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Chairman: Mr. Alberto HERRARTE (Guatemala),

## AGENDA ITEM 65

Reservations to multilateral conventions: the Convention on the Inter-Governmental Maritime Consultative Organization (A/4188, A/4235, A/C.6/L.448, 449) (continued)

### GENERAL DEBATE (concluded)

1. Mr. CALINGASAN (Philippines) said that he could not share the Indian representative's belief that the action taken by the Secretary-General with regard to India's instrument of acceptance of the IMCO Convention (A/4235, annex I) was contrary to the advisory opinion of the International Court of Justice of 28 May 1951<sup>1/</sup> and was not in conformity with General Assembly resolution 598 (VI). The International Court itself had expressly limited the application of its advisory opinion exclusively to reservations to the Convention on Genocide. The Secretary-General was therefore under no obligation to follow that opinion in dealing with the IMCO Convention. In addition, the practice which the Secretary-General had been requested to follow under resolution 598 (VI) related expressly to "future" conventions, meaning those concluded after 12 January 1952. If any other meaning had been intended, the word "future" would not have been used in paragraph 3 (b) of the resolution. Accordingly, it was clear that the resolution did not apply to the IMCO Convention which had been concluded in 1948.<sup>2/</sup> If the Secretary-General was not under an obligation to follow resolution 598 (VI), he could not be said to have acted contrary to its provisions.

2. Supposing that the Secretary-General had extended the application of the International Court's advisory opinion to conventions other than the Convention on Genocide, and supposing further that he had extended the practice recommended in resolution 598 (VI) to conventions concluded before 12 January 1952, there could be no assurance that some States might not have raised objections. The Secretary-General had therefore been extremely wise not to extend the sense of either the advisory opinion or the resolution.

3. Although he agreed, on the question of competence, that under Article 10 of the United Nations Charter the General Assembly could discuss the powers and

<sup>1/</sup> Reservations to the Convention on Genocide, Advisory Opinion: I.C.J. Reports 1951, p. 15.

<sup>2/</sup> United Nations Maritime Conference, Final Act and Related Documents (United Nations publication, Sales No.: 1948.VIII.2).

functions of the Secretary-General, he seriously doubted whether the General Assembly was competent to decide on the nature of the declaration attached to India's instrument of acceptance of the IMCO Convention. It was also extremely doubtful whether the General Assembly was competent to decide whether India, by its deposit of its instrument of acceptance, had automatically become a member of IMCO. To determine whether or not the conditions attached to India's instrument of acceptance amounted to a reservation would involve the determination of whether those conditions limited or varied the terms of the Convention, and that would in turn raise the question of the proper interpretation to be given to the pertinent provisions of the Convention. The Convention itself laid down certain procedures over which the General Assembly had no control, among them procedures for the acquisition of membership in IMCO. Hence, the question of the acquisition of membership was within the exclusive competence of IMCO and any action by the General Assembly would amount to interference. Furthermore, IMCO had taken no final decision regarding India's membership, and it would only be proper to allow that organization to resolve the question in accordance with its own constitutional procedures.

4. The General Assembly should also bear in mind the possible undesirable precedents its actions in the matter might create. There were at least two members of IMCO which were not Members of the United Nations and many Members of the United Nations were not members of IMCO. If the General Assembly decided upon a question that was pending before IMCO without a request from that organization, a precedent would be established whose results might be that a country that was not a member of IMCO would be able to take a greater part in deciding matters affecting IMCO than a country that was a member. The situation might also arise where States Members of the United Nations which were not members of IMCO could overrule the members of IMCO on matters that properly belonged to the latter.

5. He wished to make it clear that his delegation had not taken up any position on the nature of India's instrument of acceptance of the IMCO Convention or on recognition or non-recognition of India as a member of IMCO. Although his delegation believed that it would be improper for the General Assembly to take decisions on the questions raised, it was convinced that the General Assembly could do much to create an atmosphere conducive to the removal of difficulties. Indeed, now that the Indian delegation had made it clear (614th meeting) that the Government of India had not submitted a reservation but only a declaration of policy amounting to a restatement of article 1 (b) of the Convention, and as the French representative had voiced the conciliatory attitude of his Government (618th meeting), the Philippine delegation was hopeful that a settlement would soon be worked out.

6. The discussion had clearly brought out the need to clarify the depositary functions of the Secretary-

General with respect to multilateral conventions adopted prior to January 1952. Although full discussion of that matter would not be appropriate at the present session, three courses of action were open. The Committee could decide to place the question on the provisional agenda of a later session of the General Assembly, requesting the Secretary-General to prepare a report on the subject for circulation to Members; it could request the International Law Commission to give consideration to the views expressed in the Sixth Committee in connexion with its work on the law of treaties; and it could request the International Law Commission to include a chapter on the duties and functions of the depositary in its work on the law of treaties.

7. Mr. SPERDUTI (Italy) said that the Secretary-General, in acting as depositary with respect to multilateral conventions concluded under United Nations auspices, did so with the consent and authorization of the United Nations and by virtue of the international instruments themselves. It must be borne in mind that his functions, whether explicitly stated or implicit in his office, were vested in him by virtue of treaties which were juridically outside and separate from the Charter of the United Nations. In his delegation's view, the difficult problems arising out of the Secretary-General's dual position as chief administrative officer of the United Nations and as depositary of multilateral conventions could usefully be considered on the basis of that distinction.

8. It should be noted that it was not quite correct to say that the Secretary-General had been authorized to act as depositary of future multilateral conventions under General Assembly resolution 24 (I). That resolution referred only to the transfer to the Secretary-General of depositary functions originally vested in the Secretary-General of the League of Nations. It was, however, true that part I, section A, of resolution 24 (I) had provided that the United Nations should have custody of instruments connected with activities of the League of Nations which the United Nations was likely to continue.

9. After the adoption of that early resolution the Secretary-General's functions as depositary had developed gradually as a result of requests to that effect and of agreements between parties to conventions that the Secretary-General should act in that capacity. The only resolution on the subject adopted by the General Assembly after resolution 24 (I) had been resolution 598 (VI).

10. Before examining that resolution, however, two points must be made clear. The first was that it was without any doubt the General Assembly's responsibility to determine to what extent it consented to the Secretary-General's being authorized to exercise functions outside the United Nations, for example, under treaties appointing him as depositary. The second point was that those treaties must undoubtedly be taken as the source of the Secretary-General's functions and competence as depositary. A multilateral convention might not specify all the functions which the Secretary-General was to fulfil as depositary and, instead, might refer implicitly to the Secretariat's usual practice, which was well known and which the Secretary-General had unfailingly endeavoured to clarify.

11. Those principles, if correct, inevitably had certain consequences. Firstly, depositary functions could

only be conferred on and certainly could only be performed by the Secretary-General within the limits authorized explicitly or implicitly by the United Nations. Secondly, the General Assembly could not instruct the Secretary-General to perform, in his capacity as depositary of a multilateral convention, acts exceeding the powers conferred on him by that convention. Thirdly, the General Assembly was fully competent to interpret and, if necessary, supplement any provision it had adopted regarding the conditions and the limits of the Secretary-General's authority to act as depositary of multilateral conventions. Fourthly, the General Assembly could not, in the event of difficulties concerning the interpretation of any clauses of those conventions, including those dealing with the functions of the depositary, be considered the appropriate authority to discuss the matter, unless the convention itself so provided.

12. With regard to resolution 598 (VI), he wished to mention a point of the greatest importance. Neither before nor after the adoption of that resolution could the Secretary-General be considered the arbiter in the case of disputes regarding his functions as depositary of conventions, whether they were concluded before or after 12 January 1952. Such disputes might arise in many ways. For example, a State might submit to the Secretary-General an instrument of acceptance of a multilateral convention, accompanied by a reservation, and that same State or other States might later express disagreement as to the juridical effects of objections to that reservation. A disagreement might arise out of a conflict of doctrines, the one denying, the other affirming that the reserving State was a party to the convention. It might also arise on the question whether the reserving State had become party to the convention in respect of all other contracting States with the exception of those which had made objections, or whether it had become party to the convention even in respect of the latter States, except in so far as concerned the clauses to which the reservation and the objections related. In such circumstances, whether the Secretary-General decided to include the reserving State in the list of States parties to the convention, or on the contrary decided that that State had not become a party to the convention and could not therefore be included in the list, his action would, in either case, be unacceptable; he would have passed judgement and have assumed functions which were not his. His decision either way would clearly affect the application of the convention and the rights and obligations of the parties. It was perfectly clear from resolution 24 (I) that even before the adoption of resolution 598 (VI) the Secretary-General had no authority to act in such a manner. Accordingly, the Italian delegation fully endorsed the views set forth in paragraph 37 of the Secretary-General's report (A/4235) concerning the proper procedure for dealing with disputes relating to the juridical effects of a reservation.

13. What, then, was the true scope of the new instructions given to the Secretary-General by the General Assembly in resolution 598 (VI)? That resolution had been adopted by the General Assembly after examination of the advisory opinion of the International Court of Justice of 28 May 1951. The Court had indicated that the practice previously followed by the Secretary-General and by the League of Nations could not be considered based on any rule of international law and that it had not led to the establishment and recognition

of such a rule. The Court had stated that, in the absence of a reservations clause, every means of interpretation must be used to determine what the authors of a given convention had intended.

14. He wished to comment briefly on those elements of the Court's advisory opinion. It was wrong to envisage the principle of unanimity—or of the integrity of a treaty—as requiring the formulation of an ad hoc rule for its legitimate application. What was involved was not an ad hoc rule, but a simple corollary, a strictly logical consequence, of the fundamental rule of consent in international law. In other words, just as an international agreement was itself based on the consent of all States to which it was applicable, so any modification of its provisions, even a limitative one resulting from a reservation, required the explicit or implicit approval of all parties. It was in order to permit the non-application of that principle in particular cases and the application of a different solution that a rule of international law had to be shown to exist justifying the adoption of that solution. A rule of that kind was applied in the matter of reservations within the framework of the Organization of American States. Its application, however, presupposed that a particular convention between American States contained no provisions to the contrary. It thus constituted an additional rule, for the very reason that it was operative only in the absence of any other provision in a convention. As a special rule, it took precedence over more general principles, such as the principle of unanimous consent. The International Law Commission would probably soon have to study de lege ferenda other additional rules relating to reservations on the basis of the report prepared by its Special Rapporteur.

15. A particularly important point in the Court's advisory opinion was the reminder that, in the interpretation of a treaty, the mere absence from the text of a reservations clause was not decisive. It did not follow automatically that the principle of unanimity or of the integrity of the treaty had to be applied, and every means of interpretation still had to be used to determine the implicit will of the parties.

16. The practice followed in the matter of reservations by the Secretary-General of the League of Nations and continued by the Secretary-General of the United Nations had been based on the application of the unanimity principle and on the expectation that its validity would not be contested. Consequently, and also because of the strictly administrative nature of his functions, the Secretary-General had been powerless to decide the disputes which had arisen regarding the Genocide Convention, and subsequently the General Assembly, by resolution 598 (VI), had expressly requested him neither to apply the unanimity rule nor to take any other substantive decision pertaining to reservations, regardless of whether or not a dispute had arisen. That indeed was the difference between the old practice and the new. Formerly, the Secretary-General had had to refrain from taking a personal decision on the legal effects of reservations only in the case of a dispute regarding the validity of those reservations and of objections thereto. Since resolution 598 (VI), on the other hand, he could not even rule on the presence or absence of a dispute.

17. The question raised by India had, however, given rise to a dispute. It was of little importance, therefore, whether the Secretary-General should follow the

traditional practice or the new instructions of the General Assembly. Even if he had to conform to the latter, it was clear that, since he was precluded from passing personally on the legal consequences of reservations and objections, he had no means of establishing whether or not a State which deposited an instrument accompanied by a reservation became a party to the IMCO Convention. He could only rule that a State which had made reservations could become a party to that Convention if those reservations evoked no objections and were consequently accepted, either expressly or by implication, by the other parties. In other cases, he was bound to leave the decision regarding the date on which a reserving State became a party to the Convention or the date of the Convention's entry into force to the competent organs. Those organs had to decide according to the general principles of international law or on the basis of the relevant provisions of the Convention itself, namely, article 55.

18. In those circumstances, the Italian delegation believed that the Secretary-General's conduct in the matter under consideration was in no way at variance with his duties as a United Nations official and afforded no grounds for criticism. The General Assembly had never instructed—nor indeed could it instruct—the Secretary-General to apply the principle that a State could always become party to a convention by accepting it with reservations. Nor had such a principle been in any way endorsed by the Court in its advisory opinion on the Genocide Convention. The Court had, in fact, strictly confined itself to ascertaining and interpreting the intentions at the root of that Convention. In that connexion, the Court had recognized that an understanding had been reached within the General Assembly on the faculty to make reservations to the Convention and that States becoming parties to the Convention had therefore given their assent thereto.

19. In conclusion, he wished to congratulate the Office of Legal Affairs on its impartiality in all matters connected with the deposit of India's instrument of ratification of the IMCO Convention. As he had tried to stress, the General Assembly did not seem competent to rule on the dispute relating to that deposit. That dispute centred on the interpretation of a treaty which had not been adopted by the General Assembly and which itself prescribed, in its article 55, the procedure to be followed in the solution of all questions relating to its interpretation.

20. The Italian delegation hoped that the International Law Commission, and later the General Assembly, would adopt, in the codification of the law of treaties, rules designed to facilitate the solution of problems arising in connexion with reservations to multilateral conventions. It also hoped that the Indian Government would, by the appropriate means, overcome the difficulties hindering its participation in IMCO. That objective was undoubtedly sought by all the parties concerned, and their spirit of co-operation and good will would inevitably lead to a satisfactory solution.

#### CONSIDERATION OF DRAFT RESOLUTION (A/C.6/L.448, 449)

21. Mr. PATHAK (India) said that he did not wish to speak on the substance of the issue nor on the question of competence, as he might have been expected to do. He wished, instead, to suggest a practical solution, along the lines indicated in the joint draft resolution contained in document A/C.6/L.448. If that solution

should prove acceptable to the Committee, much time and labour would be saved.

22. On 19 October 1959 (614th meeting), he had stated that the Indian Government had merely made a declaration of policy, which did not seek to limit or vary any term of the IMCO Convention and was accordingly not a reservation at all. That being so, the deposit of the instrument of acceptance had automatically produced the desired legal result, namely, that India had become a member of IMCO. He had also said that, if the declaration was a mere statement of policy not amounting to a reservation, the question of the principles or procedure governing reservations to multilateral conventions did not arise. Since his statement, several other representatives had spoken. Some had agreed with his submissions, both on the substance of the issue and on competence, while others had disputed the competence of the General Assembly. The final position, however, was that every delegation wished to see India become a member of IMCO. Every delegation which had spoken in the debate had, in fact, strongly supported India's full membership, without any qualification or limitation on her rights. Those who had not yet participated in the debate doubtless held the same view. As to the question of the nature and character of the declaration, it seemed that a very large majority, if not all, of the members of the Committee accepted the Indian view that that declaration had been a statement of policy and did not constitute a reservation.

23. The Indian delegation's attitude had been influenced by the fact that the Committee was pressed for time and that a full discussion on the conflicting theses might engage the Committee in a prolonged debate. Some of the questions which had emerged in the course of discussion were no doubt of considerable importance, but hurried decisions on them might not lead to satisfactory solutions. The matter before the Committee was, he would stress again, of great importance to India. Like other under-developed countries, India attached the utmost importance to international economic co-operation, and indeed regarded economic development as a matter of life and death. On the other hand, India believed in solving problems by friendly negotiation and in the true spirit of the United Nations. Those were the reasons that had prompted India to sponsor the joint draft resolution (A/C.6/L.448). The spirit of co-operation shown in the Committee would no doubt be maintained, and he fervently hoped that the position of India as a member of IMCO would be regularized at a very early date.

24. The Indian delegation was particularly grateful for the co-operation and assistance it had received from the representative of the Secretary-General, and was confident that the Secretary-General would continue to extend that assistance, particularly in ensuring that both the letter and the spirit of the eventual resolution were carried into effect. In striving to be fair to everybody, however, the representative of the Secretary-General had perhaps been somewhat unfair to himself. The Indian delegation had only invoked the rule of law for the vindication of India's rights. There was nothing in its introductory statement attributing to the Secretary-General a conscious or deliberate breach of the Charter or of any provision of the law. Judges of the highest courts were sometimes reversed on appeal, and, in cases involving the interpretation of a constitution, dissenting views

were often heard from the bench. There had indeed been occasions when dissenting views had later become majority views. In all such cases, all that was involved was an honest error of judgement. He accordingly wished to assure the Secretary-General that no imputation of any kind had ever been levelled against him, and that the Indian delegation's presentation of its case had never been meant to imply anything other than an unconscious error of judgement, such as might be committed by any judge who had taken the oath to carry out the commands of his country's constitution and was subsequently called upon to interpret it. The Indian delegation strongly hoped that the Secretary-General would understand the true spirit in which the Indian opening statement had been made.

25. The proceedings in the Committee had been fruitful in one very important respect: they had revealed valuable information and material, which were not only useful to the General Assembly in the present context but might also prove helpful in the future, both in relation to IMCO and other specialized agencies and also generally. That wealth of material had been contributed largely through the labours of the Secretary-General, but much research and scholarship had also been apparent in the statements of representatives. The Polish representative, for example, had drawn attention (619th meeting) to much historical material of immense value. It was but proper, therefore, that the General Assembly should express its appreciation of such information and material, and operative paragraph 1 of the joint draft resolution provided accordingly.

26. It was also necessary that the Secretary-General should, as requested in operative paragraph 3 of the draft resolution, transmit to the Inter-Governmental Maritime Consultative Organization the text of the resolution, together with the relevant records and documentation.

27. In conclusion, he stressed that India strove to maintain friendly relations with all nations. It was consequently gratified that the draft resolution was so widely sponsored by Powers from different parts of the world. He hoped that that measure of agreement would be further reflected in the unanimous acceptance of the draft resolution.

28. Mr. CHAYET (France) said that the Committee had doubtless been struck by the fact that both India and France were sponsors of the joint draft resolution. That reconciliation, though partly fortuitous, had in effect been deliberately sought by both delegations. The French delegation had always stressed that it would seek a solution of the question through international co-operation, especially in view of its long-standing friendship with India.

29. Furthermore, the French delegation wished to thank all the other States which had sponsored the joint draft resolution. The text could lead to the satisfactory solution which all States desired, and he could therefore only reiterate the Indian representative's hope that it would meet with general approval.

30. Mr. BEST (Union of South Africa) said that the Secretary-General's lucid and impartial report (A/4235), considered together with the statement made by the Legal Counsel of the United Nations (616th meeting), had placed the whole problem in its proper perspective. The item introduced by the Indian representative had two aspects: first, the principles and

procedures followed by the Secretary-General in the specific case of the Indian instrument of acceptance of the IMCO Convention; second, the principles and procedures to be followed by the Secretary-General in discharging his functions as depositary of instruments of ratification in general.

31. With regard to the first aspect, India's complaint seemed to be that the Secretary-General had exceeded his authority in notifying India that, if he received no objection to the declaration from a State party to the IMCO Convention, India would be listed as a party to the Convention. It was clear that the Secretary-General had not gone beyond his authority as a depositary of conventions in general, since General Assembly resolution 598 (VI) of 1952 had laid down procedures only in regard to the Convention on Genocide and in respect of future conventions, whereas the IMCO Convention had been concluded prior to 1952. Whether or not the Secretary-General had exceeded the authority vested in him by the IMCO Assembly in its resolution of 13 January 1959 would surely be a matter for IMCO, and not for the United Nations, to rule on. In any case, the IMCO Assembly had heard India's contention and had not accepted that view in its resolution. His delegation thought that the Secretary-General had followed the only course of action possible in the circumstances, and had acted with complete impartiality. The Committee ought to do what the Secretary-General had done—it should leave India's complaint for decision by the member States of IMCO, acting under articles 55 and 56 of their Convention. Accordingly, his delegation fully endorsed the principle embodied in the joint draft resolution (A/C.6/L.448).

32. As for the general problem of the Secretary-General's depositary functions with respect to conventions concluded prior to the adoption of resolution 598 (VI), his delegation shared the misgivings expressed by other delegations regarding the advisability of reopening that broad and involved question and repeating the lengthy discussions at the sixth session of the General Assembly without much prospect of a satisfactory outcome. His delegation felt that it would be of very great value if the International Law Commission, as its Chairman had suggested (616th meeting), would make a study of the functions of a depositary in the course of its work on the law of treaties, and it believed that the Committee should await the Commission's findings before undertaking any substantive discussions on the question.

33. Mr. MESSINA (Dominican Republic) said that, as a Member of the United Nations and of IMCO, his country considered it important that the Committee should try to find a solution, without prejudice to the position taken on the various legal issues that had been raised during the discussions, which would simplify the procedure to allow India to become a full member of IMCO, with the support of all the nations represented in the Committee. Such a solution could be attained by the adoption of a resolution in which the General Assembly merely took note of the views expressed in the Committee and transmitted all the relevant documentation, including the records of the Committee's meetings, to IMCO so that the latter could take what it considered the most appropriate decision in the light of the documentation transmitted.

34. He noted with satisfaction that France, India and a number of other countries had submitted a joint

draft resolution (A/C.6/L.448) the terms of which coincided with the view he had just outlined. His delegation therefore intended to support it.

35. His delegation was in complete agreement with the Secretary-General's excellent and well-considered report (A/4235) and believed that the Secretary-General's treatment of India's instrument of acceptance had been correct.

36. U MAUNG MAUNG (Burma) complimented the Committee on the friendly atmosphere which had been maintained during the debate. From the practical and common-sense point of view, without reference to the question of legal competence, India had been right to bring the matter before the Committee. The fact that IMCO had appointed the Secretary-General to act as depositary indicated that he had been given some discretion; if IMCO had wanted mere mechanical action, it would have used a machine as a depositary. The legal issues involved in the problem were numerous and difficult; the Committee should seek a practical solution arrived at by friendly agreement between the parties.

37. Mr. Benjamin COHEN (Chile) said that his delegation would vote in favour of the joint draft resolution (A/C.6/L.448) and reserved the right to speak again on other aspects of the problem not covered by that text.

38. Sir Gerald FITZMAURICE (United Kingdom) said he would limit his remarks to the joint draft resolution (A/C.6/L.448) and reserve his comments on the other draft resolution before the Committee (A/C.6/L.449) for a later stage in the discussion. He wished to express his delegation's great pleasure in being able to sponsor a resolution which seemed to offer a most happy solution to the problem. In his opening statement (614th meeting), the Indian representative had referred to IMCO's action as having been taken on a resolution moved by the United Kingdom. He would like now to explain how the matter had arisen. The United Kingdom, as the host Government to the IMCO Conference, had been responsible for seeing that the Conference reached a conclusion and dealt with the agenda within a limited time. It had felt that the question raised by India might take up a good deal of time, and the only reason for the United Kingdom proposal had been to find a temporary solution which would enable India to participate in the proceedings and the Conference to continue with its substantive work. The United Kingdom was, in reality, most anxious to see India become a member of IMCO.

39. His delegation welcomed the Indian representative's statement that the Indian declaration did not constitute a reservation; in view of that statement, it had no doubt that a solution would be found at an early date. His delegation was happy to support the draft resolution; it had always felt that the matter was one for IMCO itself to decide. In view of that draft resolution, it would not be necessary for him to give his Government's views on the difficult constitutional questions underlying the problem.

40. He wished to comment on two points only. First, there had been a good deal of discussion concerning the relationship between the United Nations and the specialized agencies. His Government would find it difficult to subscribe to the view that the United Nations had some kind of overriding authority in relation to the specialized agencies. That was a dangerous

doctrine. The relationship between the specialized agencies and the United Nations was defined in the relationship agreements between them. It was not the relation of subordinate and superior: the specialized agencies had their own constitutions and distinct memberships. They had been set up as technical agencies, whose members possessed a technical competence not to be found in any of the Main Committees of the General Assembly.

41. His second point concerned the position of the Secretary-General. Observations had been made which appeared to suggest that the Secretary-General had exceeded or misused his authority. In the view of the United Kingdom delegation, the Secretary-General's actions had been perfectly correct and in no way inconsistent with his duties. His delegation also felt that the Secretary-General had applied resolution 598 (VI) in the most faithful, meticulous and accurate manner. It had no doubt that operative paragraph 3 (b) of that resolution had been intended to apply to treaties concluded after 1952. If that were not so, the wording of the paragraph would be difficult to interpret.

42. He was gratified that so many delegations had found it possible to agree on the joint draft resolution and he hoped that its objective would be achieved in due course.

43. Mr. SALAMANCA (Bolivia) expressed his delegation's support for the joint draft resolution. During the debate he had found it difficult to make a final judgement because the sense of the Indian declaration

had not been made clear, but the Indian representative's statement regarding the declaration had dispelled his doubts. He was pleased that the problem was being solved in such a satisfactory manner.

44. Mr. Maxwell COHEN (Canada) welcomed the prospect of an early solution recognizing the Indian desire to become a member of IMCO. The fact that the problem had arisen at all in the Indian case showed how difficult it might become in other cases.

45. The debate had been useful in exposing certain problems and it had stimulated reconsideration of the role of the depositary. As for the relationship between the specialized agencies and the depositary, he could not agree with all that the United Kingdom representative had said. Article 63 of the Charter, for instance, suggested that there could be situations in which the General Assembly would be competent to give instructions to the specialized agencies. With regard to the nature of reservations in general, it would be pointless to discuss the subject before the International Law Commission had presented its report on the law of treaties. The problem had become very complex; its solution would probably be found in a balance between the outdated unanimity rule and excessive unilateralism.

46. The CHAIRMAN announced that Greece, Liberia and Spain wished to join in co-sponsoring the joint draft resolution (A/C.6/L.448).

The meeting rose at 12.30 p.m.