv) Text adopted by the Committee of the Whole	673	204
Article 74 (Correction of errors in texts or in certified copies of treaties)	674-681	204
A. International Law Commission text	674	204
B. Amendments	675-676	205
C. Proceedings of the Committee of the Whole	677-681	205
(i) Meetings	677	205
(ii) Initial consideration	678-679	205
(iii) Consideration of the report of the Drafting Committee	680	205
(iv) Text adopted by the Committee of the Whole	681	205
Article 75 (Registration and publication of treaties)	682-689	206
A. International Law Commission text	682	206
B. Amendments	683-684	206
C. Proceedings of the Committee of the Whole	685-689	206
(i) Meetings	685	206
(ii) Initial consideration	686-687	206
(iii) Consideration of the report of the Drafting Committee	688	206
(iv) Text adopted by the Committee of the Whole	689	206
Article 76	690-692	206
A. Proposed new article	690	206
B. Proceedings of the Committee of the Whole	691-692	207
(i) Meetings and consideration	691	207
(ii) Decision	692	207
Trials of parts and sections of the draft convention	693-700	207
A. International Law Commission text	694	207
B. Amendments	695-696	207
C. Proceedings of the Committee of the Whole	697-700	207
(i) Meetings	697	207
(ii) Consideration and decisions	698-700	207
Chapter III. Text of the articles on the Law of Treaties and of draft resolutions adopted by the Committee of the Whole		209
Annex. Check-list of documentation submitted during the first session of the Conference to the Committee of the Whole by States participating in the Conference		220

CHAPTER I
INTRODUCTION

A. Submission of the report

1. By its resolution 2166 (XXII) of 5 December 1966, the General Assembly of the United Nations decided that an international conference of plenipotentiaries should be convened, the first session to be held early in 1968 and the second early in 1969, to consider the law of treaties and to embody the results of its work in an international convention and such other instruments as it might deem appropriate. Subsequently, by its resolution 2287 (XXII) of 6 December 1967, the General Assembly decided that the first session of the Conference should be convened at Vienna, in March 1968.

2. The first session of the United Nations Conference on the Law of Treaties opened on 26 March 1968 at the Neue Hofburg, Vienna. At its first plenary meeting, on that date, the Conference, *inter alia*, established a single Committee of the Whole, to which it referred item 11 (a) of the agenda adopted by the Conference (A/CONF.39/8), namely "Consideration of the question of the law of treaties in accordance with resolution 2166 (XXII) adopted by the General Assembly on 5 December 1966". The present document contains the report of the Committee of the Whole to the Conference on its consideration of that item at the first session of the Conference.

B. Expression of thanks

3. At the outset of its report, the Committee of the Whole wishes to place on record its deep appreciation to the Federal Government and to the people of the Republic of Austria for making possible the holding of the Conference in Vienna, and for their generous hospitality and great contribution to the successful completion of the work of the Committee.

4. The Committee of the Whole also wishes to express its gratitude to the International Law Commission for its outstanding contribution to the progressive development and codification of the law of treaties.

5. Finally, the Committee of the Whole must express its most sincere thanks to the Drafting Committee of the Conference, and to the Expert Consultant, Sir Humphrey Waldock, for their unflinching and invaluable assistance in assuring the success of the work of the Committee of the Whole.

C. Election of officers and of the Drafting Committee: Secretariat of the Conference

6. On 27 March 1968, the Conference, at its second plenary meeting, elected by acclamation the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee. At its third plenary meeting, on the same day, the Conference agreed to the recommendation of its General Committee that, in addition

to the Chairman of the Drafting Committee and the Rapporteur of the Committee of the Whole, the Drafting Committee should be composed of representatives of Argentina, China, Congo (Brazzaville), France, Ghana, Japan, Kenya, the Netherlands, Poland, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The Vice-Chairman and Rapporteur of the Committee of the Whole had been elected by acclamation earlier on the same day at the first meeting of the Committee of the Whole. The officers elected were as follows:

Chairman of the Committee of the Whole: Mr. Taslim Olowale Elias (Nigeria);
Vice-Chairman of the Committee of the Whole: Mr. Josef Smejkal (Czechoslovakia);
Rapporteur of the Committee of the Whole: Mr. Eduardo Jiménez de Aréchaga (Uruguay);
Chairman of the Drafting Committee: Mr. Mustafa Kamil Yasseen (Iraq).

7. At the first session of the Conference, the Secretariat was composed as follows: Representative of the Secretary-General of the United Nations, Mr. C. A. Stavropoulos; Executive Secretary of the Conference, Mr. A. Movchan; Secretary of the Committee of the Whole, Mr. G. W. Wattles; Assistant Secretaries of the Committee of the Whole, Mr. J. F. Scott and Mr. V. Prusa; Secretary of the Drafting Committee, Mr. N. Teslenko; Deputy Secretary of the Drafting Committee, Mr. S. Torres-Bernárdez.

D. Basic proposal and background documentation

(i) BASIC PROPOSAL

8. In accordance with rule 29 of the rules of procedure (A/CONF.39/10), adopted by the Conference at its first plenary meeting on 26 March 1968, the Committee of the Whole had before it as the basic proposal the draft articles on the law of treaties adopted by the International Law Commission at its eighteenth session.¹

(ii) BACKGROUND DOCUMENTATION

9. The Committee of the Whole, in addition to the relevant records of the International Law Commission and of the General Assembly also had available to it the following background documentation:

(a) *A selected bibliography on the law of treaties* (A/CONF.39/14);

(b) *Analytical compilation of comments and observations made in 1966 and 1967 with respect to the final draft articles on the law of treaties; working paper prepared by the Secretariat* (A/CONF.39/5, vols. I and II);

¹ See section B above.

the word "void" was rejected by 36 votes to 8, with 28 abstentions.

(b) The second part of the amendment by China (A/CONF.39/C.1/L.301) to add a new paragraph was rejected by 44 votes to 2, with 29 abstentions.

(c) The amendment by Japan and the Republic of Viet-Nam (A/CONF.39/C.1/L.298 and Add.1) was rejected by 55 votes to 2, with 27 abstentions.

(d) A roll-call vote was requested upon the amendment by Bulgaria, Ceylon, Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Ecuador, Finland, Greece, Guatemala, Kuwait, Mexico, Spain and Ukrainian Soviet Socialist Republic (A/CONF.39/C.1/L.289 and Add.1), with the following results:

In favour: Afghanistan, Algeria, Bolivia, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Ecuador, Ethiopia, Finland, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Iraq, Israel, Kenya, Kuwait, Malaysia, Mali, Mexico, Mongolia, Morocco, Nigeria, Poland, Romania, Sierra Leone, Singapore, South Africa, Spain, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: Australia, Chile, China, Japan, New Zealand, Peru, Portugal, Republic of Korea, Republic of Viet-Nam, United Kingdom of Great Britain and Northern Ireland.

Abstentions: Argentina, Austria, Belgium, Brazil, Canada, Central African Republic, Dahomey, Denmark, Federal Republic of Germany, France, Gabon, Holy See, Iran, Italy, Ivory Coast, Jamaica, Lebanon, Liberia, Liechtenstein, Monaco, Netherlands, Norway, Pakistan, Philippines, San Marino, Saudi Arabia, Senegal, Sweden, Thailand, Trinidad and Tobago, Tunisia, Turkey, United States of America.

This amendment was therefore adopted by 49 votes to 10, with 33 abstentions.

(e) The amendment by Peru (A/CONF.39/C.1/L.230) was rejected by 36 votes to 11, with 40 abstentions.

456. Finally, at its 57th meeting, the Committee of the Whole decided, without objection, to refer article 49, as amended, to the Drafting Committee.

(iii) CONSIDERATION OF THE REPORT OF THE DRAFTING COMMITTEE

457. At the 78th meeting of the Committee of the Whole, the Chairman of the Drafting Committee introduced a report containing the text of article 49 adopted by the Drafting Committee (A/CONF.39/C.1/L.10; for text, see para. 458 below). The Committee of the Whole adopted this text without formal vote.⁵⁵

(iv) TEXTS ADOPTED BY THE COMMITTEE OF THE WHOLE

(a) Text of article 49

458. On the basis of the foregoing, the Committee of the Whole recommends to the Conference for adoption the following text of article 49:

Article 49

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

(b) Draft resolution

459. The Committee of the Whole also recommends to the Conference for adoption the following draft declaration:

Draft Declaration on the Prohibition of the Threat or Use of Economic or Political Coercion in Concluding a Treaty

The United Nations Conference on the Law of Treaties, Upholding the principle that every treaty in force is binding upon the parties to it and must be performed by them in good faith, Reaffirming the principle of sovereign equality of States, Convinced that States must have complete freedom in performing any act relating to the conclusion of a treaty,

Mindful of the fact that in the past instances have occurred where States have been forced to conclude treaties under pressures in various forms exercised by other States,

Deprecating the same,

Expressing its concern at the exercise of such pressure and anxious to ensure that no such pressures in any form are exercised by any State whatever in the matter of conclusion of treaties,

1. Solemnly condemns the threat or use of pressure in any form, military, political, or economic, by any State, in order to coerce another State to perform any act relating to the conclusion of a treaty in violation of the principles of sovereign equality of States and freedom of consent;

2. Decides that the present declaration shall form part of the Final Act of the Conference on the Law of Treaties.

ARTICLE 50

A. International Law Commission text

460. The International Law Commission text provided as follows:

Article 50.—Treaties conflicting with a peremptory norm of general international law (*jus cogens*)

A treaty is void if it conflicts with a peremptory norm of general international law from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

B. Amendments

461. Amendments were submitted to article 50 by Finland (A/CONF.39/C.1/L.293), Finland, Greece and Spain (A/CONF.39/C.1/L.306 and Add.1 and 2),⁵⁶ India (A/CONF.39/C.1/L.254), Mexico (A/CONF.39/C.1/L.266), Romania and Union of Soviet Socialist Republics (A/CONF.39/C.1/L.258/Corr.1) and United States of America (A/CONF.39/C.1/L.302). The United Kingdom

⁵⁵ *Ibid.*

⁵⁶ Original sponsor Greece, co-sponsors Finland (Add.1) and Spain (Add.2).

of Great Britain and Northern Ireland submitted a sub-amendment (A/CONF.39/C.1/L.312) to the amendment by the United States of America (A/CONF.39/C.1/L.302).

462. These amendments and the sub-amendment, arranged under sub-headings relating to the original text, and proposed new sub-paragraphs, were to the following effect:

(i) *Original text*

(a) *Romania and Union of Soviet Socialist Republics* (A/CONF.39/C.1/L.258/Corr.1):

Insert the words "*that is with a norm*" and amend the text to read as follows:

A treaty is void if it conflicts with a peremptory norm of general international law, *that is with a norm* from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

[Referred to the Drafting Committee, see para. 466 below]

(b) *United States of America* (A/CONF.39/C.1/L.302):

Replace the text of the present article by the following:

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory rule of general international law which is recognized in common by the national and regional legal systems of the world and from which no derogation is permitted.

[Words "at the time of its conclusion" adopted, see para. 465(d) below; replacement of "peremptory norm" by "peremptory rule" referred to the Drafting Committee, see para. 466 below; words "which is recognized in common by the national and regional legal systems of the world" rejected, see para. 465(e) below]

(c) *Finland, Greece and Spain* (A/CONF.39/C.1/L.306 and Add.1 and 2):

Between the words "general international law" and "from which no derogation", insert the words "recognized by the international community as a norm".

[Referred to the Drafting Committee, see para. 466 below]

(ii) *Proposed new paragraphs*

(a) *India* (A/CONF.39/C.1/L.254):

Make the present text of article 50 as paragraph 1 and add the following as paragraph 2:

If a new peremptory norm of general international law is established, any existing treaty which is in conflict with that norm becomes void.

[Withdrawn, see para. 464 below]

(b) *Mexico* (A/CONF.39/C.1/L.266):

Add a second paragraph reading as follows:

The present article shall not have retroactive effect.

[Withdrawn, see para. 464 below]

(c) *Finland* (A/CONF.39/C.1/L.293):

Add a new paragraph 2 which would read:

Under the conditions specified in article 41 if only certain clauses of the treaty are in conflict with the peremptory norm of general international law, these clauses only shall be void.

[Withdrawn, see para. 464 below]

(d) *United Kingdom of Great Britain and Northern Ireland* (A/CONF.39/C.1/L.312), sub-amendment to the

amendment by the *United States of America* (A/CONF.39/C.1/L.302):

Add an additional paragraph as follows:

Except so far as such peremptory rules are set forth in this Part of the present Convention, they shall be defined from time to time in protocols to the Convention.

[Withdrawn, see para. 464 below]

C. *Proceedings of the Committee of the Whole*

(i) *MEETINGS*

463. The Committee of the Whole initially discussed article 50, and the amendments thereto, at its 52nd to 57th meetings inclusive, between 4 and 7 May 1968. At its 80th meeting, on 21 May 1968, the Committee considered the report of the Drafting Committee on this article.

(ii) *INITIAL CONSIDERATION*

464. At the 52nd meeting of the Committee of the Whole, the amendment by *India* (A/CONF.39/C.1/L.254) was withdrawn. At the 56th meeting, the amendments by *Mexico* (A/CONF.39/C.1/L.266) and *Finland* (A/CONF.39/C.1/L.293) were also withdrawn. The sub-amendment by the *United Kingdom of Great Britain and Northern Ireland* (A/CONF.39/C.1/L.312) to the amendment by *United States of America* (A/CONF.39/C.1/L.302) was withdrawn at the 57th meeting of the Committee.

465. At the 57th meeting of the Committee of the Whole, a motion was made by the *United States of America* to the effect that the Committee should defer voting on article 50 and all amendments thereto, and that the article and the three remaining amendments should be referred to the Drafting Committee. The Committee then proceeded to vote upon certain procedural motions and, as a result, upon part of the amendment by the *United States of America* (A/CONF.39/C.1/L.302). The voting was as follows:

(a) A motion by *Italy* to suspend the meeting for thirty minutes was rejected by 49 votes to 24, with 16 abstentions.

(b) A motion by *Czechoslovakia* for division of voting on the motion by the *United States of America* was objected to by *United Kingdom of Great Britain and Northern Ireland*. The motion for division was adopted by 45 votes to 28, with 15 abstentions.

(c) A roll-call vote was requested on the first part of the motion by the *United States of America* for deferring the voting on article 50 and all amendments thereto. The results were as follows:

In favour: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Costa Rica, Denmark, Federal Republic of Germany, Finland, France, Gabon, Greece, Guatemala, Holy See, Honduras, Israel, Italy, Japan, Lebanon, Liberia, Liechtenstein, Malaysia, Mexico, Monaco, Netherlands, New Zealand, Nigeria, Norway, Peru, Portugal, Republic of Korea, Republic of Viet-Nam, Senegal, South Africa, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Afghanistan, Algeria, Bolivia, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Congo

(Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Dahomey, Ecuador, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Ivory Coast, Jamaica, Kenya, Kuwait, Mali, Mongolia, Morocco, Pakistan, Philippines, Poland, Romania, Sierra Leone, Spain, Syria, Trinidad and Tobago, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yugoslavia, Zambia.

Abstentions: Central African Republic, Iran, Saudi Arabia, Singapore, Thailand, Tunisia, Uruguay.

The first part of the motion by the *United States of America* was therefore rejected, 42 votes being cast in favour and 42 against, with 7 abstentions.

(d) That part of the amendment by the *United States of America* (A/CONF.39/C.1/L.302) which proposed the inclusion of the words "at the time of its conclusion" was adopted by 43 votes to 27, with 12 abstentions.

(e) That part of the amendment by the *United States of America* (A/CONF.39/C.1/L.302) which proposed the inclusion of the words "which is recognized in common by the national and regional systems of the world" was rejected by 57 votes to 24, with 7 abstentions.

(f) A motion by *Uruguay* to refer article 50, as amended, to the Drafting Committee, together with the remaining amendments, was adopted by 66 votes to 2, with 8 abstentions.

466. On the basis of the foregoing, it was decided, at the 57th meeting of the Committee of the Whole, to refer article 50, as amended, to the Drafting Committee, together with the remaining amendments by *Finland*, *Greece* and *Spain* (A/CONF.39/C.1/L.306 and Add.1 and 2), *Romania* and *Union of Soviet Socialist Republics* (A/CONF.39/C.1/L.258/Corr.1) and *United States of America* (replacement of word "norm" by "rule") (A/CONF.39/C.1/L.302). The Chairman said it was understood that the article, as amended, and the amendments just mentioned, had been referred to the Drafting Committee for consideration of the drafting, without modification of the substance, and that the principle of *jus cogens* embodied in the article had been adopted.

(iii) CONSIDERATION OF THE REPORT OF THE DRAFTING COMMITTEE

467. At the 80th meeting of the Committee of the Whole, the Chairman of the Drafting Committee introduced a report containing the text of article 50 adopted by the Drafting Committee (A/CONF.39/C.1/11; for text, see para. 470 below).

468. A separate vote was requested on the words "as a whole" appearing in the text recommended by the Drafting Committee. These words were adopted by 57 votes to 3, with 27 abstentions.

469. A roll-call vote was requested on the text of the article as a whole. The results of the voting were as follows:

In favour: Algeria, Argentina, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cambodia, Central African Republic, China, Congo (Brazzaville), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Domini-

can Republic, Ecuador, Ethiopia, Finland, Ghana, Greece, Guatemala, Guinea, Guyana, Holy See, Honduras, Hungary, India, Indonesia, Iran, Iraq, Israel, Ivory Coast, Jamaica, Kenya, Kuwait, Lebanon, Liechtenstein, Madagascar, Malaysia, Mali, Mexico, Mongolia, Morocco, Netherlands, Nigeria, Pakistan, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Viet-Nam, Romania, San Marino, Saudi Arabia, Sierra Leone, Singapore, Spain, Sweden, Syria, Thailand, Trinidad and Tobago, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: Monaco, Switzerland, Turkey.

Abstentions: Australia, Austria, Belgium, Canada, Chile, Denmark, Federal Republic of Germany, France, Gabon, Ireland, Italy, Japan, Liberia, New Zealand, Norway, Senegal, South Africa, United Kingdom of Great Britain and Northern Ireland.

The text of the article was therefore adopted by 72 votes to 3, with 18 abstentions.

(iv) TEXT ADOPTED BY THE COMMITTEE OF THE WHOLE

470. On the basis of the foregoing, the Committee of the Whole recommends to the Conference for adoption the following text of article 50:

Article 50

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

SECTION 3. TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

ARTICLE 51

A. International Law Commission text

471. The International Law Commission text provided as follows:

Article 51.—Termination of or withdrawal from a treaty by consent of the parties

A treaty may be terminated or a party may withdraw from a treaty:

- (a) In conformity with a provision of the treaty allowing such termination or withdrawal; or
- (b) At any time by consent of all the parties.

B. Amendments

472. Amendments were submitted to article 51 by Greece (A/CONF.39/C.1/L.314 and Rev.1), the Netherlands (A/CONF.39/C.1/L.313), Peru (A/CONF.39/C.1/L.231) and the Republic of Viet-Nam (A/CONF.39/C.1/L.222/Rev.1).

**VIENNA CONVENTION
ON THE LAW OF TREATIES**

(Document A/CONF.39/27)

The States Parties to the present Convention,

Considering the fundamental role of treaties in the history of international relations,

Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations, whatever their constitutional and social systems,

Noting that the principles of free consent and of good faith and the *pacta sunt servanda* rule are universally recognized,

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all,

Believing that the codification and progressive development of the law of treaties achieved in the present Convention will promote the purposes of the United Nations set forth in the Charter, namely, the maintenance of international peace and security, the development of friendly relations and the achievement of co-operation among nations,

Affirming that the rules of customary international law will continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

PART I. INTRODUCTION

Article 1

Scope of the present Convention

The present Convention applies to treaties between States.

Article 2

Use of terms

For the purposes of the present Convention:

- (a) "treaty" means an international agreement concluded between States in written form and governed by international law, whether embodied in a single

instrument or in two or more related instruments and whatever its particular designation;

- (b) "ratification", "acceptance", "approval" and "accession" mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty;
- (c) "full powers" means a document emanating from the competent authority of a State designating a person or persons to represent the State for negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the State to be bound by a treaty, or for accomplishing any other act with respect to a treaty;
- (d) "reservation" means a unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State;
- (e) "negotiating State" means a State which took part in the drawing up and adoption of the text of the treaty;
- (f) "contracting State" means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;
- (g) "party" means a State which has consented to be bound by the treaty and for which the treaty is in force;
- (h) "third State" means a State not a party to the treaty;
- (i) "international organization" means an intergovernmental organization.

2. The provisions of paragraph 1 regarding the use of terms in the present Convention are without prejudice to the use of those terms or to the meanings which may be given to them in the internal law of any State.

Article 3

International agreements not within the scope of the present Convention

The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect:

- (a) the legal force of such agreements;
- (b) the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention;
- (c) the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law are also parties.

NOTE. — Document A/CONF.39/27 incorporates A/CONF.39/27/Corr.1.

Article 4

Irreversibility of the present Convention

Without prejudice to the application of any rules set forth in the Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties concluded by States after the entry into force of the Convention with regard to such States.

Article 5

The Convention applies to any treaty which is not within an international organization or to any treaty adopted within an international organization without prejudice to any relevant rules of that organization.

II. CONCLUSION AND ENTRY INTO FORCE OF TREATIES

SECTION 1. CONCLUSION OF TREATIES

Article 6

Every State has the capacity to conclude treaties.

Article 7

Every State has the capacity to conclude treaties. Every State has the capacity to conclude treaties.

Every State has the capacity to conclude treaties. Every State has the capacity to conclude treaties.

Every State has the capacity to conclude treaties. Every State has the capacity to conclude treaties.

Every State has the capacity to conclude treaties. Every State has the capacity to conclude treaties.

Every State has the capacity to conclude treaties. Every State has the capacity to conclude treaties.

Every State has the capacity to conclude treaties. Every State has the capacity to conclude treaties.

Every State has the capacity to conclude treaties. Every State has the capacity to conclude treaties.

without legal effect unless afterwards confirmed by that State.

Article 9

Adoption of the text

1. The adoption of the text of a treaty takes place by the consent of all the States participating in its drawing up except as provided in paragraph 2.

2. The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule.

Article 10

Authentication of the text

The text of a treaty is established as authentic and definitive:

- by such procedure as may be provided for in the text or agreed upon by the States participating in its drawing up; or
- falling such procedure, by the signature, signature *ad referendum* or initialling by the representatives of those States of the text of the treaty or of the Final Act of a conference incorporating the text.

Article 11

Means of expressing consent to be bound by a treaty

The consent of a State to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval or accession, or by any other means if so agreed.

Article 12

Consent to be bound by a treaty expressed by signature

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:

- the treaty provides that signature shall have that effect;
- it is otherwise established that the negotiating States were agreed that signature should have that effect; or
- the intention of the State to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation.

2. For the purposes of paragraph 1:

- the initialling of a text constitutes a signature of the treaty when it is established that the negotiating States so agreed;
- the signature *ad referendum* of a treaty by a representative, if confirmed by his State, constitutes a full signature of the treaty.

Article 13

Consent to be bound by a treaty expressed by an exchange of instruments constituting a treaty

The consent of States to be bound by a treaty constituted by instruments exchanged between them is expressed by that exchange when:

- the instruments provide that their exchange shall have that effect; or
- it is otherwise established that those States were agreed that the exchange of instruments should have that effect.

Article 14

Consent to be bound by a treaty expressed by ratification, acceptance or approval

1. The consent of a State to be bound by a treaty is expressed by ratification when:

- the treaty provides for such consent to be expressed by means of ratification;
- it is otherwise established that the negotiating States were agreed that ratification should be required;
- the representative of the State has signed the treaty subject to ratification; or
- the intention of the State to sign the treaty subject to ratification appears from the full powers of its representative or was expressed during the negotiation.

2. The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification.

Article 15

Consent to be bound by a treaty expressed by accession

The consent of a State to be bound by a treaty is expressed by accession when:

- the treaty provides that such consent may be expressed by that State by means of accession;
- it is otherwise established that the negotiating States were agreed that such consent may be expressed by that State by means of accession; or
- all the parties have subsequently agreed that such consent may be expressed by that State by means of accession.

Article 16

Exchange or deposit of instruments of ratification, acceptance, approval or accession

Unless the treaty otherwise provides, instruments of ratification, acceptance, approval or accession establish the consent of a State to be bound by a treaty upon:

- their exchange between the contracting States;
- their deposit with the depositary; or
- their notification to the contracting States or to the depositary, if so agreed.

Article 17

Consent to be bound by part of a treaty and choice of differing provisions

1. Without prejudice to articles 19 to 23, the consent of a State to be bound by part of a treaty is effective only if the treaty so permits or the other contracting States so agree.

2. The consent of a State to be bound by a treaty which permits a choice between differing provisions is

effective only if it is made clear to which of the provisions the consent relates.

Article 18

Obligation not to defeat the object and purpose of a treaty prior to its entry into force

A State is obliged to refrain from acts which would defeat the object and purpose of a treaty when:

- it has signed the treaty or has exchanged instruments constituting the treaty subject to ratification, acceptance or approval, until it shall have made its intention clear not to become a party to the treaty; or
- it has expressed its consent to be bound by the treaty, pending the entry into force of the treaty and provided that such entry into force is not unduly delayed.

SECTION 2. RESERVATIONS

Article 19

Formulation of reservations

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

- the reservation is prohibited by the treaty;
- the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or
- in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.

Article 20

Acceptance of and objection to reservations

1. A reservation expressly authorized by a treaty does not require any subsequent acceptance by the other contracting States unless the treaty so provides.

2. When it appears from the limited number of the negotiating States and the object and purpose of a treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty, a reservation requires acceptance by all the parties.

3. When a treaty is a constituent instrument of an international organization and unless it otherwise provides, a reservation requires the acceptance of the competent organ of that organization.

4. In cases not falling under the preceding paragraphs and unless the treaty otherwise provides:

- acceptance by another contracting State of a reservation constitutes the reserving State a party to the treaty in relation to that other State if or when the treaty is in force for those States;
- an objection by another contracting State to a reservation does not preclude the entry into force of the treaty as between the objecting and reserving States unless a contrary intention is definitely expressed by the objecting State;

pressing a State's consent to be bound by a treaty and containing a reservation is as soon as at least one other contracting State has accepted the reservation.

Reservations of paragraphs 2 and 4 and unless otherwise provided, a reservation is considered accepted by a State if it shall have raised no objection by the end of a period of six months after it was notified of the reservation or if it expressed its consent to be bound by the reservation.

Article 21

Legal effects of reservations of objections to reservations

A reservation established with regard to another State with articles 19, 20 and 23: for the reserving State in its relations with the other party the provisions of the treaty the reservation relates to the extent of the reservation; and those provisions to the same extent for the other party in its relations with the reserving State.

A reservation does not modify the provisions of the treaty for other parties to the treaty *inter se*. A State objecting to a reservation has not entered into force of the treaty between itself and the reserving State, the provisions to which the reservation does not apply as between the two States of the reservation.

Article 22

Withdrawal of reservations of objections to reservations

If a treaty otherwise provides, a reservation may be withdrawn at any time and the consent of a State which has accepted the reservation is not required.

If a treaty otherwise provides, an objection may be withdrawn at any time.

If a treaty otherwise provides, or it is otherwise provided, a reservation becomes operative only when notice of it has been received by that State.

Withdrawal of an objection to a reservation becomes operative only when notice of it has been received by the State which formulated the objection.

Article 23

Procedure regarding reservations

When a State expresses an acceptance of a reservation, it is bound by the reservation unless it has communicated to the contracting States its objection to the reservation or its objection to the reservation.

2. If formulated when signing the treaty subject to ratification, acceptance or approval, a reservation must be formally confirmed by the reserving State when expressing its consent to be bound by the treaty. In such a case the reservation shall be considered as having been made on the date of its confirmation.

3. An express acceptance of, or an objection to, a reservation made previously to confirmation of the reservation does not itself require confirmation.

4. The withdrawal of a reservation or of an objection to a reservation must be formulated in writing.

SECTION 3. ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24

Entry into force

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.

2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.

3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.

4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

Article 25

Provisional application

1. A treaty or a part of a treaty is applied provisionally pending its entry into force if:

- (a) the treaty itself so provides; or
- (b) the negotiating States have in some other manner so agreed.

2. Unless the treaty otherwise provides or the negotiating States have otherwise agreed, the provisional application of a treaty or a part of a treaty with respect to a State shall be terminated if that State notifies the other States between which the treaty is being applied provisionally of its intention not to become a party to the treaty.

PART III. OBSERVANCE, APPLICATION AND INTERPRETATION OF TREATIES

SECTION 1. OBSERVANCE OF TREATIES

Article 26

Pacta sunt servanda

Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Article 27

Internal law and observance of treaties

A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

SECTION 2. APPLICATION OF TREATIES

Article 28

Non-retroactivity of treaties

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29

Territorial scope of treaties

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30

Application of successive treaties relating to the same subject-matter

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.

2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.

3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the later treaty.

4. When the parties to the later treaty do not include all the parties to the earlier one:

- (a) as between States parties to both treaties the same rule applies as in paragraph 3;
- (b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.

5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the conclusion or application of a treaty the provisions of which are incompatible with its obligations towards another State under another treaty.

SECTION 3. INTERPRETATION OF TREATIES

Article 31

General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:

- (a) any agreement relating to the treaty which was made between all the parties in connexion with the conclusion of the treaty;
- (b) any instrument which was made by one or more parties in connexion with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.

3. There shall be taken into account, together with the context:

- (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
- (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
- (c) any relevant rules of international law applicable in the relations between the parties.

4. A special meaning shall be given to a term if it is established that the parties so intended.

Article 32

Supplementary means of interpretation

Recourse may be had to supplementary means of interpretation, including the preparatory work of the treaty and the circumstances of its conclusion, in order to confirm the meaning resulting from the application of article 31, or to determine the meaning when the interpretation according to article 31:

- (a) leaves the meaning ambiguous or obscure; or
- (b) leads to a result which is manifestly absurd or unreasonable.

Article 33

Interpretation of treaties authenticated in two or more languages

1. When a treaty has been authenticated in two or more languages, the text is equally authoritative in each language, unless the treaty provides or the parties agree that, in case of divergence, a particular text shall prevail.

2. A version of the treaty in a language other than one of those in which the text was authenticated shall be considered an authentic text only if the treaty so provides or the parties so agree.

3. The terms of the treaty are presumed to have the same meaning in each authentic text.

4. Except where a particular text prevails in accordance with paragraph 1, when a comparison of the authen-

relating only to the wording of the text does not affect its validity; article 79 then

Article 49

Fraud

as been induced to conclude a treaty by conduct of another negotiating State, the State may invoke such fraud as invalidating its consent to the treaty.

Article 50

Coercion of a representative of a State

Consent of a State's consent to be bound by a treaty has been procured through the corruption of its representative or indirectly by another negotiating State, the State may invoke such corruption as invalidating its consent to be bound by the treaty.

Article 51

Coercion of a representative of a State

Consent of a State's consent to be bound by a treaty has been procured by the coercion of its representative through acts or threats directed against him, without any legal effect.

Article 52

Coercion of a State by the threat or use of force

A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

Article 53

Peremptory norm of general international law (jus cogens)

A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

3. TERMINATION AND SUSPENSION OF THE OPERATION OF TREATIES

Article 54

Termination or withdrawal from a treaty under its provisions or by consent of the parties

A treaty may be terminated or withdrawn from at any time by the consent of all the parties after consultation with the other contracting States.

At any time by consent of all the parties after consultation with the other contracting States.

Article 55

Reduction of the parties to a multilateral treaty below the number necessary for its entry into force

Unless the treaty otherwise provides, a multilateral treaty does not terminate by reason only of the fact that the number of the parties falls below the number necessary for its entry into force.

Article 56

Denunciation of or withdrawal from a treaty containing no provision regarding termination, denunciation or withdrawal

1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless:

- it is established that the parties intended to admit the possibility of denunciation or withdrawal; or
- a right of denunciation or withdrawal may be implied by the nature of the treaty.

2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1.

Article 57

Suspension of the operation of a treaty under its provisions or by consent of the parties

The operation of a treaty in regard to all the parties or to a particular party may be suspended:

- in conformity with the provisions of the treaty; or
- at any time by consent of all the parties after consultation with the other contracting States.

Article 58

Suspension of the operation of a multilateral treaty by agreement between certain of the parties only

1. Two or more parties to a multilateral treaty may conclude an agreement to suspend the operation of provisions of the treaty, temporarily and as between themselves alone, if:

- the possibility of such a suspension is provided for by the treaty; or
- the suspension in question is not prohibited by the treaty and:
 - does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;
 - is not incompatible with the object and purpose of the treaty.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of those provisions of the treaty the operation of which they intend to suspend.

Article 59

Termination or suspension of the operation of a treaty implied by conclusion of a later treaty

1. A treaty shall be considered as terminated if all the parties to it conclude a later treaty relating to the same subject-matter and:

- it appears from the later treaty or is otherwise established that the parties intended that the matter should be governed by that treaty; or
- the provisions of the later treaty are so far incompatible with those of the earlier one that the two treaties are not capable of being applied at the same time.

2. The earlier treaty shall be considered as only suspended in operation if it appears from the later treaty or is otherwise established that such was the intention of the parties.

Article 60

Termination or suspension of the operation of a treaty as a consequence of its breach

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.

2. A material breach of a multilateral treaty by one of the parties entitles:

- the other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
 - in the relations between themselves and the defaulting State; or
 - as between all the parties;
- a party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
- any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.

3. A material breach of a treaty, for the purposes of this article, consists in:

- a repudiation of the treaty not sanctioned by the present Convention; or
- the violation of a provision essential to the accomplishment of the object or purpose of the treaty.

4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.

5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

Article 61

Supervening impossibility of performance

1. A party may invoke the impossibility of performing a treaty as a ground for terminating or withdrawing from it if the impossibility results from the permanent disappearance or destruction of an object indispensable for the execution of the treaty. If the impossibility is temporary, it may be invoked only as a ground for suspending the operation of the treaty.

2. Impossibility of performance may not be invoked by a party as a ground for terminating, withdrawing from or suspending the operation of a treaty if the impossibility is the result of a breach by that party either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

Article 62

Fundamental change of circumstances

1. A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless:

- the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and
- the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.

2. A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty:

- if the treaty establishes a boundary; or
- if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.

3. If, under the foregoing paragraphs, a party may invoke a fundamental change of circumstances as a ground for terminating or withdrawing from a treaty it may also invoke the change as a ground for suspending the operation of the treaty.

Article 63

Severance of diplomatic or consular relations

The severance of diplomatic or consular relations between parties to a treaty does not affect the legal relations established between them by the treaty except in so far as the existence of diplomatic or consular relations is indispensable for the application of the treaty.

Article 64

Emergence of a new peremptory norm of general international law (jus cogens)

If a new peremptory norm of general international law emerges, any existing treaty which is in conflict with that norm becomes void and terminates.

SECTION 4. PROCEDURE

Article 65

to be followed with respect to invalidity, termination or suspension of the operation of a treaty

ty which, under the provisions of the present Convention, invokes either a defect in its consent to be a party or a ground for impeaching the validity of the treaty, terminating it, withdrawing from it or suspending its operation, must notify the other parties of the notification shall indicate the measure to be taken with respect to the treaty and the reasons therefor.

er the expiry of a period which, except in exceptional urgency, shall not be less than three months from the receipt of the notification, no party may object, the party making the notification must in the manner provided in article 67 the objection it has proposed.

However, objection has been raised by any of the parties shall seek a solution through negotiation indicated in Article 33 of the Charter of the United Nations.

ing in the foregoing paragraphs shall affect the obligations of the parties under any provision binding the parties with regard to the settlement of disputes.

ut prejudice to article 45, the fact that a party has previously made the notification prescribed in article 65 shall not prevent it from making such notification in answer to another party claiming performance of the treaty or alleging its violation.

Article 66

Res for judicial settlement, arbitration and conciliation

paragraph 3 of article 65, no solution has been reached within a period of 12 months following which the objection was raised, the following shall be followed:

ne of the parties to a dispute concerning the application or the interpretation of article 53 may, by a written application, submit it to the International Court of Justice for a decision. The parties by common consent agree to refer the dispute to arbitration;

ie of the parties to a dispute concerning the application or the interpretation of any of the articles in Part V of the present Convention shall in motion the procedure specified in the Convention by submitting a request for a decision to the Secretary-General of the United Nations.

Article 67

or declaring invalid, terminating, withdrawing or suspending the operation of a treaty

notification provided for under article 65, must be made in writing.

2. Any act declaring invalid, terminating, withdrawing from or suspending the operation of a treaty pursuant to the provisions of the treaty or of paragraphs 2 or 3 of article 65 shall be carried out through an instrument communicated to the other parties. If the instrument is not signed by the Head of State, Head of Government or Minister for Foreign Affairs, the representative of the State communicating it may be called upon to produce full powers.

Article 68

Revocation of notifications and instruments provided for in articles 65 and 67

A notification or instrument provided for in articles 65 or 67 may be revoked at any time before it takes effect.

SECTION 5. CONSEQUENCES OF THE INVALIDITY, TERMINATION OR SUSPENSION OF THE OPERATION OF A TREATY

Article 69

Consequences of the invalidity of a treaty

1. A treaty the invalidity of which is established under the present Convention is void. The provisions of a void treaty have no legal force.

2. If acts have nevertheless been performed in reliance on such a treaty:

- each party may require any other party to establish as far as possible in their mutual relations the position that would have existed if the acts had not been performed;
- acts performed in good faith before the invalidity was invoked are not rendered unlawful by reason only of the invalidity of the treaty.

3. In cases falling under articles 49, 50, 51 or 52, paragraph 2 does not apply with respect to the party to which the fraud, the act of corruption or the coercion is imputable.

4. In the case of the invalidity of a particular State's consent to be bound by a multilateral treaty, the foregoing rules apply in the relations between that State and the parties to the treaty.

Article 70

Consequences of the termination of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention:

- releases the parties from any obligation further to perform the treaty;
- does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination.

2. If a State denounces or withdraws from a multilateral treaty, paragraph 1 applies in the relations between that State and each of the other parties to the treaty from the date when such denunciation or withdrawal takes effect.

Article 71

Consequences of the invalidity of a treaty which conflicts with a peremptory norm of general international law

1. In the case of a treaty which is void under article 53 the parties shall:

- eliminate as far as possible the consequences of any act performed in reliance on any provision which conflicts with the peremptory norm of general international law; and
- bring their mutual relations into conformity with the peremptory norm of general international law.

2. In the case of a treaty which becomes void and terminates under article 64, the termination of the treaty:

- releases the parties from any obligation further to perform the treaty;
- does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination; provided that those rights, obligations or situations may thereafter be maintained only to the extent that their maintenance is not in itself in conflict with the new peremptory norm of general international law.

Article 72

Consequences of the suspension of the operation of a treaty

1. Unless the treaty otherwise provides or the parties otherwise agree, the suspension of the operation of a treaty under its provisions or in accordance with the present Convention:

- releases the parties between which the operation of the treaty is suspended from the obligation to perform the treaty in their mutual relations during the period of the suspension;
- does not otherwise affect the legal relations between the parties established by the treaty.

2. During the period of the suspension the parties shall refrain from acts tending to obstruct the resumption of the operation of the treaty.

PART VI. MISCELLANEOUS PROVISIONS

Article 73

Cases of State succession, State responsibility and outbreak of hostilities

The provisions of the present Convention shall not prejudice any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States.

Article 74

Diplomatic and consular relations and the conclusion of treaties

The severance or absence of diplomatic or consular relations between two or more States does not prevent the conclusion of treaties between those States. The

conclusion of a treaty does not in itself affect the situation in regard to diplomatic or consular relations.

Article 75

Case of an aggressor State

The provisions of the present Convention are without prejudice to any obligation in relation to a treaty which may arise for an aggressor State in consequence of measures taken in conformity with the Charter of the United Nations with reference to that State's aggression.

PART VII. DEPOSITARIES, NOTIFICATIONS, CORRECTIONS AND REGISTRATION

Article 76

Depositaries of treaties

1. The designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the chief administrative officer of the organization.

2. The functions of the depositary of a treaty are international in character and the depositary is under an obligation to act impartially in their performance. In particular, the fact that a treaty has not entered into force between certain of the parties or that a difference has appeared between a State and a depositary with regard to the performance of the latter's functions shall not affect that obligation.

Article 77

Functions of depositaries

1. The functions of a depositary, unless otherwise provided in the treaty or agreed by the contracting States, comprise in particular:

- keeping custody of the original text of the treaty and of any full powers delivered to the depositary;
- preparing certified copies of the original text and preparing any further text of the treaty in such additional languages as may be required by the treaty and transmitting them to the parties and to the States entitled to become parties to the treaty;
- receiving any signatures to the treaty and receiving and keeping custody of any instruments, notifications and communications relating to it;
- examining whether the signature or any instrument, notification or communication relating to the treaty is in due and proper form and, if need be, bringing the matter to the attention of the State in question;
- informing the parties and the States entitled to become parties to the treaty of acts, notifications and communications relating to the treaty;
- informing the States entitled to become parties to the treaty when the number of signatures or of instruments of ratification, acceptance, approval or accession required for the entry into force of the treaty has been received or deposited;

ering the treaty with the Secretary of the United Nations.
 rming the functions specified in other provisions of the present Convention.

event of any difference appearing between the depositary as to the performance of the functions, the depositary shall bring the question on of the signatory States and the contracting States, where appropriate, of the competent organ of the organization concerned.

Article 78

Notifications and communications

the treaty or the present Convention otherwise, any notification or communication to be made by a State under the present Convention shall be transmitted direct to the depositary, or if there is no depositary, to the contracting States for which it is intended, or if there is no depositary, to the latter:

considered as having been made by the State only upon its receipt by the State to which it was transmitted or, as the case may be, its receipt by the depositary; if transmitted to a depositary, be considered as made by the State for which it was intended when the latter State has been informed by the depositary in accordance with article 77, paragraph 1(e).

Article 79

Errors in texts or in certified copies of treaties

after the authentication of the text of a treaty by the signatory States and the contracting States, if it contains an error, the error shall, unless upon some other means of correction, be

ing the appropriate correction made in the text causing the error to be initialled by authorized representatives;

cutting or exchanging an instrument or documents setting out the correction which it has agreed to make; or

cutting a corrected text of the whole treaty same procedure as in the case of the original

the treaty is one for which there is a depositary shall notify the signatory States and the contracting States of the error and of the proposal to correct it. If the depositary shall specify an appropriate time-limit for objection to the proposed correction may be on the expiry of the time-limit:

ection has been raised, the depositary shall and initial the correction in the text and execute a *procès-verbal* of the rectification text and communicate a copy of it to the signatory States and to the States entitled to become parties to the treaty;

ection has been raised, the depositary shall indicate the objection to the signatory States and the contracting States.

3. The rules in paragraphs 1 and 2 apply also where the text has been authenticated in two or more languages and it appears that there is a lack of concordance which the signatory States and the contracting States agree should be corrected.

4. The corrected text replaces the defective text *ab initio*, unless the signatory States and the contracting States otherwise decide.

5. The correction of the text of a treaty that has been registered shall be notified to the Secretariat of the United Nations.

6. Where an error is discovered in a certified copy of a treaty, the depositary shall execute a *procès-verbal* specifying the rectification and communicate a copy of it to the signatory States and to the contracting States.

Article 80

Registration and publication of treaties

1. Treaties shall, after their entry into force, be transmitted to the Secretariat of the United Nations for registration or filing and recording, as the case may be, and for publication.

2. The designation of a depositary shall constitute authorization for it to perform the acts specified in the preceding paragraph.

PART VIII. FINAL PROVISIONS

Article 81

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, as follows: until 30 November 1969, at the Federal Ministry for Foreign Affairs of the Republic of Austria, and subsequently, until 30 April 1970, at United Nations Headquarters, New York.

Article 82

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 83

Accession

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 81. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 84

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the thirty-fifth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 85

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

DONE at Vienna, this twenty-third day of May, one thousand nine hundred and sixty-nine.

ANNEX

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General of the United Nations. To this end, every State which is a Member of the United Nations or a party to the present Convention shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. When a request has been made to the Secretary-General under article 66, the Secretary-General shall bring the dispute before a conciliation commission constituted as follows:

The State or States constituting one of the parties to the dispute shall appoint:

- one conciliator of the nationality of that State or of one of those States, who may or may not be chosen from the list referred to in paragraph 1; and
- one conciliator not of the nationality of that State or of any of those States, who shall be chosen from the list.

The State or States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within sixty days following the date on which the Secretary-General receives the request.

The four conciliators shall, within sixty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

If the appointment of the chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Secretary-General within sixty days following the expiry of that period. The appointments of the chairman may be made by the Secretary-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any party to the treaty to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within twelve months of its constitution. Its report shall be deposited with the Secretary-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall not be binding upon the parties and it shall have no other character than that of recommendations submitted for the consideration of the parties in order to facilitate an amicable settlement of the dispute.

7. The Secretary-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the United Nations.

Comparative table of the numbering of the articles of the Vienna Convention on the Law of Treaties and of the draft articles on the law of treaties considered by the Conference
(based on document A/CONF.39/28, dated 23 May 1969, prepared by the Secretariat)

Comparative table of the numbering of the articles of the Vienna Convention on the Law of Treaties and of the draft articles on the law of treaties considered by the Conference (continued)

Number of article in the Vienna Convention on the Law of Treaties	Number of article in the draft articles on the law of treaties considered by the Conference	Relevant paragraphs in the report of the Committee of the Whole on the first session (A/CONF.39/14)	Relevant paragraphs in the report of the Committee of the Whole on the second session (A/CONF.39/15)	Plenary meeting at which article discussed
1	1	22-32		7th
2	2	33-40	17-26	7th, 28th
3	3	41-48		7th
4	77			
	[Proposed new article]		136-142	30th
5	4	49-57		7th
6	5	58-66		7th, 8th
	58a			
	[Proposed new article]	67-69	27-32	33rd, 34th
7	6	70-79		8th
8	7	80-88		8th
9	8	89-95	33-42	8th, 9th
10	9	96-101		9th
11	98a and 128a			
	[Proposed new articles]	102-108 and 148		9th
12	10	109-126		9th
13	108a	127-131		10th
14	11	109-116 and 132-138		10th
	138a	109-116		
	[Proposed new article]			
15	12	140-147	43-49	10th
16	13	149-155		10th
17	14	156-161		10th
18	15	162-171		10th
19	16	172-189		10th
20	17	172-189	50-57	10th, 11th
21	19	197-204		11th, 29th, 32nd, 33rd
22	20	205-211		11th, 29th
23	18	190-196		11th, 29th
24	21	212-221		11th
25	22	222-230		11th, 28th, 29th
26	23	231-240		12th
	[Proposed new article between articles 23 and 23bis]			12th, 13th
27	23bis	231-240		13th
	[Proposed new article]			
28	24	241-248		13th
29	25	249-256		13th
30	26	257-263	58-66	13th
31	27	264-275		13th
32	28	264-275		13th
33	29	276-282		13th
34	30	283-290		14th
35	31	291-300		14th, 28th
36	32	291-299; 301		14th, 28th
37	33	302-309		14th
38	34	310-317		14th, 15th
39	35	318-326		16th
40	36	327-334	67-75	16th
41	37	335-341	76-85	16th
	38	342-348		
42	39	349-359		16th
43	40	360-366		16th
44	41	367-379		16th
45	42	380-391		17th
46	43	392-400		18th
47	44	401-409		18th
48	45	410-418		18th

Number of article in the Vienna Convention on the Law of Treaties	Number of article in the draft articles on the law of treaties considered by the Conference	Relevant paragraphs in the report of the Committee of the Whole on the first session (A/CONF.39/14)	Relevant paragraphs in the report of the Committee of the Whole on the second session (A/CONF.39/15)	Plenary meeting at which article discussed
49	46	419-428		18th
50	47	429-437		18th
51	48	438-446		18th
52	49	447-459		18th, 19th
53	50	460-470		19th, 20th
54	51	471-477		20th
55	52	478-484		20th
56	53	485-495		20th, 21st
57	54	496-502		21st
58	55	503-511	86-94	21st
59	56	512-519		21st
60	57	520-528		21st, 30th
61	58	529-537		22nd
62	59	538-546		22nd
63	60	547-557		22nd
64	61	559-567		22nd, 23rd
65	62	568-581		25th
66	62bis			
	[Proposed new article]	582-584	95-105	{ 24th, 25th, 26th, 27th, 28th, 34th, 35th }
	62ter			
	[Proposed new article]		106-112	
	62quater			
	[Proposed new article]		113-120	25th, 26th, 27th, 28th
67	63	585-592		28th
68	64	593-598		28th
69	65	599-610		23rd
70	66	611-617	121-128	23rd
71	67	618-625		23rd
72	68	626-633		23rd
73	69	634-641		23rd
74	69bis	547-558; 642		23rd
75	70	643-651		23rd
76	71	652-663; 665; 666		24th
77	72	652-662; 664; 667		24th
78	73	668-673		24th
79	74	674-681		24th
80	75	682-689		24th
	76			
	[Proposed new article]	690-692	129-135	29th
	77			
	[Proposed new article]*			
81	A**		143-149	34th
82	B**		143-149	34th
83	C**		143-149	34th
	CS*			34th
	[Proposed new article]			34th
84	D**		143-149	34th
85	E**		143-149	34th

* See article 4 of the Convention.

** One of the proposed general provisions regarding final clauses.

Survey of International Arbitrations

1794-1989

editor

A.M. STUYT

third updated edition



MARTINUS NIJHOFF PUBLISHERS

DORDRECHT / BOSTON / LONDON

T.M.C. Asser Instituut - Institute for Private and Public International Law, International Commercial Arbitration and European Law
20-22 Alexanderstraat, 2514 JM The Hague, the Netherlands - tel. (0)70-420300 - telex: 34273 assen nl, telefax: (0)70-420359

Director: C.C.A. Voskuil

Senior Staff: M. Sumampouw (Private International Law), Ko Swan Sik (Public International Law), J.J.M. Tromm and A.E. Kellermanns (Law of the European Communities), J.A. Swartzburg-Freedberg (International Commercial Arbitration), G.J. de Roode, Institute Manager (General Affairs), J.A. Wade (Legal Translations), M.H. Bastiaans (Publications), J.S. de Jongh (Library and Information).

The T.M.C. Asser Instituut was founded in 1965 by the Dutch universities offering courses in international law to promote education and research in the fields of law covered by the departments of the Institute: Private International Law, Public International Law, including the Law of International Organisations, Law of the European Communities and International Commercial Arbitration. The Institute discharges this task by the establishment and management of documentation and research projects, in some instances in co-operation with non-Dutch or international organisations, by the dissemination of information deriving therefrom and by publication of monographs and series. In addition, the Institute participates in the editing of the Yearbook Commercial Arbitration and in the editing and publishing of, *inter alia*, the Netherlands International Law Review and the Netherlands Yearbook of International Law.

Library of Congress Cataloging-in-Publication Data

Stuyt, A. M. (Alexander Marie).
Survey of international arbitrations, 1794-1989 / editor, A.M. Stuyt. - 3rd, updated ed.
p. cm.
At head of title: T.M.C. Asser Instituut, The Hague.
Rev. ed. of the author's Survey of international arbitrations, 1794-1970.
Includes bibliographical references.
ISBN 0-7923-0522-1 (U.S.).
I. Arbitration, International-Digests. I. Stuyt, A. M. (Alexander Marie). Survey of international arbitrations, 1794-1970. II. T.M.C. Asser Instituut. III. Title.
JX1937.S83 1990
341.572-dc20

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES

15 JAN 1991

17, RUSSELL SQUARE
LONDON, WC1B 5DR

89-29978
CIP

ISBN 0-7923-0522-1

204223

First edition 1939. Second updated edition 1972.

Published by Martinus Nijhoff Publishers, P.O. Box 163, 3300 AD Dordrecht, The Netherlands. Kluwer Academic Publishers incorporates the publishing programmes of Martinus Nijhoff Publishers.

Distributors

for the United States and Canada: Kluwer Academic Publishers, 101 Philip Drive, Norwell, MA 02061, USA
for all other countries: Kluwer Academic Publishers Group, P.O. Box 322, 3300 AH Dordrecht, The Netherlands

Copyright

© 1990 T.M.C. Asser Instituut, The Hague, The Netherlands

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior written permission from the copyright owners.

CONTENTS

Introduction	vii
Scheme	xvii
Abbreviations	xix
 SURVEY OF INTERNATIONAL ARBITRATIONS BETWEEN STATES 1794-1989	 1
 APPENDIX I: "ad hoc" settlement	 471
A 1. Arbitrations between States and foreign entities	471
A 2. Arbitrations between International Governmental Organisations and other persons	562
B. Conciliation	567
C. Inquiry	585
D. Mediation	590
 APPENDIX II: Permanent Tribunals	 593
E. Permanent Court of International Justice/International Court of Justice	593
F. Administrative Tribunals	597
G. Regional Tribunals	614
H. Military Tribunals	623
 INDICES	 625
Index 1: Parties (arbitrations)	627
Index 2: Analytical Index (arbitrations)	639
Index 3: on both Appendices	653

I. "AD HOC" SETTLEMENT

- A 1. Arbitrations between States and other entities
- A 2. Arbitrations between Intergovernmental Organisations and other persons
- B. Conciliation
- C. Inquiry
- D. Mediation

II. "PERMANENT" TRIBUNALS

- E. Permanent Court of International Justice/International Court of Justice
- F. Administrative Tribunals
- G. Regional Tribunals
- H. Military Tribunals

1. EGYPT - SUEZ CANAL COMPANY.

2. Concession claims.

"S.A. Ismail Pacha, Vice-roi d'Egypte ... et M. Ferdinand de Lesseps ... déclarent constituer S.M. l'Empereur Napoléon III arbitre." Article 1.

"S.M. sera suppliée de prononcer sur les questions ainsi formulées:

1°. La suppression de la corvée étant acceptée en principe, quelle est la nature et la valeur du Règlement du 20 juillet 1856 sur l'emploi des ouvriers indigènes?

2°. Quelle serait l'indemnité à laquelle l'annulation de ce Règlement peut donner lieu? Le fondé de pouvoir du Vice-Roi se déclarant autorisé à permettre que la clause stipulée en l'art. 2 du deuxième acte de concession et cahier des charges du 5 janvier 1856 sera rapportée.

3°. La portion du canal d'eau douce non rétrocédée au Vice-Roi par la convention du 18 mars 1863 doit-elle continuer d'appartenir à la Compagnie pendant la durée déterminée par l'acte de concession comme une annexe indispensable du canal maritime? Dans le cas contraire, quelles sont les conditions auxquelles la rétrocession pourrait en être opérée et que les parties s'engagent dès à présent à accepter?

4°. Les cartes et plans qui, aux termes de l'art. 8 de l'acte de concession du 30 novembre 1854 et l'art. 11 de celui du 5 janvier 1856, devaient être dressés ne l'ayant pas été, quelle est l'étendue des terrains nécessaires à la construction et à l'exploitation du canal maritime (et du canal d'eau douce s'il est conservé à la Compagnie) dans les conditions propres à assurer la prospérité de l'entreprise?

5°. Quelle est l'indemnité due à la Compagnie à raison de la rétrocession, acceptée en principe, des terrains dont il est fait mention dans les articles 7 et 8 de l'acte de concession de 1854 et dans les articles 10, 11 et 12 de celui de 1856?" Article 2.

3. Napoléon III, Empereur des Français.

4. Convention, Paris.

a. April 21, 1864.

b.

c. Lapradelle-P. 2-359; State Papers 55-1005.

5. Award.

a. July 6, 1864.

b. Suez Canal Company.

c. The Sultan of Turkey asked the arbitrator (May 1865), if a mixed commission might determine and limit the lands. The arbitrator allowed it. A Convention was signed, January 30, 1866, regulating the usage of the lands reserved to the Company. The Commission (Lebasteur (France); Server Effendi (Turkey); Aly bey Moubarek (Egypt); Mallet (Suez Canal Company)), made a Report, February 19, 1866, and allowed 10,214 ha. to the Company (the arbitrator had allowed 10,264 ha).

See also Convention Cairo, February 22, 1866 (Lapradelle-P. 2-374/5).

d. Archives Dipl. 1865-2-400; de Clercq 9-108; La Fontaine 123; Lapradelle-P. 2-362; de Martens NRG 1-18-243; J. Charles-Roux: L'Isthme et le canal de Suez, Paris 1901, 1-476; State Papers 55-1004; Testa: Recueil des traités de la Porte Ottomane avec les puissances étrangères, p. 111.

e. Blue Book, Egypt, No. 6(1876): Concessions, conventions, statutes and resolutions of the Suez canal Company with the Sultan's Firman; Lapradelle-P. 2-344/86; F. de Lesseps: Lettres, Journal et Documents pour servir à l'histoire du canal de Suez, Paris 1875/81, (5 vol.); Moore 5-4862; Rep. 1042, 1281, 1367/8.

1. PERU - Peruvian Corporation Ltd. (G.B.).

2. Interpretation and effects of contract.

"Entre el Ministro de Hacienda del Perú, don Augusto B. Leguía, en representación del Supremo Gobierno, y el Representante de la Peruvian Corporation Limited, don Guillermo S. Eyre, prociendo á efectuar lo convenido en la cláusula I del contrato de esta fecha, relativo á un arreglo general entre los mismos interesados, han acordado lo siguiente:

1. La materia de litigio que conforme á dicha cláusula convienen en someter á arbitraje, es la interpretación y efectos de la segunda parte de la cláusula XXI del contrato entre el Supremo Gobierno y los Tenedores de bonos de la deuda externa, aprobado por el Congreso peruano el 25 de Octubre de 1889 y que comenzó á regir el 11 de Enero de 1890, que dice: 'El Gobierno del Perú debe igualmente á los Tenedores de bonos el sobrante que quede del cincuenta por ciento del guano de las islas de Lobos, que le corresponde según el tratado de Ancón, después que sea cubierto con los productos de dicho cincuenta por ciento lo que el Perú adeuda á Chile, por obligaciones contraídas y adelantos recibidos por la administración Iglesias, y cuya suma, sujeta á liquidación, no excederá de dos millones de soles.'

2. Ambos interesados eligen y convienen en nombrar como árbitro al presidente de la corte de casacion de Francia, para que resuelva el desacuerdo con el carácter de "árbitro juris", aplicando al efecto los principios de derecho sobre interpretación, en vista del memorial que cada uno de los dos interesados le presentará, explicando y precisando la interpretación que hace de la mencionada segunda parte de la cláusula cuyo texto se ha copiado y de las pruebas que cada una de las partes hubiere presentado, teniendo en cuenta que, en ningún caso, la suma objeto del litigio puede pasar de los dos millones de soles fijados en la referida cláusula."

3. President of the French Court of Cassation.

4. Convention, Lima.

a. June 20, 1907.

b. (See sub 2.)

c. Boletín del Ministerio de Relaciones Exteriores (Peru), 19-1477.

5. Award.

a. July 24, 1909.

b.

c.

d. Boletín . . . 50-144.

e. Boletín . . . 19-1461; idem: 30 wholly.

1. ALLIED and ASSOCIATED POWERS - CENTRAL POWERS (WW I).

2. Claims of States and their nationals originating from pre-war relations, for damages arising out of war measures, and against the 'new States' for their post-war measures (expropriation).

3. Mixed Arbitral Tribunals.

4. Treaties of Peace with:

- a. - Germany, Versailles June 28, 1919;
- Austria, St Germain September 10, 1919;
- Hungary, Trianon June 4, 1920;
- Bulgaria, Neuilly November 27, 1919;
- Turkey, Lausanne July 24, 1923.

b.

c. De Martens NRG:

- 3-11-323 (art. 304/5);
- 3-11-691 (art. 256 and 267);
- 3-12-423 (art. 239, 250, 252);
- 3-12-323 (art. 188/9, 198/9);
- 3-13-342 (art. 92).

5. Decisions of Tribunals in cases between Belgium, Czechoslovakia, France, Greece, Italy, Japan, Poland, Romania, Siam, the United Kingdom, and Yugoslavia, and their nationals, on the one side, and the five Central Powers, on the other side.

a. 1921-1929.

b.

c.

d. Recueil des décisions des Tribunaux arbitraux mixtes, Paris 1921-1931 (10 vol.); A. Geouffre de La Pradelle: Recueil de la jurisprudence des Tribunaux arbitraux mixtes créés par les Traités de Paix, Paris 1927 (9 vol.); ILR from 1919/22 passim.

e. Bulletin III VII (1922)-215/41 (J.P. Niboyet); Niem. Zeit. 1921-253; JDI 1922-298; AJIL 1923-661 and 1927-472; R. dr. pub. et sc. pol. 1927-44; Jahrbuch öR 1930-378; RC 41(1932)-137; BYIL 1949-358; J. Teyssaire and P. de Solère: Les Tribunaux arbitraux mixtes, Paris 1931; ENC 1-142 and 2-18, 132 and 177.

For the final settlement of the work of the Tribunals, see the Hague Convention of January 20, 1930 (LNTS 104-243); Rep. vol. II and III passim.

1. INTERNATIONAL CHAMBER OF COMMERCE.
2. Commercial disputes between States and foreign persons.
3.
 1. Court of Arbitration;
 2. Arbitral Tribunal 'ad hoc', appointed within the framework of the ICC.
4. I. International Conference, Atlantic City, between delegates from Belgium, France, Italy, the United Kingdom and the USA, 1919.
 - a.
 - b.
 - c.
- II. Constituting Congress, Paris, 1920.
 - a.
 - b.
 - c.
- III. ICC Rules of Conciliation and Arbitration, January 1, 1988. ILM 1989 - 231; ICC Publication No. 447.
5. Interim awards; single awards, amicable settlements.
 - a.
 - b.
 - c.
 - d. JDI; ILR; ILM; YCA.
 - e. Biennial Reports (until 1975), Annual Reports (since 1975); other publications by the ICC, Paris: Laurence Craig, William W. Park, and Jan Paulsson: International Chamber of Commerce Arbitration, 1988; JDI 1988-663; ENC 9-175. See Nos. A 1.74, 80, 84, 85, 87 and 89.

1. GREAT BRITAIN - SOCIÉTÉ DU CHEMIN DE FER OTTOMAN DE JAFFA A JERUSALEM ET PROLONGEMENTS (FRANCE).
2. Concessions.

"Nevertheless, any such Power, if it considers that the maintenance of any of these concessions (in territories detached from Turkey, granted before October 29, 1914, by the Turkish Government or by any Turkish authority) would be contrary to the public interest, shall be entitled, within a period of six months from the date on which the territory is placed under its authority or tutelage, to buy out such concession or to propose modifications therein; in that event it shall be bound to pay to the concessionaire equitable compensation in accordance with the following provisions. If the parties cannot agree on the amount of such compensation, it will be determined by Arbitral Tribunals . . . The Tribunal shall take into account, from both the legal and equitable standpoints, all relevant matters, on the basis of the maintenance of the contract adapted . . ."

Article 311, Treaty Sèvres.

" . . . To determine the equitable compensation which should be paid by the British Government to the 'Société du Chemin de Fer Ottoman de Jaffa à Jérusalem et Prolongements', under the terms of Article 311 of the Treaty of Peace with Turkey, signed at Sèvres on the 10th August, 1920, the British Government having, on the 22nd September 1920, given notice of their intention to buy out the concession belonging to the above Company."

Award.
3. Arbitral Tribunal: H.O. Mance (Gr.Br.); F. Meyer (Fr.); F.V.N. Beichmann.
4. I. Treaty of Peace, Sèvres.
 - a. August 10, 1920.
 - b. (Article 311.)
 - c. See No. 334.
- II. Agreement.
 - a.
 - b.
 - c.
5. Award.
 - a. October 4, 1922 (Preliminary decision: May 29, 1922).
 - b. Société.
 - c. £565,000 awarded.
 - d. Printed texts, Peace Palace Library, and Harvard Law Library.
 - e. BYIL 1964, 222.