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Frank M. Wozencraft

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Recent controversies have focused public attention on the importance of United Nations arithmetic—the basic principle that as a sovereign state each nation has an equal vote, regardless of size or importance. Usually the spotlight has been on the Security Council, where the Big Five play a dominant role with their veto power. In the General Assembly and its various committees, however, the "one-nation one-vote" formula has always applied. As the number of nations keeps increasing, so does the complexity of the UN numbers game.

The sovereign equality of states has been a dominant feature in the series of international conferences called by the General Assembly of the United Nations to adopt multilateral treaties involving such important areas as human rights and the high seas. Each of these conferences has had as its goal the development or codification of the law of nations—not nearly as dramatic as a full-fledged crisis, but having an unobtrusive long-range impact that is literally immeasurable.

These conferences follow a common recipe. First, gather delegations from more than 100 nations, with vastly different viewpoints and experience. Place them in a large hall with dubious acoustics. Provide headphones and simultaneous translation into five languages. Negotiate the selection of chairmen of the conference and of the committee of the whole, and a drafting committee, acceptable to all major powers and smaller

*Partner, Baker & Botts, Houston, Texas; formerly Assistant Attorney General (Office of Legal Counsel), Department of Justice (1966-69); Vice-Chairman, Administrative Conference of U.S. (1968-71); member of Council, Administrative Law Section, American Bar Association (1969-); member, American Society of International Law; LL.B., Yale Law School (1949); member of United States Delegation to 1968 session of Vienna Conference on Law of Treaties.

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nations as well. When the mixture is simmering, introduce a complex draft convention. Apply United Nations rules of voting and procedure. Stir well. Do not permit boiling, and cool slowly.

The Law of Treaties

One of the most instructive conferences for those concerned with the future of international law was the two-session conference, held in Vienna in the springs of 1968 and 1969, that produced the Convention on the Law of Treaties.[1] 110 nations participated, including 41 that have become independent since World War II. Each session lasted about two months. The conference provided a vivid demonstration of how UN arithmetic is applied in practice. Partly because it was on a technical subject, removed from the public spotlight, it provided a relatively unrefracted view of the coral-reef wonderland of international lawmaking.

The unique significance of the Convention on the Law of Treaties is that it determines how future treaties are to be interpreted and how their validity is to be judged. Like an American Law Institute Restatement, it codifies and develops the principles of international law theoretically accepted by the nations of the world, while some of its provisions evolve beyond traditional principles. Yet unlike the ALI's handiwork, the Convention is designed to be a binding multilateral treaty. Moreover, since international law is shaped by the consensus of nations, a convention reflecting such a consensus affects international law, and therefore all nations whether or not they become parties.

The 1968 conference met as a Committee of the Whole to consider a draft produced after eighteen years of study and negotiation by the International Law Commission (the "ILC"), a group of 25 lawyers designated by the General Assembly to codify international law. There were 75 articles, each of which was submitted separately for debate, amendment, revision by the drafting committee, and finally adoption or rejection for inclusion in the proposed Convention to be submitted to the plenary session in 1969.[2]

[1]The text of the Convention appears in full at 4 INTERNATIONAL LAWYER 172-203. An excellent summary by Richard D. Kearney, Chairman of the U.S. Delegation to the Conference and a member of the International Law Commission, appears at 4 INTERNATIONAL LAWYER 823-834. An in-depth analysis of the Convention by Mr. Kearney and Robert E. Dalton appears at 64 AMERICAN JOURNAL OF INTERNATIONAL LAW 495-561. *See also* the sources cited in note 2 *infra*. In view of the availability of these authoritative treatises on the Convention, the present article makes no attempt to summarize its provisions except insofar as some crucial articles in Part V illustrate the functioning of the conference that gave it birth.

[2]The ILC's work on the draft and its presentation to the Vienna conference is described by a member of the 1968 U.S. Delegation who had also been a member of the ILC, Professor Herbert W. Briggs, in his recent review of ROSENNE, A GUIDE TO THE LEGISLATIVE HISTORY

In the Committee of the Whole each decision was by a majority of the nations voting, whereas final adoption of each provision in the plenary session, and of the Convention itself, required two-thirds of the nations voting—often a crucial difference. In fact, only a last-minute compromise resolved an impasse on conciliation and arbitration that almost stalemated the entire Convention in the limbo between a majority and two-thirds vote.

After surviving this ultimate peril, an acceptable Convention was finally adopted in the closing days of the 1969 session. It was signed by the United States, and in November 1971 was transmitted to the Senate for advice and consent to ratification.[3]

As the history of the conference illustrates, many provisions in the ILC draft were open to considerable controversy. In preparation for the 1968 conference, the American Society of International Law sponsored a Study Group to analyze the draft and make recommendations as to the United States position on the various articles. The group included leaders of the American Society of International Law and the Section of International and Comparative Law of the American Bar Association, distinguished professors, and officials from the Departments of State and Justice. It met over a three-year period with members of our Delegation, which was headed by Richard D. Kearney of the Department of State. There was relatively little focus on the defensive aspects of countering amendments that might be proposed by other nations, as it was impossible to foresee what they would be, but the affirmative position was well charted.

The 1968 Session

The conference began in standard fashion. First came organizational matters. The key chairmanships were allocated to veteran diplomats from Italy, Nigeria and Iraq. As the Committee of the Whole began its work, the Nigerian representative presided as its chairman. On the platform to explain and comment upon each provision was Sir Humphrey Waldock, rapporteur and principal draftsman of the final ILC text. Many delegates had served together in the Sixth Committee, the legal committee of the General Assembly. Some had served on the ILC itself, including two members of our Delegation.

The opening days were devoted largely to sparring and general maneu-

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OF THE VIENNA CONFERENCE (1971). *See* Briggs *The Travaux Préparatoires of the Vienna Convention on the Law of Treaties*, 65 AM. J. INT'L L. 705 (Oct. 1971).

[3]The Convention was signed on behalf of the United States on April 24, 1970. It was endorsed by the American Bar Association in July, 1971, and was transmitted by President Nixon to the Senate on November 22, 1971.

vers. Then the first substantive issues were reached, and the blocs began to fall into place. After the conference had been under way for about a month, the sessions approached the controversy-laden Part V of the Convention dealing with the invalidity, termination and suspension of treaties. Having represented the Department of Justice on the Study Group, the author was asked to join our delegation in Vienna for the weeks when Part V would be considered.

To a new arrival, even one who had followed its progress by reviewing the cables from Vienna (a recondite art in itself until the abbreviations are mastered), the conference was a startling experience. In the hurly-burly of the conference sessions, the Study Group discussions seemed almost metaphysical. Yet their groundwork was invaluable, for without such prior analysis it would have been infinitely more difficult to react to the parliamentary kaleidoscope of amendments and counter-amendments and procedural duels.

It was disconcerting to find how often the United States would be voted down on positions we considered eminently reasonable even if not particularly important. Sometimes the only chance for the U.S. position would have been to treat each of our fifty states as sovereign entities, with separate votes such as Byelorussia and the Ukraine are granted in the UN Charter; there were occasions when we were outvoted by such margins as 25 to 75.

Other decisions were cliff-hangers, often decided by abstentions. A country may abstain because it is caught between contesting powers, or wishes not to offend a nation with which it disagrees, or doesn't understand or care about the problem, or lacks instructions from the home office. Or its delegate may simply not show up for the vote, for a variety of enticing reasons. And in a close vote, international law is shaped accordingly.

A graphic example of "adoption by abstention" was one occasion when Great Britain surprised us by proposing an amendment that we considered quite undesirable if, as was then contemplated, the Convention had been retroactive. Despite our opposition, the vote on the motion was 25 in favor, 24 opposed, and 48 abstentions—the latter almost outnumbering those voting. Among those abstaining were at least two countries who agreed with our position but preferred not to antagonize Great Britain on the question. If either one had voted with us in opposition, the motion would have lost by a tie vote. Yet there was no way of knowing how crucial their votes were until it was too late. The vote stood, and the amendment is part of the Convention as finally adopted.

This relatively minor incident highlights a problem with the ILC draft that haunted the 1968 session: there was no clause on retroactivity, so that

not only future treaties but also existing treaties would have been covered by the Convention. Midway in the 1969 session a non-retroactivity provision (Article 4) was added—which may have been the key to eventual adoption of the Convention. Until then, not surprisingly, many countries would review their hole cards and react less on the basis of what would be good law than of what would be the effect on their particular treaty relationships.

It is hard to quarrel with voting based on national self-interest. Nevertheless, it was disconcerting to hear a delegate admit privately, "I'm sorry, we think your position on *rebus sic stantibus* has great merit, but we cannot vote with you because that position would weaken one of our boundary claims."

Multiplying this geometrically, by taking each country and its treaty relationships with every other country, gives some idea of the dimension of the retroactivity problem. In some instances it distorted the entire voting pattern. At least two nations usually considered anti-Soviet voted along with the Soviet bloc throughout the 1968 session, apparently seeking provisions that would support their abrogation of certain treaties—an attempt that went for naught when the Convention was made non-retroactive.

Foreseeing the future was almost as troublesome as efforts to rejuggle the past. The subject matter was so technical and the provisions so interlocking that one needed a crystal ball to predict the effect on future treaties. Each word became critical—in the three working languages of the conference, English, French and Spanish, and the equally official Russian and Chinese texts. Not all the technical terms were readily translatable, and some had different connotations in different legal systems.

The importance of foreseeing possible consequences and forestalling unrealistic amendments is illustrated by the history of Article 52, which reads:

> A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations.

That sounds fair enough. But in 1968 Afghanistan and others introduced a motion to amend this by inserting after the words "threat or use of force" the phrase "including economic pressure." Taken in the context of a nation's unilateral ability to challenge a treaty, and without the conciliation and arbitration procedures added in the 1969 session, what could one nation afford to give another in the way of aid without subjecting itself to a charge of economic pressure? In the final analysis, that motion was converted into a resolution that the conference condemned all kinds of force,

but the Convention itself was not amended. It was fairly close, though, and in 1969 a similar amendment was proposed and again rejected.

Another phrase in this section illustrates the importance of every word: "... in violation of *the principles of international law embodied in* the Charter of the United Nations"—not simply in violation of the Charter itself. The italicized phrase has been construed as relating back behind the UN Charter to any preexisting principles of law embodied in the Charter. Yet there remains the question of what principles are so embodied.

One of the most significant provisions, fought over more than any and highlighting the difficulty of translation, is Article 53, which enunciates the relatively new and amorphous doctrine of *jus cogens*.

The first sentence reads, "A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law." The phrase "at the time of its conclusion" did not appear in the ILC text; it was inserted by our amendment, which carried even when the United States was losing on less significant proposals. This was one of the first inklings that many nations were worried about retroactivity and the effect this Convention might have on existing treaties. Perhaps a tainted background has not always kept an older treaty from becoming useful to both parties if it has been "purified" by the centuries and its boundaries or principles have become accepted.

The second sentence of Article 53 contains the key definition: "a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." This is a lot less amorphous than the original ILC version. Each word was fought over, in the drafting committee and in floor debate.

At one point, the chairman of our Delegation made a motion to defer the decision on that article for a day or two so that we could try to improve the ILC version, which caused us great concern because of its vagueness and lack of definitive standards. His motion was defeated by a tie vote of 42 to 42, with 7 abstentions. The names of our good friends among the 42 opposing and 7 abstaining on even this modest request gave a distressingly accurate picture of our parliamentary situation in the 1968 session.

Jus cogens was one of the three most controversial issues at the Conference. The second was conciliation and arbitration procedures. The third was the insistence of the Soviet bloc on an "all-states" formula that would enable any country to sign any treaty of general applicability.

The core of this third issue was the emphatic desire of the Soviets to enable East Germany, which was recognized by few countries outside the

Soviet bloc, to be treated as a sovereign state qualified to sign general treaties. The opposition of West Germany and its allies to such a status for East Germany was equally emphatic. International law was thus entwined quite directly with international politics, and the negotiating positions of the various countries reflected this reality.

A Day in the Life of a Delegate

The major issues confronting the conference obviously required extensive opportunities for exchange of ideas and negotiations. The schedule was tailored to accommodate these needs, alternating formal sessions with opportunities for informal negotiations and "homework."

Our Delegation would leave the hotel at 8:15 a.m. About two hours would be spent reviewing State Department cables, preparing statements and getting ready for the morning session, which would extend from 10:15 until 1:00 p.m. There would be a lunch break until 3:00, another session until about 6:30, and then either adjournment for the day, or another session two or three evenings a week at about 8:30 p.m. There were also sessions on most Saturdays.

In the formal sessions, speeches for the record often became boringly repetitive, as did many of the exchanges between the distinguished delegates (every delegate is "distinguished" by virtue of his status, and omitting the adjective in a floor speech once led to a fiery 15-minute "point of personal privilege"). But one could never tell when a bombshell amendment might be proposed or a sudden parliamentary maneuver might be attempted.

After each long day, a cable would go to Washington reporting developments and requesting instructions where appropriate. Sometimes, as in Tolstoy's description of the Battle of Borodino, instructions from headquarters would arrive only after the crucial moment had passed—and sometimes there was no time even to ask instructions. The head of our Delegation, like a field commander, had to move within the framework of his general mandate to react quickly to unexpected developments on the battlefield of the conference hall.

Every lunch break was spent either meeting with delegates of other countries or preparing speeches and strategy for the afternoon. The evening breaks, either between 6:30 and 8:30 or from 6:30 on, were devoted to cocktail parties and receptions. These could hardly be placed in the category of innocent fun. Rather they were the occasions for what might fairly be called lobbying. Delegates would try to persuade each other of the merits of their position, but at least to learn how the others might be

expected to vote. On a key question there is no substitute for a "hard count"—not just wishful thinking or untested assumptions, but a coldly realistic appraisal of exactly how the various interests of each nation will lead it to vote on that issue.

The information problem is difficult enough when delegates of 100 countries are relying on simultaneous translation into five different languages through the speaker phones; one must speak quite slowly, so that the translators have a better chance to be reasonably accurate. There are no speaker phones at the cocktail parties, and it helps to be reasonably fluent in Spanish and French. It would also have been handy to speak a little Russian.

A personal recollection that remains vivid is of one party at the Spanish Embassy. A delegate from another country, who had been very friendly with the American delegates, caught me as I was approaching the hors d'oeuvres, and said, "Excuse me, may I speak to you for just a moment?" Looking wistfully at the resplendent table, I followed him back out of the crowd, to find awaiting me the head of his delegation. It was a magnificent cutting-horse operation of which any cowboy could be proud. I had been cut completely away from the table and back into a separate room, where for twenty-five minutes I talked with the delegation head. His aim was to see if he could make any more progress on a major issue than he had with the chairman of our Delegation; he couldn't. My aim, since I couldn't get back to the hors d'oeuvres anyway, became to explore his basic aims and goals. Before we finished, the hors d'oeuvres had been cleared away. In retrospect, though, the insights were worth every missed nibble.

Similar instances were innumerable. The "parties" were working sessions, and for those who stayed the entire two months, it was an endurance contest. Even two weeks were exhausting.

The "moments of truth" in this kind of conference occur in the corridors at least as often as in the conference hall. One example took place just before my departure. During the temporary absence of our chairman I was handling the chore of raising the United States placard to signify its votes. Another delegate with whom we had been discussing arbitration provisions beckoned me from the hall to an informal side-room discussion. There seven or eight delegates were gathered to consider a "compromise" proposal, which sounded just like an earlier proposal we had already rejected. To the question of where was the compromise, the sponsoring delegate replied that his original proposal *had been* a compromise. He warned that our continued refusal to accept it would call for "extreme measures," presumably in his country's conference position. I could only respond that as he knew, such measures from one side usually evoke them from the

other, and a chasm rarely opens from one side. Though I urged him to suggest a genuine compromise, he apparently had reached the limits of his instructions. I could only report the conversation to our chairman and return home to the relatively peaceful Department of Justice, wondering what "extreme measures" might ensue.

Later reports indicated that the greatest extreme that day was the degree of chaos. Negotiations among the various groups proliferated and broke down. Ultimatums flew like confetti—mostly outside the hall and off the record. Not until a year later was the impasse resolved.

Holding the Line

In the maelstrom of the conference sessions, it became increasingly clear that while it was important to press amendments improving the ILC draft, it was at least as important to defeat amendments by others that would make the draft intolerable—to think defensively as well as offensively. Some of our Delegation's great accomplishments were in blocking proposed amendments that our country could not have accepted.

Of several amendments that were rejected, one in particular seems worth mentioning. Luxembourg proposed that "the parties shall take any measures of internal law that may be necessary to insure that treaties are fully applied." That might work well enough in some countries, but in the United States with its federal constitutional structure the effect would have been lethal; we just couldn't become a party of that kind of provision. Fortunately it was not adopted. The conference settled instead for the rule, stated in Articles 27 and 46, that a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. Obviously there is a vast difference between that negative position and an affirmative mandate requiring the parties to insure that treaties are "fully applied."[4]

The 1968 conference finally produced a draft convention. It was a considerable improvement over the ILC text, but serious problems remained, particularly in the area of conciliation and arbitration procedures and retroactivity.

During the year that followed, a great deal of work was done. The Study Group met again in augmented force, and reviewed the new draft with a sharper eye for the facts of life than had been possible before the revelations and interplay of the 1968 conference.

Far more important, our embassies were alerted to the importance of the issues, and concern about the Convention was generated in the higher

[4]*See* Kearney, *International Limitations on External Commitments—Article 46 of the Treaties Convention*, 4 INT'L LAW. 1.

echelons of the State Department. The importance of this is not to be underrated, because the United States participates in about 500 international conferences a year. Our State Department cannot possibly give them all top attention. Yet we can ill afford to try to get by without a full-fledged effort on such significant conferences as those codifying international law—whether it is the Law of Treaties, or of Seabeds or the Environment.

An example of the handicaps under which our diplomats sometimes labor is that the United States was the only country of any substance not to give a major diplomatic reception at the Vienna conference. Our Delegation's 1968 entertainment budget for an eight-week conference with over 100 nations was $500, and no Embassy funds or facilities were available to it for that purpose. Our delegate per diem was $18—less than almost any other country and far below the cost at the major hotels where other delegations were staying. There was a certain irony in seeing delegates of some countries which were massive recipients of our foreign aid housed at the better hotels, while our delegates were living in lesser hotels at the edge of the city where vital communication with other delegations was far more difficult.

1969—Deadlock and Compromise

A significant group supporting the ILC text throughout the conference consisted of the Asian and African countries. Sharing many common views about inadequacies of existing international law, they met in Delhi in 1968, and Karachi in 1969. They decided to vote as a bloc—and they did. The bloc did not always hold together. But it was a strong moving force, dedicated primarily to adoption of the ILC text with as few changes as possible.

Many of our friends, when forced to choose on a vote between their friendship for us and their loyalty to the bloc, understandably chose the bloc. Like their neighbors in Asia and Africa, they regarded international law in its traditional form as a creature of colonialism. They welcomed innovative provisions of the ILC text that might invalidate what they considered unjust treaties. They were suspicious of any change in the text, however trivial, suggested by a "colonial power." These were natural reactions. In any event, with the sovereign equality of states and the numerous Asian and African countries voting together to support the ILC text, it was difficult to rally support for proposals to revise it, however reasonable the proposals seemed to us.

At the 1969 conference, the Asian-African group, while usually united,

split on the key issue of conciliation and arbitration. In the Committee of the Whole, which reconvened to consider this question, a provision for compulsory conciliation and arbitration was adopted by a 54 to 34 vote, with 14 abstentions—a majority sufficient to send the text to the plenary session, but short of the two-thirds vote required for adoption of an article.

So there the issue hung, suspended in mid-air between a majority and a two-thirds vote. Opposition was centered in the Soviet and Arab groups. With a week to go, the Convention still had no provision for conciliation, much less arbitration. Yet a meaningful provision on this critical point was essential to acceptance of the Convention.

On the final working day, the deadlock was broken. A new "alliance" was forged behind a lastgasp compromise proposed by some of the Arab states, that provided for fact-finding and legal conclusions by a conciliation commission, but omitted arbitration with one important exception: as to *jus cogens* in Article 53 and its running-mate Article 64, which provides for emergence of a new peremptory norm of general international law, disputes could be presented by either party to the International Court of Justice or, if both parties preferred, to arbitration. This compromise was adopted, 61 to 20, with 26 abstentions.[5]

In 1968 the odds seemed about a thousand to one against any reference to the International Court of Justice, in view of the strong reaction to the 1966 South West Africa decision. The shift was almost unbelievable. Perhaps most countries finally realized that when the issue involves peremptory norms of international law—so vital that no treaty can validly be in derogation of them—there simply must be a single tribunal, like it or not, to decide what those norms are. Others not so persuaded were at least convinced that such a formula was essential to adoption of the Convention, which as a whole they supported.

The result is Article 66, and the accompanying Annex. This is the key to the whole Convention. To many it is more than that: the creation of vital new machinery for the settling of disputes in international law.

Inevitably, not everyone was satisfied. The vote on the final text of the Convention was 79 in favor, 1 opposed, and 19 abstentions. France would not accept *jus cogens* in any form, with or without arbitration, and cast the only vote against the Convention. The Soviet Union and its allies abstained, having failed to block conciliation and arbitration and having failed to incorporate an "all-states" formula in the Convention, although the latter point was the subject of an accompanying resolution. But most of the

[5]*See* 4 INT'L LAW. at 832.

rest of the world, with varying reservations, voted to accept the draft as negotiated.[6]

The impact of the Convention is aptly summarized in the letter of Secretary of State Rogers submitting it to the President:

> The Vienna Convention on the Law of Treaties is a major achievement in the development and codification of international law. . . . By agreeing on uniform rules to govern State practice on a host of technical matters related to the negotiation, adoption, and execution of treaties, the Conference achieved one of its basic objectives. But the Convention on the Law of Treaties has a much larger significance. By codifying the doctrines of *jus cogens* and *rebus sic stantibus,* it provides a framework for necessary change. By reasserting the principle of *pacta sunt servanda,* long recognized as the keystone of the treaty structure, it strengthens the fabric of treaty relationships. By requiring impartial procedures for settlement of disputes, it provides an essential element in minimizing unfounded claims that treaties should be terminated or suspended.[7]

The Convention will enter into force following ratification or accession by 35 nations. When it was closed for signature on April 30, 1970, 47 countries had become signatories, and 10 have now completed ratification. It remains open for accession by other nations. The wheels grind slowly, but the Convention's eventual entry into force seems assured.[8]

Some Ruminations

Was the conference on the Law of Treaties typical of UN lawmaking conferences? Not entirely, for despite its importance, the subject matter was not the stuff of which headlines are made. Vienna received far less press coverage than New York. There was none of the glamor or clamor that infuses conferences on human rights or disarmament. There were no speeches for the cameras, albeit many for the record. It was essentially a lawyer's conference; in fact, nations that do not maintain separate legal staffs for foreign affairs were typically represented by the attorney general or a supreme court justice. Nevertheless, the structure of the conference and the problems faced by our Delegation differed little from other in-

[6]The variegated positions of the delegates are interestingly set forth in the Summary Records of the Plenary Meetings and of the Meetings of the Committee of the Whole, 187-194; 198-202, UN Doc. A/C, 39/11/Add. 1 (1970).

[7]S. Ex. Doc. L. 92d Cong., 1st Sess. pp. 8-9 (1971).

[8]A member of the Polish delegation to the Vienna conference, Professor S. E. Nahlik, has recently predicted that the number of states ratifying the Convention will be reduced by the compulsory arbitration provisions on *jus cogens.* He acknowledges, however, that only the future can show how many states will ratify, and that the Convention has already had an effect by compiling and restating generally accepted principles of international law. *See* Nahlik, *The Grounds of Invalidity and Termination of Treaties,* 65 AM. J. INT'L L. 736, 754-6 (Oct. 1971).

ternational conferences. UN arithmetic remains the same. And there are lessons to be learned in dealing with its application.

It should be self-evident that international law-making conferences are not to be taken lightly. A "near miss" is never worth much in this business. How significant each vote can be was tragically illustrated in the Conventions on the High Seas. There the conference defeated by one vote a proposal that would have specified territorial seas of six miles and contiguous fishing zones of an additional six miles—a poignant recollection in view of the hazard to peace that the absence of crystallized limits continually poses today.

Since we must live with the results of these conferences, we should prepare for them accordingly. The head of our Delegation must be exceedingly able, as in Vienna he was. He must have back-up support—a strong deputy on whom he can rely, and a staff equipped to establish rapport with every country represented. He must also have a budget consistent with the dimension of his mission—not $500 for two months of entertainment; that is the poorest conceivable economy. In a 110-nation conference, entertaining is an important key to communication, which in turn is the key to understanding on even the simplest matters. Luxury is not important, but graciousness is. It is ineffective, if not demeaning, to be quartered on the outskirts and the only major nation unable to give a reception at its Embassy residence.

On the level of policy formulation, our Delegation benefits from prior consultation such as the Study Group afforded. Of course the head of the Delegation must seek and follow instructions from Washington. In the trenches, however, he must be trusted to make on-the-spot decisions when the situation requires.

At Vienna our greatest strength was not a tactic but an approach. Some expected from us an obstructionist position that international law should never change, a negative defense of the "status quo." Instead, our Delegation steadfastly supported a realistic insistence that world peace is best served by fostering a general stability of treaty relationships, while permitting orderly change where change is necessary. We insisted that rules on interpretation and validity be defined clearly and fairly, but not inflexibly, and that workable procedures be provided for peaceful resolution of disputes by conciliation and arbitration. The newer countries in particular welcomed this approach, and the Convention as adopted largely reflects it.

Were the Vienna conferences worthwhile? The answer is a resounding yes. If these conferences had not produced an acceptable Convention on

the Law of Treaties, the view of many authorities is that among the newer nations there would have been a drift away from international law as we know it – a continuing source of irritation and disputes, without the guidelines and methods of resolution provided by this Convention. Whether or not the conciliation procedures finally adopted work as well as one might wish, they at least should facilitate settlement of disputes by exposing the facts and issues to world opinion. And since the newer nations had such a major role in shaping the Convention, there is every reason for them to honor and abide by it.

The result promises to be a significant milestone in the world's quest for peace through law.