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CONTENTS



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) (continued)**

GENERAL DEBATE (continued)

1. Mr. MOROZOV (Union of Soviet Socialist Republics) said that the remarkable statement made by the Indian representative at the 614th meeting had convincingly presented the Indian Government's position on the item under discussion. It had also defined the central problem before the Committee as being the exact nature of the functions of the depositary of multilateral conventions concluded under United Nations auspices. Accordingly, he would not examine the question of reservations to multilateral conventions in its entirety, so as to avoid fruitless repetition of the discussion which had taken place during the fifth and sixth sessions of the General Assembly.

2. It was clear from the Indian representative's statement that the Secretary-General, acting in his capacity as depositary for the Convention on the Inter-Governmental Maritime Consultative Organization (IMCO), should have accepted the deposit of India's instrument of acceptance of the Convention and notified all parties to the Convention of the date of its entry into force for India, at the same time communicating to them the text of the Indian declaration accompanying the instrument of acceptance.

3. No Government was debarred under the IMCO Convention from making a declaration or reservation at the time of ratification. Accordingly, the Soviet Government, considering that the Indian declaration should not constitute a ground for restricting India's rights as a member of IMCO, had officially informed the Secretary-General that it had no objection to that declaration.

4. His delegation took due note of the Indian representative's contention that his Government's declaration in no way conflicted with the purposes of the Convention or affected India's obligations under it and accordingly could not be considered a reservation to the Convention. If it was not a reservation, no other argument need be adduced in support of the view that the depositary was mistaken in refusing to accept in deposit the instrument of acceptance submitted by India.

5. To make the position entirely clear, however, it would be well to assume that the Indian instrument was regarded as a reservation, in the usual sense of the term, and to consider the case from that angle also. If the Secretary-General, as depositary of the instrument, had been unable to decide whether the Indian Government had submitted a declaration or a reservation, he could have requested additional explanations from the Government of India, which would have provided them in terms similar to those contained in the Indian representative's speech at the 614th meeting. The depositary, however, had decided that the Indian Government had in fact made a reservation.

6. As some delegations might also consider that the Indian Government had made a reservation, and indeed two Governments had already done so, the whole question of reservations to multilateral conventions should be examined.

7. An analysis of all the relevant documents showed that it was the depositary's duty to accept India's instrument of acceptance even if it did contain a reservation, and in that the Soviet delegation was in agreement with the views set forth by the Indian representative. The report of the Secretary-General (A/4235), however, set forth a contrary view. Although that report contained much useful inforr nd interesting ideas, many of its conclusions were erroneous.

8. It should first be noted that that report dealt with a number of questions which were not directly related to the duties of a depositary. As the Secretary-General's duties as depositary constituted the principal question at issue, lengthy discussion of the juridical consequences of reservations to international conventions on the basis of the advisory opinion given by the International Court of Justice on 28 May 1951[1] should be avoided. The depositary was required to perform only the duties of his office. Neither the IMCO Convention nor the General Assembly's resolutions justified the depositary in concerning himself with the legal consequences of reservations. He would accordingly disregard other parts of the Secretary-General's report and discuss only that part which dealt with the functions of the depositary.

9. In the case under review, the depositary asserted that he had not attempted to prejudge the juridical effects of the Indian declaration. Such an assertion was untrue. If it had been true, the depositary should simply have accepted the Indian instrument in deposit and informed all States parties to the Convention of the date of India's accession, at the same time distributing the text of the Indian declaration. Instead, he had refused to accept the Indian document in deposit and had asked the IMCO Assembly for instructions. That Assembly, by a resolution of 13 January 1959,

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

had requested the Secretary-General of the United Nations merely to circulate the document concerned to member States of IMCO. The Secretary-General, as depositary, had, however, gone further and in his letter of 6 February 1959 to the Government of India had stated that if no State party to the Convention put forward any objections to the Indian reservation, India would be included among the parties to the Convention. Eight months later, however, in his report of 6 October 1959 (A/4235, para. 14), the Secretary-General maintained that he had not intended to apply the so-called unanimity rule to the Indian reservation. The USSR and the majority of Member States had already objected to that practice at the fifth and sixth sessions of the General Assembly. Elsewhere in his report the depositary in fact admitted that he had applied the League of Nations practice. For instance, the expression "previous practice" in paragraph 11 clearly implied use of League of Nations practice under which the agreement of all States parties to a convention was required before a reservation could be accepted. It should be noted that the Secretary-General in his capacity as depositary had acted in a similar manner with regard to the reservations made by the Soviet Union to the 1949 Convention on Road Traffic and the Protocol on Road Signs and Signals, and the Soviet Union had considered such a formulation to be an attempt by the depositary to follow League of Nations practice. Indeed, the Secretary-General, in a letter to the Permanent Representative of the USSR to the United Nations dated 12 October 1959, had stated that the form of the notes he had circulated with regard to the Soviet reservations corresponded to the League of Nations and United Nations practice which existed before the adoption of General Assembly resolution 598 (VI) and which continued in force after adoption of that resolution in respect of conventions concluded before 12 January 1952. The Soviet delegation was therefore unable to accept the explanation by the depositary that it had not been his intention to follow League of Nations practice.

10. He wished to make it clear that his only purpose in referring to the Soviet reservations to the Convention on Road Traffic and the Protocol on Road Signs and Signals and to the depositary's correspondence on the subject was to throw light on the functions of the Secretary-General as depositary.

11. He wished to show that by applying the so-called principle of unanimity the depositary was continuing to follow League of Nations practice. Moreover, paragraph 11 of the report wrongly stated that that practice had been recognized as applicable by the General Assembly in respect of conventions concluded prior to the adoption of resolution 598 (VI). It was interesting to note that in paragraphs 33, 34 and 37 of the report, the Secretary-General stated that between League of Nations practice and the practice recommended by the General Assembly in resolution 598 (VI) there was no substantial difference. Such an assertion was entirely groundless.

12. Paragraph 37 of the report (A/4235) stated that if any new legal question of substance arose in some future dispute as to the legal consequences of a reservation and objection thereto, the method of solution would be essentially the same, regardless of whether the convention had been concluded prior or subsequent to resolution 598 (VI). It was clear from the report that "method" meant the procedure to be followed by the depositary on receiving an instrument accompanied by a reservation. According to paragraph 37 of the report, it was only when the depositary was certain that a State could be accepted as a party to a convention that he was prepared to accept its instruments of acceptance in deposit. That meant that there must be no objections, even by one participating State, to reservations by an accepting State.

13. From his report it could be seen that the depositary's views regarding the deposit of multilateral conventions concluded either before or after 1952 were that in the event of the introduction by a State of a reservation to any multilateral convention, irrespective of the date of its adoption, which did not prohibit the introduction of reservations but did not contain indications on that question, the depositary must not accept in deposit the document containing the reservation. He must seek the opinion of all parties to that convention and only if they directly or tacitly expressed their agreement to the reservation, should the depositary deposit the corresponding document, i.e., report the date on which the convention came into force for the State that had made the reservation. If even one State made objection to the reservation, the depositary must continue to refuse to accept the document in deposit. At the same time, the depositary must recommend to the State to which he refused deposit of the document, that if it considered such refusal to be unjustified, it could appeal to an appropriate international body or to the International Court of Justice, and pending a favourable decision of that body or of the Court, the depositary would not accept that document in deposit. Such was the Secretary-General's view of his functions as a depositary even in respect of conventions concluded after 1952. That formulation was not an invention of the Soviet delegation but was merely a synthesis of the Secretary-General's views as set forth in his report and in his letters to the Indian and Soviet Union representatives.

14. Such a formulation was contrary to the terms of resolution 598 (VI). If such an interpretation had been put on the resolution at the time it had been put to the vote in 1952, it would have had little support in the General Assembly, as a United Kingdom proposal[2/] to the effect that the Secretary-General should continue following League of Nations practice had been rejected. The Secretary-General was misinterpreting the terms of the resolution and particularly of its operative paragraph 3 (b) (i), whereby, in his capacity as depositary, the Secretary-General was obliged to accept any document submitted to him in due form for deposit; if the document contained a reservation, and the convention concerned did not prohibit reservations, that did not bring the deposit procedure to a halt. Any other interpretation of operative paragraph 3 of resolution 598 (VI) would simply mean that the words "to continue to act as depositary" should be interpreted as meaning "to continue to fail to act as depositary". Consequently, even the loosest interpretation of resolution 598 (VI), such as that which characterized the Secretary-General's report, could never justify the arrival at conclusions diametrically opposed to the purpose of that resolution. In practice, however, although the resolution clearly stressed that the depositary was not to pass upon the legal effect of documents containing reservations, the Secretary-General had regarded such documents as justifying delay on his part. The

2/ Official Records of the General Assembly, Fifth Session, Annexes, agenda item 56, document A/C.6/L.115.

normal procedure of deposit was thus held up by the Secretary-General wrongly assuming the power to adjudicate on the legal consequences of a document's contents.

15. Another important feature of resolution 598 (VI) was that the Secretary-General was required to communicate the texts of documents relating to reservations or objections to all States concerned, leaving it to each State to draw legal consequences from such communications. There again, however, the depositary's practice was not to confine himself to mere communications. Instead, he invited comments from Governments, thus making it more difficult for the reserving State to obtain tacit acceptance of its reservations. Such a procedure showed a total disregard of the fact that resolution 598 (VI) had been adopted precisely because the General Assembly had rejected the former League of Nations practice and wished the depositary to observe the accepted principles of international law.

16. A comparison of the League of Nations practice and of the procedure prescribed by resolution 598 (VI) showed marked differences between them. It was consequently difficult to accept the Secretary-General's contention that the two were substantially the same. If the depositary were permitted to continue along the old lines when dealing with future conventions which neither prohibited reservations nor stated the procedure to be followed when reservations were made, the results could be extremely serious. It was thus a matter of great practical urgency that delegations should vigorously oppose the attitude outline in the Secretary-General's report, which seemed to betray a desire to adhere to the League of Nations practice and to nullify resolution 598 (VI). In stating that, he wished to stress that the Soviet Union had not sponsored that resolution, which had in fact been a compromise decision.

17. Two further arguments had been adduced by those who wished to perpetuate the League of Nations practice: first, that resolution 598 (VI) did not apply to conventions concluded before its adoption, including the IMCO Convention; and secondly, that the General Assembly had agreed to the application of the League of Nations practice to conventions concluded before 1952. In that connexion, it was worth recalling the circumstances which had attended the adoption of resolution 598 (VI). Most Members had then accepted the principles formulated by the International Court of Justice when it had ruled on 28 May 1951 that the League of Nations unanimity rule could not be regarded as a rule of international law. The Court had, in fact, expressly held that the decision of the League of Nations Council of 1927 could not be considered as reflecting the law of nations. That decision of the International Court had established the basis for the General Assembly resolution. Yet it was being asserted that the General Assembly had in some way approved the Secretary-General's previous practice with respect to conventions concluded before 1952. That assertion was devoid of substance, for resolution 598 (VI) was in fact silent on that point; so even if it were admitted—as the USSR delegation could never admit—that the resolution was limited to future conventions, the depositary's duty if any problem relating to a pre-1952 convention arose, was to seek further instructions. And in any event, the depositary's contention that the General Assembly had endorsed the previous practice was inadmissible, for that practice had been clearly denounced. The Assembly's decision had for practical purposes also disposed of the question of the retroactive effect of resolution 598 (VI). The depositary's views on that question were therefore not as valid as the report (A/4235) invited the Committee to believe.

18. As was well known, many delegations had thought in 1952 that resolution 598 (VI) could have been better drafted. In particular, the USSR delegation—at the 277th meeting of the Sixth Committee—had warned against the words "future conventions", which had been retained as a result of a Belgian amendment,[3] on the grounds that they might give the impression that the Secretary-General was not to follow the practice laid down in the case of existing conventions but was only to follow it in respect of future conventions. The USSR delegation had stressed that if that point were not clarified, some further instructions might be required in the future. A study of the records would clearly show that neither the USSR delegation or the Belgian representative had ever interpreted the words "future conventions" as implying some form of endorsement of the depositary's earlier practice with respect to conventions concluded before 1952. In the General Assembly itself, at the sixth session, the Belgian representative had explicitly said (360th plenary meeting, para. 169) that the introductory portion of the International Court's advisory opinion included general considerations, applicable not merely to the Genocide Convention, and that the draft resolution (later resolution 598 (VI)) reflected those considerations. The only difference between the positions taken by the USSR and the Belgian delegations was that the former delegation had desired to eliminate every possibility of doubt and to stress in the resolution that the procedure prescribed for future conventions was also to be applied, by analogy, to conventions concluded before 1952. In that connexion, he did not wish to dwell on the apparent inconsistency of the Belgian representative's statement (277th meeting, para. 65) that "the instructions given to the Secretary-General were not to have any retroactive effect" with that representative's active support of a resolution which recommended that, with regard to the Genocide Convention, which had been concluded several years beforehand, States should be guided by the International Court's advisory opinion of 28 May 1951.

19. The important point, however, was to determine the true significance of the text adopted by the General Assembly in 1952. In seeking the answer, there was no need to analyse the comments made during the debates on that text, for it was an accepted rule that a formally adopted resolution no longer belonged to its sponsors but had a wholly independent meaning. The text, adopted as a compromise solution, had been inspired by the advisory opinion of the International Court of Justice, which did not contain even the slightest mention of the possibility of a different procedure being applied by the depositary to conventions concluded before 1952 and to those concluded subsequently. Nor had the General Assembly established by the resolution any new juridical rules, for it had merely rejected as unsound the practice formerly followed by the depositary and had indicated the procedure which international law demanded. The International Court, in first specifying that procedure, had un-

3/ Ibid., Sixth Session, Annexes, agenda item 49, document A/C.6/L.202.

doubtedly thought that its decision should constitute a precedent, for much of the advisory opinion was stated in general terms and was not directed solely to the Genocide Convention. Resolution 598 (VI) had confirmed the Court's ruling and had accepted that precedent, with an express reference to the Genocide Convention concluded some three years before the date of the resolution. The General Assembly had thus indicated that the principles stated by the Court should be of universal application in all similar contexts, without any limitation as to time. It was consequently impossible to contend that the absence of an explicit reference to other conventions concluded before 1952 meant that the General Assembly had decided to leave the question of the application of the resolution to such earlier conventions completely open. Nor did the retention of the words "future conventions" in the final text of the resolution in any way nullify operative paragraph 2 of that text, which accepted the Court's ruling as a generally applicable precedent.

20. The question whether or not resolution 598 (VI) had any retroactive effect seemed, from the juridical point of view, wholly unwarranted. Neither the International Court nor the General Assembly had created any new principles, but had merely confined themselves to a rejection of the unanimity rule and of the League of Nations practice as inconsistent with international law. They had merely ruled, in fact, that the practice of the depositary could not be reconciled with accepted principles. And as the decision of the League of Nations Council of 1927 had never been endorsed by any United Nations decision, resolution 598 (VI) had called on the depositary to follow the procedure which he should have observed in the first place. In practice, therefore, no theoretical discourses on "retroactive effect" could enable the depositary to evade strict compliance with the stipulations of resolution 598 (VI).

21. Those who might wish to dispute his interpretation of resolution 598 (VI) or his account of how it came to be adopted, should bear in mind that there had been no differences of opinion between the Belgian and the USSR delegations on the principal question, and that neither had ever said anything which might be interpreted as acceptance of the League of Nations practice with regard to conventions concluded before 1952.

22. The report also argued that, in dealing with the Indian declaration the depositary had been the agent not of the General Assembly but of IMCO (A/4235, para. 13). Even if he had been the agent of IMCO, however, he would have not been entitled to pass on the juridical consequences of the Indian declaration. And, in any event, if his instructions from IMCO were to conflict with those he received from the General Assembly, the depositary's first duty was to discharge the obligations imposed upon him by the United Nations Charter. The discharge of his functions as depositary was not the personal business of the Secretary-General, for in reality it was the United Nations, as a collectivity, that was the depositary. Those obligations having thus been undertaken by Member States collectively, they alone could judge how their representative should fulfil his functions in the matter. Member States should consequently make certain that their instructions to that representative were not only fully in accordance with international law but also so explicit as to preclude any departure therefrom.

23. Summing up, he said that a number of conclusions could be drawn: (1) The matter was one of great importance for the principle of co-operation between States, one form of which was the conclusion of multilateral conventions. In order to make such agreements effective, as many States as possible should participate in them, and for that States must be permitted to make any reservations needed to protect their own special interests which did not affect the general validity of the convention in question. (2) The adoption of the League of Nations practice with respect to reservations to multilateral conventions would complicate the position of States in various aspects of international life. (3) That practice had, in fact, been definitely rejected by the International Court in its advisory opinion of 28 May 1951. (4) It had also been rejected by the General Assembly in resolution 598 (VI). (5) The provision in the resolution that the procedure it envisaged was to be applied with respect to conventions concluded after its adoption did not imply that it could not be employed in the case of conventions concluded before its adoption. (6) The statement in the Secretary-General's report to the effect that there was no substantial difference between the League of Nations practice in the matter and the provisions of resolution 598 (VI) was erroneous and contrary to fact. (7) The practice followed by the Secretary-General of not accepting in deposit instruments containing reservations until the latter had been accepted by all the States parties to the convention, or until a favourable ruling had been given on them by the International Court or some comparable body, was merely a duplication of the League of Nations practice. (8) The depositary was bound to follow the provisions of resolution 598 (VI) with respect to conventions concluded both prior and subsequent to 1952. Failure to do so in the latter case would be prejudicial to the task of ensuring the universal participation of States in multilateral conventions. (9) In practice, with regard to the deposit of the Indian instrument of acceptance, whether or not the declaration accompanying it was regarded as a reservation, and in all similar cases, the Secretary-General could not refuse to accept a document in deposit for the sole reason that it contained a reservation. His duties as depositary were to inform all parties to a convention of the date of deposit by a State of an instrument of acceptance and of the date of the entry into force of the convention for that State. He must at the same time circulate the text of the reservation, if any, to all States parties and leave them free to draw their own juridical conclusions concerning the reservation. He must, however, refrain from passing on the legal consequences of such reservations himself, either directly or indirectly.

24. In conclusion, he expressed the hope that the Secretary-General would find it possible, after giving careful attention to the observations made during the discussion, to announce that he had accepted the Indian instrument in deposit and would follow the procedure laid down in General Assembly resolution 598 (VI). In that way, the misunderstandings that had led to the inclusion of the present item in the agenda of the General Assembly would be removed, and that in turn would help to promote the further development of international co-operation on the basis of the Charter.

25. Mr. ERADES (Netherlands) said that his country had been a maritime power for many centuries and was still one of the eight largest shipping nations in the world. For that reason his delegation was deeply interested in clarifying the legal problem which had been raised by the delegation of India. Much had already been accomplished in that direction by the report of the Secretary-General (A/4235), in which his delegation placed the greatest confidence. In the light of that document, and of the objections to the Indian instrument of acceptance which had been made by the Governments of France and the Federal Republic of Germany, the Committee appeared to be confronted by the following eight legal problems: (1) Was it possible to make reservations to the IMCO Convention? (2) Must the Indian declaration be regarded as a reservation? (3) Was the Indian declaration consistent with article 1 (b) of the IMCO Convention? (4) What were the legal consequences of the declaration which India had included in its instrument of acceptance? (5) What were the functions of the Secretary-General of the United Nations under the IMCO Convention? (6) What were the legal consequences of the action taken by the Secretary-General with regard to the Indian declaration? (7) What were the legal consequences of the French and German objections to the Indian declaration? (8) Had India actually become a party to the IMCO Convention?

26. The answers to those questions depended to a great extent on the interpretation to be given to articles 57 and 61 of the IMCO Convention. Great importance was also to be attached to article 55 of that Convention, the first sentence of which read: "Any question or dispute concerning the interpretation or application of the Convention shall be referred for settlement to the Assembly, or shall be settled in such other manner as the parties to the dispute agree." In his delegation's view, that article was decisive, since it provided that all questions which turned on the interpretation to be given to articles 57 and 61 were to be answered exclusively by the Assembly of IMCO. Under the IMCO Convention, no interpretative power was conferred on the United Nations General Assembly, and the latter was therefore not competent to deal with the question raised by India in so far as it dealt with that Convention. In that connexion, it should be borne in mind that there were States, such as Switzerland and the Federal Republic of Germany, which were parties to the Convention but which were not Members of the United Nations. In his opinion, those Powers should be in a position to collaborate in any attempt to answer the questions he had indicated, which they could do only in the IMCO Assembly. On the other hand, there were States represented in the Sixth Committee which were not parties to the IMCO Convention.

27. In conclusion, his delegation wished to stress that it would welcome India as a member of IMCO, but believed that its membership should be established in strict accordance with the rules laid down by the Convention. He reserved his delegation's position concerning the general functions of the Secretary-General as a depositary of instruments of ratification or acceptance.

28. Mr. SEMANEK (Austria) said that in the case before the Committee, arising from the Indian instrument of acceptance of the IMCO Convention, any discussion of the substance of the question was outside the competence of the General Assembly. As could be seen from the Charter as a whole, there was no general supervisory function of the General Assembly in respect of other principal organs of the United Nations; such supervisory power existed only in those special cases where the Charter contained a specific provision to that effect. The power of the Secretary-General to act as the depositary of international conventions was itself not expressly mentioned in the Charter, but had developed praeter legem, as had many other existing practices within the United Nations. The only formal source authorizing the Secretary-General to act as a depositary was General Assembly resolution 24 I A (I) of 12 February 1946, in which the General Assembly expressed the willingness of the United Nations to perform certain secretarial functions and, therefore, to act as a depositary with respect to conventions concluded under the auspices of the League of Nations. That practice had developed to include conventions concluded under United Nations auspices and others, the final clauses of which authorized the Secretary-General to act as depositary.

29. In a previous statement, reference had been made to Article 100 of the Charter, which stated that the Secretary-General and the staff should not seek or receive instructions from any authority external to the Organization; from that it had been concluded that the Secretary-General, in the performance of his duties as depositary of the IMCO Convention, could not seek or receive instructions from IMCO. Since, however, the Secretary-General's depositary function did not derive from the Charter but was exercised in conformity with final clauses in the deposited instruments themselves, it was quite clear that Article 100 could not apply to that function.

30. A depositary derived his authority from the instrument entrusting that function to him and was obliged to act in accordance with its provisions. When a situation arose which was not covered by those provisions, he had to act in conformity with customary international law. When the General Assembly, in its resolution 598 (VI), had laid down certain rules as to the action of the depositary in respect of reservations and instructed the Secretary-General to apply them to conventions concluded in the future under United Nations auspices, it had simply clarified and developed existing rules of customary international law which the Secretary-General would have to apply in the absence of specific provisions in the instruments themselves. In doing so, the General Assembly was not exercising any supervisory authority over the Secretary-General as head of a principal organ of the United Nations, but was acting as the body from which the instruments entrusting the Secretary-General with the depositary function had emerged. It followed that the validity of those rules was limited strictly to conventions in the elaboration of which the United Nations had or would have a locus standi.

31. That locus standi, however, was different in the case of conventions of by which international organizations were established. Such conventions set up organs which alone were competent to apply the convention, to interpret it and to take decisions which would be binding on member States. To suppose that the Secretary-General had authority, as the depositary of the constituent instruments of specialized agencies, to make decisions against the will of member States would amount to suggesting that he could impose a new member on the body created by the constituent instrument.

32. Membership in specialized agencies was, of course, open to all Members of the United Nations, but that right could only be exercised under the conditions prescribed by the constituent instrument of the agency concerned. If a State which wished to become a member was not prepared to accept all the obligations inherent in membership, or was prepared to accept them only subject to its own interpretation, the competent organs of the organization must be free to decide whether they considered that attitude consistent with the purposes of the organization.

33. It had been said that the General Assembly should at least make a recommendation to IMCO as one of the specialized agencies, presumably with reference to article IV of the Draft Agreement on Relationship Between the United Nations and the Inter-Governmental Maritime Consultative Organization.4/ It could not, however, be supposed that the intention of the parties in concluding that agreement had been to authorize a United Nations organ to tell the IMCO Assembly how its constituent instrument was to be interpreted. Such an intention would amount to an amendment of articles 55 and 56 of the IMCO Convention, which had conferred that power on IMCO organs alone and, subject to the latter's decision, on the International Court of Justice. Accordingly, his delegation considered that the Committee was not competent to give instructions to the Secretary-General or to make recommendations to IMCO in the matter under discussion.

34. Mr. EL-ERIAN (United Arab Republic) said that his delegation fully agreed with the representative of the Netherlands that it was important to clarify the legal problem raised by the delegation of India, but could not share the view that there was doubt as to the General Assembly's competence in the matter, since the question of reservations to multilateral conventions had already been dealt with by the Secretary-General and the General Assembly in 1950-1952 and had eventually been made the subject of resolution 598 (VI). In view of the fact, however, that that resolution was subject to various interpretations, the Government of India had quite rightly considered that the General Assembly should pronounce itself clearly on the principles and procedure to be followed by the Secretary-General in the discharging of his functions as a depositary of instruments of acceptance. His delegation had also been impressed by the Indian representative's argument that there should be closer co-ordination of procedure among the specialized agencies; in the case of IMCO a precedent for such co-ordination seemed to be provided in article 50 of the Convention, which stated that the legal capacity, privileges and immunities to be accorded to, or in connexion with, the Organization, should be derived from and governed by the General Convention on the Privileges and Immunities of the Specialized Agencies.

35. In conclusion, he felt that the Committee, rather than engaging in a futile discussion of questions of jurisdiction, should concentrate on practical measures which would help both the Secretary-General and the Indian Government to solve their difficulties in a spirit of friendly co-operation.

The meeting rose at 5.55 p.m.

4/ United Nations Maritime Conference, Final Act and Related Documents (United Nations publication, Sales No.: 1948.VIII.2), annex D.

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