

**United Nations Conference on the Law of Treaties between States  
and International Organizations or between International Organizations**

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**8th plenary meeting**

Extract from Volume I of the *Official Records of the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

## 8th plenary meeting

Thursday, 20 March 1986, at 3.45 p.m.

*President:* Mr. ZEMANEK (Austria)

**Consideration of the question of the law of treaties between States and international organizations or between international organizations, in accordance with General Assembly resolutions 37/112 of 16 December 1982, 38/139 of 19 December 1983, 39/86 of 13 December 1984 and 40/76 of 11 December 1985 (A/CONF.129/4)**

[Agenda item 11] (*concluded*)

**Adoption of a convention and other instruments deemed appropriate and of the Final Act of the Conference**

[Agenda item 12] (*concluded*)

### STATEMENTS IN EXPLANATION OF VOTE

1. The PRESIDENT said he understood that a number of delegations wished to explain their vote on the adoption of the Convention. He invited them to do so.

2. Mr. ABDENNADHEUR (Tunisia) said that his delegation regretted that the Convention had not been adopted by the Conference by consensus. It had voted in favour of the Convention in accordance with the policy Tunisia had followed since its independence—that of ensuring the realization of the purposes and principles of the Charter of the United Nations. In that connection, Tunisia attached special importance to the codification and progressive development of international law.

3. In acceding to the 1969 Vienna Convention on the Law of Treaties,<sup>1</sup> Tunisia had formulated a reservation to article 66, subparagraph (a), for it took the view that recourse to the International Court of Justice required the express consent of the parties to the dispute. It adhered to the rules laid down in Article 33 of the Charter of the United Nations regarding the peaceful settlement of disputes and considered that States should have a free choice of means so as to enable them to negotiate the settlement of any disputes that might arise in the application or interpretation of treaties. In the negotiation of a settlement, all due despatch and the will of the parties to settle the dispute were essential. States parties to a dispute should also be able to avail themselves of any other means for the peaceful settlement of disputes, including arbitration or judicial settlement, provided that all the parties to the dispute consented to it. That would make for a negotiated settlement and allow the parties to choose the most appropriate means of settlement freely and in common accord.

4. Mr. ULLRICH (German Democratic Republic) said that his delegation had abstained from voting on the Convention as a whole since it believed that the

spirit of compromise had not prevailed throughout its preparation.

5. With regard to the actual text of the Convention, his delegation had agreed to the preamble on the understanding that it had a special function to fulfil in the interpretation of the Convention and in particular of article 2, subparagraph 1 (j) and articles 11, 19 and 20. That represented one area on which a compromise had been reached.

6. Widely differing positions had been expressed on article 66. His own delegation believed that on no account could disputes involving *jus cogens* be settled by means of a compulsory arbitration procedure. Decisions regarding *jus cogens* could not be left to so-called neutral bodies because of its highly legal and political nature. That was a further reason why his delegation had abstained from voting on the Convention as a whole, and the reason why it had voted against the proposal submitted by the Drafting Committee with regard to article 66.

7. His delegation regretted that the Soviet proposal for the final clauses (A/CONF.129/C.1/L.76 and Corr.1) had not received the necessary support.

8. Mr. MONNIER (Switzerland) said that, although his delegation had voted for the adoption of the Convention, it would not sign it immediately because Switzerland was not yet a party to the 1969 Vienna Convention, which it had not signed either. The question of Switzerland's participation in both Conventions would be considered shortly by the competent Swiss federal authorities.

9. Mr. PÉREZ GIRALDA (Spain) said that his delegation had voted in favour of the adoption of the Convention. The broad consensus which the Convention represented would serve to consolidate the rules of international law that had been codified in the 1969 Vienna Convention. In providing for the position of international organizations, the new Convention recognized the important contribution which they made to international relations in many areas of activity, including the codification and progressive development of international law.

10. Mr. WANG Houli (China) said that his delegation had abstained from voting on the Convention as a whole. It had participated in the work of the Conference in a constructive spirit, and many of the provisions of the Convention had been adopted following consultations in which it had participated. Regrettably, however, article 66 of the Convention was a departure from recognized principles of international law and was not in keeping with the spirit of the Charter of the United Nations. It could therefore not be applied in practice, and that would inevitably detract from the force and universal character of the new Convention.

<sup>1</sup> *United Nations Conference on the Law of Treaties* (United Nations publication, Sales No. E.70.V.5), p. 287.

11. Mr. TARCICI (Yemen) said that his delegation had voted in favour of the Convention because of its flexible and universal character, which would facilitate interpretation of its terms. Also, negotiation and arbitration necessarily involved a fairly lengthy procedure which would enable further solutions to be achieved.

12. Mr. GÜNEY (Turkey) said that his delegation had abstained in the vote on the Convention, in the first place because of the serious reservations it had concerning articles 53 and 64 relating to *jus cogens*, and secondly, because of its position on article 66 regarding judicial settlement, arbitration and conciliation, which it had explained in the Committee of the Whole (26th meeting) and confirmed at the 6th and 7th plenary meetings of the Conference.

13. Mr. SHASH (Egypt) said that his delegation had voted in favour of the Convention because of the importance which Egypt attached to the codification of rules of international law in the area dealt with by the Conference. It was, however, bound to enter a reservation to article 66 on settlement of disputes which, as drafted, would prevent many countries from supporting the Convention.

14. Mr. AL-MUBARAKY (Kuwait) said that his country had voted in favour of the Convention and welcomed its adoption. The Convention as a whole, together with article 66, represented a step forward in the codification and progressive development of international law.

15. Mr. CANÇADO TRINDADE (Brazil) said that, while his delegation had voted in favour of the Convention, it would have preferred the two key provisions regarding the treaty-making power of international organizations and the rules of the organization (article 6 and article 2, subparagraph 1 (j)) to have been considered jointly in a methodology distinct from the one followed at the present Conference, although it supported the wording finally adopted for those provisions.

16. His delegation supported the recognition given in the Convention to the treaty-making capacity of international organizations, which maintained the necessary parallelism with the 1969 Vienna Convention while wisely leaving open the question of the status of international organizations in international law. It supported in particular the provision to the effect that the treaty-making capacity of international organizations was governed by the rules of each international organization, such rules including the constituent instruments of the organizations and decisions and resolutions adopted in accordance with those instruments, as well as their established practice, on the understanding that occurred or was so by virtue of a general rule of international law under which international organizations were vested, as subjects of international law as distinct from States, with treaty-making capacity.

17. As was clear from the discussion which had taken place on article 2, subparagraph 1 (j), articles 20, 36 *bis* and 46 and also the preamble, the references made in the Convention not simply to practice but to established practice would prove highly important in the future interpretation of the provisions of the instrument. International organizations are likely to refer

to their "autonomous" established practice for the very interpretation of their constituent instruments. The wealth of relevant case law which existed contrasted with the silence of the 1969 Vienna Convention on that question and with the methodology followed at the present Conference, which had not left much opportunity for detailed consideration of the matter. There seemed to be no absolute parallelism among the international organizations themselves regarding the extent of the role of established practice and the interpretation of the powers conferred upon them or their organs.

18. On the question of settlement of disputes, the Brazilian delegation referred to the statement it had made in the Committee of the Whole (27th meeting).

19. Mr. DELON (France) said that his country had neither signed nor ratified the 1969 Vienna Convention on the Law of Treaties because that instrument contained provisions stipulating the invalidity of treaties which conflicted with a peremptory norm of general international law, *jus cogens*. His delegation wished to pay tribute to the work accomplished by the International Law Commission, and particularly its Special Rapporteur, and it fully supported many of the provisions of the Convention prepared by the present Conference. It welcomed the desire to develop the codification of international law in an area not lacking in pitfalls. However, it regretted that all the provisions concerning the obligations and rights of States members of an international organization deriving from a treaty to which the organization was a party had been deleted. In its view, the International Law Commission's proposal on the subject had the merit of clarifying what might prove to be a very complex legal situation.

20. Unfortunately, the concern to achieve the closest possible parallel with the 1969 Vienna Convention had led the Conference to produce a text containing provisions relating to *jus cogens* very similar to those which had led France to vote against that Convention. Cases in point were articles 53 and 64.

21. In the view of his delegation, the content of *jus cogens*, the manner in which its rules were formed and its effects all remained uncertain. The International Law Commission, in its commentary to articles 53 and 64, failed to clarify the matter and merely noted that those articles repeated the wording already used in the 1969 Vienna Convention. As far as his delegation was aware, a simple criterion for recognizing that a general rule of international law derived from *jus cogens* had still not been established. Article 53 of the new Convention defined *jus cogens* as the collection of rules "accepted and recognized by the international community of States as a whole" and "from which no derogation is permitted". But did that mean that the unanimous consent of the States forming the international community was required for the formation of such rules, or did a simple majority of them suffice? Clearly, such a system had to have a dispute settlement mechanism, for without that it would either be ineffective or have the effect of destabilizing treaty relations. However, the mechanism provided for in article 66 of the present Convention posed a number of problems. It did not settle the question of access of all international organizations to the International Court of Justice. Fur-

thermore, it had the effect of changing the nature of the advisory opinions of the Court by terming them “decisive”. Finally, there was a general feeling that the rule *pacta sunt servanda* which had been so happily restated in the preamble of the Convention might be breached by the uncontrolled and improper invocation of so-called rules of *jus cogens*. Clearly, thus to admit conflict into a field where certainty should reign meant acceptance of a reduction in the effectiveness of treaties and the introduction of uncertainty into international relations. For all those reasons, the French delegation had voted against the adoption of the Convention.

22. Count de la BARRE D'ERQUELINNES (Belgium) said that his delegation would not be in a position to sign the Convention immediately, since the question of his country's accession to the 1969 Vienna Convention on the Law of Treaties was still being examined by the competent authorities, who proposed to consider that Convention and the new Convention together. He wished to add that his delegation recognized the importance of the new Convention for international organizations, which were playing an increasingly important role in international relations.

23. Mr. MIMOUNI (Algeria) said that his delegation had been hoping for the adoption of a widely acceptable convention which would make a positive contribution to the progressive development of international law. It regretted that, in the end, it had not been possible for the Conference to adopt the Convention by consensus. His delegation had been unable to vote in favour of adoption of the Convention, since its provisions did not reflect the views held by many delegations on the question of settlement of disputes. His delegation had therefore abstained in the vote.

24. Mr. TEPAVICHAROV (Bulgaria) said that his delegation had abstained in the vote on the Convention because it had strong reservations concerning article 66 and the final provisions. The reasons for those reservations had already been fully explained at the previous meeting and at the 27th and 30th meetings of the Committee of the Whole. He did not propose to elaborate on his delegation's reservations relating to other articles, having expressed Bulgaria's reservation concerning the Convention as a whole.

25. Mr. NETCHAEV (Union of Soviet Socialist Republics) welcomed the Convention just adopted by the Conference as an example and an extension of the process of progressive codification of international law, reflecting such instruments as the Charter of the United Nations and the 1969 Vienna Convention on the Law of Treaties. The Convention contained legal norms reflecting the specific nature of international organizations. The practice of such organizations in concluding treaties had to conform to their constituent instruments, and the Convention rightly confirmed that international organizations, as subjects of international law, had specific legal responsibility and capacity.

26. His delegation regretted, however, the inclusion in the Convention of provisions which it found unsatisfactory. The procedure for the settlement of disputes provided for in article 66 did not correspond with actual practice, and contradicted the principle of the sov-

ereign equality of States and the right of States to select the means of settling disputes. The article therefore constituted a retrograde step in international law and would reduce the effectiveness of the future Convention.

27. His delegation did not agree with the final provisions, which allowed States and international organizations to participate in the Convention on an equal footing. In his delegation's view, the conclusion of a codification convention was a matter for States alone; international organizations could participate only as observers. It was premature at the present stage of the development of international law to permit international organizations to sign such conventions. For those reasons his delegation had abstained in the vote on the adoption of the Convention.

28. Mr. LÊ BÁ CÁP (Viet Nam) said that his delegation had abstained in the vote because in its view article 66 and the annex to the Convention were not consistent with the spirit of promoting the peaceful settlement of disputes. Article 66 detracted from the principle of the sovereignty of States. His delegation also found subparagraphs 1 (b) and 2 (b) of article 45 unsatisfactory, as it considered that in all cases acceptance should be formal and specific.

29. Mr. HARDY (European Economic Community) said that the Convention just adopted by the Conference was the result of a long and sustained effort. It was the culmination of a codification process undertaken by the international community which had involved many stages. His delegation was gratified to note that it had been possible to reach general agreement on the great majority of the articles considered. It would study the Convention carefully and determine its position accordingly.

30. In connection with article 2, his delegation was pleased to note that there was agreement on the use of the term “full powers” for instruments issued both by organizations and by States, since that reflected current practice. He regretted that the phrase “acts of formal confirmation” relating to the conclusion of treaties by international organizations had not been deleted, since it introduced an unnecessary complication without any advantage, particularly as it had been agreed in the text that there was no legal difference between an act of ratification by a State and an act of formal confirmation by an organization. Indeed, an act of formal confirmation might be termed a “ratification”. That was, in fact, the practice in the European Economic Community, which would continue to use that term, where appropriate, in the future.

31. His delegation accepted the definition of “rules of the organization” in article 2, subparagraph 1 (j) and felt that the term covered all sources of community law. He wished to reiterate that it was the responsibility of the organization concerned to interpret and apply its rules in accordance with its own procedures. As had been pointed out, it was not possible through adoption of an instrument such as the one before the Conference to seek to modify arrangements made under an earlier treaty or treaties setting up an international organization, with its own procedures and methods of opera-

tion. In that connection, he drew attention to the reference in the thirteenth paragraph of the preamble to relations between an international organization and its members. His delegation considered that paragraph to mean that relations between an organization and its members were always governed by the rules of the organization, it being understood however that when an organization concluded a treaty with one of its members, the provisions of the present Convention might apply. It was also the responsibility of each organization to determine which were its "competent organs" or "organs" and their respective roles.

32. In the view of his delegation, paragraph 2 of article 9 was consistent with paragraph 1 of the article. Consequently, international organizations and States were treated on an equal footing as participants in an international conference and for the adoption of a treaty text. His delegation found the provisions on reservations, which closely reflected the language of the 1969 Vienna Convention, satisfactory. International organizations were fully entitled to formulate reservations or to object to them on the same basis as States, subject only to the wording of the articles adopted by the present Conference.

#### REPORT OF THE COMMITTEE OF THE WHOLE

33. The PRESIDENT invited the Conference to consider the report of the Committee of the Whole (A/CONF.129/13). In the absence of objections, he would take it that the Conference wished to take note of the report of the Committee of the Whole.

*It was so decided.*

#### CONSIDERATION OF THE DRAFT FINAL ACT AND ANNEXED RESOLUTIONS

34. The PRESIDENT invited the Conference to consider the draft Final Act, which had been prepared by the Drafting Committee (A/CONF.129/12). He drew attention to the three customary resolutions in the annex to the draft text, the first paying tribute to the Expert Consultant, the second to the International Law Commission and the third to the People and to the Federal Government of Austria. He suggested that the Conference might wish to adopt those three resolutions without a vote.

*The three resolutions in the annex to the draft Final Act (A/CONF.129/12) were adopted without a vote.*

#### DRAFT RESOLUTION PROPOSED BY THAILAND

35. Mr. CHUTASAMIT (Thailand), speaking on behalf of the group of Asian countries, said that the three resolutions just adopted were most appropriate. However that group considered it appropriate also to pay tribute to the great negotiating skill and the leadership of the President of the Conference, whose wisdom and guidance had contributed so much to the successful conclusion of the Conference's work. A tribute was also due, they felt, to the Chairman of the Committee of the Whole and the Chairman of the Drafting Committee. He therefore proposed that the Conference should adopt the following draft resolution entitled "Tribute to

the President of the Conference, to the Chairman of the Committee of the Whole and to the Chairman of the Drafting Committee":

*"The United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations,*

*"Having adopted the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations,*

*"Expresses its appreciation and thanks to Mr. Karl Zemanek, President of the Conference, Mr. Mohamed El-Taher Shash, Chairman of the Committee of the Whole, and Mr. Awn Shawkat Al-Khasawneh, Chairman of the Drafting Committee, who, through their great knowledge, successful efforts and wisdom in steering the work of the Conference, contributed greatly to the fruitful work which made the Conference successful."*

36. Mr. SZEKELY (Mexico) said that his delegation wholeheartedly supported the draft resolution proposed by the representative of Thailand on behalf of the group of Asian countries, as it called appropriate attention to the President's invaluable contribution to the Conference and his successful guidance of its deliberations to a successful conclusion.

37. Mr. PALOMO (Guatemala), speaking on behalf of the group of Latin American countries, said that they wished to congratulate the President on his great contribution to the work of the Conference. They also wished to pay tribute to the Chairman of the Committee of the Whole, the Chairman of the Drafting Committee, the Vice-Presidents, the Expert Consultant and the secretariat of the Conference. On behalf of the group of Latin American countries, he supported the draft resolution proposed by the representative of Thailand.

38. Mr. ABDENNADHEUR (Tunisia), speaking on behalf of the African delegations, said that they wished to be associated with the draft resolution read out by the representative of Thailand. They wished to express their sincere gratitude and appreciation to the President for having presided with impartiality and success over the work of the Conference. They also wished to thank the Chairman of the Committee of the Whole, the Chairman of the Drafting Committee, the members of the General Committee and the secretariat for their contributions to the success of the Conference.

39. Mr. BERMAN (United Kingdom) said that his delegation wished to associate itself with the sentiments expressed by the representative of Thailand and echoed by the representatives of other delegations and groups. The success of a complex conference depended on the efforts of all its officers, its secretariat and the participating delegations.

*The draft resolution proposed by Thailand was adopted by acclamation.*

#### DRAFT RESOLUTION SUBMITTED BY JAPAN

40. The PRESIDENT invited the Conference to consider the draft resolution submitted by Japan, relating to article 66 of the Convention.

41. Mr. HAYASHI (Japan), introducing the draft resolution submitted by his delegation (A/CONF.129/L.3), said that the Conference having adopted the Convention as a whole, including the new text of article 66, his delegation wished to draw attention to the provisions of paragraph 2, subparagraphs (b) and (d), of that article, which allowed States parties or certain international organizations parties to a dispute to ask the General Assembly or the Security Council of the United Nations to request an advisory opinion of the International Court of Justice. The draft resolution submitted by Japan was intended to facilitate the implementation of those provisions.

42. He expressed regret at the fact that the draft resolution had been submitted only that morning. There had been no intention of taking other delegations by surprise; the Japanese delegation had simply had no alternative, having had to await the adoption of the text of article 66 by the Conference before making its proposal.

43. In essence, the draft resolution would request the General Assembly and the Security Council to adopt appropriate procedures for responding promptly to requests which might be made for seeking an advisory opinion of the International Court of Justice.

44. Mr. TEPAVICHAROV (Bulgaria) said that, in view of late submission of the Japanese draft resolution, his delegation could make only preliminary comments on that text. It was clear that it embodied in effect a substantive proposal, and could therefore not be submitted to the Conference in the form of a draft resolution. The Conference had been convened in order to adopt a convention on the law of treaties between States and international organizations or between international organizations. It had no mandate to adopt decisions requesting the General Assembly or the Security Council to take action in connection with those matters. In order to address those bodies, the proper procedure would have been to consult the General Assembly and the Security Council beforehand. His delegation considered that the draft resolution was not admissible at the present Conference. He would be grateful if the Legal Counsel of the United Nations would advise the Conference on that question of admissibility.

45. Mr. FLEISCHHAUER (Legal Counsel) said that he did not share the Bulgarian representative's doubts regarding the procedural receivability or admissibility of the draft resolution submitted by Japan. The present Conference was a conference of plenipotentiaries of States and, as such, it could address questions relating to its subject matter to the United Nations without having to consult other international fora.

46. As for the content of the draft resolution, he felt that it did not introduce an entirely new subject; it was connected with the operation of the provisions of article 66, paragraph 2, of the Convention.

47. Mr. SHASH (Egypt) asked, for purposes of clarification, whether a similar resolution had been adopted by the United Nations Conference on the Law of Treaties.

48. Mr. FLEISCHHAUER (Legal Counsel) said that no similar resolution had been adopted by the United Nations Conference on the Law of Treaties. It should be borne in mind, however, that the problem dealt with in the draft resolution submitted by Japan arose from a specific situation which occurred only in relation to international organizations. The 1969 Vienna Convention on the Law of Treaties had excluded from its scope the treaties concluded by international organizations. The two situations were therefore not comparable.

49. Mr. SHASH (Egypt) asked whether it was really necessary for the Conference to adopt a draft resolution such as the one proposed. If the United Nations, as an international organization, became a party to the Convention, it would be bound by all the provisions of the Convention. He accordingly appealed to the delegation of Japan not to press its draft resolution, bearing in mind the fact that many delegations which had voted in favour of adoption of the Convention were reluctant to adopt the draft resolution.

50. Mr. HAYASHI (Japan) said that there appeared to be a misunderstanding with regard to the implications of his country's draft resolution. The question whether the United Nations became a party to the new Convention or not was not relevant in the context of the proposal. There was no need for the United Nations to be a party to the Convention for it to receive the type of request envisaged in article 66, paragraph 2, subparagraphs (b) and (d).

51. The sole purpose of the draft resolution was to facilitate the operation of the provisions of article 66, paragraph 2, which referred to the possibility of asking the General Assembly or the Security Council to request an advisory opinion from the International Court of Justice.

52. He drew attention, finally, to the fact that the advisory opinion in question could be requested by a State, and not solely by an international organization, in the cases envisaged in article 66, paragraph 2.

53. Mr. PAWLAK (Poland) joined in the Egyptian representative's appeal to the Japanese delegation to withdraw its draft resolution, which was out of place at the present Conference. It was also very premature, since it would be a long time before the Convention just concluded came into force. The draft resolution was not really necessary and, if pressed, would lead to needless confrontation.

54. Mr. RASOOL (Pakistan) said that his delegation also joined in the Egyptian representative's appeal. The draft resolution would create difficulties for many delegations which had voted in favour of article 66 at the previous meeting. Unlike the Legal Counsel, he felt that problems were likely to arise if the Conference adopted a resolution addressed to the General Assembly and the Security Council of the United Nations.

55. Mr. HAYASHI (Japan) said that because of the unavoidable delay in the submission of the draft resolution it had not been possible for him to explain it in advance to delegations as he would have wished.

56. Taking into consideration the concern which had been voiced by certain delegations and in order to avoid

further confusion, he withdrew his delegation's draft resolution.

57. The PRESIDENT thanked the Japanese representative and noted that the draft resolution in document A/CONF.129/L.3 was withdrawn.

DRAFT RESOLUTION SUBMITTED BY  
THE UNITED NATIONS

58. The PRESIDENT invited the Conference to consider the draft resolution submitted by the United Nations (A/CONF.129/L.4), which related to the annex to the Convention adopted by the Conference.

59. Mr. TEPAVICHAROV (Bulgaria) said that his delegation had expressed its views on the question of paragraphs 9 and 14 of the annex to the Convention at the previous meeting. The provisions of rule 60, subparagraph 1 (d), of the rules of procedure had not been satisfied; he therefore considered the draft resolution inadmissible.

60. The PRESIDENT suggested that the Conference might, if it so wished, adopt without a vote a proposal by the United Nations, in which case the rule referred to by the representative of Bulgaria would not apply. It would be virtually impossible at the present late stage of the Conference to comply with the provisions of the rule in question governing requests that proposals be put to a vote.

61. Mr. BERMAN (United Kingdom) said that his delegation was far from convinced that the provisions of the rule referred to were applicable to the proposal before the Conference, which could not reasonably be regarded as substantive. Surely it related rather to consequential action—which in any normal circumstances would be regarded as inevitable—based on decisions already taken by the Conference by a vote.

62. The United Kingdom delegation also had some doubts as to whether document A/CONF.129/L.4 should be construed as being a draft resolution submitted by the United Nations. It was his recollection that the Legal Counsel had pointed out at the previous meeting that it would be normal and necessary for the Conference to take a decision along the lines indicated in the present proposal, and that, if necessary, the representative of the United Nations could produce a text. He further understood it to have been decided that such a text would be drafted as part of a technical operation linked to the fulfilment of what the Conference had agreed was necessary.

63. However, to the extent that a different view might be taken, his delegation was fully prepared to make whatever formal request might be necessary in order to ensure that the Conference could indeed decide to act on the proposal before it.

64. Mr. TEPAVICHAROV (Bulgaria) said that the Bulgarian delegation had a different understanding of the rule to which he had referred. However, he considered that to embark on a procedural discussion was not as important for his delegation as to reiterate its views on the substance of the issue. A draft resolution had been submitted by the United Nations. As a Member of the United Nations, Bulgaria, at the previous

meeting, had expressed its views on the question dealt with in that draft resolution. In the terms of the draft resolution, the General Assembly was requested to take note of and approve provisions of the Annex to the Convention which had financial implications. He wished only to point out that a representative participating in the present Conference might in due course have to justify, in the Fifth Committee of the General Assembly of the United Nations, the request for approval proposed in the draft resolution.

65. His delegation requested that a vote be taken by roll-call on draft resolution A/CONF.129/L.4.

*A vote was taken by roll-call.*

*Nigeria, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Australia, Austria, Bangladesh, Barbados, Belgium, Burkina Faso, Cameroon, Canada, Chile, Colombia, Cyprus, Denmark, Finland, Germany, Federal Republic of, Greece, India, Ireland, Italy, Japan, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Luxembourg, Malta, Mexico, Morocco, Netherlands, Nigeria, Norway, Pakistan, Portugal, Republic of Korea, Senegal, Spain, Sudan, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia, Zambia.

*Against:* Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, German Democratic Republic, Hungary, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Viet Nam.

*Abstaining:* Algeria, Angola, Argentina, Bahrain, Brazil, China, Congo, Côte d'Ivoire, Democratic People's Republic of Korea, Egypt, France, Gabon, Guatemala, Iran (Islamic Republic of), Iraq, Israel, Liechtenstein, Madagascar, Mozambique, Nicaragua, Oman, Panama, Peru, Philippines, Switzerland, Tunisia, Turkey, United Arab Emirates, Venezuela, Yemen, Zaire.

*The draft resolution was adopted by 44 votes to 11, with 31 abstentions.*

ADOPTION OF THE FINAL ACT OF THE CONFERENCE

66. The PRESIDENT invited the Conference to proceed to the adoption of the Final Act of the Conference (A/CONF.129/12), it being understood that the appropriate dates or references would be entered by the secretariat in the blank spaces in paragraphs 18, 19 and 21 of the document.

67. Mr. HERRON (Australia) observed that the first sentence of paragraph 17 dealt with the referral to the Committee of the Whole of those draft articles which had required substantive consideration, and of the preamble and the final provisions of the draft convention; the second sentence alluded to the draft articles referred directly to the Drafting Committee. He drew attention to the fact that several proposals concerning new articles, one of which had been incorporated in the Convention as adopted, had also been considered by the Conference initially in the Committee of the Whole. In order to ensure greater accuracy he suggested that

the beginning of the second sentence of paragraph 17 should be modified to read: "It referred all other draft articles of the basic proposal directly to the Drafting Committee . . .".

68. The PRESIDENT concurred with that suggestion and said that the change would be made.

*The Final Act was adopted without a vote.*

#### **Signature of the Final Act and of the Convention and other instruments**

[Agenda item 13]

69. In reply to a question from Mr. NEGREIROS (Peru), Mr. KALINKIN (Executive Secretary of the Conference) said that the texts of the Convention and of the Final Act were expected to be ready for signature in the early afternoon of Friday, 21 March 1986. He announced the details of the ceremony of signature.

#### **Closure of the Conference**

70. Mr. TEPAVICHAROV (Bulgaria) said that, while his delegation might not have always given that impression during the final stages of the Conference, it had constantly endeavoured to be helpful and consistent and to act with that sense of fairness to which another delegation had alluded.

71. On behalf of the Eastern European group of countries and other socialist countries, he expressed deep appreciation of the manner in which the President had conducted the deliberations of the Conference, and of the facilities which had been provided for the Conference by the host country. The Chairman and Vice-Chairmen of the Committee of the Whole were to be commended for their tireless efforts, and thanks were also due to the secretariat of the Conference for their assistance in the difficult task of elaborating a generally acceptable text on the law of treaties between States and international organizations or between international organizations. The result of all those efforts was now before the Conference. A debt of gratitude was owed to all who had contributed to the successful drafting of those provisions, which expressed a generally acceptable compromise.

72. The PRESIDENT said that it would have indeed been a great success had the Conference been able to proceed to the very end of its business in the manner which had characterized the major part of its work. Although the final day of the Conference's deliberations had brought frustration and disappointment for some, it should not be forgotten that the substantive articles of the Convention, in other words the body of the substantive law to be applied to the treaty relations between States and international organizations or between international organizations, had been accepted by general agreement.

73. Such a result could not have been brought about without the faithful and loyal assistance of a number of persons to whom he felt deeply obliged. They included, in particular, the Chairman and Vice-Chairmen of the Committee of the Whole, who had assisted him in numerous difficult negotiating tasks; the Chairman of the Drafting Committee, to whom he had already paid tribute; the Chairmen of the different regional groups; the Chairman of the Task Force of the Group of 77; and a number of delegations which had provided invaluable assistance during the negotiations.

74. It was customary, and might thus be considered as merely traditional, to thank the members of the secretariat. On the present occasion, however, in a context of great innovation, the burdens on the secretariat had been particularly heavy and the demands for adaptation considerable. Not the least of its achievements would be to have completed the preparations for the signature of the Convention on time, for that was not always the case; an expression of special gratitude was therefore in order.

75. Lastly, it was to the participants in the Conference—so generous in their appreciation of his and the other presiding officers' contribution—that he addressed his gratitude; without the co-operation of all of them the results obtained would have been impossible. A body of substantive rules had, he repeated, been adopted with general agreement, and that was no mean achievement.

76. He declared closed the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations.

*The meeting rose at 5.45 p.m.*