39. Tunisia welcomed the fact that the draft expressed the principles of the strict equality of States parties to a treaty, independent will, free and complete consent by parties and good faith in the execution of treaties; it had always believed those principles were basic to the law of treaties. It would have preferred to have the draft include provisions on State succession and on the most-favoured-nation clause, the latter of which was of great importance in relations between States and helped to eliminate many instances of discrimination.[17]

UGANDA

2. It noted with regret that the Commission had failed to take a stand, *inter-alia*, on the questions of the most-favoured-nation clause and State succession. Inasmuch as those questions were of great importance to former dependencies, which often found themselves compelled to sign devolution treaties, it hoped that the Commission would give them due consideration during its coming session so that they could be considered by the proposed Conference of plenipotentiaries.[18]

TURKEY

15. Having regard, on the one hand, to article 1 of the draft, where the expression "treaties concluded between States" seemed to include in the concept of the conclusion of a treaty the whole process of bringing it into existence, and, on the other hand, to the respective headings of Part II, sections 1 and 3, which distinguished the "conclusion of treaties" from their "entry into force", it was apparent that there were two interpretations, the one general and the other restricted, of what was meant by the "conclusion of a treaty". It would be better to keep to a single interpretation and use a more neutral formula, with a view to avoiding the difficulties of interpretation to which the present text of article 1 would inevitably give rise.

17. 913th mtg., 1966, paragraphs 38 and 39 of A/C.6/SR.913, p. 78.
18. 910th mtg., 1966, A/C.6/SR.910, p. 49.

16. New conceptions such as were to be found in the more developed systems of municipal law, had been introduced into the draft ; that was a desirable step and it was welcomed by Turkey. However, to ensure the continuity and stability of a given juridical order without preventing its possible development no new element should be introduced unless it was accompanied by its counterpart. In that connexion, he referred to articles 50 and 59 which dealt respectively with treaties conflicting with a peremptory norm of general international law and treaties in respect of which there occurred a fundamental change of circumstances. In both cases, the draft provided, in article 62 paragraph 3 that if objections were raised the parties should seek a solution through the means indicated in article 33 of the Charter, but it did not impose any compulsory juridical procedure. The result was an obvious lack of balance and Turkey found it difficult to accept the solution which the Commission had adopted in the matter.

17. In view of the complexity of the draft articles, it was understandable that the Commission had not extended their scope to all international agreements. Certain questions relating to both the succession of States and the international responsibility of States had also been excluded. Aware, in particular, of the imperative needs of the younger States, Turkey hoped those questions would be settled as soon as possible.[19]

UNITED ARAB REPUBLIC

21. The UAR drew attention to the economy, the underlying philosophy and objectives of the International Law Commission's work on the law of treaties. The Commission had to delimit the scope of the subject and to set aside other

19. 907th mtg., 1966, para 17, A/C.6/SR.907, p. 33.

topics which it could not conveniently deal with in the same context. Preparatory work on some of those questions had been undertaken concurrently with the work on the law of treaties. In 1962, the Commission had reaffirmed its decision to change the scheme of its work on the law of treaties from a mere expository statement to a series of draft articles capable of serving as a basis for a multilateral convention (1962, Vol. II, Yearbook of the ILC, p. 160, para 17). In the matter of State responsibility and the succession of States and State responsibility and the succession of States and Governments, the Commission had approved the conclusions of the sub-committees that it had appointed to carry out preliminary studies on those subjects. [1963, Vol. II, Yearbook of the ILC, p. 224, paras 55 and 61]. In that connection, several members of the Commission had pointed out that in the circumstances arising out of decolonization the problems of State succession were of special importance for the new nations as well as for the international community, and that problems of concern to new States should be given particular attention in the codification of the law on the subject. The sub-committee's recommendations concerning the relationship between the topic of State succession and other topics on the Commission's agenda had been approved and it had been decided that succession in the matter of treaties would be considered in connexion with State succession rather than in the context of the law of treaties.

22. The UAR understood the considerations which had led the Commission to decide against the inclusion in its draft articles of provisions that would have required an exclusive study of questions, such as those of the responsibility of States, State succession or the effects of hostilities. It hoped, nevertheless, as several delegations had already urged, among them those of Ghana and Nigeria, that the Commission would examine the rules governing State succession without delay.

23. The draft articles had been conceived of as a complete set of rules on the law of treaties proper (A/6309). Some had criticised the draft as being too complex and detailed and as containing a number of rules of a descriptive character and a number of abstract principles that would more appropriately be included in an expository code than a draft convention. The UAR took the view that the draft, being so complete, would do much, particularly through its expository articles, to standardize the procedures for, and the various arrangements relating to the conclusion of treaties.

24. In elaborating its draft articles the ILC had sought to orient them towards a universal community of nations whose supreme law would be the UN charter. That decision had been reflected in the Commission's decision explained in paragraph 24 of its report (A/6309) to adopt the formula of a draft convention rather than that of a code. The same reason had governed its decision to abandon the traditional doctrine of unanimity in regard to reservations to treaties ; the rapid expansion of the international community made it likely that the principle of unanimity would lose its relevance and utility.

25. The underlying thought, as well as the purpose, of the draft articles was to adapt the traditional rules of international law to the UN charter and to the fundamental principles and modern trends that it enshrined. The primacy of the Charter was particularly apparent in the provisions of articles 26, 49 and 50 and in those of article 62 paragraph 3 of the draft. That primacy was self-evident, since the Charter, the product of the most profound and most durable historical development of modern times, gave practical form to the fundamental principles of general and universal international law, which voided those rules of international law, which were incompatible with them. Some of those principles were explicitly stated in the Charter ; others were implicit, but essentially

present. Some had already been recognized in traditional law and had been given wider scope in the Charter ; others might be regarded as entirely new.

26. The UAR was satisfied with the synthesis achieved in the draft between codification and progressive development of the law of treaties. In that connection he wished to refer to paragraph 35 of the Commission's Report, which stated that although it was difficult to distinguish between the two elements in each provision, some new rules were nevertheless proposed. He recalled that Mr. Brierly, Special Rapporteur of the International Law Commission, set up to study the progressive development and codification of international law, had fully agreed that codification could not be confined to a statement of existing law. When there were gaps, the codifier must suggest ways of filling them ; where there was uncertainty, he must take account of the best opinion.[20]

ZAMBIA

Zambia was committed to treaties and agreements entered into before independence which did not serve to promote the country's progress and well-being. They had consequently undertaken to review all treaties signed before 1964, to retain them that were of importance to its interests and as far as possible to free itself of the other. Zambia considered the Commission should have included in its draft (A/6309) articles concerning succession of States and Governments. Since the Commission had promised to take up the subject later, Zambia could only hope that when the time came careful consideration would be given to the topic.[21]

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20. 911th mtg., 1966, Sixth Committee, p. 60, A/C.6/SR.911.

21. 1966, p. 67, 912th mtg., Sixth Committee, A/C.6/SR.912. In general, see also comments in the appendices below.

SUCCESSION OF STATES AND GOVERNMENTS

Note

The I. L. C. at its nineteenth session (8th May-14th July, 1967, See A/CN. 4/199 of 25th July, 1967) decided that as the former Special Rapporteur on this topic, Mr. Manfred Lachs, was elected to the I. C. J., the Commission considered new arrangements for dealing with the topic. In doing so it took account of the broad outlines of the subject laid down in the report of the Sub-Committee of the Commission in 1963 (1963 Year book of I. L. C., Vol. 2, p. 261, para 13) which was agreed to by the Commission in the same year. (*Ibid.*, p. 224, para 60). That outline divided the topic into three main headings as follows :

(i) Succession in respect of treaties.

(ii) Succession in respect of rights and duties resulting from other sources than treaties.

(iii) Succession in respect of membership of international organisations.

In connexion with this outline, the Commission considered a suggestion by Mr. Lachs that the topic should be divided among more than one Special Rapporteur, in order to advance its study more rapidly. This suggestion won the support of the Commission. It had already decided in 1963 to give priority to succession in respect of treaties and that aspect of the topic had, in its opinion, become more urgent in view of the convocation by the General Assembly, in its resolution 2166 (XXI) of 5th December, 1966, of a Conference on the Law of Treaties in 1968 and 1969, and of the views expressed in the Sixth Committee at the last session of the General Assembly. The Commission, therefore, decided to advance the work on that aspect as rapidly as possible as its twentieth session in 1968. Sir Humphrey Waldock was appointed Special Rapporteur to deal with succession in respect of treaties.

Mr. Mohamed Bedjaoui was appointed Special Rapporteur with regard to the topic of succession in respect of rights and duties resulting from sources other than treaties.

Succession in respect of membership of international organisations was considered to be related both to succession in respect of treaties and to relations between States and inter-governmental organisations. It was, therefore, left aside for the time being without being assigned a Special Rapporteur.

MOST-FAVOURED-NATION CLAUSES

The International Law Commission at its nineteenth session (8th May-14th July, 1967—A/CN. 4/199 of 25th July, 1967) recalled that the Commission had laid aside the question of the most-favoured-nation clause which it had not considered indispensable to deal within its codification of the general law of treaties, although, as was said in its report on the work of its eighteenth session, "it felt that such clauses might at some future time appropriately form the subject of a special study" (Official Records of the General Assembly, Twenty-first Session —Supplement No. 9, A/6309/Rev. 1, Part II, para 32). The Commission noted that several representatives in the Sixth Committee at the twenty-first session of the General Assembly had urged that the Commission should deal with this aspect (*Op. cit.* Twenty-first Session, agenda item 84, A/5416, para 47). In view of the more manageable scope of the topic, of the interest expressed in it, and of the fact that clarification of its legal aspects might be of assistance to the United Nations Commission on International Trade Law (UNCITRAL), which will begin its work in 1968, the Commission unanimously decided to place on its programme the topic of Most-favoured-nation clauses in the Law of Treaties. It also unanimously decided to appoint Mr. Endre Ustor as Special Rapporteur on that topic.)

II. COMMENTS IN THE SIXTH COMMITTEE, 1967

LIBERIA

In view of the current developments in world affairs, they felt that the Commission had acted correctly in giving the topic of succession of States and Governments a prominent position in its future programme of work. As that topic would entail a substantial amount of work, they hoped that the Commission would devote as much of its twentieth session as possible to the consideration of it. It seemed perferable to complete one item of considerable importance, rather than to have two or three items partially considered, with the result that no action could be taken. The Commission's decision to divide the topic into three main headings and to appoint a Special Rapporteur for each heading was practical and would expedite its work. As the topic was of immense importance to developing States, which would like to see the work on it concluded as soon as possible, they suggested that the third heading—Succession in respect of membership of international organizations—should be deleted and that the subject should be considered as a part of the topic of relations between States and inter-governmental organizations. That arrangement would make it possible for the Commission to complete the study of succession of States and Governments as soon as possible.[22]

INDIA

It noted with satisfaction that the Commission had decided to advance its work on succession in respect of treaties as rapidly as possible at its twentieth session in 1968. Consideration of that aspect of the topic of State Succession must undoubtedly be accelerated in prospect of the Conference on the Law of Treaties to be held in 1968 and 1969.[23]

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22. A/C.6/SR 962, 6th October, 1967, p. 13.
23. A/C.6/SR 963, 11th October, 1967, p. 5.

JAPAN

It welcomed the fact that priority had been given to a study of the succession of States in respect of treaties. They were convinced that the study would be carried out in such a way as not to prejudice the general problems relating to the succession of States and Governments.[24]

TANZANIA

The Commission had acted wisely in giving priority to the question of the succession of States and Governments, especially as a large body of rules of international law which had come into existence before the emergence of the less developed countries as independent States was still regarded in certain quarters as automatically binding on the new States. In addition, the majority of the so-called rules of international law governing the succession of States and Governments were both inequitable and inadequate.[25]

UNITED ARAB REPUBLIC

It was glad to note that the Commission had responded promptly to the Sixth Committee's recommendation that priority should be given to the topic of succession of States and Governments in respect of treaties and to the subject of most-favoured-nation clauses in the Law of Treaties.[26]

KENYA

It welcomed the decision to give priority to the subject of succession of States and Governments in respect of treaties. The matter had become more urgent in view of the convocation by the General Assembly of a Conference on the Law of Treaties. Kenya also welcomed the idea of working simultaneously on the topic of the most-favoured-nation clause.[27]

24. Op. cit., p. 11.
25. Op. cit., p. 12.
26. A/C.6/SR. 965, 11th October, 1967, p. 3.
27. A/C.6/SR. 906, 12th October, 1967, p. 10.

MOROCCO

It would like the important question of succession of States and Governments to be given priority and considered before the draft articles on the Law of Treaties were submitted to the General Assembly.[28]

TURKEY

It noted with satisfaction the Commission's decision to proceed with its study of the topic of the Succession of States and Governments. They fully approved the programme for the future work of the Commission.[29]

Article 2

I. COMMENTS IN THE SIXTH COMMITTEE, 1966 :

CEYLON

See General (above).

INDIA

2. The reports in which the articles were contained had been intended to be as comprehensive as possible but without any sacrifice of preciseness. For example, it appeared from the lucid commentary on article 2 that on the definition of the term "Treaty" the I. L. C.'s draft is more precise than the Harvard Draft Convention on the Law of Treaties (*American Journal of International Law*, Vol. 29, No. 34, Supplement, October 1935).

3. Moreover, the purpose of codification provided a proper balance between *lex lata* and *de lege ferenda* considerations. Over-emphasis of one or the other aspect might have led to misunderstandings and misapprehensions, having regard in

28. Op. cit., p. 14.
29. A/C.6/SR.968, 13th October, 1967, p. 4.

particular to the fact that new States were anxious to know what the law was before agreeing to develop it as it ought to be. There was, of course, unanimous agreement that any attempt at codification must involve the developmental process. The codifier inevitably filled in gaps and amended the law in the light of new developments. India was glad to see that the draft articles represented a judicious combination of the two elements and that those of their provisions which related to the progressive development of international law were both justified and necessary.[30]

TURKEY

18. With reference to the interpretation of the words "governed by international law" in the commentary on article 2 Turkey noted that the Commission had excluded from the purview of the draft those international agreements which, although concluded between States, were regulated by the national law of one of the parties ; it observed that there were treaties which, although coming under international law, were subject to the national laws of one party or of a third State. As it was not stated whether or not those "mixed" treaties were covered by the draft articles, the scope of the draft should be defined more clearly and in their opinion, extended to treaties of that kind.[31]

TANZANIA

45. The Commission had already arranged to discuss at its next session some of the subjects omitted for example, State succession, State responsibility and the relationship between States and international organizations—but there were other topics that it had excluded without suggesting when and how they should be dealt with. Those topics included oral agreements, the effect of the outbreak of

30. A/C.6/SR. 906, 906th Meeting, Sixth Committee, 1966, para 6.
31. A/C.6/SR 907, 907th Meeting, 1966, p. 33, para 18.

hostilities upon treaties, the most-favoured-nation clause, the application of treaties providing for obligations or rights to be performed or enjoyed by individuals and treaty law in relation to international organizations and insurgent communities.....

46. Special attention ought to be paid to the commentaries which if left in their present form might be accorded a higher status than that of a supplementary aid to interpretation. Some articles were indeed meaningless without the commentary: redrafting might be necessary although that would lengthen the articles.

47. The conference would also have to decide whether to spell out the content of the more prominent concepts involved by the Commission—regarding *pacta sunt servanda*, good faith and peremptory norms of international law—or learn that content to be worked out in State practice and the jurisprudence of international tribunals. In so doing it would have to strike the balance between over-elaboration and vagueness. Further analysis might reveal that some concepts such as "good faith" clause, were redundant and even harmful. In his delegation's view these concepts might be the subject of a special study.

48. ...the principle *pacta sunt servanda* should, however, be used to oppose new States. That was in conformity with the policy set forth in the letter of 9th December 1961 from President Julius Nyerere to the Secretary General of the United Nations, (Official Records of the Security Council 16th Year Supplement for October, November and December, 1961, Doc. No. S/5018).

Tanzania advocated universal participation in general multilateral treaties, particularly into proposed convention on the Law of Treaties. It was inadmissible that certain powers should, when it served their purpose, seek universal participation in certain multilateral treaties, such as the nuclear test

ban treaty or an agreement on the non-proliferation of nuclear weapons and for purely selfish reasons, try to prevent certain countries from sharing the advantages of other general multilateral treaties. Tanzania repeatedly criticized double-dealing policy which was detrimental to the integrity of the United Nations system and to interests of the world community. Many States Members of the United Nations had concluded treaties with non-member States and the imperatives of world order made it essential for all States to be parties to the proposed convention on the Law of Treaties.[32]

II. WRITTEN COMMENTS BY GOVERNMENTS

AFGHANISTAN

The Government of Afghanistan notes that the term "treaty" has been used throughout the draft convention as a generic term to include all forms of international treaties concluded between States. But the term should be widened and broadened in order to include the definition of treaties in simplified form, because this kind of treaty is very common and its use is increasing daily.[33]

Article 3

Comments in the Sixth Committee

For the comments of the Governments of Ceylon, Dahomey, Ghana, Iran, Kuwait, Liberia, Sierra Leone, see General above. For the comments of Tanzania, see Article 2 above.

Article 4

OBSERVATIONS IN THE SIXTH COMMITTEE, 1967

CEYLON : See Article 8 below.

32. A/C. 6/SR 912, paras 45-49, p. 70, 912th Meeting, 1966.
33. A/6827/Add. 1 of 27th September, 1967.

Article 5

COMMENTS IN THE SIXTH COMMITTEE

For the views of Ceylon and Dahomey see General above.

MONGOLIA

32. The general principle stated in draft article 5 that every State possessed capacity to conclude treaties was a natural corollary of the principle of the sovereign equality of States—upon which the United Nations itself was based. Any move to restrict the right of certain States to conclude treaties was an attempt at subjugation that no longer had any place in modern international law which disregarded all inequalities among States.[34]

SIERRA LEONE

44. An outstanding merit of the draft articles (A/6309) was that the principle of the sovereign equality of States was reaffirmed in all articles dealing with acts or omissions of States in their international relations. Thus, it was stated that every State possessed capacity to conclude treaties and the fourth paragraph of the commentary on Article 5 made it clear that the word "State" was used with the same meaning as in the Charter of the United Nations and in the Statute of the I.C.J. i.e., it meant a State for the purposes of international law. However, the Commission had deliberately refrained from endorsing the practice of some States of entering into treaties with countries or territories which possessed less than full sovereignty, a practice that led to obvious inequities.[35]

Article 7

WRITTEN COMMENTS BY GOVERNMENTS, 1967

JAPAN

That 'an act relating to the conclusion of a treaty performed by a person who cannot be considered under article 6

34. 1966. 911th Meeting, p. 61, paragraph 32, A/C.6/SR. 911.
35. 1966. 911th Meeting, p. 62, paragraph 44, A/C.6/SR. 911.

as representative by his State for that purpose is without legal effect" is a matter of course conclusion drawn from article 6. There is, therefore, no necessity of providing for it.

The phrase "unless afterwards confirmed by the competent authority of the State" involves danger of abuse by giving rise to assertions by a person that, even in such a case where he cannot be considered under article 6 as representing his State for a certain purpose, he can represent his State for that purpose so long as confirmation of his act is allegedly expected from the competent authority of the State.

It is appropriate, therefore, to delete this article.[36]

Article 8

I. WRITTEN COMMENTS OF GOVERNMENTS, 1967

JAPAN

The procedure for the adoption of the text of a treaty at an international conference should, as a general principle, be appropriately left to the decision of the conference and the provision of this article should be kept as a residuary rule.

Therefore, it will be appropriate to delete the phrase beginning with "unless" and replace it by "unless they decide to apply a different rule".[37]

II. OBSERVATIONS IN THE SIXTH COMMITTEE, 1967

CEYLON

The draft articles did not seem adequately to cover at least one of the new techniques of treaty-making which had developed in recent years, namely the adoption of the text of a treaty by an international organization pursuant to its inherent powers. Under draft article 8, except for the case

36. A/6827 of 31st August, 1967 at p. 20.
37. A/6827 of 31st August, 1967 at p. 21.

provided for in its paragraph 2 where a text was adopted at an international conference, the rule would be that the adoption took place by the unanimous consent of the participating States; that, however, had to be read in conjunction with draft article 4, which provided that as to treaties adopted within international organizations, the application of the provisions of the draft articles was to be "subject to the relevant rules of the organizations". The application of draft article 4 raised no problem when the adoption of the text of a treaty by an international organization took place pursuant to an express provision of the organization's constituent instrument, as in the case of the I.L.O. Convention. However, where a treaty was adopted within an organization in the exercise of its inherent powers, the rules of the organization might not offer guidance, since the treaty formulated attained an independent existence. The application of draft article 4 became even more difficult when the treaty was adopted within an international organization, with its own rules. The statutes of the International Development Association, the International Finance Corporation and the Convention on the Settlement of Investment Disputes between States and Nationals of other States, all of which were instruments that had been first adopted by the Executive Directors of the World Bank and then circulated to the States members of the Bank for acceptance were examples. It might be possible to argue that the case was covered by draft article 8 (1) in that the true adoption occurred only when each State signed or ratified the text; it might also be suggested that the "rules of the organization" referred to in draft article 4 were not only the organization's regular rules but also all decisions and resolutions binding upon its members. However, Ceylon believed that the formulation and adoption of the text of the treaty by the competent organ of an international organization pursuant to its inherent powers deserved to be given clearer treatment in the draft articles. While it did not wish to make a specific proposal for amending the text, it felt that the terms of draft article

8 (1) might be made less rigid by providing for its application in cases where no other mode of adoption had been expressly or tacitly agreed. It also felt that the provisions of draft article 4 relating to treaties adopted "within an international organization" would have to be looked at carefully with a view to improvement or, if necessary, to deletion.[38]

GHANA

See General above.

SIERRA LEONE

45. The very wording of draft articles 11,12 and 13 emphasized the importance of the free consent of States becoming parties to a treaty; such consent was essential to the equitable application of the rule *pacta sunt servanda*. Articles 45-49 stated that fraud, corruption or coercion vitiated that free consent and rendered the treaty in question null and void *ab initio*. That point was particularly important for former colonial countries which had long been bound—some indeed were still bound—by one-sided agreements that were nothing more than "gin-bottle" agreements. Likewise, it emerged from article 25 dealing with the application of treaties to territory and article 30, which stated that a treaty did not create either obligations or rights for a third State without the latter's consent, the so-called colonial clause by which certain obligations under treaties concluded by some States were extended to territories under the rule of those States, even after those territories had become independent.[39]

38. A/C.6/SR. 969, 17th October, 1967, p. 6.

39. 911th Meeting, 1966 at pp. 62-63, para 45, A/C.6/SR. 911.

Article 15

WRITTEN COMMENTS OF GOVERNMENTS, 1967

JAPAN

The words "is obliged to refrain from acts tending to frustrate" should be deleted and be replaced by "should refrain from frustrating".[40]

Article 16

OBSERVATIONS IN THE SIXTH COMMITTEE 1967

CEYLON

Draft article 16 retained the traditional rule that a State might formulate reservations save in the exceptional circumstances enumerated in that article and Ceylon wondered whether the time had not come to invert the wording of that rule, in other words, to provide that unless a treaty expressly authorised reservations, they would be deemed prohibited. That was not, of course, intended to diminish the power of States to make reservations, but only to apply as a rule of interpretation. In general, however, Ceylon agreed with the statement of principles relating to procedures regarding reservations and their legal effects.[41]

Article 17

I. OBSERVATIONS IN THE SIXTH COMMITTEE

GHANA

The Commission's work on the draft articles constituted both codification and progressive development of international law. For example, in article 17, paragraph 4, on reservations, the Commission taking into consideration the prevailing trends

40. A/6827 of 31st August, 1967, p. 21.
41. A/C.6/SR.969, 17th October, 1967, p. 6.

on that subject, had decided against the unanimity rule in favour of a more flexible system.[42]

II. WRITTEN COMMENTS BY GOVERNMENTS 1967

JAPAN

In order to make it clear that the rules laid down in this article are to be applied only when the treaty does not otherwise provide as to acceptance of or objections to reservations, it is appropriate to amend the article as follows :—

1. Add the following as paragraph 1 and renumber the present paragraphs accordingly.

   "Unless the treaty otherwise provides as to acceptance of or objections to reservations, the following paragraphs shall apply".

2. Delete "unless the treaty so provides" from new paragraph 2.

3. Delete "unless the treaty otherwise provides" from new paragraph 4.

4. Delete "for the purposes of paragraphs 2 and 4" from new paragraph 6.[43]

Article 18

OBSERVATIONS IN THE SIXTH COMMITTEE

SYRIA

It had noted with satisfaction that the first text proposed by the Commission of article 20, sub-paragraph 2 (b) (17th Session) restricting the effects of an objection to a reservation to relations between the reserving State and the objecting

42. 905th meeting, 1966, para 12, A/C.6/SR.905, p. 24.

43. A/6827, of 31st August, 1967.

State, already represented some advance on the practice generally followed in the past, which had extended those effects to all States parties to the treaty; it had been made sufficient for a State to object to a reservation made by another State in order for the treaty to cease to be in force not only between the objecting State and the reserving State, but between the latter and all other States parties to the treaty.

Syria, however, would have liked the effect of an objection to a reservation to be restricted even further by making it apply only to the provision or provisions to which the reservation related, all the other provisions of the treaty remaining in force as between the two States in question. There seemed to be no need to extend the effect of the objection to a reservation to all the provisions of a treaty when the dispute between the reserving State and objecting State concerned just one, or only a few, of those provisions, especially if it was possible to exclude the provisions in question without making the treaty meaningless. Syria was anxious to encourage the accession of as many States as possible to general multilateral treaties, inasmuch as they were usually concluded in the interest of international community. It had, therefore, been glad to note that the Commission had made fresh progress in that direction by adopting a revised text on that point (20th Session, Supplement No.9, chapter 11, Article 21, para 3) the wording of which was repeated in its final draft (A/6309, Article 19, para 3) and which provided that when a State objecting to a reservation agreed to consider the treaty in force between itself and the reserving State, the provisions to which the reservation related did not apply as between the two States to the extent of the reservation. Syria, however, was still not entirely satisfied with the text, inasmuch as the maintenance in force of the treaty in question was still subject to the agreement of the State objecting to the reservation. They hoped that the trend thus initiated by the