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18th meeting of the Committee of the Whole

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proposal, because it was desirable to retain the language used in the Regulation of Vienna and no valid arguments had been advanced to justify a change which, moreover, would cause difficulty to future students of international law.

46. The second concerned the French and United Kingdom proposals. He was not really in favour of them, because they dealt with particular situations. He realized, however, that they were designed to meet practical difficulties, and he would therefore not object to their consideration if a better form of words could be found.

47. Third, there were the proposals of Mexico and Sweden and Switzerland. He was in favour of deleting the class mentioned in paragraph 1 (b), which Chile had already abolished. Nevertheless, for the benefit of those countries which still maintained the category, he would have no objection to its retention.

48. Fourth, the term "chargés d'affaires en pied" was no longer used in Chilean practice, and he was strongly opposed to the qualification "en pied". It did not imply any difference in rank and was entirely unnecessary; indeed all such appointments were to some extent temporary. If necessary, he would ask for a separate vote on "en pied", "ad interim", or any similar term, in connexion with article 13 or article 17.

49. Mr. NAFEH ZADE (United Arab Republic) stressed that the convention should be based on principles of general application and should not contain provisions applying only to one power or to one group of powers. The case of the representative of the Holy See rested on ancient tradition. He therefore saw no exact parallel between it and the case of the High Representatives in the States of the French Community.

50. Mr. DADZIE (Ghana) said that, in proposing its sub-amendment to the United Kingdom amendment, his delegation had been aware of the existence of the other amendments submitted to article 13. For that reason it had not mentioned the High Representatives in the States of the French Community, concerning which another amendment had been submitted by the delegation of France. The discussions of the Conference were a direct consequence of General Assembly resolution 685 (VII) of 5 December 1952, by which the Assembly had requested the International Law Commission to undertake the codification of diplomatic intercourse and immunities. His delegation therefore considered any mention of existing practice justified as codification of progressing international law. However, in keeping with the spirit of co-operation and compromise manifest in the Conference, it would be prepared to modify its sub-amendment by deleting the words "High Commissioners of the Commonwealth countries".⁴

51. Mr. VALLAT (United Kingdom) thanked the delegation of Ghana for its spirit of compromise, and hoped that the revised sub-amendment would be widely acceptable. The United Kingdom had consulted the other Commonwealth countries concerning the inclusion of a

reference to the High Commissioners and the matter was not one which it took lightly. It would not, however, insist on an express mention of the High Commissioners in the draft article, and would accept Ghana's proposal.

52. Mr. de VAUELLES (France) withdrew his delegation's amendment in favour of the amendment proposed by Ghana.

The meeting rose at 1.15 p.m.

EIGHTEENTH MEETING

Thursday, 16 March 1961, at 3.20 p.m.

Chairman: Mr. LALL (India)

Consideration of the draft articles on diplomatic intercourse and immunities adopted by the International Law Commission at its tenth session (A/CONF.20/4)
(continued)

Article 14

1. The CHAIRMAN invited the Committee to continue its debate on the International Law Commission's draft.

2. He suggested that, as no amendments had been submitted to article 14, the article should be regarded as adopted in the form drafted by the Commission.

It was so agreed.

Article 15 (Precedence)

3. The CHAIRMAN drew attention to the amendments to article 15.¹

4. Mr. PECHOTA (Czechoslovakia) said that his delegation's amendment to article 15 was consequential on its earlier amendment to article 12 which he had in effect withdrawn (15th meeting, para. 60). Accordingly, his delegation would likewise withdraw its amendment to article 15.

5. Mr. SUFFIAN (Federation of Malaya) introducing his delegation's amendment (L.111), said that perhaps the words "and time" should be added after "dates".

6. Mgr. CASAROLI (Holy See) said that article 15, paragraph 3, showed great understanding on the part of the International Law Commission. Nevertheless the words "any existing practice in the receiving State" might mean that the exception in favour of representatives of the Pope would be restricted to the States applying it at the time of ratification or acceptance of the proposed convention. His delegation thought that some States which had not yet recognized that practice might wish to adopt it in the future. He had a few observations

⁴ The amendment of Ghana as so revised was circulated after the meeting as document A/CONF.20/C.1/L.177.

¹ The following amendments had been submitted: Spain, A/CONF.20/C.1/L.95; Brazil, A/CONF.20/C.1/L.97; Italy, A/CONF.20/C.1/L.99; Federation of Malaya, A/CONF.20/C.1/L.111; Czechoslovakia, A/CONF.20/C.1/L.118; Holy See, A/CONF.20/C.1/L.120.

to make: first, his delegation had noted that the Commission itself, in the report to the General Assembly of the United Nations on the Commission's ninth session in 1957 (A/3623) had said¹ that it "intended to incorporate in the draft the gist of the Vienna regulation concerning the rank of diplomats." The only exception made in the Vienna regulation to the general rules of precedence, the exception in favour of the Papal representatives, was also general and unrestricted. Secondly, he felt that, as had so often been stressed, the Conference should codify current practices and rules rather than introduce new ones. His delegation's amendment (L.120) did not in any way restrict or impose upon States, which would remain entirely free to follow or reject the very long-standing custom followed in so many other States. Lastly, the proposed amendment met the criterion of equality between the older States, which had already been able to choose, and the new or future States. He could mention further arguments in support of the amendment, but thought that what he had said was sufficient to secure a favourable vote in the Committee.

7. Mr. de ERICE y O'SHEA (Spain) said that he would support the amendment of the Holy See. So far as his own delegation's amendment was concerned (L.95), he said he would withdraw the first part. The second part, however, reflected a uniform practice. Spain regarded its diplomatic staff as a homogeneous body and did not differentiate among its members on the basis of their rank.

8. The CHAIRMAN announced that the Italian and Brazilian delegations had become co-sponsors of the amendment submitted by the Federation of Malaya (L.111), subject to the addition of the words "and time" after "dates", which the Federation of Malaya accepted. Those delegations had accordingly withdrawn their own amendments (L.97 and L.99).

9. Mr. HUCKE (Federal Republic of Germany) said that, after listening to the statement of the representative of the Holy See, his delegation would support the amendment of the Holy See. The Vienna regulation had left each State entirely free to give special recognition to the representative of the Holy See. That ancient custom should not be disturbed.

10. Mr. MAMELI (Italy) said that the Holy See's proposal reflected an historical practice. The status of the representatives of the Holy See had been recognized by the Congress of Vienna, and the Papal Nuncios had done splendid work amid the ravages of two world wars. His delegation would therefore support the Holy See's amendment.

11. Mr. AGUDELO (Colombia), supporting previous speakers, said that the only State in the world community to survive twenty centuries of history was the Holy See. Another argument should not be overlooked: if the Papal Nuncio did not have precedence, rivalry between States would cause trouble. No objection could be raised to a provision which accorded precedence to the representative of the Holy See, for he represented a wholly spiritual and not a temporal power.

12. Mr. CARMONA (Venezuela) said that on the instructions of its government his delegation supported the amendment of the Holy See. The Holy See's mission was one of peace and concord throughout the world. In the darkest hours of its history Venezuela had had cause to be grateful for good work of the Papal Nuncios.

13. Mr. DONATO (Lebanon) joined previous speakers in supporting the Holy See's amendment. Half the inhabitants of his country were Moslems, the other half Christians. Lebanon gave the Papal Nuncio precedence over other heads of mission, and everyone in the country, irrespective of religion, paid the Holy See the respect which oriental countries gave a spiritual authority.

14. Mr. TUNKIN (Union of Soviet Socialist Republics) said that article 15, paragraph 3, of the Commission's draft was taken from the regulation of Vienna. An old rule of international law could be considered from two points of view: it was of long standing and conformed to a venerable tradition; or it was out of date and obsolete. The Conference had met because the regulation adopted at Vienna in 1815 had become out-dated. In 150 years the situation had changed considerably. The law conceived at Vienna had been European law; the present aim was to draft universal law. Furthermore, of the eight countries taking part in the Congress of Vienna, four had been Catholic, and at that time religious freedom had not been at all secure. The document which the Committee was instructed to prepare should be acceptable to all countries, whatever their political or religious convictions.

15. Article 15, paragraph 3, meant that some receiving State might itself establish the order of precedence. That contradicted the principle of the equality of States. Hence he would ask for a separate vote on paragraph 3 and abstain.

16. The Spanish amendment (L.95) usefully clarified the position, and his delegation would vote for it, and also for the amendment submitted by the Federation of Malaya, which simplified the draft.

17. Mr. PONCE MIRANDA (Ecuador) was pleased that numerous delegations supported the Holy See's amendment, and said that his delegation also would vote for it.

18. Mr. de ROMREE (Belgium) said he had received instructions from his government to support the Holy See's amendment, which left the receiving State entirely free to decide for itself the order of precedence of heads of diplomatic missions.

19. Mr. BOLLINI SHAW (Argentina) expressed support for the amendments of the Federation of Malaya and of Spain and also for that submitted by the Holy See. His country gave precedence to the Apostolic Nuncio, but the wording left other countries entirely free to act differently.

20. Mr. LINARES (Guatemala), Mr. KIRSCHLAEGGER (Austria), Mr. FIGUEROA (Chile), Mr. de VAUCELLES (France), Mr. de SOUZA LEAO

(Brazil), Mr. MARS (Haiti), Mr. BARNES (Liberia), Mr. STUCHLY-LUCHS (Dominican Republic), Prince of LIECHTENSTEIN (Liechtenstein), Mr. LEFEVRE (Panama), Mr. RETTEL (Luxembourg), and Mr. VALLAT (United Kingdom) supported the amendment to article 15 proposed by the Holy See.

21. Mr. PINTO de LEMOS (Portugal) welcomed the Holy See's amendment, which was not only reasonable, but also left all States entire freedom of action and would thus facilitate the accession of new States to the convention.

22. Mr. BOUZIRI (Tunisia) supported the Federation of Malaya's amendment as amended verbally. The Spanish amendment, of which only the second part remained, he approved in principle but not in form. The order of precedence of the members of a mission's diplomatic staff was actually determined by the Minister for Foreign Affairs, admittedly on the recommendation of the head of the mission. The drafting committee might perhaps revise the amendment to take account of that point. While unwilling to commit itself to support the Holy See's amendment, the Tunisian delegation suggested that the word "Pope" should be replaced by "Holy See", in conformity with the official nomenclature.

23. Mgr. CASAROLI (Holy See) accepted the Tunisian representative's suggestion. His delegation's amendment had used the expression "representative of the Pope" because it appeared in the International Law Commission's text, which was itself taken from the regulation of Vienna.

24. Mr. WALDRON (Ireland) thanked the delegations of Brazil and Italy for the co-operative spirit in which they supported the Federation of Malaya's amendment, which the Irish delegation also supported. It also accepted the new paragraph, which the Spanish delegation proposed to add to article 15. On the instruction of its government, the Irish delegation joined the delegations that had spoken in favour of the Holy See's amendment, which merely reworded paragraph 3 of the draft in accordance with the intentions of the International Law Commission, and did not impose any obligation on States. To the remark of one delegation that the practice of granting precedence to the Pope's representative was out-dated and obsolete, he replied that, apart from the States which in 1815 had recognized the precedence of the Pope's representative, at least twenty additional States did so in modern times, including his own.

25. Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic) said that the Congress of Vienna recognized the principle that the Pope's representative should take precedence because of the preponderant influence of the four Catholic countries participating in that congress. The diplomatic function had expanded considerably since then, and more than a hundred countries, including many which were non-Catholic or atheist, were to be invited to sign or accede to the new convention. Therefore, to make the convention acceptable to all States, all provisions relating to special situations should be omitted.

26. Mr. SOSA PARDO de ZELA (Peru) supported the Holy See's amendment, which did not place any obligation on non-Catholic States.

27. Mr. GLASER (Romania) supported the Federation of Malaya's amendment as revised. His delegation would also support the new paragraph to article 15 proposed by Spain. It could not, however, vote for the Holy See's amendment, and would abstain from the vote on article 15, paragraph 3. The draft laid down a perfectly logical order of precedence for heads of mission based on seniority, and no exception should be made.

28. Mr. GOLEMANOV (Bulgaria) said he had no objection to paragraphs 1 and 2 of draft article 15. However, the wording of paragraph 1 would be improved by the amendment of the Federation of Malaya, for which his delegation would vote. With regard to article 15, paragraph 3, the principle giving precedence to the Pope's representative conflicted with the fundamental rules of international law and was an anachronism. His delegation could therefore not vote either for paragraph 3 of the draft or for the Holy See's amendment.

29. Mr. USTOR (Hungary) associated himself with the delegations which had criticized article 15, paragraph 3. The Conference was endeavouring to draft an international convention, which as such should not contain any provision affecting only a minority of States and contradicting the principles of equality and non-discrimination among States. Hungary granted religious freedom and respected the heads of all churches, but could not accept a principle tantamount to discrimination in favour of the head of one church. His delegation would therefore abstain from voting on article 15, paragraph 3.

30. Mr. LINTON (Israel) said he would vote for the amendments of the Holy See and of the Federation of Malaya to article 15. He also supported in principle the Spanish amendment although he suggested that the proposed new paragraph should be revised in order to make it clear that it referred not to precedence within a mission but within the diplomatic corps, which was determinable by the Ministry for Foreign Affairs.

31. Mr. WESTRUP (Sweden) said that his delegation, out of respect for tradition, would vote for the Holy See's amendment.

32. Mr. MECHECHA HAILE (Ethiopia) supported the Holy See's amendment, which gave the receiving State full latitude in the matter of precedence. He would also vote for the amendments of Spain and of the Federation of Malaya.

33. Mr. ANTONOPOULOS (Greece) unreservedly supported the Holy See's amendment, although his was not a Catholic country. Greece attached great importance to the principle of freedom of States, which was respected by the amendment.

34. Mr. REINA (Honduras) contested the statement that the principle of giving precedence to the Pope's representatives was obsolete. The principle was observed in all Latin American States and acknowledged the supre-

macy of the world's highest spiritual authority. His delegation warmly supported the Holy See's amendment.

35. Mr. ASIROGLU (Turkey) associated himself with the observations of the Tunisian representative on the Spanish amendment, which would be improved by the proposed rewording. His delegation would vote for the amendments of the Holy See and of the Federation of Malaya.

36. Mr. TAWO MBU (Nigeria) supported the Holy See's amendment. It had been said that the principle of the precedence of the Pope's representative was an echo of the past. But was not international law itself an expression of the past? There was no reason at all against acceptance of the Holy See's amendment, which left the receiving State full liberty to recognize or deny the precedence of the Pope's representative. His delegation would also accept the amendment of the Federation of Malaya, which was reasonable; and it supported in principle the Spanish amendment.

37. Mr. CARCANI (Albania) said he could not support the Holy See's amendment, for the reasons set forth by the representatives of the Union of Soviet Socialist Republics and other States.

38. Mr. REGALA (Philippines) supported the amendments of the Holy See and of the Federation of Malaya.

39. U SOE TIN (Burma) said he would vote for the Holy See's amendment, although its underlying principle was not observed in his country. He would also support the amendment of the Federation of Malaya, as revised, and, in principle, the Spanish amendment.

40. Mr. PECHOTA (Czechoslovakia) supported the Spanish amendment, which seemed to him reasonable. He would also vote for the amendment of the Federation of Malaya, which simplified article 15. On the other hand, his delegation could not support the Holy See's amendment, since it was not desirable to write into the Convention a provision concerning a special case.

41. The CHAIRMAN noted that the amendment sponsored by the Federation of Malaya, Brazil and Italy, as revised, had been unanimously approved. He suggested that it should therefore be considered as adopted.

It was so agreed.

42. The CHAIRMAN suggested that, as no amendment had been submitted to article 15, paragraph 2, it should likewise be considered as adopted.

It was so agreed.

43. The CHAIRMAN put to the vote the amendment proposed by the Holy See to paragraph 3 of article 15 (L.120).

The amendment was adopted by 59 votes to 1, with 17 abstentions.

44. The CHAIRMAN invited the Committee to vote on the second part of the Spanish amendment, adding a new paragraph to article 15.

45. Mr. VALLAT (United Kingdom) suggested that the drafting committee should be asked to re-draft the

Spanish amendment to embody the principle stated in the United Kingdom amendment (L.10) to article 12 and adopted by the Committee.

46. The CHAIRMAN said that would be done. The Committee would therefore vote only on the principle stated in the Spanish amendment.

The principle was adopted by 61 votes to none, with 2 abstentions.

47. Mr. BARTOŠ (Yugoslavia) said that, in accordance with the principles of the United Nations Charter, the Yugoslav delegation had voted against draft article 15, paragraph 3, because the provision was contrary to the principle of non-discrimination in the matter of religion and granted a privilege to a certain State whose head was also the head of a religious community. Moreover, it was wrong to believe that the application of such a rule would only affect relations between the State in question and the receiving State because the latter's acceptance was optional, for the precedence thus established would affect all States represented in the State recognizing or observing that precedence.

Proposed new article concerning the diplomatic corps

48. The CHAIRMAN drew attention to the Italian delegation's proposal (L.102) that a new article concerning the diplomatic corps should be inserted between articles 15 and 16.

49. Mr. MAMELI (Italy) said that his delegation's proposal was intended to fill a gap in the draft articles. He hoped that it would be accepted by the Committee.

50. Mr. MATINE-DAFTARY (Iran) recalled that the International Law Commission had considered the possibility of inserting a provision concerning the diplomatic corps in the draft and had declined to do so.² His delegation had no objection to paragraph 1 of the Italian proposal, but would vote against paragraph 2 if it was put to the vote. In his delegation's view the diplomatic corps did not, strictly speaking, perform any functions, but merely engaged in activities of an internal character.

51. Mr. MENDIS (Ceylon) said that, although not opposed to the Italian proposal in principle, he thought that the application of paragraph 2 might cause practical difficulties if, as in Ceylon, the doyen of the diplomatic corps represented a country that was not recognized by all States. He suggested that the provision might be revised so that it would not stipulate the absolute rule that the diplomatic corps was represented by its doyen.

52. Mr. TUNKIN (Union of Soviet Socialist Republics) endorsed the comments of the Iranian representative. Italy had submitted a similar proposal in its comments on the 1957 draft (A/3859, annex), and the proposal had received little support in the Commission. The proposal under discussion was unrealistic, for the diplomatic corps did not perform any functions and did not

² For discussion of the provision, see ILC, 454th meeting, paras. 44 to 75, 466th meeting, paras. 45 to 67, and 467th meeting, paras. 1 to 4.

constitute a body having capacity to act as such. If it was to have corporate capacity, it would be necessary to lay down the powers of the doyen, establish the procedure for taking decisions, and specify whether a simple majority of votes or a two-thirds majority was required, etc., and it could be seen at once what difficulties would arise. The International Law Commission had therefore very wisely decided that it would be better not to mention the diplomatic corps in the draft articles. Moreover, the proposed amendment gave the expression "diplomatic corps" its narrowest sense and many States would doubtless prefer the diplomatic corps to be defined as including all persons on the diplomatic list.

53. Mr. MAMELI (Italy) said he could not understand why the Soviet representative, even though recognizing the existence of the diplomatic corps, opposed the addition of a provision concerning the corps.

54. Mr. TUNKIN (Union of Soviet Socialist Republics) explained that his delegation might possibly be able to support a provision relating to the diplomatic corps, but that it could not vote for the Italian proposal.

55. Mr. DONATO (Lebanon) said that the definition given in paragraph 1 of the Italian proposal was unconvincing to his delegation, which considered the diplomatic corps to include all members of the diplomatic staff and their families.

56. After an exchange of views, the CHAIRMAN proposed that a special working party consisting of the representatives of Brazil, Czechoslovakia, the Federation of Malaya, Iran and Italy should be appointed to draft a clause concerning the diplomatic corps.

It was so agreed.

Article 16 (Mode of reception)

57. The CHAIRMAN, noting that no amendment had been submitted to article 16, proposed that it should be regarded as adopted.

It was so agreed.

Article 17 (Chargé d'affaires ad interim)

58. The CHAIRMAN drew attention to the amendments proposed to article 17.³ He said that the Spanish delegation had informed him of the withdrawal of the first of its amendments (L.96).

59. Mr. VALLAT (United Kingdom) said that, having consulted the Commonwealth representatives, he withdrew the first of the United Kingdom amendments. The second should not present any particular difficulty, since similar amendments had been adopted during the consideration of articles 9, 12 and 15.

60. Mr. AMAN (Switzerland) said his delegation was prepared to withdraw its amendment in favour of the

Italian amendment, if the Italian representative would agree to replace the words "Minister for Foreign Affairs of the sending State" by the words "Ministry for Foreign Affairs of the sending State".

61. Mr. MARESCA (Italy) said that the addition proposed by Italy was necessary, because the chargé d'affaires ad interim, holding powers delegated by the head of the mission, could not notify his own name to the Minister for Foreign Affairs of the receiving State. Since the Minister appointed chargés d'affaires, he should likewise notify the name of the chargé d'affaires ad interim if the head of the mission was incapacitated. It was therefore impossible to replace "Minister" by "Ministry".

62. Mr. AMAN (Switzerland) agreed.

63. Mr. MARISCAL (Mexico) withdrew his delegation's amendment in favour of that of Spain.

64. Mr. KEVIN (Australia) withdrew his delegation's amendment in favour of the Italian amendment. He suggested that the words "in case of his inability" in that amendment be replaced by "when he is unable to do so".

65. Mr. MAMELI (Italy) agreed.

66. Mr. BARTOŠ (Yugoslavia) said that the article had its origins in a provision which he had first proposed in the International Law Commission (392nd meeting of the ILC, para. 80). He thanked the Italian delegation for drafting a better text than the original, and would vote for the amendment.

67. Mr. TUNKIN (Union of Soviet Socialist Republics) said he could accept the principle stated in the Spanish amendment, but thought that the text could be improved. There was perhaps some room for improvement in the Italian amendment, since it could mean that notice must be given to the Ministry for Foreign Affairs only by a personal letter from a head of mission, whereas in practice it was generally the diplomatic mission, not its head, which carried out that formality. The Committee should not complicate a practice which had caused no trouble in the past. The amendment submitted by the Federation of Malaya had become pointless, since the Committee had adopted the Czechoslovak amendment (L.41) to article 5 (10th meeting, para. 75).

68. Mr. SUFFIAN (Federation of Malaya) agreed and withdrew his delegation's amendment.

69. Mr. de ERICE y O'SHEA (Spain) said he would agree that the Committee should decide only on the principle stated in the Spanish amendment, and refer the text to the drafting committee. The amendment's sole object was to state expressly that a chargé d'affaires ad interim was also a head of mission. A chargé d'affaires ad interim was often the first head of mission when diplomatic relations were established between two States, and the last when they were broken off.

70. The Spanish delegation would vote for the Italian amendment.

³ The following amendments had been submitted: United Kingdom, A/CONF.20/C.1/L.12; Mexico, A/CONF.20/C.1/L.58; China, A/CONF.20/C.1/L.70; Spain, A/CONF.20/C.1/L.96 and L.172; Italy, A/CONF.20/C.1/L.100; Switzerland, A/CONF.20/C.1/L.109; Australia, A/CONF.20/C.1/L.110; Federation of Malaya, A/CONF.20/C.1/L.112; Denmark, A/CONF.20/C.1/L.170.

71. Mr. SCHROEDER (Denmark) said that the rule laid down in article 17 was very inflexible; countries with a relatively small diplomatic staff should be permitted to appoint as *chargés des affaires* staff members not of diplomatic rank. The object of Denmark's amendment was to allow for that practice.

72. Mr. TUNKIN (Union of Soviet Socialist Republics) said that in its comments (A/3859, annex) Denmark had made a proposal similar to that under discussion, but the International Law Commission had not adopted it (453rd meeting of the ILC, paras. 51 to 82). The phrase "a member of the staff not of diplomatic rank" was too broad. The practice in such cases was to request a diplomat of another State to take charge of the affairs of a mission when its head could not act. The Soviet delegation was ready to accept the "*chargé des affaires*" system if that deputy were appointed by the head of the mission with the consent of the receiving State.

The meeting rose at 6.10 p.m.

NINETEENTH MEETING

Friday, 17 March 1961, at 10.30 a.m.

Chairman: Mr. LALL (India)

Consideration of the draft articles on diplomatic intercourse and immunities adopted by the International Law Commission at its tenth session (A/CONF.20/4) (continued)

Article 17 (*Chargé d'affaires ad interim*) (continued)

1. The CHAIRMAN invited the Committee to continue its debate on article 17 and the amendments thereto.¹
2. He announced that two of the amendments to article 17 had been re-drafted to take into account suggestions made during the discussion. The Italian amendment, as revised, would replace the passage "to the Ministry for Foreign Affairs of the receiving State" by: "either by the head of the mission or, in case he is unable to do so, by the Minister for Foreign Affairs of the sending State to the Minister for Foreign Affairs of the receiving State or any other ministry designated for this purpose." In that form the Italian amendment incorporated the substance of the second part of the United Kingdom amendment (L.12) and also the change proposed by Australia (18th meeting, para. 64).
3. The additional paragraph proposed by Denmark (L.170) had been revised to read: "In cases where no diplomatic member of a mission is present in the receiving State, a member of the chancery staff not of diplomatic rank may, with the consent of the receiving State, be

designated by the sending State to be in charge of the current affairs of the mission in the capacity of *chargé des affaires*."

4. Mr. MATINE-DAFTARY (Iran) said that the amendments still before the Committee seemed to relate mostly to drafting, and could conveniently be referred to the drafting committee. The objection put forward by the Soviet Union representative to the Danish amendment at the eighteenth meeting could perhaps be met by specifying that the person designated to be in charge of the current affairs of the mission would be a member of the administrative staff.

5. Mr. CARMONA (Venezuela) supported the Italian amendment, which improved draft article 17 considerably, and also seemed to cover the point raised in the amendment submitted by China (L.70).

6. He also supported the Spanish amendment (L.172), which dealt with a point which could otherwise give rise to difficulties.

7. He opposed the Danish amendment, because his government could not accept the suggestion that a subordinate official of the administrative and technical staff of a mission could be placed officially in charge of the mission. In Venezuela, as in many other countries, even a diplomatic officer of the rank of attaché or third secretary could not be left in charge of a mission, and, by reason of reciprocity, a diplomatic officer of that rank was not accepted as a *chargé d'affaires ad interim*. In the circumstances, it was even less permissible to leave in charge of a mission a person who was not even a diplomatic officer.

8. The current practice was that when no diplomatic officer was present to act as head of the mission, a subordinate official was designated to take care of the office and archives. That official, however, had no representative character and could not maintain any official contacts. His position was one of fact, not of law. It was his duty to act as caretaker of the premises and archives, and to inform his government of any developments, until a diplomatic officer arrived to act as head of mission.

9. The Soviet Union representative had said that, in a case where no diplomatic officer was present, the representative of a friendly country could be designated as *chargé d'affaires ad interim* (18th meeting, para. 72). In Venezuela, in a similar case, the sending State had designated as *chargé d'affaires ad interim* one of its diplomatic officers accredited to a neighbouring country. The subordinate official who looked after the mission concerned would advise him when his presence was needed and, in a matter of hours, he would arrive by plane.

10. Mr. YASSEEN (Iraq) said that the intention of the Danish amendment was the commendable one of ensuring the continuity of the diplomatic service; but the machinery it suggested was unsatisfactory. The diplomatic function was an extremely delicate one, too serious to be performed by members of the administrative and technical staff. They were not infrequently nationals of the receiving State, sometimes appointed even without

¹ For list of amendments to article 17, see 18th meeting, footnote to para. 58. At that meeting, the United Kingdom withdrew the first part of its amendments (L.12), Spain withdrew the first of its amendments (L.96), and Mexico, Switzerland, Australia and Federation of Malaya withdrew their respective amendments (L.58, L.109, L.110, L.112).