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23rd meeting of the Committee of the Whole

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66. The CHAIRMAN put to the vote article 20, as so amended, on the understanding that the Drafting Committee would consider the possibility of using the wording of the Malayan amendment (L.114).

Article 20, as amended, was adopted on that understanding by 68 votes to none, with 2 abstentions.

67. Mr. MERON (Israel), speaking on a point of order, said that before a decision was taken on the new provision proposed by the Mexican delegation he wished to know whether that delegation accepted the French representative's suggestion that the necessity of agreement between the sending State and the receiving State should be specified in general terms, with regard to the whole process, not solely, as in the Mexican amendment, with regard to the question of the period of vacating the premises.

68. Mr. de ROSENZWEIG DIAZ (Mexico) said that in deference to the French representative's wish, he had already agreed to include in the provision a reference to the sending State's right to compensation. The point raised by the representative of Israel went much further, and he was not in a position to comment on it without time for reflection.[1]

The meeting rose at 6.25 p.m.

[1] See statement by the Mexican delegation at the 23rd meeting, para. 2.

TWENTY-THIRD MEETING

Tuesday, 21 March 1961, at 10.40 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 20 (Inviolability of the mission premises) *(continued)*

1. The CHAIRMAN said that the Mexican delegation wished to make a statement concerning the new provision which it had originally proposed as paragraph 5 of article 20 (L.129).

2. Mr. MARISCAL (Mexico), referring to the debate at the previous meeting, thanked the delegations which had expressed support for the proposed new provision. After consideration his delegation had decided to withdraw the provision. At the same time, however, he wished to state for the record that in his delegation's opinion the principle of the inviolability of mission premises could not be pleaded in cases of expropriation in the public interest by the receiving State; that rule was subject to an exception so far as the mode of execution of an expropriation order was concerned, for naturally no coercive measures could be applied. He added that real property was governed by the legislative provisions applicable to the place where it was situated, and diplomatic missions should observe those provisions.

Article 13 (Classes of heads of mission) *(resumed from the 17th meeting)*

3. The CHAIRMAN, recalling that the debate on article 13 had been adjourned at the seventeenth meeting, wished the Committee to resume its debate on the article and on the amendments thereto.[1]

4. Mr. WESTRUP (Sweden) suggested that a vote should be taken to establish how far the concept of two classes of heads of mission was current in modern times. The Swedish-Mexican and the Swiss amendments proposed a reduction in the number of classes, which would involve the abolition of some titles of heads of mission to which a number of States were still attached. On the other hand, the United Kingdom and France had proposed in their amendments (L.11 and L.98) the introduction of titles which, in the view of other delegations, had no place in a general convention. To avoid an express reference to titles which would be out of context in the convention, the delegation of Ghana had proposed its amendment (L.177).

5. Like the representative of Viet-Nam, he thought it would be better, without eliminating any title in current use and without introducing titles that were out of keeping with the context, to use an expression that would cover not only the representatives of class (*a*) but also those of class (*b*). The expression " titular heads of mission " suggested by the representative of Viet-Nam (17th meeting, para. 31) seemed attractive. The first question was whether the sending State could give the heads of its own missions titles differing according to the States to which they were accredited. Secondly, was it desirable that the receiving State should place all titular heads of mission in a single class irrespective of their titles ?

6. His delegation was sorry that the proposed reduction in the number of classes had given rise to objections other than those concerning drafting. It would like the question of principle itself — namely, the reduction to two classes, to be voted upon without reference to any specific forms of words.

7. Mr. REGALA (Philippines) said that the Committee had been considering, in connexion with article 13, the division of heads of mission into classes as well as the rules governing the precedence of heads of mission and other members of the diplomatic staff. He drew attention to a related problem raised by the existence of international organizations, the headquarters of which were located in different countries, and by the grant of diplomatic status to the heads of those organizations.

[1] For the list of the amendments originally submitted to the article see 16th meeting, footnote to para. 24. In consequence of the withdrawal of the amendments submitted by the United Kingdom (L.11), China (L.69), Spain (L.94) and France (L.98), the following amendments remained before the Committee: Mexico and Sweden (L.57 and Add.1), Switzerland (L.108), Guatemala (L.155) and Ghana (L.177).

8. He recalled that by resolution 1289 (XIII) the General Assembly of the United Nations had asked the International Law Commission to study relations between States and intergovernmental organizations. The Commission's report on its twelfth session, 1960, contained a passage (A/4425, chapter III, para. 32) from which it could be concluded that a separate study of those relations would be undertaken in due course.

9. However, he wished to point out that several of the matters dealt with in the existing conventions on relations between States and intergovernmental organizations (such as the convention on the privileges and immunities of the United Nations and the convention on the privileges and immunities of the specialized agencies), as well as bilateral agreements concerning the headquarters of the organizations, were closely related to the problems under discussion in the Committee. Examples were the status of the headquarters; the inviolability of premises; communications; immunity from jurisdiction, requisition and taxation; inviolability of archives; privileges and immunities granted to the staff, etc.

10. Whilst not quite identical, those questions were similar in some respects to those under discussion. Furthermore, the provisions relating to intergovernmental organizations had, in some cases, repercussions on those being drafted on the subject of diplomatic relations, and vice versa.

11. An illustration was provided by the amendment to article 5 which had been adopted at the tenth meeting and under which the head of a mission could be accredited as representative to an international organization having its headquarters in the receiving State (L.36). As the sponsors of the amendment had explained, it confirmed a current practice. That was an example of the way in which the existence of international organizations and the rules by which they were governed could affect the substance of the convention being prepared.

12. In that connexion he drew attention to another question directly related to one of the matters dealt with in articles 13, 14 and 15: the diplomatic status of the heads of some of the international organizations in the host country. Whether by usage or under specific agreement, a number of them had diplomatic status in the host country. What was the position of the heads of these organizations vis-à-vis the diplomatic agents accredited to the host country ? Surely, the action of the host country in recognizing the diplomatic status of the head of an international organization would have little or no significance if it was not intended to apply to the diplomatic corps in the host country, especially in the matter of precedence.

13. He realized that it was arguable that the position of the head of an international organization differed from that of members of the diplomatic corps, since the former was not accredited to the host government. On the other hand, however, he represented an organization which, while not necessarily constituting a community of States, possessed an international juridical personality, and might have as many as 80 or even 100 member States. Furthermore, some of the agreements between host governments and international organizations included provisions on the status of permanent or resident representatives accredited to those organizations which granted them diplomatic privileges and immunities and specifically recognized that they might have the rank of ambassador or minister plenipotentiary and might establish missions within the host country. The appointment of such permanent or resident representatives to international organizations was in effect equivalent to their accreditation to the head of the international organization.

14. The foregoing illustrated the various aspects of the problem of the diplomatic status of the head of an international organization in the host country, as well as the relationship between that problem and those dealt with in articles 13, 14 and 15 of the draft under consideration. That problem could not be dealt with in isolation.

15. He also realized that it might be argued that the question was one for settlement by bilateral agreements between the host governments and the organizations concerned. That approach did not, however, appear to him entirely logical, for two reasons. First, if the matter were to be settled by bilateral agreements, the system adopted would doubtless differ from one agreement to another, whereas uniformity was manifestly most desirable. Secondly, the various States whose representatives constituted the diplomatic corps in a given host country would not be parties to such bilateral agreements. Those agreements might well, however, affect the rules of precedence applicable to the diplomatic corps.

16. Hence a number of problems were raised for the host government and the international organizations, and it was, in his opinion, desirable, in the interests both of uniformity and of ensuring as wide acceptance as possible, that such a matter be regulated not by a bilateral, but by a multilateral instrument.

17. One possible solution to the problem had been proposed by Ghana (L.177): the addition of the words " and other heads of mission of equivalent rank " in article 13, paragraph 1 (*a*). That broadened definition might be considered sufficiently flexible to include the heads of certain international organizations, though he realized that that interpretation would not be entirely satisfactory, inasmuch as the heads of international organizations were not accredited to the head of the host State.

18. Another solution would be to add a paragraph 3 to article 13, in which reference would be made to the diplomatic status which the head of an international organization with its headquarters in a given State enjoyed in that State, whether by established practice or by express agreement.

19. In mentioning the problem, he did not necessarily imply that it should be solved at the Conference, nor that it necessarily fell within its terms of reference; nor did he intend to make any formal proposal for its solution, at least at that stage. Nevertheless, it was a very real problem which should be recognized. He had raised it in the hope that other representatives might be induced

to express their views as to where and how the problem should be approached, since it was directly related to a subject which was being considered by the Conference.

20. Mr. PONCE MIRANDA (Ecuador) supported the amendment submitted by Ghana which had already received the approval of the United Kingdom and France. It provided a satisfactory solution to the problem of Commonwealth High Commissioners and High Representatives of the French Community, and the addition of the words " and other heads of mission of equivalent rank " would cover other similar cases. At the same time, the amendment had the merit of not referring to special cases, which should be avoided in a convention of universal scope.

21. Referring to the amendments submitted by Mexico and Sweden (L.57 and Add.1) and by Switzerland (L.108), he said that, under the Regulation of Vienna of 1815, only ambassadors, legates and papal nuncios had been accorded representative status, and that originally they alone had been entitled to negotiate with the head of the receiving State. That distinction no longer existed, since all heads of mission, whatever their class, could negotiate with the Minister for Foreign Affairs of the receiving State. Was it reasonable to retain the rule established in 1815 ? The second class was disappearing, and only the class of ambassador and chargé d'affaires remained, the former being accredited to heads of States and the latter to Ministers for Foreign Affairs. But both had the same representative function. The Havana Convention of 1928 had disregarded the Regulation of Vienna and divided diplomatic officers into two classes: ordinary and extraordinary (E/CONF.20/7, article 2). The former were permanent representatives of their governments, whereas the latter were entrusted with special missions. Under that Convention (article 3), diplomatic agents enjoyed the same rights, privileges and immunities, whatever their category, except so far as precedence and etiquette were concerned.

22. For those reasons, the Ecuadorian delegation considered the amendments eliminating the second class of diplomatic agents to be well founded, but it could not vote for them, since agents of that class still existed in the Ecuadorian diplomatic service.

23. The Guatemalan amendment was acceptable to his delegation. The expression " diplomatic agent " should apply exclusively to heads of mission, and not to the whole of the diplomatic staff of such missions.

24. With regard to the Spanish amendment to article 17 (L.172) which recognized the capacity of chargés d'affaires ad interim to act as heads of mission, he considered it illogical not to include that provision in article 13, paragraph 1 (*c*), which spoke of permanent chargés d'affaires. The post of permanent chargé d'affaires did not give its holder higher rank than that of a chargé d'affaires ad interim.

25. The Ecuadorian delegation would vote for article 13, paragraph 1 (*c*) on the understanding that that provision applied equally to permanent chargé d'affaires and to chargés d'affaires ad interim.

26. Mr. LINARES (Guatemala) announced that his delegation had decided to withdraw its amendment (L.155).

27. Mr. CAMERON (United States of America) supported the Philippine representative's suggestion. The problem mentioned by that representative was one of the widest import, though it did not perhaps fall within the terms of reference of the Conference. He suggested that the matter should be referred to the Secretary-General of the United Nations, for submission to the International Law Commission or to some other appropriate body.

28. Mr. WICK KOUN (Cambodia) said he had no objection to the amendment submitted by Ghana nor was he fundamentally opposed to the elimination of one class of diplomatic agents. In his opinion, however, it would be premature to adopt a proposal that might have unfortunate consequences for small countries. Hence, his delegation would vote against the amendment submitted by Switzerland.

29. Mr. AGUDELO (Colombia) supported the amendment submitted by Ghana.

30. He considered that the word " envoys " could be eliminated and only the term " ministers " retained. He shared Ecuador's views on the elimination of the phrase " ad interim ". All chargés d'affaires were ad interim by definition.

31. The CHAIRMAN called on the Committee to vote on the amendment submitted by Ghana to paragraph 1 (*a*).

Paragraph 1 (a), with the amendment submitted by Ghana (L.177), was adopted by 71 votes to none, with 5 abstentions.

32. The CHAIRMAN put to the vote the principle of the Mexican-Swedish and Swiss amendments (L.57 and L.108).

The principle was rejected by 45 votes to 12, with 15 abstentions.

33. U SOE TIN (Burma) explained that he had voted against the elimination of sub-paragraph (*b*) even though he was in favour of such elimination, the reason being that he considered that as matters stood it might lead to complications.

34. The CHAIRMAN called on the Committee to vote on article 13 as a whole, as amended.

35. Mr. de ERICE y O'SHEA (Spain) pointed out that the Committee still had to deal with the Colombian proposal for the deletion of the word " envoy " in article 13, paragraph 1 (*b*).

36. Mr. TUNKIN (Union of Soviet Socialist Republics) said that that was merely a matter of drafting, which had already been discussed by the International Law Commission. Different titles were in use in different countries, and the Commission had rightly preferred to keep both titles, " envoys " and " ministers ".

37. The CHAIRMAN pointed out that the Colombian proposal had been submitted orally, and that it was not customary to put oral amendments to the vote. Should any delegation wish to submit the Colombian proposal as a formal amendment, it could do so at a plenary meeting of the Conference.

Article 13, as amended, was adopted by 68 votes to none, with 5 abstentions.

Article 21 (Exemption of mission premises from tax)

38. The CHAIRMAN invited debate on article 21 and on the amendments thereto.[1]

39. Mr. de ERICE y O'SHEA (Spain) withdrew the amendment (L.166) to article 21 submitted jointly by his delegation and that of Austria. The two delegations became co-sponsors of the Mexican amendment (L.130), which was drafted on similar lines.

40. U SOE TIN (Burma) introduced the amendment submitted jointly by his delegation and that of Ceylon (L.159). The practice of exempting from dues and taxes premises leased to foreign missions was not observed by all countries. Hence it was desirable to standardize the practice to be followed, and to embody it in a rule of international law acceptable to all countries. Usually dues and taxes on leased premises were payable by the owner, but, in the case of premises leased to a mission, there was nothing to prevent the head of mission from assuming responsibility for such dues and taxes, and then asking the receiving State for exemption. It was true that in paragraph 2 of its commentary on article 21 (A/3859) the International Law Commission stated that the provisions of the article did not apply in such a case since the mission's liability then became part of the consideration given for the use of the premises and usually involved in effect not the payment of taxes as such, but an increase in the rental payable. Since, however, those comments would not appear in the final text of the convention, complications were bound to arise in the interpretation of the provisions of article 21. The amendment was based on the principle that minimum acceptable rules should be adopted concerning the exemption from dues and taxes on premises owned by the sending State, while leaving the door open for any other exemptions of which that State might wish to avail itself.

41. Mr. de ROMREE (Belgium) said that his delegation's amendment (L.164) was not, as might appear, a purely drafting amendment. It was in fact concerned with a point of substance. For the head of the mission to be exempt from all dues and taxes on the mission's premises, he must be acting in that capacity, and that should be explicitly stated. The Belgian delegation did not, however, insist on a vote on its amendment and would be satisfied if it were referred to the Drafting Committee.

42. Mr. de ROSENZWEIG DIAZ (Mexico) said his delegation accepted the principle laid down in article 21 as it stood. But the application of the principle might raise difficulties, and it was in order to avoid them that his delegation had submitted its amendment (L.130), of which Austria and Spain had become co-sponsors. On occasion, the lease given to a mission by the owner of the premises contained the condition that taxes were payable by the mission. In such cases, as was noted in the International Law Commission's commentary, the provisions of article 21 were not applicable.

43. Mr. VALLAT (United Kingdom) said his delegation approved the principle stated in article 21. However, that article lent itself to various interpretations, and the United Kingdom delegation did not agree with that given by the Commission in paragraph 2 of its commentary on the Commission's draft provisional articles on consular intercourse and immunities (A/4425, article 32) interpreted the rule differently. The aim of article 21 should be to exempt the sending State from all dues and taxes on the mission's premises but not to exempt the owner who leased the premises to the mission. The United Kingdom delegation supported the joint amendment of Mexico, Austria and Spain, though the drafting might be improved.

44. Mr. HAASTRUP (Nigeria) supported the text of article 21, as modified by the amendment of Mexico, Austria and Spain.

45. Mr. GIMENEZ (Venezuela) said that his delegation's amendment (L.143) was based on Venezuelan law; since, however, the amendment of Mexico, Austria and Spain covered the same points, his delegation would withdraw its amendment and support the joint amendment.

46. Mr. de VAUCELLES (France) agreed with the United Kingdom representative. His delegation would vote for the joint amendment of Mexico, Austria and Spain; it also supported the Belgian amendment, which could be referred to the Drafting Committee.

47. Mr. MATINE-DAFTARY (Iran) considered that article 21 as drafted needed no amplification. According to the principle stated in it, the premises of the mission, if owned by the sending State, were exempt from all dues and taxes. If, however, they belonged to a private person who leased them to the mission, that person was liable for the dues and taxes.

48. Mr. MONACO (Italy) agreed in principle with the United Kingdom representative. If the Committee wished to clarify the position of a private person leasing premises to a mission, his delegation was willing to accept the joint amendment of Mexico, Austria and Spain, subject to drafting improvements.

49. Mr. CAMERON (United States of America) agreed with the United Kingdom representative and supported in principle the joint amendment of Mexico, Austria and Spain, which clarified the text of article 21 and relieved his delegation's apprehensions regarding the words " whether owned or leased ". He added that the expression " premises of the mission " used in article 21 and other articles had not been defined; that was a gap

[1] The following amendments had been submitted: Mexico, A/CONF.20/C.1/L.130; Venezuela, A/CONF.20/C.1/L.143/ Burma and Ceylon, A/CONF.20/C.1/L.159; Belgium, A/CONF.20/C.1/L.164; Austria and Spain, A/CONF.20/C.1/L.166.

which should be filled. In his delegation's opinion, the expression should comprise the land and all the buildings of the mission, even if scattered.

50. Mr. TUNKIN (Union of Soviet Socialist Republics) considered that article 21 conformed to established practice and that no amendments were necessary. The joint amendment of Mexico, Spain and Austria contained a legal redundancy but his delegation would not oppose it, although it added nothing to article 21. His delegation did not accept the joint amendment of Burma and Ceylon, since it did not correspond to established practice or to international law.

51. Mr. BARNES (Liberia) approved the principle of the Mexican amendment, which conformed with existing Liberian law.

52. Mr. DADZIE (Ghana) considered that the sending State might quite well assume responsibility for dues and taxes under a contract with the landlord of the leased premises. The sending State was always free to waive the privileges granted by the receiving State, and his delegation could not support amendments depriving the sending State of that right.

53. Mr. KRISHNA RAO (India) considered that the exemption provided for in article 21 was granted — as was expressly stated in the corresponding clause of the Special Rapporteur's draft (A/CN.4/116/Add.1 and 2) submitted to the International Law Commission in 1958 [1] — if the head or another member of the mission acquired or rented premises on behalf of the sending State. " Premises " should therefore comprise the land, buildings and annexes used by the embassy and the chancery, as well as the private residences of the members of the mission.

54. Mr. JEZEK (Czechoslovakia) considered that the tax exemption provided for in article 21 applied not only to buildings used by the mission but also to premises rented or acquired by the sending State for the needs of the head of the mission, as was evident from article 32 (*f*). His delegation did not ask that that interpretation should be embodied in a formal declaration, but requested that the Committee take note of it.

55. Mr. de SOUZA LEAO (Brazil) said he would vote for the Mexican amendment.

56. Mr. FERNANDES (Portugal), agreeing with the United Kingdom representative, said that article 21 was based on the principle that one State could not impose a fiscal obligation on another. In order to avoid any difficulty of interpretation, it might be better to delete the reference to the head of the mission, but if the majority decided otherwise, the Belgian amendment would make the text clearer. In any case, article 32 (*b*) said specifically that the head of a mission was exempt from all dues and taxes on private immovable property held by him on behalf of his government.

57. Mr. YASSEEN (Iraq) said that article 21 in no way provided for the fiscal exemption of the private persons who owned the premises rented by the mission. Such owners were therefore subject to the law of the receiving State and it was quite unnecessary to add any provision on that question in the draft.

58. Mr. MENDIS (Ceylon), disagreeing with some speakers, said that article 21 was not clear. To remove any ambiguity, his delegation had co-sponsored an amendment (L.159) enabling the countries concerned to agree on the terms of the lease of the mission premises. However, the two sponsors of the amendment had decided to withdraw their amendment in favour of that of Mexico, which contained a similar provision.

59. Mr. SUFFIAN (Federation of Malaya) said he would vote for the Mexican amendment for the same reasons as the United Kingdom representative.

60. Mr. SINACEUR BENLARBI (Morocco) agreed with the Iraqi representative, but said he would vote for the Mexican amendment, the principle of which was in conformity with Moroccan law.

61. Mr. MELO LECAROS (Chile) fully approved the principle stated in article 21 but considered that it was not clear enough so far as it concerned premises rented by the mission. He would therefore vote for the Mexican amendment.

62. Mr. KEVIN (Australia) said he assumed that article 21 would bind only those States which accepted it.

63. Mr. RETTEL (Luxembourg) supported the International Law Commission's text but agreed with the United Kingdom representative. The title of the article might be revised to read " Exemption from tax on mission premises ", for it was not the premises themselves which were exempt from tax. He also asked for some explanation concerning the treatment of registration charges, for instance, which were fiscal in character but could also be considered as payment for services rendered. He supported the Belgian amendment.

64. Mr. BOISSIER-PALUN (Senegal) agreed with the Soviet and Iranian representatives and said he would not be able to vote for the Mexican amendment which would only unnecessarily lengthen the original text. Especially if the words " acting as such " were added after the words " the head of the mission ", article 21 was perfectly unambiguous. In Senegal, registration charges were borne by the purchaser, but if the latter was a State, it was exempt from such charges.

65. Mr. BARTOŠ (Yugoslavia) said he would vote for the article as it stood. He explained that the International Law Commission had not intended the expression " dues . . . for specific services rendered " to cover such administrative charges as registration fees or transfer duties.

66. Mr. BOUZIRI (Tunisia), agreeing with the Soviet and Iranian representatives, said it was unnecessary to amend the article in the manner proposed by the Mexican delegation. Nor was he convinced that the Belgian amendment was necessary, but that question

[1] The Special Rapporteur's draft is reprinted in *Yearbook of the International Law Commission*, 1958, vol. II, United Nations publication, Sales No. 58.V.1, vol. II.

would probably be decided by the Drafting Committee. In any case, his delegation would vote for the article as it stood.

67. Mr. USTOR (Hungary) said that in the case of a lease, dues and taxes were payable by the landlord, who could, however, recover them by including them in the rent. If the tenant was a State, it should be exempt also from dues and taxes charged indirectly in so far as the landlord was liable for them. That interpretation would be particularly satisfactory for a State which was unable to buy buildings and which had no choice but to rent the premises necessary for its mission. His delegation would be willing to support any amendment in that sense but did not consider the Mexican amendment suitable.

68. The CHAIRMAN put to the vote the Mexican amendment (L.130), which was co-sponsored by Austria and Spain.

The amendment was adopted by 44 votes to 2, with 27 abstentions.

69. The CHAIRMAN proposed that the Belgian amendment (L.164) should be referred to the Drafting Committee.

It was so agreed.

Article 21, as amended, was adopted by 72 votes to none, with 1 abstention.

Appointment of sub-committee to consider item 11 of the agenda (Special missions)

70. The CHAIRMAN recalled that, under item 11 of the agenda, the Conference was to study certain draft articles on special missions. He proposed that a sub-committee should be appointed for that purpose composed of the following countries: Ecuador, Iraq, Italy, Japan, Senegal, Union of Soviet Socialist Republics, United Kingdom, United States of America and Yugoslavia.

It was so agreed.

The meeting rose at 1 p.m.

TWENTY-FOURTH MEETING

Tuesday, 21 March 1961, at 3 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 22 (Inviolability of the archives)

1. The CHAIRMAN invited debate on article 22 and drew attention to the amendments submitted by Bulgaria (L.126), France and Italy (L.149) and the United States of America (L.153).

2. Mr. de VAUCELLES (France), introducing the joint French-Italian amendment, said that its object was to establish clearly the absolute inviolability of the mission's archives and documents as such, and not merely as part of the furniture of the mission. As in the case of the official correspondence of the mission (article 25, paragraph 2) their inviolability should be absolute, wherever they happened to be, even outside the premises of the mission — for what were archives but old correspondence ? It was therefore essential that they should be immediately identifiable: otherwise a sending State would have no justification in complaining if documents found outside the mission were read.

3. With regard to the United States amendment, he asked for an explanation of the meaning of the words " reference collections ".

4. Mr. CAMERON (United States of America) said that his delegation had submitted its amendment because it did not think that article 22 could be properly applied without some definition or limitation of the meaning of " archives and documents ". He would accept any drafting changes that would make the amendment more acceptable to the Committee, provided that the final wording made it clear that the government of the receiving State should be able to recognize the material whose inviolability it undertook to respect. He would oppose any definition that included documents outside the mission's premises unless they were identified as proposed by the French-Italian amendment.

5. Mr. BAIG (Pakistan) said that his government was somewhat concerned over article 22. It did not question the complete inviolability of the archives and documents of diplomatic missions when in proper custody or transit — for instance, while they were on the mission premises or in the physical possession or custody of a member of the mission, or when carried in a diplomatic bag. Cases did occur, however, and had occurred in his country, in which documents purporting to belong to a mission had been found in entirely unauthorized hands — deposited with nationals of the receiving State, for example; and such documents sometimes related to actionable matters.

6. Even though article 40, paragraph 1, contained an express exhortation, his government hoped that article 22 would be re-drafted in terms prohibiting such abuse. His delegation was not proposing a specific amendment because of the difficulty of devising language which would not impair the inherent inviolability of diplomatic archives and documents which, as all agreed, must be upheld. He considered it necessary to state, however, that if a diplomatic document was found in unauthorized hands in his country, and there was good reason to believe that it was in those hands with the positive, or even negative, connivance of the mission concerned, the Government of Pakistan would regard its inviolability as void; for the document, whether or not it still bore visible external signs of its origin, would then have ceased to retain its true diplomatic character.

7. Hence, his delegation could not support the Bulgarian amendment which sought to extend inviolability beyond