

It seems that there is considerable doubt on the part of most delegations concerning the manner in which a draft convention of this kind is to come into force and the method by which states will become bound by its provisions. It seems that the principal issue in the debate thus far is one of procedure involving the method of applying the proposed new convention rather than one of substance relating to the principles in the new draft articles. On the one hand we had a suggestion from the distinguished delegate of Israel, which I think was supported by the distinguished representative of the United States, that instead of the Assembly recommending the conclusion of a convention, it should merely take note of the draft as a scientific study of considerable value and possibly refer it to member governments as a model to be applied as they see fit on a bilateral or multilateral basis. On the other hand, we had a suggestion from the representative of Cuba that the General Assembly should adopt the draft articles in their present form and recommend that governments sign and ratify these articles as a convention. We agree with the observation made by the United Kingdom delegation that it would not be possible either to sign or to ratify these draft articles in their present form and that provision would have to be made for testamentary and other appropriate clauses before governments could be expected to sign and ratify. We consider, ... that this whole question of how the new draft on arbitral procedure is to be applied, requires further study and clarification.

We listened attentively to the now familiar objection which has been raised by the distinguished representatives of Poland and Byelorussia, both of whom argued that a convention of this kind would violate the sovereign rights of states. My delegation considers that both these delegates were on very weak legal ground when they attempted to argue that the proposed convention on arbitral procedure would be another method of destroying the sovereign rights of member states. I fail to understand the logic and legal reasoning of those delegations when they contend states would be forced unwillingly to sacrifice part of their national sovereignty when it is perfectly clear that each state is free to participate or not to participate in such a convention. When states agree to participate in multilateral conventions, regardless of the subject matter, it is generally assumed that they voluntarily agree to restrict some aspect of their sovereign rights. This action on their part confirms rather than denies their rights as sovereign states. This is the whole purpose of international agreement and multilateral conventions which are designed to achieve international co-operation in many fields. What these delegations seem to overlook, and I think this is a factor we should all keep in mind when considering the present articles, is that each member state will be completely free to decide whether it wishes to become bound or not to become bound by a new international code on arbitral procedure. It has not been suggested by the International Law Commission or by any delegation on this Committee that member states are to be obliged against their wills to participate in a convention on arbitral procedure. This is a matter of free choice.