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**SIXTH COMMITTEE, 627th
MEETING**

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Chairman: Mr. Alberto HERRARTE (Guatemala),

Election of a new Vice-Chairman

1. Mr. CHAYET (France) nominated Mr. Sperduti (Italy).
2. Mr. CASTAÑEDA (Mexico) supported the nomination.

Mr. Sperduti (Italy) was elected Vice-Chairman by acclamation.

AGENDA ITEM 65

Reservations to multilateral conventions: the Convention on the Inter-Governmental Maritime Consultative Organization (A/4188, A/4235, A/C.6/L.449 and Add.1 and 2, A/C.6/L.450 and Add.1, A/C.6/L.451) (continued)

CONSIDERATION OF DRAFT RESOLUTIONS (A/C.6/L.449 AND ADD.1 AND 2, A/C.6/L.450 AND ADD.1, A/C.6/L.451) (continued)

3. Mr. DOUC RASY (Cambodia) said that he wished to reply to a point raised by the Bulgarian representative at the 624th meeting. The Bulgarian representative had said that the Cambodian delegation apparently sought to deny any legal validity to an accession accompanied by a reservation, unless that reservation was accepted by all the States parties to the multilateral convention. In fact, in its statement at the 619th meeting the Cambodian delegation had put forward no such argument, but had simply stated that an acceptance with a reservation was an incomplete acceptance. The question was, what action the depositary should take in such circumstances. His delegation had simply posed that question, and had not sought to suggest a solution based on the unanimity rule.

4. Mr. EL-ERIAN (United Arab Republic) said that the important and complex item under discussion gave the Committee an excellent opportunity to clear up uncertainties and define its approach. His delegation's position on the problem was in line with the general trend which had emerged during the last decade, namely, to ensure the maximum usefulness of international conventions and to encourage universality. In that connexion, he agreed with the delegations which had stressed the importance of the right to make reservations. In the present state of international

relations, when multilateral conventions were frequently the outcome of a majority vote, the right to make reservations was essential, since it ensured flexibility and enabled the minority to state its position and maintain its rights. In a series of lectures given at the Académie de droit international at The Hague in 1957 on the development and functions of multilateral treaties,^{1/} the representative of Poland, Professor Manfred Lachs, had pointed out that reservations, as a new institution, had appeared at the time when unanimity had ceased to be an indispensable element in the decisions of international conferences, and they had been the only means by which the minority had been able to maintain its rights.

5. The Committee had also to consider the steps which the United Nations had already taken as regards the admissibility of reservations to multilateral conventions. In that respect, the advisory opinion of the International Court of Justice on the Convention on Genocide^{2/} had provided criteria which could be used as a guide, namely the compatibility of a reservation with the principal object and purpose of the Convention.

6. As regards the functions of the Secretary-General as depositary of multilateral conventions, there were two points of paramount importance. The first was the need to ensure the efficient performance of the Secretary-General's functions as such, and the second was the desirability of securing the maximum usefulness of international conventions. The General Assembly had already decided, in 1952, that in acting as depositary the Secretary-General was fulfilling a purely administrative function, and that it was the responsibility of States to draw the legal consequences from any reservations. The advantage of that system was that it permitted conventions to enter into force with all due speed. What was needed at present was a procedure which the Secretary-General could apply without prejudging the substance of the matter.

7. It had been suggested that no action should be taken until new rules regarding reservations and objections had been formulated. But as the process of elaborating new rules would undoubtedly take time, some interim practice was clearly necessary. The best solution therefore would be to extend the application of resolution 598 (VI) to conventions concluded under United Nations auspices before 12 January 1952. The reason why his delegation advocated that approach was that it would ensure the maximum usefulness of multilateral conventions by allowing for flexible procedure with regard to reservations. The Secretary-General would continue to fulfil his administrative functions by receiving international instruments for deposit; and no State would be able to obstruct another's

^{1/} Manfred Lachs, "Le développement et les fonctions des traités multilatéraux", *Recueil des cours* de l'Académie de droit international, 1957, II, p. 310.

^{2/} *Reservations to the Convention on Genocide, Advisory Opinion: I.C.J. Reports 1951, p. 15.*

accession to an international convention or delay the entry into force of a convention on the grounds that a reservation had been made. While such a solution could not be considered permanent, it was necessary and constructive. However, the need for more information from expert bodies would still remain.

8. The facts of the situation were that the unanimity rule no longer fitted the conditions of the modern world; and as a result, the procedure to be followed in respect of reservations to multilateral conventions was now in dispute. The old rule must be adapted to suit current conditions, and it was to be hoped that the International Law Commission would not delay in defining a rule of international law on reservations to multilateral conventions which would reconcile opposing views and meet the new needs.

9. Mr. CASTAÑEDA (Mexico) said that at a meeting of all the co-sponsors of the seven-Power draft resolution (A/C.6/L.449 and Add.1 and 2) and the ten-Power draft resolution (A/C.6/L.450 and Add.1) it had been decided to merge the two drafts into a single text. The outcome was a new draft resolution (A/C.6/L.451), which was sponsored by all the co-sponsors of the two earlier draft resolutions, both of which were now withdrawn. The new draft resolution, which had been the result of concessions on both sides, represented the minimum acceptable to both groups. It would be introduced by only two co-sponsors, one from each of the groups which had put forward the two earlier draft resolutions. He for his part was speaking on behalf of the co-sponsors of the seven-Power draft resolution.

10. To facilitate the future application of the new draft resolution by the Secretary-General, contradictory interpretations by the different co-sponsors must at all cost be avoided. He wished to make the following points. Firstly, the draft resolution required the Secretary-General to apply paragraph 3 (b) of resolution 598 (VI) to his depositary practice. The nature and scope of that practice and the extent to which the Secretary-General would have to have recourse to juridical rules and to systems in the fulfilment of his function as depositary were matters within his responsibility. The Secretary-General would be responsible for the juridical interpretation of the resolution, bearing in mind its terms and the provisions of resolution 598 (VI), to which the new resolution referred, as well as any other factors relevant to such interpretation. He did not believe that the co-sponsors could go any further in their explanation of the meaning of the expression "depositary practice".

11. Secondly, the new draft resolution was an amendment to resolution 598 (VI) only in so far as the latter resolution would in future be applicable to all conventions concluded under United Nations auspices which contained no provisions to the contrary, instead of being applicable only to those concluded after 12 January 1952.

12. Thirdly, paragraph 3 (b) of resolution 598 (VI) would be applicable to all conventions concluded under United Nations auspices until such time as the General Assembly might give further instructions. That phrase meant exactly what it said, neither more nor less. The Secretary-General was requested to apply resolution 598 (VI) until such time as he received, if he did receive, further instructions. In the meantime, the Secretary-General would continue fully to apply pre-

sent instructions. The fact that the Secretary-General might receive further instructions at a later date in no way altered the sense, scope, value and effect of the instructions already given him by the General Assembly.

13. Fourthly, operative paragraph 2 of the new draft resolution gave evidence of the co-sponsors' belief and desire that the whole question of depositary practice should be the subject of thorough study as part of the over-all study of the law of treaties.

14. Sir Gerald FITZMAURICE (United Kingdom), introducing the compromise draft resolution (A/C.6/L.451) on behalf of the sponsors of the ten-Power draft resolution (A/C.6/L.450 and Add.1), said that the new text represented an attempt to fuse the two earlier drafts into one. The compromise, however, was based mainly on the seven-Power draft resolution (A/C.6/L.449 and Add.1 and 2), the operative paragraph of the latter, with the differences pointed out by the Mexican representative, having been substantially retained.

15. The request that the Secretary-General should apply paragraph 3 (b) of resolution 598 (VI), as extended in scope to his "depositary practice", meant that the Secretary-General was being asked to follow, in matters such as the receipt and circulation of communications, the practice of which he had given an account to the General Assembly. The words "until such time as the General Assembly may give further instructions", which had also been introduced into operative paragraph 1, were purely hypothetical, and did not imply that the General Assembly would necessarily give further instructions at some future date. They were merely designed to leave the door open for the General Assembly to take such action in the light of additional studies. Operative paragraph 1 also differed from the operative paragraph of the seven-Power draft resolution in that it restricted the application of paragraph 3 (b) of resolution 598 (VI) to conventions concluded "under the auspices of the United Nations"; in that respect, the new text merely followed resolution 598 (VI). It would indeed be inappropriate for the General Assembly to give the impression that it was assuming jurisdiction over conventions concluded under the auspices of other bodies.

16. Operative paragraph 2 reflected in compressed form the various ideas set forth in the ten-Power draft resolution. There were, however, certain differences, if only in presentation. In the first place, the International Law Commission was no longer asked to expedite its work on reservations to multilateral conventions or to detach that subject from the general context of the law of treaties; and secondly, there was no longer any provision for the automatic reconsideration of the question by the General Assembly at its sixteenth session. It was important to remember, however, that the International Law Commission would in fact be dealing with the subject without any special instructions, and that the matter would therefore inevitably reappear on the General Assembly's agenda in the not too distant future. The second operative paragraph should therefore satisfy those who had cautioned against haste, as also those who wanted to ensure further consideration of the matter by the Sixth Committee.

17. He particularly wished to stress his view that the new joint draft resolution referred only to the purely administrative practice of the Secretary-General, and

did not relate to any matter of substance. No other interpretation was indeed possible, for resolution 598 (VI), the application of which the new proposal sought to extend, expressly stated that the legal consequences of all documents deposited could only be drawn by the parties to the convention concerned and that the Secretary-General had to confine himself to administrative functions.

18. In conclusion, he said that in the normal course of events he would have wished to reply to certain statements that had been made in the debate. He had decided, however, to refrain from such action, for the time at least, in order to avoid further controversy.

19. Mr. PERERA (Ceylon) said that the new draft resolution (A/C.6/L.451) had brought the debate on the question introduced by the Indian delegation back to its starting point. In deciding whether resolution 598 (VI) required amendment and, if so, in what respects, the Committee should perhaps take a further look at the background of the whole question of reservations to multilateral conventions. That question had been thoroughly debated at both the fifth and the sixth sessions of the General Assembly, and the Committee was fortunate in that several of its members, including the representatives of the USSR, Poland, the United Kingdom and Brazil, had taken part in those debates. Since 1952, however, the United Nations had taken great strides towards universality, and the new Member States naturally wished to make their own contributions.

20. It was essential to consider the circumstances in which resolution 598 (VI) had been adopted, for no amendment should be approved until it was established that factors supervening since the resolution's adoption called for such a change. At its fifth session, the General Assembly had dealt with the general question of reservations to multilateral conventions, and had narrowed the issues. At its sixth session, it had considered the report on the subject received from the International Law Commission (A/1858, chap. II), and the advisory opinion on the specific question of reservations to the Genocide Convention given by the International Court of Justice. The International Law Commission, for its part, had before presenting its report considered memoranda by Mr. Amado^{3/} and Mr. Scelle,^{4/} and a special report submitted by Mr. Brierly.^{5/} Resolution 598 (VI) had thus been adopted only after mature reflection.

21. At the beginning of the discussion on the current agenda item (614th meeting), the Indian delegation had defined the outstanding issue, pointing out that the Committee should concern itself only with the depositary practice followed by the Secretary-General in the matter of reservations to multilateral conventions. After India's own problem had been solved by the adoption of the joint draft resolution (A/C.6/L.448 and Add.1), two separate groups of sponsors had submitted, respectively, the seven-Power draft resolution and the ten-Power draft resolution. The first had advocated a specific line of action, while the second had reflected a line of thought. His delegation had accordingly felt that the two texts could never be

reconciled, especially since the sponsors of the ten-Power draft resolution had apparently overlooked the fact, so aptly stressed by the Polish representative (625th meeting), that the problem of reservations to multilateral conventions could not be divorced from the general context of the law of treaties.

22. Various views had been expressed regarding the nature of the Secretary-General's functions in his capacity as depositary. Some representatives had argued that he should serve merely as a post-office, while others had contended that he should enjoy some measure of discretion. That contradiction had not been disposed of by the International Court, the advisory opinion indeed implying, on page 25, that the Court had been reluctant to commit itself on the point. Despite the absence of any such ruling, however, the General Assembly had duly adopted resolution 598 (VI), which expressly stated that the Secretary-General was not to pass upon the legal consequences of reservations or of objections. Clearly, the Assembly had had some compelling reasons for that decision, and any amendment thereto would have to be genuinely justified.

23. The new draft resolution, which the sponsors of the two seemingly irreconcilable earlier texts had surprisingly succeeded in devising, retained the proposal contained in the seven-Power draft resolution, namely, that the application of paragraph 3 (b) of resolution 598 (VI) should be extended to conventions concluded before 1952. That extension, however, was to remain in force only "until such time as the General Assembly may give further instructions". Those words at first sight appeared somewhat redundant, since the General Assembly was always at liberty to reconsider its earlier decisions; but some of the sponsors apparently believed that the inclusion of the phrase in question would testify to the Assembly's awareness of the studies in progress in the International Law Commission. Such recognition of the fact that the Commission was considering the entire question of the law of treaties was indeed welcome. His delegation also endorsed the suggestion in operative paragraph 2 that the Secretary-General should submit to the Commission all the relevant information that he could gather.

24. The need for some amendment of resolution 598 (VI) could be discerned in the statement on the specific question submitted by India which had been made by the representative of the Secretary-General (616th meeting). The Secretary-General would apparently be the first to welcome some clarification in the form of additional instructions. However, the precise nature of the eventual amendment required very careful thought. A decision affecting a permanent organ of the United Nations—in the present case the Secretariat—could be of lasting value only if it was approved by a very substantial majority. The compromise draft resolution might indeed offer the basis of a solution; but the Committee should make certain that whatever decision it adopted would genuinely assist the Secretary-General in the discharge of his functions.

25. Mr. GLASER (Romania) said that he regretted the evasive manner in which the Mexican and United Kingdom representatives had introduced the new joint draft resolution. The assertion that the new proposal meant precisely what it said and no more was hardly helpful, for that could be said of any draft resolution ever presented.

^{3/} Yearbook of the International Law Commission, 1951, Vol. II (United Nations publication, Sales No.: 1957.V.6, Vol. II), document A/CN.4/L.9.

^{4/} *Ibid.*, document A/CN.4/L.14.

^{5/} *Ibid.*, document A/CN.4/41.

26. The Committee was considering a single aspect of the question of reservations to multilateral conventions, namely, the nature of the Secretary-General's depositary functions. On that question there were differences of opinion, not only between the Secretary-General and some delegations but also among delegations themselves. The whole difficulty, in fact, resulted from the assertion, made in certain quarters, that the Secretary-General had a right and duty to pronounce upon the legal effects of reservations and objections. The sponsors of the new draft resolution should therefore have disposed of that point once and for all, by stressing the unchallengeable sense of paragraph 3 (b) of resolution 598 (VI): that the Secretary-General was required to receive, register and communicate reservations and related declarations but had no right whatever to prejudge their legal effects.

27. In introducing the new joint draft resolution, the United Kingdom representative had characteristically said that if it was adopted the Secretary-General would follow the practice of which he had given an account to the General Assembly. He was apparently determined to disregard the fact that the central issue before the Committee was whether the practice followed by the Secretary-General in the past was consistent with resolution 598 (VI). The Secretary-General's report (A/4235) showed that the Secretary-General himself apparently believed that, notwithstanding resolution 598 (VI), there was no reason for him to depart from the practice which he had inherited from the League of Nations. Many delegations, however, held a very different view.

28. The words "until such time as the General Assembly may give further instructions" were, to say the least, surprising. If the text had been drafted by some university student, the phrase might have been dismissed as the result of poor drafting. But its deliberate insertion by jurists of acknowledged standing could not be so easily explained. As the representative of Ceylon had pointed out, it was an elementary fact that the General Assembly could reverse its own decisions, in the light of circumstances, whenever it pleased. The only possible conclusion, therefore, was that the words had been included for some concealed purpose. If the draft resolution was put to the vote, his delegation would press for a separate vote on the phrase in question.

29. To a layman, the whole question before the Committee might seem purely technical, and even incidental. In reality, however, the point was fundamental, since multilateral conventions were the most efficient means of attaining one of the primary purposes of the United Nations: international co-operation in solving international problems. The current debate had again revealed the continuing struggle between those who sought progress and those who longed for a return to the past; the latter school of thought had been represented by those who defended the outdated unanimity rule and the principle of the integrity of conventions. The unanimity rule had admittedly been followed by the League of Nations, and the Secretary-General had continued to adhere to it. But it was no longer possible to solve matters of international concern according to the interests and desires of only a few Powers. Problems governed by international law were affecting an ever-growing number of States, and would soon become matters of universal interest. Accordingly, multilateral conventions, as sources of international

law, had to reflect all the views that could possibly be ascertained; and since a multilateral convention unanimously accepted by all States in its every detail was difficult to imagine, reservations had to be permitted. By allowing differences of opinion to subsist on details, the acceptance of reservations facilitated agreement among the greatest possible number of States on basic principles.

30. It often happened that parties to multilateral conventions were in general agreement on certain principles, whereas they might disagree on others even within the same field. For example, as the Mexican representative had already pointed out (626th meeting), agreement had been reached at the United Nations Conference on the Law of the Sea, on a number of important points, but not on the question of the breadth of the territorial sea, or on the question whether a foreign warship must ask permission of the coastal State before entering territorial waters. Accordingly, there had in recent years been an increasing tendency, particularly in Pan American practice, to reject the unanimity rule in favour of the concept of universality.

31. With respect to the Secretary-General's functions as depositary, it was clear that he had, in fact, passed upon the legal effect of reservations to certain multilateral conventions, although paragraph 3 (b) of resolution 598 (VI) plainly stated that he should not do so. Surely, however, it was self-evident that it was States which made conventions, not the depositary authority. It was States which made reservations to conventions and States which advanced objections to reservations; in the last analysis, it was States, and not the depositary, which passed upon the legal effect of such instruments. In recognizing that fact, the seven-Power draft resolution had marked an important step forward, whereas the ten-Power draft resolution, by referring the matter again to the International Law Commission and the General Assembly, tended to cast doubt on what had already been decided in resolution 598 (VI). The General Assembly, of course, could not be prevented from changing a view which it had held in 1952; but such a change of view would normally be taken to imply that a mistake had been made. The report of the Secretary-General (A/4235), however, confirmed that resolution 598 (VI) of 12 January 1952 had been found entirely satisfactory and had given rise to no difficulties.

32. It had been argued against the seven-Power draft resolution that its adoption would have a retroactive effect, and would work an injustice against States which had made reservations to certain multilateral conventions. He could not agree with that view, since the obvious meaning of the operative paragraph of the draft resolution was that the Secretary-General should henceforth "apply the aforesaid paragraph 3 (b) in respect of all conventions of which he is the depositary and which do not contain provisions to the contrary". The new draft resolution, on the other hand, would restrict the Secretary-General's functions as depositary to conventions which had been concluded under the auspices of the United Nations. That was a material difference, since the Secretary-General might conceivably be appointed depositary of some multilateral conventions which were not concluded under United Nations auspices. It should not be forgotten, however, that the General Assembly had the duty as well as the right to instruct the Secretary-General concerning his functions as depositary of all multilateral conventions, whether or not they were concluded under United

Nations auspices; for the Secretary-General was an organ of the United Nations, not a separate legal entity.

33. Similarly, there was no reason to speak of discrimination in that connexion, as what was proposed was the abandonment of an outmoded practice and the adoption of a better one. To promote progress was in no way to discriminate unjustly.

34. In conclusion, he wished to emphasize that the new draft resolution, despite its retention of the progressive idea of extending the application of resolution 598 (VI) to other multilateral conventions, was worded in such a way that it was open to criticism on several points.

35. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he did not propose for the moment to go into any questions of substance in connexion with the new draft resolution, but wished to raise a point of order. Two of the sponsors of the resolution, the Mexican and United Kingdom representatives, had given explanations which appeared to him to be diametrically opposed. The Mexican representative had implied that the Secretary-General would be obliged not only to receive instruments of acceptance containing reservations and then circulate them to the other States parties to the convention, but also to state the date of the entry into force of the convention with respect to the State making the reservation. The United Kingdom representative, on the other hand, had implied that the Secretary-General's duties would end with the circulation of the document; he had said nothing about the duty of the Secretary-General to state the date of the entry into force of the convention for the reserving State. Since the two positions were obviously incompatible, he hoped that the sponsors of the new draft resolution would make some effort to agree upon a uniform interpretation.

36. Mr. CASTAÑEDA (Mexico) said that it was obviously important to avoid any contradiction between the views of the sponsors of the new draft resolution, but that he could not be more explicit, in his explanation of the meaning of the expression "depository practice", than he had been in his previous statement. What he had then said was that the nature and scope of that practice and the extent to which the Secretary-General would have to have recourse to juridical rules and systems in the fulfilment of his function as depository were matters within his responsibility.

37. Sir Gerald FITMAURICE (United Kingdom) said that he was not aware of any difference of views between the Mexican and the United Kingdom delegations concerning the interpretation of the Secretary-General's depository functions. While he might have mentioned the circulation of instruments of acceptance as one of the Secretary-General's depository functions, he had not meant to imply that those functions included nothing else. Nothing could be clearer than the language of operative paragraph 1 of the new draft resolution (A/C.6/L.451), which stated that the Secretary-General should "apply to his depository practice... the aforesaid paragraph 3 (b) in respect of all conventions concluded under the auspices of the United Nations and which do not contain provisions to the contrary".

38. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he was still not entirely satisfied by the explanations just given. The problems raised by the new draft resolution appeared so complicated that

he wondered whether the Secretary-General's representative could throw any light on its interpretation.

39. Mr. Maxwell COHEN (Canada) said that the Soviet representative's request was premature at the present stage of the debate, and went considerably beyond a mere point of order.

40. Mr. CASTAÑEDA (Mexico) expressed the hope that the Secretary-General's representative would be able to prepare an explanation, if not immediately, then at least in the near future.

41. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he supported the Mexican representative, and would not insist upon an immediate explanation.

42. Mr. CHAYET (France) said that although the specific problem raised by India had been satisfactorily solved by the adoption of the joint draft resolution (A/C.6/L.448 and Add.1), it had subsequently been found that the matter was not one *sui generis* but was closely connected with the problem of reservations to the constituent instruments of international organizations. In discussing that question, consideration had also been given to the Secretary-General's functions as depository. Those functions had frequently been described as being of a purely administrative nature; but that was true only partially. The Secretary-General had to receive communications, circulate them to States parties and notify the latter of accessions, ratifications and withdrawals. Some of those acts, however—for example, notifications of the entry into force of conventions—involved the actual substance of the problem of reservations.

43. It had been generally agreed that in discharging such functions the Secretary-General must be neutral, and must not favour one State at the expense of another. It had been suggested that the procedure followed by the Secretary-General with respect to conventions concluded after 1952 should be extended to conventions concluded before that date. That presented no serious difficulties, provided that the suggestion was taken to apply to the current administrative practice, and provided that all were fully aware of the inadequacy of the instructions thus given to the Secretary-General. For as the representative of Greece had rightly observed at the 623rd meeting, although the General Assembly had been able to tell the Secretary-General what he ought not to do, it had been unable to tell him what he ought to do.

44. The discussion of the Secretary-General's obligations had been used as the medium for a discussion of the problem of reservations, on which resolution 598 (VI) was silent. Contradictory interpretations of that resolution had been made the basis for conclusions regarding the general problem of reservations. It was clear from the divergent interpretations offered that no one could at present say for certain what rules of law were applicable to all the problems raised by reservations to multilateral conventions concluded under United Nations auspices. Before the adoption of resolution 598 (VI), a practice which had had some great merits, not the least of which was clarity, had been followed. Some had argued that that practice had now been dropped, but that it remained necessary for certain types of conventions, such as those establishing international organizations. Conventions establishing reciprocal obligations fell in the same category.

45. The advocates of reform had provided no new rule to replace the former rule. The problem of

reservations to multilateral conventions, affecting as it did the scope of the undertakings entered into by States, had faced the United Nations with an extremely confused situation and since all States reserved the right to their own interpretation, the results of the work carried out on the subject had undoubtedly implied a reverse to international law.

46. Even some of those members who had criticized the unanimity principle and expressed their approval of resolution 598 (VI) had agreed that the latter was far from solving all problems. In his delegation's view, it had solved no problems at all. The French delegation had always firmly defended the principle of the integrity of conventions. That did not, however, mean that it was not in favour of the universality of conventions.

47. The French delegation had never advocated the complete prohibition of reservations. But it could not agree that any kind of reservation could be made to any kind of convention. Some limit must necessarily be placed upon the acceptance of reservations, and such a limit was to be found in the opinion of the States parties to the convention. If a State had legitimate reasons for making a reservation, it was difficult to see what it had to fear from the other contracting parties.

48. Resolution 598 (VI) had not led to any real progress, nor had it dispelled the Secretary-General's legitimate doubts regarding the effects of certain objections. It had settled only matters of procedure, and had solved no questions of substance, such as the question whether a ratification by a reserving State could be counted towards the number of instruments bringing a convention into force, even if an objection had been made on the ground that the reservation affected the aims and purposes of the convention. The French delegation was not opposed to the adoption of a rule which it considered not so good as the one it favoured; but it was firmly opposed to the adoption of a rule which it considered less clear; for certainty in international undertakings was one of the essential foundations of international relations.

49. Mr. NISOT (Belgium) said that the problem of reservations could be dealt with by a number of methods. They included the unanimity system, the system recognized by the International Court of Justice in its advisory opinion of 28 May 1951, which required

that reservations should be compatible with the aims and purposes of the convention, and the system applied by the Pan American Union which allowed reservations of any kind. Each of those systems met the needs of a different type of convention. Treaties in the traditional sense were not the only means of understanding open to States. States were not precluded under international law from seeking agreement otherwise than by that one inflexible method. On the contrary, they were free, if they so desired, to contract subject to conditions which facilitated the adaptation of the commitments entered into by each party to its particular circumstances. To lay down as a premise that international law allowed only traditional procedures in regard to reservations, was to reason *a priori*, to place arbitrary restrictions on the freedom of States and to rule out valuable means for international co-operation. The International Court of Justice deserved credit for having made a sincere endeavour to bring out distinctions which the advocates of pedantic theories, mindless of reality, were inclined to reject.

50. The new draft resolution took due account of that reality. The present practice presupposed that the principle of unanimity was necessarily that which all States parties to conventions concluded under United Nations auspices before the adoption of resolution 598 (VI) wished to have applied. That implied the incursion of the Assembly and the Secretariat into a field which was within the exclusive competence of the contracting States. The new draft resolution sought to remedy that situation by extending the application of resolution 598 (VI). In future, the Secretariat would remain entirely neutral and leave it to States to determine the legal consequences of reservations, irrespective of whether the conventions in question had been concluded before or after the adoption of resolution 598 (VI). The new draft resolution, because it refrained from prejudging the question of substance, seemed adaptable to any system that contracting States might decide to be applicable.

51. Lastly, the draft resolution met a serious need: the continuance of studies designed to clarify the problems of reservations. That clarification, which was being undertaken by the International Law Commission, should enable the General Assembly to take such decisions as lay within its competence.

The meeting rose at 6.15 p.m.