

United Nations Conference on Diplomatic Intercourse and Immunities

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Eighth plenary meeting

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inviolability applied to articles intended for the diplomat's personal use. If he carried with him other articles, he did so at his own peril. If the receiving State had reason to believe that a diplomatic agent was carrying such articles, it had to take the risk of searching his baggage and exposing his folly; and if articles were actually found which were not covered by article 28, paragraph 2, or by article 34, paragraph 1, he could not claim inviolability. If no such articles were found, however, the receiving State would have to take the consequences of a violation of the personal property of a diplomatic agent. The provision as it stood would permit the receiving State to search the baggage of a diplomatic agent with impunity, owing no explanation to anyone. It was silent on who should authorize the search, which could therefore be made by the most junior customs official if he were satisfied that he had serious grounds for his presumption. It thus contained an element of ambiguity and uncertainty which might lead to embarrassment for the receiving State as well as to annoyance for the diplomatic agent. The Malayan delegation believed that sufficient remedy was offered to the receiving State by article 34, paragraph 1, and that it would not be wise to legislate in the Convention for exceptions. It would therefore urge the deletion of paragraph 2.

39. Mr. BARNES (Liberia) requested a separate vote on the words in paragraph 2 from "unless there are serious grounds for presuming" to the end of the paragraph.

It was decided, by 52 votes to 10, with 6 abstentions, to retain those words.⁴

Article 34 was adopted by 62 votes to none, with 4 abstentions.

Article 35

40. Mr. LINARES (Guatemala) said that his delegation considered that article 35 should be deleted. A provision on the acquisition of nationality might be appropriate in a convention on private international law, but was out of place in a convention on diplomatic privileges and immunities. The adoption of the article would cause serious difficulties for those States, including Guatemala, whose legislation was not in accordance with the provisions of the article or which had no law concerning the acquisition of nationality. The number of amendments submitted to article 35, and the attempt by the working group to draft a more satisfactory text (A/CONF.20/C.1/L.314) was sufficient proof that the best course would be deletion. If the article were not deleted, his delegation would have to make express reservations on behalf of its government, as the provisions were incompatible with the Guatemalan Constitution.

41. Mr. PONCE MIRANDA (Ecuador) said that article 35 as drafted was out of place in a convention concerning diplomatic relations and immunities, for it dealt with a case of conflict of laws. In the matter of the acquisition of nationality there was not truly a conflict

⁴ In consequence of this vote it became unnecessary to vote on the proposal of the delegation of the Federation of Malaya.

of laws, inasmuch as by reason of public policy, the municipal law invariably applied. The article was not acceptable because it raised a conflict of laws and, in addition, offered a solution which in his delegation's opinion was wrong. Article 4 of the Bustamante Code of private national law,⁵ which was in force among many American countries, provided that "constitutional precepts are of an international public order"; that was a most important provision if it was borne in mind that in a number of American States nationality questions were governed by the constitution itself. Furthermore, article 9 of the said Code provided that each contracting State would "apply its own law for the determination of nationality . . . whenever one of the nationalities in controversy is that of the said State". In other words, the Bustamante Code did not accept the existence of a conflict of laws in nationality questions in that case. In short, the immunity to the operation of nationality laws should be recognized by the unilateral act of the particular State. What was more, the immunity provided for in article 35 was extended, mistakenly, to all the members of the mission, including even the service staff, even though as a general rule that staff enjoyed immunity only in respect of acts performed in the discharge of their functions. With a view to avoiding difficulties and delays in the ratification of the convention it would be advisable to omit article 35.

42. Mr. AMAN (Switzerland) supported the proposal that article 35 should be deleted. If the provision should be adopted, his delegation would have to formulate a reservation, for the Federal Constitution of Switzerland provided that a foreign woman acquired Swiss nationality by her marriage to a Swiss citizen.

The meeting rose at 1 p.m.

⁵ Annexed to the Convention on Private International Law, Havana, 20 February 1928, League of Nations *Treaty Series*, vol. 86, pp. 254 *et seq.*

EIGHTH PLENARY MEETING

Wednesday, 12 April 1961, at 4.15 p.m.

President: Mr. VERDROSS (Austria)

Consideration of the report of the Credentials Committee

1. The PRESIDENT drew attention to the report of the Credentials Committee (A/CONF.20/L.14) which had been appointed at the second plenary meeting (para. 11).

2. Mr. USTOR (Hungary) stated that under rule 4 of the rules of procedure the Credentials Committee was obliged to examine representatives' credentials and report to the Conference. The report showed that the Committee had adopted a United States proposal in virtue of which no decision had been taken regarding the credentials submitted on behalf of the Hungarian representative (para. 7). That attitude was absurd, and in

flagrant breach of recognized principles of international law. It was also a clear violation of the rules of procedure and of the terms of reference of the Credentials Committee.

3. If the Committee had doubted the standing of the Hungarian delegation, it could have said so in its report. However, even if it had really been entitled to refrain from a decision, it should at any rate have given reasons for its attitude. But it had done nothing of the sort, and had merely referred to the spirit of General Assembly resolutions. As distinguished speakers had stressed during the discussions, the Conference comprised plenipotentiaries representing sovereign States and should itself be considered sovereign. It was therefore not obliged to conform to the practices of other bodies. That view was corroborated by the decision taken in 1958 by the Conference on the Law of the Sea, which had refused to approve the passage in its Credentials Committee's report concerning Hungary and had decided that the credentials of the Hungarian representatives were perfectly valid.¹

4. The reason for which the report before the Conference did not state why the Committee had not unconditionally approved the credentials of his delegation was surely that it had had no doubt whatsoever of their validity; it was impossible to believe that the authors of the United States proposal, and those members of the Committee who had supported it, had had the slightest doubt on the subject.

5. His delegation had been appointed by the Government of the People's Republic of Hungary, and its credentials derived from the Presidential Council of that Republic. His government was the sole and legitimate Government of Hungary. No other political body or group, either inside or outside Hungary, could lay claim to the rights and duties of the legitimate Government of Hungary. That government enjoyed the wholehearted support and confidence of the Hungarian people, as had been amply demonstrated by the general elections of 1958.

6. Hungary's international position was well known and its diplomatic relations were wider than ever before. The United States of America, which never missed a chance to question the validity of Hungarian representatives' credentials, maintained diplomatic relations with his country. It was therefore greatly to be regretted that American imperialist circles and their spokesmen in the State Department had not renounced their cold-war policy, and that the new United States Government had learnt nothing from the bankruptcy of the previous government's policy. It was equally regrettable that, in a conference whose keynote was courtesy and cordiality, the United States delegation should raise political questions calculated to revive the cold war.

7. His government protested vehemently against that conduct. It respected the principles of the United Nations Charter, and those of peaceful coexistence and of the equality of sovereign States. The Conference could not

endorse a cold-war policy contrary to those principles. He would be obliged to vote against the Credentials Committee's report.

8. U BA THAUNG (Burma) said that his delegation, bearing in mind the atmosphere of harmony and conciliation that had prevailed throughout the Conference, would vote for the report of the Credentials Committee, but with certain reservations. It could not recognize the credentials of the Kuomintang representative as valid. Burma recognized the Government of the People's Republic of China as the only lawful government of China and as the only government having effective control over the whole Chinese mainland.

9. Regarding Korea and Viet-Nam, he said that Burma maintained friendly relations with each of the regimes in authority in the northern and southern parts of the two countries. His government would have liked the governments of both regimes to participate in the Conference and become parties to the Convention. However, since his government was not in favour of the artificial partition of those two countries, it had extended only *de facto* recognition to their governments. His delegation's acceptance of the report of the Credentials Committee should not therefore be construed as recognizing *de jure* that the governments of Korea and of Viet-Nam represented in the Conference exercised authority over the whole of each of the countries concerned.

10. His delegation also reserved its position with regard to the credentials of the delegation of the Republic of the Congo (Leopoldville). Moreover, since Burma had in 1960 established diplomatic relations with Hungary, his delegation considered the credentials of the Hungarian delegation as valid.

11. Mr. KRISHNA RAO (India) said that, as the representative of the United Arab Republic had pointed out in the Credentials Committee, valid credentials to represent China at a conference could be issued only by the competent authorities of the Central People's Government of the People's Republic of China (report, para. 6).

12. With regard to the credentials of the Hungarian representatives, he said that the Committee's report showed the extent to which States could be led by political considerations to apply the same legal principles in absolutely contradictory ways. The arguments advanced in the report (para. 5) for recognizing the validity of the credentials of the representatives of China could be applied equally to the case of the representatives of Hungary; and it was impossible to see why the Committee had acted differently. The Indian delegation, considering that the same principles should be applied to all States, had no difficulty in recognizing the validity of the Hungarian delegation's credentials. There again it agreed wholeheartedly with the remarks made by the representative of the United Arab Republic in the Credentials Committee (para. 8).

13. Mr. YASSEEN (Iraq) said that he would vote for the Credentials Committee's report. His vote would, however, in no way conflict with the position of the Government of the Republic of Iraq towards, first, the People's Republic of China and the People's Republic

¹ *United Nations Conference on the Law of the Sea, Official Records*, vol. II, 16th plenary meeting, United Nations publication, Sales No. 58.V.4, vol. II, p. 51.

of Hungary, and secondly, the Government of the Congo (Leopoldville). That position had been defined in statements made by spokesmen for the Government of Iraq and by its representatives in bodies of the United Nations and in other international organizations.

14. Mr. GUNWARDENE (Ceylon), agreeing with the Indian representative, said that paragraphs 5 and 7 of the report were contradictory; he regretted that the Credentials Committee had not obeyed its terms of reference in regard to the credentials of the Hungarian representative. Independently of any political considerations, it had to be admitted that the Committee's decision was legally indefensible. The Hungarian Government had been invited to take part in the Conference on the same footing as China — in pursuance of General Assembly resolution 1450 (XIV). The United States proposal was all the less comprehensible inasmuch as the United States had diplomatic relations with Hungary.

15. So far as the representation of China was concerned, he deeply regretted that the government of a country containing a quarter of the world's population had not been able to take part in the work of the Conference.

16. Mr. SINACEUR BENLARBI (Morocco) said that he would vote for the Committee's report, though his delegation did not approve of it entirely and wished to make various remarks and reservations. In the first place, it was correct that the Secretary-General of the United Nations had done no more than apply resolution 1450 (XIV) to China; however, Morocco maintained normal diplomatic relations with the People's Republic of China and recognized only credentials issued by the Central Government of Peking. Secondly, Morocco considered that the credentials of the Hungarian representative were in due form, and that the arguments against their validity were groundless. Thirdly, the Moroccan Government considered, in regard to the representation of the Congo (Leopoldville), that only credentials issued by the Government of Mr. Gizenga were valid.

17. Mr. CAMERON (United States of America) considered the action taken by the Credentials Committee entirely correct. The question of participation in the Conference had been settled by the United Nations Assembly, and under resolution 1450 (XIV) an invitation to attend had been sent to all States Members of the United Nations and of the specialized agencies, and to States parties to the Statute of the International Court of Justice. Hence, since the Republic of China was a Member of the United Nations and of the specialized agencies, and its government represented it in all their organs, that government alone was entitled to represent China at the Conference.

18. With regard to the Republic of the Congo (Leopoldville), he said the invitation to attend the Conference had been addressed to the government which was recognized by the United Nations and whose representatives had been seated in the General Assembly by a specific decision of the Assembly. That government was therefore the government competent to represent the Republic of the Congo at the Conference.

19. In the view of the United States delegation, the Credentials Committee's decision concerning the credentials of the delegation of Hungary was likewise wholly justified. It conformed to United Nations policy and, more particularly, to the course adopted by the Credentials Committee of the General Assembly ever since the tragic events of 1956 and followed by the other organizations within the United Nations family.

20. The Conference was essentially a technical conference. It should not duplicate the important work of the General Assembly and the Security Council, nor complicate the labours of the United Nations bodies which were alone competent to deal with political questions.

21. The specialized agencies and the special conferences convened by the United Nations had invariably recognized that political questions, including those concerning the representation of governments within the United Nations system, fell within the competence of the United Nations as such, and they had consistently followed the policy adopted by the General Assembly in such matters. If every organization and conference took separate and conflicting decisions on the same matters, chaos would inevitably result.

22. Accordingly the United States delegation would vote for the Credentials Committee's recommendation in paragraph 12 of its report.

23. Mr. TUNKIN (Union of Soviet Socialist Republics) regretted having to take part in such a discussion on the very day on which a man had been launched into space and a new field had been opened for conquest by human genius. It was evident and incontestable that the representatives appointed by the Government of the People's Republic of China were alone qualified to represent that country at the Conference; the USSR delegation could not recognize credentials submitted by other persons, since they could represent no one but themselves. The repeated efforts of some countries to obtain recognition of the credentials of the Kuomintang representatives were bound to impair the development of friendly relations between States.

24. A similar tendency was apparent to legitimize persons who, in the Congo (Leopoldville), did not represent the lawful government of that country. The manoeuvres of the colonialists to obstruct the independence of the Congo, and the long series of provocations which had ended in the murder of Patrice Lumumba, had not overcome the Congolese people. The murdered Congolese leader had been succeeded by Mr. Gizenga, who was the head of the sole legitimate Government of the Congo. Therefore the credentials issued by that government alone had legal validity, and the Soviet Union did not recognize the credentials of the representatives of the Congo (Leopoldville) seated at the Conference.

25. The Committee's decision concerning the credentials of the Hungarian delegation had no substance. Those credentials had been issued by the legitimate Hungarian Government in accordance with the constitutional procedure of that country. Their legal validity was therefore incontestable. The Committee had taken

a decision contrary to the rules of procedure, to General Assembly resolution 1450 (XIV), and to the purpose of the Conference itself, which was to promote the development of normal relations among countries.

26. Subject to those reservations, the Soviet Union would vote for the Committee's report.

27. Mr. PECHOTA (Czechoslovakia) entered a formal protest against the decision of the Credentials Committee concerning the representation of China. The Committee was wrong in supporting the discredited Kuomintang regime and recognizing credentials issued by a group of impostors. The sole legitimate representatives of China were those of the People's Republic of China, and the only valid credentials to represent China at international conferences were those issued by the Central People's Government of the People's Republic of China.

28. The Credentials Committee had no legal ground for doubting the validity of the credentials issued by the competent authorities of the People's Republic of Hungary, in accordance with the Hungarian Constitution, to the representatives of that country, which had been invited to take part in the Conference as a State Member of the United Nations. The report of the Credentials Committee which called in question the validity of those credentials amounted to interference in Hungary's domestic affairs. Likewise, his delegation could not recognize the credentials of the representative of the Republic of the Congo (Leopoldville) because it only recognized as the legitimate government of that State the government which had its seat in Stanleyville and of which Mr. Gizenga was the head. The Czechoslovak delegation's vote in favour of the report of the Credentials Committee did not mean that Czechoslovakia accepted the paragraphs of the report which dealt with those three questions.

29. Mr. DADZIE (Ghana) said that he would not have thought it desirable to raise the question of the validity of the credentials of certain delegations. His delegation was reluctant to do anything that might exacerbate feelings. Nevertheless, for reasons of principle, it wished to define its position. With regard to the participation of the Government of Leopoldville he said that, in view of the hopeless political confusion surrounding the whole Congo situation, he would not comment at length. But he wished to emphasize that the participation of Ghana in the Conference should not in any way be interpreted as constituting recognition of the illegal government of the Republic of the Congo. There was only one legitimate government in that country, that of which Mr. Antoine Gizenga was Prime Minister.

30. He stated, furthermore, that his delegation's position with regard to the representation of the Hungarian People's Republic was unchanged. The persons duly accredited by the Hungarian People's Republic were the legitimate representatives of that country. His delegation was surprised that the government of the 600 million inhabitants of the People's Republic of China had not been invited to take part in the Conference, and he hoped that its unjust exclusion would be condemned by all those who had a sense of what was right,

and that justice would be done to the People's Republic of China in the near future. In conclusion, he said that he would vote for the report of the Credentials Committee subject to these reservations.

31. Mr. SUBARDJO (Indonesia) associated himself with the representatives who had argued for the validity of the credentials issued by the Government of the Hungarian People's Republic; his attitude was consistent with that adopted by his government at international conferences. Indonesia maintained diplomatic relations with Hungary, and the two peoples followed the common purpose of establishing a durable peace throughout the world. The Hungarian People's Republic had been invited to send representatives to the Conference because it was a Member of the United Nations (General Assembly resolution 1450 (XIV)); it would therefore be illogical not to recognize the credentials of the representatives of that government.

32. With regard to China, his delegation considered that the credentials of the representatives of the Republic of China should not be considered valid, since the Government of the People's Republic of China alone represented the Chinese people.

33. The fact that Indonesia was participating in a conference attended by the delegation of the Government of the Congo (Leopoldville) should not be construed as meaning that Indonesia recognized that government; Indonesia has recognized the government headed by Mr. Gizenga. He would vote for the acceptance of the Credentials Committee's report subject to those reservations.

34. Mr. EL-ERIAN (United Arab Republic) said that his delegation's position was stated in the Credentials Committee's report (paras. 6, 10 and 14). The Government of the People's Republic of China was the only government which effectively represented China. With regard to Hungary, he said the procedure followed was contrary to rule 4 of the rules of procedure. He added that the only lawful representative of the Republic of the Congo (Leopoldville) was the government of Mr. Gizenga, who had the support of the people and parliament of his country and was defending the independence and unity of the Congo.

35. Subject to those remarks, the delegation of the United Arab Republic would vote for the report.

36. Mr. SHARDYKO (Byelorussian Soviet Socialist Republic) protested against the presence of the representative of Chiang Kai-shek, who had no authority to speak on behalf of the Chinese people. Only the Government of the People's Republic of China could issue valid credentials. On that point, the report of the Credentials Committee violated law, justice and common sense.

37. He was surprised at the absence of representatives of the Government of the Congo Republic headed by Mr. Antoine Gizenga, the successor of Patrice Lumumba, the only government with power to act on behalf of the Congolese people. The colonialists had continued to pillage the Congo, but had not broken its struggle for independence personified by Mr. Gizenga, whose lawful standing was recognized by many countries.

38. Base machinations had been employed to raise a spurious Hungarian question. The attitude of the Credentials Committee in no way contributed to co-operation between peoples; instead, it raised again an issue of the cold war.

39. His delegation would vote for the report subject to those reservations.

40. Mr. HU (China) said that his delegation was being attacked by the countries of the Soviet bloc for the second time during the Conference. He hoped that, like the earlier attempts, the latest attempt would fail.

41. The participants in the Conference had been convened in virtue of resolution 1450 (XIV) of the United Nations General Assembly to codify the principles of international law concerning diplomatic relations and to draft a convention. The Conference was therefore bound by the General Assembly resolution, and only the States invited under that resolution were qualified to take part. Since the Conference was not competent to determine its own composition, *a fortiori* the Credentials Committee could not do so. It could do no more than examine the credentials submitted to it in keeping with its terms of reference. In the opinion of the Chinese delegation and of many others, the report should be adopted as it stood without further discussion. He deplored the adverse remarks made about his government, and declined to be drawn into an undesirable debate unrelated to the Conference's business.

42. Mr. GOLEMANOV (Bulgaria) said he would vote for the report, but did not approve its remarks about China, the Congo (Leopoldville), and Hungary. The representatives occupying the place reserved for China represented only themselves and had no authority to commit the Chinese people, for that right was vested in the Government of the People's Republic of China.

43. With regard to the so-called representatives of the Congo (Leopoldville), he said his delegation did not recognize their credentials as valid, for they did not emanate from the legitimate government of Mr. Antoine Gizenga. To recognize their credentials as valid would be to help the colonialists in their bloodthirsty struggle against the Congolese people. Their presence affronted the dignity of the Conference. The paragraph dealing with Hungary was an injustice and a calumny against that country. Besides, the Credentials Committee's decision was devoid of foundation and infringed both international law and common sense.

44. The Government of the Hungarian People's Republic had received an invitation in good and due form and was perfectly entitled to sit in the Conference.

45. Mr. NGO-DINH-LUYEN (Viet-Nam) said that the task of the Conference was to draft a convention on diplomatic law, and it would be strange if it were to discuss resolution 1450 (XIV) by which it had been convened and its composition determined.

46. Some delegations had seen fit to express reservations on the credentials issued by certain governments, notably that of the Republic of China. His country was bound to China by a common culture and civilization and regar-

ded itself as no less qualified than any other to understand China's part in the quest for peace, which after all was the object of the Conference.

47. Beyond the actual documents, the basis of the various delegations' credentials was their fitness to represent faithfully what Article 9 of the Statute of the International Court of Justice called "the main forms of civilization of the world". The civilization of half Asia was, in spite of appearances, a Confucian civilization. The ideal of the peoples of that part of the world was universal harmony. A regime imposed by force was seeking to root that age-old ideal out of the soul of the peoples of the Far East.

It was claimed that a regime which had been notoriously unco-operative in the matter of peaceful co-existence could legitimately represent those peoples in a conference whose object was the codification of peace. It was an illusion to hope to appease a regime which had refused to say that war was not desirable. For those reasons his delegation unreservedly approved the conclusions of the Credentials Committee, and affirmed the validity of the credentials of the delegation of the Republic of China.

48. Mr. BIRECKI (Poland) said that a majority of the Committee had seen fit to deal with the question of the representation of China in a manner which constituted an attempt to legalize illegality, in contravention of the principles of international laws it had recognized a private group, representing no one except the discredited Kuomintang, as the official representatives of the Chinese people. The Government of the Chinese People's Republic, with which several countries represented in the Conference maintained normal diplomatic relations, was the sole lawful Government of China, the only one entitled to represent the great Chinese nation.

49. The refusal to take a decision on the question of the representation of Hungary was all too reminiscent of the cold war. The Government of the People's Republic of Hungary was the only lawful government of the country; it maintained diplomatic relations with nearly all the States represented in the Conference. As the Hungarian representative had pointed out, the Credentials Committee's decision contravened the rules of procedure.

50. So far as the representation of the Congo was concerned, he said his delegation could not recognize as representatives of that country persons not accredited by the only legitimate government, that of Mr. Gizenga, with which the Polish Government maintained diplomatic relations.

51. His delegation's vote on the Credentials Committee's report as a whole should be considered in the light of his statement.

52. Mr. DIMITRIU (Romania) stated that his government's well-known attitude on the questions of the representation of China, Congo (Leopoldville) and the Hungarian People's Republic remained unchanged. The Government of the People's Republic of China was the only government qualified to represent China; similarly, Mr. Antoine Gizenga's government was the only

one qualified to represent the Congo (Leopoldville). The Government of the Hungarian People's Republic was the only effective and lawful government of Hungary, and consequently its credentials entitled the Hungarian delegation to sit, vote and sign in common with all other delegations holding valid credentials.

53. The supporters of the cold war, who were responsible for the Committee's decisions concerning China, the Congo (Leopoldville) and Hungary had evidently not realized that it would have been better for their own prestige and particularly for that of the Conference, to refrain from such demonstrations. Interference in the internal affairs of the Hungarian People's Republic and discrimination against a different political and social regime contravened international law and the provisions of the convention which the Conference was drafting. For those reasons the Romanian delegation associated itself with those which had protested against the inclusion in the Credentials Committee's report of the passages in question.

54. Mr. ÇARÇANI (Albania) said that the report of the Credentials Committee was a discriminatory report reflecting the cold war. In the view of his delegation, the so-called representatives of China represented no one, and the credentials issued to them were invalid. They could therefore neither speak nor act on behalf of China, since only representatives designated by the Central People's Government of the People's Republic of China were qualified to do so. As for the so-called delegation of the Republic of the Congo (Leopoldville), he said that the Conference should not and could not recognize its credentials as valid, since they did not emanate from the legitimate government of the country, the government of which Mr. Gizenga was head.

55. With regard to the delegation of Hungary, he said that that delegation was fully competent to represent Hungary, which had been invited to participate in the Conference as a State Member of the United Nations; the Government of Hungary had the support of the entire Hungarian people, who were fighting for international peace and co-operation. The attitude adopted by some States towards the Hungarian People's Republic was not merely unjustified; it amounted to interference in the internal affairs of a free and sovereign State and a serious breach of the principles which should govern relations between States.

56. His delegation would vote for the report of the Credentials Committee, but its vote should not be interpreted as signifying approval of the report as a whole.

57. Mr. BARNES (Liberia) said that, although he would vote for the adoption of the Credentials Committee's report, his vote should not be interpreted as meaning that his delegation accepted the paragraphs of the report dealing with the credentials of the Hungarian delegation, which had been issued in the manner prescribed in rule 3 of the rules of procedure and the validity of which could consequently not be challenged. On the other hand, his delegation unreservedly approved paragraph 11 of the Committee's report, because, in its opinion, the credentials of the representatives of the Congo (Leopold-

ville) emanated from the legitimate Head of State, President Kasavubu.

58. Mr. ZABIGAILO (Ukrainian Soviet Socialist Republic) said he would vote for the adoption of the Credentials Committee's report as a whole, although he disagreed with the Committee on a number of points in the report. His delegation considered in particular that the recognition of the credentials of the puppet regime of Chiang Kai-shek impaired the authority and prestige of the Conference and conflicted with the spirit of the Charter of the United Nations and with the established practice of States with regard to credentials. The right to act on behalf of a State was vested in the government which exercised effective authority in the territory of that State with its people's approval. Consequently, only the representatives of the Central People's Government of the People's Republic of China could represent China at the Conference. Furthermore, his delegation protested against the presence at the Conference of the representatives of the regime which claimed to constitute the central authority in the Congo (Leopoldville) and which, in defiance of the Security Council's decision to preserve the integrity and independence of the Congo, had dismembered that country, plunged it into anarchy, and restored the rule of colonialism.

59. Likewise, his delegation protested most strongly against paragraph 7 of the report of the Credentials Committee, which questioned the validity of the credentials of the delegation of the Hungarian People's Republic; there was no reason why the Committee should not have taken a decision regarding those credentials. That attempt to interfere in the internal affairs of a sovereign State could only be explained by a desire to poison the atmosphere of constructive co-operation which had prevailed throughout the Conference. The partisan attitude of certain countries to the Hungarian People's Republic was entirely due to the difference between the economic and social system of that country and theirs.

60. Mr. LILIC (Yugoslavia) said he would vote for the adoption of the Credentials Committee's report, with the following reservations. In the opinion of the Yugoslav delegation: (i) valid credentials to represent China at the Conference could be issued only by the competent authorities of the Central People's Government of the People's Republic of China; (ii) the only valid credentials to represent the Congo (Leopoldville) were those issued by the lawful government of that State, the head of which was Mr. Gizenga; (iii) the validity of the credentials of the Hungarian delegation could not be impugned.

61. Mr. KAHAMBA (Congo: Leopoldville) said he had little to say about the Credentials Committee's report, paragraphs 11 and 12 of which he approved unreservedly. However, in view of the statements made by the representatives of countries of the Soviet bloc, he felt bound to state: (i) the Conference on Diplomatic Intercourse and Immunities had been convened under the auspices of the United Nations; (ii) the General Assembly of the United Nations had invited all States Members of the United Nations to take part in the Conference; (iii) the

Republic of the ex-Belgian Congo had been a Member of the United Nations since 1960; (iv) the United Nations General Assembly had recognized President Kasavubu as head of the State, and had also recognized the sovereignty of the State; (v) only the United Nations could have accepted or refused the participation of delegations the composition of which had been communicated to it before the opening of the Conference; (vi) the question of the representation of the Republic of the Congo (Leopoldville) should be raised in the United Nations General Assembly and not at the Conference.

62. He was surprised at the contradictory attitude adopted by the representatives of the countries of the Soviet bloc towards the validity of the credentials of some delegations. They recognized the validity of the credentials of the representative of Hungary because that country was a Member of the United Nations; and at the same time they challenged the credentials of the delegation of the Republic of the Congo (Leopoldville).

63. Mr. IBRAHIM (Ethiopia) said that some of the governments represented at the Conference did not recognize others also represented at the Conference. Surely, however, the important point was that they were all Members of the United Nations, and as such had been invited to take part in the Conference. The Ethiopian delegation would vote for the adoption of the Credentials Committee's report, but it did not approve of the conclusions that committee had reached concerning the credentials of some delegations. In other words, all the credentials of the delegations participating in the Conference were, in the opinion of the Ethiopian delegation, valid for the purposes of the Conference.

64. Mr. LINTON (Israel) said he would vote for the adoption of the Credentials Committee's report, but considered that the Committee should have recognized the validity of the Hungarian delegation's credentials.

65. The PRESIDENT put the Credentials Committee's report (A/CONF.20/L.14) to the vote.

The report was adopted by 69 votes to 1, with 1 abstention.

The meeting rose at 6 p.m.

NINTH PLENARY MEETING

Thursday, 13 April 1961, at 10 a.m.

President: Mr. VERDROSS (Austria)

Consideration of the question of diplomatic intercourse and immunities in accordance with resolution 1450 (XIV) adopted by the General Assembly on 7 December 1959 (item 10 of the agenda) (resumed from the seventh meeting)

1. The PRESIDENT invited the Conference to resume its debate on the draft convention (A/CONF.20/L.2/Add.1).

ARTICLE 35 (resumed from the seventh meeting)

2. Mr. JEZEK (Czechoslovakia) said that article 35 was an important provision and should be retained. Exemption of diplomatic agents from the automatic application of the nationality law of the receiving State was a generally recognized privilege, and the convention would be incomplete if it did not contain an article stating that privilege.

3. It was essential, as a guarantee of the independence of diplomatic agents vis-à-vis the authorities of the receiving State, that the nationality of that State should not be imposed upon their children. The arguments for the deletion of article 35 were not convincing, and a decision to delete it would be open to dangerous interpretations.

4. Mr. OJEDA (Mexico) said that he would vote for the deletion of article 35. His delegation accepted the principle that diplomatic immunity exempted a foreign diplomatic agent and his family from application of the nationality law of the receiving State in cases where the effect of that State's law was to attribute its nationality to a person by reason of birth in its territory or of marriage. However, he could not accept the extension of the privilege to all members of the mission and their families; it should be limited to persons enjoying full immunity from jurisdiction.

5. If the Conference should decide to delete or not to adopt article 35, he would interpret that decision to mean that, in the case of foreign diplomatic agents, nationality questions would continue to be governed by the rules of customary international law, as was stated in the fifth paragraph of the preamble.

6. If article 35 were retained, his delegation would be compelled to sign the convention with an express reservation in respect of that article.

7. Mr. CAMERON (United States of America) supported the proposal that article 35 should be deleted. It had become quite clear during the discussions in the Committee of the Whole that no wording would be generally acceptable. The provision as it stood conflicted with the municipal law of many countries and, in the case of the United States of America and some other States, with the Constitution or fundamental laws. If, therefore, article 35 were adopted as drafted, many delegations would have to make express reservations. His own delegation would have to make a reservation limiting the application of the article to persons not born subject to the jurisdiction of the United States of America.

8. The deletion of article 35 would not affect the existing practice of States, since according to the fifth paragraph of the preamble questions not regulated by the provisions of the convention would continue to be governed by the rules of customary international law.

9. Mr. REGALA (Philippines) also thought that article 35 should be deleted. Because of the fundamental differences between the legal and constitutional provisions governing nationality in the various States, it was neither appropriate nor practical to adopt such a provision.