CHAPTER 5

Final Clauses—Reservations

Part III of the Convention (Articles 17 to 25) is devoted to final clauses. Suggestions for final clauses were submitted to the Third Committee by its officers, and were based on a working paper on final clauses prepared by the Secretary-General.

1 Signature and Ratification

Article 17 has two paragraphs. According to paragraph 1 the Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly to become a party to this Convention.

Paragraph 2 says that the Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General.

The text finally adopted follows closely the one submitted to the Third Committee by its Officers, who had before them seven alternative clauses suggested in the working paper prepared by the Secretary-General. Poland, considering that it was legally not justified in limiting participation in the Convention only to those States mentioned in paragraph 1, proposed to replace it by a text opening the Convention for signature “by all States.” The amendment was voted on by roll-call and rejected by forty-one votes to thirty-two, with eighteen abstentions. Those opposing the Polish amendment invoked the other U.N. humanitarian conventions, such as those on the Suppression of the Traffic in Persons, on Political Rights of Women, on the Recovery Abroad, on Maintenance and on Slavery, which also contain the same restrictions. It was also said that many State Members would be unwilling to become parties to the Convention if, by doing so, they would have to enter into treaty relations with entities they did not recognize as States.

Several countries expressed reservations to Article 17, paragraph 1—as well as to Article 22—because of the restrictions as to who may become a party to the Convention.

1 For the full text, see Appendix 1.
2 E/CN.4/L.679.
3 The Covenants on Human Rights adopted in 1966 contain identical clauses.
2 Accession

According to Article 18, paragraph 1, the Convention shall be open to accession by any State referred to in Article 17, paragraph 1. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General (paragraph 2).

Article 18 corresponds to the text suggested by the Officers of the Third Committee, who had before them three alternative texts included in the document prepared by the Secretary-General. Poland proposed to replace paragraph 1 by a text opening the Convention to accession “by any State which has not signed it.” The amendment was rejected in a roll-call vote by 43 to 29, with 19 abstentions. The clause as a whole was also voted on by a roll-call and adopted by seventy-six votes to twelve, with three abstentions.

3 Entry into Force

Article 19 deals with entry into force. The Convention was to enter into force on the thirtieth day after the date of the deposit, with the Secretary-General of the United Nations, of the twenty-seventh instrument of ratification or instrument of accession. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or of accession.

The final text differs from that prepared by the Officers of the Committee. It requires the deposit of twenty-seven instruments of ratification or accession, instead of twenty as foreseen in the Officers’ draft. The Secretary-General, in his working paper, suggested five alternative texts on the number of ratifications and accessions and on the time limits required for entry into force. The reason why the sponsors of the final text wanted the Convention to enter into force after the deposit of the twenty-seventh rather than the twentieth instrument of ratification or of accession, was that they considered it necessary to leave the States Parties more freedom of choice in appointing the eighteen experts of the Committee on the Elimination of Racial Discrimination.

4 Reservations

Article 20, on reservations, is one of the most controversial in the Convention, and was adopted at the General Assembly after the Third Committee had decided not to have such a clause.