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Summary record of the 1433rd meeting

Topic:
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guished it from States. That would be the case if States concluded between themselves and an international organization a treaty relating to nuclear inspection. If a State made a reservation and the organization raised an objection, on the ground that the State concerned would no longer be bound by the obligations of the treaty, the organization would be taking a quasi-judicial decision. It might be that States wished to confer such a power on the organization concerned. Admittedly, that question was linked with the question of competence, but with competence in the broad sense, since not only the assumption of a commitment but also the supervision of the application of a treaty would be involved. Thus, the problem of objection to reservations had manifold implications which should form the subject of further consideration.

The meeting rose at 1 p.m.

1433rd MEETING

Friday, 3 June 1977, at 10 a.m.

Chairman: Sir Francis VALLAT

Members present: Mr. Ago, Mr. Calle y Calle, Mr. Dadzie, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Njenga, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sette Câmara, Mr. Tabibi, Mr. Thiam, Mr. Tsuruoka, Mr. Ushakov, Mr. Verosta.

Thirteenth session of the Seminar on International Law

1. The CHAIRMAN invited Mr. Raton, the Senior Legal Officer in charge of the Seminar on International Law, to address the Commission.

2. Mr. RATON (Secretariat) said that the thirteenth session of the Seminar would be held from 6 to 24 June 1977 and would be called the "Edvard Hambro session" as a tribute to that eminent man who had always placed all his competence and energy at the disposal of the Seminar.

3. Desiring to secure the widest possible geographical distribution, the Selection Committee had chosen 22 candidates, some of whom were from distant countries, such as Papua New Guinea. Mr. Verosta, Mr. Reuter, Mr. El-Erian, Mr. Šahović, Mr. Dadzie, Mr. Ushakov and Sir Francis Vallat, as well as the Director of the Human Rights Division and Mr. Pilloud of the International Committee of the Red Cross, would give lectures at the Seminar. The programme of work would enable yet another member of the Commission to give a lecture during the third week of the Seminar.

4. With regard to the Seminar's finances, he wished to thank Mr. El-Erian, the Commission's previous Chairman for the efforts by which he had obtained a contribution of $2,000 from Kuwait. He also observed that the Netherlands and Norway had considerably increased their contributions, that of Norway being nearly doubled. The 1977 budget, which amounted to $22,000 and to which Denmark, the Federal Republic of Germany, Finland, Kuwait, the Netherlands, Norway and Sweden had contributed, had made it possible to grant 13 fellowships. That was an encouraging result, but the interest of Governments should not be allowed to wane for the cost of living and travel expenses were continually increasing. It was only through the generosity of Governments that candidates from developing countries could be invited to participate in the Seminar.

5. The CHAIRMAN said he was glad to note that the contributions of several Governments had increased, and expressed the hope that every member of the Commission would draw the attention of his country's Government to the importance and value of the Seminar so that the level of contributions would not only be maintained but, if possible, increased.

Question of treaties concluded between States and international organizations or between two or more international organizations (*continued*) (A/CN.4/285,[1] A/CN.4/290 and Add.1,[2] A/CN.4/298)

[Item 4 of the agenda]

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR (*continued*)

ARTICLE 19 (Formulation of reservations in the case of treaties concluded between several international organizations),[3]

ARTICLE 19*bis* (Formulation of reservations in the case of treaties concluded between States and international organizations),[4]

ARTICLE 20 (Acceptance of and objection to reservations in the case of treaties concluded between several international organizations) [5] *and*

ARTICLE 20*bis* (Acceptance of and objection to reservations in the case of treaties concluded between States and international organizations) [6] (*concluded*)

6. Mr. REUTER (Special Rapporteur) said he would begin by answering Mr. El-Erian, who has asked at the previous meeting when and how international organizations should be consulted on the draft articles being prepared.[7] Although it was not for him to settle the matter, he wished to intimate that he did not see how international organizations could be officially consulted if States were not consulted at the same time. It was

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[1] *Yearbook...1975*, vol. II, p. 25.

[2] *Yearbook...1976*, vol. II (Part One), p. 137.

[3] For text, see 1429th meeting, para. 1.

[4] For text, see 1431st meeting, para. 1.

[5] For text, see 1429th meeting, para. 1.

[6] For text, see 1431st meeting, para. 1.

[7] 1432nd meeting, para. 28.

true that it was the Commission's duty to request international organizations to submit observations, as was shown by the resolution of the United Nations Conference on the Law of Treaties, mentioned by Mr. El-Erian. However, the topic under study was of as much, if not more, concern to States. After all, international organizations were composed of States and there did not seem to be any other procedure than the usual one of consulting States. Moreover, in view of the rather slow pace at which the Commission was examining the lengthy draft of articles, it might perhaps be considered advisable to ask for comments before the draft was considered in its entirety. Personally, he strongly recommended that solution, which might be adopted once consideration of the sixth report (A/CN.4/298), which dealt with relations with non-party States or international organizations, had been completed.

7. Continuing the statement he had begun at the previous meeting on the debate on the articles under consideration, he said that the question of objections to reservations did not depend only on capacity to enter into international commitments. Some examples would make it easier to understand the problem. For instance, Mr. Ushakov [8] and Sir Francis Vallat [9] believed that, in the case of the European Communities, it was either the Communities or the member States that were competent; each could enter into commitments only in their own spheres of competence. That reasoning was theoretically correct. If the Commission accepted it, the European Communities would be able both to sign treaties within their spheres of competence and to formulate and accept reservations, or object to reservations. States would enjoy the same rights within the same limits. In the case of an organization of a universal character, such as the United Nations, the situation was more awkward, as Mr. Ago and Mr. Ushakov had appreciated. In fact, international organizations of a universal character were competent to deal with an almost unlimited number of subjects in the form of studies or recommendations, but they did not usually have any decision-making power. And it was difficult to conceive of an international commitment without decision-making power. To recognize that the United Nations could become a party to any treaty in the interests of the international community would seriously disturb the treaty-making process. In that case, the criterion proposed by Mr. Ushakov [10] could not be applied.

8. It was also conceivable that organizations of a universal character might have particular interests of their own which did not correspond to those of all their member States. If such organizations possessed decision-making power in respect of those interests, there would be nothing to prevent them from entering into an international commitment. In that connexion, the example of the United Nations Council for Namibia was interesting. That subsidiary organ of the United Nations could be regarded mainly as a potential State. However, even if it was regarded only as an instrument, the United Nations was acting in an entirely special capacity through the Council and it could both formulate and accept reservations and object to reservations. In so doing, it would not be defending the interests of the international community but those of a certain territory; its role would cease once the territory had legally become a State.

9. He, personally, would find it quite normal for the United Nations Council for Namibia to become a party to the future convention on the law of the sea, but not the United Nations, as the representative of the interests of all mankind. Moreover, it was not true, as some members of the Commission believed, that the United Nations would become a party to that convention if the future sea-bed authority was a United Nations body; it would be enough for the United Nations to accept or refuse, by a collateral instrument, the task entrusted to that body. That was how it had proceeded in accepting the annex to the Vienna Convention,[11] which provided for a system of settlement of disputes, for which the Secretary-General of the United Nations was to draw up a list of conciliators.

10. In his opinion, it would be a very serious matter to authorize an international organization of a universal character to become a party to a general convention. It was not enough to say, as Mr. Ushakov had done,[12] that, if the United Nations became a party to the future convention on the law of the sea, for example, it could neither formulate reservations nor object to a reservation relating to a matter not directly within its competence, such as the territorial sea or the exclusive economic zone, because, where the rights of the United Nations were involved, any reservation which a State might formulate on one of those matters would directly concern the interests of the United Nations. Moreover, ships had already flown the United Nations flag, in particular in the Korean Sea and at Suez, and it was quite possible that the future convention on the law of the sea might authorize the Security Council to operate vessels under the United Nations flag for peace-keeping purposes. The United Nations would then naturally wish to safeguard its rights under the future convention. Consequently, he thought it would be a serious political decision to open a general convention, such as the future conventions on the law of the sea and humanitarian law, to an international organization which considered itself qualified to protect the general interests of mankind. His regard for open treaties did not go that far.

11. If the Commission endorsed his view, it might perhaps be necessary to add, at the beginning of the articles on reservations, a provision on the following lines:

> The capacity to formulate a reservation, to accept a reservation formulated by another party to a treaty, and to object to a reservation formulated by another party to a treaty is based on the capacity to enter into international commitments. In the case of international organizations, it is subject to the limits deriving from article 6.

He would submit a draft text to the Drafting Committee. Any provision of that kind would, of course, have to be accompanied by a detailed commentary.

[8] 1431st meeting.

[9] 1432nd meeting.

[10] 1430th meeting, para. 35.

[11] See 1429th meeting, foot-note 4.

[12] 1431st meeting, para. 27.

12. The four articles under consideration would have to contain liberal rules and restrictive rules, but the members of the Commission had not yet reached agreement on the proportion of rules of each kind to be included. Mr. Riphagen [13] had adopted a very cautious attitude, maintaining that as long as it had serious doubts, the Commission should not take a decision. Mr. Ushakov [14] had proposed a simple and logical solution, but one which would place great restrictions on international organizations, since all their reservations would have to be authorized by the treaty, whatever its nature. Mr. Ago [15] and Mr. Quentin-Baxter [16] had taken a less categorical position than Mr. Ushakov, but were nevertheless inclined to favour restrictive rules. The other members of the Commission had expressed a number of doubts, but tended to be in favour of a liberal régime.

13. When applied to articles 19 and 20, relating to treaties concluded between several international organizations, Mr. Ushakov's solution would have unquestionable drafting advantages. So far, the discussion had centred on the idea that reservations related to treaties with a large number of parties and that agreements between international organizations, even if they were open agreements, had only a few parties and usually dealt with matters of minor importance. The conflict between Mr. Ushakov's view and that of the members who were in favour of a more liberal régime was thus perhaps more relevant to the future or even to theoretical considerations.

14. Viewing the problem from that angle, it might be asked whether the system of reservations provided for in the Vienna Convention was intended for treaties to which a large number of States were parties. He had not yet had occasion to state his views on that point, but some members of the Commission had recognized the advantages of the solutions provided by the Vienna Convention, whereas others had expressed indefinite regrets regarding them. Referring to article 20, paragraph 2, of that Convention, he pointed out that the criterion for determining the treaties to which a restrictive solution applied was not so much the limited number of the negotiating States as the object and purpose of the treaty and, principally, the fact that "the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty". In other words, the Vienna Convention allowed the liberal régime to be applied to a treaty to which few States were parties, if its application in its entirety between all the parties was not an essential condition of the consent of each one to be bound by the treaty. He himself had always considered that the solution adopted by the International Court of Justice in the *Reservations to the Genocide Convention* case [17] was adequate, not only because it had made it possible to put an end to an attempt to isolate and oppress a minority but also on grounds of principle. It was true that reservations presented some disadvantages, as Mr. Ago had observed, but a treaty accepted with reservations by several States was better than no treaty at all.

15. At the 1431st meeting, Mr. Calle y Calle had emphasized the fact that international organizations were intergovernmental organizations, each comprising a group of States, so that a treaty concluded between international organizations with only seven or eight member States each might well concern 20 or 30 States. Just as all legal systems recognized that there came a time when it was necessary to find out what was concealed behind legal persons, so it was necessary to see what happened during the negotiation of treaties. In many cases, negotiators did not receive precise instructions, so that Governments might later be confronted with texts which did not exactly correspond to their views. Consequently, the faculty to formulate reservations at the time of signing or ratifying treaties, even if few States were parties to them, was a matter of great interest to Governments. International organizations usually negotiated agreements through their secretariats, though their decision-making organs sometimes took part in the negotiations. But it should be borne in mind that the decision-making organ, which was composed of government representatives, might be faced with a treaty whose text it did not find satisfactory. It should not then be denied the right to formulate reservations. After all, it was States that were concerned, and international organizations would be all the more willing to sign agreements if organs composed of government representatives had the same faculty as States to formulate reservations. He therefore considered that the wording of draft article 20, paragraph 2, should be amended so as to refer, not to the limited number of the negotiating international organizations, but to the circumstances of the negotiation.

16. With regard to articles 19*bis* and 20*bis*, relating to treaties concluded between States and international organizations, he believed that, to deal with the many delicate and varied situations to which such treaties could give rise, the solution required was to subject international organizations to the restrictive rule that they could formulate only reservations authorized by the treaty. In drafting those provisions, however, he had been thinking of cases in which an organization was in exactly the same position, in regard to a treaty, as a State party. If two customs unions were allowed to negotiate and to sign with States a convention relating, for example, to questions of nomenclature, it was only normal to grant them the faculty to formulate reservations on the same footing as States. If they were denied that faculty, the customs unions—and hence their member States—would not be on an equal footing with the States parties to the convention.

17. It was nevertheless necessary to specify the circumstances in which an international organization must be considered as being in the same position as a State. At one point, he had thought that he could rely on the fact that draft article 9, paragraph 2,[18] provided for the possibility of participation by an international organiza-

[13] 1432nd meeting, paras. 6 *et seq.*

[14] 1430th meeting, para. 36.

[15] *Ibid.*, paras. 26 *et seq.*

[16] 1431st meeting, paras. 30 *et seq.*

[17] Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, Advisory Opinion, *I.C.J. Reports 1951*, p. 15.

[18] See 1429th meeting, foot-note 3.

tion in an international conference, and he had drafted article 19*bis*, paragraph 2, accordingly. At the 1431st meeting, Mr. Šahović had found that reasoning correct, but Mr. Calle y Calle and Mr. Sette Câmara had raised slight objections, on the ground that participation in a conference was one thing and the conclusion of a treaty another. On reflection, he thought those objections were well founded and might even have been stronger. In the final analysis, it was not the number of participants that was decisive.

18. Mr. Ushakov's comments had also given him food for thought. He too had stressed numbers since he had distinguished between treaties concluded between States with limited participation by international organizations and treaties concluded between organizations with limited particpation by States.[19] All of those considerations had led him to seek another approach.

19. After all, the treaties in question were treaties to which an international organization was a party on the same footing as any State, as in the case of the two customs unions which he had mentioned as an example. In that instance, the treaty would continue to exist if one or even both of the international organizations ceased to be parties to it. Thus, the proportion of States and international organizations parties to a treaty mattered little: if the treaty, with its object and purpose, subsisted after the withdrawal of the international organizations, they could be considered as being in the same position as States. That criterion could be applied to the future convention on the law of the sea. If EEC became a party, together with its member States in so far as that instrument concerned them, the convention would not cease to exist if the Community withdrew from it. Conversely, if an international organization withdrew from a treaty relating to the supply of nuclear material to a State by that organization, the treaty would no longer have any object or purpose. The same would apply to an agreement on the provision of assistance by an international organization and with greater reason to a headquarters agreement.

20. Where the participation of an international organization was closely bound up with the object and purpose of the treaty, it was natural that the organization should be able to formulate only the reservations authorized by the treaty. For example, it was possible that a tripartite treaty for the supply of nuclear material would allow an international organization to formulate reservations on certain points, but it was inconceivable that the organization would be free to enter any kind of reservation whatsoever. In that connexion, Mr. Verosta had rightly emphasized the role of the international organization's function.[20] Whenever an organization was not in the same position as a State, it was precisely because of its function. It could even be asserted that, where an international organization participated in a treaty because of its functions, it lost its right to formulate reservations.

21. For States, the situation was simpler: they continued to be subject to the rules of the Vienna Convention, that was to say, to liberal or restrictive rules as appropriate. If an international organization was invited to take part in an international conference on nuclear problems with a large number of participating States, it was natural to specify what reservations the organization could formulate when it became a party to the treaty being drawn up, and equally natural that the States should benefit, in regard to reservations, from the liberal régime of the Vienna Convention. On the other hand, if the same organization and the same States were negotiating a treaty prohibiting the use of nuclear weapons, the restrictive rule set out in article 20, paragraph 2, of the Vienna Convention would certainly apply, even if the States were very numerous, and neither they nor the international organization would be able to formulate reservations because of the integral character of the treaty.

22. In his opinion, the draft should not deal with the question of objections to reservations. It might well be asked whether an international organization which was a party, together with about 20 States, to a convention on public health problems, for example, and which had supervisory functions, could object to a reservation formulated by a State. Rather than seek a general formula to cover such cases, the Commission should give particulars in the commentary. In an extreme case, it might possibly be one of the functions of the organization to ensure that its member States did not formulate reservations that conflicted with the object of the treaty. Again, the organization might only be required to supervise the technical application of the treaty and not to verify the legality of the normative rules it contained. In such cases, the rule applicable was the general rule that an international organization could formulate reservations only if the treaty authorized it to do so. That rule could then be extended to other acts relating to reservations.

23. If the Commission subscribed to his new views, article 19*bis* should be amended to include a formulation which might read:

> In the case of a treaty concluded between one or more States and one or more international organizations whose participation in the treaty is, in particular by reason of the functions assigned to the organization or organizations, essential to the object and purpose of the treaty, the organization or organizations may formulate reservations only in the cases authorized by the treaty.

The States would be subject to the rules of the Vienna Convention. In other cases, where the participation of the organization was not linked with the object and purpose of the treaty, the rules of the Vienna Convention would likewise apply to it.

24. Mr. USHAKOV said that he would like to ask four questions.

25. First, were there any concrete cases in which international organizations had formulated, accepted or objected to reservations to a treaty?

26. Second, if the United Nations was a party to the convention on the law of the sea and could enter reservations concerning the régime of the territorial sea, what would be the effect of those reservations in regard to the relations between the States parties and to the relations between the States parties and the United Nations?

27. Third, should not the principle of reciprocity, which was recognized in international law, play a part

[19] 1430th meeting, para. 36.

[20] 1432nd meeting, para. 1.

in a case such as that of reservations to the régime of the territorial sea?

28. Fourth, under the general rule stated in article 19*bis*, paragraph 1, in the case of a treaty concluded between States and international organizations, a State could formulate reservations "only if the reservation is expressly authorized either by the treaty or in some other manner by all the contracting States and international organizations." Must it be inferred that, if the United Nations participated in the convention on the law of the sea, the States parties would not be authorized to make reservations as between themselves and would thus be subject to a régime different from that prescribed for the four Geneva conventions on the law of the sea?

29. Mr. AGO said he was greatly attracted by the solutions proposed by the Special Rapporteur, but would also like to ask a question; for it often happened that, at diplomatic conferences, States did not agree on the problem of reservations and took the easiest but most unwise way out, which was to ignore it. Where the parties to a convention included one or two international organizations, did the obligation for the authors of the convention to specify the articles to which the international organizations could make reservations also include an obligation to take a position on the faculty of States to make reservations? In other words, if the treaty stipulated that the international organizations could make reservations to certain articles only, would the same apply to the States, or would the treaty also have to specify the articles to which States could make reservations?

30. Mr. REUTER (Special Rapporteur), replying to the questions asked by Mr. Ushakov, said that he knew of no concrete cases in which international organizations had formulated, accepted or objected to reservations.

31. As to the effect of the reservations the United Nations might formulate if it was a party to the convention on the law of the sea, he had already said that, in his opinion, the United Nations should not be a party to that convention, because it was not competent to undertake the necessary commitments. But supposing that the United Nations did become a party to the convention on the law of the sea in order to protect the general interests of mankind as a whole, it was inconceivable that it would make a reservation concerning the régime of the territorial sea or object to a reservation concerning that régime for it had no territorial sea of its own and could not assume a commitment for something it did not possess. On the other hand, if it was accepted that the United Nations had the right to navigation, it must be permitted to make reservations on questions affecting navigation interests, such as the breadth of the territorial sea, and to object to reservations on such questions.

32. With regard to the principle of reciprocity mentioned by Mr. Ushakov, it should be noted that, according to that principle, land-locked States which became parties to the convention on the law of the sea should not have the right to formulate, accept or object to reservations concerning the provisions of the convention which related to the territorial sea or the continental shelf because they possessed neither. But it could also be argued that a State which had no territorial sea was entitled to object to a reservation by a State which had a territorial sea in so far as that reservation affected its right of navigation. It would thus be possible for land-locked States to make reservations in regard to something they did not possess, which would be contrary to the principle of reciprocity. That was why the general principle he had formulated was to base the faculty to formulate, accept or object to reservations on the capacity to enter into commitments. That principle was valid for States themselves, for it amounted to saying that a State could not make reservations to a treaty with respect to a capacity it did not possess.

33. With regard to Mr. Ushakov's fourth question, he had completely abandoned the idea of making States subject to a régime that was necessarily symmetrical with that for international organizations. Because he had, in general, laid down a restrictive rule for international organizations, there was no reason why States should be subject to the same rule. It was the rule in the Vienna Convention that applied to States, that was to say, the general rule of freedom in the matter of reservations.

34. In reply to the question asked by Mr. Ago, he pointed out that the adoption of a restrictive rule for international organizations might perhaps lead States to specify, in the text of conventions in which one or more international organizations participated, the reservations those organizations were authorized to formulate. As a matter of legislative policy, he thought that, if States authorized certain reservations by international organizations, they would naturally not remain silent about their own reservations, but would include specific provisions on them too. However, if States authorized certain reservations by international organizations, did that not mean, *ipso facto*, that those reservations were also authorized for States? In other words, a State could not object to a reservation formulated by another State if that reservation was authorized for an international organization, since the fact that a reservation had been authorized for an international organization proved that the States were agreed that it was not contrary either to the object or purpose of the treaty. Reservations authorized for international organizations could therefore have positive consequences in regard to reservations by States.

35. The CHAIRMAN said that, in the course of his very valuable statements, Mr. Reuter had shown the qualities of clarity and flexibility, combined with firmness, which were exactly what was needed in a Special Rapporteur. The time had perhaps come for the Commission to turn its attention to articles 20 and 20*bis*.

36. Mr. USHAKOV said that articles 20 and 20*bis* were so similar in content to articles 19 and 19*bis* that they did not require a separate discussion. He proposed that all four articles, together with the new article proposed by the Special Rapporteur, should be referred to the Drafting Committee.

37. Mr. SETTE CÂMARA congratulated the Special Rapporteur on his very lucid statement. The Special Rapporteur's proposal for a new article, which would act as a kind of bridge between the articles relating to reservations and article 6, was of the utmost importance,

and its bearing on other provisions of the draft should be carefully weighed. Having adopted article 6, which recognized the capacity of an international organization to conclude treaties, the Commission had no choice but to acknowledge the right of international organizations to formulate, accept and object to reservations. The problem was to determine what limitations should be imposed on the exercise of that right. Initially, the Special Rapporteur had favoured the adoption of a liberal régime modelled closely on that of the Vienna Convention; subsequently, he had come round to the view that some restrictions should be placed on the freedom of international organizations in the matter of reservations, in order to avoid a chaotic situation in the future. The new article the Special Rapporteur had proposed could solve many of the problems confronting the Commission in that area. He (Mr. Sette Câmara) had no objection to Mr. Ushakov's suggestion that that article, together with articles 19, 19*bis*, 20 and 20*bis*, should be referred to the Drafting Committee.

38. The Commission should not shy away from practical cases, whatever their special characteristics might be. The question of the capacity of the United Nations Council for Namibia, for instance, had recently been discussed in some considerable detail at the United Nations Water Conference, held at Mar del Plata, and at the United Nations Conference on Succession of States in respect of Treaties, held at Vienna, and it would doubtless come up again in the future. The situation of the Council for Namibia was, of course, a *sui generis* case, but the matter could not simply be left aside until such time as Namibia attained independence and became a full member of the international community. The status of EEC was another practical case which the Commission could not ignore.

39. Mr. EL-ERIAN said he had no objection to the articles on formulation and acceptance of, and objection to, reservations being referred to the Drafting Committee, provided that members were given an opportunity to make additional comments on articles 20 and 20*bis*, when those articles came back to the Commission. In any event, many of the points he had wished to raise had been covered in the statement made by the Chairman, particularly in his analysis of the basic differences between States and international organizations in regard to the formulation of reservations.[21]

40. He was grateful to the Special Rapporteur for his further comments on the question of consulting international organizations. He now realized that there was no exact analogy between the present topic and the question of the representation of States in their relations with international organizations, a field in which there existed a wealth of material and abundant practice. In the case of treaties concluded between States and international organizations or between international organizations, the practice was extremely limited and the problems far more delicate.

41. Mr. FRANCIS said he would comment on articles 20 and 20*bis* after they had been examined by the Drafting Committee.

42. The CHAIRMAN said it was clear that there would have to be some further discussion on articles 20 and 20*bis* after they had been considered by the Drafting Committee. On that understanding, if there was no objection, he would take it that the Commission agreed to refer to the Drafting Committee articles 19, 19*bis*, 20 and 20*bis*, as well as the new article proposed by the Special Rapporteur.[22]

It was so agreed.[23]

The meeting rose at 12.55 p.m.

[21] 1432nd meeting, paras. 19 *et seq.*

[22] See para. 11 above.

[23] For the consideration of the text(s) proposed by the Drafting Committee, see 1446th and 1448th meetings, 1450th meeting, paras. 48 *et seq.*, and 1451st meeting, paras. 1-11.

1434th MEETING

Monday, 6 June 1977, at 3 p.m.

Chairman: Sir Francis VALLAT

Members present: Mr. Ago, Mr. Calle y Calle, Mr. Dadzie, Mr. Díaz González, Mr. El-Erian, Mr. Francis, Mr. Njenga, Mr. Quentin-Baxter, Mr. Reuter, Mr. Riphagen, Mr. Šahović, Mr. Schwebel, Mr. Sette Câmara, Mr. Sucharitkul, Mr. Tabibi, Mr. Tsuruoka, Mr. Ushakov Mr. Verosta.

Question of treaties concluded between States and international organizations or between two or more international organizations (*continued*) (A/CN.4/285,[1] A/CN.4/290 and Add.1,[2] A/CN.4/298)

[Item 4 of the agenda]

DRAFT ARTICLES SUBMITTED BY THE SPECIAL RAPPORTEUR (*continued*)

ARTICLE 21 (Legal effects of reservations and of objections to reservations)

1. The CHAIRMAN extended a warm welcome on behalf of the Commission to Professor H. Valladão, observer for the Inter-American Juridical Committee.

2. He invited the Special Rapporteur to introduce article 21, which read:

Article 21. Legal effects of reservations and of objections to reservations

1. A reservation established with regard to another party in accordance with articles 19, 19*bis*, 20, 20*bis* and 23:

(a) modifies for the reserving State or international organization in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and

[1] *Yearbook...1975*, vol. II, p. 25.

[2] *Yearbook...1976*, vol. II (Part One), p. 137.