

# **United Nations Conference on Diplomatic Intercourse and Immunities**

Vienna, Austria  
2 March - 14 April 1961

Document:-  
**A/CONF.20/C.1/SR.6**

## **6th meeting of the Committee of the Whole**

Extract from Volume I of the *Official Records of the United Nations Conference on Diplomatic Intercourse and Immunities (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

Guatemalan amendments, the two delegations might try to work out a joint text. The Guatemalan amendment defining "diplomatic official" (L.35) might be referred to the drafting committee.

34. He would comment on the first of the United States amendments (L.17) when the Committee discussed the article relating to private servants; but he unreservedly approved of the United States definition of "member of the family".

35. Mr. GLASER (Romania) considered that the International Law Commission had very wisely endeavoured to draft definitions sufficiently elastic to be acceptable to the majority of States. While the great number of amendments submitted by delegations no doubt proved their sincere desire to prepare as satisfactory a convention as possible, the Committee should be very cautious in trying to improve on the Commission's draft.

36. The definition proposed by Colombia and Spain (L.5), for instance, was not as clear as it seemed at first sight. The word "official" could in some languages mean "public", and the term "representative" could very easily be applied to an adviser negotiating on behalf of a State. The Spanish delegation had obviously realized the difficulty, since it had offered further explanations. But delegations would eventually vote on the articles before them, not on the explanations or comments relating to the articles.

37. The Swiss amendment (L.23) undoubtedly improved the original text, since the word "accredited" implied that the sending State had invested the head of the mission with his functions and the receiving State had given its agrément. The Romanian delegation would therefore support the amendment, though still convinced that the word "accredited" might also be variously interpreted.

38. With reference to the amendments submitted by Ireland (L.16) and Guatemala (L.8), he said that it would be dangerous to give an exhaustive list of diplomatic staff. In the first place, some diplomats did not fall into any of the categories mentioned; secondly, the convention should not fetter future developments. Diplomatic activities were certain to expand, and the Conference would surely not wish to write a convention that might be obsolete even before entering into force. Thirdly, Guatemala's amendment to sub-paragraph (e) (L.8) touched on substance and conflicted with the general character of the draft as a whole. Hence, Romania would vote against those two amendments.

39. On the other hand, his delegation would support the amendment submitted by Bulgaria and the Byelorussian SSR (L.25), which added a very useful definition. It would also vote for the first of the United States amendments (L.17); but the second of the United States amendments should be studied more thoroughly before being put to the vote, since it was a very delicate matter to draft a satisfactory definition of "member of the family".

The meeting rose at 1 p.m.

## SIXTH MEETING

Wednesday, 8 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 1 (Definitions)

#### Article 2 (Establishment of diplomatic relations and missions)

#### Article 3 (Functions of a diplomatic mission)

#### Article 4 (Appointment of the head of the mission: agrément)

#### Article 5 (Appointment to more than one State) (continued)

1. The CHAIRMAN invited the Committee to continue its debate on articles 1 to 5 of the International Law Commission's draft (A/CONF.20/4), and on the amendments relating to those articles.<sup>1</sup>

2. Mr. TUNKIN (Union of Soviet Socialist Republics), commenting on the amendments to article 1, said that his delegation supported the proposal by Czechoslovakia for the addition of a new sub-paragraph defining a "diplomatic mission" (A/CONF.20/C.1/L.34). It would also support the United States proposal (L.17) that a new sub-paragraph (i) should be added defining the family of a member of the mission. The United States definition improved the text, but students should perhaps be excluded from it, since not all governments granted diplomatic privileges to adult children, even if they were full-time students. Students might more suitably be covered by the last part of the United States amendment: "such other members of the immediate family of a member of the mission residing with him as may be agreed upon between the receiving and sending States".

3. His delegation would support the amendment submitted jointly by the Byelorussian SSR and Bulgaria (L.25), adding a new sub-paragraph defining the premises of a mission. It was consistent with the intention of the International Law Commission as expressed in paragraph 2 of the commentary on article 20 (A/3859).

4. Switzerland's amendments to sub-paragraphs (c) and (f) of article 1 (L.23) would not improve the text. The replacement of the widely recognized and appropriate expression "administrative and technical staff" by the words "chancery staff" would involve considerable revision of the draft as a whole.

<sup>1</sup> For an interim list of those amendments, see footnote to summary record of the fifth meeting. In addition, it had been suggested that a preamble should be prepared (first meeting, para.9), and a proposal relating to the preamble was submitted (A/CONF.20/C.1/L.29).

5. Guatemala's arguments for enumerating the members of the diplomatic staff in sub-paragraph (d) were unconvincing. Adoption of the amendment (L.8) might even prevent some States from accepting the sub-paragraph.

6. The Guatemalan amendment to sub-paragraph (e) (L.8) would mean that only the head of the mission, or a member of the diplomatic staff replacing him, could be considered a "diplomatic agent". The proposal was out of keeping with contemporary practice, which was reflected in the draft articles. In the past, an ambassador had been considered as representative of a sovereign, his collaborators being simply part of his suite. The Commission had taken the view that the situation had changed and that the organ of representation was now the diplomatic mission, of which the ambassador was merely the head. It might, however, be better to avoid the term "diplomatic agent"; and he would therefore support the further proposal by Guatemala (L.35) that a new sub-paragraph should define a diplomatic official as the head of the mission or a member of the diplomatic staff of the mission. It could, in fact, be adopted instead of sub-paragraph (e), which embodied an obsolete concept of international law.

7. Mr. BESADA RAMOS (Cuba) thought that article 1 was generally acceptable, but that the term "diplomatic mission" should not be left undefined, since the word "mission" was used in articles 2 and 3. His delegation would therefore welcome any proposal to add a definition.

8. He expressed particular interest in the amendment submitted by Colombia and Spain (L.5) to sub-paragraph (a). It seemed inconceivable, however, that a diplomatic representative could be other than an official representative, since the use of the term implied recognition of his official status.

9. His delegation supported the proposal by Bulgaria and the Byelorussian Soviet Socialist Republic (L.25) that article 1 should contain a clear definition of the premises of a diplomatic mission.

10. He warmly welcomed the new article proposed by Czechoslovakia (L.7) concerning the right of legation.

11. He criticized article 3 (b) of the draft on the grounds that it might authorize acts incompatible with the domestic jurisdiction of the receiving State. The functions of a diplomatic mission should be exercised in a manner compatible with the internal law of the receiving State; accordingly, the Cuban delegation had submitted an amendment to article 3 (L.82) which would rectify the misconception on which the article was apparently based — viz., that the receiving State did not adequately protect aliens admitted to its territory.

12. Mr. KAHAMBA (Congo: Léopoldville) said that article 1 was governed by the introductory phrase "For the purpose of the present draft articles", meaning the draft articles as a whole. The definitions in article 1 appeared to have been drafted after the rest of the articles to clarify certain terms used in them, and not to define terms in general use in the world of diplomacy.

13. His delegation was not in favour of expanding the definition of "diplomatic staff" in sub-paragraph (d). The amendments proposed by Guatemala (L.8) and

Ireland (L.16) were interesting, but did not appear to command general agreement and would be unduly restrictive. The nomenclature varied from State to State. Some States, but not all, gave diplomatic rank to chancellors of embassy. Many gave diplomatic passports to consuls-general, who were then recognized as diplomats in the receiving State even if the sending State had no embassy there. The problem was more complex in cases where persons not members of the diplomatic staff were entrusted with temporary missions. Officials of ministries usually travelled with diplomatic passports when fulfilling temporary missions with an embassy. Diplomatic status should not depend on the rank of the agent, but should be conferred by the sending State. His delegation had accordingly submitted a proposal (L.73) to amend sub-paragraph (d) in that sense.

14. The expression "chancery staff", which Switzerland proposed (L.23) in lieu of "administrative and technical staff" in sub-paragraphs (c) and (f), seemed rather too traditional to describe the staff of the commercial and information sections which often existed in modern embassies, especially those of the great Powers. The language used by the draft seemed more appropriate.

15. Article 2 was clear and sensible, and acceptable to his delegation. The right of mission, referred to in an amendment submitted by Ecuador and Spain (L.15), or the right of legation, which was the subject of an amendment submitted by Czechoslovakia (L.6), should preferably be mentioned in the preamble.

16. His delegation was also satisfied with articles 3 and 4 of the draft. It did not support the United States amendment (L.18) to article 4. The existing text referred only to the essential principle of agrément. The form of the agrément should be recognized by both States, whereas the United States proposal might mean that the sending State alone could erroneously recognize a sign of approval.

17. The amendment proposed by Italy and the Philippines (L.43) to article 4 was undesirable and might cause embarrassment. It might, for example, be impossible to give the agrément within fifteen days but possible to give it later. No problem arose where normal relations existed, but at a time of internal crisis it might be difficult for the receiving State to give a favourable reply even if it had no desire to refuse the representative of the sending State.

18. The CHAIRMAN suggested that, as the discussion of articles 1 to 5 promised to be lengthy, the remaining speakers should confine their remarks to article 1.

*It was so agreed.*

19. Mr. ANTONOPOULOS (Greece) said that his delegation accepted the International Law Commission's draft of article 1 and rejected in principle all the amendments to it, and not only those of Guatemala (L.8) and Ireland (L.16), which if approved would probably hamper the ratification of the future convention.

20. Mr. USTOR (Hungary) said that the title "Definitions" for article 1 did not correspond to general usage; the drafting committee might prefer a better title such as nomenclature, catalogue, or terminology. There

should be no attempt to make in article 1 a scientific and detailed analysis of general application; its object was simply to decide what each term meant in the context of the draft articles. In order to prevent misinterpretation, no unnecessary details should be given. The Commission had followed that principle, and had shown restraint in drawing up its catalogue. The amendment to sub-paragraph (a) proposed by Colombia and Spain (L.5) infringed the principle and was therefore unacceptable.

21. The amendment proposed by Switzerland to sub-paragraph (a) (L.23) appeared at first sight commendable, though it would have to be considered in relation to article 38, under which a head of mission enjoyed immunities even before presenting his letters of credence. There seemed to be no merit in the proposed change of the words "administrative and technical staff" to "chancery staff".

22. The proposals of Guatemala (L.8) and Ireland (L.16), which were essentially the same, were also unacceptable because unnecessarily detailed.

23. Nor could his delegation support Guatemala's amendment to sub-paragraph (e) (L.8). Although it had no objection to the use of "diplomatic agent" in article 1, it would not oppose the further proposal by Guatemala (L.35) that a new sub-paragraph should be added defining a diplomatic official as the head of the mission or a member of the diplomatic staff of the mission. "Diplomatic official" or simply "diplomat" might be used as a general term including heads of mission and all members of mission with diplomatic rank. His delegation had not submitted a formal amendment to that effect, but commended the suggestion to the Drafting Committee.

24. The delegation of Hungary supported the United States amendment (L.17) to sub-paragraph (h).

25. The proposal by Czechoslovakia (L.34) complemented the other sub-paragraphs of article 1, and his delegation willingly endorsed it and also the proposal by Bulgaria and the Byelorussian SSR (L.25). Difficulties had arisen in interpreting immunities concerning the gardens of diplomatic premises, and the amendment would be useful.

26. Mr. LINARES (Guatemala) considered that the term "diplomatic agent" should mean only the head of a mission or the member of the diplomatic staff replacing him (article 17), and not, as implied in the existing definition, other members. That was the reasoning underlying his delegation's amendment (L.8) to sub-paragraph (e). That amendment would mean, however, that the diplomatic privileges and immunities set out in articles 27, 28, 29, 30, 32, 36, 37 and 39 as drafted would apply only to the head of a mission. In those articles, and also in article 18 (Use of flag and emblem), it might be better to use the expression "diplomatic official", proposed by his delegation in another amendment (L.35).

27. Mr. EL-ERIAN (United Arab Republic) said he would refrain from defining his government's position towards the amendments, for he agreed with the repre-

sentative of Yugoslavia that it would be unwise to take decisions on the definitions too early in the debate (first meeting, para. 34). He also agreed with the representative of Venezuela that the amendments should be referred to a drafting committee (fifth meeting, para. 30).

28. The International Law Commission had produced an excellent draft and a valuable commentary (A/3859), which took into account the comments of the Sixth Committee of the General Assembly and of the governments of Member States. For the moment, he would speak only on two points: the preamble; and the principles to be observed in the drafting of the definitions.

29. So far as the preamble was concerned, he shared the views expressed by the representative of Hungary (first meeting, para. 9). He also supported the Romanian proposal (L.29), which emphasized one of the most important functions of diplomacy.

30. The drafting of the definitions should be governed by two fundamental principles. First, the definitions should cover only important terms used throughout the convention. Terms which occurred in only a few articles should be defined in the articles in question. For example, the definition of "members of a family" should be considered when the Conference dealt with the substance of the convention. Indeed the Commission, in paragraph 11 of its commentary on article 36, had not considered it desirable to lay down criteria for determining who should be included in the family of a member of a mission. Secondly, definitions should not be too analytical.

31. Mr. CAMERON (United States of America) said that he would be prepared to vote for sub-paragraphs (a), (b), (d) and (e) of article 1 as they stood. His delegation believed, however, that it was important to reach a uniform interpretation of article 36 (Persons entitled to privileges and immunities), and had therefore submitted two amendments to article 1 (L.17).

32. In paragraph (h) it was proposed that the words "and who is not an employee of the sending State" should be added at the end. Receiving States did not normally expect that diplomatic privileges would be requested for private servants of members of a mission; any servant for whom such privileges were desired should be an employee of the mission.

33. Secondly, his delegation proposed that a new sub-paragraph (i) should be added defining "member of a family". His delegation would be prepared to leave to local law such questions as the age at which a child ceased to be a minor. The standing of a student who had reached majority but was wholly or partly dependent on his family was expressly stated in the definition. Physically incapacitated children, adult unmarried daughters not gainfully employed, and other dependent relatives such as a sister acting as hostess would be the subject of agreement between the sending and the receiving State. He believed, however, that the proposal would meet many of the constructive suggestions made at the previous meeting.

34. With reference to sub-paragraph (c) (members of the staff of the mission), he suggested that two cate-

gories should be established: diplomatic rank, and subordinate rank (to include "administrative and technical" and "service"). That could be achieved by deleting the words "and of the service staff" from subparagraph (c), with the consequential amendment of subparagraph (f) and the deletion of subparagraph (g). As long as the two categories he proposed for inclusion in "subordinate" rank remained separate, there were bound to be difficulties over classification.

35. Mr. JEZEK (Czechoslovakia) suggested that the new clause proposed by his delegation (L.34) to define "diplomatic mission" should be placed at the beginning of the article. It would, he thought, help greatly to clarify the distinction between service staff (members of the staff of a mission employed by the mission) and private servants (persons employed in the private service of members of a mission).

36. Commenting on amendments submitted by other delegations, he said that he could not support the joint amendment of Colombia and Spain to subparagraph (a) (L.5), those of Guatemala to subparagraphs (d) and (e) (L.8), or the amendment to paragraph (d) proposed by Ireland (L.16). He fully supported the joint Byelorussian and Bulgarian proposal for a new subparagraph (i) (L.25). He also supported in principle the proposals just described by the United States representative (L.17), and the Indian delegation's proposed definition of "family" (L.90), which he thought might be referred to a drafting committee.

37. Mr. TAWO MBU (Nigeria) was strongly in favour of maintaining the Commission's draft of article 1. It was the product of very careful consideration, and any change would be an attempt to define definitions. Nevertheless, there was need for a more precise definition of the term "head of a mission", and he proposed: "A head of a mission is the principal diplomatic representative of a State in another State."

38. With regard to the definition of diplomatic staff, he preferred the proposal of Ireland (L.16) to that of Guatemala (L.8), but considered it unwise to anticipate changes in the diplomatic hierarchy.

39. He also supported the amendments to article 1 proposed by the United States of America (L.17).

40. If article 28 were to be effective, it was essential to define precisely the "premises of a mission". He therefore supported the joint proposal by Bulgaria and the Byelorussian SSR (L.25). The preamble was an important part of any codification, and he supported in principle the paragraph proposed by Romania (L.29).

41. Mr. WESTRUP (Sweden) strongly supported the statement of the representative of Romania (fifth meeting, paras. 35 to 39), which, he hoped, would be an inspiration to the Conference. He also welcomed the proposal of the United States of America for a definition of "member of a family". It was essential that some agreement should be reached on that matter, and that it should either be defined explicitly or left to bilateral agreement, for no government could be expected to assume obligations without knowing exactly what they were.

42. Mr. OJEDA (Mexico) said he was still not satisfied with article 1, sub-paragraph (d). He had carefully studied the proposed amendments, and would support that submitted by the Congo (Leopoldville) (L.73 and Corr.1). The danger was undue rigidity; the Congo proposal provided a flexible formula and would, if approved, solve the problems of many representatives, including himself. The mechanism of notification would be better left to the States themselves. He was in favour of the United States delegation's proposal for defining the families of members of missions, but suggested that dependants not actually residing with the member of the mission should be mentioned.

43. Mr. NGO-DINH-LUYEN (Viet-Nam) agreed that the title "Definitions" did not correspond to the contents of article 1, which was rather a list of terms used in the draft.

44. Some of the amendments were intended to change the definitions contained in the various sub-paragraphs of article 1, others to add new terms to the list. Of the former, some would amend the definition of the head of the mission; that proposed by Switzerland (L.23) would exclude a chargé d'affaires ad interim, who, however, in the absence of the permanent head of mission, would have the same privileges.

45. Attempts had also been made to clarify the term "diplomatic agent". It would be sufficient to state that a diplomatic agent was the permanent head of the mission or a member of its diplomatic staff. One amendment (L.35) would introduce the term "diplomatic official" into article 1, but define it so that it replaced the term "diplomatic agent". He preferred "agent" to "official" because in a great many countries, including his own, an ambassador was often not a career officer and hence not a public official.

46. His delegation agreed in principle with the amendment (L.73 and Corr.1) proposed by the Congo (Leopoldville) to subparagraph (d), but thought that its intention could be adequately expressed by some such phrase as "recognized as having diplomatic rank".

47. All the elements of the Cuban amendment to subparagraph (a) (L.81) were already contained in the Commission's draft.

48. The Czechoslovak proposal (L.34) for defining a "diplomatic mission" was too restrictive, for it mentioned only the functions "foreseen in the present Convention", whereas draft article 3 was patently not an exhaustive enumeration of the functions of a diplomatic mission.

49. Of the amendments which would add new definitions to article 1, that proposed by Bulgaria and the Byelorussian SSR (L.25) usefully defined the "premises of the mission". The question of mission premises had led to difficulties, particularly where premises were so extensive that the receiving State could not ensure complete vigilance over them.

50. With regard to the proposed definitions of the family of a member of a mission, his delegation thought that the Indian amendment (L.90) was too broad in referring to "persons who belong to his family". At the same time, it was too narrow in restricting the

family to members of the household, and thus excluding, for example, a minor child who attended a boarding school outside the receiving State. The United States definition (L.17) was satisfactory because it required the consent of the receiving State for inclusion in the family of persons other than the spouse, minor children, and unmarried children who were students. He would suggest, however, that the family be limited to persons morally or materially dependent upon the member of the mission.

51. Mr. BAIG (Pakistan) said that the United States amendment to sub-paragraph (h) (L.17) would discriminate unjustifiably between a servant paid directly by the sending State and a servant paid by an ambassador out of his emoluments and so paid indirectly by the sending State.

52. The Pakistan delegation accepted the whole of the Commission's article 1.

53. Mr. GOLEMANOV (Bulgaria) said that his delegation generally approved the Commission's draft, which constituted a satisfactory basis for a convention. In particular, article 1 was both necessary and useful, but called for a few improvements. For that reason his delegation, jointly with that of the Byelorussian SSR, had proposed an amendment (L.25), to define "premises of the mission" used in many places in the draft articles.

54. His delegation could not support the joint amendment by Colombia and Spain to sub-paragraph (a) (L.5), because it did not clarify the text and indeed introduced a new undefined term ("official diplomatic representative"). He could not support either the Swiss amendments to sub-paragraphs (c) and (f) (L.23) or the Guatemalan amendments (L.8), which departed unduly from the concepts adopted by the Commission as the basis of the whole draft. If the Guatemalan definitions of "diplomatic staff" and "diplomatic agent" were accepted, the whole structure of the draft would have to be altered.

55. On the other hand, his delegation supported the Czechoslovak amendment (L.34), which by defining a "diplomatic mission" filled a gap in article 1.

56. Mr. AMAN (Switzerland) said that, as the Chairman had mentioned at the fifth meeting (para. 1), his delegation agreed that its terminological amendments (L.24) to the whole of the draft articles should be referred to the drafting committee. Their effect would be to revert to traditional terminology.

57. With regard to article 1, sub-paragraph (a), his delegation proposed (L.23) that the term "head of the mission" be limited to persons so accredited. As drafted by the Commission, the definition would include a chargé d'affaires ad interim or even an acting head of post, who, though in charge of the mission, were not heads of mission. Article 13 gave an exhaustive list of the classes of heads of mission, the third being that of chargé d'affaires accredited to Ministers of Foreign Affairs. The reference was clearly to chargés d'affaires en pied, but his delegation reserved the right to introduce the words "en pied" when article 13 was discussed. Article 17 stated the universally accepted rule that,

where the affairs of the mission were conducted by a chargé d'affaires ad interim, there was no need for accreditation; his name was merely notified to the Ministry of Foreign Affairs of the receiving State. For those reasons a chargé d'affaires ad interim could clearly not be regarded as a head of mission.

58. The amendments proposed by Switzerland to sub-paragraphs (c) and (f) would replace the words "administrative and technical staff" by the traditional term "chancery staff", which had an accepted meaning in diplomatic practice.

59. Mr. PINTO de LEMOS (Portugal) said that his delegation would accept article 1 as it stood, for it adequately reflected the existing international law and was sufficiently flexible to allow for new developments.

60. Mr. BARTOŠ (Yugoslavia) said he could not support the Swiss terminological amendments (L.24). In particular the expression "State of residence" could not be used in connection with diplomatic officers. It was suited to consuls, who necessarily resided in the receiving State; but a diplomat was often accredited to several countries.

61. He stressed that the purpose of article 1 was to list expressions used in the draft articles, not to deal with questions of substance.

62. He supported the Swiss amendment to sub-paragraph (a) (L.23), which introduced an objective element into the definition of the head of the mission. He could not, however, support the Swiss amendments to sub-paragraphs (c) and (f). It was necessary to retain the expression "administrative and technical staff", which the Commission had used advisedly in order to include radio operators and other technicians who were increasingly employed by diplomatic missions and who were not covered by the term "chancery staff".

63. His delegation could not agree to Guatemala's proposal that the expression "diplomatic agent" should be replaced by "diplomatic official" (L.35), for diplomats were often leading political personalities and not public officials. Moreover, in certain countries the term "diplomatic agent" applied only to heads of mission.

64. In connexion with the proposals by India and the United States of America for a definition of the family, he recalled that his government, in its comments on the Commission's 1957 draft (A/3859, annex, pp. 60 and 61), had stated that such a definition would be desirable; he had himself, as a member of the Commission, made a proposal to the Commission which had, however, been unable to agree on a suitable criterion in its discussion of articles 34, 35 and 36. The question had great practical importance and it was most desirable that the Conference should settle it; but he was not certain that the discussion on article 1 was the appropriate place. Perhaps it should be settled in connexion with articles 34, 35 and 36. Similarly, the definition of the premises of the mission could be discussed in connexion with the appropriate articles of section II.

65. Mr. KRISHNA RAO (India) said he saw no need to define the term "family", for articles 34, 35 and 36 implicitly defined the term, since they provided that

only members of the family forming part of the household of a member of the mission enjoyed the specified privileges. In that respect, they conformed to a well-established principle of international law recognized by Hyde and other writers. The Commission had been wise in refraining from laying down an explicit criterion for determining who should be regarded as a member of the family and what should be the age-limit for children. The composition of the household varied from country to country, depending on the family system. In India, there was a legal obligation to support aged parents and unmarried sisters, and the same might be true elsewhere.

66. In any case, the definition of the family proposed in the United States amendment (L.17), apart from being inconsistent with articles 34, 35 and 36 and the commentary thereon, was open to a number of objections. The expression "any minor child or any other unmarried child" involved the definition of minority for purposes of marriage, a definition which differed from country to country. The term "full-time student", which had a definite meaning in the United States university system, would be inapplicable elsewhere. In any event there did not appear to be any reason why an unmarried daughter living with her father should not be regarded as belonging to his household, even if she was not a student. Last but not least, it was undesirable to require an agreement between the receiving and the sending State in the event of the diplomat's wishing to take with him persons not covered by the United States. The adoption of the United States definition, which would require such an agreement, would mean that a diplomat might have to wait for the conclusion of lengthy negotiations between the two countries before he could take with him persons whom he considered part of his family. In the final analysis a diplomat, for financial or other reasons, was most unlikely to take with him as part of his household persons not really dependent upon him. His delegation, he repeated, took the view that no definition of the family was necessary. If, however, the Committee thought it necessary to define the term, he would commend to its attention the definition contained in the Indian amendment (L.90) which was based on articles 34, 35 and 36, and was also in accordance with a recommendation of the Harvard Research Group. His delegation would accept any drafting amendments making that definition acceptable to other delegations.

67. Mr. VALLAT (United Kingdom) agreed generally with the comments of the representative of the United Arab Republic on article 1. The purpose of that article was only to provide the terms to be used in the rest of the draft, not to deal with substantive matters, which were covered by other provisions.

68. The United Kingdom delegation meant, whenever the acceptance of an amendment was doubtful, to adhere to the Commission's text. It had been prepared by experts with great care, after consideration of government comments, and should take priority in the thoughts of the Conference.

69. Mr. de SOUZA LEO (Brazil) said it was very difficult to agree on general definitions such as those

in article 1. Perhaps the wisest course would be to retain the text prepared by the Commission after mature consideration.

70. Two of the amendments before the Committee (L.8 and L.16) attempted to enumerate the classes of diplomatic officers covered by the term "diplomatic staff". Such an enumeration, if adopted, would be more appropriately placed after article 13, which enumerated the classes of heads of mission.

71. With regard to the definition of the family, his delegation felt that the existing practice of considering only dependants as members of the household should be recognized.

The meeting rose at 6.20 p.m.

## SEVENTH MEETING

Thursday, 9 March 1961, at 10.55 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 1 (Definitions) (continued)

1. The CHAIRMAN invited the Committee to continue its debate on article 1 of the International Law Commission's draft (A/CONF.20/4) and on the amendments proposed to that article.<sup>1</sup>

2. Mr. WALDRON (Ireland) said that the debate at the fifth and sixth meetings suggested that his delegation's amendment to article 1, sub-paragraph (d) (L.16) had little chance of acceptance. Accordingly, and also wishing to facilitate the proceedings, his delegation withdrew the amendment.

3. Mr. BESADA RAMOS (Cuba) said that his delegation withdrew its amendment (L.81) to sub-paragraph (a), and would support the similar Czechoslovak amendment (L.34), of which Cuba had become a co-sponsor.

4. Mr. KAHAMBA (Congo: Léopoldville) withdrew his delegation's amendment (L.73) to sub-paragraph (d).

5. Mr. de ERICE y O'SHEA (Spain) said that his delegation had agreed with that of Colombia not to press their joint amendment (L.5) to sub-paragraph (a) to a vote.

6. The CHAIRMAN suggested that the Swiss amendment (L.23) to sub-paragraph (a), which involved merely a drafting change, should be referred to the drafting committee.

*It was so agreed.*

<sup>1</sup> For a list of the amendments, see footnote 1 to the summary record of the fifth meeting.