United Nations Conference on the Representation of States in Their Relations with International Organizations

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11th meeting of the Committee of the Whole

Extract from Volume I of the *Official Records of the United Nations Conference on the Representation of States in Their Relations with International Organizations (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)*

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.

itiated with the host State and the organization with a view to reaching a satisfactory compromise if difficulties arose.

6. The amendment should not be discussed in terms of confrontation between the sending State and the host State but rather in terms of friendly consultations. The record of 30 years showed that host States were anxious to ensure the comfort of organizations and missions. In view, however, of the greatly increased privileges and immunities proposed in the present convention in such matters as assistance with accommodation and the provision of security, it was reasonable that host States should be clearly given the right to have a voice in the size of missions. It was likely over the next few decades that many more States, including those in the developing world, would become host States. He urged the representatives of such States to reflect upon the problems of host States before reaching a decision on the amendment.

7. Mr. OSMAN (Egypt) said that he could not support the amendment for the reasons already put forward by other speakers. Furthermore, the countries of the third world already had difficulty in finding members for permanent missions and for delegations to conferences, which often dealt with technical and complicated subject-matter. The virtual veto which would be imposed by the amendment was unfair to such countries. Like the representative of the Ivory Coast (10th meeting), he considered that the International Law Commission's text of article 14 was flexible enough to allay the concern expressed by the Canadian representative.

8. Mr. VON KESSEL (Federal Republic of Germany) supported the joint amendment; it was a distinct improvement on the existing text of article 14, in which the interpretation of "reasonable and normal" might give rise to difficulties. The problem was not resolved by the provisions of articles 81 and 82, since the procedure under those articles was too clumsy to be applied to the kind of difficulties arising under article 14. The existing text mainly favoured the sending State, since that State decided upon the interpretation of "reasonable and normal"; at least the rights of the organization should be better established. He favoured the adoption of the amendment in its present form; alternatively, he would accept the amendment with the omission of the words "the host State".

9. Sir Vincent EVANS (United Kingdom) strongly supported the amendment (A/CONF.67/C.1/L.33). The present text of article 14 did not indicate how and by whom a decision should be taken on what was "reasonable and normal". The amendment provided a useful clarification on that point by indicating the three parties having an interest in the matter. In the course of the discussion, it had not been denied by any speaker that all the three parties named in the amendment had such an interest. It was desirable to avoid disputes arising under article 14 which would require recourse to articles 81 and 82. The best way to do that was to make clear the necessary procedure for settlement by agreement between the parties concerned.

10. Mr. JALICHANDRA (Thailand) said that he could accept the International Law Commission's text of article 14 since it had established the objective factors to be taken into consideration in determining what was the "reasonable and normal" size of a mission. Whether or not the amendment was adopted, there was a clear indication of the process of consultation between the sending State, host State and organization which was followed in practice.

11. Mr. MOLINA LANDAETA (Venezuela) said that as a general rule his delegation preferred the retention of the International Law Commission's articles, but in the case of article 14, in spite of the arguments put forward by some members of the Committee, he felt that it was reasonable to support the amendment (A/CONF.67/C.1/L.33). Any of the States represented at the Conference might find themselves in the role of both host State and sending State and it seemed a prudent measure to ensure that the host State had some voice at least in the size of missions. He noted that such a provision appeared in the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed in 1947.[2] Since that date, many more international organizations and many more States had come into existence, and the size of missions had tended to increase. For practical reasons therefore, he preferred the flexible formulation which appeared in the amendment.

12. Mr. SUY (Legal Counsel of the United Nations), said that in general it would not be appropriate for the Secretariat to offer an opinion on an amendment proposed by a member State. He wished however to explain the position of the United Nations with regard to the reference to "the Organization" in document A/CONF. 67/C.1/L.33. In practice, the United Nations had not experienced any difficulties regarding the composition of delegations and missions. In paragraph 4 of its commentary on article 14, the ILC had stated that in the case of missions to international organizations, the principle of the freedom of the sending State in the composition of its mission must be recognized. It was for the sending State to judge what the needs of the mission were in the light of the functions of the organization. If difficulties arose between the sending State and the host State, the organization would always be ready within the framework of articles 81 and 82 for consultation and, if necessary, conciliation. That was, however, not the same as becoming party to a tripartite arrangement. Furthermore, the corresponding article relating to the size of delegations to organs and conferences, article 46, was couched in the same terms as article 14. It was difficult to see how it would be possible to engage in negotiations, to which the conference would be a party, in order to decide upon the size of a delegation. The proposal in A/CONF.67/C.1/L.33 did not appear to be in accordance with current practice. Such difficulties should be solved exclusively between the sending State and the host State.

13. The CHAIRMAN put to the vote the amendment proposed by the delegations of Canada and the United States of America (A/CONF.67/C.1/L.33).

[2] General Assembly resolution 169 B (II).

The amendment was rejected by 27 votes to 24, with 10 abstentions.

Article 14 was adopted by 60 votes to none, with 1 abstention.

Article 15 (Notifications) (A/CONF.67/4; A/CONF.67/C.1/L.32, L.36, L.37, L.38)

14. Mr. VON KESSEL (Federal Republic of Germany), introducing his delegation's amendment to article 15 (A/CONF.67/C.1/L.32), drew attention to the expression "members of the family . . . forming part of his household" in paragraph 1 of article 36. Omission of the words "forming part of his household" from paragraph 1(*b*) of article 15 would mean that the sending State would have to notify the organization of the arrival in the host State of the mother of a member of the mission who visits him for a few days. It would even mean that the organization would have to be notified of the marriage of a son of a member of the mission living in say, Ruritania. Obviously, the ILC had not intended that its text should have that effect. The difficulty would be removed if his delegation's amendment were adopted.

15. Mr. TANKOUA (United Republic of Cameroon) gave his reasons why his delegation had decided to submit its amendment (A/CONF.67/C.1/L.36), which related to article 15 as a whole. His delegation had noted that the ILC made no distinction between the sending State and its permanent mission. The obligations imposed on the sending State under paragraph 1 of article 15 were normally assumed by its permanent mission. His delegation felt, therefore, that for all the obligations mentioned in those subparagraphs, the sending State should be interpreted as meaning also the permanent mission, as defined in article 1. Out of respect for that interpretation, his delegation considered that a distinction should be made between prior notifications and ordinary notifications and, among prior notifications, those which were mandatory and those which were optional. Mandatory prior notifications were those which would enable the organization and the host State to prepare for the arrival and final departure of the head of mission, and the host State to ensure that other members of the mission encountered no difficulties when leaving its territory. It was on the basis of the different forms of notification that his delegation had prepared its amendment. In doing so, it had taken account of the fact that the ILC had not distinguished between the sending State and its permanent mission. Such distinction would have necessitated a clear division between notifications which must come from the central Government, and notifications which could come from the permanent mission.

16. Sir Vincent EVANS (United Kingdom), introducing his delegation's amendment (A/CONF.67/C.1/L.37), said that in general his delegation agreed with the draft article as prepared by the Commission. It only had two suggestions to make. The first concerned subparagraph (*a*) of paragraph 1. There were certain factors other than those mentioned in that subparagraph which might affect the status and, therefore, the entitlement to privileges and immunities, of a member of a mission. According to article 37, for example, nationals or permanent residents of the host State did not enjoy the same scale of privileges and immunities as other members of the mission. Therefore, if a member of a mission became, or ceased to be, a national of the host State or a permanent resident of it, that fact should be notified to the organization by the sending State. There was a precedent for the form of words proposed by his delegation in the relevant article of the Vienna Convention on Consular Relations.[3]

17. His delegation's second suggestion related to paragraphs 3 and 4 of the article. Under paragraph 3, the organization was required to transmit the relevant notifications to the host State. The provision in paragraph 4, however, appeared to be of a discretionary character. It was in the interest of all concerned that the notifications in question should be communicated to the host State as soon as possible and by the most direct means. His delegation's amendment therefore would require the notifications to be communicated directly by the sending State to the host State at the same time as they were transmitted to the organization.

18. Mr. MUSEUX (France) said that in its amendment (A/CONF.67/C.1/L.38) his delegation had tried to follow the structure of the International Law Commission's text of article 15. In other words, the main obligation to transmit the necessary notifications to the host State lay with the organization, while the sending State could transmit them to the host State if it so wished. The main idea of the amendment was that the notifications should be transmitted in advance, thus enabling the host State to comply promptly with its obligations in the matter of privileges and immunities. His delegation did not insist that the form of its amendment should be adopted, and would be prepared to support a provision which placed less responsibility on the organization. It would, indeed, be less time-consuming if the sending State were required to send the necessary prior notification directly to the host State. Accordingly, a procedure such as that proposed in the United Kingdom delegation's amendment to paragraphs 3 and 4 would be acceptable to his delegation provided it was stipulated that the notifications must be transmitted in advance.

19. It might appear that the organization or sending State would have difficulty in providing prior notice of some of the information required. It must be realized, however, that unless it received the notification mentioned in paragraph 1 in advance, the host State could not be held responsible for failing to comply with the provisions of the convention.

20. Mr. EL-ERIAN (Expert Consultant) said that he would try to explain what the Commission had sought to achieve by its text. It had proceeded from the assumption that the direct relationship was between the sending State and the organization. It had, therefore, made it obligatory for the sending State to transmit the notifications referred to in paragraph 1 to the organization. The transmission of notifications by the sending State to the host State were, however, to be optimal. One reason for that was that there might be cases in

[3] United Nations, *Treaty Series*, vol. 596, No. 8638, p. 261.

which the sending State did not maintain diplomatic relations with the host State.

21. The Commission while adopting the approach followed in article 10 of the Vienna Convention on Diplomatic Relations, had also sought to make the article as complete as possible. Subparagraph (*e*) of paragraph 1 did not, for instance, appear in the Vienna Convention on Diplomatic Relations. The Commission had further noted that although the practice regarding notification was well-developed in the case of the United Nations, it was fragmentary and far from systemized in the case of the specialized agencies. It had therefore taken the view that it was desirable to draft a recommendation which would be applicable in the case of all organizations.

22. The Commission had not considered it necessary to refer, in article 15, to persons forming part of the household of members of the mission, because such persons were catered for in article 36.

23. The Commission had not considered it advisable to require that every notification should be made in advance. In paragraph 2, however, it had said that prior notification of arrival and final departure should be given, where possible, because it had proceeded from the assumption that the direct relationship was between the sending State and the organization and it did not wish to make the notification process unduly cumbersome.

24. Mr. ESSY (Ivory Coast) said that while appreciating the reasons which had led the French delegation to submit its amendment (A/CONF.67/C.1/L.38), he felt that prior notification might, in practice, cause difficulties for States. Prior notification would be possible in the case of the designation of a head of mission, whose designation would follow a series of measures culminating in a Government decree or other formal decision. In the case of the appointment of members of the missions, however, prior notification would be difficult, because such appointments were normally made by ordinary adminstrative orders. As to helping the host State to comply with its responsibilities in the matter of privileges and immunities, it should be noted that members of a mission with diplomatic status arriving in the host State would be in possession of a passport indicative of their position and rank. It seemed to him that the Commission's text was flexible enough to provide for such cases.

25. The amendment of the United Republic of Cameroon (A/CONF.67/C.1/L.36) took account of the two situations he had mentioned, for it provided for prior notification in the case of the arrival of the permanent representative, and ordinary notification in other cases. His delegation endorsed the substance of the amendment but wondered whether it might not unnecessarily complicate article 15. After all, clarity and concision were qualities greatly sought after in legal instruments. In his opinion, the point the delegation of the United Republic of Cameroon had wished to make was covered by the provisions of paragraph 1, subparagraph (*a*) and paragraph 2 of the Commission's draft.

26. Mr. BARAKAT (Yemen) said that his delegation supported the amendment submitted by the Federal Republic of Germany (A/CONF.67/C.1/L.32), which added to the clarity and precision of the text of article 15.

27. His delegation also supported the United Kingdom's amendment to paragraph 1 (A/CONF.67/C.1/L.37) but firmly opposed its amendment to paragraphs 3 and 4. The permanent mission was accredited to the organization and not to the host State. There could be therefore no question of making it mandatory for the sending State to notify the host State of changes concerning members of the mission. There could, of course, be an understanding on that point, but no obligation.

28. Nor could his delegation support the French amendment (A/CONF.67/C.1/L.38), the effect of which would be to make notification "in advance" mandatory in all cases. The International Law Commission's text, which contained no such requirement, was preferable for a number of reasons, including the difficulties which could arise out of defective postal services in some countries.

29. Similarly, his delegation could not support the amendment of the United Republic of Cameroon (A/CONF.67/C.1/L.36), which was rather sweeping in character and materially departed from the text submitted by the ILC. It was the settled policy of his delegation to support the Commission's text not only because of its merits but also because that approach would facilitate the work of the Conference.

30. Mr. DORON (Israel) said that he agreed with the explanation given by the Expert Consultant that it was not always practical to give advance notice. At the same time, although his delegation had not submitted any formal amendment, it wished to express the view that it would have been desirable to use in paragraph 2 of article 15 the formula appearing in paragraph 2 of article 11 of the 1969 Convention on Special Missions,[4] which read: "Unless it is impossible, notification of arrival and final departure must be given in advance". A formulation of that kind would have the advantage of indicating that notification in advance constituted the rule, an exception being allowed where it was impossible to observe it.

31. Mr. OSMAN (Egypt) supported the amendment of the Federal Republic of Germany (A/CONF.67/C.1/L.32) and the United Kingdom amendment to paragraph 1 (A/CONF.67/C.1/L.37).

32. He opposed, however, the United Kingdom amendment to paragraphs 3 and 4 which had the drawback of introducing an element that was at variance with the principle underlying article 15. As explained by the Expert Consultant, the obligation, specified in paragraph 3 and incumbent upon the organization, to transmit all notifications to the host State made the organization a principal party with regard to the status of members of the mission. It was therefore through the organization that the sending State should make all its communications to the host State.

33. The proposal contained in the French amendment

[4] General Assembly resolution 2530 (XXIV), annex.

(A/CONF.67/C.1/L.38) would entail practical difficulties. To give but one example, during a recent grave crisis in international affairs, a representative due to attend a Security Council meeting had arrived at New York airport very shortly before the opening of the meeting, without having had time even to submit his credentials to the Secretary-General. It would have been totally impossible in a case of that kind to make any notification in advance.

34. The ILC had done right not to introduce into its text the concept of notification in advance. Of course, in practice, notifications were generally made in advance, but it would be wrong to impose any mandatory rule to that effect.

35. Mr. DE YTURRIAGA (Spain) said that, like the Ivory Coast representative, he found the amendment of the United Republic of Cameroon (A/CONF.67/C.1/L.36) unduly complex; its adoption was likely to create more problems than it would solve. His delegation much preferred the International Law Commission's text.

36. His delegation might have been willing to accept the amendment by the Federal Republic of Germany (A/CONF.67/C.1/L.32) and the first United Kingdom amendment (A/CONF.67/C.1/L.37) on their merits. It felt, however, that in matters which were not of vital importance, it was undesirable to depart from precedent and that the existing language, which had been taken from the corresponding article 10 of the 1961 Vienna Convention on Diplomatic Relations, should be retained.

37. As to the United Kingdom amendment to paragraphs 3 and 4 (A/CONF.67/C.1/L.37), his delegation strongly opposed it on grounds of principle: the relationship existed between the organization and the sending State and not between that State and the host State. All contacts between the two States in question concerning permanent missions should be channelled through the organization.

38. The second United Kingdom amendment raised, moreover, certain practical problems. Its adoption would have the effect of creating a dual system of notifications by the sending State. In the event of those two notifications not taking place on the same day, the question would arise, for example, of which of the two dates would be operative for purposes of the application of such provisions as paragraph 1 of article 38 (Duration of privileges and immunities).

39. With regard to the French amendment (A/CONF.67/C.1/L.38), he shared the view of the delegation of Egypt, which had pointed out that it was undesirable to impose an obligation of notification in advance which did not exist in the corresponding provision of the 1961 Vienna Convention on Diplomatic Relations. His delegation supported the text of article 15 as submitted by the ILC after years of thorough reflexion.

40. Mr. WARNOCK (Ireland) said that neither paragraph 2 nor paragraph 3 of article 15 gave any indication of the need for promptness. His delegation therefore favoured greater stress on urgency in notification. It was accordingly inclined to support the idea of introducing the concept of notification to the host State at the same time as to the organization. In that connexion, he found interesting the oral suggestion made by the representative of Israel to qualify the requirement of notification in advance by means of the proviso "Unless it is impossible" taken from paragraph 2 of article 11 of the 1969 Convention on Special Missions.

41. Mr. RAOELINA (Madagascar) said that he could support the amendment of the Federal Republic of Germany (A/CONF.67/C.1/L.32), which introduced an element of precision into the article. The provisions of article 15 were meant to apply not to any person "belonging to the family" of a member of the mission but rather to any such family member who formed part of the household of the member of the mission.

42. His delegation could also support the United Kingdom amendment to paragraph 1 since it was perfectly normal to require notification of "any" change of status. In the light of the explanations given by the Expert Consultant, his delegation could not, however, support the United Kingdom amendment to paragraphs 3 and 4.

43. As to the French amendment (A/CONF.67/C.1/L.38), his delegation opposed it, partly because of the practical difficulties which its adoption would entail and partly on grounds of principle: in matters concerning permanent missions, the sending State should maintain relations with the organization and not with the host State.

44. Mr. TANKOUA (United Republic of Cameroon) said that he was surprised at the comment made during the discussion to the effect that his amendment was unduly complicated. Paragraph 2 of the International Law Commission's text stated that, where possible, prior notification of arrival and final departure "shall also be given". The use of the word "also" appeared to indicate that prior notification was equally called for in the cases mentioned in paragraph 1.

45. The rewording of paragraph 1 proposed in his delegation's amendment (A/CONF.67/C.1/L.36) was thus based on the straightforward approach of dividing the cases envisaged in the International Law Commission's paragraph 1 into two categories: the category in respect of which prior notification was mandatory and that of the other cases, in which an ordinary notification was sufficient. That reformulation did not change anything in the substance of the article; it merely clarified what appeared to be the intention of the original text.

46. Mr. ZAMANEK (Austria) said that he would not comment on the individual amendments but would discuss the question whether the requirement of prior notification of arrival and final departure should be specified in article 15 without the proviso "Where possible", which now appeared as the opening words of paragraph 2.

47. Article 38, paragraph 1, specified that every person entitled to privileges and immunities "shall enjoy them from the moment he enters the territory of the

host State". While not all privileges and immunities were of interest as from the moment of arrival in the host State, some vital privileges were of immediate importance to the persons concerned. He was thinking, for example, of personal inviolability (article 28), inviolability of papers and correspondence (paragraph 2 of article 29) and exemption from customs duties and inspection (article 35). In the case of Austria, where nationals of many States did not require a visa, there would be no means of knowing whether a person entering was entitled to the privileges and immunities of the convention, unless that fact had been already reported to Austria as the host State.

48. In a situation of that kind, the question arose whether an Austrian customs officer was expected to accept the assurance of the person concerned that he was entitled to exemption from customs duties and inspection. His own conclusion was that to avoid embarrassing situations prior notification of arrival and final departure was essential in all cases in order to preserve the dignity of the representative and in order to make it possible for the host State to discharge in good faith its obligations under the future convention.

49. Should it be argued that a requirement of prior notification in all such cases would place an unduly heavy burden upon the organization and the sending State, one would have to be prepared to accept all the consequences; occasional difficulties on the arrival of the persons concerned would inevitably occur.

50. Mr. CALLE Y CALLE (Peru) noted that the International Law Commission's text was withstanding most if not all attempts to amend it. As far as article 15 was concerned, its text had been drafted with the utmost care on the basis of the corresponding provision of the 1961 Vienna Convention on Diplomatic Relations. It was founded both on principle and on practical considerations. It proceeded from the premise that the sending State maintained its relations with the organization. All notifications should therefore be made to the organization, which was the appropriate channel for advising the host State of all arrivals and departures of persons enjoying privileges and immunities.

51. Turning to the amendments, he did not find it really necessary to introduce the clarification "forming part of his household" proposed in the amendment of the Federal Republic of Germany (A/CONF.67/C.1/L.32).

52. The United Kingdom amendment to paragraphs 3 and 4 (A/CONF.67/C.1/L.37) would have the effect of making it mandatory for the sending State to notify the host State. In reality, such notification was merely a usage based on courtesy and on practical considerations. Moreover, notifications to the host State were not normally made to its Government but rather to the host State's delegation to the organization, which operated as a useful channel of liaison.

53. The French proposal (A/CONF.67/C.1/L.38) to introduce the requirement of notification "in advance" was not realistic. It was sometimes quite impossible to make such prior notification. Paragraph 2 of the International Law Commission's text, with its opening proviso "Where possible", was well balanced. The corresponding paragraph of article 10 of the 1961 Vienna Convention on Diplomatic Relations already specified that prior notification should be given "where possible". As for paragraph 2 of article 11 of the 1969 Convention on Special Missions, it stated the same rule by means of the proviso "Unless it is impossible".

54. He drew attention to a correction to be made to the Spanish text of article 15, paragraph 2, where the opening word *"Además"* ought to be eliminated as redundant.

55. In the amendment proposed by the United Republic of Cameroon (A/CONF.67/C.1/L.36) he had been struck by the reference in paragraph 1 to the "arrival of . . . the chargé d'affaires *ad interim*". As he saw the case envisaged in the relevant article 16, a chargé d'affaires *ad interim* was a member of the permanent mission already present in the host State. There did not seem therefore to be any occasion to make provision for notification of the "arrival" in the host State of a chargé d'affaires of that kind.

56. He opposed all the amendments submitted to article 15 and urged that it should be adopted as it stood.

57. Mr. SHELDOV (Byelorussian Soviet Socialist Republic) said that the text prepared for article 15 by the ILC summed up correctly the practice of 30 long years of activities in the United Nations and its specialized agencies.

58. Of the various proposals submitted, the amendment contained in document A/CONF.67/C.1/L.32 was acceptable to his delegation because it would cover a useful practical point. The same was true of the first United Kingdom amendment to paragraph 1 (A/CONF.67/C.1/L.37), which served to cover all changes of status; an obvious example was the promotion of a member of the staff of the mission, which could result in his being entitled to additional facilities, privileges and immunities.

59. His delegation, however, was opposed to the United Kingdom amendment to paragraphs 3 and 4 (A/CONF.67/C.1/L.37), which would merge those paragraphs in a manner that ran counter to the principle put forward by the ILC.

60. Mr. WERSHOF (Canada), referring to the amendments proposed by the United Kingdom (A/CONF.67/C.1/L.37), said that the amendment to paragraph 1 (*a*) definitely improved the text and that his delegation could support it. The new wording proposed in the United Kingdom amendment to paragraphs 3 and 4 was better than the wording of the present paragraph 4, but he could not agree that the present paragraph 3 should be deleted. Though the practice varied from country to country and the proposed convention could not be intended to suit the practice of one organization only, he said that, as the host State of an international organization, his country was interested in receiving notification from the organization rather than the sending State. His delegation would therefore not be able to support the second United Kingdom amendment if it was intended to delete the present paragraph 3.

61. Mr. GÜNEY (Turkey) said that his delegation

supported the first amendment to paragraph 1 (*b*) proposed by the Federal Republic of Germany (A/CONF.67/C.1/L.32) because the addition of the words "and forming part of his household" would bring that subparagraph into line with article 36, paragraph 1 (*b*), of the 1961 Vienna Convention and article 36 of the proposed convention. It could not, however, support the amendment proposed by the United Republic of Cameroon (A/CONF.67/C.1/L.36) because it complicated the text and might give rise to confusion. It supported the amendments proposed by the United Kingdom (A/CONF.67/C.1/L.37), because they would produce practical results, but could not endorse the amendment proposed by France (A/CONF.67/C.1/L.38) because it might give rise to serious administrative difficulties.

62. Mr. TANKOUA (United Republic of Cameroon) said that his delegation was grateful to the representative of Peru for drawing attention to the fact that the words "chargé d'affaires *ad interim*" appeared in the text of his delegation's amendments to paragraph 1 (A/CONF.67/C.1/L.36), but not in the text proposed by the ILC. He explained that his delegation had not been able to find any other description for the person who was sent by the sending State to open a permanent mission pending the arrival of the permanent representative. His delegation had included the words "chargé d'affaires *ad interim*" only to ensure that that person's arrival would be notified to the organization.

63. Mr. EUSTATHIADES (Greece) said that his delegation supported the amendments proposed by the United Kingdom (A/CONF.67/C.1/L.37) and considered that the amendments proposed by the Federal Republic of Germany (A/CONF.67/C.1/L.32) provided a useful clarification. However, in incorporating those amendments into the French text, the words *"vivant au foyer"* should be replaced by the words *"faisant partie du ménage"* which appeared in articles 36 and 76.

64. Mr. SOARES DOS SANTOS (Brazil), referring to the amendment to paragraph 1 proposed by France (A/CONF.67/C.1/L.38), said his delegation considered that there would be practical difficulties in giving prior notification and it could not therefore support that amendment. It could, however, support the amendment to paragraph 1 (*a*) proposed by the United Kingdom (A/CONF.67/C.1/L.37), but not the amendment to paragraphs 3 and 4 because it implied a change in existing practice. The transmission of notifications by the sending State to the host State should continue to be optional. His delegation could support the amendments proposed by the Federal Republic of Germany (A/CONF.67/C.1/L.32), but considered that the amendments proposed by the United Republic of Cameroon (A/CONF.67/C.1/L.36) did not improve the text.

65. Mr. KABUAYE (United Republic of Tanzania) said that, before a vote was taken on the amendments proposed by the United Republic of Cameroon (A/CONF.67/C.1/L.36), his delegation wished to suggest that the words "permanent representative" should be replaced by the words "head of mission".

66. Mr. TANKOUA (United Republic of Cameroon) said that his delegation did not insist that its amendment (A/CONF.67/C.1/L.36) should be put to the vote and would agree to withdraw it.

67. The CHAIRMAN said that since the United Republic of Cameroon had withdrawn its amendment, the Committee should take a decision on the remaining amendments to article 15. He described the procedure he intended to follow and said that if he heard no objection, he would take it that the Committee agreed to the voting order he had suggested.

It was so decided.

68. The CHAIRMAN put to the vote the amendment to paragraph 1 proposed by France (A/CONF.67/C.1/L.38).

The amendment was rejected by 30 votes to 14, with 22 abstentions.

69. Mr. MUSEUX (France), replying to a question by the Chairman, said that his delegation would not insist that a vote should be taken on the amendments it had proposed to paragraphs 2, 3 and 4.

70. The CHAIRMAN put to the vote the amendment to paragraphs 3 and 4 proposed by the United Kingdom (A/CONF.67/C.1/L.37).

The amendment was rejected by 31 votes to 17, with 18 abstentions.

71. The CHAIRMAN put to the vote the amendment to paragraph 1 (*a*) proposed by the United Kingdom (A/CONF.67/C.1/L.37).

The amendment was adopted by 54 votes to none, with 11 abstentions.

72. The CHAIRMAN put to the vote the amendment to paragraph 1 (*b*) proposed by the Federal Republic of Germany (A/CONF.67/C.1/L.32).

The amendment was adopted by 51 votes to none, with 8 abstentions.

73. The CHAIRMAN put to the vote article 15 as a whole, as amended.

Article 15 as a whole, as amended, was adopted by 61 votes to 2, with 3 abstentions.

74. Mr. MUSEUX (France), speaking in explanation of vote, said that his delegation had voted against article 15 as a whole. He pointed out that, since the word "also" in the text of paragraph 2 related to the word "prior" his Government would interpret that to mean that the notifications indicated in paragraph 1 had to be given in advance. His Government would not be able to grant the privileges and immunities provided for by the convention unless notification had been given in advance.

75. Mr. TANKOUA (United Republic of Cameroon), speaking in explanation of vote, said that his delegation had abstained from the vote on article 15 as a whole because it had received no explanations concerning the provisions to which the word "also" in paragraph 2 referred. His Government could therefore not be requested to give prior notification to the organization and the host State of the beginning or termination of

the functions of persons residing in the host State and employed privately by a member of the mission. His delegation also did not understand why all the circumstances referred to in paragraph 1 required prior notification and regretted that it had failed to receive any explanations concerning the question it had raised in that connexion.

76. Mr. ZEMANEK (Austria), speaking in explanation of vote, said that his delegation had abstained from the vote on article 15 as a whole because the text adopted made it more difficult, if not impossible, for the host State to fulfil its obligations.

77. Mr. JALICHANDRA (Thailand), speaking in exlpanation of vote, said that his delegation had abstained from the vote on article 15 as a whole because it considered that the important question of whether notification should be given in advance could not be decided until a decision had been taken on article 38, paragraph 1, concerning the beginning of the enjoyment of privileges and immunities. It therefore reserved the right to ask for a final decision on article 15 when a decision had been taken on article 38, paragraph 1.

78. Mr. ESSY (Ivory Coast) said that since the French amendment to paragraph 1 had been rejected, his delegation considered that paragraph 1 could be interpreted to mean that notification concerning the head of mission could and should be given in advance, but that it would not be compulsory to give prior notification concerning other members of the mission.

79. Mr. SMITH (United States of America), speaking in explanation of vote, said that his delegation had abstained from the vote on the amendment to paragraphs 3 and 4 proposed by the United Kingdom since the amendment did not include any specific assignment of responsibility to the organization in connexion with notifications. It had voted in favour of article 15 as a whole, although it fully supported the comments made by the representative of Austria concerning the difficulties article 15 might cause in connexion with the granting of privileges and immunities by the host State.

80. Mr. MOLINA LANDAETA (Venezuela) said that the statement of the representative of France in his explanation of vote would affect his country and many others in that it constituted a reservation to article 15, as adopted. Since the proposed convention did not yet contain provisions relating to reservations, his delegation wished to request that, when the question of reservations to the convention was considered, account should be taken of the explanations of vote given by the representatives of France and the Ivory Coast limiting the scope of article 15.

81. Mr. DE YTURRIAGA (Spain) said that he agreed with the comment made by the representative of Venezuela concerning the importance of the statement made by the representative of France. That matter must be settled as soon as possible in order to avoid possible misinterpretations of article 15. In that connexion, he thought that the problem which had arisen in connexion with article 15 had been caused by the English and French texts of paragraph 2. The Spanish text did not give rise to any difficulties because the word *"además"* came at the beginning of the sentence, while the word "also" and the word *"également"* came in the middle of the sentences in the English and French texts. He suggested that the Drafting Committee should base the wording of the English and French texts on the wording of the Spanish text by replacing the word "also" and the word *"également"* by the words "in addition" and the words *"en outre"*, which should come at the beginning of the English and French texts of paragraph 2.

82. The CHAIRMAN said that the points made by the representatives of France, Venezuela and Spain would be referred to the Drafting Committee.

The meeting rose at 6.05 p.m.

12th meeting

Thursday, 13 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 16 (Chargé d'affaires *ad interim*) (A/CONF. 67/4, A/CONF.67/C.1/L.11, L.34)

1. Sir Vincent EVANS (United Kingdom), introducing the amendment in document A/CONF.67/C.1/L.11, said that his delegation had added to the text of its amendment to article 16 the following comment: "It is in appropriate in the present context to use the term 'Chargé d'affaires *ad interim*' ". In the context of relations between States and international organizations, it seemed to him preferable to use the more general expression "acting head of mission *ad interim*". His delegation's amendment was also aimed at solving a drafting problem. According to the definition given in paragraph 1(16) of article 1 (see A/CONF.67/4), " 'head of mission' means, as the case may be, the permanent representative or the permanent observer", and article 16 dealt with cases where a person was called upon to perform the functions of head of mission if the post was vacant or if the head of mission was unable to perform his functions. Owing, however, to the narrow meaning given to the term "head of mission", the articles referring to the head of mission would not apply to the acting head of mission. His delegation had therefore sought to remedy that situation,