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REPORT OF THE INTERNATIONAL LAW COMMISSION COVERING THE WORK OF ITS THIRD SESSION:

(a) RESERVATIONS TO MULTILATERAL CONVENTIONS

RESERVATIONS TO THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE: ADVISORY OPINION OF THE INTERNATIONAL COURT OF JUSTICE

Report of the Sixth Committee

Rapporteur: Mr. D. ABDOH (Iran)

1. The General Assembly on 16 November 1950 adopted resolution 478 (V), by which it, inter alia,

(a) requested the International Court of Justice to give an advisory opinion on certain questions relating to the effect of reservations to the Convention on the Prevention and Punishment of the Crime of Genocide and of objections to them;

(b) invited the International Law Commission to study the question of reservations to multilateral conventions both from the point of view of codification and from that of the progressive development of international law, taking account of the views expressed during the fifth session of the General Assembly; and

(c) instructed the Secretary-General in the meantime to follow his prior practice in the matter of reservations without prejudice to the legal effect of objections thereto as might be recommended by the General Assembly at its sixth session.

2. The International Court of Justice on 28 May 1951 rendered its advisory opinion on reservations to the Convention on the Prevention and Punishment of the Crime of Genocide (A/1874). The International Law Commission devoted chapter II

of its report covering the work of its third session[1] to the general subject of reservations to multilateral conventions.

3. On 13 November 1951, the General Assembly, at its 341st plenary meeting, decided to include the advisory opinion of the Court and the International Law Commission's report in the agenda of its sixth session. At its 342nd plenary meeting on the same date the items were referred to the Sixth Committee for consideration.

4. On 16 November 1951, the Sixth Committee decided to consider chapter II of the Commission's report and the advisory opinion of the Court together under the general heading of reservations to multilateral conventions.

5. The Committee discussed the matter at its 264th to 278th meetings from 5 December 1951 to 5 January 1952.

6. During the discussion the Committee had before it a draft resolution submitted by the United States of America (A/C.6/L.188), with amendments thereto by Lebanon (A/C.6/L.189), the United Kingdom (A/C.6/L.190), Argentina Bolivia, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador, and Honduras jointly (A/C.6/L.191), Venezuela (A/C.6/L.197/Rev.1), and Afghanistan, Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen jointly (A/C.6/L.200). The Committee also had before it a draft resolution submitted by Sweden (A/C.6/L.192); two draft resolutions submitted by Israel (A/C.6/L.193/Rev.1 and A/C.6/L.194), the second with an amendment by Iran (A/C.6/L.195); a draft resolution submitted by Indonesia (A/C.6/L.196); a joint draft resolution submitted by Denmark, India, Iran, Israel, Mexico, the Netherlands, Peru and Sweden (A/C.6/L.198); and a draft resolution submitted by Iraq (A/C.6/L.199). Moreover, Canada submitted a memorandum on the subject (A/C.6/L.201). At a later stage in the discussion, the United States of America submitted a revised draft resolution (A/C.6/L.188/Rev.1), to which amendments were submitted by Argentina, Belgium and Egypt jointly (A/C.6/L.202), Iran (A/C.6/L.203), and Poland (A/C.6/L.204).

7. The United States draft resolution (A/C.6/L.188) in its original form provided that the General Assembly should

(1) commend to all States the advisory opinion of the International Court of Justice;

(2) recommend to all organs of the United Nations that they be guided in in their work by the Court's advisory opinion, so far as it might be applicable;

1/ A/1858, see Official Records of the General Assembly, Sixth Session, Supplement No.9.

(3) recommend that drafters of multilateral conventions should bear in mind the possible consideration of a reservations clause; and

(4) authorize the Secretary-General

(a) to provide administrative services in connexion with the deposit of documents relating to ratifications, accessions or reservations (including objections thereto) without passing upon their legal effect; and

(b) to communicate the text of such documents to all States concerned, with a statement, when reservations are involved, of his understanding

(i) that all States which have ratified or acceded and which have been notified of a reservation will be considered as having accepted it unless they have notified him of objections thereto before a certain date, and

(ii) that all States which later ratify or accede and which have been notified of a reservation will be considered as having accepted it unless, in connexion with the deposit of the documents relating to their ratification or accession, they indicate their objection to the reservation.

8. The amendment of Lebanon (A/C.6/L.189) to the United States draft resolution proposed a modification of paragraph 3 of the operative part to recommend that the drafters of multilateral conventions, in the light of the nature of particular conventions, should bear in mind the possibility of inserting either a reservations clause or a clause precluding reservations.

9. The United Kingdom amendment (A/C.6/L.190) to the United States draft resolution proposed

(1) that the first paragraph of the operative part should be deleted;

(2) that the second paragraph should be amended so as to recommend to all organs of the United Nations, specialized agencies and States that they be guided by the International Law Commission's report;

(3) that the third paragraph should be amended so as to refer to paragraph 33 of the Commission's report and to recommend that organs of the United Nations, specialized agencies and States should in the course of preparing multilateral conventions consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to

the effect to be attributed to them; and

(4) that the fourth paragraph be amended so as to request the Secretary-General to conform his practice in relation to reservations to the Convention on Genocide to the advisory opinion of the International Court of Justice, and, in relation to any other multilateral convention of which he was the depositary and subject to the provisions of the convention on reservations, to act in accordance with paragraph 34 of the Commission's report. On 4 January 1952, the United Kingdom withdrew the first two paragraphs of its amendment, in consequence of the revision of the text of the United States draft resolution, and also withdrew the words referring to the International Law Commission in the third paragraph; the third paragraph was made to relate to the first operative paragraph of the revised United States draft resolution (A/C.6/L.188/Rev.1) and the fourth paragraph to the second operative paragraph.

10. The joint amendment (A/C.6/L.191) to the United States draft resolution submitted by Argentina, Bolivia, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador and Honduras proposed

(1) to delete paragraphs 1 and 2 of the operative part;

(2) in paragraph 4(b) of the operative part to delete the entire text concerning the understandings of the Secretary-General, following the words "to all States concerned"; and

(3) to add a new paragraph 5 establishing rules governing the procedure applicable to, and the legal effect of, reservations to multilateral conventions which contain no express provisions on reservations and for which the Secretary-General acts as depositary. Under these rules, unless reservations had been accepted by the signatories at the time of signature, the Secretary-General, before depositing an instrument of ratification or accession subject to reservations, would communicate the text of the reservations to the other signatory States and would request them to notify him whether they accepted the reservations. The Secretary-General would then communicate any observations received to the State making the reservations. If that State nevertheless maintained its reservations, the convention would enter into force in the form in which it was signed as between States which ratified it without reservations; it would be in force between a reserving State and the parties which accepted the reservations in the form in which it was modified by such reservations; and it would not be in force between a

reserving State and a State which, having already ratified, did not accept such reservations;

(4) to add a new paragraph 6 instructing the International Law Commission to take the foregoing rules into account in its work on the codification of the law of treaties. This amendment was withdrawn by the sponsors on 20 December 1951, in consequence of an oral amendment made by Egypt on behalf of the sponsors to the joint amendment proposed by Afghanistan, Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen (A/C.6/L.200) to the United States draft resolution.

11. The amendment of Venezuela (A/C.6/L.197/Rev.1) was originally proposed in relation to the first draft resolution of Israel (A/C.6/L.193), but was later transferred by its sponsor to apply to the United States draft resolution. The amendment proposed to insert a new paragraph 1 in the operative part of the latter which would recommend to all States that they be guided, in regard to the Convention on Genocide and in framing other multilateral conventions of a humanitarian nature, by the advisory opinion of the Court.

12. The joint amendment (A/C.6/L.200) submitted by Afghanistan, Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen to the United States draft resolution proposed

(1) to redraft the second paragraph of the preamble;

(2) to delete paragraphs 1 and 2 of the operative part; and

(3) to redraft paragraph 4 of the operative part to invite the Secretary-General to continue to provide appropriate services in connexion with the deposit of documents relating to ratifications, accessions or reservations (including objections thereto), without passing upon the legal effect of such documents, and to communicate the text of such documents to all States concerned, leaving it to each State to draw all the legal consequences from such communication.

13. On 20 December 1951, the United States accepted the amendment of Lebanon (A/C.6/L.189) and the joint amendment of Afghanistan, Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen (A/C.6/L.200), together with an oral amendment proposed on behalf of the same sponsors by the representative of Egypt, to the effect that the decision of any one State would not be sufficient to prevent the participation in the convention of a State whose reservation had been accepted. The resulting draft resolution was issued as document A/C.6/L.188/Rev.1.

14. The United States draft resolution, as thus revised, provided that the

General Assembly, noting the Court's advisory opinion and the report of the International Law Commission, should

(1) recommend that drafters of multilateral conventions, in the light of the nature of particular conventions, should bear in mind the possibility of inserting either a reservations clause or a clause precluding reservations; and

(2) invite the Secretary-General to continue to provide appropriate services in connexion with the deposit of documents relating to ratifications, accessions or reservations (including objections thereto) without passing upon the legal effect of such documents, and to communicate the text of such documents to all States concerned, leaving it to each State to draw all the legal consequences from such communications, without the decision of any one State being sufficient to prevent the participation in the convention of a State whose reservations have been accepted.

15. The joint amendment (A/C.6/L.202) to the revised United States draft resolution submitted by Argentina, Belgium and Egypt proposed to redraft the operative part so as to

(1) recommend that in the drafting of multilateral conventions the desirability of inserting either a reservations clause or a clause precluding reservations should be borne in mind, in the light of the nature of particular conventions; and

(2) invite the Secretary-General, in respect of future conventions concluded under the auspices of the United Nations of which he is the depositary,

(a) to continue to act as depositary in connexion with the deposit of documents containing reservations or objections, without passing upon the legal effect of such documents, and

(b) to communicate the text of such documents to all States concerned, leaving it to each State to draw the legal consequences from such communications; the Secretary-General should not however for the purposes of his action as depositary regard the decision of any one State as being able to debar States formulating reservations from participation in the convention in relation to States which have not objected thereto. The first paragraph of this amendment was withdrawn by the sponsors on 4 January 1952, in consequence of the adoption of the third paragraph of the United Kingdom amendment described in paragraph 9 above.

/16. The

16. The amendment of Iran (A/C.6/L.203) to the revised United States draft resolution proposed:

(1) to redraft paragraph 1 of the operative part to recommend that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them; and

(2) to redraft paragraph 2(a) of the operative part to delete the words "ratifications, accessions or" and "(including objections thereto)". This amendment was withdrawn on 4 January 1952.

17. The amendment of Poland (A/C.6/L.204) to the revised United States draft resolution proposed to add the words "by any other State" at the end of the operative part.

18. The draft resolution submitted by Sweden (A/C.6/L.192) proposed that the General Assembly should recommend, in accordance with paragraph 33 of the International Law Commission's report, that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion of provisions relating to the admissibility of reservations and to the effect to be attributed to them, and that the General Assembly should request the Secretary-General, pending further action by the Assembly, to continue his prior practice with respect to the receipt of reservations and to the notification and solicitation of approvals thereof. This draft resolution was withdrawn by its sponsor on 3 January 1952.

19. Israel submitted two draft resolutions, the first (A/C.6/L.193/Rev.1) relating to the advisory opinion of the International Court of Justice, and the second (A/C.6/L.194) to the report of the International Law Commission. The first, as revised, proposed that the General Assembly should recommend to all States that they be guided, in regard to the Convention on Genocide, by the advisory opinion, and that the Secretary-General should be instructed to conform his practice in relation to reservations to that Convention to the advisory opinion. Before revision the draft resolution had contained an additional paragraph instructing the Secretary-General to continue as hitherto to exercise his depositary functions, subject to the provisions of particular conventions, and to consult with the General Assembly and the States concerned if and when difficulties arose.

/20. The

20. The second draft resolution of Israel (A/C.6/L.194) proposed that the General Assembly should

(1) express its appreciation of the work done by the International Law Commission;

(2) call the attention of States and international diplomatic conferences to the Commission's report;

(3) recommend that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion of provisions relating to the admissibility of reservations and the effect to be attributed to them;

(4) request the International Law Commission to include in its report on the law of treaties a chapter concerning the functions, rights and duties of the depositary; and

(5) resolve to give further consideration to the report of the Commission on reservations when the whole report on the law of treaties would be submitted to the Assembly.

21. The amendment of Iran (A/C.6/L.195) to the second draft resolution of Israel (A/C.6/L.194) proposed to add a new paragraph requesting the International Law Commission to re-examine the question of the rights and duties of the depositary, taking into account all the opinions expressed during the sixth session of the General Assembly, more especially with regard to the advisory opinion of the Court.

22. The draft resolution submitted by Indonesia (A/C.6/L.196) proposed that the General Assembly should recommend

(1) that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility of reservations and to the effect to be attributed to them;

(2) that conventions, particularly those of a general humanitarian and social character drafted and concluded within the scope of the United Nations, should be adopted in accordance with the rules of procedure suggested by the International Law Commission, with modifications in paragraphs 34 (4) and 34 (5b) of the Commission's report so that the objection of a majority of States in the categories described therein, instead of the objection of a single State, would be necessary to

prevent a reserving State from becoming a party;

(3) that, as to conventions concluded outside the framework of the United Nations, the opinion of the International Court of Justice should be taken as guidance, as far as applicable, and the procedural rules suggested by the International Law Commission adopted; and

(4) that the International Law Commission's rules, as modified should be deemed applicable to the Convention on Genocide. This draft resolution was withdrawn by the sponsor on 4 January 1952.

23. The joint draft resolution introduced by Denmark, India, Iran, Israel, Mexico, the Netherlands, Peru and Sweden (A/C.6/L.198) provided that the General Assembly should

(1) express its appreciation of the work done by the International Law Commission;

(2) recommend that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them;

(3) request the International Law Commission to give further examination to the topic of reservations when preparing its codification of the law of treaties, in the light of various considerations, including the opinions expressed during the discussions in the Sixth Committee, in order to formulate new rules which could be adopted for the future;

(4) resolve to give further consideration to the Commission's report on reservations when its whole report on the law of treaties would be submitted to the Assembly; and

(5) invite the Secretary-General, pending further action by the General Assembly, to follow his prior practice with respect to the receipt of reservations and to notifications and solicitations of approval thereof, all without prejudice to the legal effect of objections to reservations.

24. The draft resolution of Iraq (A/C.6/L.199) provided that the agenda item should be referred to a seven-member sub-committee, which would study the question thoroughly in the light of what had been said in the Sixth Committee, and would report to the Committee within two weeks. This draft resolution was withdrawn by its sponsor on 20 December 1951.

25. The debates in the Sixth Committee concerned three principal problems.

The first was the effect of objections to reservations in the case of the Convention on Genocide; the second was the practice to be followed concerning reservations to conventions to be drafted in the future; and the third concerned the practice to be followed with respect to reservations and objections to them in the case of existing conventions other than the Convention on Genocide.

26. As to the first problem, most delegations thought that reservations to the Convention on Genocide should be governed by the principles of the advisory opinion of the International Court of Justice, under which the test of compatibility with the object and purpose of the Convention would be applied to reservations. Others, however, took the view that States had an absolute right to make whatever reservations they chose to that Convention. Still others expressed the opinion that such reservations required the unanimous consent of the parties, or that no reservations whatever were admissible in that case.

27. Many delegations thought that the second problem, that relating to conventions in general, could be largely solved by recommending, in accordance with the suggestion of the International Law Commission (A/1858, paragraph 33), that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them. Some thought that such a provision should be included in all cases, while others preferred to leave it open to negotiators to determine the advisability of inserting such a clause. Others, however, opposed the inclusion of clauses on reservations unless such clauses had been adopted by unanimous vote of the drafting conference.

28. Apart from wide agreement on the question of the Convention on Genocide and on the insertion of reservations clauses in future conventions, there was a marked divergence of opinion in the Sixth Committee.

29. Some delegations supported in general the system proposed by the International Law Commission, under which the unanimous consent of States which had ratified or acceded to a convention and, within certain limitations, of signatories thereto, would be necessary for a State to become a party subject to a reservation.

30. Others advocated that, at least for the time being, the Secretary-General should continue his prior practice under which only States which had ratified or acceded to a Convention had the right to object to reservations so as to prevent the reserving State from becoming a party.

31. Some of the delegations which in general supported the principle of

unanimous acceptance of reservations thought that it might operate inequitably if a single State, by objecting to a reservation, could exclude a reserving State from a convention and thereby frustrate the desires of a large majority of the parties, who might wish the reserving State to be a party and be willing to accept the reservation. To obviate this difficulty, it was suggested that the requirement of unanimous acceptance might be replaced by one of acceptance by three-fourths, two-thirds, or a simple majority of the States concerned.

32. A large number favoured more liberal systems on reservations in order to make it easy for States to become parties to multilateral conventions. Some of these advocated the practice adopted by the Organization of American States, whereby a reservation is first circulated to the signatory States for comments; if it is maintained by the State making it, that State becomes a party with respect to the States which accept the reservation, but the convention does not enter into force between the reserving State and a State which does not accept the reservation.

33. Others, while recognizing that the nature of some multilateral conventions made reservations to them impossible without unanimous consent, nonetheless were of the opinion that the principles of the advisory opinion of the International Court of Justice should be applied either to all conventions of a humanitarian character or to an even wider group of conventions. Under these principles, a State making a reservation which had been objected to by a party to the convention could nevertheless be regarded as being a party if the reservation was compatible with the object and purpose of the convention. The question of the compatibility of a reservation with that object and purpose would be left, at least in the first instance, to the appreciation of each individual party. These delegations insisted that the effect of a reservation or of an objection thereto should in no event be passed on by the Secretary-General, but should be left to be settled by the States concerned by any of the methods available for the settlement of international disputes. Some of those which declared in favour of the generalization of the advisory opinion, however, also maintained the right of a party, insofar as its own relations with a reserving State were concerned, to refuse to accept a reservation whether or not it is compatible with the object and purpose of a convention, and further argued that an objection to a reservation might affect only the article or section of the convention to which the reservation had been made.

/34. Other

34. Other delegations believed that the right to make reservations was a necessary consequence of the sovereignty of States and of the system of majority votes in adopting the texts of multilateral conventions. They advanced the view that this was existing law. In their opinion, a State could always make whatever reservations it wished, and the convention would enter into force between the reserving State and all the other parties, subject to the reservation. An objection to a reservation would be without legal effect, and would be an attempt to interfere in matters which were exclusively within the competence of the reserving State.

35. Some declared it was impossible to apply a single rule on reservations to all multilateral conventions, and thought that a careful study should be made with the object of defining categories of such conventions and establishing the rules applicable to each.

36. Others doubted that any of the proposed rules constituted in all its details an existing rule of international law, and referred to the great diversity of opinions which had been expressed. They were of opinion that there were no pressing problems of objections to reservations at present and probably none would arise in the future which would make a rule necessary, and consequently were not in favour of the Assembly's attempting to lay down such a rule.

37. Other delegations thought it inopportune to take a final decision on the matter, perhaps by a narrow majority, at the sixth session of the General Assembly. In their opinion, further study might make it possible to arrive at a rule which would combine the best features of all those which had been advocated so far, and which could obtain very wide agreement. For this reason, these delegations favoured referring the matter back to the International Law Commission to be dealt with in the course of the Commission's work on the codification of the law of treaties.

38. On the other hand, it was pointed out that, even without a new formal request by the General Assembly, the International Law Commission would take up this subject and make recommendations de lege ferenda in the normal course of its work on the law of treaties.

39. Further, many desired that the subject should be disposed of by a final decision at the current session. They thought that a postponement would not contribute toward reaching a solution acceptable to them, or feared that it might

mean a repetition next year of the debates of the last and current sessions.

40. Several delegations insisted that any rule on reservations laid down by the General Assembly for the guidance of the Secretary-General could not be retroactive and could not apply to existing multilateral conventions. Such a rule, they argued, would involve a determination of the law. A declaration of the present law or the establishment of new law by the Assembly could in no case be binding on the parties to existing conventions, and would be beyond the Assembly's competence.

41. Others, however, thought that the General Assembly was fully competent to give instructions to the Secretary-General relating to reservations to existing conventions

42. The Committee first voted on the amendment of the United Kingdom (A/C.6/L.190) to the United States draft resolution, as modified by the withdrawal of the first two paragraphs and of the words "in particular, in accordance with paragraph 33 of the Commission's report," in the third paragraph.

The first (formerly third) paragraph of the United Kingdom amendment was adopted by 24 votes to 15, with 7 abstentions.

The second (formerly fourth) paragraph, as far as the end of sub-paragraph (a), was adopted by 23 votes to 14, with 12 abstentions.

Sub-paragraph (b) of the second (formerly fourth) paragraph was rejected by 29 votes to 11, with 8 abstentions.

43. The Committee then voted on the amendment of Venezuela (A/C.6/L.197/Rev.1) in two parts, the first consisting of the words "and in framing other multilateral conventions of a humanitarian nature" and the second consisting of the remainder of the amendment.

The first part of the Venezuelan amendment was rejected by 21 votes to 12, with 14 abstentions.

The second part was adopted by 17 votes to 6, with 24 abstentions.

44. The Committee then voted on the joint amendment of Argentina, Belgium and Egypt (A/C.6/L.202), as modified by the withdrawal of the first paragraph. The vote was taken in parts, the first part being the phrase "concluded under the auspices of the United Nations" in the introductory phrase; the second being the introductory phrase except for the first part and the words "Invites the Secretary-General"; the third being the words "Invites the Secretary-General"; the fourth being sub-paragraph (a); the fifth being sub-paragraph (b) up to and including the words "such communications", and the sixth being the remainder of sub-paragraph (b).

/The first

The first part of the joint amendment was adopted by 29 votes to 7, with 12 abstentions.

The second part was adopted by 32 votes to 5, with 12 abstentions.

The introductory phrase as a whole was adopted by 33 votes to none, with 17 abstentions.

The fourth part was adopted by 30 votes to 16, with 2 abstentions.

The fifth part was adopted by 28 votes to 17, with 3 abstentions.

The sixth part was rejected by a roll-call vote of 24 to 18, with 7 abstentions. The voting was as follows:

In favour: Argentina, Belgium, Colombia, Cuba, Dominican Republic, Ecuador, Egypt, Guatemala, Haiti, Lebanon, Liberia, Mexico, Nicaragua, Saudi Arabia, Syria, Uruguay, Venezuela, Yemen.

Against: Australia, Brazil, Byelorussian Soviet Socialist Republic, Canada, Chile, China, Czechoslovakia, Denmark, Ethiopia, France, India, Indonesia, Iran, Iraq, Israel, Netherlands, New Zealand, Norway, Poland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yugoslavia.

Abstaining: Afghanistan, Greece, Pakistan, Panama, Peru, Philippines, United States of America.

45. The amended United States draft resolution as a whole was adopted by a roll-call vote of 23 to 18, with 7 abstentions. The voting was as follows:

In favour: Afghanistan, Belgium, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, Greece, Haiti, Iraq, Lebanon, Mexico, Nicaragua, Poland, Saudi Arabia, Syria, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela, Yemen.

Against: Australia, Brazil, Canada, Chile, China, Denmark, Ethiopia, France, India, Indonesia, Israel, Netherlands, New Zealand, Norway, Peru, Sweden, United Kingdom of Great Britain and Northern Ireland, Yugoslavia.

Abstaining: Argentina, Colombia, Guatemala, Iran, Liberia, Pakistan, Philippines.

46. After these votes had been taken, the Committee, under rule 130 of the rules of procedure, decided, by 22 votes to 18 with 2 abstentions, that all other draft resolutions and amendments on the subject had been disposed of and did not require to be voted on.

47. The Sixth Committee therefore recommends to the General Assembly the adoption of the following resolution:

RESERVATIONS TO MULTILATERAL CONVENTIONS

The General Assembly,

Bearing in mind the provisions of its resolution 478 (V) of 16 November 1950, which (1) requested the International Court of Justice to give an advisory opinion regarding reservations to the Convention on the Prevention and Punishment of the Crime of Genocide and (2) invited the International Law Commission to study the question of reservations to multilateral conventions,

Noting the Court's advisory opinion of 28 May 1951 and the Commission's report, both rendered pursuant to the said resolution,

1. Recommends that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them;

2. Recommends to all States that they be guided in regard to the Convention on the Prevention and Punishment of the Crime of Genocide by the advisory opinion of the International Court of Justice of 28 May 1951;

3. Requests the Secretary-General

(a) in relation to reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, to conform his practice to the advisory opinion of the Court of 28 May 1951;

(b) in respect of future conventions concluded under the auspices of the United Nations of which he is the depositary:

(i) to continue to act as depositary in connexion with the deposit of documents containing reservations or objections, without passing upon the legal effect of such documents, and

(ii) to communicate the text of such documents relating to reservations or objections to all States concerned, leaving it to each State to draw the legal consequences from such communications.
