

**United Nations Conference on the Representation of States  
in Their Relations with International Organizations**

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**12th plenary meeting**

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## 12th plenary meeting

Thursday, 13 March 1975, at 3.40 p.m.

President: Mr. SETTE CÂMARA (Brazil).

### Report of the Credentials Committee (concluded) (A/CONF.67/10 and Corr.1 and 2 and Add.1)

1. Mr. PAK (Democratic People's Republic of Korea) supported the statement made by the representative of Hungary regarding paragraph 2 of the report of the Credentials Committee (A/CONF.67/10 and Corr.1 and 2 and Add.1). He also shared the views expressed at the previous meeting by the representatives of Romania, Yugoslavia and the United Republic of Cameroon. He, too, considered that the Government of Saigon could not represent South Viet-Nam and that the Provisional Revolutionary Government of South Viet-Nam, which was the sole representative of that country, should have been represented at the Conference. Likewise, he considered that the Lon-Nol Government did not represent the people of Cambodia and that the Royal Government of National Union headed by Prince Norodom Sihanouk was the sole legitimate Government of Cambodia. In his view, therefore, the representatives of the Republic of Viet-Nam and of the Khmer Republic had no right to sign the convention.

2. Mr. DO-HUU-LONG (Republic of Viet-Nam) pointed out that in the Agreement signed at Paris in 1973, no provision was made anywhere for the existence of two governments in South Viet-Nam or for the division of South Viet-Nam into two separate States. The Final Act signed in March 1973 specified that, pending the holding of general elections, the Government of the Republic of Viet-Nam was the sole legitimate Government. The only function of the Credentials Committee, in accordance with rule 4 of the rules of procedure, was to ascertain whether the credentials of delegations were in good and due form. The delegations at the Conference had no authority to pass judgment on the representative character of a particular Government. If they were allowed to impugn the representative character of certain States participating in the Conference, any international activity would become absolutely impossible because every State would be able to dispute the representativity of the others. Both the writings of jurists and positive international law supported that view. Thus, in his book on contemporary diplomatic law, Professor Phillipe Caillé criticized the political manoeuvres carried out by certain States in that regard at international conferences, adding that those manoeuvres were legally baseless and only served to create a cold war climate. When verifying credentials, the Conference was not called upon to consider the representative character of States as such but rather to examine whether the credentials were in conformity with certain established rules. The expression "full powers" had been defined in paragraph 1 (c) of article 2 of the Vienna Convention on the Law of Treaties,<sup>1</sup>

<sup>1</sup> See United Nations Conference on the Law of Treaties, 1968 and 1969, *Official Records* (United Nations publication, Sales No. E.70.V.5), Document A/CONF.39/27, p. 287.

and article 44 of the draft convention now under consideration contained a similar definition of the term "credentials of delegates". Moreover, the General Assembly alone was competent to rule on the legitimacy of a Government. He therefore urged the Conference to adopt the report of the Credentials Committee.

3. Mr. TODOROV (Bulgaria), speaking on behalf of the delegations of the rest of the socialist countries, associated himself with the statements made by the representatives of the Democratic People's Republic of Korea and Romania concerning the non-representative character of the Lon-Nol Government of the Khmer Republic.

4. Mr. COULIBALY (Mali) recalled that, at the 1st plenary meeting of the Conference, he had supported the proposal by the Soviet Union to invite the Provisional Revolutionary Government of South Viet-Nam to participate in the work of the Conference. He associated himself with the statement made by the representative of Romania, and supported by the representatives of the socialist countries, concerning the non-representative character of the Lon-Nol Government and of the authorities of Saigon.

5. Mr. SURENA (United States of America) associated himself with the statements made by the representatives of the Republic of Viet-Nam and of the Khmer Republic. In his view, the régime of Prince Norodom Sihanouk was not a legitimate government but an exiled régime. As for the Provisional Revolutionary Government of South Viet-Nam, it was no more than a cover for a subversive movement directed from North Viet-Nam and representing but a small fraction of the population of South Viet-Nam. That so-called Government had no capital, no legislation and no legal personality, and it had not been recognized by the Paris Agreement. It therefore did not represent a State. The United States, for its part, recognized the Republic of Viet-Nam as the sole legitimate Government of South Viet-Nam. By its resolution 3247 (XXIX), the General Assembly had invited the Republic of Viet-Nam and the Khmer Republic to participate in the present Conference. It was therefore obvious that those two States had to be allowed to sign the Convention and the Final Act of the Conference. He therefore supported the report of the Credentials Committee.

6. The PRESIDENT said that, if there were no objections, he would consider that the Conference agreed to adopt the report of the Credentials Committee (A/CONF.67/10 and Corr.1 and 2 and Add.1).

*It was so decided.*

**Observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States (A/CONF.67/L.2 and Add.1).**

7. Mr. MITIĆ (Yugoslavia), introducing the draft

resolution in document A/CONF.67/L.2 and Add.1, said that he wished to draw the attention of the Conference to an important practice which had recently emerged in international relations and which, in its relation to international organizations and conferences, was particularly relevant to the work of the present Conference. He recalled that, by its resolution 3247 (XXIX) of 29 November 1974, the General Assembly of the United Nations had decided to invite "the nation liberation movements recognized by the Organization of African Unity and/or by the League of Arab States in their respective regions to participate in the Conference as observers, in accordance with the practice of the United Nations". In taking that decision, the General Assembly had confirmed the existing practice of inviting national liberation movements recognized by the Organization of African Unity (OAU) and/or the League of Arab States to participate as observers in international conferences convened under United Nations auspices. Ever since the General Assembly, by its resolution 2787 (XXVI) of 6 December 1971, had confirmed "the legality of the peoples' struggle for self-determination and liberation from colonial and foreign domination and alien subjugation", the national liberation movements concerned had been invited to participate as observers in the deliberations of such international conferences as the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts held at Geneva in 1974/75, the World Population Conference held at Bucharest in 1974, the World Food Conference held at Rome in 1974 and the Third United Nations Conference on the Law of the Sea held at Caracas in 1974. In addition, the General Assembly had invited the Palestine Liberation Organization to participate in the sessions and work of the General Assembly and also of all international conferences convened under its auspices.

8. In order to complete the articles of the draft relating to observer missions and to observer delegations, the authors of the working paper in document A/CONF.67/L.1 and Add.1 had suggested the inclusion of provisions to make the draft articles, and in particular those relating to privileges and immunities, applicable *mutatis mutandis* to observer missions, and to observer missions and to observer delegations sent by national liberation movements recognized by OAU and/or the League of Arab States, to which the status of Observer had been accorded by the Organization concerned, in accordance with its respective practice. Because of technical difficulties, however, the authors of the working paper A/CONF.67/L.1 and Add.1, had decided not to submit their proposal in the form of an article for insertion in the draft convention. They had confined their action to submitting a draft resolution (A/CONF.67/L.2 and Add.1) whereby the General Assembly was requested to examine that question at its thirtieth session. That draft resolution, once adopted, would meet the immediate requirements of peoples that were continuing to suffer from colonialism and foreign occupation and which were still being deprived of the status of States. He expressed the view that a simple

majority was sufficient for the adoption of the draft resolution.

9. Mr. OSMAN (Egypt) said that the draft resolution submitted by 28 Powers (A/CONF.67/L.2 and Add.1) had a clearly defined purpose. It fitted in perfectly with the present tendency to accelerate the decolonization process—an ideal to which the international community was irrevocably committed. Although colonialism was nearing its end, there remained some vestiges of it in Africa and the Middle East, where certain peoples still lived under colonial rule or under alien domination. The struggle of those peoples had taken the shape of national liberation movements recognized by the OAU and by the League of Arab States in their respective regions. The international community, and the United Nations in particular, had recently taken steps to help those movements. The recent practice of the United Nations, the specialized agencies and international conferences convened under their auspices was to throw open their doors to the national liberation movements and to encourage the participation of those movements in their deliberations by granting them observer status. That participation had a dual purpose. In the first place, it enabled international organizations to hear directly the grievances of the liberation movements and to help them to solve their problems and achieve their aspirations; that practice constituted an application of the democratic system at the international level. In the second place, the presence of those observers and their participation in the proceedings of international organizations enabled them to become familiar with the difficult and complex problems of the contemporary world where they would soon be taking their due place as independent and sovereign States. It was for that reason that the United Nations and the specialized agencies, and the conferences convened under their auspices, had addressed numerous invitations to national liberation movements. Convinced of the need to encourage that civilizing mission of the international community, the signatories of the working paper (A/CONF.67/L.1 and Add.1) had hoped that the future convention would be extended to cover the observers of those emergent States. That egalitarian and humanistic approach to international law had unfortunately had to give way, owing to lack of time and technical difficulties. The authors of the working paper had, therefore, in a spirit of compromise, not pressed their initial request. They had, however, considered that, since the national liberation movements recognized by OAU or by the League of Arab States had been granted the status of Observers, they should as a matter of urgency be also given the facilities, privileges and immunities necessary for the performance of their tasks. For those emergent States were even more in need of protection than sovereign States themselves. The present draft resolution (A/CONF.67/L.2 and Add.1) was intended to remedy that gap by giving national liberation movements a clearly defined status. As explained by the representative of Yugoslavia, the draft required only a simple majority for its adoption.

10. Mr. MEHTA (India), speaking as one of the sponsors of the draft resolution under consideration,

said that ever since the General Assembly, by its resolution 2787 (XXVI) of 6 December 1971, had confirmed: "the legality of the peoples' struggle for self-determination and liberation from colonial and foreign domination and alien subjugation", the national liberation movements recognized by the OAU or by the League of Arab States had been invited to participate as observers in the deliberations of several specialized agencies and international conferences. In particular, they had been invited to the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, the World Population Conference, the World Food Conference, the Conference on the Law of the Sea and the present Conference. That practice had been endorsed in a number of resolutions adopted by the General Assembly of the United Nations, the Economic and Social Council, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization and the Food and Agriculture Organization of the United Nations. In its resolution 3237 (XXIX) of 22 November 1974, the General Assembly had, in addition, invited the Palestine Liberation Organization to participate in its session and its work, as well as in that of all international conferences convened under its auspices or under the auspices of other organs of the United Nations.

11. It was both legitimate and necessary to define the status and the privileges and immunities of observer missions and observer delegations of the national liberation movements concerned in order to ensure the effectiveness of their contribution. Such was the purpose of the draft resolution under consideration. The articles relating to observer missions and to observer delegations of States should be made applicable *mutatis mutandis* to the observer missions and the observer delegations of those national liberation movements.

**Consideration of the question of the representation of States in their relations with international organizations in accordance with resolutions 2966 (XXVII), 3072 (XXVIII) and 3247 (XXIX) adopted by the General Assembly on 14 December 1972, 30 November 1973 and 29 November 1974 (continued)**

[Agenda item 11]

**FINAL CLAUSES OF THE CONVENTION AND CONSEQUENTIAL CHANGE IN PARAGRAPH 1 OF ARTICLE 2 OF THE CONVENTION: TEXTS SUBMITTED BY THE DRAFTING COMMITTEE (A/CONF.67/14)**

12. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, introducing document A/CONF.67/14, pointed out that it was necessary to modify the concluding part of paragraph 1 of article 2 in the light of the text proposed for the final clauses of the Convention. The Drafting Committee proposed to replace the words "when the Convention has been accepted by the Organization and by the host State in respect of that Organization." by the words "when the Convention has been accepted by the host State in respect of that Organization and the Organization has completed the procedure envisaged by article [V]".

13. Reviewing the text of the final clauses as sub-

mitted by the Drafting Committee in the same document, he said that the text of article [IV] (Entry into force) had been unanimously adopted by the Drafting Committee, as a result of the spirit of co-operation between the different regional groups, which had agreed not to press their particular interests. The provision did in fact raise delicate political issues. According to the text proposed, the Convention "shall enter into force on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession". The members of the Drafting Committee had agreed on the figure of thirty-five, which represented an average of the figures stipulated in previous conventions. Article [V] (Implementation by organizations) had also been unanimously adopted in a spirit of conciliation.

14. Mr. TODOROV (Bulgaria) thought that the change proposed by the Drafting Committee in the concluding part of paragraph 1 of article 2 would improve the text to some extent but would not remove the problem of double ratification. In order to eliminate that problem, it would be necessary to delete the words "in respect of that organization". He asked that those words should be voted on separately.

15. Mr. PINEDA (Venezuela) supported that proposal.

16. Mr. WERSHOF (Canada) opposed the proposal.

17. Sir Vincent EVANS (United Kingdom) said that paragraph 1 of article 2 had been the subject of considerable discussion in the Committee of the Whole and that it would be pointless to repeat all the arguments which had already been put forward. It was incontestable that, to be applicable, the Convention must be accepted by the host State, since it imposed obligations on the latter. The words on which the Bulgarian representative proposed a separate vote were associated with the definition of the term "international organization of universal character" given in paragraph 1 (2) of article 1.

18. According to that article, the term meant "the United Nations, its specialized agencies, the International Atomic Energy Agency and any similar organization whose membership and responsibilities are on a world-wide scale". The concluding part of the phrase was intended to cover any future international organizations of universal character. The definition was therefore to that extent open-ended and there was some room for uncertainty whether a particular organization would be covered. It was for those reasons that the Committee of the Whole, when it had examined paragraph 1 of article 2, had adopted the formulation "when the Convention has been accepted by the Organization and by the host State in respect of that Organization". After a long discussion, the various regional groups represented in the Drafting Committee had agreed upon the revised formulation in paragraph A of A/CONF.67/14, which also included the words "in respect of that Organization" and he hoped that the Conference would accept the Drafting Committee's recommendation.

19. Mr. TODOROV (Bulgaria), speaking in explanation of vote before the vote, said that it was in a spirit of co-operation and by way of a compromise that he

had proposed a separate vote on the words "in respect of that Organization". He reminded the Conference that the phrase "when the present Convention has been accepted by the Organization and by the host State in respect of that Organization" had been introduced into the provision under consideration by a United Kingdom amendment (A/CONF.67/C.1/L.15), adopted by 30 votes to 22, with 13 abstentions. His delegation proposed a separate vote on the words "in respect of that Organization" in the text submitted by the Drafting Committee, because it was opposed to the idea of a double ratification.

20. Mr. MAAS GEESTERANUS (Netherlands), speaking in explanation of vote before the vote, said that a compromise had been reached earlier when the Committee of the Whole had examined jointly paragraph 1 of article 2 and the definition of the term "international organization of universal character". The Committee might have confined the scope of the Convention to organizations belonging to the United Nations system, but it had preferred to extend it to international organizations of universal character. However, the criterion of universality might raise difficulties, particularly when it was a question of determining at what moment an organization had developed to the extent of assuming a universal character. In the circumstances, a State could not be expected to consider itself bound by the future Convention without having ratified it. It had been bearing in mind that principle of international law that the Committee of the Whole had drafted paragraph 1 of article 2. He urged the representatives of Bulgaria and Venezuela not to re-open the question of the formulation adopted by the Committee of the Whole.

21. The PRESIDENT put to the vote the motion made by the Bulgarian representative to take a separate vote on the words "in respect of that Organization".

*The motion was adopted by 32 votes to 28, with 11 abstentions.*

22. The PRESIDENT put to the vote the words "in respect of that Organization".

*There were 28 votes in favour, 27 against and 14 abstentions.*

*The words were not adopted, having failed to obtain the required two-thirds majority.*

23. The PRESIDENT put to the vote the new wording proposed by the Drafting Committee for the end of paragraph 1 of article 2 (see A/CONF.67/14), with the deletion of the words "in respect of that Organization".

*The new wording was adopted by 37 votes to 1, with 32 abstentions.*

24. Mr. SOGBETUN (Nigeria), recalling that he had taken part in the negotiations which had resulted in the adoption of the compromise formulation, said that he had voted against the proposal for a separate vote and had subsequently abstained from the vote on the words "in respect of that organization".

25. Mr. SURENA (United States of America) said that his delegation had voted for the retention of the

words "in respect of that organization" and also for the change proposed in paragraph A of A/CONF.67/14 in spite of the deletion of those words. His delegation had been driven to the conclusion that the host State, when it ratified the convention or at a later stage, would be forced to spell out the international organizations of universal character to which it considered the convention applied, owing to the ambiguous definition of the term "international organization of universal character". As his and other delegations had observed, the scope of the definition was vague and it was difficult to know precisely what types of organization would fall within the scope of the convention. Although his delegation would have preferred the retention of the words "in respect of that organization", it considered that the provision in paragraph 1 of article 2 filled the gap implicitly and that in any case, the host State would specify the international organizations of universal character to which it would apply the convention.

#### TITLE OF PART VI (Final clauses)

*The title of part VI was adopted.*

*Article [I] (Signature)*

*Article [II] (Ratification)*

*Article [III] (Accession)*

*Articles [I], [II] and [III] were adopted.*

*Article [IV] (Entry into force)*

26. Mr. MITIĆ (Yugoslavia) said that according to article [IV], entry into force of the convention would depend upon thirty-five instruments of ratification or accession being deposited, whereas the figure was twenty-two instruments in the case of the Vienna Convention on Diplomatic Relations,<sup>2</sup> the Vienna Convention on Consular Relations<sup>3</sup> and the Convention on Special Missions.<sup>4</sup> Without opposing the provision, his delegation wished to record its dissent.

27. Mr. KHASHBAT (Mongolia) expressed surprise that the Drafting Committee had decided upon a figure higher than that generally stipulated.

28. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, observed that the figure under discussion varied from one convention to another and that the Drafting Committee had considered the question at considerable length. Various members had put forward figures of 22, 30, 35, 50 and 70. It was only after consultation between the regional groups that the figure of 35 had been agreed upon and that had made it possible to adopt article [IV] unanimously.

29. Mr. PINEDA (Venezuela) proposed, in order to facilitate the entry into force of the future convention, to fix the number of instruments of ratification or accession required at 22 instead of 35. In support of his proposal, he pointed out that 22 instruments of ratification or accession had been required for the entry into force of the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations,

<sup>2</sup> United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

<sup>3</sup> *Ibid.*, vol. 596, No. 8638, p. 261.

<sup>4</sup> General Assembly resolution 2530 (XXIV), annex.

and the Convention on Special Missions. In his view, it was not a substantive matter but it was desirable to bring the provision into line with the corresponding provisions of the Conventions he had mentioned.

30. Mr. WERSHOF (Canada) said that he acknowledged the right of any delegation to submit an amendment even when an article had been the subject of considerable discussion terminating in a compromise solution but that any attempt to alter that solution would be regrettable. He asked the Chairman of the Drafting Committee whether article [IV] had been adopted unanimously by the members of the committee or only by a majority and in the latter case, by what majority.

31. Mr. SURENA (United States of America) asked the Venezuelan representative to reconsider his position and to withdraw his proposal so that the Conference could pursue its work on the basis of compromise formulations which had been accepted by common consent.

32. Mr. PINEDA (Venezuela) asked the Chairman of the Drafting Committee by what procedure and as a result of what types of consultations, the Drafting Committee had worked out the text of article [IV]. He repeated that the purpose of his proposal was to facilitate the application of the convention.

33. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, said that the Drafting Committee had been representative of the Committee of the Whole and there had been no secrecy about its deliberations. In the case of article [IV], the representative of the Union of Soviet Socialist Republics had proposed the figure of 22 instruments of ratification or accession, the representative of the United States 50 and the United Kingdom representative 70 in view of the fact that the present number of members of the United Nations was 138. He had proposed 35 as an intermediate figure and after the representative of the Union of Soviet Socialist Republics had consulted the members of his group, the Drafting Committee had agreed upon it.

34. Furthermore, there was no strict rule on the subject and figures of 22, 30, 35 and 45 could be found according to the convention cited. He stressed that the Drafting Committee had taken its decision unanimously, without opposition or abstentions.

35. Mr. PINEDA (Venezuela) withdrew his proposal to reduce the number of instruments of ratification or accession required for the entry into force of the convention, having heard the explanation of the Chairman of the Drafting Committee and particularly in view of the fact that the Committee's decision had been taken unanimously.

*Article [IV] was adopted.*

*Article [V] (Implementation by organizations)*

36. Mrs. SLAMOVA (Czechoslovakia) expressed some doubt with regard to article [V]. First, if the convention related to international organizations of universal character, it also acquired a universal character. Moreover, it was the same States which were members of international organizations, which were participating in the Conference and which would become parties to the convention. If international organizations of uni-

versal character were a topic of international law that came about through the will of the States which had established them; the States could therefore establish rules and impose obligations on international organizations.

37. Consequently, the question arose whether the convention prescribed obligations which confirmed the practice of international organizations or whether it established new rules. An examination of the obligations imposed by the convention on international organizations in respect, for example, of co-operation between the sending State and the host State or the question of notification to the host State showed that the obligations were in line with existing practice. That being so, she wondered why organizations would be given the right to decide whether or not to implement the convention; such a right, in the view of her delegation was the prerogative of States; she requested the Expert Consultant to clarify the point.

38. Mr. EL-ERIAN (Expert Consultant) said that the question of the status of the international organizations to which the draft convention under consideration applied had already been discussed in connexion with several articles and, in particular, the article relating to general facilities. In the Committee of the Whole, some delegations had expressed doubt as to the need to refer to those international organizations in article [V] of the final clauses of the draft convention. The Committee of the Whole had nevertheless decided, in order to complete the convention, to include in it a provision placing obligations on international organizations.

39. With regard to the question whether international organizations would officially be parties to the convention, the Committee of the Whole had considered that that was a separate matter. Precedents showed that only States were officially parties to the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies.<sup>5</sup> Nevertheless, in 1967, the General Assembly had, on the advice of the Secretary-General, considered that, although not an official party, the United Nations was nevertheless a party to those Conventions.<sup>6</sup> Moreover, section 30 of the Convention on the Privileges and Immunities of the United Nations stated that "All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice". The Committee of the Whole had therefore considered that it was not its task to deal with the question of the official participation of international organizations in the convention under consideration and had decided to abide by the practice followed in that respect.

*Article [V] was adopted.*

*Article [VI] (Notifications by the depositary)*

*Article [VII] (Authentic texts)*

*Articles [VI] and [VII] were adopted.*

<sup>5</sup> General Assembly resolutions 22A(I) and 179(II).

<sup>6</sup> See *Official Records of the General Assembly, Twenty-second Session, Sixth Committee, 1016th meeting, paras. 22 to 32.*

40. The PRESIDENT said that the Conference still had to consider the question of the proposal by the group of socialist countries (A/CONF.67/L.4) to introduce a new provision into the final clauses of the convention.

41. Mr. KUZNETSOV (Union of Soviet Socialist Republics) recalled that at the 10th plenary meeting the Conference had decided to bring the privileges and immunities of observer delegations to organs and conferences into line with those of other delegations, as shown by the provisions now included in part IV of the convention. His delegation was, on the whole, satisfied with that decision, although it regretted that the present form of those provisions was less appropriate from the legal point of view.

42. Nevertheless, what had thus been granted to observer delegations should not be taken away from them. States could express reservations with regard to provisions of the convention when they signed or ratified it or acceded to it, and it was in order to safeguard the privileges and immunities of observer delegations that the group of socialist countries had submitted the proposal in document A/CONF.67/L.4. If the decision taken by the Conference on the preceding day concerning the privileges and immunities of such delegations had been sincere, it could not now reject the proposal submitted by the group of socialist countries.

43. Sir Vincent EVANS (United Kingdom) said that the proposal by the socialist countries must be examined in the light of the practice followed in preparing conventions on the codification and progressive development of international law. The draft convention was one in a series of conventions which did not contain provisions relating to reservations.

44. The question of reservations was governed by the current rules of international law embodied in the Vienna Convention on the Law of Treaties. Since the Soviet Union and the other countries of the socialist group had always stressed the right to formulate reservations in accordance with that Convention, his delegation was very much surprised by the proposal contained in document A/CONF.67/L.4 and would vote against it, not because it objected to the provisions relating to observer delegations, but because it considered that the proposal was contrary to practice.

45. Mr. MARESCA (Italy) said his delegation was of the opinion that observer delegations must be considered as normal delegations and not be subject to any discrimination, but the proposal by the socialist countries (A/CONF.67/L.4) raised an entirely different question because it provided for the possibility of prohibiting the formulation of reservations. Although reservations undeniably weakened international conventions, they were, in a way, a necessary evil. In that connexion, he noted that the 1969 Convention on Special Missions provided, to a certain extent, for the possibility of formulating reservations. It was therefore necessary to avoid introducing into the convention a lack of flexibility which would be harmful to its effectiveness.

46. Mr. SURENA (United States of America) said that his delegation deeply regretted that the proposal

by the group of socialist countries had only just been circulated and that it was necessary to consider the question of reservations at so late a date. Provisions relating to reservations were usually considered in great detail and, consequently, for procedural reasons, his delegation requested the sponsors of that proposal to withdraw it.

47. However, the new provision proposed by the group of socialist countries also raised some problems of a substantive nature. Thus, his delegation wondered why that proposal related only to reservations to the provisions of part IV and not to the articles contained in parts II and III relating to missions and delegations. That was a very intriguing limitation. His delegation certainly did not want the scope of the proposal in question to be broadened, because that might seriously jeopardize the entire convention. Rather, it wanted the proposal contained in document A/CONF.67/L.4 to be withdrawn.

48. Mr. AVAKOV (Union of Soviet Socialist Republics) said that, although the proposal of which his delegation was one of the sponsors had been circulated only a short while previously, it had been submitted during the morning. Moreover, the Conference had had no difficulties in considering the final clauses of the convention, which had also been circulated only a short time previously.

49. It was as a result of the decisions taken on the previous day by the Conference that his delegation had considered itself more or less obliged to submit the proposal contained in document A/CONF.67/L.4. Replying to the representative of the United Kingdom, he noted that article 19 of the Vienna Convention on the Law of Treaties envisaged the case in which a reservation was prohibited by the treaty. The proposal by the group of socialist countries was therefore acceptable from the legal point of view. It might be argued that it dealt with a purely theoretical case, but, in fact, there were similar provisions in a number of conventions, including the Convention on the Reduction of Statelessness and the Convention on Fishing and Conservation of the Living Resources of the High Seas.<sup>7</sup> The proposal by the group of socialist countries was therefore acceptable both in principle and in practice.

50. Mr. CALLE Y CALLE (Peru) said that, with regard to the question of reservations, the countries of Latin America had a very firm doctrine, namely, that it was the right of every State to formulate reservations. For European countries, however, that right was subject to the agreement of all the parties to a treaty. The Vienna Convention on the Law of Treaties provided, first of all, for the possibility of formulating reservations and then for the exceptional case in which reservations were prohibited by the treaty.

51. In the case in question, if the purpose of the convention was, in fact, to protect the representatives of States to international organizations, there must be no discrimination between the various categories of representatives. The possibility of formulating reservations would, however, lead to the recognition of three sep-

<sup>7</sup> United Nations, *Treaty Series*, vol. 559, No. 8164, p. 286.

arate categories of representatives (missions, delegations and observer delegations). If reservations could be made to the provisions of article 72, States would be denied the right to be represented by observer delegations and reservations to the provisions of article 73 would have the effect of refusing to grant to observer delegations the benefit of the privileges and immunities enjoyed by other delegations. For those reasons, his delegation would vote in favour of the proposal in document A/CONF.67/L.4.

52. Mr. SOGBETUN (Nigeria) said he was anxious to ensure that the work of the Conference would be completed as soon as possible and requested the closure of the debate.

53. Mr. PINEDA (Venezuela) said that the question of reservations was too basic for the debate to be closed at the present time. He therefore proposed, in accordance with rule 27 of the rules of procedure, that the meeting should be suspended.

54. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said he was opposed to the motion for the suspension of the meeting and requested that it should be put to the vote.

*The motion for the suspension of the meeting was rejected by 38 votes to 22, with 9 abstentions.*

55. Mr. DO NASCIMENTO E SILVA (Brazil) and Mr. GOBBI (Argentina) said that they were opposed to the motion for the closure of the debate made by the representative of Nigeria.

*The motion for the closure of the debate made by the representative of Nigeria was adopted by 46 votes to 10, with 13 abstentions.*

56. The PRESIDENT invited the Conference to vote on the proposal in document A/CONF.67/L.4.

*The result of the vote was 40 in favour and 24 against, with 10 abstentions.*

*The proposal was not adopted, having failed to obtain the required two-thirds majority.*

57. Mr. PINEDA (Venezuela) said that his delegation had abstained from voting on the proposal contained in document A/CONF.67/L.4 because, although

it understood the reasons behind that proposal and knew that there were many conventions which prohibited the formulation of reservations on certain articles, it had considered that the form in which that proposal had been submitted created discrimination between delegations and observer delegations. Nevertheless, he again wished to make it clear that his delegation did not object to the substance of that proposal.

58. Mr. YAÑEZ-BARNUEVO (Spain) said that, throughout the Conference, his delegation had supported the principle of equality of treatment for permanent missions, delegations and observer delegations, but it had been unable to support the proposal in document A/CONF.67/L.4, because the proposed provision would have given rise to uncertainty about the possibility of formulating reservations to other parts of the Convention. Without such a provision, however, it could be considered that the question of reservations was governed by general international law or, in other words, by the relevant provisions of the Vienna Convention on the Law of Treaties.

59. Mr. RITTER (Switzerland) said that his delegation had abstained from voting on the proposal in document A/CONF.67/L.4 even though it was in favour of the principle of equality of treatment. It considered that the legal procedure chosen by the sponsors of that proposal was extremely unusual and that it might imply that the status of observer delegations was of prime importance in the convention, while, in fact, it was only one question among many others.

CONSIDERATION OF THE TITLES AND TEXTS OF ARTICLES  
ADOPTED BY THE COMMITTEE OF THE WHOLE (continued) (A/CONF.67/11 and 14)

*Article 2 (Scope of the present Convention)*

60. The PRESIDENT invited the Conference to vote on article 2 as a whole, as amended by the decisions taken by the Conference in connexion with paragraph A of document A/CONF.67/14. If he heard no objection, he would take it that the Conference agreed to adopt that article.

*It was so decided.*

*The meeting rose at 6.25 p.m.*