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10th meeting of the Committee of the Whole

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Article 12 was in no way a repetition of article 7 of the Vienna Convention on the Law of Treaties—it covered aspects not previously dealt with. She was opposed to the United States amendment to paragraph 1 (A/CONF.67/C.1/L.29), which ran counter to the decision taken earlier on article 7 regarding the negotiating powers of observer missions.

81. The CHAIRMAN put to the vote the Spanish proposal to delete article 12 (A/CONF.67/C.1/L.6).

The amendment was rejected by 36 votes to 16, with 11 abstentions.

82. The CHAIRMAN put to the vote the United States amendment to paragraph 1 of article 12 (A/CONF.67/C.1/L.29).

The amendment was rejected by 35 votes to 5, with 19 abstentions.

83. The CHAIRMAN put to the vote the text of article 12 as prepared by the ILC.

Article 12 was adopted by 48 votes to none, with 14 abstentions.

The meeting rose at 5.55 p.m.

10th meeting

Wednesday, 12 February 1975, at 10.50 a.m.

Chairman: Mr. NETTEL (Austria).

Consideration of the question of the representation of States in their relations with international organizations in accordance with resolutions 2966 (XXVII), 3072 (XXVIII) and 3247 (XXIX) adopted by the General Assembly on 14 December 1972, 30 November 1973 and 29 November 1974 (*continued*)

Article 9 (Appointment of the members of the mission) (*continued*) (A/CONF.67/4, A/CONF.67/C.1/L.18, L.27, L.28, L.35)

1. The CHAIRMAN drew attention to a procedural motion concerning article 9 submitted by the Soviet Union in document A/CONF.67/C.1/L.27, to the effect that the amendment to draft article 9 submitted by Canada and the United Kingdom (A/CONF.67/C.1/L.18) should be examined when draft article 75 was being discussed. He accordingly invited the Committee to consider that motion before taking up article 9 and the amendments relating thereto.

2. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that, although his delegation's proposal was, as a matter of form, a procedural motion, it affected the actual substance of article 9. The International Law Commission's text (see A/CONF.67/4) appeared satisfactory to him, since it took into account the special nature of the missions of States to the international organizations. The International Law Commission (ILC) had made it amply clear, in fact, in its Commentary to article 9, that the members of the mission were not accredited to the host State in whose territory the seat of the organization was situated and that they did not enter into direct relationship with the host State, contrary to what happened in the case of bilateral diplomacy. Unlike diplomatic agents, who were accredited to the receiving State in order to perform certain functions of representation and negotiation between the receiving State and their own, the members of a permanent mission to an international organization represented the sending State with the organization and not with the host State. A practice like that of the presentation of credentials could not be extended to the members of permanent missions, and the appointment of the head and members of the mission should not be subject to the *agreement* of the host State, which was in fact the purpose of the Canadian and United Kingdom amendment (A/CONF.67/C.1/L.18) and of the United States amendment (A/CONF.67/C.1/L.28).

3. As the ILC had rightly observed in paragraph 2 of its Commentary to article 9, the article should not make the freedom of choice by the sending State of the members of its mission to an international organization subject to the *agrément* of the organization or the host State as regards the appointment of the head of mission, unlike the relevant articles of the Vienna Convention on Diplomatic Relations [1] and the Convention on Special Missions.[2] That position was confirmed by the statement made by the United Nations Legal Counsel to the Sixth Committee of the General Assembly on 6 December 1967.[3] The Canadian and United Kingdom amendment and the United States amendment would completely alter the meaning of article 9, since they would give the host State the possibility of objecting to the appointment of a member of the mission by declaring him *persona non grata* even before he arrived in the territory of the host State. If those amendments were adopted, the appointment of members of a mission would be entirely subject to the *agrément* of the host State, although those members were not accredited to the host State but to the organization.

4. In his view, the host State did not have the right to limit the immunities and privileges of the representatives of States to an international organization and bring about a restriction of their status. He did not dispute the need to take measures to protect the legitimate rights and interests of the host State, and he acknowledged that in some cases "of grave and manifest violation of the criminal law of the host State", the latter might request the recall of the person in question. But those cases were provided for in article 75. It was therefore to that article that the amendments in documents A/CONF.67/C.1/L.18 and L.28 related. Consequently

[1] United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.
[2] General Assembly resolution 2530 (XXIX), annex.
[3] See *Official Records of the General Assembly, Twenty-second session, Sixth Committee*, 1016th meeting.

he was proposing that those amendments should be examined in connexion with article 75, which dealt with the stay of the members of the permanent mission in the territory of the host State, and not in connexion with article 9, which dealt with the appointment of the members of the permanent mission. That having been said, he had no objection on that account, to the Committee's considering article 9 forthwith in the form prepared by the ILC, but he urged that the amendments submitted in respect of that article should be examined in the proper place, namely in connexion with article 75.

5. The CHAIRMAN pointed out that the amendments in documents A/CONF.67/C.1/L.18 and L.28 had been submitted as amendments to article 9. The Committee could not, therefore, consider that article without at the same time considering the amendments relating to it. Consequently, if the procedural motion submitted by the Soviet Union were adopted, he would take it that the Committee decided to defer consideration of article 9 and to examine that article together with article 75 and the relevant amendments.

6. Sir Vincent EVANS (United Kingdom), said that without embarking upon a long procedural discussion, he wished to explain why he considered it important that the Committee should examine article 9 and the amendments relating thereto at the present stage of its work and why the amendment submitted by his delegation (A/CONF.67/C.1/L.18) related to article 9 and not to article 75, as the Soviet Union representative would have it.

7. Article 9, in its present form, provided that "the sending State may freely appoint the members of the mission". The amendment submitted by Canada and the United Kingdom limited that right of the sending State in terms of the rights of the host State. Now, article 75 was not concerned with the right of the sending State freely to appoint members of the mission, nor with the rights of the host State; it regulated the obligations of the sending State in particular circumstances, as the ILC had clearly indicated in its Commentary to article 75, paragraph 2; but the circumstances in question were particular circumstances arising after the members of the mission had arrived in the host State to take up this appointment. It was thus logical to consider the amendment in document A/CONF.67/C.1/L.18 in the context of article 9, without waiting until article 75 was reached.

8. On the other hand, the articles following article 9 determined the details of the régime to be applied to missions to international organizations, a régime under which the sending State enjoyed very extensive privileges, which might impinge on the host State's internal security and public order. Despite the distinction made between the sending State and the host State, it should not be forgotten that every sending State might one day become a host State, and, moreover, that it was essential to take the host State's interests into account if a balanced convention was to be prepared which could be universally accepted and applied.

9. It was obvious that no host State could accept the régime set forth in the articles following article 9 if it did not know exactly how and to what extent its interests would be protected. That was why article 9 and the related amendments should be considered at the present stage of the Committee's work and independently of article 75. If, however, the Committee would rather consider article 75 at the same time as article 9, he would not object, provided that the Committee embarked on it as soon as possible, for example at the beginning of the following week, without waiting until article 75 was reached in its normal sequences.

10. Mr. RICHARDS (Liberia) said that he, too, thought that the Committee should not wait until it reached article 75 before considering article 9, nor should it consider the amendments to article 9 in the context of article 75.

11. Mr. SMITH (United States of America) endorsed the explanations given by the United Kingdom representative, which were valid also for his own amendment. He considered it essential to settle the basic issue raised in article 9 before continuing with the consideration of the draft articles, because the position of his delegation on the following articles would depend to a large extent on the decision taken on article 9. He considered it equally essential, therefore, to consider the extremely important points dealt with in the amendments in documents A/CONF.67/C.1/L.18 and L.28 in the context of article 9, and not in that of article 75, since the purpose of the latter was different. However, if the Committee decided to consider the two articles together, he would have no objection, provided that consideration of article 9 was not postponed until the Committee came to article 75.

12. Mr. APRIL (Canada) said that, while it was true that the amendments in documents A/CONF.67/C.1/L.18 and L.28 bore on a subject fairly similar to that dealt with in article 75, paragraph 2, it was equally true that those amendments aimed at the adoption of a provision the scope of which would be basically different from that of the provision contained in article 75. He saw no reason therefore why two fundamentally different ideas should be absolutely linked together and why they should necessarily be studied in relation to each other. In any case, he thought that a provision like the one proposed in the amendments in documents A/CONF.67/C.1/L.18 and L.28 would be out of place in Part IV of the draft articles, which was concerned with general provisions, but should logically be placed immediately following the provision that gave to the sending State the right freely to appoint the members of the mission, not only because those provisions counterbalanced each other to some extent, but also because that was where other codification conferences had placed provisions of that nature. The Canadian delegation was thus basing itself on valid precedents in considering that it was not logical to study the amendments in documents A/CONF.67/C.1/L.18 and L.28 in the context of article 75. It was of the opinion that the Soviet Union motion designed to secure the postponement of the examination of those amendments until article 75 was examined should be rejected, and that the Committee should proceed without further delay to consider article 9 and the amendments relating thereto.

13. The CHAIRMAN suggested, in a spirit of compromise, that, in order to take account both of the Soviet Union proposal and of the United Kingdom proposal, the Committee should decide to consider article 9 at the same time as article 75, on Monday, 17 February.

14. Mr. GOBBI (Argentina) said he was opposed to such a procedure, which would cause some confusion.

15. Mr. MOLINA LANDAETA (Venezuela) said he shared the opinion of the Argentine representative. He asked that the meeting be suspended to allow of consultations.

The meeting was suspended at 11.35 a.m. and resumed at 11.55 a.m.

16. Mr. GOBBI (Argentina) announced that, after consulting the other delegations of the Latin American group, the Argentine delegation withdrew its objection to the Chairman's proposal.

17. The CHAIRMAN said that, in the absence of objection, he would consider that the Committee of the Whole decided to examine draft articles 9 and 75 together on Monday, 17 February, at the morning meeting, the deadline for handing in proposals to amend those two provisions being Friday, 14 February 1975, at 10.00 a.m.

It was so decided.

Article 13 (Composition of the mission) (A/CONF. 67/4, A/CONF.67/C.1/L.30)

18. Mr. SMITH (United States of America) said that, in the light of the comments made by some delegations since the amendment to article 13 submitted by the United States delegation (A/CONF.67/C.1/L.30) had been circulated, his delegation wished to revise that amendment, working from the text of the article prepared by the ILC. Taking over an expression contained in an amendment to article 1 proposed by the French delegation (A/CONF.67/C.1/L.10), he proposed replacing the words "diplomatic staff" in article 13 by the words "members of the staff possessing diplomatic rank". He also proposed that the words "as may be appropriate to the functions of the mission" should be added to the end of draft article 13. That addition would fill a gap in draft article 13, which did not make the composition of the mission depend on the functions it exercised.

19. Mr. CALLE Y CALLE (Peru) pointed out that the original amendment of the United States of America would have substituted two paragraphs for the single paragraph in the International Law Commission's draft article 13, whereas the revised amendment consisted of a single paragraph. The result was that a distinction between the permanent missions and the permanent observer missions had been eliminated, which was not justified in the circumstances.

20. Referring to the expression "members of the staff possessing diplomatic rank", which would replace the expression "members of the diplomatic staff", he pointed out that for career diplomats, rank was determined by the grade which they occupied, while "diplomatic status" was a general expression, such status being independent of rank. In the expression "diplomatic staff", it was the status of diplomats that was referred to. He therefore preferred the International Law Commission's wording.

21. Mr. KUZNETSOV (Union of Soviet Socialist Republics) observed that in article 1, paragraph 1 (22) the definition of the term "members of the diplomatic staff" referred to diplomatic status. Although that article had not yet been considered by the Committee, he was entirely in agreement with the views of the representative of Peru.

22. The CHAIRMAN said that when article 1 had been adopted, the Drafting Committee would see that the necessary drafting changes were made in the substantive articles. There was therefore no need for the Committee to take a decision at the present stage on discrepancies between the terminology used in the United States amendment and that of article 1. He drew the Committee's attention, however, to the addition proposed by the United States at the end of the article.

23. Mrs. MIRANDA (Cuba) was of the opinion that that addition would have the effect of restricting the composition of the mission and that the proposed amendment was unduly limiting. Her delegation would vote in favour of the International Law Commission's article 13.

24. Mr. MOLINA LANDAETA (Venezuela) said he had no objection to the substance of the amendment under consideration, but considered the proposed addition superfluous in view of the particulars given in draft article 14 concerning the size of the mission.

25. Mr. EUSTATHIADES (Greece) said that he, too, had no objection to the substance of the United States proposed amendment, but he would like to ask the Expert Consultant to specify precisely the difference between "members of the diplomatic staff" and "members of the staff possessing diplomatic rank". In any case, if the amendment were to be adopted, it would be necessary to ascertain if, as a result, the expression "members of the diplomatic staff" had to be replaced by the expression "members of the staff possessing diplomatic rank" in all the draft provisions in which the former expression occurred, such as articles 39, 40 and 45.

26. Mr. EL-ERIAN (Expert Consultant) pointed out that when the ILC had thought about that category of staff it had not been particularly satisfied with the expression "diplomatic staff", which was more appropriate in the context of bilateral relations. In many cases, the composition of permanent missions was, however, similar to that of diplomatic missions. As the Legal Counsel of the United Nations had pointed out in connexion with another draft article, permanent missions were in practice, and to some extent, assimilated to diplomatic missions. The ILC had contemplated using the expression "members of the staff possessing diplomatic rank" but had found that, in a number of organizations of a technical character, members of permanent missions were often experts and specialists who were assimilated to members of the diplomatic staff. Consequently, that expression might give rise to difficulties. For some time, he himself had been Legal

Adviser to the permanent mission of Egypt to the United Nations without, however, being attached to the Ministry of Foreign Affairs of that country: he had nevertheless enjoyed the same status as the staff of diplomatic rank. The ILC had deemed it preferable to define the expression "members of the diplomatic staff" in article 1, paragraph 1 (22), as meaning the "members of the staff of the mission or the delegation who enjoy diplomatic status for the purpose of the mission or the delegation". That definition covered both the members of the staff possessing diplomatic rank and assimilated persons.

27. Mr. KABUAYE (United Republic of Tanzania) said he would be prepared to support the amendment of the United States delegation if that delegation withdrew its proposed addition at the end of the article, which was rendered unnecessary by article 14.

28. Mr. SURENA (United States of America) observed that two questions arose which, though separate, were interrelated. The ILC had modelled its article 13 on article 9, paragraph 1 of the Convention on Special Missions, according to which "A special mission shall consist of one or more representatives of the sending State from among whom the sending State may appoint a head. It may also include diplomatic staff, administrative and technical staff and service staff." Article 13 was similarly drafted: the formula "the mission may include" gave that provision an optional character which enabled the functions of the mission to be taken into account. His delegation had endeavoured to take account of the position adopted by the ILC in article 14, and at the same time to improve the wording of article 13. That was why, in its revised amendment, it had, on the one hand, used a similar optional formula, and on the other, had referred to the functions of the mission.

29. Mr. DE YTURRIAGA (Spain) said that, in his opinion, the addition proposed by the United States delegation at the end of the article introduced an element of ambiguity. It was clear that it was the sending State which would decide whether the composition of the mission was appropriate or not. The host State could not object to the mission including administrative or technical staff. In the event of disagreement, article 14 would come into play. He therefore preferred the article 13 prepared by the ILC.

30. Mr. RICHARDS (Liberia) said that if the United States delegation maintained its proposed addition, he would ask for a separate vote on that phrase in question.

31. Mr. OSMAN (Egypt) said that, in view of the distinctions made by the Expert Consultant between diplomatic staff and staff possessing diplomatic rank, and for the same reasons as those explained by the Spanish delegation, his delegation preferred the International Law Commission's article 13, which was clear, concise and unambiguous.

32. Mr. SMITH (United States of America), noting that his delegation's revised amendment seemed to introduce more confusion than clarity, said that he withdrew the amendment.

33. The CHAIRMAN said that if there were no objections, he would take it that the Committee unanimously decided to refer article 13 to the Drafting Committee.

It was so decided.

Article 14 (Size of mission) (A/CONF.67/4, A/CONF.67/C.1/L.33)

34. Mr. DE YTURRIAGA (Spain), pointing out that article 14 raised problems of definition, suggested that the Committee should resume its consideration of article 1, if only for the definition of the expressions "permanent mission", "permanent observer mission" and "members of the diplomatic staff". For if, in considering article 1, the Committee decided to change the terminology used therein, the articles which had been adopted by the Committee would again have to be amended.

35. The CHAIRMAN said that, in the first place, no deadline had been fixed for submitting amendments to article 1 and, secondly, the Committee had decided not to consider that article until it had dealt with the substantive provisions of the draft. He therefore invited the Committee to consider article 14, while reminding delegations that they could formulate comments on article 1.

36. Mr. SMITH (United States of America) speaking on behalf of Canada and the United States, introduced the amendment in document A/CONF.67/C.1/L.33. The International Law Commission's draft contained no indication of how what was "reasonable and normal" should be determined, or who was to be responsible for so doing. In filling that gap, the proposed amendment eliminated all cause for dispute. The question of the size of the mission concerned the host State, the sending State and the Organization. In that connexion, he quoted General Assembly resolution 169 B (II) of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, which stated in article V, paragraph 2 that privileges and immunities should be granted to "Such resident members of their staffs as may be agreed upon between the Secretary-General, the Government of the United States and the Government of the Member concerned". He also recalled that the General Assembly, in that resolution had recognized that lists of the staff of delegations would be drawn up by agreement between the Secretary-General, the Government of the host State and the Government of the Member State concerned. In his delegation's view, that Agreement created a precedent.

37. Mr. WADE (Canada) recalled that in its comments on the draft articles, his Government had stated that, in its view, the protection given by the draft articles to the host State was inadequate. As the host State had to assume certain obligations in respect of missions, any undue increase in the size of a mission increased those obligations.

38. In determining the size of a mission, three criteria must be taken into account: the functions of the organization, the needs of the mission and the circumstances and conditions prevailing in the host State. But the International Law Commission's draft did not indi-

cate how those criteria were to be applied. On the other hand, by contemplating tripartite consultations, the amendment in document A/CONF.67/C.1/L.33 enabled the expression "what is reasonable and normal" to be defined. True, the draft articles provided for conciliation procedures as was pointed out in paragraph 4 of the Commission's Commentary to article 14 (see A/CONF.67/C.1/4). The amendment would nevertheless permit a speeding up of the conciliation process, by providing for a procedure for that purpose in the substantive article itself.

39. He emphasized that the amendment did not depart from the procedure followed by the international organizations and by the United Nations, in particular, and that it was important to safeguard the interests of the host State. In that connexion, he explained the particular situation of his own country, Canada, which hosted the International Civil Aviation Organization (ICAO) and said that the offices of the secretariat and the missions to that organization were housed in a single building, so that any increase in the size of the mission would create serious problems.

40. Mr. AL-ADHAMI (Iraq) said that the expressions used in article 14 were vague and that a subjective criterion had been introduced into the draft. For example, how were the terms "reasonable", "normal" and "circumstances and conditions" to be interpreted? There were, moreover, some risks inherent in the amendment in document A/CONF.67/C.1/L.33 as, in practice, the host State might determine the size of the mission of a sending State whereas in fact the latter was in a better position to know the needs of its own mission.

41. Mr. JOEWONO (Indonesia) shared the views of other delegations on the lack of precision in the Commission's article, but supported the amendment of Canada and the United States of America (A/CONF.67/C.1/L.33) which remedied that defect.

42. Mr. EUSTATHIADES (Greece) said he thought that the concern of the United States and Canadian Governments was entirely justified and that the host State should have a say in determining the size of a mission. He nevertheless noted that the addition of the phrase "as may be agreed upon between the sending State, the host State and the Organization", as proposed in the amendment in document A/CONF.67/C.1/L.33, was tantamount to providing for consultation between the parties. A provision to that effect was, however, contained in article 81. The United States and Canada thought a prior agreement between the three parties preferable to recourse to the procedure provided for in article 81. His delegation, however, could accept the International Law Commission's text, because in the event of objection on the part of the host State, use could be made of the provisions of article 81.

43. Mr. RAOELINA (Madagascar) asked the sponsors of the amendment in document A/CONF.67/C.1/L.33 whether it was their intention that every sending State should be required to consult the host State prior to deciding on the size of its mission or appointing the members of that mission.

44. Mr. DO HUU LONG (Republic of Viet-Nam) supported the amendment in document A/CONF.67/C.1/L.33, which made the International Law Commission's text more explicit. The procedure provided for in that amendment also had the advantage of being more rapid.

45. Mr. DO NASCIMENTO E SILVA (Brazil) said that, once again, the International Law Commission's text was the one the Committee should adopt. He fully understood the concern which had motivated the sponsors of the amendment to article 14, but considered that in the case of ICAO, for example, the problem was one of accommodation, with which the Committee was not competent to deal. The representative of Greece had rightly pointed out that if that amendment were adopted, the size of each mission would have to be the subject of an agreement between the three parties —a procedure which did not exist at present. Moreover, since mention had been made of the Headquarters Agreement between the United Nations and the United States of America, it should be remembered that article 4, adopted by the Committee, provided that "the provisions of the present articles (*a*) are without prejudice to other international agreements in force between States or between States and international organizations of universal character". Hence, no provision adopted by the Conference could modify the situation of missions to the United Nations but it could, on the other hand, bring about the establishment of a system of consultations in the case of missions to the speciailzed agencies. Furthermore, the argument according to which the amendment was designed to eliminate causes of disagreement was groundless as there was a risk that the three parties might fail to reach agreement and would then in any case have to resort to the procedure provided for in articles 81 or 82. He therefore concluded that the ILC, which had given that question lengthy consideration, had established a compromise formula which he deemed to be satisfactory.

46. Mr. CALLE Y CALLE (Peru) said that from a reading of the International Law Commission's Commentary to article 14 it was clear that the Commission had taken account of the fact that the problem of the size of the mission, presented a different aspect according to whether the relations involved were bilateral or multilateral. In the case of the United Nations, there was no particular provision specifying the number of the members of a mission, and the Headquarters Agreement contained a compromise formula on that subject. The United States amendment would compel the three parties to conclude, either an initial agreement on the size of a mission or a special agreement whenever a sending State wished to increase the number of members of its mission. In fact, according to one expert on the subject, the size of a mission should depend on the importance of the State it represented, on the importance of the organization, and on the way in which the sending State visualized its relations with the organization. If one considered the size of the permanent missions to the United Nations, it would be found that some included two or three persons, and others a score or more. Thus in reality it was the States themselves which imposed their own limits and it should be noted

that, in general, the missions of developing countries comprised only a small number of members who could not fully ensure their country's participation in all the work of the organization. Accordingly, the expression "what is reasonable and normal" was not as vague as might appear at first sight, since a number of criteria had to be taken into account. Moreover, in the course of the United Nations thirty years' existence, sending States had displayed great moderation and no problem with regard to the size of missions had ever arisen.

47. Mr. ESSY (Ivory Coast) said that the interests of the three parties must be reconciled. He assured the host State of the United Nations that his country would never present it with a problem of size. In his delegation's view, the International Law Commission's draft had been worded in a fairly flexible manner and it took account of the concerns of all parties. For that reason, while he understood the reasons which had prompted the United States and Canadian delegations to submit their amendment he was in favour of the Commission's text.

The meeting rose at 1.10 p.m.

11th meeting

Wednesday, 12 February 1975, at 3.15 p.m.

Chairman: Mr. NETTEL (Austria).

Consideration of the question of the representation of States in their relations with international organizations in accordance with resolutions 2966 (XXVII), 3072 (XXVIII) and 3247 (XXIX) adopted by the General Assembly on 14 December 1972, 30 November 1973 and 29 November 1974 (*continued*)

Article 14 (Size of the mission) *(concluded)* (A/CONF.67/4, A/CONF.67/C.1/L.33)

1. Mrs. THAKORE (India) said that her delegation fully supported the International Law Commission's article 14 (see A/CONF.67/4). The sending State ought to enjoy freedom to determine the size of its mission necessary to ensure its effective functioning. Her delegation noted with satisfaction from paragraph 2 of the commentary on the article *(ibid.)* that the specialized agencies had encountered no difficulties in relation to the size of permanent missions. She was therefore unable to support the amendment contained in document A/CONF.67/C.1/L.33. She shared the opinion of the Brazilian representative that what the amendment really envisaged was an agreement between the three parties referred to before a decision could be taken on the size of the mission; that would both entail delay and encroach on the sovereign right of a State to determine the size of its mission. The amendment sought to apply indirectly the principle underlined in article 11, paragraph 1, of the 1961 Vienna Convention on Diplomatic Relations [1] which, however, was more appropriate in bilateral relations.

2. Mr. GÜNEY (Turkey) said that the procedure proposed in the amendment (A/CONF.67/C.1/L.33) was not clearly defined and would lead to confusion in practice. The expression "reasonable and normal" was a clear enough indication in view of the criteria laid down in the last part of article 14. He was strongly in favour of maintaining the International Law Commission's draft.

3. Mrs. SLÁMOVÁ (Czechoslovakia) drew attention to some facts: (*a*) the concluding sentences of paragraph 4 of the International Law Commission's commentary on article 14 in which it was stated that the principle of the freedom of the sending State in the composition of its mission to an international organization must be recognized and that remedies against any misuse of that freedom must be sought in the consultation and conciliation procedure provided for in articles 81 and 82; (*b*) in their views submitted in writing, specialized agencies and the International Atomic Energy Agency (IAEA) noted that they had had no difficulties regarding the number of staff of missions accredited to them; (*c*) the criteria laid down in article 14 were not completely free from doubt. She shared the view of the Peruvian representative that it would be difficult to formulate them in a more specific way. She felt that the proposed Canadian and United States amendment did not help to do so; on the contrary, the amendment complicated the text even more. Therefore, the Czechoslovak delegation reached the conclusion that the International Law Commission's text of article 14 was the best.

4. Mr. WERSHOF (Canada), speaking as one of the sponsors of the amendment (A/CONF.67/C.1/L.33), said that its main purpose was to establish—in an article which set out the rights of the sending State—the reasonable right of a host State to have a voice in the size of missions. The International Law Commission (ILC) and a number of delegations considered that the host State was given adequate recourse by articles 81 and 82. That was the case if it came to a real dispute between the sending State and the host State but it was the hope of the sponsors of the amendment that by means of three-sided consultations an informal but satisfactory agreement might be reached long before that stage.

5. Some criticism of the amendment resulted from an interpretation which was incorrect and which certainly had not been intended by its sponsors. It was neither desired nor anticipated that a written agreement should be signed regulating the size of every mission after formal negotiations. Such a procedure would be absurd. The intention was that if a mission intended to make a small increase in its size, it would notify the organization in an informal way. If a considerable increase was contemplated, more serious discussions would be in-

[1] United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.