

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

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12th meeting of the Committee of the Whole

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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 explanation 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 diffi-

culties 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 inappropriate in the present context to use the term 'Chargé d'affaires *ad interim*'". In the context of relations between States and international organiza-

tions, 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,

and, in his view, it would be advisable to ask the Drafting Committee to re-define the term "head of mission".

2. Mr. TANKOUA (United Republic of Cameroon), introducing his delegation's amendment in document A/CONF.67/C.1/L.34, said that the amendment provided for a situation which the International Law Commission (ILC) seemed to have overlooked: namely, the case where a head of mission absented himself from his post, but where the post was not vacant and neither was the head of mission unable to perform his functions. In practice, it was generally recognized that the *chargé d'affaires ad interim* was appointed by the holder of the post before the latter absented himself, but it might happen that the sending State or an international organization did not accept that arrangement, in which case the government itself would appoint the *chargé d'affaires ad interim*. Paragraph 4 of its amendment might appear to the Committee to serve no purpose, and his delegation had thought of withdrawing it, but finally it had preferred to leave it to the Committee to decide whether or not it should be dropped.

3. Mr. EUSTATHIADES (Greece) supported the United Kingdom amendment (A/CONF.67/C.1/L.11), because the term "*chargé d'affaires ad interim*" ought to be reserved for the case of diplomatic relations between States. It would be preferable to speak of the "head of mission *ad interim*". His delegation noted another difference between the United Kingdom amendment and the International Law Commission's text. As indicated in paragraph 1 of its commentary to article 16 (see A/CONF.67/4), the Committee had thought it necessary in the interest both of the organization and of the host State that there should be at any given moment a person responsible for the mission. But the United Kingdom amendment made the appointment of that person a faculty and not an obligation as far as the sending State was concerned. A question of substance was therefore involved, but his delegation had no definite views on the subject and thought the United Kingdom amendment deserved to be adopted.

4. With regard to the amendment in document A/CONF.67/C.1/L.34, he thought the delegation of the United Republic of Cameroon had been right to provide that the name of the *chargé d'affaires ad interim* should be notified to the organization, which would inform the host State. The wording of that provision should nevertheless be aligned with that of article 15 which the Committee had adopted at its previous meeting. He thought that the provision relating to the notification of the cessation of the functions of the head of mission *ad interim* was very useful and that it should be retained.

5. Mr. PASZKOWSKI (Poland), referring to the question whether the term "*chargé d'affaires ad interim*" should or should not be used, pointed out that that term was used in the lists of members of permanent missions to the United Nations at New York, published by the Secretariat of the Organization, and that it was also constantly used at Geneva by nearly all the missions. His own delegation's preference therefore went to the International Law Commission's text.

6. Sir Vincent EVANS (United Kingdom) said that, in order to align the wording of its amendment with that of article 15, his delegation had decided to replace the phrase "whose name shall be notified to the host State and the Organization without delay" by the following: "whose name shall be notified to the Organization and, by the Organization to the host State, without delay".

7. Mr. WADE (Canada) said he was strongly in favour of using the term "head of mission *ad interim*" in the context of the future convention. He suggested that the question be put to the vote and he asked the Expert Consultant whether the permanent missions to the United Nations in New York were in the habit of using the expression "*chargé d'affaires ad interim*" or "head of mission *ad interim*". His delegation thought that the United Kingdom amendment (A/CONF.67/C.1/L.11) was an improvement on the International Law Commission's text; consequently he supported that amendment.

8. Mr. MOLINA LANDAETA (Venezuela) said he thought that the wording of draft article 16 reflected an established permanent practice and that the term "*chargé d'affaires ad interim*" was applicable to bilateral relations as well as to multilateral relations. Perhaps there was a legal subtlety in the United Kingdom amendment, but his delegation had doubts concerning the desirability of making a distinction between "*chargé d'affaires ad interim*" and "head of mission *ad interim*". It therefore asked the Expert Consultant to be good enough to give some explanation concerning the institution of *chargé d'affaires ad interim*. At Geneva, if a head of mission were absent or unable to perform his functions, a *chargé d'affaires ad interim* was appointed, and missions communicated to the Organization and to other missions the name of the person who was to perform the functions of *chargé d'affaires ad interim*, similarly informing them of the cessation of his functions.

9. Mr. DO NASCIMENTO E SILVA (Brazil) said that his delegation had no objections to the United Kingdom amendment and suggested that the Committee should take a decision on the use of the term "*chargé d'affaires ad interim*".

10. Moreover, as the amendments in documents A/CONF.67/C.1/L.11 and L.34 both contained new provisions concerning notifications, the Drafting Committee might perhaps be asked to decide whether those provisions should be maintained in article 16 or whether, on the contrary, they should be introduced into article 15, as his own delegation, for its part, thought preferable.

11. Mr. AL-ADHAMI (Iraq) said he was in favour of the text prepared by the ILC, as it was in line with the existing practice; he thought, however, that the addition of paragraph 3 of the amendment in document A/CONF.67/C.1/L.34 might improve the text.

12. Mr. OSMAN (Egypt) said that article 16, as drafted by the ILC, was entirely in keeping with the practice followed by his own country and, in particular, by its permanent mission to the United Nations. He therefore approved of that text. A provision might

nevertheless be added to cover the case of the absence of the head of mission, which was not envisaged in the Commission's text.

13. Mr. RAOELINA (Madagascar) said he had some misgivings with regard to the interpretation of the phrase "the sending State may appoint an acting head of mission" in the United Kingdom amendment (A/CONF.67/C.1/L.11), in view of the fact that article 19 of the Vienna Convention on Diplomatic Relations¹ stipulated that "The name of the chargé d'affaires *ad interim* shall be notified, either by the head of the mission or, in case he is unable to do so, by the Ministry for Foreign Affairs of the sending State". That was why, to avoid any ambiguity in regard to interpretation, his delegation would have preferred the Committee to reproduce the terms of article 19 of that Convention in the wording of article 16. But if the sponsors of the amendments maintained their proposals, his delegation would vote in favour of the International Law Commission's text and for the addition to that text of paragraph 3 of the amendment in document A/CONF.67/C.1/L.34.

14. Mrs. MIRANDA (Cuba) said she thought that the term "chargé d'affaires *ad interim*" had been used deliberately, for there could be no doubt that the activities of missions were diplomatic activities. Moreover, seeing that the word "immediately" had not been added in article 15, her delegation saw no reason why, according to the United Kingdom amendment, the name of the "acting head of mission" should be notified to the host State and the organization "without delay". Her delegation supported the International Law Commission's article 16, which it considered satisfactory on the whole.

15. Mr. ESSY (Ivory Coast) said he shared the view expressed by the Egyptian representative and pointed out that the International Law Commission's text was in keeping with the practice followed by the permanent missions to the United Nations both at Geneva and at New York. His delegation was therefore in favour of that text.

16. Mr. GÜNEY (Turkey) endorsed the opinion expressed by several delegations that the International Law Commission's text faithfully reflected international practice. He too, thought that it would be advisable to add to it paragraph 3 of the amendment in document A/CONF.67/C.1/L.34.

17. Mr. EL-ERIAN (Expert Consultant) in response to the requests by the Canadian and Venezuelan delegations that he should explain the position adopted by the ILC with regard to the use of the term "chargé d'affaires *ad interim*" in the case of permanent missions, said that such a practice did, in fact, exist in New York, but that the term was not in general use in some organizations of a technical character. When the ILC had discussed that question, some of its members had declared themselves in favour of a uniform rule, on the lines of the provisions of the Vienna Convention on Diplomatic Relations, while others had preferred not to let themselves be unduly influenced by the practice

followed at the United Nations, so as to take account also of the practice of organizations of a technical character. It therefore seemed to him that there was no need to maintain at all costs the analogy between the draft articles under consideration and the Convention on Diplomatic Relations.

18. He recalled that article 16 had given rise to lengthy discussions in the ILC, which had finally opted for the term "chargé d'affaires *ad interim*", as the expression "permanent representative *ad interim*" was liable to lead to confusion with the terms "alternate representative" or "deputy permanent representative". For it was not always the "number two of a mission" who was called upon to perform the functions of a chargé d'affaires *ad interim*.

19. He said that he hoped he was not misinterpreting the Commission's thinking by saying that the term "head of mission *ad interim*" seemed to him to be satisfactory.

20. Mr. SUY (Legal Counsel of the United Nations) said that, as far as United Nations practice in New York was concerned, the Secretariat published each month all the changes which had occurred in the composition of the permanent missions, as communicated to it by the missions themselves. It was noticeable that the missions used a wide variety of expressions. For example, the French-speaking missions mostly used the term "chargé d'affaires *ad interim*", while others also employed the expression "acting permanent representative" or "permanent representative *ad interim*". Differences were also noticeable in the titles used by the signatories of letters sent by the missions to the Secretariat. In United Nations practice, there was thus no uniformity in the terms used.

21. Mr. SHEDOV (Byelorussian Soviet Socialist Republic) thought that, having regard to the explanations given by the Expert Consultant and by the Legal Counsel of the United Nations, article 16 of the International Law Commission's text faithfully reflected all the aspects of existing practice. The Legal Council had shown that the terminology used by the permanent missions in New York varied from one mission to another, and the Expert Consultant had said that the Commission had endeavoured to take account of the diversity of existing practice. He therefore considered that the text of article 16 was entirely satisfactory.

22. The United Kingdom amendment to article 16 (A/CONF.67/C.1/L.11) was not purely semantic and introduced a new element with regard to the mechanism of appointing a permanent representative *ad interim*. That mechanism was an internal one used by each State and the appointment of a representative *ad interim* was of concern primarily to the sending State. Consequently, it was the rules of the sending State that should be applied, without any restriction. The ILC had been right, in that connexion, to base itself on existing practice and to refrain from introducing any restriction into the article. Furthermore, he did not consider it necessary, in the light of the decision taken on article 15, to add the words "without delay" at the end of the article.

23. Mr. CALLE Y CALLE (Peru) said he thought

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

that, as used in the International Law Commission's text, which was modelled on paragraph 1 of article 19 of the Vienna Convention on Diplomatic Relations, the term "chargé d'affaires *ad interim*" was not calculated to give rise to ambiguity. It related to a traditional and necessary institution. In practice, it was not the sending State which appointed the chargé d'affaires *ad interim*. It was the head of mission who himself delegated his powers. The Cameroonian amendment therefore raised a problem in that connexion. He thought that no useful purpose would be served by providing for the case where the head of mission was absent, as had been advocated by the representative of Egypt; in his view, it sufficed to say that the head of mission was unable to perform his functions. There would also seem to be no point in saying, as did the United Kingdom amendment (A/CONF.67/C.1/L.11), that the notification to the host State and the organization should be made "without delay". Moreover, it was not a "notification" but a "communication", as the name of the chargé d'affaires *ad interim* was "communicated" by a note to the organization and to other missions, including the mission of the host State.

24. He thought that the text of article 16 and the term "chargé d'affaires *ad interim*" should be maintained.

25. Mr. NOOR (Indonesia) said that, like the representative of Madagascar, he was in favour of retaining the text of article 16, subject to the addition of the idea expressed in paragraph 3 of the Cameroonian amendment (A/CONF.67/C.1/L.34).

26. Mr. DE YTURRIAGA (Spain) said that, while admitting that the amendments by the United Kingdom (A/CONF.67/C.1/L.11) and by the United Republic of Cameroon (A/CONF.67/C.1/L.34) contained positive ideas, he was convinced, after having heard the explanations given by the Expert Consultant, that the most suitable wording was that prepared by the ILC. The Commission's wording had the merit of being flexible and, on that account, of being in keeping with practice, for it did not specify who made the notification. The term "chargé d'affaires *ad interim*" was likewise preferable to the other terms proposed, since it had a very explicit meaning in diplomatic law. He therefore supported the International Law Commission's text.

27. The amendment by the United Republic of Cameroon (A/CONF.67/C.1/L.34) introduced details that were unnecessary. It was pointless, in fact, to speak in paragraph 2 of the absence of the head of mission, since the expression "is unable to perform his functions" sufficed, without there being any need to specify the nature of the inability. As to paragraph 3 of the Cameroonian amendment, it might be included in the present text of article 16, by adding, for example, at the end of the article, the words "which shall notify the host State". On the other hand, paragraph 4 seemed unnecessary.

28. Mr. JALICHANDRA (Thailand) said that the Cameroonian amendment (A/CONF.67/C.1/L.34) met a need in the case of the small countries, partic-

ularly the under-developed ones. It often happened, in fact, that a small State, which had opened an embassy in a country, appointed a chargé d'affaires *ad interim* to direct that embassy, while accrediting an ambassador residing in a neighbouring country. For instance, Thailand had at present a chargé d'affaires *ad interim* at New York who was responsible for the direction of Thailand's mission to the United Nations, whereas the Permanent Representative of Thailand to the United Nations resided in Washington. The International Law Commission's text did not cover such a possibility, for it could not be said in that kind of case that the head of mission "is unable to perform his functions". The amendment by Cameroon was therefore very useful for countries which did not have the means of filling some vacant posts with an ambassador or permanent representative and, consequently, had to fall back on chargés d'affaires *ad interim* for prolonged periods. To give substance to that idea, he proposed a subamendment to paragraph 1 of the Cameroonian amendment, which consisted in adding, after the words "is unable to perform his functions", the words "or if he does not reside in the locality in which the seat of the organization is situated".

29. Mr. TAKEUCHI (Japan) said that, after having heard the Expert Consultant's explanations, he was inclined to favour the term "acting head of mission", proposed by the United Kingdom, in preference to "chargé d'affaires *ad interim*". He did not think that United Nations practice in the matter should be allowed to have too great an influence, especially since it was far from being uniform, as the Legal Counsel had pointed out. The term "chargé d'affaires *ad interim*" was only appropriate for a person who acted as head of mission during the absence of the head of mission who had ambassadorial rank, but the heads of missions to technical organizations did not necessarily hold ambassadorial rank. They could be ministers or even counsellors. He therefore supported the United Kingdom amendment (A/CONF.67/C.1/L.11).

30. Sir Vincent EVANS (United Kingdom) said that, from what the Legal Counsel had said about United Nations practice at New York, it appeared that article 16 did not reflect existing practice, since that practice was not uniform. He therefore still preferred the expression "acting head of mission", which, in the light of the comments made by the Expert Consultant, would, in fact, be in keeping with the International Law Commission's intention.

31. Mr. TANKOUA (United Republic of Cameroon) said he accepted the subamendment made orally by Thailand to paragraph 1 of the amendment (A/CONF.67/C.1/L.34). He wished to delete paragraph 2 of that amendment and to insert the words "or is absent" between the words "unable to perform his functions" and the text proposed by the representative of Thailand. Paragraph 1 of the amendment in document A/CONF.67/C.1/L.34 would thus read as follows:

"1. If the post of head of mission is vacant, or if the head of mission is unable to perform his functions, or is absent, or if he does not reside in the

locality in which the seat of the organization is situated, the sending State shall appoint a chargé d'affaires *ad interim* to act as head of mission."

Paragraphs 3 and 4 would be re-numbered as a consequence and the words "In both of these cases" at the beginning of the new paragraph 2 would be replaced by the words "In all of these cases".

32. Mr. KABUAYE (United Republic of Tanzania) said that, after listening to the explanations furnished by the Expert Consultant and the Legal Counsel, he thought that the Cameroonian amendment (A/CONF.67/C.1/L.34), modified by Thailand's oral subamendment, and as orally revised, provided the best possible wording, as it took account of the practical aspect of the matter. He therefore supported it, with the exception of new paragraph 3, which he considered unnecessary.

33. Mr. BARAKAT (Yemen) said that, in the case of international organizations, he thought that the expression "acting head of mission" was better than "chargé d'affaires *ad interim*", which was normally employed in bilateral diplomatic relations. The expression "through the same channel" in new paragraph 3 of the revised Cameroonian amendment seemed to him to give rise to confusion. It appeared to indicate that the host State was to be informed directly by the mission, whereas article 15, paragraph 3, specified that it was the organization that communicated notifications to the host State.

34. Mr. DORON (Israel) said he saw no need to provide for the case where the head of mission "does not reside in the locality in which the seat of the organization is situated", as the representative of Thailand had proposed in his subamendment to paragraph 1 of the Cameroonian amendment (A/CONF.67/C.1/L.34).

35. Mr. TANKOUA (United Republic of Cameroon) said that the subamendment by Thailand took account of the case where the permanent representative of a State to an international organization resided in a country other than the one in which the seat of the organization was situated. He would be pleased to agree to delete the words "through the same channel" in new paragraph 3 of his revised amendment to give satisfaction to the representative of Yemen.

36. Mr. DORON (Israel) said that to meet the case the representatives of Thailand and the United Republic of Cameroon had in mind, the wording "or is absent from the locality in which the seat of the Organization is situated" could be used in paragraph 1 of the revised Cameroonian amendment.

37. The CHAIRMAN said that it might be left to the Drafting Committee to deal with that question.

38. Mr. DE YTURRIAGA (Spain) pointed out that both the United Kingdom amendment (A/CONF.67/C.1/L.11) and the amendment of the United Republic of Cameroon (A/CONF.67/C.1/L.34) spoke of its being the "sending State" that appointed the acting head of mission or the chargé d'affaires *ad interim*. He asked the sponsors of those amendments whether such an appointment could only be made through the com-

petent Ministry in the sending State or whether the head of mission could himself make the appointment.

39. Mr. TANKOUA (United Republic of Cameroon) said that in the original version of its amendment (A/CONF.67/C.1/L.34), the Cameroonian delegation had made provision for that aspect of the problem in paragraph 2 of the proposed text. In the light of the views expressed during the discussion, it had given up that idea when it had combined paragraphs 1 and 2 of the amendment. In fact, he thought that in referring to the sending State, the implication was that a permanent mission representing that State, and, more explicitly, the head of that mission, could appoint a chargé d'affaires *ad interim*, when it was not necessary for the appointment to be made by the Government. The Cameroonian delegation had at first thought that refusal by some host State or organization to recognize chargés d'affaires *ad interim* appointed in that way might give rise to practical difficulties, but the discussion had shown that such an eventuality would be quite exceptional.

40. Sir Vincent EVANS (United Kingdom) pointed out that according to article 9, it was the sending State, namely, the competent authorities of that country, that freely appointed the members of the mission. As to who notified the name of the acting head of mission to the organization, that was an entirely different question. It was therefore correct to provide that it was the sending State that appointed the acting head of mission.

41. Mr. RICHARDS (Liberia) said he thought the Committee was spending too much time on technical points and he therefore moved the closure of the debate on the question under discussion in accordance with rule 26 of the rules of procedure.

42. The CHAIRMAN said he noted that no member of the Committee wished to speak against the closure of the debate in accordance with that same rule of the rules of procedure.

The motion for closure of the debate was adopted.

43. The CHAIRMAN invited the Committee to vote first on the amendment submitted by the United Kingdom delegation (A/CONF.67/C.1/L.11) as orally amended.

44. Mr. RITTER (Switzerland) requested that three separate votes be taken in respect of the amendments in documents A/CONF.67/C.1/L.11. The Committee would vote first on the words "If the post of head of mission is vacant, or if the head of mission is unable to perform his functions, the sending State may appoint an acting head of mission whose name shall be notified to the [. . .] Organization", then on the words "and by the Organization to the host State" and lastly, on the words "without delay". If the Committee accepted the first part of the amendment, it could then vote independently on the other two; if it rejected the first, it would nevertheless be possible to add the other two parts of the amendment to the International Law Commission's text.

45. The CHAIRMAN, in accordance with the motion for division made by the representative of Switzerland, put to the vote the first part of the United King-

dom amendment (A/CONF.67/C.1/L.11) as orally amended, namely, the words "If the post of head of mission is vacant, or if the head of mission is unable to perform his functions, the sending State may appoint an acting head of mission whose name shall be notified to the [. . .] Organization".

Those words were adopted by 35 votes to 19, with 10 abstentions.

46. The CHAIRMAN put to the vote the second part of the amendment, namely, the words "and by the Organization to the host State".

Those words were adopted by 40 votes to 9, with 13 abstentions.

47. The CHAIRMAN put to the vote the third part of the amendment, namely, the words "without delay".

Those words were rejected by 24 votes to 24, with 18 abstentions.

The United Kingdom amendment, as orally amended and with the omission of the words "without delay", was adopted by 42 votes to 9, with 14 abstentions.

48. The CHAIRMAN announced that, in accordance with rule 41 of the rules of procedure, the amendment by the United Republic of Cameroon (A/CONF.67/C.1/L.34), as amended orally, did not have to be put to the vote.

49. The Drafting Committee would make the necessary amendments to the title of article 16.

50. Mr. DE YTURRIAGA (Spain) said that his delegation had voted against the United Kingdom amendment because of the words "the sending State may appoint", contained in it. From the definition of the term "sending State" given in article 1, paragraph 1, subparagraph 13, which could only refer to a State, it appeared that the head of a permanent mission could not appoint an acting head of mission.

51. Mr. CALLE Y CALLE (Peru) said that he had voted against the United Kingdom amendment for the same reason as that given by the representative of Spain. He considered, moreover, that the term "acting head of mission" was less clear than the term "chargé d'affaires *ad interim*", and that it was contrary to the practice normally followed at the United Nations and in bilateral diplomacy to entrust the sending State and not the head of mission with the appointment of a chargé d'affaires *ad interim*.

52. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that his delegation had abstained from voting, for the same reason as that given by the representatives of Spain and Peru.

Article 17 (Precedence) (A/CONF.67/4; A/CONF.67/C.1/L.40, L.45)

53. Mr. VON KESSEL (Federal Republic of Germany) said that his delegation wished to become a sponsor of the Pakistani amendment (A/CONF.67/C.1/L.45) and to withdraw its own proposed amendment (A/CONF.67/C.1/L.40). The Drafting Committee might consider the advisability of keeping the words "in accordance with articles 10 and 15", which were

contained in the amendment by the Federal Republic of Germany and not in the Pakistani amendment.

54. The delegation of the Federal Republic of Germany had submitted its amendment because it thought it preferable to follow the model provided by article 16 of the Vienna Convention on Diplomatic Relations, which referred to the date and time of taking up functions for the purpose of determining precedence. However, it did not attach paramount importance to the matter. From the commentary of the ILC to article 17, it appeared that the Commission had hesitated between the two criteria which could be applied in the matter of precedents: alphabetical order or the time and date of the submission of credentials. The criterion of alphabetical order had proved useful in the case of conferences, but there seemed no justification for the application to missions, in the future convention, of a criterion different from that accepted by the Vienna Convention on Diplomatic Relations. As often as not the members of missions to the international organizations were also diplomats performing functions in bilateral diplomacy, so that the distinction made by the article seemed to be artificial. Those same reasons were also valid in the case of permanent observer missions. On the other hand, the situation was different with regard to delegations to organs or conferences.

55. Mr. HAQ (Pakistan) welcomed the fact that the delegation of the Federal Republic of Germany had become a sponsor of the Pakistani amendment (A/CONF.67/C.1/L.45). Introducing that amendment, he pointed out firstly that, in its commentary to article 17 the ILC had not considered in depth the merits of the two criteria applicable in the case of precedence. It had confined itself to indicating that it had finally opted for the criterion of alphabetical order. It had, however, been right to draft two separate provisions to govern the respective cases of permanent representatives and permanent observers. In its provisional draft, the ILC had decided to apply both the criterion of alphabetical order and that of the date and time of submission of credentials.² The alphabetical order rule, which it had finally selected, did not seem universally acceptable as several alphabetical orders existed. It should be remembered that, as a whole, the International Law Commissions' draft articles were based on the various Vienna Conventions; it was a pity that they departed from them on that point. According to the proposed system, a recently appointed permanent observer might have precedence over an observer of longer standing just because of the alphabetical order of the names of the States in question.

56. Mr. OSMAN (Egypt), said that he noted that the delegation of the Federal Republic of Germany did not attach very great importance to the amendment under consideration, which seemed justified only because it was the practice followed in diplomatic relations. In view of the enormous workload borne by the permanent missions to the United Nations or to other international organizations, he feared that the criterion proposed in

² See *Official Records of the General Assembly, Twenty-third Session, Supplement No. 9, chap. II, sect. E, art. 19.*

the amendment in document A/CONF.67/C.1/L.45 would result in an undue increase of work. If it were to be applied, it would be necessary to keep up with all the arrivals and all the departures of permanent representatives and permanent observers, whereas the alphabetical order criterion was easier to apply. For that reason he appealed to the sponsors to accept the criterion proposed by the ILC.

Organization of work

57. The CHAIRMAN pointed out that, during the period from 2 to 12 February 1975, the Committee of the Whole had considered on average a little more than one article per meeting. If it was to complete its work on 10 March 1975, as planned, it would henceforth have to consider three articles per meeting.

The meeting rose at 1.10 p.m.

13th meeting

Thursday, 13 February 1975, at 3.20 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 17 (Precedence) (concluded) (A/CONF.67/4, A/CONF.67/C.1/L.45)

1. The CHAIRMAN invited the Committee to continue its consideration of article 17 and the Pakistan amendment (A/CONF.67/C.1/L.45), also sponsored by the Federal Republic of Germany.
2. Mr. GOBBI (Argentina) said that his delegation agreed with the irrefutable arguments given by the representative of Egypt concerning the text of article 17 proposed by the International Law Commission (ILC) (see A/CONF.67/4). It was of the opinion that United Nations practice had served as a basis for the Commission's text and that that practice should continue to be followed.
3. Mr. WERSHOF (Canada) requested the Legal Counsel to explain which rules or practices of precedence were followed in New York during the General Assembly and during the rest of the year. His delegation was not quite sure why an article on precedence needed to be included in the proposed convention, but, in any case, preferred the system of alphabetical order, which now seemed to be normal practice.
4. Mr. MOLINA LANDAETA (Venezuela) said that, as a result of consultations with other delegations, he had the impression that problems with regard to precedence had arisen because account had been taken only of precedence for administrative purposes, such as seating and voting, but not of another very important type of precedence, namely, diplomatic precedence. In view of the large number of States which were now members of international organizations, there would, of course, be very definite advantages in establishing a general rule that precedence should be determined by alphabetical order, but it must be borne in mind that diplomatic precedence for questions of protocol or etiquette also had an important role to play. For example, in Geneva, the order of precedence for seating and voting in meetings of international organizations was determined by alphabetical order, but, in cases of visits to the Secretary-General, precedence among permanent

representatives was determined by the date and time of taking up their functions. It would therefore be difficult to determine precedence always by alphabetical order.

5. His delegation's point of view with regard to precedence lay somewhere between the rules provided for in the text prepared by the ILC and those provided for in the amendment proposed by Pakistan and the Federal Republic of Germany. In order to take account of the two types of precedence to which he had referred, he orally proposed to add at the end of paragraph 1 of article 17, the words: "However, in matters relating strictly to protocol or etiquette, precedence may be established on the basis of the date and time of presentation of credentials by permanent representatives". If the delegations of Pakistan and the Federal Republic of Germany could incorporate the principle of that oral amendment into their amendment, his delegation would be able to support their amendment.

6. The CHAIRMAN said that, strictly speaking, the oral amendment proposed by the delegation of Venezuela was out of order because the time-limit for amendments had already expired.

7. Mr. ABDALLAH (Tunisia) said that permanent representatives in missions to international organizations and in embassies were all diplomats and it would be discriminatory to adopt different rules for the two categories. His delegation considered that it would be unwise for the Committee to complicate matters when it could, in accordance with normal practice, adopt the rule of the determination of precedence by the date and time of the taking up of functions and therefore supported the amendment proposed by Pakistan and the Federal Republic of Germany.

8. Mr. EUSTATHIADES (Greece) said that the solution proposed in the oral amendment introduced by Venezuela had been discussed in the ILC, which had ultimately decided to base article 17 on the existing practice in the United Nations of determining precedence by alphabetical order. His delegation believed that was the wisest course because the simplest approach should be adopted in matters of precedence, in conformity, moreover, with the general tendency of simplifying questions of precedence.

9. Mr. SANGARET (Ivory Coast), referring to the amendment proposed by Pakistan and the Federal Republic of Germany, said that difficulties might arise in