

was that the requirement of an amendment to a treaty would also facilitate the identification of a specific date of coming into force of the amending agreement under the provisions of clause (5) of Article 36.”<sup>89</sup>

“.....As regards Article 38, (Dr. Yasseen of the I. L. C. ) pointed out that a treaty could be modified by subsequent practice even under the existing rules of international law. A treaty could also be terminated by simple oral declaration by the parties, in as much as the international legal order is not a formalist one. Further, since the States are sovereign, they can change, by an oral agreement, whatever had been earlier agreed in the written form. He pointed out that these could not be avoided in view of the principle of sovereignty of States.”<sup>90</sup>

“..... The Delegate of India ..... accepted the rule stated in Article 38, but suggested its relationship with Articles 37 and 26 to be considered by the Sub-Committee. Dr. Yasseen clarified the position of the International Law Commission in this respect.”<sup>91</sup>

“Commenting on Article 38, the Japanese Delegate recognised that the position gave expression to the actual international practice. However, he was not happy with the formulation of the article in its present form, in as much as it conflicts with the right of a State to modify an international agreement through its internal legislation. In this regard, Dr. Yasseen emphasised the importance of maintaining the supremacy of international legal order.”<sup>92</sup>

89. Ibid., p. 4, para 9.

90. Ibid., pp. 5. and 6, para 11.

91. Ibid., p. 6, para 12.

92. Ibid., p. 6, para 13.

(Note : The Sub-Committee on draft articles 23 to 38, appointed by the Committee, stated in its report :

“10. As regards the general problem of amendment, it was felt that in the Articles amendment meant textual change while modification of a treaty did not necessarily involve amendment, the change or transformation being evident in the treaty's operational effects while the text remained unchanged. The Sub-Committee also wishes to record the fact that the Delegate for Japan reiterated the view expressed in the plenary session that Article 38 should be deleted.)

“..... As regards Article 38, the Delegate of Ceylno pointed out that the current practice favoured retention of the article. The Delegates of Ghana and Indonesia also preferred its retention in its present form. The Delegate of India had no objection to the article, in case it is assumed that the word “parties” would include all the parties to a party. The Delegate of Iraq favoured the retention of the said article in its present form. The Delegate of Japan reiterated his view that the article should be deleted. The Delegates of Pakistan and U.A.R. favoured the proposal of the Delegate of India to retain the article with the understanding that “parties” include all the parties to a treaty.”<sup>93</sup>

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

“A view was expressed in the Committee that this article should be deleted as subsequent practice was too vague and uncertain a criterion for modification of a treaty. Another view is that there could be no objection to accepting this article as in the present draft with the qualification that the “parties” in this Article meant all the parties to a treaty. A

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



third view was that there was no objection to the present text as in the International Law Commission's draft.")

### Article 37

(The Delegate of India) "suggested a consideration by the Sub-Committee of the relationship between Articles 26 and 37. He regarded clause (2) of Article 37 to be unnecessary burden on the parties who agreed to modify a multilateral treaty.....".<sup>94</sup>

(Note : The Sub-Committee on draft articles 23 to 38, appointed by the Committee, stated in its report :

"The Sub-Committee also considered Article 26 in relation to Article 37. It was noted that while *Article 26* postulated the continued existence of separate treaties covering the same subject-matter, clause 4 of Article 26 formulating the rules leading to the negation of treaty obligations by subsequent treaties, *Article 37* did not postulate the independent existence of a separate treaty as distinct from the earlier treaty but notionally at least considered the new agreement to modify the treaty as being the same treaty, albeit in a modified form.

9. In cases under Article 26 successive treaties necessarily involved different verbal formulations while in a case under Article 37, a modification in the application of the treaty was not necessarily directed to verbal changes (though modification could have the effect of textual alterations as well) but extended to an agreement (consensus) which while not altering the text yet effected a change in its operation or interpretation as between the parties so agreeing. Having regard to its multilateral character and the fact that it was the self-same multilateral treaty that was undergoing the transformation by reason of

94. Minutes of the 5th Meeting, held on 22nd December, 1967, p. 3, para 6.

modification, the Sub-Committee feels that the stringent conditions imposed on Article 37 were necessary. In regard to clause 2 of Article 37, the Sub-Committee considered it necessary to preserve the obligation to notify other parties to the treaty. The Sub-Committee considered that clause 5 of Article 26, which was in the nature of a saving provision, was necessary, otherwise the rigorous conditions imposed by Article 37 could be set at naught by some of the parties to a multilateral treaty concluding a later multilateral treaty containing provisions that resulted in a modification of obligations.")

"Regarding the amendment or modification of treaties by a subsequent agreement, the Delegate of Ceylon agreed with the Sub-Committee's recommendations for retaining article 37 in its present form. The Delegates of Ghana, India, Indonesia, Iraq, Japan and U.A.R. also preferred retention of article 37 in its present form. The Delegate of Pakistan reiterated his position as explained in the fifth meeting of the Committee.....".<sup>95</sup>

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

A view was expressed in the Committee that the modifications contemplated in Article 37 should be in writing so as to obviate any uncertainty. The majority, however, was in favour of the provisions as in the draft articles.")

### Article 39

".....As regards article 39, (the Delegate of U. A. R.) suggested deletion of the word "only" in paragraphs 1 and 2.....".<sup>96</sup>

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

96. Minutes of the 6th Meeting, held on 23rd December, 1967, p. 7, para 10.



"Dr. M. K. Yasseen (I. L. C.) explained the reasons for the limited provisions of article 39....." <sup>97</sup>

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

"A suggestion had been made in the main Committee for the deletion of the word "only" in this Article, paragraphs 1 and 2. The Sub-Committee considered this proposal in some detail. However, if this proposal is accepted, then corresponding changes might be required in Article 57 so as to make it clear that the operation of other rules or grounds for terminating or suspending a treaty are not excluded on account of the present wording of Article 57. On balance, the Sub-Committee felt that it might be better to retain both Articles 39 and 57 as presently worded.")

"With regard to Article 39, the Delegate of the United Arab Republic reiterated that the word "only" should be deleted from paragraphs 1 and 2 of this Article though he did not feel very strongly on the point. He pointed out the consequences of retaining the word "only" in this Article. All the other Delegates, however, were prepared to accept this Article as in the Draft." <sup>98</sup>

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

"The principles contained in this article were generally found to be acceptable to the majority. A delegation was, however, of the view that the word "only" in paragraphs 1 and 2 of this article should be deleted."

97. *Ibid.*, p. 8, para 11.

98. Minutes of the 10th Meeting, held on 28th December, 1967, p. 1, para 2.

### Article 43

".....Commenting on Article 43, (the Delegate of Ceylon) did not favour any change in the formulation of this article. He referred to the commentary on this article, that the violation must be objectively evident to any State dealing with the matter normally in good faith....." <sup>99</sup>

"The Delegate of the U. A. R.....regarded the present formulation of article 43 as unsatisfactory and suggested an amendment therein so as to substitute words "constitutional law" in place of "international law". He posed a question whether article 43 went beyond or against article 110 of the United Nations Charter, and suggested that the same may be examined by the Committee....." <sup>100</sup>

"The Delegate of the United Arab Republic suggested an amendment to article 43, which would read : "A treaty shall be ratified by the signatory States in accordance with their respective constitutional processes." This, in his view, would bring the article in consonance with the provisions of the Charter." <sup>101</sup>

"Dr. M. K. Yasseen (I. L. C.)..... pointed out that article 43 was the product of a compromise between the advocates of the Internationalist Doctrine and those of the Constitutionalist Doctrine..." <sup>102</sup>

"The Delegate of the U. A. R. suggested an amendment to article 43 so as to bring it in consonance with article 110 of the U. N. Charter. He suggested the following formulation...

99. Minutes of the 6th Meeting, held on 23rd December, 1967, pp. 1 and 2, para 3.

100. *Ibid.*, p. 7, para 10.

101. *Ibid.*, p. 8, para 12.

102. *Ibid.*, p. 8, para 11.



"The consent of States to be bound by a treaty shall be expressed in accordance with their respective constitutional processes. . . . ." <sup>103</sup>

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

"The Sub-Committee considered article 43 in some detail. In particular, it considered the advisability of substituting the term "internal law" by the term "constitutional law". Ultimately the Sub-Committee felt that it might be better to leave article 43 as worded in the draft articles.")

"With regard to article 43, the Delegate of the United Arab Republic stated that the words "internal law" should be substituted by the words "constitutional law", and that it would be desirable to bring article 43 in accordance with the principle embodied in article 110 of the U. N. Charter. All the other Delegates were, however, prepared to accept the article as in the present draft." <sup>104</sup>

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

"The Committee considered the provisions of this article in some detail. The majority was in favour of retaining the article as it is. A view was, however, expressed that the provision of article 43 as drafted would lead to practical difficulties, and be violative of article 110 of the U. N. Charter. It was, therefore, suggested that the expression "constitutional law" be substituted in place of the words "internal law".)

103. Minutes of the 7th Meeting, held on 26th December, 1967 p. 2, para 6.

104. Minutes of the 10th Meeting, held on 26th December, 1967, p. 1, para 4.

# Articles 46 and 47

"The Delegate of Ceylon. . . . . favoured retention of articles 46 and 47 in their present form despite the paucity of precedent in determining as to what can be regarded as fraud or corruption. . . . ." <sup>105</sup>

". . . . .Commenting on article 46, (the Delegate of Iraq) stated that fraud may exist in the conclusion of a treaty and if so, it would strike at the root of an agreement in a somewhat different way than an innocent error. The effect of fraud is to entitle the injured party to invoke the fraud as invalidating its consent. With regard to article 47, the delegate stated that corruption may exist and affect the consent of the State concerned. The corruption of a representative undermines the consent of the State in quite a different manner from that of fraud and differ from the case of coercion by acts directed against him personally. . . . . (He) favoured their retention in the present form. . . . ." <sup>106</sup>

"The Delegate of Japan suggested deletion of articles 46 and 47 in as much as, in his view, they bring in an element of doubt in the legal security and order. He regarded the provisions of article 47 in regard to the concept of corruption to be vague and he quoted the observation of a certain government to the effect that provision should be made for specific cases of corruption, such as bribery. . . . ." <sup>107</sup>

"The Delegate of the U. A. R. . . . . favoured retention of articles 46 and 47 in their present form. . . . ." <sup>108</sup>

105. Minutes of the 6th Meeting, held on 23rd December, 1967, p. 2, para 3.

106. Ibid., pp. 4 and 5, para 7.

107. Ibid., pp. 5 and 6, para 8.

108. Ibid., p. 7, para 10.



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

"This article is acceptable to the majority. The Japanese member of the Sub-Committee was in favour of deletion of this article for reasons stated in the main Committee.")

"The Delegate of Japan stated that for the reasons already indicated by him at earlier meetings, he wished articles 46 and 47 to be deleted. The Delegate of the United Arab Republic stated that he was prepared to accept article 46 as in the draft on the understanding that this article had to be read alongwith article 49." <sup>109</sup>

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

"One delegation was in favour of deletion of these articles as in its view the provisions of these articles bring in an element of doubt in the legal security and order. In the view of the delegation the provisions of article 47 in regard to the concept of corruption were too vague.")

#### Article 48

".....Article 48, in (Iraqi Delegate's) view, covered all forms of constraint against the representative of a State personally which affect him as an individual.....He stated that he favoured (its) retention in the present form....." <sup>110</sup>

".....Commenting on article 48, (the Delegate of the U. A. R.) expressed the view that the Asian and African States should carefully select their representatives so that they are not open to coercion or corruption. . . . ." <sup>111</sup>

109. Minutes of the 10th Meeting, held on 28th December, 1967, p. 1, para 5.

110. Minutes of the 6th Meeting, held on 23rd December, 1967, pp. 4 and 5, para 7.

111. Ibid., p. 7, para 10.

(Note : The Sub-Committee on draft articles 39 to 75, appointed by the Committee, stated in its report that article 48 was acceptable to it in the form drafted by I.L.C.)

#### Article 49

"The Delegate of Ceylon. . . . . favoured an enlargement of the provisions of article 49 so as to prohibit not only the use or threat of force, but also all forms of coercion by indirect means, such as political or economic pressure. This, in his view, would be in accordance with the principles of the United Nations Charter. . . . ." <sup>112</sup>

".....Article 49, according to (the Delegate of Iraq) dealt with the principle of invalidity of a treaty procured by illegal threat or use of force and he considered this doctrine to be *lex lata* in the International Law of today. In his understanding, the illegal threat mentioned in this article meant the unlawful means which affect or influence the liberty of consent of States including economic or political pressure or pressure by other means. He, therefore, suggested that the words "or any form of pressure" should be added at the end of this article....." <sup>113</sup>

"The Delegate of Pakistan, while commenting upon article 49, referred to Article 2, paragraph 4 of the United Nations Charter. He favoured retention of the said article in its present form....." <sup>114</sup>

".....As regards Article 49, (the Delegate of U.A.R.) agreed with the suggestion of the Delegate of Ceylon regarding inclusion of prohibition against economic or political pressure....." <sup>115</sup>

112. Ibid., p. 1, para 3.

113. Ibid., p. 5, para 7.

114. Ibid., p. 6, para 9.

115. Ibid., p. 7, para 10.



"Dr. M.K. Yasseen (I.L.C.).....pointed out that coercion, as provided in article 49, was a new concept, which was previously not a ground of invalidity of a treaty. He said that the rule began to take shape under the League Covenant; and under the new Charter it assumed a concrete shape in article 2 paragraph 4. In his view, article 49 was meant by the I.L.C. to be in consonance with article 2 paragraph 4 of the Charter, and it has been argued that the concept of "force" may include political and economic pressure as well ....."<sup>116</sup>

"The Delegate of Japan.....stated that he favoured the retention of Article 49 in its present form. He was opposed to the proposal for insertion of a provision in this Article to provide against political and economic pressures as advocated by certain delegates. He felt that this question should be left to the interpretation of the words "threat or use of force" as provided in this Article."<sup>117</sup>

"Commenting on this Article, the Delegate of Pakistan stated that after hearing Dr. Yasseen and after carefully considering the wording of Article 2, paragraph 4, of the Charter, he wanted to revise his view on this article. He stated that the I.L.C. instead of making the matter specifically clear, decided to leave it to be worked out by interpretation, which was hardly satisfactory. In his view, "economic pressure" was not covered by the provision of Article 49 of the draft articles. He emphasized the need to amend the provisions suitably so that economic and political pressures are included within this article and supported the Delegate of Ceylon in this regard. He also referred, in this connection, to Article 41 of the U.N. Charter to reinforce his point."<sup>118</sup>

116. Ibid., p. 8, para 11.

117. Minutes of the 7th Meeting, held on 26th December, 1967, p. 1, para 4.

118. Ibid., p. 2, para 5.

".....As regards Article 49, (the Delegate of U.A.R.) reiterated his earlier view that this article should contain a provision relating to economic and political pressures and supported the proposal of the Delegates of Ceylon and Pakistan that this article should include a provision so as to state that political or economic pressure may invalidate a treaty. He observed that it would be astonishing to have a rule that corruption of representative of a State or coercion against him would invalidate a treaty but that the economic or political coercion against the State would not produce that result."<sup>119</sup>

"Dr. Yasseen (I.L.C.) in his personal capacity agreed with the views expressed by the Delegate of the U.A.R. that coercion in all its forms should vitiate the consent of the State. He stated that some of the Members of the International Law Commission, however, did not want to go so far. He pointed out that the second Summit Conference of Non-aligned Nations interpreted the word "force" to include economic and political pressures. In his view, economic and political pressure sometimes could be as effective as the use of force. . . . ."<sup>120</sup>

"The Delegate of Ceylon stated that the provision of Article 49 was one of the most important provisions from the point of view of developing countries. He appreciated the fact that the draft articles prepared by the Commission represented the largest common measure of agreement among the members of the Commission. Nevertheless, he pointed out that the reason for the establishment of this Committee was to express the particular points of view of Asian and African countries and felt that this point of view should be placed before the Conference of Plenipotentiaries."<sup>121</sup>

119. Ibid., p. 2, para 6.

120. Ibid., pp. 2 and 3 para 7.

121. Ibid., p. 3, para 8.



"The Delegates of Ghana, India, and Iraq supported the suggestion made by the Delegates of Ceylon, Pakistan, and the U.A.R. as regards article 49. The Delegate of Iraq suggested the addition of the words "or by any form of pressure" at the end of the article."<sup>122</sup>

"The Delegate of Japan reiterated his earlier position as regards the said article."<sup>123</sup>

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

"The majority favoured the addition of the words "or by economic or political pressure" at the end of the Article. The Japanese member of the Sub-Committee favoured the retention of Article 49 as drafted by the I.L.C.")

"The Delegates of Ceylon, Ghana, India, Iraq, Pakistan and the U.A.R. were in favour of addition of the words "or by economic or political pressure" at the end of article 49. The Delegates of Indonesia and Japan, however, were for the retention of the article as in the present draft."<sup>124</sup>

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

"The majority in the Committee is in favour of the addition of the words "or by economic or political pressure" at the end of the article. The minority is, however, in favour of the retention of the article as in the draft.")

*Articles 50, 61 and 67 (Jus Cogens)*

".....As regards the concept of *Jus Cogens* embodied in Article 50, (the Delegate of Ceylon) stated that

122. Ibid., pp. 3 and 4, para 9.

123. Ibid., p. 4, para 10.

124. Minutes of the 10th Meeting, held on 28th December, 1967, p. 2, para 6.

though a precise formulation of the concept would be desirable having regard to the reasons given by the Commission in its commentary, he would favour the retention of the article in its present form. ...."<sup>125</sup>

"The Delegate of India.....generally agreed to the present formulation of articles 50, 61 and 67, although they were bound to be extremely controversial. He anticipated a heavy attack on the concept of *Jus Cogens*, as embodied in article 50, in the Conference of Plenipotentiaries, and pointed out that many jurists from the United Kingdom and other countries have taken serious objections to the provisions of this article. He regarded the concept of *Jus Cogens* to be dynamic one and pointed out that that was the reason for Article 61 being added apart from Article 50. The provisions of Article 61 were not retroactive, except to the extent indicated in Article 67, and Article 67 indicates the effect of a treaty becoming void under Article 50 or terminating under Article 61. He did not think that the concept of *Jus Cogens* could be identified with the municipal law concept of public policy, in as much as the concept of *Jus Cogens* is not a rigid one. He also referred to the criticism of the concept as embodied in Articles 50, 61 and 67 by the U.S. Government in their latest comments made on the 2nd October, 1967 on these articles (U. N. Document No. A/6827/2). He suggested an identification and definition of the peremptory norms by institutions and international courts. Further, such norms, according to him, could be created by the instruments constituent of an international organisation, like the United Nations, or by law-making multilateral treaties or even by custom. He also pointed out that in certain cases the concept of separability has been recognised, so that a part of the

125. Minutes of the 6th Meeting, held on 23rd December, 1967, p. 2, para 3.



treaty conflicting with a peremptory norm of international law became void.”<sup>126</sup>

“.....With regard to Article 50, (the Delegate of Iraq) stated that the prohibition of the use of force in itself constitutes an example of a rule of International Law having the character of *Jus Cogens* and there were many examples in practice regarding the application of that rule.....(He) stated that he favoured (its) retention in the present form .....”<sup>127</sup>

“.....Commenting on Article 50, (the Delegate of Japan) said that unanimity on the concept of *Jus Cogens* was unlikely and there was bound to be some difference of opinion. He favoured the retention of Article 50, while suggesting the necessity for some body or authority, such as the International Court, to decide as to which norm should be regarded as peremptory. ....”<sup>128</sup>

“.....As regards Article 50 (the Delegate of Pakistan) endorsed the views of the Indian Delegate, though he felt that the practical difficulties in identifying the peremptory norms of International Law were not insurmountable. He suggested that an answer to these difficulties could probably be found in Article 38 of the Statute of the International Court of Justice.”<sup>129</sup>

The Delegate of the U.A.R. .... suggested a reformulation of article 50 so as to read: “A treaty is void if it conflicts with the peremptory norm of general international

126. Ibid., pp. 2 and 3, para 6.

127. Ibid., p. 5, para 7.

128. Ibid., p. 6, para 8.

129. Ibid., p. 6, para 9.

law from which no derogation is permitted.” He said that the provision should not go beyond this. ....”<sup>130</sup>

“Dr. M. K. Yasseen (I.L.C.). ....regarded article 50 to be necessary for the reasons advanced by the Delegate of India .....”<sup>131</sup>

“..... Commenting upon the concept of *Jus Cogens*, as embodied in Article 50 of the Draft Articles (Dr. Yasseen of I.L.C.) pointed out that the International Law Commission had been criticised by many for providing no criterion for distinguishing between peremptory norms and other norms. In his view, the Commission could only formulate the principle concerning the consequences of the existence of the rules of *Jus Cogens*, and should not, and could not, go further by providing some criterion because the Commission was preparing the draft articles on the law of treaties and not on the problem of *Jus Cogens*. He explained that the problems of *Jus Cogens* related to general international law concerning the sources of law on which the Commission may well be called upon by the General Assembly to formulate the principles. He emphasized that the notion of *Jus Cogens* was a dynamic concept and not a static one.”<sup>132</sup>

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

“The Sub-Committee considered the advisability of deleting the final clause of this Article which provides for the manner in which a peremptory norm of international law can be modified. Article 50 would then read only as follows:

130. Ibid., p. 7, para 10.

131. Ibid., p. 8, para 11.

132. Minutes of the 7th Meeting, held on 26th December, 1967, p. 3, para 7.



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

The Sub-Committee felt, however, that it would be desirable to expressly recognise in Article 50 the possibility as well as the manner of modification of a peremptory norm, as otherwise Article 50 might be interpreted in a rigid and inflexible manner. The Sub-Committee therefore is in favour of retaining Article 50 as presently worded.")

"Article 50 was acceptable to all the Delegations. The Delegate of Japan, however, wished it to be recorded that he accepted the provisions of this article subject to the note recorded at the end of the third Sub-Committee's Report." <sup>133</sup>

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

"Whilst the majority had no objection to the present draft being retained, one delegation expressed the view that this is one of the concepts which may cause dispute in its application. In the view of the delegation, it was desirable to designate or establish a body which is invested with standing competence to pass objective and purely legal judgements upon such disputes when they have not been solved through diplomatic negotiations or some other peaceful means.")

#### *Article 53*

"..... The Indian Delegation also commented on the subject of denunciation of a treaty containing no provision regarding its termination. The delegate referred to the resolution of the Institute of International Law where it had been suggested that a provision regulating the right of denunciation or withdrawal and the conditions for exercise of this right, be included in the treaty, or set out in any other appropriate form.

133. Minutes of the 10th Meeting, held on 28th December, 1967, p. 2, para 7.

However, in the case of a law-making treaty, he felt that there was no need for any stipulation regarding denunciation. In regard to the constituent instruments of an International Organisation, he suggested that the conditions for withdrawal of a member must be specified in the instrument itself." <sup>134</sup>

(Note : The Sub-Committee on draft articles 39 to 75, appointed by the Committee, stated in its report that Article 53 was acceptable to it in the form drafted by the I.L.C.)

#### *Article 55*

"..... As regards temporary suspension of a multilateral treaty by the consent of certain parties only under the provisions of Article 55, (the Delegate of Ceylon) stated that it would be desirable to define precisely the term "temporary suspension." <sup>135</sup>

"The Delegate of Ghana ..... regarded the provisions of Article 55 to be dangerous, in as much as they might lead to abuse. He suggested a re-formulation of the article so as to ensure that any suspension of the operation of multilateral treaty could be brought about only by consent of all the parties to the treaty." <sup>136</sup>

(Note : The Sub-Committee on draft articles 39 to 75, appointed by the Committee, stated in its report that Article 55 was acceptable to it in the form drafted by the I.L.C.)

#### *Article 57*

"..... Commenting on Article 57, (the Delegate of Ceylon) pointed out that clause (b) of paragraph 3 referred to the violation of a provision which is essential to the accom-

134. Minutes of the 6th Meeting, held on 23rd December, 1967, p. 4, para 6.

135. Ibid., p. 2, para 3.

136. Ibid., pp. 2 and 3, para 4.