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Committee had two possibilities before it. It could accept a definition which did not call for any substantial change in national laws. In that respect the United States text was the most satisfactory, possibly with the addition of a reference to unmarried daughters.

51. Alternatively, the Committee could dispense with any definition. The International Law Commission had not inserted one, and several States seemed to prefer that course. His delegation had nothing against either solution, provided that " family " were not given too wide a definition.

52. Mr. SUBARDJO (Indonesia) said that " family " meant different things in East and West. His delegation wanted a text acceptable to the majority. It was prepared to support the joint amendment (L.326) and requested that, if there were a vote, that text should be put to the vote first.

53. Mr. GHAZALI (Federation of Malaya) said he would not be able to agree to a definition under which the receiving State would decide whether a particular person belonged to the diplomat's family or not.

54. Mr. CAMERON (United States of America) observed that the differences of view which had come to light at the first reading of article 1 remained. Countries exchanging diplomatic missions should facilitate the fulfilment of their functions, and for that purpose his delegation's amendment provided for agreements to determine who were members of the family. It did not seem possible to find a definition that would receive sufficiently wide acceptance, and that being so he thought it would perhaps be better to dispense with a definition of " family " altogether.

55. Mr. VALLAT (United Kingdom) considered that the wisest course would be to adhere to the International Law Commission's text. In several articles of the convention the term " member of the family " was usually accompanied by the qualification " forming part of his household ". The Argentine amendment (L.326) introduced a new concept by mentioning " dependants, who form part of his household "; that expression seemed even more vague than " member of the family ". The United States amendment would be almost acceptable, since it allowed for agreement among States; but it also spoke of a " minor child " without explanation. Consequently, the various proposed definitions were hardly likely to improve the article.

56. Mr. WESTRUP (Sweden) said he had listened with great interest to the statements of the Spanish and Tunisian representatives. He did not consider it advisable to include a definition of " family " in article 1, since any definition might offend some delegations. It would be better to mention in article 36, paragraph 1, the persons who, whether members of the family or not, were entitled to privileges and immunities. If his delegation had any reservations, it would submit them in connexion with article 36, paragraph 1.

The meeting rose at 1.5 p.m.

THIRTY-NINTH MEETING

Tuesday, 4 April 1961, at 3 p.m.

Chairman: Mr. LALL (India)

Consideration of the draft articles on diplomatic intercourse and immunities adopted by the International Law Commission at its tenth session (A/CONF.20/4) *(continued)*

Article 1 (Definitions): second reading *(continued)*

1. The CHAIRMAN invited the Committee to continue its debate on the proposed definitions of " family " (L.312 and L.326).

2. Mr. WESTRUP (Sweden) said that at the previous meeting he had expressed support for the United States definition (L.312). He had, however, been impressed by the arguments against including such a definition — especially those advanced by the representative of Spain. He would therefore not oppose withdrawal of the amendment, but might raise the matter later if necessary.

3. Mr. CAMERON (United States of America) said that because of the comments made at the 38th meeting, and also because he felt that the Committee was not likely to reach agreement on the definition, he would not press his amendment to a vote. He would, however, raise the matter again if any article appeared to suffer from absence of the definition.

4. On behalf of its sponsors, Mr. KRISHNA RAO (India) withdrew the eight-Power amendment (L.326).

5. Mr. BOUZIRI (Tunisia) resubmitted the amendment originally submitted and then withdrawn by Ceylon (L.91) in the name of the Tunisian delegation. He thought it essential to define the family, because families were referred to in several of the articles; furthermore, the definition proposed by Ceylon was a good compromise between the eight-Power definition and that of the United States.

6. Mr. MENDIS (Ceylon) thanked the representative of Tunisia. He felt that the definition was necessary to make the convention complete.

7. Mr. KEVIN (Australia) also thought there was a need for some definition of the family in the convention.

The amendment (L.91) was rejected by 34 votes to 3, with 26 abstentions.

8. The CHAIRMAN put to the vote the redraft of article 1 (L.324) as amended by Japan (L.305).

Article 1, as amended, was adopted unanimously.

9. The CHAIRMAN said the Committee had completed the consideration of the draft articles prepared by the International Law Commission. The provisions adopted would be referred to the Drafting Committee, which would prepare the text to be submitted to the plenary conference.

Preamble

10. The CHAIRMAN said that among the matters still to be dealt with by the Committee was the question of a preamble, concerning which a number of proposals had been submitted.[1]

11. Mr. BAIG (Pakistan) explained the origin and purpose of the proposal which he was sponsoring jointly with eleven other delegations (L.318). The first paragraph was based on the first paragraph of the preamble to the draft convention prepared by the Asian-African Legal Consultative Committee (A/CONF.20/6). The second paragraph was concerned with the development of peaceful relations between States and was based on General Assembly resolution 1236 (XII). The third paragraph embodied an earlier proposal submitted by Mexico (L.127) stating the theoretical basis of diplomatic privileges and immunities. The fourth paragraph simply stated that the principles set out should guide the signatories in observing the convention.

12. Although the sponsors of the twelve-Power proposal considered their ideas appropriate and constructive, they realized that the five-Power proposal (L.329) was essentially the same, and in an effort to help the Committe had agreed not to press their own proposal to a vote.

13. Mr. USTOR (Hungary), introducing his delegation's proposal (L.148), said that, as had been stressed many times during the discussion, the rules that the Conference was going to adopt were not theoretical: they were based on and closely related to the realities, problems and requirements of modern international life. Those realities might not appear too encouraging, for barely sixteen years after the end of the Second World War local wars still occurred; armaments, nuclear weapons and military blocs existed; there was still colonial rule; and there were still poverty, illiteracy, disease and famine. But there were also hopeful signs: in particular, States continued to negotiate with each other; and there was a widespread network of diplomatic relations. The Conference itself constituted evidence of that.

14. Although the Conference was not directly concerned with human problems, the convention it was preparing would undoubtedly influence them, and it was important to make that influence a good one. The obvious purpose of the Conference was to establish order in diplomatic relations. According to article 3 one of the functions of diplomatic missions was to promote friendly relations between States. That idea could not be pursued far in a convention, but there was some scope in the preamble for an expression of views on diplomacy in general and on what its aims and achievements should be. Diplomacy was one of the most important methods of solving world problems; in approving rules for its smooth conduct the Conference would implicitly reaffirm its faith in diplomacy, as opposed to force, and so fulfil the aims of the United Nations Charter.

15. The embodiment of the Charter in international law was the guiding principle of his delegation's draft preamble and also the basis of the first three paragraphs. The fourth paragraph contained an idea common to all the amendments; the fifth, sixth and seventh paragraphs took into account the Czechoslovak proposal (L.6), the preamble to the draft convention of the Asian-African Legal Consultative Committee and the Romanian proposal (L.29).

16. However, he was happy to see that the essentials of his delegation's proposal appeared in the five-Power and twelve-Power proposals, and he would therefore not press it to a vote.

17. Mr. GLASER (Romania) said that his delegation's proposal (L.29) was based on two considerations. First, the division of international law into " law of war " and " law of peace " should be replaced by the single law of peace. Secondly, the object of diplomacy should be co-operation based on respect for national sovereignty and the freedom and independence of nations. He was glad to see the first idea contained in the Hungarian proposal and in the five-Power proposal, and hoped that the second idea could be incorporated as well.

18. Mr. RUEGGER (Switzerland), introducing his delegation's proposal (L.322), said he would not insist upon the first four paragraphs but attached great importance to the last, which embodied the principles of customary international law and of functional necessity. It would be desirable to state those principles in the preamble, as they were not mentioned in the articles, and therefore he suggested that the two points should be added to the five-Power proposal. He was more concerned with the first than with the second and, if a vote were necessary, would ask that they be voted on separately.

19. Mr. SIMMONDS (Ghana) considered that the preamble should provide an index to the Committee's codification of international law on diplomatic intercourse and immunities. Since his delegation had submitted its proposal (L.323), other better texts had been proposed. It would therefore be content if the Drafting Committee would note the various principles in its proposal.

20. Mr. TUNKIN (USSR) said that the five-Power proposal (L.329) was generally acceptable. The International Law Commission, however, had stated in its general comments introducing section II of its draft (A/3859) that it had been guided by the " functional necessity " theory in solving problems on which practice gave no clear pointers, while also bearing in mind the representative character of the head of the mission and of the mission itself. That point had been lost to view in the proposed text. To bring that text into closer accord with the Commission's intention, his delegation would therefore propose that the words " as representative organs of States " should be inserted in the fourth paragraph after the words " functions of diplomatic missions ".

[1] The following proposals had been submitted: Romania, A/CONF.20/C.1/L.29; Brazil, Colombia, Japan, Mexico, Nigeria, Norway, Hungary, A/CONF.20/C.1/L.148; Pakistan, Senegal, Spain, Turkey, United Kingdom and Switzerland, A/CONF.20/C.1/L.322; United States of America, A/CONF.20/C.1/L.318; Ghana, A/CONF.20/C.1/L.323; Burma, Ceylon, India, Indonesia and United Arab Republic, A/CONF.20/C.1/L.329. In addition, it had been agreed at earlier meetings that a provision proposed by Czechoslovakia (L.6) and proposed by Mexico (L.127) would be discussed in connexion with the preamble.

21. The provision in the Swiss proposal (L.322) which affirmed that the rules of customary international law should continue to govern questions not expressly regulated by the convention was not sufficiently specific and could be interpreted in a number of ways. It was also superfluous, since any provision of customary international law not included in the convention would obviously remain in force. His delegation would also oppose the clause in the Swiss proposal stating that the provisions of the convention should be interpreted in accordance with the criterion of functional necessity, for that clause was open to a dangerously wide range of interpretations.

22. Mr. RIPHAGEN (Netherlands) said that in the codification of a particular branch of the law of nations it was sometimes difficult, though always essential to indicate the matters which were and those which were not governed by the rules embodied in the codifying convention. The preamble might serve a useful purpose by defining the field covered by the convention and specifying its relationship to the general rules and principles of international law. Without a strict observance of the general body of law governing relations between States, a specific set of codified rules would have no meaning at all; that was particularly true of the future convention.

23. The various proposals for the preamble reflected those considerations. All referred to the specific subject matter of the convention, and all recognized that the rules to be adopted on diplomatic intercourse should promote peaceful and neighbourly relations between nations in accordance with the purposes and principles of the United Nations Charter. It would indeed be completely artificial to separate the two issues. It was true that the rules adopted gave no guidance on such questions as whether or not diplomatic relations should be established between two particular States. Nor did they contain any indication of the reasons which might or might not justify the severance of diplomatic relations. The articles adopted did, however, lay down the rights and obligations of States which had established diplomatic relations; and they governed relations between States in the case of temporary or even permanent rupture of diplomatic relations.

24. The article on the establishment of diplomatic relations stated simply that they were established by mutual consent. The article on the severance of relations was somewhat more elaborate and provided for the continued protection of interests. Both articles reflected the principle that in all circumstances the rules of international law governed relations between States even before the establishment of diplomatic relations, and continued to do so even after the breach. His delegation wished to place on record its view that acceptance of the theory of " rupture of State relations ", according to which a State could unilaterally break off " State relations " with another State, apparently with the result that it would no longer be bound by the rules of the law of nations vis-à-vis that other State, would undermine the whole fabric of international law and by the same token would reduce the result of the Conference to a meaningless stream of words. The delegations of Sweden, the United States of America and the United Kingdom had stated, in the particular context of the discussion of article 43 (37th meeting), the true purport of the relevant rules of international practice and had indicated the only course in accordance with the purposes and principles of the United Nations Charter. Those statements related to one instance where the rules of international law were particularly significant for the interpretation and application of a specific rule of the convention.

25. In discussing the preamble, the Committee was concerned with general principles. Whatever the precise wording which might eventually be adopted, the vast majority of delegations would recognize that the rules of the United Nations Charter were paramount and, together with other rules of international law, should continue to guide the conduct of States in their diplomatic as well as other relations.

26. Mr. KRISHNA RAO (India) thanked those who had expressed support for the five-Power proposal of which India was a co-sponsor (L.329). Commenting on other proposals he said that the provision proposed by Switzerland concerning " functional necessity " was covered by the fourth paragraph of the five-Power proposal, which provided that the purpose of immunities and privileges was " to ensure the efficient performance of the functions of diplomatic missions ". He supported the Soviet Union representative's view that the other provision proposed by Switzerland, concerning customary international law, was unnecessary; it was self-evident that the rules of customary international law would continue to govern any case to which the convention did not apply.

27. The amendment proposed orally by the Soviet Union was also unnecessary, since the principle that the diplomatic mission was the representative of the sending State was inherent in the whole preamble.

28. Mr. GLASER (Romania) said that he would not press his delegation's proposal (L.29). The sponsors of the five-Power proposal (L.329) might perhaps consider it advisable to insert a reference to the freedom and independence of nations and their national sovereignty.

29. The provision proposed by Switzerland referring to the criterion of functional necessity would introduce theoretical considerations into the convention, a dangerous step. The meaning of the expression " functional necessity " should be viewed against the background of the earlier debate on a number of articles of the convention, especially in connexion with immunity for acts performed outside official duties.

30. Mr. de ERICE y O'SHEA (Spain) supported the five-Power proposal and also the USSR proposal that the representative character of diplomatic missions should be mentioned in the preamble. Although there might be some danger in making statements of theory, the preamble was in fact the right context for a reference to the representative character which the evolution of international law had conferred on all diplomatic missions. He would, however, suggest that the scope of

the USSR proposal might be widened if it spoke of " organs of a representative character " rather than " representative organs ".

31. He agreed with the representative of Switzerland that it would be advisable to include a reference to customary international law. A number of young States were arising which were unacquainted with the customary law. He would not, however, support the provision in the Swiss proposal affirming that the provisions of the convention should be interpreted in accordance with the criterion of functional necessity.

32. Mr. YASSEEN (Iraq) said that the convention should be interpreted in the light of all the theories on which diplomatic privileges and immunities were based and which had guided the International Law Commision, and not according to any one single theory. Although the functional necessity theory should be taken into account, it should not be mentioned specifically. He would support the Soviet Union's oral proposal that a reference to the representative character of the mission should be added in the fourth paragraph of the five-Power proposal.

33. Mr. GHAZALI (Federation of Malaya) said that a preamble should be forceful, succinct and distinctive in its essence, meaningful, and devoid of ambiguity. He would therefore support the five-Power draft, which was excellent and which reflected the consensus of opinion that the differences and divergences in constitutional and social systems should not be a bar to the establishment or development of relations in the family of nations. That principle, which should command universal respect, would be a positive contribution of the convention. His delegation earnestly hoped that any nation which intended to become a party to the convention would be able to apply the articles to diplomatic representatives of all nations equally, despite any policy it might have of discrimination in regard to race or colour. The Conference was an historic occasion for all its members to declare firmly their faith that the family of nations could and should live together in peace, mindful of the United Nations Charter and all its implications for the benefit of mankind.

34. The provision proposed by Switzerland concerning customary international law was unnecessary, for it was the accepted practice in international law that when codification was silent, the rule had to be sought elsewhere, including customary international law. The provision concerning functional necessity was likewise unnecessary for it was covered by the fourth paragraph of the five-Power proposal.

35. Mr. BOUZIRI (Tunisia) suggested that in the five-Power proposal the order of the words " practice " and " conviction " in the first paragraph might be reversed, since practice was based on conviction. He supported the view of the Soviet Union representative that it would be advisable to stress the representative character of the diplomatic mission.

36. The first part of the Romanian proposal (L.29) was covered by the five-Power proposal. He agreed with the Romanian representative, however, that the preamble should contain a reference to the freedom and independence of nations and their national sovereignty.

37. Mr. RUEGGER (Switzerland) considered that the provision in sub-paragraph 1 of his delegation's proposal (L.322) should not be excluded as self-evident. The five-Power proposal rightly contained other statements of principle which might appear self-evident. His delegation considered that equal stress should be laid on the customary law which existed but could not be codified in the convention.

38. He thanked those speakers who had supported his delegation's proposal and withdrew sub-paragraph 2, on the understanding that its substance was largely covered by the penultimate paragraph of the five-Power premable.

39. Mr. TUNKIN (Union of Soviet Socialist Republics) found the wording of the first paragraph of the five-Power proposal somewhat unsatisfactory. Not all international lawyers would agree to the use made in that paragraph of the terms " practice " and " conviction ". Also it would be more appropriate to say that all nations had from ancient times recognized (rather than " respected ") the status of diplomatic agents. He did not propose any formal amendment to the paragraph, but hoped that the Drafting Committee would take into account the points he had raised.

40. He formally proposed that in the fourth paragraph of the five-Power proposal, after the words " the functions of diplomatic missions ", the words " as representative organs of States " should be inserted. He would be satisfied if the Committee adopted the idea contained in his proposal and left the actual wording to the Drafting Committee. It was essential that, if any reference was to be made to the theoretical foundation of diplomatic privileges and immunities, both the " functional necessity " theory and the " representative character " theory should be mentioned, since the International Law Commission had had both in mind when preparing its draft. If his amendment were not adopted, he would request a separate vote on the paragraph in question, in which event he would vote against it; it would be better to have no reference to theories at all than an inaccurate one.

41. Mr. LINTON (Israel) supported the Swiss proposal. It would be appropriate to state that questions not expressly regulated in the convention should continue to be governed by the rules of customary international law. Neither the International Law Commission nor the Conference had attempted an exhaustive codification of the international law relating to diplomatic intercourse and immunities. Thus article 3 stated only the main functions of a diplomatic mission, making clear by the use of the words " *inter alia* " that there were other functions. Even though it might be self-evident that the rules of customary international law would continue to operate in the absence of specific provisions on a particular point, that fact should be expressed in order to emphasize that there was no intention to stifle the development of diplomatic law.

42. The proposed preambles did not mention that the purpose of the convention was the codification of the customs and practices relating to diplomatic intercourse and immunities. He thought it might be useful to include in the preamble a sentence to that effect.

43. Mr. KEVIN (Australia) proposed the deletion, in the fourth paragraph of the five-Power proposal, of the twelve ugly words " and not for the personal benefit of the members of such missions ".

44. Mr. USTOR (Hungary) seconded the proposal.

45. Mr. KRISHNA RAO (India) thanked the Soviet Union representative for asking that his suggestions regarding the first paragraph of the five-Power proposal be referred to the Drafting Committee.

46. With regard to the amendments to the fourth paragraph, he said that the sponsors of the five-Power proposal would prefer to keep the text as it was; he therefore regretted that he could not accept any of the amendments.

47. Mr. YASSEEN (Iraq) suggested that the Committee should vote on the two alternatives: whether to refer in the preamble to the " functional necessity " theory only, or to all the theories.

48. The CHAIRMAN said that by voting on the Soviet Union amendment the Committee would in effect be choosing between those two alternatives.

49. Mr. WALDRON (Ireland) objected that the insertion of the words proposed by the USSR " as representative organs of States " would put all the emphasis on the representative character and in effect discard the " functional necessity " theory.

50. The CHAIRMAN put to the vote the Soviet Union's oral amendment.

The amendment was adopted by 39 votes to 5, with 23 abstentions.

The Australian amendment deleting the words " and not for the personal benefit of the members of such missions " was adopted by 35 votes to 19, with 18 abstentions.

The remaining Swiss proposal (L.322, sub-paragraph 1) was adopted by 38 votes to 11, with 19 abstentions.

51. Mr. VALLAT (United Kingdom) requested a separate vote on the fourth paragraph, as amended, of the five-Power proposal.

The paragraph in question, as amended, was adopted by 45 votes to 9, with 14 abstentions.

The preamble proposed by the five-Powers as amended, was adopted as a whole by 66 votes to none, with 4 abstentions.

52. The CHAIRMAN said that the preamble would be referred to the Drafting Committee which would settle the text to be submitted to the plenary conference.

53. The question of the title and final clauses of the convention would be considered at the next meeting.

Consideration of draft articles on special missions adopted by the International Law Commission at its twelfth session (A/4425)

54. The CHAIRMAN invited the representative of Ecuador, as Chairman of the Sub-Committee on Special Missions, to introduce its report (A/CONF.20/C.1/L.315).

55. Mr. PONCE MIRANDA (Ecuador) said that the Sub-Committee had agreed that the Conference was fully competent, under General Assembly resolution 1504 (XV), to conclude articles on special missions. The draft articles on special missions prepared by the International Law Commission, however, were mainly in the nature of ideas and suggestions and called for further study; moreover they had not been submitted to governments for comment.

56. For those reasons the Sub-Committee had concluded that, while the draft articles on special missions provided an adequate basis for discussion, their elaboration into final texts would require extensive study, which for the reasons stated in the report (paragraph 11) could not yet be undertaken.

57. The Sub-Committee therefore recommended to the Committee of the Whole that it should report to the Conference that the subject of special missions should be referred back to the General Assembly of the United Nations with the suggestion that the Assembly entrust to the International Law Commission the task of further study of the topic, in which the Commission would have the benefit of the definitive text on diplomatic intercourse and immunities established by the Conference.

58. When the International Law Commission completed its work on special missions, the Sixth Committee of the General Assembly might perhaps study the Commission's report and adopt a draft convention on special missions and other aspects of *ad hoc* diplomacy, supplementing the convention being prepared by the Conference.

59. Mr. TUNKIN (Union of Soviet Socialist Republics) supported the general idea contained in the International Law Commission's draft. There was undoubtedly a close link between the rules governing special missions and those governing permanent diplomatic missions, and that link had been stressed by the General Assembly itself in its resolution 1504 (XV). It was therefore quite appropriate that, as proposed by the International Law Commission, the rules applicable to permanent missions should in large measure apply to special missions as well.

60. Although his delegation would thus be prepared to consider the formulation of concrete provisions based on the Commission's draft, he agreed that for practical reasons it would be difficult for the Conference itself to undertake the task, and concurred with the recommendation of the Sub-Committee.

61. Mr. EL-ERIAN (United Arab Republic) said that *ad hoc* diplomacy was constantly increasing in importance. Apart from special missions properly so called,

an increasing use was being made of roving ambassadors. There was also the question of members of arbitral tribunals.

62. At the fifteenth session of the General Assembly his delegation had expressed reservations [2] because the draft articles on special missions had not been submitted to governments for their comments. His delegation had, however, accepted for practical reasons the procedure set out in resolution 1504 (XV). The Sub-Committee on Special Missions had now reached the considered conclusion that the subject of special missions should be referred back to the General Assembly with the suggestion that the International Law Commission be entrusted with the task of further study of the topic; he strongly supported that recommendation.

63. The CHAIRMAN said that there appeared to be unanimous support for the recommendation set forth in paragraph 13 of the Sub-Committee's report. He suggested that the Drafting Committee be asked to prepare, for submission to the Conference, a draft resolution along the lines of that paragraph.

It was so agreed.

The meeting rose at 5.40 p.m.

[2] See *Official Records of the General Assembly, Fifteenth Session, Sixth Committee*, 664th meeting, paragraph 14.

FORTIETH MEETING

Wednesday, 5 April 1961, at 10.50 a.m.

Chairman: Mr. LALL (India)

Consideration of the draft articles on diplomatic intercourse and immunities adopted by the International Law Commission at its tenth session (A/CONF.20/4) *(continued)*

Title and final clauses

1. The CHAIRMAN said that, having adopted (subject to final drafting) the substantive provisions and the preamble of the convention to be submitted to the plenary Conference, the Committee would proceed to consider the question of the title of the convention and the final clauses. A number of proposals were before the Committee,[1] the two main proposals being those submitted by Poland and Czechoslovakia (L.175) and by Italy and six other delegations (L.289 and Add.1 and 3). The latter, he thought, covered the proposals submitted individually by Mexico, Nigeria and Ghana, which would not consequently have to be considered separately.

2. Mr. CAMERON (United States of America), introducing the seven-Power proposal (L.289 and Add.1 and 3), drew attention to the comments following the draft final clauses. He pointed out that the title proposed by the seven delegations for the convention was the same as that proposed by Nigeria, Ghana, Ecuador and Venezuela. His delegation would support the motion submitted by Ireland and Sweden (L.331), and the amendments submitted by Iran (L.317) and the Netherlands (L.330/Rev.1).

3. Mr. GASIOROWSKI (Poland) introduced the proposal which his delegation had submitted jointly with that of Czechoslovakia (L.175) and reviewed the commentary appended to the draft final clauses. That commentary showed that the necessary conclusions had merely been drawn from the fact that Vienna had a diplomatic tradition and that the Conference was taking place there.

4. However, the seven-Power proposal (L.289) had been submitted in opposition to the joint Polish-Czech proposal with the argument that, according to established practice, the Secretary-General of the United Nations was designated as the depositary of all conventions adopted by the United Nations except certain commodity conventions which made other arrangements. But if, as was thus admitted, there were already exceptions to that practice, it was not clear why another exception could not be added. Moreover, the annex to the seven-Power proposal, listing several conventions in respect of which the Secretary-General acted as depositary, showed that all those conventions adopted after the establishment of the United Nations had been signed either at Headquarters in New York or at the European Office at Geneva. Since the present Conference was taking place neither in New York nor at Geneva, the annex in fact proved the opposite of what it was intended to prove, and the argument therefore fell to the ground.

5. As the Conference was concerned not with particular but with general rules, it should observe universally recognized practices. And there was one universal practice, based on elementary courtesy, under which the depositary of a multilateral convention was the government of the country in whose territory the convention had been signed. He requested that that practice should be respected, and recalled that the Committee had adopted at its thirty-ninth meeting a draft preamble stating that customary international law remained in force. The Committee would be untrue to itself if on the morrow of the adoption of that statement it were itself to contravene one of the most firmly established customary rules. Nor could it be argued that, because the Conference had been convened by the United Nations, therefore the convention should be deposited with the Secretary-General of the Organization. For since the Conference's terms of reference gave it full freedom to amend the draft of the International Law Commission, it would be illogical to contend that the Conference

[1] The following proposals had been submitted: Poland and Czechoslovakia, A/CONF.20/C.1/L.175; Mexico, A/CONF.20/C.1/L.193; Italy, Liberia, Mexico, Peru, Philippines, Turkey and United States of America, A/CONF.20/C.1/L.289 and Add.1 and 3; Nigeria, A/CONF.20/C.1/L.311; Ghana, A/CONF.20/C.1/L.313; Iran, A/CONF.20/C.1/L.317; Netherlands, A/CONF.20/C.1/L.330/Rev.1; Ecuador and Venezuela, A/CONF.20/C.1/L.332. In addition, Ireland and Sweden had submitted a motion (L.331) concerning the custody of the Final Act of the Conference.