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President : Mr. Luis PADILLA NERVO (Mexico).

Treatment of people of Indian origin in the Union of South Africa : report of the *Ad Hoc* Political Committee (A/2046)

[Agenda item 25]

1. Mr. SEVILLA SACASA (Nicaragua), Rapporteur of the *Ad Hoc* Political Committee (*translated from Spanish*) : Under item 25 of our agenda, I have the honour to submit the relevant report in my capacity as Rapporteur of the *Ad Hoc* Political Committee, which has dealt with this important subject at six consecutive meetings from 20 December 1951 until 5 January of this year. I need add very little to what is already outlined in the report concerning the discussion which took place in our Committee.

2. As my colleagues are aware, the item before us was first considered by the General Assembly at its first session and has been included in the agenda of the subsequent sessions of this important United Nations organ. There are to date various resolutions adopted by the General Assembly for the peaceful settlement of this dispute between the Governments of India and Pakistan, on the one hand, and the Union of South Africa, on the other.

3. The United Nations General Assembly, at its fifth session, adopted resolution 395 (V) on 2 December 1950 recommending that the Governments of India, Pakistan and the Union of South Africa should hold a round table conference bearing in mind the relevant provisions of the Charter and the basic principles of the Universal Declaration of Human Rights. That resolution also recommended that, in the event of the failure of the Governments concerned to

hold the said conference before 1 April 1951 or to reach agreement in the round table conference within a reasonable time, a commission of three members should be established for the purpose of assisting the parties in carrying through appropriate negotiations. The General Assembly called upon the Governments concerned to refrain from taking any steps which would prejudice the success of their negotiations in particular the implementation or enforcement of the provisions of the Group Areas Act pending the conclusion of such negotiations.

4. For the reasons set forth in paragraphs 2 and 3 of the Committee's report the Governments concerned have not been successful in calling the intended round table conference or in establishing the commission of three members provided for by the resolution.

5. After the discussion in the *Ad Hoc* Political Committee, the draft resolution, submitted in a revised form by the Indian delegation, was approved on 5 January of this year. The draft was based on the text submitted jointly by the delegations of Burma, India, Indonesia, Iran and Iraq, and also included the main idea of the amendment submitted by the delegation of Israel. This draft resolution, which was approved in the *Ad Hoc* Political Committee by 41 votes to 2, with 13 abstentions, is the one submitted to the General Assembly for its consideration and adoption. This draft resolution again recommends the establishment of a commission of three members for the purpose of assisting the parties in carrying through appropriate negotiations. Should this body fail to be established in the form prescribed, the Secretary-General of the United Nations is requested to lend his assistance to the Governments

of India, Pakistan and the Union of South Africa, provided such assistance is deemed necessary and helpful by him, with a view to facilitating appropriate negotiations between them, and further at his discretion and after consulting the governments concerned, to appoint an individual who would render the required assistance in the conduct of those negotiations. The draft resolution also calls upon the Government of the Union of South Africa to suspend the implementation of the provisions of the act referred to, pending the conclusion of the negotiations, and ends with the decision to include this item in the agenda of the next session of the General Assembly.

3. I might add that this draft resolution, as you may note, was approved by a large majority. I feel it to be one of my delicate duties as Rapporteur to repeat in this forum that, during the discussion of the matter, we heard many expressions of goodwill, in which my delegation was very pleased to join, requesting the parties to make every possible effort to reach a peaceful and immediate solution of the problem as an eloquent example of international harmony, which is the basic element in the system of collective security that we established at the San Francisco Conference.

7. Mr. NEHRU (India): For the fifth year in succession a draft resolution on this subject has come up before the Assembly. The facts of the case are well known and I am not going to repeat them since they have been debated so often here. The Assembly in previous sessions has considered the facts carefully and has reached certain broad conclusions. The conclusions are that there has been a breach of certain agreements in regard to the treatment of Indians in South Africa; that the Governments concerned, as Members of this Organization, must act in conformity with their agreements; that measures of *apartheid* constitute a violation of the terms of the agreements and of the principles of the Charter; and that the dispute has impaired relations between Member States and has created tension which must have wider international repercussions. The main conclusion is that the dispute must be settled in accordance with the principles of the Charter and that the Assembly is fully competent, having regard to the larger background, to make recommendations to the parties.

8. Year after year, recommendations have been made with a view to promoting a settlement. In its resolution 395 (V) of 2 December 1950, the Assembly made two alternative recommendations. The first of these, the method of a round table conference, failed because South Africa refused to accept the Assembly's recommendation. The alternative proposal for the appointment of a commission has, therefore, been revived this year. The draft resolution before you follows the terms of the earlier resolution but the sponsors have gone a step further. In deference to the wishes of many representatives and in order to keep the door open for further negotiations, they have agreed to a further alternative which provides for the appointment by the Secretary-General of this Organization of an individual to help the Governments concerned to carry through appropriate negotiations.

9. The draft resolution has been approved by the *Ad Hoc* Political Committee by a large majority of votes; in fact I am happy to say that this is the largest majority we have obtained in five years. A few of our colleagues, however, have not been able to give us their support. We are anxious to receive their support and we should like to remove their doubts and one of the doubts which was mentioned in the Committee was that a resolution might come in the way of the resumption of negotiations. It was suggested that direct negotiations should take place, outside the terms of the resolution.

10. The fact has perhaps been overlooked that the reason why this dispute has been brought here is that every effort to reach a settlement, based on the abandonment of *apartheid* which we can never accept, and which this Assembly, I am sure, as the custodian of our Charter also can never accept, has proved a failure. All the evidence which has been placed before the Assembly in previous years and in the present year also, goes to show that what South Africa wishes to discuss is not the removal of disabilities on persons of Indo-Pakistan origin, but the question of their so-called repatriation, their removal from South Africa. That is the reason why the modest request made some days ago by the representative of Pakistan for some kind of assurance that, pending the conclusions of negotiations, no further action under the Group Areas Act would be taken, has met with no response.

11. The conclusion is therefore obvious, and I think it has the support of comments which have appeared in the South African Press on our recent debate in the Committee. I shall quote briefly from the *Johannesburg Star*, a leading European journal which has something to say on this subject in its issue of 21 December 1951:

"The reason why no conference has taken place is that there is, in fact, nothing to discuss."

It goes on to say:

"What South Africa is prepared to discuss is not the treatment of Indians, but their repatriation, a subject that neither India nor Pakistan is willing to treat seriously. The result would be a conference without a common ground, without an agenda, and without the will to agree."

There are many other revealing observations, and I am quoting again:

"The present situation has been brought about by the blessed word 'repatriation' and the wishful thinking to which it panders. So long as the Government of the Union of South Africa repudiates responsibility for the Indians it invites international meddling on their behalf; and it has to keep up the pretence of being willing to confer with others on matters that concern South Africa alone. The alternative is to accept the Indian population as a fact with all the responsibilities that flow from that acceptance."

12. That is the crux of the argument. It supports the point we have been making year after year in the course of the debates in this Assembly. The reason the negotiations have not taken place is not that the Assembly has made recommendations, but that the South African Government is in no mood to discuss the question of removal of disabilities. If this question is to be discussed at all, if this problem is to be solved, no other basis can be adopted for the proposed negotiations than that provided by the Assembly's resolutions. The Governments concerned must agree to act in conformity with the terms of their agreements and in accordance with the principles of the Charter. Direct negotiations outside the terms of the Assembly's resolutions can only lead to the kind of result envisaged by the South African journal from which I have just quoted.

13. There is one more point. It was suggested by some of our colleagues that condemnation will hamper a settlement. Could a single word be pointed out in any of the resolutions adopted by the Assembly year after year on this subject to which any reasonable person could take exception on this score? An opinion has been expressed on *apartheid* in the 1950 resolution [395 (V)], but is it not open to the Assembly to state its views on this burning

subject? What does the resolution say? It says that *apartheid* is necessarily based on the doctrine of racial discrimination. South African leaders have openly announced that this is their policy and that they will enforce discrimination and segregation. Surely the opinion expressed in the Assembly's resolution is merely a statement of fact and, if anything, an understatement. Many of us here have felt that condemnation would be justified, but the Assembly has taken the view, and we have respected that view, that condemnation should be avoided in order to make a settlement easier.

14. These are some of the points which have been raised. I have endeavoured to the best of my ability to answer them, and it is the hope of my delegation that many of our colleagues who did not find it possible to go along with us in the Committee will join us now in support of the draft resolution. I should like to assure them, on behalf of my delegation and on behalf of the Government of India, that we are seeking a peaceful solution of this problem. We have no other object.

15. All of us here are anxious to make some contribution to the relief of existing tensions which are hampering peaceful progress and development. It is a matter of deep concern to us all that new tensions should be arising in this sphere of race relations. We have raised this question of the treatment of Indians, but we recognize that this is just a part of a bigger problem which affects all non-whites, and we are grateful to the representative of Haiti for stressing this point. It affects the native Africans to a greater extent than the Indian community, but they are all victims of this policy of *apartheid*. What is *apartheid*? It is a system designed to perpetuate the domination of a white minority over communities of non-whites. Its aim, as a distinguished writer pointed out in the last issue of *Foreign Affairs*, the well-known American journal, is to intensify the economic exploitation of the coloured races by the white community of South Africa. Segregation is bad enough, but the object of segregation and discrimination under the system of *apartheid* is deliberately to lower the standards of living of the coloured races, to create in them the feeling of inferiority, and to reduce them to a state of perpetual subjection. The exponents of *apartheid* have said so in plain terms, but I have not the time to quote from their statements. This method is not going to succeed, but unless it is checked in good time it will create the deepest resentment and indignation in the minds of all Africans and Asians.

16. For all these reasons, we feel we must by every pressure, by moral persuasion and the pressure of world opinion, bring about the abandonment of the policy of *apartheid* which South Africa is following today. Since we feel that a peaceful settlement of the dispute relating to the South African Indians, in accordance with the Assembly's recommendations, is a major step in the right direction, we are appealing to all of you to give us your support.

17. Sir Keith OFFICER (Australia): The Australian delegation will abstain from voting on this draft resolution as a whole but, while doing so, we maintain—and we want this to be placed on record—and we will continue to maintain our insistence that the United Nations is not competent to intervene in the domestic affairs of a Member Government by calling for the setting aside of a specific piece of internal legislation.

18. We have explained our views in detail on another occasion, and I do not think it necessary to repeat them. In the *Ad Hoc* Political Committee we voted against the fifth paragraph of the preamble and paragraphs 2, 4 and 5 of the operative part. That vote is on record and we maintain

it. If the draft resolution were to be voted on here paragraph by paragraph, we would repeat that vote. We did not, however, have the same objection to other parts of the resolution, and we abstained from voting on them in the Committee. For that reason we shall abstain from voting on the draft resolution as a whole.

19. Our objection to the draft resolution on constitutional grounds does not mean that we do not recognize either the existence of the dispute between the parties or the deep concern in relation to this issue felt by the Governments of both India and Pakistan. We do not contest the right of these Governments to seek to negotiate with the Government of South Africa to find a solution to the problems involved, and still less do we wish to see anything done which would prevent a settlement. We do declare, however, that, in the view of the Australian Government, existing international instruments binding Members of the United Nations do not authorize the use of this Organization for the imposition of conditions for negotiation. The fact is that there do exist other ways and means of achieving negotiations, and we have always hoped and we still hope that negotiations may take place directly between the Governments concerned.

20. In this connexion, we have noted that the Government of South Africa, for its part, is ready to meet representatives of the other two Governments for the purpose of exploring all possible ways and means of settling the problem. We believe that the achievement of a happy solution depends ultimately on the carrying out to a successful end of negotiations between the parties under conditions freely agreed on between them. For this reason we consider that a wiser and more fruitful course for the General Assembly would have been to confine its resolution to encouragement of the parties instead of implicitly condemning one party and also, in our view, intervening in its domestic affairs.

21. In short, therefore, we believe that there are still grounds for hoping that the parties concerned can find ways and means of achieving satisfactory negotiations. But we also believe that such a conclusion is made more difficult of realization by a resolution which contains a direction to a Member Government to set aside its domestic legislation and to submit itself to a compulsory process of mediation. All three parties to this dispute are equals, associates and friends of ours, and we desire nothing except an end to the dispute and we trust that our desires will be realized before we meet again.

22. Mr. BELLEGARDE (Haiti) (*translated from French*): The item before the General Assembly today is of great importance. Although its wording might convey the impression that the whole problem is merely a dispute between Pakistan and India on the one hand and the Union of South Africa on the other, in actual fact such is far from being the case, and the question at issue is the equality of races. I intervened in the *Ad Hoc* Political Committee because I perceived in the draft resolution which the Committee approved a means for achieving the solution of a problem of capital importance in the history of the United Nations, perhaps in the history of mankind as a whole.

23. The problem with which we are dealing is the inhuman treatment meted out, solely on grounds of race, to populations settled in the Union of South Africa. These people of Indian origin are subjected to a particular treatment which places them, on the pretext of the colour of their skins, in a situation inferior to that of the white population of the Union of South Africa. We cannot agree that this conflict should be regarded as a mere dispute between

the Union of South Africa, India and Pakistan. In reality it is a conflict between the Union of South Africa and the United Nations.

24. We are of course well aware that in certain countries there are prejudices against coloured people and that, as a result of absurd customs, they are kept in an inadmissible and intolerable situation simply because they are of a different race. We maintain that such customs should be fought. They are indeed being fought, but the complete change that is necessary will still take much time. Even if this is so, it is none the less utterly inadmissible that a Member of the United Nations should today pass an act which flagrantly contravenes the principles of the Charter. This is a matter with which the United Nations as a whole must concern itself.

25. We know the misery, suffering and torture caused by racial prejudice. The experience of hitlerite racialism which led to the death of millions of human beings is still fresh in our memory. It has been recalled here repeatedly that six million human beings, because they were Jews, were murdered and burnt in the crematoria of hitlerite Germany. The whole world was filled with the most profound indignation on learning of the horrors, tortures and cruelties suffered by the Jews. Hitlerite racialism was founded on a mistaken conception, that of the inequality of races. In defiance of all the teachings of anthropology and ethnology, there were men who actually believed in fundamental human differences and thought that, solely because they had yellow or black skins, certain human beings should be condemned to occupy an inferior social position. This absurd and inhuman belief has caused untold unhappiness to mankind.

26. In any case we do not need the conclusions of science to realize that there is no such inequality of races. Even here, in this Assembly, where the representatives are white, yellow, black or of mixed race, they none the less all form part of the *élite* of mankind. Only a warped intelligence would claim to discern any difference in mental powers between those whom I am now addressing.

27. This racialism actually exists in the Union of South Africa. This racialism, which is derived directly from the hitlerite theory of the inequality of human races, finds its application in the Union of South Africa. We all formerly protested against Hitler's race theory. We showed our anger when white people and Jews were massacred. We cannot therefore admit today that Members of the United Nations should embody in an act this absurd, anti-scientific, anti-Christian and anti-human conception of racial inequality. For that reason, in indicating my support for the very restrained and prudent draft resolution before us, I shall point out the particular significance which the delegation of Haiti attaches to its vote.

28. It has been said that the Assembly, if it took a definite stand on the issue, would be sanctioning the principle of interference in the domestic affairs of a Member State of the United Nations. This is not correct. I said at the beginning of my statement that there is now a dispute between the Union of South Africa and the United Nations. That has occurred because the act passed by the Government of the Union of South Africa is at variance with the principles of the Charter.

29. The Charter, however, constitutes the supreme law, for all those who have signed it and for all those who belong to the United Nations; it is the law binding on all of us. We must establish and secure acceptance of the principle of the priority of international over domestic law. I mentioned in the discussion in the *Ad Hoc* Political Committee

that France has recognized this principle of the priority of international law over domestic law by including in its 1946 Constitution articles 26 and 28 which lay down that conventions and diplomatic treaties, ratified and accepted by the French Government, shall become the law of the land, and that if there should be a discrepancy between the treaties and the provisions of French laws, the international law should take precedence.

30. Under these circumstances we are not interfering in the domestic affairs of the Union of South Africa when we affirm that a certain act passed by that State is at variance with the principles of the Charter and that it should be repealed if the Government of the Union of South Africa intends to remain faithful to the obligations it undertook by signing and ratifying the Charter.

31. I conclude by stating simply that I shall vote for the draft resolution which has been submitted to us by the *Ad Hoc* Political Committee, but at the same time I would point out that the vote of my delegation should be understood to mean that the act promulgated by the Government of the Union of South Africa conflicts with the principles of the Charter and that that Government should recognize its error and put an end to this flagrant violation of the United Nations Charter.

32. The PRESIDENT (*translated from Spanish*): The *Ad Hoc* Political Committee recommends the General Assembly to adopt the draft resolution which appears at the end of document A/2046. I have been asked for a separate vote on the third and fifth paragraphs of the preamble, as well as on paragraph 4 of the operative part.

33. We shall therefore proceed to vote on the third paragraph of the preamble and then on the fifth paragraph.

The third paragraph of the preamble was adopted by 34 votes to 6, with 16 abstentions.

The fifth paragraph of the preamble was adopted by 39 votes to 3, with 13 abstentions.

34. The PRESIDENT (*translated from Spanish*): I shall now put to the vote paragraph 4 of the operative part of the draft resolution.

Paragraph 4 of the operative part was adopted by 31 votes to 9, with 14 abstentions.

35. The PRESIDENT (*translated from Spanish*): We now have to vote on the draft resolution as a whole. A vote by roll call has been requested.

A vote was taken by roll call.

Sweden, having been drawn by lot by the President, voted first.

In favour: Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America, Uruguay, Yemen, Yugoslavia, Afghanistan, Bolivia, Brazil, Burma, Byelorussian Soviet Socialist Republic, Chile, China, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala, Haiti, Honduras, Iceland, India, Indonesia, Iran, Iraq, Israel, Lebanon, Liberia, Mexico, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Saudi Arabia.

Against: None.

Abstaining: Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, Venezuela, Argentina, Australia, Belgium, Canada, Denmark, France, Greece, Luxembourg, Netherlands, New Zealand.

The draft resolution was adopted by 44 votes to none, with 14 abstentions.

36. Mr. GAJEWSKI (Poland) : On behalf of the Polish delegation I wish briefly to explain the motives which guide us in the support of the resolution on the treatment of Indians in South Africa. I wish to state also that the large majority which this resolution has received constitutes one of the positive events in the present session of the United Nations.

37. The problem of the treatment of Indians in South Africa, the problem of growing racial and fascist tendencies in that country is very painful. Not only does South Africa show a lack of respect for the principles of the United Nations Charter, not only does it break international obligations voluntarily undertaken, not only does it not fulfil its guarantees and policies, not only, with an ever-growing disregard of our Organization, is the Union of South Africa not carrying out the recommendations of our resolutions adopted in previous years, but what is worse, it is continually tightening the noose of the racial policy of segregation directed against the coloured population, and particularly against persons of Asiatic origin. The Government of the Union of South Africa openly avows the principle of the "master race". It has gradually introduced complete racial segregation of a whole population, the prohibition of mixed marriages, the separate registration of Europeans, the prohibition of employment of the coloured population in skilled jobs—not to mention such infamous regulations as separate stations, waiting-rooms, railroad cars and separate public conveniences. Aiming at the economic weakening and extermination of the Indian population, the Union Government introduced in 1949 and 1950 decrees about land ownership and separate districts, namely the Asiatic Land Tenure Amendment and Group Areas Act, which have become the legal foundation of the legalized plunder of the land property of the coloured peoples.

38. The situation of the Indians in South Africa not only is not improving but it is becoming worse from year to year. This is happening despite the patient attitude of India and Pakistan which, basing themselves on agreements concluded and on the resolutions of the United Nations, have on many occasions attempted to arrive at a compromise solution of the problem.

39. The rapacious, ruthless and inhuman principles of *Mein Kampf* are the inspiration behind the policies of the Government of the Union of South Africa, representing only 20 per cent of the country's population. This policy is openly practised, and the stirring up of racial hatreds leads more and more often to bloody outbreaks and murder. The Polish people, having experienced race hatred and racial persecution, are well aware of its deadly effects. We have always supported all liberation movements and achievements for the equality of human rights and the dignity of oppressed races.

40. It is for these reasons that we consider it to be our duty to declare our support for the aspirations and defence of the rights of the Indian population of South Africa. For those reasons we have voted for the resolution.

United Nations Joint Staff Pension Fund : annual report of the United Nations Joint Staff Pension Board : report of the Fifth Committee (A/2053)

[Agenda item 43]

41. The PRESIDENT (*translated from Spanish*) : The next item is the Fifth Committee's report, document A/2053. The Fifth Committee recommends the General Assembly to adopt a resolution taking note of the annual report of the United Nations Joint Staff Pension Board.

42. Unless there are objections, I shall take it that the draft resolution which appears at the end of the Fifth Committee's report is approved.

The draft resolution was adopted, without discussion.

United Nations telecommunications system : report of the Secretary-General : report of the Fifth Committee (A/2054)

[Agenda item 47]

43. The PRESIDENT (*translated from Spanish*) : We now come to the Fifth Committee's report, document A/2054. At the end of the report there is the draft resolution in which the Fifth Committee recommends the General Assembly to take note of the report of the Secretary-General on the United Nations telecommunications system.

44. I shall put this draft resolution to the vote.

The draft resolution was adopted by 46 votes to none, with 5 abstentions.

Economic development* of under-developed countries : report of the Economic and Social Council : (a) financing of economic development of under-developed countries ; (b) land reform ; (c) technical assistance for the economic development of under-developed countries : report of the Second Committee (A/2052)

[Agenda item 26]

Mr. Chauvet (Haiti), Rapporteur of the Second Committee, presented the report of that Committee (A/2052) and then spoke as follows :

45. Mr. CHAUVET (Haiti), Rapporteur of the Second Committee (*translated from French*) : I have just had the honour to submit to the General Assembly a preliminary report on the work of the Second Committee on the recommendations concerning economic development covering chapter III of the report of the Economic and Social Council. The Committee's report, which has been circulated to all delegations, concludes with a series of ten draft resolutions. The Assembly will note that there are two draft resolutions [II A and II B] relating to the expanded programme of technical assistance. I should be glad if the President would kindly put these two draft resolutions to the vote separately, and would do the same with the three draft resolutions on the financing of economic development [III A, III B and III C].

46. I take particular pleasure in pointing out that of the ten draft resolutions contained in this report, eight were approved by our Committee without a negative vote, and in two cases no delegation abstained from voting. As regards the two remaining draft resolutions, two negative votes were cast and are noted in the report.

47. The report itself met with no opposition when submitted to the Second Committee for consideration. I myself made a few purely formal changes in an attempt to clarify it and, perhaps, to improve its style ; I made no change in the substance of the report, which remains unaltered.

48. At our meetings, which were conducted in a spirit of mutual goodwill, close collaboration and readiness to compromise, discussion was at no time acrimonious, even when there was a conflict of views. We may therefore draw practical conclusions from our work which will enable us in the light of past experience to make better plans for the future. I listened with the greatest interest to the many

speeches which were made and the various arguments propounded. We had not to deplore the tense atmosphere which sometimes exists in other Committees ; for the members of the Second Committee, courtesy and politeness remained an international virtue. We avoided all offensive and uncalled-for language and achieved practical results designed to alleviate the plight of peoples in distress.

49. This is a life and death question for our civilization. Any delay will only complicate, as each day passes, the problem of the development of the under-developed countries. As several delegations have pointed out, the excessive burden of work assumed by the Economic and Social Council will soon make it necessary for us to set up an *ad hoc* Economic and Social Council to assist the Council in its heavy task. We may claim with pride that no other body can boast with greater justification than can the United Nations of having responded generously to the countries in need of economic aid and practical and lasting technical assistance.

50. In conclusion, I wish to thank the Chairman of our Committee, all my colleagues, and especially the representatives of the Secretariat, who have made my task a very simple one.

51. The PRESIDENT (*translated from Spanish*) : As the Rapporteur of the Second Committee has stated, the Assembly has before it ten draft resolutions submitted by the Second Committee which appear at the end of its report on item 26 of the agenda.

52. I shall give the floor to representatives wishing to explain their vote on one or more of these draft resolutions, but would ask them to do so in a single statement.

53. Mr. LESAGE (Canada) : The Canadian delegation would like to explain very briefly why it was that it felt it had to vote against the joint draft resolution III A concerning the financing of economic development. My Government feels that it has made it abundantly clear through concrete action that it desires to assist wherever possible in the development of the lesser developed countries. Our belief in this principle has led us to contribute substantial resources, both human and financial, to many effective plans for such assistance. Because of this concern felt by our Government we have examined this joint draft resolution with the greatest care, and we have had to come to the conclusion that it is not in the long-range interests of either the under-developed areas or the more industrialized countries, or the United Nations itself, to pursue at this moment the course which this draft resolution recommends. We have great fears that it may give rise to false hopes in many parts of the world and that it may turn attention and enthusiasm away from those concrete programmes for development which are at present under way in those areas.

54. We should also like to draw the attention of the General Assembly to the fact that the spirit of unanimity which has marked most United Nations decisions in the economic field in the past is noticeably lacking with respect to this draft resolution. Among the many delegations which have said that they were unable to support this draft resolution in the Second Committee we find represented most of those countries which have in the past made the greatest contributions to all United Nations programmes for technical assistance or humanitarian aid. These nations at the present time have banded themselves together in collective security arrangements designed to strengthen the whole free world against the forces of aggression. Their economies are heavily strained by the sacrifices that this has entailed. I do not believe that they intend to

diminish the flow of funds for development under existing programmes ; nevertheless, for the moment, it has been made clear that no additional contributions arising out of the establishment of new agencies could be contemplated by any of them.

55. In those circumstances it appears gravely doubtful whether it would be wise for some of the other States represented in the United Nations to press forward too quickly towards the establishment of an international authority to make grants and loans for economic development. I feel that it is our responsibility in this plenary meeting to ensure that we make no decision in the name of the United Nations which might in any way weaken the effectiveness of the Organization's historic respect for the views and the principle of the majority vote. Resolutions of the United Nations should give expression to our common and sincere intentions in all fields relating to the welfare of mankind, and it is my delegation's view that the approval of this draft resolution might seriously endanger that principle.

56. For all these reasons my delegation will have to oppose draft resolution III A.

57. Mr. FORSYTH (Australia) : Draft resolution III A was approved by the Second Committee by 28 votes to 20, with 9 abstentions. It was thus approved on the favourable vote of less than a majority of the Members, and with only a small margin of votes between those supporting and those opposing it.

58. My delegation voted against this draft resolution in the Second Committee, and will do so again in this plenary meeting. To us it seems unwise for a minority of the Members of the United Nations to press through a resolution containing proposals which will be difficult, if not impossible, to put into operation. The more-developed countries have clearly indicated, both by their statements in the Second Committee and by their votes on this draft resolution, that they are not now, and moreover are unlikely in the foreseeable future to be, in a position to make contributions to the special fund mentioned in the draft resolution. As countries which are potential contributors to such a fund have already indicated that they cannot support this draft resolution, its adoption will not only call on the Economic and Social Council to undertake an impossible task but may raise in under-developed countries false hopes, and when the Economic and Social Council has made its report it will result in disappointment.

59. Among the countries which voted in the Second Committee against this draft resolution were the United States, the United Kingdom, France, Canada, Belgium, New Zealand, Sweden, the Netherlands, Denmark and Australia. Among these countries would be found, if the establishment of such a fund were practicable, countries from whom principal contributions would be sought. This is not an exclusive list of those who regularly contribute to international programmes. The twenty countries which voted against the draft resolution contribute about 78 per cent of the United Nations budget, and they have contributed or pledged about 90 per cent of the amount provided for the first period of the expanded programme of technical assistance. If these countries are not to support the creation of a special fund, from whom will the contributions come ? The size of the fund would be quite inadequate for the purposes required and it would not meet the criterion of universality which the draft resolution suggests.

60. The problem of financing the development of under-developed countries has rightly had a prominent place in the

discussions of this Assembly and of the Economic and Social Council. The developed countries are well aware of the aspirations of people everywhere towards higher living standards. These aspirations go hand in hand with the promotion of national independence which, happily, has been achieved by many countries in recent times. The more-developed countries have already contributed much towards the achievement of these objectives. The Australian Government is now contributing to international economic development at a rate higher than ever before: a sum of £ 10 million during the present year, and it has also pledged about £ 35 million towards the Colombo Plan for Co-operative Economic Development in South and South-East Asia over a six-year period. This, together with unavoidable defence expenditure, itself in consonance with our responsibilities towards the United Nations, has placed a strain on our resources. Indeed, we are finding it necessary to curtail some of our own development programmes which are the foundation of our immigration programme.

61. Our attitude towards this draft resolution has not been formulated with regard merely to what we in Australia consider the best means by which we may discharge our international responsibility, whether in the field of international economic aid, collective security, or the absorption of migrants. Our own contribution would, in the nature of things, be a modest one, but we have been influenced by the identity of attitude of all the nations I have mentioned, large and small, whose collective record of international responsibility cannot be questioned. In effect, by withholding their support from this draft resolution, draft resolution III A, they have asked the General Assembly to pause and consider whether the real interest of the under-developed countries will be served by the adoption of that draft resolution at this General Assembly.

62. We are therefore not in a position to support draft resolution III A, and I wish to submit, in concluding that it is unwise for a minority of the Members of the United Nations to adopt a resolution which implies financial obligations for a relatively small number of other Members, and which by causing disappointment might affect the co-operation already existing between the more and the less-developed countries.

63. I should like to request that the vote on part A of draft resolution III should be taken separately.

64. Sir Gladwyn JEBB (United Kingdom): I, too, should like to explain the vote of my delegation on draft resolution III A, namely, as we know, that which refers to the financing of the economic development of under-developed countries.

65. As the United Kingdom representative explained at some length in the Second Committee, our main objection to this draft resolution is not that it is basically wrong or misconceived but simply that it is untimely. The record of the United Kingdom in promoting economic development in all parts of the world is a very long one and we are very proud of it, but my delegation does feel that it would not be honest at the present time to vote for a draft resolution aiming at the setting up of an international fund, to which the United Kingdom Government for reasons evident to all is not in a position to subscribe. It is not our fault if the policies of certain governments have created a situation in which so much of our production has to be devoted to uneconomic purposes. Rather, it is everybody's misfortune.

66. In any case, it became apparent during the very full debate which the question provoked in the Committee that none of the countries which usually make substantial

contributions to the large extra-budgetary funds of the United Nations was able to promise support for this particular proposal. My delegation therefore feels that to press forward in these circumstances would be to run grave danger of raising hopes and, of course, of causing disappointment.

67. While, therefore, we fully recognize that the problem of the under-developed areas exists, and will necessitate some form of international action when this becomes practical politics, we must to our regret vote at the present time against the draft resolution now before us.

68. Mr. ARNALDO (Philippines): Draft resolution III A constitutes a main plank in the global programme of economic and social development. In our view it is essential to the realization of international economic goals envisaged in the Charter. Various measures of technical assistance, no matter how broad, cannot of themselves bring about the desired acceleration in the pace of economic development without increased financial aid from external sources to the less-developed areas of the world. This is a basic principle which has repeatedly been recorded in resolutions of the General Assembly.

69. In casting our vote for the draft resolution, it is our firm belief that its recommendations point the way to the translation of the principle into reality. If the problem of financing for economic development is of paramount importance, as it is generally conceded to be, it would seem logical for the General Assembly to adopt a new and bold approach. The draft resolution seeks to do just that.

70. This approach is justified by the seeming inability of the International Bank for Reconstruction and Development to meet the needs of under-developed countries. In the past the Bank has always applied ability to pay as the main criterion in the granting of loans. In this context, under-developed countries with their low levels of *per capita* income and low debt-servicing capacity could not hope for sympathetic consideration of their requests. For example, my own country has been negotiating for a development loan from the International Bank since 1947 without success. The difficulty of this criterion is that it restricts the availability of loans to relatively more-developed countries since they are in a better position to pay. For under-developed countries like the Philippines, the likely prospect is an immediate negative reply and, if its economic situation improves with a corresponding increase in its debt-servicing capacity, it will be in a position where it might no longer need a loan.

71. These considerations prompt my delegation to agree with those who seek to explore a new approach to the problem. It is also with this view in mind that my delegation sought to insert in draft resolution III C an injunction to the International Bank to expand its lending operations, keeping in mind the special situation of under-developed countries with low income levels.

72. In fairness to the International Bank, however, I must say that this agency has never been motivated in its actions by reasons of a purely political nature as has been alleged by some delegations. If this allegation were true it would be difficult to justify on political grounds the refusal of the Bank to grant a loan to a country with a political system and ideology like the Philippines.

73. The United Nations dream has indeed moved closer to reality in the realm of economic development, as evidenced by its substantial achievements in various fields. In voting for draft resolution III A my delegation believes that the international economic programme envisaged in the Charter is capable of realization provided we work in concert in a genuine spirit of international co-operation.

74. Mr. MANSFIELD (United States of America) : The Second Committee has recommended the adoption by the General Assembly of the draft resolution presented as part A of draft resolution III of the report of the Second Committee which is before us. I should like to explain briefly why the United States delegation opposed and voted against the approval of this draft resolution in the Second Committee and will have to vote against it in the Assembly.

75. Essentially this draft resolution requests the Economic and Social Council to prepare, for submission to the seventh session of the General Assembly, a series of detailed recommendations on the composition and administration of a special international fund for financing economic development, as well as on the collection of contributions to such a fund. This fund would be used mainly for grants to under-developed countries.

76. The issue which is raised is, therefore, this : should the United Nations at this time embark upon an attempt to create either a new institution or a special fund for the purpose of financing economic development ? Let us have no misunderstanding about this point. To instruct the Economic and Social Council, as the draft resolution does, plainly means nothing less than committing the United Nations to make such an attempt.

77. It has been maintained by various delegations during the debates on this draft resolution in the Second Committee that its adoption by the General Assembly will result in furthering the peace of the world. It has been maintained that this will be in the permanent interests of the United Nations. During these debates, the United States delegation expressed the conviction that its adoption, contrary to being in the interests of international understanding and co-operation, might, in fact, hurt and delay the ends which we all seek. This continues to be the conviction of my Government.

78. As the United States delegation has already pointed out in the Second Committee, we know of only two possible approaches to this problem of raising a new international fund for economic development.

79. The first is through the voluntary contributions of Members of the United Nations. So far as the United States is concerned, my Government has made its position perfectly clear as regards voluntary contributions to such a fund. Under existing world political conditions, with Members of the United Nations forced to devote large amounts of their resources to fighting aggression and to the requirements of their defence, we are not prepared to commit ourselves to contribute to a fund such as is here being proposed. We have also heard during the debates in the Second Committee that no other country, which might ordinarily be expected to make significant contributions to such a fund, is in a position to do so. Every single such country has made clear its inability to commit itself, in existing circumstances, to additional large financial obligations. Therefore, the response that we may anticipate to such a method of raising money for an international development fund is already obvious. Clearly, no amount of contributions to speak of will be forthcoming through the voluntary action of Member States in the foreseeable future.

80. The other alternative which can be recommended by the Economic and Social Council is for the United Nations to vote to assess each and every Member on a *pro rata* basis. But what are the probabilities of this kind of recommendation being realized ? Certainly no one would deny that a fund such as is here proposed to be of practical value would have to be large enough appreciably to increase the rate of

economic development over and above what is now taking place. Having in mind the requirements of the under-developed countries, this would mean that the Members of the United Nations would have to commit themselves collectively to appropriate every year a sum of relatively large magnitude. Is this a realistic expectation, is this practical, when we bear in mind the difficulties that many countries have had in paying the pledges they have made to the technical assistance programme ? Is this a realistic expectation, is this practical, in view of the inability of many countries to permit any extensive use by the International Bank for lending purposes of that part of their contribution to the Bank which has been made in national currency ? Is this a realistic expectation when we consider the very real difficulties that have been encountered in obtaining voluntary contributions for United Nations activities ? Unless Member countries are in a position to make contributions to the fund which is contemplated by this draft resolution, the United Nations cannot possibly give life to the blue prints and to the principles of action which this draft resolution calls upon the Economic and Social Council to elaborate. Unless such contributions are forthcoming, the fund which this resolution speaks of will remain merely a piece of paper.

81. If, with these hard facts staring us in the face, the Assembly, nevertheless, adopts this resolution, what will be its effect ? As we see it, the United Nations will be giving the impression to the men and women of the under-developed countries that a fund is about to be created which will assist them in their efforts to improve their standards of living. No matter what words are used in the resolution, no matter how many times it reiterates that the fund will not come into operation until circumstances permit, it will inevitably lead the peoples of the under-developed areas of the world to expect that grants will shortly be available. And what will their reaction be when they see that no assistance is in fact forthcoming from this promised fund ? What will be their reaction when they come to understand that the United Nations has given birth to only a paper plan ? They will certainly then have the right to ask : Why does the United Nations fail to fulfil the expectations it has created ? We must all ask ourselves the question : Will this redound to the credit and to the effectiveness of the United Nations ?

82. My Government feels that nothing could be more impractical than to embark upon the creation of a fund or an institution for financing economic development to which no major potential contributor is willing to make any commitment. The conviction of my Government that this draft resolution is ill-timed and ill-advised is based on the most serious and searching appraisal of the situation which faces the United Nations today. It does not reflect any change in our attitude toward our international responsibilities and the laudable objectives sought by this draft resolution.

83. The record of the American people in this field is clear. That record furnishes unquestionable evidence of our concern with the economic and social development of the under-developed countries. It is proof of our interest in the welfare of others and of our serious determination to help them to improve their standards of living. We appreciate the magnitude of the task which still faces the under-developed countries. We have made clear that we will continue to do everything we can to help in the economic and social advancement of the peoples of these areas. In the words of the President of the United States :

“ We must not slacken our efforts to create new sources of wealth, and thereby bring about higher standards of living in the under-developed areas. The

cause of freedom to which we are dedicated will not permit us to fall behind in this effort. Our objectives are to serve peace and to create better lives for all people in the world”.

The attitude of the American people is best summed up in the recent statement of our President when he said: “The only kind of war we seek is the war against want and human misery”.

84. We are convinced that to pass this resolution at this time will not result in any additional funds being made available for grant assistance to the under-developed countries and that, consequently, it will bring no improvement to the lot of those who need such assistance. We fear that its approval will merely give rise to hopes and expectations that can have little chance of being realized. We fear that its adoption may actually retard and hurt the furthering of economic development and of international co-operation in this field.

85. We feel that it is important that the resolutions of this body maintain the high standard of effectiveness which have so far characterized its actions. We should not lower this standard by adopting a resolution which we know cannot bring about the desired results. We must not deliberately debase the currency of the United Nations. These are the reasons why the United States must oppose this draft resolution.

86. Mr. SANTA CRUZ (Chile) (*translated from Spanish*): The Chilean delegation will vote for draft resolution III A recommended by the Second Committee, concerning the financing of economic development of under-developed countries, for the following main reasons.

87. First, because it considers that the problem of economic development is the foremost long-term problem in the world today, and therefore the foremost for the United Nations. The acceleration of economic development is the most effective means of raising the standard of living of 80 per cent of the people of the world, who today are undernourished, ill-clothed, badly housed and a prey to disease, and are not in a position to take advantage of the technical and cultural progress of the world. It is an essential element in the maintenance of world economic stability and absolutely vital for peace, as the General Assembly stated in its very important “Uniting for peace” resolution 377 (V).

88. Secondly, because the General Assembly [*resolution 400 (V)*] and the Economic and Social Council [*resolution 363 (XIII)*], supported by the authoritative opinions of technical and economic experts, stated that owing to the limited saving capacity of the under-developed countries due to their low national income, they require “not only technical but also financial assistance from abroad, and particularly from the more-developed countries; that the accelerated economic development of under-developed countries requires a more effective and sustained mobilization of domestic savings and an expanded and more stable flow of foreign capital investment; that the volume of private capital... flowing into under-developed countries cannot meet the financial needs of [their] economic development; [and] that some basic development projects are not capable of being adequately serviced through existing sources of foreign finance although they contribute directly or indirectly to the increase of national productivity and national income”.

89. Thirdly, because the international economic experts appointed to study measures to accelerate economic development have proposed, as a solution to meet the deficiencies recognized by the General Assembly, the establishment of an international fund to finance such schemes.

90. Fourthly, because that solution has been pronounced adequate by the International Bank for Reconstruction and Development and, in its reports, by the United States Government Advisory Committee on Economic Development, and no fundamental objection to it has been raised in our own debates. All that has been said against it is the argument repeated today concerning the inability of some countries, at the present time, to contribute to the fund provided for by the draft resolution.

91. Fifthly, because no other solution has been proposed for this serious and universally acknowledged problem.

92. Sixthly, because the draft resolution, in spite of what has been said here, is a well thought out and realistic one since, in spite of the urgency of the matter, it does not attempt to reach a solution too hastily and takes into account the abnormal circumstances of the world of today and the need to perfect the system and improve collective security measures. It is only a small step forward, just enough to prevent us from remaining in a *status quo* which, morally, would represent a step backwards, after three years of almost exhaustive preparation, discussion and study. Indeed, the draft resolution does not imply any financial undertaking, as has been asserted here; it does not even recommend the creation of an international development authority, as was proposed by the experts. It merely requests the Economic and Social Council to submit to the Assembly a plan for establishing such a fund for economic development and to recommend when it should be established, in the light of existing circumstances. The Council is asked to make proposals and recommendations as to the nature, size and scope of the fund and the manner of organizing it; and the General Assembly at its next session will be called upon to take a decision, at which time it will be in a position to decide, freely and with a full knowledge of the facts, whether the fund should be established or not. The time for discussing the advisability of setting up the fund will be one year hence, when its creation comes up for discussion, not now. I hope that in a year's time much water will have flowed under the bridge and many attitudes and positions will have changed.

93. Seventhly, because we believe that the troubled world of today must not be given the impression that rearmament programmes are causing the postponement of international action for the benefit of the under-developed countries; for we believe that the economic development of those countries is an essential factor in defence against aggression and, as the General Assembly has already stated, the essential complement of collective security measures. The Bolivian representative explained this position in detail this morning and it is one which we fully share. A further reason is that we believe that the improvement of the world economic situation is a great factor in the cause of peace and friendship between the nations.

94. Eighthly, because, even if we were to accept the theory, which we cannot, that it will be impossible to make any further financial effort for the economic development of the economically weak countries until rearmament ceases, plans must be kept ready to meet the serious economic situation which will inevitably arise when international tension decreases. Economic development of the under-developed countries will be the great shock-absorber to lessen the impact of the economic recession which is liable to occur when that quite likely and very desirable change occurs.

95. Ninthly, because it is necessary at the present time, above all, to increase the prestige and strength of the United Nations and to obtain popular support for its work. In many countries the common man is losing his faith in the

Organization and is indifferent to its work for security. It will only be possible to attract him to its cause if he is convinced that he is part of a great common enterprise the purpose of which is to solve simultaneously the problem of the threat of war, defence against aggression, and his own poverty.

96. It is my conviction that the international fund for the financing of economic development will be established in not more than two or three years.

97. It is absolutely essential to supplement existing international financial measures, which are limited to a few examples of a certain type of loan by the statutes and available funds of the institutions concerned. It is necessary to have public funds available for use by the weakest of the under-developed countries, those which are just beginning their programmes of economic transformation, so that they can carry out basic work which will later enable them to aspire to other investments, both public and private.

98. We have been told that the industrial countries cannot contribute to such a fund in the foreseeable future and that it is undesirable to arouse hopes which will not be fulfilled. We heard similar words here in 1948 when we were approving a small programme for technical assistance. One year later that programme had increased a hundredfold, and today it constitutes one of the major realities and practical achievements of the United Nations. I also remember how one of the points brought out in the discussion of the programme of technical assistance in the Assembly in 1948 was the magnificent democratic theory of majorities and minorities, which the representative of Australia has just put forward.

99. I am well aware that contribution to a great fund for economic development requires a process of ripening in world public opinion. In two or three years that process will have been completed. It is the task of Governments, private institutions, the Press and other information media to assist in that process, instead of contributing to postpone it. The main purpose of the resolution which now awaits our approval is to give impetus to that ripening process. An appeal by the United Nations, which is above individual countries, however great and powerful they may be cannot fail to be heard by public opinion in democratic countries and especially in those which are now in even greater need than others of a strong and respected United Nations.

100. The task is easier than it seems. We have the magnificent example of the great labour organizations of the United States and the United Kingdom which together have over 25 million members and exercise such considerable influence in public decisions. Those organizations have not only already grasped the problem, but have publicly and spontaneously expressed their firm support for the immediate creation of this international fund and have urged the governments of the industrial countries to ensure a prompt and considerable flow of public capital to finance economic development.

101. In the Second Committee I read out communications on the subject sent by the International Confederation of Free Trade Unions. If that is the reaction of the poorest section of the community in the most highly industrialized countries, the section which will have to sacrifice the most to pay a contribution, we cannot be pessimistic as to the way in which other social groups will respond.

102. There is no danger of disillusioning people, because we are asking the Economic and Social Council to formulate plans for the establishment of an economic development fund when circumstances permit. The disillusion exists already, and in some cases it is turning to despair. It is a

disturbing, even a threatening, disillusion born of the existence of permanent poverty and the inability, on the part of international co-operation as yet, to fulfil in this respect the hopes that were kindled in the hearts of the peoples by the United Nations Charter.

103. In concluding, I ask for a roll-call vote on this draft resolution.

104. Mr. MATES (Yugoslavia): I should like to explain briefly the stand-point of the Yugoslav delegation concerning draft resolution III A, although my delegation has already given, in the course of the debate in the Second Committee, the basic reasons for which it has actively participated in the drafting of the present draft resolution which the Committee is now submitting to the plenary meeting of the General Assembly. Owing to the short time I have at my disposal I do not intend to explain all the reasons which guided us when determining our attitude of principle. I wish to underline, however, that we see with satisfaction that there is a unity of purpose among the majority in this Assembly with regard to the question of undertaking measures to solve one of the most important world problems: the overcoming of the backwardness in the economic development of a large number of countries which are inhabited by the majority of mankind.

105. Although the reasons which have determined our attitude of principle are fundamental and sufficient to explain our active participation in the drafting of the present draft resolution, I consider that it is necessary to dwell upon the concrete aspects of this question as formulated in draft resolution A on the financing of the economic development of under-developed countries.

106. We are supporting this draft resolution not merely because of its general meaning, but also because of its reasonable formulation which takes into account not only the basic principles and aims, but also the actual possibilities of implementing these principles and aims. The reasonable character of the formulation is reflected, in the first place, by the fact that this draft resolution does not request the United Nations to undertake immediately large-scale international action involving considerable financial expenditure without a previous thorough study of the whole question. Actually, the draft resolution entrusts our Organization merely with the direct task of studying the question of financial assistance to under-developed countries.

107. Nevertheless, a serious objection to this draft resolution could be that it postpones the consideration of the undertaking of concrete measures until the next session of the General Assembly. However, all those who have followed the trend of discussions at previous sessions of the General Assembly, in the Economic and Social Council and in other United Nations bodies, will easily see that this session of the Assembly has unfortunately had to decide to undertake what should have been undertaken in the course of the last year, that is, in the period between the fifth and sixth sessions of the General Assembly.

108. In view of this, we have not been impressed by the statements of certain delegations to the effect that, in the present situation, it is hardly to be expected that large financial means could be found for the financing of the economic development of under-developed countries. Such means are unnecessary for the implementation of the provisions of the present draft resolution and, moreover, only when we have studied the situation shall we be able to appraise what means will be necessary in the future, and within what periods of time. The Yugoslav delegation considers that there is no justification for such objections, because the decision as to how available financial resources

should be used depends upon a study of the priority of various programmes. We cannot agree with the argument that certain needs must necessarily, and in every case, have a hundred per cent priority over an international action aimed at hastening the economic development of under-developed countries, even more so in view of the fact that such arguments are used before we are in possession of the report on the studies proposed in this draft resolution.

109. Finally, I should like to stress that the Yugoslav delegation, in voting for the draft resolution, does not wish to underestimate the importance of those measures and of the assistance that certain countries have rendered, are rendering or will render in the future, for the purpose of promoting the economic development of countries in need of such aid. We have based our attitude on the fact, which has been ascertained without any doubt, that in spite of such individual actions the general situation is such that it renders necessary a broad international financial assistance to under-developed countries. Differences in the level of economic development, regardless of whether we base ourselves on the *per capita* income or any other criterion, are constantly increasing, in spite of all measures which have been undertaken so far. Furthermore, the economic situation in a number of under-developed countries, particularly those countries which are the most under-developed and which are inhabited by hundreds of millions of men and women, is deteriorating according to absolute indexes, and not only in comparison with the progress of developed countries.

110. For all these reasons, the Yugoslav delegation will not only vote in favour of draft resolution III A, but it expresses the hope that this draft resolution will meet, at this plenary meeting of the General Assembly, with even wider support than it received in the Second Committee.

111. Mr. BORIS (France) (*translated from French*): Although the French delegation feels that it cannot and should not support draft resolution III A on the financing of economic development, which it fears will have no practical effect or may even produce practical effects the very reverse of those intended, it is not opposed—it is very far from being opposed—to the objectives aimed at, or even in theory to the means contemplated for attaining them. The French delegation is fully aware of the paramount importance of the problem of the development of under-developed countries. In its opinion this is a world-wide problem the solution of which concerns all countries and which, as the Chilean representative has just said, would be a factor for promoting peace.

112. In the circumstances, however, the French delegation must make a distinction, as regards the means to be applied, between what is desirable and what is feasible.

113. Because of the manifold tasks which it is compelled to undertake, France, as everyone knows, has been particularly affected by the shortage of raw materials and by the ensuing rise in prices. It has to cope with its reconstruction needs, the equipment and modernization of its industrial machinery, and also the maintenance of the standard of living of a people severely tried by war. It has also to carry out developments in its under-developed overseas territories, which alone call for considerable funds and effort. To those tasks should be added the need for increasing the national defence effort.

114. As a result of all this, France is faced with the threat of serious inflation. In these circumstances my country cannot, at the present time, accept a solution which would add to burdens which are already unduly heavy.

115. It has been rightly pointed out that countries which were formerly exporters of capital can no longer play that

role. That is the case with my country, and we have just listened to the representative of the country which is most directly concerned, the country which would be called upon to make all or nearly all the effort required. We have heard him give us the reasons for its negative attitude.

116. In these circumstances it would not be fitting for France to support the establishment of a special fund to which it could not contribute. It is for that reason that the French delegation, to its great regret, will have to vote against draft resolution III A.

117. Mr. NARIELWALA (India): The adoption of draft resolution III A would not automatically create the international development fund of which the representatives of the industrialized countries have spoken. We are surprised that an attempt should have been made to mis-state the purposes of this draft resolution. We are equally surprised that it should have been maintained from this rostrum that the draft resolution was approved in the Second Committee by a minority vote. May I invite the attention of this Assembly, and particularly of those representatives who spoke before me in connexion with this draft resolution, to rule 36 of the rules of procedure which stipulates that:

“ For the purpose of these rules, the phrase ‘ Members present and voting ’ means Members casting an affirmative or negative vote. Members which abstain from voting are considered as not voting. ”

This draft resolution was approved in the Second Committee by 28 votes in favour, with 20 against and 9 abstentions, and those who abstained from the vote must therefore be considered, under the rule, as Members not present.

118. I should like to come now to draft resolution III A itself. Paragraph 2 of the operative part requests the Economic and Social Council to prepare for consideration by the General Assembly, not at this session but at its seventh session, a series of recommendations for a special fund to be created for grants-in-aid and low interest, long-term loans to help under-developed countries. Paragraph 2 (a) makes it clear: “ that the creation of a new international organization should be considered only if a careful examination of the functions of existing organizations proves that the required functions cannot be carried out by them ”. It is clear that the adoption of this resolution would not mean the creation of the new organization overnight as has been feared by the delegations of the industrialized countries. In fact, it is possible that no such new organization would come into existence at all because the Economic and Social Council might reach the conclusion that the existing international financial organizations were adequate and that the creation of a special development fund for under-developed countries was unnecessary. It is for the Assembly to decide at its seventh session whether to create this fund. The present session has not been asked to do so.

119. In asking the General Assembly to adopt this draft resolution we are merely advocating that the Economic and Social Council should be requested to study this proposal, and no more. Yesterday a resolution [358th meeting] was passed by this Assembly dealing with a Disarmament Commission. If disarmament is brought about as the result of universal agreement among the great Powers, the way will be open for the more industrialized countries of the world, the representatives of which have spoken so vehemently against draft resolution III A, to utilize, in the words of the resolution itself, “ any savings that may accrue from any programme of disarmament, as one of the sources of contributions ”.

120. We are not, therefore, asking the industrially developed countries today to come forward and create this fund or to make any contributions to it. This is only one of the methods. Savings as a result of disarmament might open up the way for them to make a contribution in a generous manner towards the development of under-developed countries. There may be other methods of collecting contributions for this fund if it is created. We do not know what those methods might be. It is for the Economic and Social Council to suggest them to this Assembly and to the Second Committee during the seventh session.

121. My delegation whole-heartedly supports draft resolution III A and will vote in favour of it. We hope also that all delegations of under-developed countries will vote for it unanimously.

122. The PRESIDENT (*translated from Spanish*): We shall now proceed to the vote on the draft resolutions which are contained in document A/2052.

123. Draft resolution I was approved unanimously by the Second Committee. Therefore, unless there are objections, I shall consider this draft resolution as adopted.

Draft resolution I was adopted without discussion.

124. The PRESIDENT (*translated from Spanish*): Draft resolution II consists of two parts, A and B. If the Assembly has no objection I shall put draft resolution II to the vote as a whole.

Draft resolution II was adopted by 51 votes to none, with 5 abstentions.

125. The PRESIDENT (*translated from Spanish*): We shall now vote on draft resolution III A, for which a roll-call vote has been requested.

A vote was taken by roll-call.

Honduras, having been drawn by lot by the President, voted first.

In favour: Honduras, India, Indonesia, Iran, Iraq, Lebanon, Mexico, Pakistan, Panama, Paraguay, Peru, Philippines, Saudi Arabia, Syria, Venezuela, Yemen, Yugoslavia, Afghanistan, Argentina, Bolivia, Burma, Chile, Colombia, Costa Rica, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Guatemala.

Against: Iceland, Israel, Luxembourg, Netherlands, New Zealand, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Belgium, Canada, China, Denmark, France, Greece.

Abstaining: Nicaragua, Norway, Poland, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Brazil, Byelorussian Soviet Socialist Republic, Czechoslovakia, Dominican Republic, Haiti.

Draft resolution III A was adopted by 30 votes to 16, with 11 abstentions.

126. The PRESIDENT (*translated from Spanish*): We shall now vote on draft resolution III B.

Draft resolution III B was adopted by 45 votes to none, with 8 abstentions.

127. The PRESIDENT (*translated from Spanish*): We shall vote on draft resolution III C.

Draft resolution III C was adopted by 50 votes to none, with 5 abstentions.

128. The PRESIDENT (*translated from Spanish*): I shall now put to the vote draft resolution IV.

Draft resolution IV was adopted by 52 votes to none, with 2 abstentions.

129. The PRESIDENT (*translated from Spanish*): We shall vote on draft resolution V.

Draft resolution V was adopted by 44 votes to none, with 10 abstentions.

130. The PRESIDENT (*translated from Spanish*): Draft resolution VI was approved unanimously by the Second Committee. If there are no objections, I shall consider the draft resolution as adopted.

Draft resolution VI was adopted without discussion.

131. The PRESIDENT (*translated from Spanish*): We shall now vote on draft resolution VII.

Draft resolution VII was adopted by 56 votes to none.

Report of the International Law Commission covering the work of its third session, including (a) reservations to multilateral conventions, and 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 (A/2047)

[Agenda items 49 (a) and 50]

Mr. Abdoh (Iran), Rapporteur of the Sixth Committee, presented the report of that Committee (A/2047).

132. The PRESIDENT (*translated from Spanish*): The representative of the Netherlands has the floor to explain his vote.

133. Mr. ROLING (Netherlands): There is always an element of uncertainty and surprise in the process of voting. Concessions are made at the last moment, different views are brought together, and in the tension of an afternoon session positions are changed and resolutions are adopted. So it happened in the Sixth Committee, and in the morning following the afternoon before, members of the Sixth Committee looked at the result and wondered whether it really expressed what they thought it should express. I think I am not mistaken in my feelings that the draft resolution now before us is not the adequate expression of the opinions prevailing in the Sixth Committee.

134. At the fifth session of the General Assembly the Secretary-General put on the agenda the item concerning reservations to multilateral conventions, requesting guidance by the General Assembly for his activities as a depositary, especially of the Convention on the Prevention and Punishment of the Crime of Genocide. After lengthy discussions in the Sixth Committee last year the General Assembly requested [*resolution 478 (V)*], as to the Genocide Convention, an advisory opinion of the International Court of Justice, and in the same resolution it requested the International Law Commission to study the problem of reservations to multilateral conventions in general and to give priority to its study of the law of treaties.

135. The General Assembly at its sixth session, consequently, was confronted with an advisory opinion of the Court as to the Genocide Convention and a report of the International Law Commission as to reservations to multilateral conventions in general. Those two documents were to assist the Sixth Committee in advising the General Assembly about the guidance to be given to the Secretary-General as depositary in the first place of the Genocide Convention; in the second place, of multilateral conventions of which he is already a depositary; and in the third place, of future multilateral conventions to be concluded under the auspices of the United Nations.

136. It is without doubt that, as to already existing treaties, the problem is what should be considered as the existing law, while for the future multilateral conventions there is more freedom of action, for the reason that the General Assembly may find it desirable to encourage on this point the development of new law.

137. In the draft resolution now before us the Secretary-General is invited, as to the Genocide Convention, to conform his practice to the advisory opinion of the Court. Secondly, as to future conventions, the Secretary-General is invited to act as a depositary without passing opinion upon the legal effect of documents containing reservations or objections, and to communicate the text of certain documents to all the States concerned, leaving it to each State to draw the legal consequences from such communications.

138. Those points constitute the contents of the draft resolution. It should be noted first of all that nothing is expressed about the function of the Secretary-General as the depositary of already existing multilateral conventions. It transpired from the discussions that the Secretary-General should continue his function as depositary but without passing opinion upon the legal effect of any reservation or any objection thereto. Here the Sixth Committee should explicitly have given an answer to the request of the Secretary-General for guidance, and the purpose of the amendment now proposed by the Netherlands delegation [A/2055] is first of all to give this guidance, and we trust that the wording now proposed expresses the wishes of the majority of the Sixth Committee. Namely, the Secretary-General should continue his activities but his activities should be of a purely administrative character. In case difficulties should arise, as happened with the Genocide Convention, it will be possible always for the Secretary-General to request the General Assembly's special guidance in solving those problems.

139. As to future multilateral conventions the draft resolution approved in the Sixth Committee leaves it to each State to draw the legal consequences from communications concerning reservations or objections. This was the formula on which a rather small majority in the Committee could be founded, but as a matter of fact this formula, leaving it to each State to draw the legal consequences of certain happenings, does not express a rule of law at all. It does not formulate anything but a state of legal anarchy.

140. Now to recognize legal anarchy on a certain point of international relations is one thing; another question is whether it is the task of the General Assembly to restrict its activity to the formulation of that anarchy. Is it not the duty of the General Assembly to do more than recognize such a state of affairs, namely, to find ways and means to replace this legal anarchy by a rule of law?

141. It is easy to explain the reason why this formulation of legal anarchy has been adopted as to future multilateral conventions. It is the clear expression that a majority of the Sixth Committee did not want to continue the system concerning reservations and objections adopted at the time of the League of Nations. Many States showed strong opinions and objections against this system, especially against the power of one State, making objection to a reservation, to exclude the reserving State from becoming a party to the convention. On the other hand, it is the expression of opinion that at this moment no other system could obtain such an overwhelming majority in the Sixth Committee as would be necessary in order for it to be the starting point of the development of new law.

142. It was, however, suggested by certain delegations during the discussions that a system of reservations and

objections could be developed which might avoid the drawbacks of the now existing or suggested systems. Consequently, here we found ourselves in a situation with a real opportunity for progressive development of international law. Here, the noting of the situation of legal anarchy should be only the smallest part of the function of the General Assembly. This function is to encourage and promote the development of international law. We should find the way by which rules of law on this point may be developed. And, as a matter of course, one is compelled here to think of the International Law Commission, the task of which, according to the Charter, is the progressive development of international law.

143. In the draft resolution now before us only the formulation of the now existing state of anarchy has been given. The Netherlands delegation felt it a grave omission that no provision has been made to emerge from this impasse. The purpose of the amendment now proposed by my delegation is to remedy the omission in the draft resolution of the Sixth Committee and to add some provisions to the approved resolution containing the invitation to the International Law Commission to reconsider the matter in the light of the discussions and opinions expressed in the Sixth Committee.

144. It has been said that the members of the International Law Commission have already expressed their views and that they will maintain their former opinions as expressed in paragraph 34 of the report of the Commission [A/1858]. In my opinion this fear is not at all justified. When we invite the International Law Commission to reconsider the problem of reservations in future multilateral conventions in the light of the discussions and opinions of the Sixth Committee, we extend to the Commission an invitation quite different from that extended to it last year. We now invite the Commission, taking account of prevailing opinions, to formulate new rules which might find overwhelming support. We invite the Commission to make a contribution to the progressive development of international law on the point of reservations to multilateral conventions of the future. To suppose that the members of the International Law Commission might maintain their personal opinions really amounts to underestimating their wisdom. I, for one, have the greatest respect for the members of the International Law Commission as jurists, and I trust that jurists realize that, in formulating rules of law, more important than their personal opinions are the prevailing opinions in the community in which the rule is to be applied.

145. Consequently, this amendment to the draft resolution approved by the Committee is serving only the purpose of arriving in the future at rules of law acceptable to a large majority of Members of the United Nations. The amendment is introduced without any purpose of favouring any system of law now discussed in the Sixth Committee. This is why my delegation trusts that it will be supported by all those delegations which prefer a rule of law to legal anarchy.

146. Mrs. BASTID (France) (*translated from French*): The French delegation voted in committee against the entire draft resolution which was finally approved. It now wishes, to its great regret, to announce its decision to vote against the draft resolution in the plenary meeting of the Assembly.

147. By so doing the French delegation does not mean to oppose the traditionally recognized right of States to make reservations at the time of signing or ratifying a convention when the latter does not contain a provision precluding reservation. Moreover, the French delegation accepts the Court's advisory opinion relating to the Convention on

the Prevention and Punishment of the Crime of Genocide,¹ and it would be fully prepared to agree that in future, in cases of doubt concerning the intentions of the authors of a convention with regard to reservations, the Court should again be consulted on the effect of objections to such reservations.

148. However, the French delegation desires by its vote to stress its conviction that the draft resolution recently approved by the Committee can create only confusion and disorder in international life.

149. It can only create confusion because the essential provision of the draft resolution, which refers to the Secretary-General's functions as depositary, denies him the right to hold an opinion on instruments accompanied by reservations to which objections might be made. Thus the Secretary-General, as depositary, is forbidden to fulfil one of the essential functions of the depositary. This function always devolved upon the depositary when the latter was a government, a frequent occurrence before the existence of international administrations. The depositary has always had the task of notifying States of the entry into force of treaties and, when the need arose, of the termination of a convention. To deny the Secretary-General, as depositary, the right of holding a legal opinion on the instruments concerning reservations and objections, is to deny him the possibility of fulfilling this vital task. Thus, a traditional role, the value of which is incontestable, is being arbitrarily limited, and there is reason for astonishment at this unexpected curtailment of an activity which the Secretary-General has always performed with zeal and skill. It places him in a special situation as depositary and, far from leading to a more precise definition of this vital function in the technique of multilateral treaties, the draft resolution which the Sixth Committee has approved introduces an element of confusion which the French delegation deems unacceptable.

150. Furthermore, the French delegation refuses to associate itself with the disorder which will of necessity result if each State is left to draw the legal conclusions from communication on reservations and objections. What is involved here is not the fundamental right, which is the very expression of sovereignty, of each State to make its own appraisal of the situations of fact and of law which affect it. The object of the attack, by a somewhat strange reminiscence of the theory of autolimitation, is the very basis of treaties and the need for a common attitude by States towards the new juridical rule. How will it be possible, in the curious system envisaged by the resolution, to be certain as to who will be bound by the treaty and to what extent each one will be bound? Is it possible to create greater uncertainty or greater disorder in a technique which traditionally has been regarded as the surest road to the formulation and development of international law?

151. The French delegation has refused and will continue to refuse to associate itself with this work of disintegration. It is convinced that in its unanimously adopted conclusions the International Law Commission's report contained firm and wise principles which are perfectly suited to the nature of conventions concluded under United Nations auspices, and which deserved to be accepted by the General Assembly.

152. However, in a spirit of conciliation, the French delegation, taking account of the very varied opinions which have been expressed concerning the effects of reservations and of objections to reservations, is prepared

to accept the amendment submitted by the Netherlands delegation. This amendment has the appearance of a wise and rational system which will permit of a fuller study of this very difficult problem and, consequently, the French delegation will vote for it.

153. On the other hand, it requests a separate vote on paragraph 3 (b) of the operative part of the draft resolution approved by the Committee.

154. Mr. FITZMAURICE (United Kingdom): I should like to explain briefly, and in very general terms, how my delegation will vote in connexion with the amendment which has been proposed by the delegation of the Netherlands and which is contained in document A/2055.

155. In the Sixth Committee my delegation was obliged to vote against the draft resolution which is now before the General Assembly for reasons which will be well known to all members of the Sixth Committee here present. If the amendment now proposed by the delegation of the Netherlands is adopted, while the resolution will still remain fundamentally unsatisfactory from our point of view, nevertheless, it will be possible for us if not to support it, at any rate to refrain from voting against it.

156. When this matter was before the Sixth Committee the fundamental objection which we felt to this draft resolution was that it created a position of complete uncertainty in a matter in regard to which, according to all normal and traditional views, there ought to be, on the contrary, absolute certainty. If ever there was a subject which ought to be governed by fixed and ascertainable rules which apply with absolute certainty whenever it is necessary it is surely the question whether a country is or is not a party to a convention. The allied questions whether its ratification or accession is or is not valid, what is the effect of any reservation which objects to its ratification, whether a reservation is valid, whether any objection which is made to the reservation is a valid objection and what its effect is, are all matters in which in international life it is really absolutely essential that there should be certainty as to what the position is.

157. The draft resolution which was approved by the Sixth Committee of course leaves all that quite uncertain. The essential part of it states that reservations are to be communicated to Member States and it is to be left to Member States to draw the legal consequences. That means, of course, that some Member States will regard a reservation as valid and that other Member States will regard it as invalid. Consequently, some Member States will regard the reserving country as being a party to the convention and other States will regard the reserving country as not being a party. My Government cannot admit a situation under which a country both is and is not a party to a convention. In our view it must be possible to have some means by which that question can be determined in an objective way.

158. If the Netherlands amendment is passed the resolution will still remain unsatisfactory in these respects; but at least the adoption of the amendment will indicate that this situation is intended to be only temporary, that it is not intended to last for ever and that the whole matter will be subjected to a further study as a result of which a different solution may be arrived at which may be more acceptable to the majority.

159. In connexion with the question of the majority, I should like to refer to the fact that this draft resolution was approved by the Sixth Committee only by a very small majority which in fact represented a minority, and quite a large minority of the whole Committee. I think

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

that most of the members of the Committee would feel that if possible the draft resolution should be adopted here by a larger majority and that that would be more satisfactory.

160. I have one further point to raise. We very much disagree with the point of view expressed in those parts of the draft, resolution before the Assembly which state that the Secretary-General cannot, as the saying goes, "pass upon" the effect of any reservations or objections to reservations. We entirely agree with what was said just now by the representative of France that the effect of that will be to make it impossible for the Secretary-General to carry out his functions, because one of his functions is to indicate when a convention comes into force and which countries are parties to it. In order to do that he must have rules which will enable him to ascertain those matters with certainty. That again is a reason why we think that this matter should not be finalized, why it should be subjected to a further study and, therefore, why we very much hope that the Netherlands amendment will be adopted and why we, for our part, will vote in favour of it.

161. Mr. Van GLABBEKE (Belgium) (*translated from French*): My delegation has rather the impression that we are being faced by what amounts to a general offensive on the part of those delegations which failed to carry their point in the course of the protracted discussions in the Sixth Committee that went on for fifteen meetings. Not only have the three speakers who preceded me at this rostrum expressed their opposition to the ideas contained in the draft resolution finally approved by the Sixth Committee, but they are the very representatives who formed, if I may use the expression, the spearhead of the attack on the ideas contained in the draft resolution now before you. It is rather as though those who went out by the door in the Sixth Committee were trying to come back through the window at the plenary meeting.

162. For my part I am very pleased, that the President broke rule 88 of our rules of procedure to allow the Netherlands representative to defend his amendment in this Assembly, although the text of rule 88 is explicit: "The President shall not permit the proposer of a proposal or of an amendment to explain his vote on his own proposal or amendment". It means that I need not feel awkward in trying, as best I can, to explain the position of my delegation which is in fact that of the majority which emerged during the interminable discussions which went on for fifteen long meetings, in other words, for weeks.

163. In spite of the very real bonds of friendship which exist between the Netherlands and Belgium, in spite of my high personal regard for the representative of the Netherlands, Professor Röling, the Belgian delegation will be unable to vote for the amendment submitted by the Netherlands delegation which is intended substantially to modify the draft resolution approved by the Sixth Committee in circumstances about which I should like to say a few words so that the Assembly will understand not only why my delegation cannot vote for the Netherlands amendment but also why it is obliged to vote against it.

164. What is the situation? The Sixth Committee has approved a text which was originally submitted by the United States delegation. In the course of the discussion, the text was modified by a series of amendments, in particular by amendments proposed by the United Kingdom, Lebanon and Venezuela and by an amendment submitted jointly by Argentina, Egypt and Belgium and moved by myself.

165. It is precisely the part of the Committee's draft resolution embodying five-sixths of the amendment

submitted jointly by Argentina, Egypt and Belgium that would be very seriously affected by the Netherlands amendment.

166. I have often heard it said that lawyers are very bad at arithmetic and that figures are not their speciality. Nevertheless, as the representatives who spoke before me have referred to the results of the voting in the Sixth Committee, I would venture also to quote a few figures regarding the voting in the Committee on the joint three-Power amendment which is directly affected by the draft amendment submitted by the Netherlands delegation in the General Assembly. The votes which are, I think, worth bringing to your attention were as follows: the first part of the 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; sub-paragraph (a) was adopted by 30 votes to 16, with 2 abstentions; sub-paragraph (b) was adopted by 28 votes to 17, with 3 abstentions. The figures speak for themselves.

167. I may add that the draft resolution, as amended and approved by the Committee after thorough debate, deserves to receive the approval of the General Assembly in plenary session. The text is well balanced.

168. After recalling the decision of the General Assembly and noting the advisory opinion of the International Court of Justice and the International Law Commission's report, the draft resolution recommends first that the organs of the United Nations, specialized agencies and States should not overlook the desirability of deciding the position with regard to reservations in future multilateral conventions by the insertion of a clause settling the question of reservations, one way or the other.

169. The draft resolution goes on to recommend that all States should be guided by the Court's advisory opinion in regard to the Convention on the Prevention and Punishment of the Crime of Genocide. That is as it should be. The opinion was limited to questions concerning the Convention on Genocide but the introductory portion included general considerations which we took into consideration in the draft resolution before you.

170. Finally the draft approved by the Committee requests the Secretary-General also to conform to the opinion of the International Court of Justice.

171. In conclusion, with regard to any future conventions concluded under the auspices of the United Nations, of which the Secretary-General may be depositary, the draft requests him to continue to exercise his very special functions as depositary, which are not laid down in the Charter, and, with more particular reference to reservations and objections, to refrain from taking a position with regard to their legal effect and to communicate documents relating to reservations and objections to all States concerned, as he has done in the past, so that each State may draw the legal consequences from such communications, in the exercise of its sovereignty.

172. It is because the draft resolution is so well ordered and balanced that my delegation will vote for it in the form submitted by the Sixth Committee.

173. My delegation feels unable to vote for the amendment submitted by the Netherlands delegation for a number of reasons which I shall summarize very briefly.

174. The amendment before us states that there was a strong desire in the Sixth Committee to find rules which might be acceptable to the great majority of States. However,

in a delicate problem like the present one, a great majority will never be found. My impression is that at the moment when opinion in the Sixth Committee began to crystallize, when it was realized that views were beginning to shift, those who found themselves in the minority and are now supporting the amendment, attempted to side-track the issue, rather than accept defeat on the matter of substance, and chose rather, as the amendment proposes, to refer the question back to the International Law Commission.

175. You should however know that in the course of the discussion in the International Law Commission one of the most distinguished members of the Sixth Committee, who is also a member of the International Law Commission, said: This topic must not be referred to the International Law Commission; you cannot force the conscience of the members of the International Law Commission; they have given their fully considered opinion; that is that and there the matter should rest.

176. That is why my delegation cannot vote for the amendment submitted by the Netherlands. There is the additional reason that paragraph 3 (b) of the operative part [A/2055] provides that the Secretary-General will continue to follow his prior practice with respect to the receipt of reservations, pending further action by the General Assembly. This portion of the amendment is actually taken over from the discussions of last year. In this way one could obstruct a solution year after year and continue to reproduce this text which would be carried over from one year to the next while in the meantime one would continue to follow the same practice and to ignore a number of new ideas which we think should be taken into account.

177. In conclusion I would point out that since the amendment ends with a decision whereby the General Assembly would give further consideration to the International Law Commission's report on reservations and multilateral conventions, it means that next year we should have to go over precisely the same ground as at the present session. For these reasons, my delegation hopes that the amendment submitted by the minority of the Sixth Committee will not receive a majority in the full Assembly.

178. Mr. BARTOS (Yugoslavia) (*translated from French*): In the Sixth Committee the Yugoslav delegation voted against, and here also will vote against, the draft resolution dealing with reservations to multilateral conventions, because it is convinced that the resolution submitted by the Sixth Committee would be harmful to the development of international law, to the practice of the United Nations and to its authority.

179. It would be harmful to the development of international law because it does not settle the question which would arise should a reserving State become a member of the union of States referred to in the Convention. Leaving that problem unsolved, the resolution would thus add to the uncertainty surrounding the question of reservations. I agree with those of my colleagues who have said that the resolution would still further increase the existing anarchy.

180. Furthermore, the draft resolution does not answer the question which the Secretary-General put at the fifth session: How should he proceed in the concrete case of a reservation to the Convention on the Prevention and Punishment of the Crime of Genocide? It is stated in the draft resolution that the Secretary-General should conform his practice to the advisory opinion of the International Court of Justice; but this advisory opinion states in its turn that it would be necessary to decide whether the reservations are compatible or not with the object and purpose of the convention. If the Secretary-General follows the view

expressed in the advisory opinion, he will himself be settling the point on which States differ. But, is he simultaneously Secretary-General and international judge? Is he himself competent, under the terms of the Charter, to settle differences between States? We take the view that the Secretary-General has purely administrative powers, that the nature of his functions is determined by the Charter, that he is an administrative and executive official of the United Nations and that, even though he is the depositary of contracts and treaties, he should none the less, as the Charter states, remain within the limits of his functions, which are of an administrative character.

181. The anarchy would be still further increased in view of the fact that, on the one hand, the Secretary-General, under the terms of the draft resolution, would have the duty of making a decision in the case of a difference relating to the Genocide Convention and, on the other hand, would be prevented from drawing legal consequences therefrom for the future. This is an inconsistency in the text of the draft resolution itself.

182. Finally, the Yugoslav delegation cannot vote for the draft resolution because it does not wish to bear the political responsibility and the historical responsibility for the reservations which change the very character of the obligations arising out of the Genocide Convention. This Convention does not allow for reservations. When elaborating it in the General Assembly, its authors rejected the possibility of formulating reservations. The Yugoslav delegation does not wish to associate itself with the act of transforming obligations of strict law, such as are envisaged by the Convention, into moral and natural obligations not backed by sanctions. The only sanction was the competence of the International Court of Justice to decide whether or not the Convention had been properly applied. In voting against the draft resolution the Yugoslav delegation opposes the demagogic tendency of certain States which, before public opinion, profess to have acceded to the Convention, in order to make themselves popular, whilst in reality they avoid all obligations arising out of the Convention and evade its legal character by the reservations which they formulate.

183. In voting against the draft resolution the Yugoslav delegation stressed that it accepted the report of the International Law Commission as being in conformity with the law of nations.

184. In conclusion, I should like to say that the Yugoslav delegation will vote in favour of the Netherlands delegation's amendment because it constitutes the only means of preventing the General Assembly from making an irreparable mistake by adopting a draft resolution which was approved in committee by the very small minority of twenty-three. I say "very small minority" expressly, because the amendments adopted by a larger majority enjoyed the support of the opponents of the draft resolution, who wished to mitigate the mistakes which the original draft resolution contained. We who oppose this draft resolution voted in favour of certain parts of it in order to forestall even more serious aberrations than those of the authors of the original text. The draft resolution was approved by groups working in co-operation, although differing in opinions and aims. The result is therefore a mechanical whole and not a logical whole. We shall vote against the draft resolution, and we ask the Assembly to signify its disapproval of it because we feel that the authority of the United Nations must be safeguarded.

185. Mr. MAJID ABBAS (Iraq): In connexion with the agenda item "Reservations to multilateral conventions", we are confronted with two facts and two theories. The two facts are the opinion of the International Court of

Justice in connexion with reservations to the Convention on the Prevention and Punishment of the Crime of Genocide, and the study of the International Law Commission on the subject of reservations to multilateral conventions.

186. As you all know, the opinion of the Court was that reservations could be made in connexion with the Genocide Convention on condition that they did not contravene the purpose and the object of that Convention. However the International Law Commission came to the opposite conclusion. It states that reservations cannot be accepted unless all the parties to a convention accept them, and any party which makes such reservations will not *ipso facto* be a party to such a convention if its reservations are not accepted by all the parties concerned.

187. There are two theories behind these two facts. There is the so-called theory of the League of Nations, which applied in practice as well as in theory, that reservations to multilateral conventions cannot be made by a party to a convention unless accepted by all the parties concerned. The other theory adopted by the Pan-American system took a different point of view, that is the view expressed by the Court, in connexion with reservations to multilateral conventions.

188. We struggled for a long time to try to come to some agreement on one point or the other. Apart from whatever views we held, we wanted to find a middle road which combined the advantages of the two theories on the basis of these two cardinal facts. Long debates took place in the Sixth Committee, and finally we decided to omit anything which might give an indication that we favoured one system or the other, and to be satisfied with instructions to the Secretary-General to accept ratifications and reservations, leaving it to each State to decide what the legal effects of such reservations might be. Some of our colleagues said that this would lead to chaos, but I do not agree with them. This is a decision which does not favour one theory or the other; it simply leaves the door open for further consideration.

189. The fact that this decision was taken by a small majority does not in the least vitiate the quality of the decision. It is a decision taken in conformity with the rules of procedure under which we are acting, so there is nothing wrong with the decision from that point of view. To say that it is a mechanical decision does not detract from its quality. After all, we follow certain mechanics in making decisions, and we are not ashamed of them, we just vote according to them. This decision is a good decision in that it does not favour one system or the other, leaving the door open for further consideration.

190. This is why, in all fairness, we shall vote for the Netherlands amendment, since that amendment calls for further study. It would be illogical to refuse further study, since we are not deciding to favour one system or the other, and we shall support the Netherlands amendment for this reason. For the same reason, we are not opposed to the matter being brought before the Sixth Committee and before the General Assembly again because after all, we have not made a final decision but a temporary decision, and we are interested in making a further study and trying to reach an agreement on the wider issue.

191. The PRESIDENT (*translated from Spanish*): I should explain that the seventh item [*Item 11*] will not be dealt with at this meeting but at the next meeting.

192. I call upon the representative of Burma.

193. U ZAW WIN (Burma): The Burmese delegation wishes to explain why we shall vote for the amendment standing in the name of the Netherlands delegation. We

have listened to the debate in the Sixth Committee where, as we interpreted it, the issue ultimately placed before us was whether we should support the idea of not allowing reservations to multilateral conventions, except in respect of conventions which specifically permit such reservations, or allowing reservations to multilateral conventions, leaving it to individual States to make their own interpretation of the effect of these reservations.

194. We felt that there was considerable support for both views and we explained in the Committee that, as sincere believers in the United Nations and all the ideas that go with it, we would be prepared, if a substantial majority of the Members of the United Nations so desired, to agree with a decision which would imply a certain sacrifice of the so-called inalienable right of sovereign countries to make whatever reservations they want to international conventions, thus subordinating the purely national interests of the participants in favour of the universality of the text of the multilateral conventions.

195. The draft resolution which the Sixth Committee has placed before us has been recommended by quite a small majority. We feel, therefore, that on an important subject such as reservations, and because any decision taken on it will affect the development of international law one way or the other, it is inadvisable to adopt finally one or the other of the two views placed before us in the Committee.

196. Unfortunately, the draft resolution in the Committee which stood in the name of the Netherlands delegation and a few other delegations had no chance of coming before the Committee during the voting stage. We would have supported that draft resolution. The Netherlands amendment which now stands before us contains the same ideas as those contained in the draft resolution. The adoption of this amendment will express a strong desire on our part to find rules acceptable to a substantial majority rather than to a number of States with a very slender majority over those who favour the rival view.

197. Because we have faith in the ability of the International Law Commission, if it gets the chance further to study the subject in a manner satisfactory to a great majority, we shall vote for the Netherlands amendment. We agree with the Belgian representative that such a delicate question can never get a large majority of votes at the present time but, after the International Law Commission has formulated suitable rules in the light of our discussions at this session of the General Assembly, I feel sure the desired large majority will be obtained.

198. If the draft resolution placed before us by the Sixth Committee is adopted, the effect, according to those delegations which feel more strongly than we do, will be one of legal chaos as far as multilateral conventions are concerned. We feel that this view is not altogether incorrect but, despite this belief, we shall not vote against the draft resolution because, if a majority of the United Nations Members desire to preserve their inalienable right of making reservations, even to the degree of more or less eliminating the essential difference between a real multilateral convention and bilateral conventions, we are quite agreeable to utilize this right to protect our purely national interest whenever called upon.

199. If the Netherlands amendment is not accepted, although we hope it will be, we shall abstain from voting on the draft resolution before us.

200. The PRESIDENT (*translated from Spanish*): The representative of Egypt has the floor to explain his vote.

201. If any other representative wishes to explain his vote, I request him to give in his name to the Secretariat.

202. Mr. MOUSSA (Egypt) (*translated from French*): I should like first to thank the President for allowing me to speak, and then to say how astonished I was to find that the explanations of votes were starting another general debate. I do not wish to continue the general debate, but I should like in explaining my vote very briefly to state my point of view.

203. I must first of all express my admiration for the tenacity with which a minority in the Assembly has defended a point of view which has, after all, been rejected by the Committee.

204. Some speakers have said that the draft resolution submitted to the full Assembly was adopted by a very small majority. My distinguished colleague the representative of Belgium has reminded you of the votes by which the various paragraphs of the draft resolution before us were adopted. But I should like to add a few words in reply more specifically to the argument based by certain delegations on this alleged small majority.

205. I should like to point out that in the Committee three basic approaches were suggested: first, to refer the topic back to the International Law Commission for further consideration; secondly, to adopt the International Law Commission's report on reservations; or, thirdly, to continue the practice followed, rightly or wrongly, by the Secretary-General as depositary of conventions.

206. The underlying motive of those who proposed to refer the matter back to the International Law Commission was very clear. In the Committee you could almost lay your finger on it. They hoped that in the future they would be able to secure the adoption of their basic idea, which was to establish the principle of unanimity, in other words to secure the rejection of the principle of reservations. That portion of the International Law Commission's report had been accepted by the United Kingdom delegation and embodied in its amendment. However, the United Kingdom amendment on this particular point was rejected, not by a small majority but by 29 votes to 11.

207. Naturally the question arises what useful purpose would be served by referring the matter back to the International Law Commission, which had unanimously recommended that the rule of unanimity should be observed, which is tantamount to saying that it had recommended the exclusion of reservations. Further, the report of the International Law Commission, which consists of legal experts not representing their governments, has been rejected by the Sixth Committee, whose members represent responsible governments. I therefore feel that reference back to the International Law Commission would be only a dilatory step intended to gain time. As someone has correctly pointed out here, it is in the hope of reversing the majority that this tenacious minority is anxious to postpone the matter to a subsequent session, with a view to securing acceptance then of something which has been rejected by the Sixth Committee, not by a small majority but, I repeat, by 29 votes to 11.

208. The Netherlands delegation has today submitted an amendment the significance of which has been very clearly explained by the distinguished representative of Belgium. The amendment stultifies the conclusions contained in the Sixth Committee's report and the draft resolution worked out by the Committee and submitted for your consideration. I would say more: I would say that the Netherlands delegation's amendment is in fact pointless. My delegation will therefore vote against it, in spite of the

views expressed by the speakers who have preceded me at this rostrum. The amendment is pointless for a number of reasons which I shall briefly summarize.

209. For the preamble, the Netherlands delegation's amendment [A/2055] proposes to add the following text after the second paragraph:

“*Considering* that during the discussion in the Sixth Committee on the topic of reservations to multilateral conventions widely divergent views were expressed—that is not surprising, and the fact is admitted—and that there was a strong desire to find rules which might be acceptable to the great majority of States”.

But, as has already been said, it is impossible to assemble a great majority of States on so delicate a question. A majority has been found, however, and that majority has rejected what the minority now proposes: the exclusion of the possibility of reservations to multilateral conventions.

210. The amendment continues:

“*Considering* that it is therefore desirable that the International Law Commission, while codifying the law of treaties, should re-examine the topic of reservations, with due regard to the opinions expressed during the said discussion...”

But, as you have been told, the International Law Commission does not want to re-examine its report. One of its distinguished members, who also represents his country in the Sixth Committee, said: For heaven's sake don't refer the matter back to us; we shouldn't know what to do.

“... in order to formulate new rules which could be adopted for the future”.

With the mention of new rules, the amendment starts to show the cloven hoof. The new rules would be the principle of unanimity which the minority is fighting for.

211. In the operative part, the Netherlands amendment proposes to insert paragraph 3 a new sub-paragraph (b) reading:

[*Requests* the Secretary General]...

“(b) Pending further action by the General Assembly, to follow his prior practice with respect to the receipt of reservations to conventions and with respect to the notifications and solicitations of approval thereof, all without prejudice to the legal effect of objections to reservations to conventions”.

The draft resolution which has been submitted to you says exactly the same thing but says it more clearly, because the Sixth Committee has taken a definite stand on the matter. The Committee wished to put a stop to the practice—whether good or bad, we are not called upon to decide today—previously followed by the Secretary-General, which was a survival from the League of Nations. The Committee has said that it does not want to continue that practice and has defined the functions of the Secretary-General as the recipient of reservations or objections. In such cases the Secretary-General's function is simply to act as depositary, to communicate reservations or objections to States and to leave the States to draw the legal consequences therefrom. On this matter of leaving States to draw the legal consequences from such communications, the draft resolution is much clearer than the formula employed in the Netherlands amendment. In this sense also it is true to say that the amendment is pointless.

212. The amendment goes on to propose that after the word “depositary” in sub-paragraph (b), which would be renumbered (c), the following words should be added: “in the absence of any contractual provisions to the contrary”. But there is no need to say that, since it is contained in paragraph 1 of the draft resolution itself, which reads:

" *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 ".

What some representatives are trying to express in complicated formulas could not be said better or more clearly.

213. For these reasons, without further labouring the point, I should like to say that the draft resolution submitted by the Sixth Committee is not chaotic but an accurate reflection of the present situation with regard to multilateral conventions. The majority of the Committee has shown that it absolutely rejects the principle of unanimity. It has accordingly accepted the principle of reservations, not by a minority as has been suggested, not by a small majority as some representatives have said, but by a majority of 29 to 11.

214. Therefore, in calling upon the Assembly to vote for the draft resolution submitted by the Rapporteur, I am actually appealing to your commonsense. It is not a matter of voting for or against the amendment but of voting for or against commonsense, which tells us that the matter has been fully thrashed out, that it is dangerous to leave it in abeyance, that a majority has expressed itself in favour of a definite principle and, even more, that there is no reason to refer the text back to a commission which does not want it.

215. Mr. ITURRALDE (Bolivia) (*translated from Spanish*): Bolivia had the honour of submitting, with a number of other delegations, a formula with regard to treaties which has been traditionally followed in the community of American States. This formula was designed to safeguard the inalienable and sovereign right of each State, in conformity with the principle of equality laid down in the United Nations Charter, to make reservations to multilateral conventions, the other contracting parties being equally free to accept or reject such reservations, subject to the proviso that mere rejection cannot in any circumstances bar the reserving State from being a party to the convention.

216. The practice followed by the Secretariat of the United Nations in its capacity as depositary has been broadly similar to that followed by the Secretariat of the League of Nations, although it has never been formally recognized in any agreement between the parties or expressly approved by any international organization in such a way as to make it mandatory. Accordingly, it was necessary to define the Secretary-General's powers, as he himself requested. For this purpose, it would have been most unfortunate if a system based on the rule of absolute unanimity, the Achilles' heel of the League of Nations, had been maintained instead of replacing it by the majority system underlying the procedure of the United Nations.

217. It need hardly be said that the spirit and the procedures of the United Nations differ from those of the League of Nations. Even the International Court of Justice, in its advisory opinion on the Convention on the Prevention and Punishment of the Crime of Genocide, expressed its opposition to the notorious unanimity rule, under which the rejection of a reservation by a single State prevented the State which had made the reservation from becoming party to a convention.

218. The Bolivian delegation was unable to support such an extension of the right of veto to parties to a convention; it therefore collaborated in producing a flexible formula, which leaves all countries quite free and provides that the

legal consequences of a reservation would depend on whether the parties—the States—accept it or reject it. Thus a convention, or that part of it affected by a reservation, would only not be binding as between States which enter objections.

219. The draft resolution approved by the Sixth Committee obviously lacks the clarity of the formula applied under the American system, and it would of course have been desirable if the Sixth Committee had accepted that formula. The fact remains, however, that the procedure accepted under the draft resolution submitted to this meeting of the Assembly breaks with the unanimity rule and allows States full discretion with regard to the legal consequences of reservations, specifying explicitly in respect of the Secretary-General's functions as depositary that he is not empowered to pass upon the legal effect of international documents relating to reservations or to the replies made by States thereto.

220. Of course, the anarchy which clearly exists, as pointed out by a number of countries which have submitted an amendment to the draft resolution, would have been removed had the view already held in America been accepted; that is, in essence, that a decision by one State can in no circumstances prevent a reserving State from becoming a party to a convention with respect to States which have not objected to the reservation. In any event, however, the formula embodied in the draft resolution allows States full discretion to decide for themselves the legal consequences of any reservations which may have been submitted, and their position in the event of a rejection.

221. The amendment submitted by the Netherlands would again tilt the balance in favour of the practice criticized in the Sixth Committee; in fact, it amounts to restating the case for a draft resolution which has already been rejected in the Sixth Committee. Since the Netherlands has submitted an amendment expressing views rejected in the Sixth Committee, the Republic of Bolivia and other Latin American countries might equally well have reintroduced their very liberal formula, under which the mere rejection of a reservation does not debar the reserving country from being party to a convention. We might, I repeat, have submitted that amendment once again to this Assembly, but we refrained from doing so because of our high regard and profound respect for the majority rule as applied in the Sixth Committee.

222. Moreover, the effect of the Netherlands amendment would be to refer the question back to the International Law Commission. But we are already familiar with the Commission's view which expressed itself in favour of the equally objectionable unanimity rule. What is more, the International Law Commission itself has said that it does not wish to take up this question again. There is really no point in referring back to the Commission a matter it has already dealt with, for it would only produce a report similar to the last one.

223. For these reasons the Bolivian delegation will be unable to vote in favour of the Netherlands amendment and will support the draft resolution, which though not entirely in conformity with the views stated by Bolivia and the other Latin American countries, does embody a flexible rule giving States ample latitude and breaking with the misconceived and compulsive system of the unanimity rule.

224. The PRESIDENT (*translated from Spanish*): We shall now proceed to vote on the amendments to the draft resolution of the Sixth Committee [A/2047] submitted by the Netherlands delegation [A/2055].

225. The first amendment refers to the preamble of the draft resolution. In this amendment the Netherlands delegation proposes the addition of two new paragraphs to the preamble.

The amendment to the preamble was rejected by 27 votes to 23, with 5 abstentions.

226. The PRESIDENT (*translated from Spanish*): We shall next vote on the amendment to the operative part of the draft resolution. Paragraphs 1 and 2 of the amendment are interdependent and will have to be voted on together.

Paragraphs 1 and 2 of the amendment were rejected by 29 votes to 20, with 5 abstentions.

227. The PRESIDENT (*translated from Spanish*): I now put to the vote paragraph 3 of the amendment.

Paragraph 3 of the amendment was rejected by 24 votes to 23, with 8 abstentions.

228. The PRESIDENT (*translated from Spanish*): We shall next vote on paragraph 4 of the amendment.

Paragraph 4 of the amendment was rejected by 25 votes to 19, with 8 abstentions.

229. The PRESIDENT (*translated from Spanish*): I put to the vote paragraph 5 of the Netherlands amendment.

Paragraph 5 of the amendment was rejected by 26 votes to 22, with 6 abstentions.

230. The PRESIDENT (*translated from Spanish*): We shall now vote on the draft resolution as a whole. A separate vote has been requested on paragraph 3 (b) of the Committee's draft resolution. I shall put that paragraph to the vote.

Paragraph 3 (b) was adopted by 32 votes to 18, with 4 abstentions.

231. The PRESIDENT (*translated from Spanish*): I shall now put to the vote the draft resolution as a whole.

The draft resolution was adopted by 32 votes to 17, with 5 abstentions.

The meeting rose at 7.15 p.m.