it any meaningful effect. Thus, the big powers have been having it both ways, and still continue to claim the benefits of both worlds.

It is gratifying to see that the principles of "*rebus sic stantibus*" are clearly stated in Article 59 (1) of the draft. In the light of past experience, paragraph 2(a) has been appropriately added for the protection of Asian and African countries. Sub-paragraph (b) may also be said to serve a similar purpose. "*Rebus sic stantibus*" as stated in the draft provides an adequate protection for smaller and weaker nations but this rule is by no means the only qualification of "*pacta sunt servanda*". Similar grounds for suspending the operation of a treaty can be found in Article 58 on *supervening impossibility of performance.*

Far more sweeping and fundamental limitations on the doctrine "*pacta sunt servanda*" are to be found in the restatement of a proposition of international law as contained in Article 50 and Article 61 of the draft. Both provisions touch upon the essential validity of treaties which conflict with a *peremptory norm of general international law* or the *jus cogens.* Under Article 50, "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". Article 61 deals with the emergence of a new peremptory norm of general international law in conflict with which an existing treaty becomes void and terminates. In neither case has there been a fundamental change of circumstances as described in Article 59 on *rebus sic stantibus.*

Many comments have been received which centre upon the existence and cogency of the *jus cogens* or the peremptory norm of general international law from which no derogation is permitted. Questions have been asked as to the nature and scope of such norms and the methods of ascertaining their

contents, or the machinery by which to determine their scope and application. There appears to be no insuperable difficulty in establishing the existence of the *jus cogens*, as indeed the Special Rapporteur and the majority of the enlightened Members of the International Law Commission so considered. Perhaps, an analogy can be made here by comparison with the private law of contract, bearing in mind the fact that the application of the *jus cogens* concerns primarily the essential validity of a *traite-contract* as distinguishable from a law-making treaty. The validity of a given treaty necessarily depends on the consent of the parties which must have been freely given and without any misunderstanding, error, or fraud, or intimidation or coercion of the representative, or indeed corruption or an ultra vires act on the part of the representative as contained in Draft Articles 43 to 48. Contravening any of the above provisions, a treaty may be invalidated. However, in international relations as well as in human relations, there can be no unlimited freedom of contract. Within an organised society, there are laws which regulate the peace and order of the society. In an international community of States, there are likewise rules of international law governing the conduct of their relations. Thus, in a domestic legal system a contract to commit a crime is invalid because it is illegal. Illegality vitiates the contract. Similarly, an international agreement planning or initiating a war of aggression must of necessity be invalid on grounds of illegality. There are countless such peremptory norms of general international law, which in normal circumstances would not be found in the Draft Articles on the law of treaties, just as the law of contract does not contain all the provisions of criminal law or other branches of the law. In the light of the preceding observation concerning the treatment to be accorded to "unequal treaties", it would not be necessary to give further enumeration of illustrations of the *jus cogens.* In fact, the Commentary on Article 50 already furnishes several interesting examples. It cannot be disputed that a treaty purporting to establish a colonial regime

would be considered as null and void under Article 50, while a similar treaty concluded prior to the existence of the United Nations would become invalid after the United Nations adopted the resolution on the granting of independence, subject of course to the adjustments being made by the Organizations or its Agencies.

There seems to be no inconvenience in the fact that the rules of the *jus cogens* are not precisely defined or clearly fixed in advance in every imaginable case for every possible situation. Like any other rules of international law in the age of its progressive development, there can be no static and inflexible rule. To oppose dynamism is to discourage orderly and progressive development. With regard to the question as to the existence of a concrete body or machinery by which to determine the scope and content of the *jus cogens*, it should be made plain that at this transitional stage of international law no such body truly exists for the compulsory determination of any question or of any rule of international law whatever. But does that mean that there is no law? Certainly not. The smaller and weaker nations would suffer, as indeed they have suffered, in the absence of the law. The big powers have scarcely suffered in the period of relative lawlessness. However, they should not be allowed to continue taking advantage of the application of a bad law once it has become extinct, or to revive it on the alleged ground that it was good for the smaller and weaker nations. This is a crucial point that must be clearly understood and squarely faced by members of the Asian-African Legal Consultative Committee.

The present commentator also expresses his concurrence in principle with the provisions of draft Article 49 concerning invalidity of a treaty owing to coercion of a State by the threat or use of force. This is necessary for further protection of the weak and undefended. It is also absolutely correct not to include the operation of Article 49 under Article 42 concerning

the loss of a right to invoke a ground for invalidating, terminating, withdrawing from, or suspending the operation of a treaty. The illegal use of force could not be subsequently rewarded by validation of an otherwise invalid treaty on the ground of acquiescence or subsequent conduct of the parties. Article 49 in most practical cases can be said to provide another illustration of application of the *jus cogens*.

Other provisions of the Draft Articles have been comparatively less controversial in the sense that they have drawn negligible comments from Governments. For instance, the conclusion, entry into force, publication and registration, or even interpretation have given rise to relatively little debate. Only a line of distinction is not always clearly drawn between circumstances of the conclusion of a treaty as a supplementary means of interpretation under Article 28, and the possibility of modification of treaties by subsequent practice under Article 38.

A strict interpretation and general application of the "privity of treaties" as contained in Article 30 should be followed. Articles 31 to 34 adequately state its qualifications. In no circumstances should State succession amount to an exception to Article 30.

October 20, 1967. Sompong Sucharitkul

(VI) SUMMARY OF THE PROCEEDINGS OF THE MEETINGS OF THE NINTH SESSION OF THE COMMITTEE RELATING TO LAW OF TREATIES

INTRODUCTORY

The Asian-African Legal Consultative Committee considered the Draft Articles drawn up by the International Law Commission on the Law of Treaties during its 3rd to the 11th meetings of its Ninth Session.

The Committee examined the various Articles drawn up by the Commission. In addition, it considered the question of advisability of inclusion, in the draft articles, of a provision concerning participation in general multilateral treaties. The Committee further discussed questions relating to State Succession, the implications of the most-favoured-nation clause, the advisability of applying the draft articles to oral agreements and the agreements between the States and the International Organisations and the advisability of providing for some body or authority like the International Court of Justice to secure the smooth application of the draft articles. The Committee constituted three Sub-Committees : the Ist Sub-Committee to prepare written comments on draft articles 1 to 22 and the question of participation in multilateral conventions; the IInd Sub-Committee to prepare written comments on draft articles 23 to 38; and the IIIrd Sub-Committee to prepare written comments on draft articles 39 to 75, for final consideration by the Committee, in the light of discussion on the articles in the plenary meetings of the Committee.

At its 4th meeting, held on the 21st December, 1967, the Committee discussed draft articles 1 to 22, and after preliminary observations of the Delegations, there was a further

discussion on the points raised by various Delegates, in connection with the said articles.

At its 5th meeting, held on the 22nd December, 1967, the Committee discussed draft articles 23 to 38.

Draft Articles 39 to 75 were discussed by the Committee at its 6th and 7th meetings, held on the 23rd and the 26th December, 1967, respectively.

At its 8th meeting, held on the 27th December, 1967, the Committee considered draft articles 1 to 22 and the question of participation in multilateral conventions in the light of the Ist Sub-Committee's report.

The IInd Sub-Committee's report on draft articles 23 to 38 was considered by the Committee at its 9th meeting, held on the 28th December, 1967.

The IIIrd Sub-Committee's report on draft articles 39 to 75 was considered by the Committee at its 9th and 10th meetings both held on the 28th December, 1967.

At its 11th meeting, held on the 29th December, 1967, the Committee adopted its Interim Report on the Draft Articles, setting out the points, which, in its view, require consideration of the Conference of Plenipotentiaries.

Extracts from the minutes of the meetings are set out below :

General Comments on the Draft Articles :

1. *On the question of advisability of inclusion, in the Draft Articles, of a provision concerning participation in general multilateral treaties* :

"The Representative of the International Law Commission, on being invited to state his views, said that, in his opinion, the following questions were the most important ...

(2) Question of participation in general multilateral treaties ....."[1]

"The Delegate of Ceylon.....regretted the exclusion of a provision regarding participation in multilateral treaties from the final draft prepared by the Commission. He felt that having regard to the character of general multilateral treaties, they should in principle be open to participation by all members of the international community. He said that the possibility of becoming parties to multilateral treaties is particularly important to new nations and it is inconceivable that they would henceforth accept any development in the International Law field that might still appear to reserve the sources of law-making to a group of States."[2]

"The Delegate of India supported the proposal of the Delegate of Ceylon that provision should be made with regard to participation in multilateral conventions and that such participation should be open to all States....."[3]

"The Delegate of Iraq.....also favoured universal participation in multilateral treaties."[4]

(The Delegate of Japan) "reiterated the position of his Delegation in the matter of participation in multilateral treaties....."[5]

(Note : The Sub-Committee on articles 1 to 22, appointed by the Committee, stated in its report :

1. Minutes of the 3rd Meeting held on 20th December, 1967, p. 4. para 7.
2. Minutes of the 4th meeting held on 21st December, 1967, pp. 1 and 2, para 3.
3. Ibid., p. 2, para 6.
4. Ibid., p. 3, para 7.
5. Ibid., p. 3, para 8.

Participation in general multilateral treaties

"The majority of the members of the Sub-Committee (Ceylon, India and UAR) considers that the right of every State to participate in general multilateral treaties is of vital importance to the progressive development of international law. General multilateral treaties concern the international community as a whole. If international law is to be in keeping with the real interest of the international community and if universal acceptance of the progressive development of this legal order is desirable, then the participation of every legal member of the community in the process and procedure of law-making is essential.

The minority (Japan) holds that in view of the principle of freedom of contract and the existing practice of the international conferences held under the auspices of the United Nations and the possible complications that it may imply, it would be better that the draft articles be silent on this point."

"The Committee then considered the recommendations of the Sub-Committee with regard to participation in general multilateral treaties. All the Delegations, with the exception of Japan, accepted the recommendations of the Sub-Committee and were of the view that the Articles on the Law of Treaties should contain a provision regarding participation in general multilateral treaties by States."[6]

(Note : The Committee, in its comments on the I.L.C's draft articles, annexed to its Interim Report, stated :

"The majority in the Committee considers that the right of every State to participate in general multilateral treaties is of vital importance to the progressive development of international law. General multilateral treaties concern the inter-

6. Minutes of the 8th Meeting, held on 27th December, 1967, p. 7, para 15.

national community as a whole. If the international law is to be in keeping with the real interest of the international community and if universal acceptance of the progressive development of this legal order is desirable, then the participation of every member of the community is essential. The majority in the Committee, therefore, considers that the Articles on the Law of Treaties should contain a provision regarding participation in general multilateral treaties.

"One Delegate, however, holds that in view of the principle of freedom of contract and the existing practice of the international conferences held under the auspices of the United Nations and the possible complications that it may imply, it would be better that the draft articles be silent on this point.")

2. *On the question of the necessity to exclude the subject of State Succession from the purview of the draft articles* :

(The Delegate of Ghana) "felt that it was not necessary to go into the question of State Succession in view of the explanation offered by the representative of the International Law Commission that that question was being separately considered by the Commission....."[7]

".....The Delegate of India expressed the view that questions relating to.....Succession to Treaties should not form part of the Convention....."[8]

3. *On the question of the necessity to exclude the implications of the most-favoured-nation clause from the purview of the draft articles* :

(The Delegate of Ghana) "expressed the view that the implications of most-favoured-nation clause was not

7. Minutes of the 3rd Meeting, held on 20th December, 1967, p. 3, para 6.

8. Ibid., p. 3, para 6.

neccessary to be considered in connection with the Law of Treaties....."[9]

"The Delegate of Ceylon.....did not consider the inclusion of a provision in respect of most-favoured-nation clause to be necessary in the present articles ....."[10]

4. *On the question of advisability of applying the draft articles to the oral agreements* :

"The Delegate of Ceylon addressed the house on the question whether the draft articles should apply to oral agreements as well. He felt that the articles should be restricted to agreements which are in writing . . . . . ."[11]

"The Delegate of Iraq.....felt that.....oral agreements should be excluded from the scope of these articles....."[12]

"The Delegate of Pakistan said that he agreed with the views of the Delegate of Ceylon that treaties should be in writing, as that would ensure against any element of uncertainty and this would apply to amendments to treaties also. In this connection he invited the attention of the Committee to articles 35, 36 and 38 which, in his view, were objectionable as the provisions of these articles would appear to permit modification of treaties orally....."[13]

9. Op. cit., p. 3, para 6.

10. Minutes of the 5th Meeting, held on the 22nd December, 1967, p. 2, para 3.

11. Minutes of the 4th Meeting, held on 21st December, 1967, pp. 1 and 2, para 3.

12. Ibid., p. 3, para 7.

13. Ibid., p. 4, para 9.

5. *On the question of advisability of applying the draft articles to the agreements between States and International Organisations* :

".....The Delegate of India.....expressed the view that questions relating to agreements with International Organisations.....should not form part of the convention....." [14]

"The Delegate of Ceylon.....considered that the agreements between Governments and International Organisations should be kept outside the scope of these draft articles as there are numerous special characteristics of treaties concluded by Governments with International Organisations and their inclusion in the draft articles would complicate matters....." [15]

"The Delegate of Iraq.....felt that the agreements between States and International Organisations.....should be excluded from the scope of these articles....." [16]

6. *On the question of the advisability of providing for some body or authority to secure the smooth application of the draft articles* :

"The Delegate of Japan.....reiterated the need for some body or authority like the International Court of Justice to secure smooth application of the draft articles." [17]

".....In the course of his general remarks on the difficulty of implementation of certain articles, and in

14. Minutes of the 3rd Meeting, held on 20th December, 1967, pp. 3 and 4, para 6.

15. Minutes of the 4th Meeting, held on 21st December, 1967, pp. 1 and 2, para 3.

16. Ibid., p. 3, para 7.

17. Minutes of the 6th Meeting, held on 23rd December, 1967, p. 6, para 8.

particular, the absence of a judicial organ of a general compulsory jurisdiction, (Dr. M. K. Yasseen of the I.L.C.) pointed out that international legal order was an under-developed legal order and stressed the need that the development of its norms should not depend on a corresponding development of its institutions."[18]

(Note : The Sub-Committee on draft articles 39 to 75, appointed by the Committee, stated in its report :

"The Japanese member of the Sub-Committee stated that not a few provisions of the draft articles contain, as is admitted in the commentary by the I.L.C., certain concepts which may cause disputes in their application. In his view, it is desirable therefore to designate or establish a body which is invested with standing competence to pass objective and purely legal judgments upon such disputes when they have not been solved through diplomatic negotiations or some other peaceful means.")

Article 2

"The Delegate of Ghana felt that the distinction made between a "contracting State" and "a party" in clauses (f) and (g) of article 2.1 should be removed as that might lead to confusion....." [19]

Article 4

(The Delegate of Pakistan) "felt that article 4 needed some amendment....." [20]

18. Op. cit., p. 8, para 11.

19. Minutes of the 4th Meeting, held on 21st December, 1967, p. 2, para 4.

20. Ibid., p. 4, para 9.

Article 5

".....With regard to article 5, the delegate (of Japan) felt that in this article some provision should be made to enable a State in formation to enter into treaties....."[21]

"The delegate of the United Arab Republic.....stated that article 5 could well be deleted as paragraph 1 of the article was already covered by article 1 of the draft and he had some doubt about the propriety or the need for a provision like paragraph 2 of Article 5....." [22]

".....The delegate of Ceylon expressed himself in favour of retention of articles 5 and 7....."[23]

".....The delegate of India favoured the retention of articles 5 and 6(1)(b)....." [24]

".....The delegate of Pakistan favoured the retention of articles 5 and 7....." [25]

".....The delegate of UAR opposed the retention of clause 2 of article 5....." [26]

".....Dr. Yasseen (ILC) stated that article 5 constituted a progressive approach. He favoured retention of paragraph 2 of that article since he regarded the federal form to be the most important and widespread form of association of States....." [27]

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21. Ibid., p. 3, para 8.
22. Ibid., p. 4, para 10.
23. Ibid., p. 4, para 11.
24. Ibid., p. 5, para 11.
25. Ibid., p. 6, para 11.
26. Ibid., p. 6, para 11.
27. Ibid., p. 6, para 11.

(Note : The Sub-Committee on draft articles 1 to 22, appointed by the Committee, stated in its report :

"The Sub-Committee is of the opinion that Article 5 should be retained. Prof. Sultan (UAR) has suggested the replacement of para 2 by the following draft :

> "In case of union between States, the capacity of member States to conclude treaties will be subject to the respective constitutional provisions and limitations of the Union."

The proposed amended text is intended to cover all kinds of union of States. The other members of the Sub-Committee consider that this proposal merits the serious consideration of the Committee.")

"With regard to Article 5, the Delegate of Ceylon was in agreement with the principle contained in the draft article but stated that the wording may require some change. The Delegate of Ghana agreed with redraft of paragraph 2 of this article, as given in the Sub-Committee's Report. The Delegate of Indonesia stated that there was no substantial difference between the draft articles prepared by the International Law Commission and the redraft suggested by the Sub-Committee. He, therefore, preferred the retention of the draft article as in the International Law Commission's draft. The Delegate of India stated that paragraph 1 of Article 5 of the International Law Commission's draft should be retained but that paragraph 2 of that article needed to be redrafted. He felt that the redraft of that paragraph given in the Sub-Committee's Report did not deal with the units of a Federation which, in his opinion, should be covered. The Delegate of Iraq stated that he had no objection to the amendment proposed by the Sub-Committee. The Delegate of Japan stated that he accepted article 5 with the redraft as appearing in the Sub-Committee's Report. The Delegate of Pakistan agreed with the views

of the Delegate of India. The Delegate of the UAR stated that he had no strong views about any particular phraseology as long as the principle he had in mind was taken care of." [28]

(Note : The Committee, in its comments, annexed to its Interim Report on the Law of Treaties, stated :

"The Committee is of the opinion that paragraph 2 of this article requires reformulation to include within its scope not only the units of a federation but all kinds of unions of States. It, therefore, suggests that paragraph 2 should incorporate the following principle :

> "In the case of union between States, the capacity of Member States as well as the capacity of the units of a Federal State to conclude treaties will be subject to the respective constitutional provisions of that union or the Federation.")

Article 6

"The delegate of the United Arab Republic.....had some doubt about article 6 (1) (b), as paragraph 2 of that article makes a detailed provision about who is to be considered as an agent or an organ of the State....." [29]

".....The delegate of India favoured the retention of articles 5 and 6 (1) (b)....." [30]

(Note : The Sub-Committee on draft articles 1 to 22, appointed by the Committee, stated in its report :

"The Sub-Committee is of the opinion that the present text of Article 6 (1) (b) may be retained on the understanding

28. Minutes of the 8th Meeting held on 27th December 1967, p. 4, para 9.

29. Minutes of the 4th Meeting, held on 21st December 1967, p. 4, para 10.

30. Ibid., p 5, para 11.

that it is designed to solve certain practical difficulties which may arise under certain circumstances.")

Article 7

".....With regard to article 7, the delegate (of Ghana) considered it to be a dangerous provision, as it might mean that an act can be done by a refugee from his own country in the hope that, at a later stage, it would be confirmed if he is successful in overthrowing his own government. He, therefore, suggested that article 7 be deleted from the draft articles." [31]

"With regard to the proposal of the delegate of Ghana for deletion of article 7, the delegate for India felt that that article may serve a purpose, as there are occasions when agreements have to be concluded in a hurry and it often happens that the full powers may not be immediately available or there may be some technical defect in the full powers."[32]

".....With regard to article 7, (the delegate of Japan) insisted that this may be deleted as there was likelihood of misuse or even abuse....." [33]

".....With regard to article 7, (Pakistan) delegate's view was that it should be retained as it incorporates the rule of general law on agency."[34]

"The delegate of the United Arab Republic..... concurred in the proposal of the delegate of Ghana that article 7 ought to be deleted as he also regarded it to be a dangerous provision....." [35]

31. Ibid., p. 2, para 4.

32. Ibid., p. 3, para 6.

33. Ibid., p. 3, para 6.

34. Ibid., p. 4, para 9.

35. Ibid., p. 4, para 10

".....The delegate of Ceylon expressed himself in favour of retention of articles 5 and 7. He observed that article 7 dealt with the case of an exception to article 6 (1) and it was, therefore, necessary for the sake of clarity to expressly provide for the exception....." [36]

".....The delegate of Ghana, whilst adhering to his views that article 7 ought to be deleted, suggested that some compromise could be arrived at between the different views by providing for a time limit, within which the confirmation of an act performed without authority should be done....."[37]

".....The delegate of India.....explained in great detail the reasons for retention of a provision like article 7 and suggested the addition of the phrase "within a reasonable time" at the end of Article 7, to provide against any possible misuse of the provisions of the article. However, if there were any special reasons against its retention, he would not have any strong objection....." [38]

".....The delegate of Japan, whilst adhering to his view that article 7 should be deleted, was prepared to drop the point, provided some drafting changes were made to prevent as far as possible the chances of misuse or abuse in order to safeguard the position of the other party....." [39]

"The delegate of Pakistan favoured the retention of articles 5 and 7. He said that the consequences of non-compliance with article 6 are given in article 7, and unless the latter article was there, there would be uncertainty. He felt that a provision like article 7 was in the interest of the State....." [40]

36. Ibid., pp. 4 and 5, para 11.
37. Ibid., p. 5, para 11.
38. Ibid., p. 5, para 11.
39. Ibid., p. 6, para 11.
40. Ibid., p. 6, para 11.

".....The delegate of UAR.....opposed the retention of article 7, as in his view paragraph 1 (b) of article 7 took care of the exceptional cases....." [41]

".....Dr. Yasseen (ILC).....was of the view that article 7 was a very useful provision and it was certainly harmless....." [42]

(Note : The Sub-Committee on draft articles 1 to 22 appointed by the Committee, stated in its report :

"As to article 7, the Sub-Committee is of the opinion that there is no objection to the present text, provided that it is amended in such a way as to include a provision to the effect that confirmation should be made within a reasonable time. This is suggested with a view to reducing the possibility of abuse.")

"The Committee then proceeded to consider Article 6 (1) (b) read with Article 7 in the light of the Report of the Sub-Committee. The Delegate of Ceylon stated that he did not wish to limit the application of Article 6 (1) (b) only to cases indicated in the Sub-Committee's Report. He was, however, in agreement with the Sub-Committee's recommendation as regards Article 7. The Delegate of Ghana accepted the recommendations of the Sub-Committee with regard to these articles. The Delegate of Indonesia preferred the retention of the articles as in the International Law Commission's draft. The Delegate of India accepted the recommendations of the Sub-Committee. The Delegate of Iraq wished the draft articles to remain as they were in the International Law Commission's draft. The Delegate of Japan accepted the recommendations of the Sub-Committee. The Delegate of Pakistan preferred to retain these articles as in the Inter-

41. Ibid., p. 6, para 11.
42. Ibid., p. 6, para 11.

national Law Commission's draft. The Delegate of U.A.R. accepted the recommendations of the Sub-Committee." [43]

(Note : The Committee, in its comments annexed to its Interim Report on the Law of Treaties, stated :

"The majority in the Committee is of the opinion that this article should be amended so as to include a provision to the effect that confirmation of the act performed without authority should be made within a reasonable time. This is suggested with a view to reducing any possibility of abuse. The majority has, however, no objection to retention of the present text of article 7 of the International Law Commission's Draft.")

Articles 10 and 11

".....With regard to articles 10 and 11, (the delegate of India) felt that there were some lacunae, because they do not provide for a case where the treaty does not stipulate that it would come into force upon signature, or that it is subject to ratification. What would be the effect, he asked, in such a contingency, and he felt that some provision should be made to cover this gap. In the absence of a provision, which would adequately take care of such a contingency, the provisions of articles 10 and 11 were likely to lead to unnecessary difficulties....." [44]

".....With regard to articles 10 and 11, (the delegate of Japan) agreed with the view of the delegate of India that there was a lacuna which should be filled....."[45]

43. Minutes of the 8th Meeting, held on 27th December,, 1967, p. 5, para 10.

44. Minutes of the 4th Meeting, held on 21st December, 1967, p. 2, para 6.

45. Ibid., p. 3, para 8.

"The delegate of the United Arab Republic ..... commented on the provisions of article 10 paragraph 2 and suggested its deletion." [46]

(The delegate of Ceylon) "did not favour the suggestion of the delegate of India for provision of a special clause to cover cases not falling within the purview of articles 10 and 11 as, in his view, that would be a very unlikely situation....." [47]

".....With regard to articles 10 and 11, (the delegate of India) made a proposal for the consideration of the House. He suggested the deletion of clause (b) of article 10 (1) and also of the phrase "or was expressed during the negotiation" from clause (c) of that article. He also suggested the linking up of articles 10 and 11 by addition of a clause to read as follows :

"(a) such consent is not expressed by signature alone as provided in article 10".

"The new clause may become Article 11 (1) (a), the existing clause (b) of Article 11 may be deleted and other related clauses renumbered. . . . . " [48]

(The delegate of Japan) "favoured the suggestion of the delegate of India regarding linking up of articles 10 and 11..."[49]

(The delegate of Pakistan) "was of the opinion that articles 10, 11 and 12 should be retained in their present form, as they are intended to deal with three different modes of conveyance of consent. . . . . " [50]

46. Ibid., p. 4, para 10.

47. Ibid., p. 5, para 11.

48. Ibid., p. 5, para 11.

49. Ibid., p. 6, para 11.

50. Ibid., p. 6, para 11.