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Summary record of the 1430th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
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between international organizations to which some of them might enter reservations. The purpose of reservations was to protect particular interests of a State and it was not easy to picture a situation where the need of an international organization to protect a particular interest would lead it to formulate a reservation to a multilateral treaty concluded with other international organizations. Thus, so far as reservations to a multilateral treaty confined to international organizations were concerned, it would be artificial to assimilate the situation of an international organization almost entirely to that of a State. To establish such a strict parallel would mean pushing assimilation between the régime of treaties between States and the régime of treaties between international organizations too far.

The meeting rose at 12.55 p.m.

1430th MEETING

Tuesday, 31 May 1977, at 3.05 p.m.

Chairman: Sir Francis VALLAT

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

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

[Item 4 of the agenda]

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

ARTICLE 19 (Formulation of reservations in the case of treaties concluded between several international organizations) *and*

ARTICLE 20 (Acceptance of and objection to reservations in the case of treaties concluded between several international organizations (*continued*) [3]

1. Mr. REUTER (Special Rapporteur) said that, after listening to the comments of Mr. Ago [4] and Mr. Ushakov, [5] he had realized that his commentary and oral introduction had not allayed all the concern expressed with regard both to basic principles and to drafting problems. For example, Mr. Ago had said that he did not see what practical scope a reservation to a treaty concluded between international organizations would have, since relations between international organizations seemed to him to be very diffrent from relations between States, while Mr. Ushakov had asked about the specific nature of the various types of multilateral treaties concluded between international organizations. He therefore intended first to review the types of treaties covered by articles 19 to 23 and then to consider the consequences of such different types of treaties, in the matter of reservations.

2. With regard to Mr. Ushakov's question concerning the different types of treaties, he said that, for the purposes of the draft articles, he had already made a distinction between treaties concluded between States and international organizations and treaties concluded between two or more international organizations. That distinction was, however, inadequate because, as was implied in articles 19 and 20 of the Vienna Convention,[6] a distinction also had to be made between "open" treaties of universal character and "closed" treaties of restricted character.

3. Of the various types of possible treaties, however, some already existed but others did not. It was a question whether the latter types of treaties could be expected to exist either in the relatively near future or in the very distant future. The problem was thus to decide whether rules should be formulated only for types of treaties which already existed and of which examples could be given, or whether rules should be formulated for types of treaties which were merely possible, ruling out the types of treaties which were theoretically possible but could not be expected to exist in the sufficiently near future.

4. The position he had adopted on that question was that the Commission must not confine itself to existing types of treaties but must also consider other possible types of treaties, although it should rule out those which could not be expected to appear until the very distant future and would require the formulation of rules whose consequences could not yet be foreseen.

5. He had reached the conclusion that it was difficult to imagine an international organization whose members were States and one or more international organizations, or whose members were all international organizations. Indeed, such an extremely remote possibility would be contrary to the definition given in article 2, paragraph 1 (*i*),[7] which stated that an "international organization" meant "an intergovernmental organization". He had therefore not proposed, in draft articles 20 and 20 *bis*, a provision corresponding to the one contained in article 20, paragraph 3, of the Vienna Convention.

6. The Commission should, however, look ahead and try to allay the concern of international organizations, which feared that the future convention might hamper their development. The draft articles should provide a framework for the accommodation of the international organizations rather than impose something on them.

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

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

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

[4] 1429th meeting, para. 19.

[5] *Ibid.*, paras. 16-18.

[6] *Ibid.*, foot-note 4.

[7] *Ibid.*, foot-note 3.

7. According to the definition of the word "treaty" in article 2, paragraph 1 (*a*), of the Vienna Convention, there were many acts in economic, technical, financial and administrative life which could, in future, be covered by treaties and to which the future articles would apply. Regardless of their functions, all international organizations would be covered by the draft articles.

8. Now the functions of international organizations were extremely varied. The function of some was merely to inform, so they could conclude only secondary treaties, as of co-operation, among themselves. The function of others, such as the Commission itself, was to produce preparatory legislation; still others, such as the European Communities, had to produce final legislation, while some, such as the ILO and WHO, produced intermediate legislation. Still others played a supervisory rule, that of ensuring that States fulfilled their obligations. Their role was therefore not the same as that of a State. There were also international organizations which had operational functions: some carried out financial activities (about a dozen were banks); others carried out consultative activities, while about ten others engaged in scientific research.

9. Some international organizations had production functions and thus were akin to enterprises; such was the case of the international entity to be set up by the United Nations Conference on the Law of the Sea for exploiting the sea-bed. Would that entity be an independent international organization or a subsidiary body of another international organization? Would it exploit the sea-bed itself or through concessionnaires? What kind of agreements would it conclude and to what problems of responsibility would such agreements give rise? The machinery to be set up by the United Nations Conference on the Law of the Sea raised an extremely complex legal problem, which had not yet been solved and which the Commission would have to take into account in its draft articles. Whence the need to provide for a framework of accommodation.

10. Mr. Ushakov had asked whether treaties concluded solely between international organizations could be described as "universal treaties". He (the Special Rapporteur) felt that, in such a case, the expression "universal treaty" was not suitable because, although from the geographical point of view, any treaty to which the United Nations was a party could be said to be a universal treaty, from the legal point of view it was difficult to imagine a treaty to which all international organizations would be parties. Of course, it was possible that all international organizations might be interested in concluding an agreement between themselves on the standardization of publications or on questions relating to personnel, such as the salaries of international officials and standardization of working conditions, but those two possibilities did not justify the formulation of special provisions.

11. Mr. Ushakov had also asked whether there could be agreements between two or more international organizations which were open to other international organizations. Indeed, it could be asked whether it was possible for an international organization to accede to a treaty which already linked other international organizations. In the case of treaties between States, if often happened that a group of States, such as large and powerful States or States interested in a specific question, concluded a treaty and then opened it to other States. There were thus some open treaties which had not been adopted by an international conference. Could there be similar treaties concluded between international organizations?

12. He was tempted to give an affirmative reply to that question because, in view of the increasingly large number of international entities which might conclude agreements, it was quite conceivable that a number of them might conclude an agreement to which the others could subsequently accede. For example, some of the international organizations which dealt with nuclear physics might conclude an open agreement in order to set up a data bank or to avoid duplication of research work. Having regard to the growing number of international organizations, it could well be imagined that, in areas such as scientific research, the environment and banking, some of the interested organizations might conclude rationalization agreements which would be open to other organizations.

13. In referring to treaties between States and international organizations, Mr. Ushakov had very rightly pointed out that a distinction could be made between treaties concluded between States, to which an international organization was a party, and treaties concluded between international organizations, to which a State was a party. For example, if the European Communities or the United Nations acting on behalf of the United Nations Council for Namibia became parties to the future convention on the law of the sea, that convention would still be a treaty between States, whereas, if a State requested international assistance, the agreement concluded would be an agreement between the international organizations which provided such assistance, such as the ILO, FAO and WHO, to which the State in question would be a party.

14. It might be asked whether, in a treaty concluded between one or more States and one or more international organizations, the participation of one or more international organizations was essential to the object and purpose of the treaty, a matter to which the Vienna Convention attached great importance. In some cases, such as an international assistance agreement, a headquarters agreement between an international organization and a State, or a nuclear agreement between two States and an international organization entrusted with the task of monitoring its implementation, it was obvious that the participation of one or more international organizations was essential to the object and purpose of the treaty. In other cases, however, such as the future convention on the law of the sea, it was obvious that the object and purpose of the treaty would be the same even if no international organization was a party to it.

15. With regard to the consequences of such types of treaties for the system of reservations, he must first point out that the rules relating to reservations were only residuary rules. Since each treaty would provide for its

own system of reservations, the residuary rules would apply only where the States parties had failed to make provision for reservations in the treaty they were concluding. Such cases were quite frequent because States did not like to touch the question of reservations. For example, the United Nations Conference on the Law of Treaties, which had devoted many articles to the question of reservations, had itself passed over in silence the question of reservations to the Convention it had adopted.

16. Again, with regard to reservations, the Commission had a choice between a liberal system and a restrictive system. On the whole, the United Nations Conference on the Law of Treaties had adopted a liberal system but, as an exception, it had formulated less liberal rules for certain special cases. The Commission would therefore have to decide which categories of treaties should be governed by a liberal system and which should be governed by a restrictive system.

17. With regard to treaties concluded between international organizations only, he had proposed that the Commission follow the system of the Vienna Convention, which, in principle, laid down a liberal rule, with an exception for limited agreements. The opposite rule could, however, also be laid down and then made less restrictive by means of an exception. The Commission would therefore have to choose between the two possibilities and decide whether it was wise to maintain a liberal rule for treaties concluded between international organizations, it being understood that they were not universal treaties.

18. If the Commission was in favour of a liberal rule, it would have to amend the text he had proposed, in which he had followed the Vienna Convention too closely, particularly when he had referred, in article 20, paragraph 2, to the "limited number of the negotiating international organizations" in order to justify an exception to the liberal rule enunciated in article 19, forgetting that a criterion which was valid for States was not necessarily valid for international organizations.

19. With regard to reservations to treaties concluded between States and international organizations, he had, in principle, laid down a restrictive rule because, in that type of agreement, freedom to enter reservations could not be permitted. He had, however, made an important exception to that general rule "in the case of a treaty concluded between States and international organizations, on the conclusion of an international conference", such as the United Nations Conference on the Law of the Sea. In such a case, it was the liberal system of the Vienna Convention which would apply.

20. Thus, for treaties between international organizations, he had formulated a liberal rule with a restriction attached whereas, for treaties between States and international organizations, he had formulated a restrictive rule with an exception to allow for more freedom.

21. It had been said that, in a treaty between States and international organizations, a distinction had to be made between relations between States, to which the rules of the Vienna Convention applied, and relations between States and international organizations, for which special rules had to be formulated. In draft articles 19 *bis* and 20 *bis*, he had not made any distinction between relations between States and relations between States and international organizations and he suggested that that question be left aside for the time being.

22. With regard to treaties between States and international organizations, the Commission would thus be called upon to adopt a general principle and an exception to that principle. However, if it decided to apply the system of the Vienna Convention, at least in certain cases, a further problem would arise in the case where the States members of an international organization which was party to a treaty were also parties to the treaty. In that case, it would be necessary to provide that formulation and acceptance of reservations and objections to reservations were permitted only if they were expressed in the same terms and at the same time by the international organization and by the member States of the organization which were parties to the treaty. For example, if EEC became a party to the convention on the law of the sea at the same time as its member States, it was inconceivable that it should be permitted to make reservations which its member States did not make, to accept reservations which its member States did not accept, or to object to reservations to which its member States did not object, since in that event the other States parties to the treaty would no longer enjoy any legal security. Some homogeneity was therefore necessary in such a case.

23. What applied in the case of EEC, however, did not necessarily apply in the case of the United Nations. If, say, the United Nations became a party to the convention on the law of the sea on behalf of the United Nations Council for Namibia, it would have to be able to formulate reservations, accept reservations or object to reservations on behalf of the Council for Namibia, without all the States Members of the United Nations being obliged to adopt the same position. It was therefore necessary to make an exception to the homogeneity rule when an international organization acted on behalf of an entity which was separate from the organization itself.

24. Mr. ŠAHOVIĆ said that the Commission was bound by a number of decisions which it had already taken on questions of principle. It had, for example, decided that treaties concluded between States and international organizations or between two or more international organizations should be governed by a different instrument than the Vienna Convention. It might have been able to avoid many of the difficulties it was now facing if it had merely drafted an additional protocol to that Convention instead of preparing a separate draft. So far, the Commission had more than once succeeded in overcoming the obstacles to which the separate draft had given rise, including those concerning the capacity of international organizations to conclude treaties and the concept of the ratification of a treaty by an international organization. The question of reservations had, however, given rise to problems which were not concerned with terminology alone, and it had to be clearly stated whether or not international organizations could formulate reservations to treaties to which they were parties. The question was not just theoretical, it was a question of method. Personally he thought that the Commission should promote not only the codification of international

law on the basis of already existing agreements but also its progressive development on certain points.

25. International organizations should be permitted to formulate reservations to treaties concluded between several international organizations. Although he had no definite ideas about the rules to be formulated, he had a preference for a liberal solution. The Commission should agree on general principles and leave drafting problems till later.

26. Mr. AGO said he endorsed the Special Rapporteur's opinion that, in the matter of reservations, the Commission could not confine itself to the treaties which international organizations had so far concluded. It must show some imagination and envisage possibilities which might arise in future. In his thorough analysis of the functions of international organizations, the Special Rapporteur had rightly stressed their operational functions, such as providing external assistance to States, and taking direct action when, for instance, an organization acted on behalf of a State which had been prevented from carrying out some of its functions.

27. In replying to a question he had raised at the preceding meeting, the Special Rapporteur had given many examples of open treaties which might be concluded between international organizations. He was, however, still not sure whether treaties in that category were really similar to treaties concluded between States or whether, in fact, an increasingly sharp distinction was not appearing between them. Multilateral agreements concluded between States were very often designed to establish valid rules of international law for the international community. Agreements concluded between international organizations, such as the ones which the Special Rapporteur had in mind, might also be normative in character but in a technical rather than a general context, since, in the cases in question, international organizations were not attempting to lay down norms of international law. Consequently, it could be questioned whether the "liberal" rule of the Vienna Convention was as justified in the case of treaties concluded between international organizations as in the case of treaties concluded between States. He personally would be inclined to require stricter discipline in the matter of reservations when international organizations were the only parties to a multilateral treaty. Moreover, the Special Rapporteur himself had seemed to be moving in that direction when he had admitted that the wording of article 19 was based too closely on that of article 19 of the Vienna Convention.

28. At first sight, the main difference seemed to be between treaties concluded between international organizations and treaties concluded between States and international organizations. On reflexion, however, it could be seen that the difference was most apparent within the category of what might be termed treaties with mixed participation. If an international organization was allowed to become a party to a treaty concluded between States, the rules of the draft articles would be applicable to that organization; on the other hand, relations between States would continue to be governed by the Vienna Convention.

29. It was with regard to reservations that the situation became more complicated. He was inclined to share the opinion which the Special Rapporteur had expressed when he said that an organization such as the Council for Namibia or even EEC was in a similar position to States from that point of view. He wondered, however, what would happen in the case of an organization of universal character. It was possible that the future convention on the law of the sea might entrust the United Nations or a specialized agency with the task of managing the resources of the sea-bed and the ocean floor. In view of the universal character of the United Nations and the specialized agencies, the position of the organization and that of its member States would be entirely different. The organization would have to manage the resources of the sea-bed, but it would have no rights or duties in respect, for example, of the territorial sea and the exclusive economic zone. It was hardly conceivable that the organization would be allowed to make reservations, or objections to reservations, with regard to those two matters. In the opposite case, where, for example, a number of international organizations concluded a treaty with a State, he thought that there was little likelihood of reservations being formulated by those organizations. That would be the case if the international organizations which had their headquarters in Geneva concluded an agreement with the Swiss Government concerning the privileges and immunities of their officials, or if several organizations concluded an agreement with a State for the purposes of joint technical assistance operations. If, in fact, all the organizations concerned were free to formulate reservations, the co-operation on which the treaty was based would be jeopardized. That was why he did not think that the draft articles should necessarily provide for a régime similar to that of the Vienna Convention. It was, rather, by making a distinction between the possible situations which might arise that the Commission would be able to find satisfactory solutions.

30. Mr. FRANCIS said that the word "several", which was used both in the title and in the first part of the English version of article 19, created the impression that the article departed from the subject-matter of the draft, namely, treaties concluded between States and international organizations or between two or more international organizations. It was misleading in that it seemed to exclude treaties between fewer than three international organizations. The Drafting Committee might consider the possibility of replacing the word "several" by the words "two or more".

31. International organizations derived their treaty-making capacity from their own special rules and, when they were negotiating treaties among themselves, they were on an equal footing. Consequently, in the matter of reservations, there was no reason to deprive them of the powers conferred on them by article 19, which appeared to elevate them to the rank of States. It should be remembered that the Vienna Convention also applied to treaties which international organizations concluded among themselves and, in treaty negotiations, they might well find it convenient to adapt to their own circumstances a rule concerning reservations that was followed by States.

32. In the case of treaties concluded between States and international organizations, if the Commission agreed

that international organizations were not to be regarded as States, for the reason advanced by Mr. Ago, allowance should be made for a situation in which they would have what might be termed a secondary status, and no discredit should be attached to States if, in the exercise of their sovereign rights, they reserved their positions on the same basis as did the international organizations with which they were negotiating. He therefore agreed with the structure of the draft articles submitted by the Special Rapporteur and failed to see how such a situation could be circumvented, unless, of course, the Commission contemplated the possibility of placing international organizations on the same footing as States with regard to the formulation of reservations.

33. He was reluctant to endorse the idea that the draft might incorporate a provision which would preclude the application of article 3 (*c*) of the Vienna Convention to States which were parties both to that Convention and to the future convention now in preparation. In fact, a very liberal attitude was adopted in the Vienna Convention towards the application of that Convention to international agreements that lay outside its scope. In view of the important nature of the present draft, it would be difficult, for practical reasons, for him to accept the incorporation of such a sweeping exception. Again, article 3 (*c*) of the Vienna Convention permitted the application of the Convention to the relations of States as between themselves under international agreements to which other subjects of international law were also parties. The Commission might be on dangerous ground if it decided to preclude the application of the Vienna Convention simply by precluding the application of its article 3 (*c*). The Convention was more comprehensive than might be imagined at first sight and caution was needed in a situation where it was difficult to foresee all the consequences of the present draft articles.

34. He endorsed the approach of the Special Rapporteur to the question whether treaties concluded between two or more international organizations and treaties concluded between States and international organizations should be considered separately.

35. Mr. USHAKOV said that he was quite satisfied with the replies given by the Special Rapporteur to the many questions he had asked at the previous meeting, but he still wondered whether there could be a category of treaties of general character to which all the existing international organizations might be parties. It was mainly in connexion with treaties of universal character concluded between States that the question of reservations had arisen. The Vienna Convention contained a rule which was applicable to treaties of universal character and provided for exceptions for treaties of restricted character, but left aside all intermediate treaties. For treaties to which international organizations were parties, it did not seem enough to refer to the common interests of the organizations because, under the relevant rules (which, in accordance with article 6 of the draft, governed the capacity of international organizations to conclude treaties), an organization could be empowered to conclude treaties only in certain specific areas. Thus, international organizations did not, strictly speaking, have any common interests and it was difficult to see how treaties of a general character could be concluded between international organizations in the near future. Thus, there remained for the moment only treaties of a restricted character and, in his opinion, the rule to be applied to them in the matter of reservations should be a restrictive rule. Consequently, it should be provided that a reservation could be formulated to a treaty concluded between several international organizations only if it was expressly allowed by the treaty or accepted by each of the contracting organizations. That would make it unnecessary to draw a distinction between treaties of general character and treaties of restricted character.

36. Treaties concluded between States and international organizations could be divided into two categories, namely, treaties concluded between States, to which a small number of international organizations were parties, and treaties concluded between international organizations, to which a small number of States were parties. Between those two categories, there was room for many other types of treaties, but the Commission did not have to consider them; all it had to do was to draft an article on each of the two main categories. For treaties in the first category, the liberal rule of the Vienna Convention, as stated in article 19 proposed by the Special Rapporteur, would be applicable to States but, for international organizations, it would be necessary to provide for a special rule stating that they could formulate reservations only if the treaty expressly authorized them to do so. For treaties in the second category, the restrictive rule set out in the second part of draft article 19 would be applicable both to States and to international organizations. States and international organizations would be allowed to formulate only the reservations specified in the treaty or those to which all the contracting parties consented. If the Commission endorsed his view, only drafting problems would remain to be solved.

37. The CHAIRMAN suggested that it would be helpful if the Commission considered only articles 19 and 19 *bis* for the time being and left articles 20 and 20 *bis* till later.

38. Mr. REUTER (Special Rapporteur) said that those members of the Commission who had spoken thus far had mainly raised matters of principle. His reply to Mr. Ushakov's comments was that, if there really were only two rules, the restrictive rule would apply in every case except that of reservations formulated by States to treaties concluded by States to which a limited number of international organizations were parties.

39. The Chairman's suggestion would no doubt enable the Commission to progress more rapidly by leaving secondary questions aside and concentrating on general principles. If the majority of members of the Commission shared Mr. Ushakov's view, articles 19 and 19 *bis* could be referred to the Drafting Committee.

Establishment of a Planning Group

40. The CHAIRMAN said that, if the possibility was contemplated of dividing the Commission's report into two parts, dealing respectively with draft articles and

administrative matters, decisions on such matters and on future work would need to be taken earlier. The Planning Group, which it was agreed in principle should be established again during the current session, should now be set up to consider the Commission's future programme and methods of work, and report to the Enlarged Bureau, by which any appropriate matters should be submitted to the Commission.

41. If there were no objections, he would take it that the Commission agreed to establish a Planning Group, with Mr. Sette Câmara as Chairman, and Mr. Ago, Mr. Dadzie, Mr. Schwebel, Mr. Tsuruoka and Mr. Ushakov as members.

It was so agreed.

Organization of work (*continued*)[8]

42. The CHAIRMAN said that a decision would be required shortly on the question of dividing the Commission's report into two parts, one relating to administrative matters and the other to the various sets of draft articles.

43. Mr. FRANCIS said it had been his impression that, although the report would be divided into two parts, one part would not necessarily be confined to administrative matters.

44. Mr. VEROSTA said that the Sixth Committee might be disappointed if the first part of the report, which could be prepared towards the end of June, did not include at least one of the substantive items on the Commission's agenda.

45. The CHAIRMAN said that it might prove convenient to Governments to consider the two parts as if they were separate reports: in that way, one government department would be concerned with the administrative aspects only of the Commission's work, while another department considered the draft articles. However, the matter still had to be considered by the Enlarged Bureau.

The meeting rose at 6 p.m.

[8] See 1416th meeting, paras. 47 and 48.

1431st MEETING

Wednesday, 1 June 1977, at 10.05 a.m.

Chairman: Sir Francis VALLAT

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

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

[Item 4 of the agenda]

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

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

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

ARTICLE 20 (Acceptance of and objection to reservations in the case of treaties concluded between several international organizations) [4] (*continued*)

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

1. The CHAIRMAN, noting that there were questions of principle which were common to all four articles, invited the members of the Commission to comment not only on articles 19 and 20, which had already been formally introduced by the Special Rapporteur but also on articles 19*bis* and 20*bis*, which read:

Article 19bis Formulation of reservations in the case of treaties concluded between States and international organizations

1. In the case of a treaty between States and international organizations, a reservation may be formulated by

a State, when signing, ratifying, accepting, approving or acceding to the treaty, or

an international organization, when signing, formally confirming, accepting, approving or acceding to the treaty,

only if the reservation is expressly authorized either by the treaty or in some other manner by all the contracting States and international organizations.

2. Notwithstanding the rule laid down in the preceding paragraph, in the case of a treaty concluded between States and international organizations on the conclusion of an international conference in the conditions provided for in article 9, paragraph 2, of these draft articles, in respect of which it does not appear either from the limited number of the negotiating States or from the object and purpose of the treaty that the application of the treaty in its entirety between all the parties is an essential condition of the consent of each one to be bound by the treaty,

a reservation may be formulated by

a State, when signing, ratifying, accepting, approving or acceding to the treaty, or

an international organization, when signing, formally confirming, accepting, approving or acceding to the treaty, unless:

(*a*) the reservation is prohibited by the treaty;

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

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

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

[4] *Idem.*