

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

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**A/CONF.67/C.1/SR.13**

**13th meeting of the Committee of the Whole**

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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

determining the date and time when a new ambassador had taken up his functions because it would also be necessary to determine that the obligations provided for in article 10 had been met. His delegation would be unable to support the amendment proposed by Pakistan and the Federal Republic of Germany unless it was amended to take account of the provisions of article 10.

10. Sir Vincent EVANS (United Kingdom) said that a distinction must be made between permanent representatives acting in that capacity and permanent representatives acting as delegates to organs or at meetings of international organizations. Article 11 clearly made such a distinction, and article 17 therefore did not deal with the aspect of precedence among representatives participating in meetings of international organizations. Moreover, he did not think it could be said that precedence was determined by alphabetical order in such United Nations organs as the General Assembly and the Security Council. The Presidents of those organs certainly took precedence over all other representatives, whereas alphabetical order was relevant only to seating and voting.

11. Thus, he had some difficulty in understanding what situations would be covered if rules concerning precedence were included in the proposed convention and wondered whether such an article would serve any useful purpose at all. He feared that, if alphabetical order was chosen, an undue burden might be placed on the permanent representatives of certain countries. On the other hand, the adoption of the amendment proposed by Pakistan and the Federal Republic of Germany might lead to practical difficulties because, in Geneva at least, there were frequent changes in the membership of permanent missions to large international organizations. Moreover, the amendment could cause conflicts between the order of precedence provided for in the proposed convention and the order of precedence followed in accordance with the practice of the various international organizations.

12. His delegation therefore suggested that article 17 should be deleted and that questions of precedence should be determined according to the rules of each international organization.

13. Mr. SUY (Legal Counsel of the United Nations), replying to the question of the representative of Canada, said that he agreed with the representative of the United Kingdom that the rule in the United Nations in New York was that there was no set rule at all and that the determination of precedence depended on the organ and the circumstances in question. For example, the five permanent members of the Security Council took precedence over the other members and, in the case of President Ford's visit to the United Nations in 1974, there had been no order of precedence at all. He therefore concluded that, since the rules varied with circumstances, it would be better not to include any specific rules on precedence in the proposed convention.

14. Mr. HAQ (Pakistan) said that since the delegation of the Federal Republic of Germany and his own delegation had presented their amendments to article

17, two other proposals had been made: the Venezuelan representative had suggested a combination of the systems of determining precedence among permanent representatives by alphabetical order and by the date of presentation of credentials; the United Kingdom representative had suggested that the article was irrelevant and might be deleted. At social functions, presentations to Heads of State and certain other occasions, it would be absurd to use the alphabetical system of precedence and complicated to use the date system. His delegation still maintained that the alphabetical system made precedence static and computerized. The Vienna Convention on Diplomatic Relations<sup>1</sup> attached due importance to the question and laid down that precedence should be determined according to the order of date and time of taking up functions (article 16). The various aspects of precedence should not be treated as perfunctorily as they were in the article. He therefore requested that the United Kingdom proposal to delete the article which had been moved orally should be put formally before the Committee along with his own proposal. If the subject was excluded from the convention and thereby left undetermined, each organization would be able to establish an order of precedence according to its own convenience.

15. Mr. UNGERER (Federal Republic of Germany) said that in view of the number of suggestions which had been made in the course of the discussion on article 17, he wondered whether it would not be desirable to postpone voting on the article in order to enable those delegations which had proposals to endeavour to produce a compromise formula which might be generally acceptable.

16. Mr. GOBBI (Argentina) moved the closure of the debate under rule 26 of the rules of procedure.

*It was so decided.*

17. The CHAIRMAN invited the Committee to vote on the question of precedence in terms of the principle on which it would be based rather than of the wording of proposals. After outlining the procedure he intended to follow and indicating that a vote against all of the options would constitute a vote in favour of deleting the article, he put to the vote the principle of determining precedence among permanent representatives by the order of the date and time of taking up their functions (A/CONF.67/C.1/L.45).

*The principle was rejected by 24 votes to 15, with 24 abstentions.*

18. The CHAIRMAN put to the vote the principle that precedence among permanent representatives should be determined by the alphabetical order of the names of the States, except for purposes of protocol or etiquette, when it would be determined by the order of the date and time of taking up their functions (Venezuelan oral amendment).

*The principle was rejected by 23 votes to 14, with 26 abstentions.*

19. The CHAIRMAN put to the vote the principle of

<sup>1</sup> United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

determining precedence among permanent representatives by the alphabetical order of the names of the States (A/CONF.67/4, article 17).

*The principle was accepted by 26 votes to 23, with 15 abstentions.*

20. The CHAIRMAN said that he took it that article 17 proposed by the ILC could be referred to the Drafting Committee.

21. Mr. MOLINA LANDAETA (Venezuela) speaking in explanation of vote, said that for the first time he had been compelled to vote against a text drafted by the ILC, the work of which his delegation held in the highest respect. He deplored the fact that there had not been sufficient time to consider the matter of precedence with due attention. Alphabetical order was not always used to determine precedence in the United Nations; there had been constant reference to the practice in New York, but as a matter of fact, most diplomatic movement occurred in Geneva, of which no mention had been made, but which was an important United Nations centre. Codification of international law was a matter of translating existing practice into legal provisions. His delegation would vote against any proposal supported by references to practice in New York, unless it was in conformity with general practice.

*Article 18 (Office of the mission) (A/CONF.67/4, A/CONF.67./C.1/L.41)*

22. Mr. UNGERER (Federal Republic of Germany), introducing his delegation's amendment (A/CONF.67/C.1/L.41), said that it implied a change in the scope of the article since it dealt not only with the establishment of offices of missions but rather with the question of the locality where they might be established. His delegation had the impression that the problem of locality, which was of some importance, would not otherwise be dealt with. The first sentence of the amendment stated the current practice. The second sentence took account of the fact, which had also been raised in the discussion on article 5, that some organizations, like the United Nations itself, with its European Office at Geneva, had offices in addition to their headquarters. The amendment did not cover the case of localities in which neither the organization nor any office of the organization was situated because it did not appear to be of much importance. If it was the view of the Committee that such a case should be covered, his delegation had no objection to the retention of the International Law Commission's text of article 18 as a second paragraph of the article.

23. Mr. PLANA (Philippines), speaking on the meaning of the word "locality", said that in his view it did not exactly coincide with the boundary of the city or administrative subdivision in which the seat of the organization was established but it referred to a wider area which would permit easy commuting from the mission to the seat of the organization.

24. Mr. MUSEUX (France) reminded the Committee that his delegation had submitted an amendment to article 5 (A/CONF.67/C.1/L.23), which required missions to be established at the seat of the organization. The amendment of the Federal Republic of Ger-

many to article 18 (A/CONF.67/C.1/L.41) had taken up the same idea and he consequently supported it. The French text of article 18 and of the amendment presented some difficulty: it was not clear whether the word "bureau" which had not yet been used in the convention referred to the mission itself or some other premises and the term "office de l'organisation" was difficult to interpret. If it referred specifically to the United Nations Office at Geneva, there was no difficulty, but the word had also a wider meaning in French which would make it difficult to determine the scope of the article.

25. Mr. ESSY (Ivory Coast) said that in general he did not favour departing to any great extent from the International Law Commission's text. In the case of article 18, however, the amendment clearly stated a principle from which the practice logically followed and he was therefore inclined to support it. He agreed with the observations made by the French representative about the drafting problems in the French text.

26. Mr. EUSTATHIADES (Greece) asked for a separate vote on the first and second sentences of the amendment (A/CONF.67/C.1/L.41).

27. Mr. SMITH (United States of America) supported the proposal for a separate vote; he thought there was merit in the first sentence of the amendment but the second sentence seemed ambiguous.

28. The CHAIRMAN put to the vote the first sentence of the amendment contained in document A/CONF.67/C.1/L.41.

*The first sentence was adopted by 32 votes to 1, with 23 abstentions.*

29. The CHAIRMAN put to the vote the second sentence of the amendment.

*The second sentence was adopted by 29 votes to 6, with 26 abstentions.*

*The amendment as a whole was adopted by 40 votes to 10, with 9 abstentions.*

30. Mr. TANKOUA (United Republic of Cameroon), speaking in explanation of vote, said that he had abstained from the vote because he would have preferred the International Law Commission's text of article 18.

31. Mr. KABUAYE (United Republic of Tanzania), said that he had abstained from the vote for the same reason as the previous speaker, although in essence there was little difference between the two texts.

32. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that he had voted against the amendment because he considered the International Law Commission's text more acceptable.

33. Mr. DE YTURRIAGA (Spain) suggested that the Drafting Committee should look closely at the text wording of the amendment; the two sentences as drafted seemed to some extent contradictory and it would appear to be necessary, at any rate in Spanish, to introduce the second sentence by the words "sin embargo".

34. Mr. BARAKAT (Yemen) said that he had abstained from the separate votes on the two sentences since it was impossible to adopt one without the other.

He had voted for the amendment as a whole although he considered that the text could be improved: it should be made clear that the word "Headquarters" meant the locality where the organization was situated. At present, in the case of New York, the word "Headquarters" was understood to refer to the building on the East River.

35. Mr. UNGERER (Federal Republic of Germany) suggested that the Drafting Committee should also revise the title of the article which the adoption of the amendment had rendered inappropriate.

36. Mr. CALLE Y CALLE (Peru), speaking in explanation of vote, said that he had voted against the amendment because he would have preferred the International Law Commission's text of article 18. The text which had been adopted appeared to start from the premise that it was normal and natural to establish missions outside the seat of the organization's headquarters. The purport of the article was to establish that the consent of the host State was required to do so. The rules of the organization, referred to in the final phrase of the second sentence, made no reference to the subject. He agreed with previous speakers that some recasting of the text and of the title was required.

37. The CHAIRMAN said that the Drafting Committee would take note of all the points which had been raised in connexion with the wording of the article.

*Article 19 (Use of flag and emblem) (A/CONF.67/4, A/CONF.67/C.1/L.43)*

38. Mrs. SLÁMOVÁ (Czechoslovakia), introducing the amendment proposed by her delegation and that of Mongolia (A/CONF.67/C.1/L.43), said that use of the flag and emblem derived from the representative character of the head of mission. In the opinion of the sponsors, there was no reason to make a distinction, in the matter of use of the flag and emblem, between permanent missions and permanent observer missions. The arguments adduced by the ILC in support of its text were not entirely acceptable because in the case of both permanent missions and permanent observer missions, the function of the head of mission was to represent his State. The sponsors therefore preferred the text of article 59 contained in the Special Rapporteur's fifth report<sup>2</sup> which provided that a permanent observer mission would have the right to use the flag and emblem of its sending State on the premises of the mission and the permanent observer would have the right to use the flag and emblem on his residence and his means of transport.

39. Mr. PREDA (Romania) said that his delegation did not consider it advisable to establish separate régimes, in the matter of the use of flag and emblem, for permanent missions and permanent observer missions. It therefore supported the amendment in document A/CONF.67/C.1/L.43.

40. Mr. CALLE Y CALLE (Peru) said that by their amendment the delegations of Czechoslovakia and Mongolia were attempting to bring a balance into the

Commission's text. As permanent missions and permanent observer missions were both representative in character, he could not agree that there should be some reduction in the visible signs of the presence of permanent observers. When the Commission's original article, then numbered 64, had been discussed in the General Assembly, some representatives had proposed that permanent observers should be allowed to use the flag but not the emblem; others had suggested, however, that no form of distinction should be established in the matter. As a result of that discussion, the Special Rapporteur had come to the conclusion that the permanent observer mission should have the right to use both the flag and the emblem on its premises. He could not therefore agree to the difference in treatment proposed for the two types of mission. In his opinion, inviolability of the representative and of the premises included inviolability of the means of transport.

41. It should be noted, in that connexion, that in article 23, which dealt with inviolability of the premises, it was stated that the means of transport of the mission were to be immune from search, requisition, attachment or execution. The fact was that the beneficiary of inviolability should not expose himself to unnecessary risks. If his means of transport did not fly the flag of his State he might be exposed to unnecessary risk. Professor Fauchille, when speaking of inviolability, had said that the privilege was applied to all the things and all the acts necessary for the accomplishment of the minister's mission. Included among those things were the means of transport and the residence of the head of mission, whether a permanent or an observer mission. For those reasons, his delegation would vote for the amendment in document A/CONF.67/C.1/L.43.

42. Mr. GÜNEY (Turkey) asked the Expert Consultant to explain the reasons which had led the Commission to differentiate between permanent missions and permanent observer missions.

43. Mr. EL-ERIAN (Expert Consultant) said that, as the Peruvian representative had explained, originally the Commission had not taken the position reflected in article 19. That position was based on comments the Commission had received on the subject.

44. Mr. AVAKOV (Union of Soviet Socialist Republics) said that his delegation supported the amendment proposed by the delegations of Czechoslovakia and Mongolia because the arguments the ILC had adduced in favour of its text (see A/CONF.67/4) were not valid. The functions of the permanent observer mission might be different from those of the permanent mission, but the persons performing the functions should be accorded equal rights.

45. Mr. RITTER (Switzerland) supported the amendment proposed by the delegations of Czechoslovakia and Mongolia. In the course of its debate on article 7, the Committee had recognized the representative character of permanent observer missions. The flag and the emblem constituted protocol implications of that representative character. The distinction between the two types of mission made in article 19 seemed unnecessarily discriminatory.

<sup>2</sup> See *Yearbook of the International Law Commission, 1970*, vol. II, document A/CN.4/227 and Add.1 and 2.

46. Mr. GOBBI (Argentina) endorsed the comments of previous speakers. The amendment under consideration improved the Commission's text.

47. Mr. MOLINA LANDAETA (Venezuela) said that his delegation would vote for the amendment proposed by the delegations of Czechoslovakia and Mongolia.

48. The CHAIRMAN put to the vote the amendment proposed by the delegations of Czechoslovakia and Mongolia (A/CONF.67/C.1/L.43).

*The amendment was adopted by 44 votes to 1, with 20 abstentions.*

49. Mr. TAKEUCHI (Japan) said that in principle his delegation was not opposed to the amendment. It could not, however, agree with the Peruvian representative's argument that inviolability of the premises included inviolability of the means of transport. In the definition of "premises of the mission" in subparagraph 26 of paragraph 1 of article 1, there was no reference to means of transport.

50. The CHAIRMAN took it that article 19 was adopted as amended and should be referred to the Drafting Committee.

*Article 20 (General facilities) (A/CONF.67/4, A/CONF.67/C.1/L.39, L.44)*

51. Mr. MAAS GEESTERANUS (Netherlands), introducing the amendment submitted by the delegations of the Netherlands and Switzerland (A/CONF.67/C.1/L.39) said that as drafted, paragraph 1 of article 20 differentiated between permanent missions and permanent observer missions. To judge by a comparison of the wording of the two subparagraphs of paragraph 1, the permanent mission was to be accorded facilities over and above those required for the performance of its functions. What was important was that facilities should correspond to the functions to be performed, and the Conference should not try to establish, for any type of mission, privileges and immunities in excess of those necessary for the performance of functions. Again, the sponsors failed to see why, in article 20, any distinction should be made between the two categories of mission. In practice, a mission with very extensive functions might have to be accorded greater facilities than a mission with less extensive functions. The difference in the facilities accorded would, however, have nothing to do with the character of the mission.

52. Mr. KHASHBAT (Mongolia), introducing the amendment proposed by the delegations of Czechoslovakia and Mongolia (A/CONF.67/C.1/L.44), said that the distinction made in the article between permanent missions and permanent observer missions did not seem justified. It would be noted, in that connexion, that article 25 of the Vienna Convention on Diplomatic Relations—on which the article under consideration was based—stated simply that the receiving State was to accord full facilities for the performance of functions of the mission. It was for those reasons that the Czechoslovak and Mongolian delegations had submitted their

amendment. If the amendment was accepted, the Drafting Committee might wish to merge subparagraphs (a) and (b) of paragraph 1 of article 20.

53. Mr. ZEMANEK (Austria) asked whether the Expert Consultant could give examples of facilities which would be accorded under subparagraph (a) but not under subparagraph (b).

54. Mr. BARAKAT (Yemen) said that the amendments in documents A/CONF.67/C.1/L.39 and A/CONF.67/C.1/L.44 were almost identical. The Committee's work would be greatly facilitated if the two amendments could be combined. He suggested that the wishes of the sponsors of the amendment in document A/CONF.67/C.1/L.44 would be met if the word "all" were inserted between the words "mission" and "the" in the Netherlands-Swiss amendment (A/67/C.1/L.39).

55. Mr. EUSTATHIADES (Greece) said that the purpose of both the amendments under consideration was to secure equal facilities for permanent missions and permanent observer missions. His delegation had voted in favour of the amendment proposed to article 19 by the delegations of Czechoslovakia and Mongolia (A/CONF.67/C.1/L.43), the purpose of which had also been to secure equal treatment for permanent missions and permanent observer missions. In that case, however, the question of the difference in missions' functions did not arise. In article 20, the Commission had stressed that difference. It could not have expressed its views more clearly than it had in paragraph 1 of its commentary to article 20 (A/CONF.67/4). The Commission's thinking in the matter was clear and fully consistent with the difference described in articles 6 and 7, between the functions of the permanent mission and those of the permanent observer mission. The functions of the latter were much more limited than those of the former. Short of re-drafting articles 6 and 7, it was difficult to see how the criterion established in those articles—namely, that privileges and immunities were based on functions—could be abandoned.

56. Mr. CHANG (Republic of Korea) said that his delegation agreed that the facilities accorded should correspond to those needed by a mission to perform its functions, and that subparagraphs (a) and (b) of paragraph 1 should be merged. It could, therefore, support the amendment submitted by the delegations of the Netherlands and Switzerland (A/CONF.67/C.1/L.39).

57. Mr. KABUAYE (United Republic of Tanzania) welcomed the idea of merging the two amendments contained in documents A/CONF.67/C.1/L.39 and L.44. His delegation supported the principle underlying both amendments.

58. That being said, he pointed out that the granting of the facilities in question presupposed on the part of the host State not only a willingness to make them available but also the possibility of doing so. Every country suffered from its own limitations in that respect. Therefore, unless further clarification was forthcoming, his delegation would be inclined to support the amendment sponsored by the Netherlands and Switzerland (A/CONF.67/C.1/L.39).

59. Mr. JOEWONO (Indonesia) expressed support for the amendment contained in document A/CONF.67/C.1/L.39, which placed the permanent observer mission on a par with the permanent mission.

60. Mr. STEPANOV (Ukrainian Soviet Socialist Republic) supported the amendment submitted by Czechoslovakia and Mongolia (A/CONF.67/C.1/L.44), which was designed to ensure that the situations of permanent missions and permanent observer missions were treated on a strictly equal footing in the forthcoming convention.

61. His delegation, however, wished to put forward an oral subamendment, the effect of which would be to add two sentences to the short text of the amendment under consideration. The sentences in question would specify the obligations of the host State to create the necessary conditions for the normal activities of the mission and to ensure its protection and safety; in the event of an attack upon the mission, the host State should take immediate and effective measures for the punishment of the guilty persons.

62. The timeliness and usefulness of such an addition had been underlined by the recent instances of flagrant violation of the privileges and immunities of the representatives of States to international organizations.

63. Mr. RITTER (Switzerland) said that there was general agreement that privileges and immunities were based on functional needs. The mission was entitled to such privileges, immunities and facilities as were required for the purpose of its functions; it was not entitled to other privileges connected with matters of mere convenience.

64. The present text of paragraph 1 could conceivably be read as meaning that while the permanent observer missions covered by subparagraph (b) were entitled to receive only the facilities required for the performance of their functions, the permanent missions covered by subparagraph (a) were entitled to some unspecified additional facilities. It was for that reason, among others, that his delegation had joined that of the Netherlands in sponsoring the amendment in document A/CONF.67/C.1/L.39.

65. It was true that a permanent observer mission had a role that was different from that of a permanent mission and that different facilities were accordingly called for in the two cases. That point, however, was adequately covered by the formula "the facilities required". The requirements of each type of mission would depend on its particular needs.

66. The amendment proposed by Czechoslovakia and Mongolia (A/CONF.67/C.1/L.44) pursued the same purpose as the amendment of which his own delegation was a sponsor, although the language used was somewhat different. He had now been authorized by those two delegations and by that of the Netherlands to announce the merger of the two amendments into a single revised amendment, or consolidated amendment, to replace the present text of paragraph 1 by the following words:

"1. The host State shall accord to the mission all

the facilities required for the performance of its functions".

67. Mr. GÜNEY (Turkey) said that his delegation supported the International Law Commission's text of article 20, which was based on the doctrine of functional necessity. As for the distinction between the missions covered by the two subparagraphs (a) and (b), it reflected existing differences regarding the functions and obligations of permanent missions and of permanent observer missions.

68. Since the provisions of the article were governed by the doctrine of functional necessity, and the functions of permanent missions and permanent observer missions were not the same, he saw no reason for giving them both the same facilities as suggested in the two earlier amendments (A/CONF.67/C.1/L.39 and L.44) and now in the consolidated one. His delegation accordingly opposed the consolidated amendment and supported the retention of the International Law Commission's text.

69. Mr. TAKEUCHI (Japan) said that he sympathized with the view expressed by the representative of the United Republic of Tanzania. All countries, including developing countries, were potential candidates for the title of host State. Some of them, however, would find it difficult in practice to grant all the facilities required.

70. Mr. EUSTATHIADES (Greece) said that the consolidated amendment did not raise any issue of substance. The whole question was largely one of choice of wording. It was agreed by all that the facilities to be granted by the host State should be such as to enable the permanent mission or the permanent observer mission, as the case might be, to perform its functions.

71. His own suggestion would be to avoid using different language in subparagraphs (a) and (b). He would further suggest that the wording in both paragraphs should include the formula "facilities required".

72. Mr. EL-ERIAN (Expert Consultant) said that, in article 22 of the International Law Commission's 1969 preliminary draft<sup>3</sup>—corresponding to the present article 20—the words "full facilities" were used with regard to permanent missions, in line with the language used for diplomatic missions in the corresponding provision—article 25—of the 1961 Vienna Convention on Diplomatic Relations. The present formula "all facilities" had been introduced on second reading in 1971 (see A/CONF.67/4).

73. With regard to permanent observer missions, the representative of Greece had given certain clarifications regarding the intentions of the ILC, which were based on the concept of relating the granting of facilities to the performance of functions. No facilities were to be granted beyond what was required for the performance of the mission's functions. It was for that reason that the Commission had used the expression "all facilities"

<sup>3</sup> See *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 10, chap. II, sect. B.*

in connexion with permanent missions and the expression "the facilities required" in connexion with permanent observer missions.

74. Mr. KIM (Democratic People's Republic of Korea) expressed his delegation's support for the consolidated amendment resulting from the merger of the amendments contained in documents A/CONF.67/C.1/L.39 and L.44.

75. Mr. KABUAYE (United Republic of Tanzania) said that, following the merger of the two amendments, he would suggest the introduction at the end of the text now proposed of some wording on the lines of the concluding passage of paragraph 2: "such facilities as lie within its own competence".

76. Mr. STEPANOV (Ukrainian Soviet Socialist Republic) said that, following the merger of the two amendments, the oral subamendment he had previously put forward now applied to the consolidated amendment.

77. Mr. WERSHOF (Canada), speaking on a point of order, said that the oral subamendment could not be properly voted upon because it had not been circulated in writing beforehand in all languages. Moreover, the substance of the subamendment had no relation to article 20 now under discussion or the amendment to it.

78. The CHAIRMAN said that oral amendments had already been discussed on occasion by the Committee although not submitted within the specified time-limit. Moreover, the last sentence of rule 30 of the rules of procedure enabled him to permit the discussion and consideration of amendments that had not been circulated in all languages on the day preceding the meeting.

79. Mr. DO NASCIMENTO E SILVA (Brazil) pointed out that the substance of the Ukrainian subamendment related to article 23 (Inviolability of the premises).

80. Mr. RICHARDS (Liberia) supported the Canadian representative. Representatives should have been given a reasonable time to study a proposal such as that read out by the Ukrainian delegation.

81. Mr. UNGERER (Federal Republic of Germany) said that his delegation had much sympathy for the substance of the Ukrainian proposal, especially since the very recent incident affecting a permanent mission of his own country. It felt, however, the proposal such as that submitted by the Ukrainian representative could not be discussed without a text having first been circu-

lated in writing. In any case, the proposal should have been submitted as an amendment to a later article.

82. Mr. KUZNETSOV (Union of Soviet Socialist Republics) expressed surprise at the rigid attitude adopted by the Canadian representative. The Committee had so far applied the relevant rules of procedure with considerable flexibility. In recent meetings of the Committee oral amendments submitted without notice by a number of delegations had been discussed and voted upon.

83. The CHAIRMAN, giving a ruling on the point of order raised by the Canadian representative, said that the two sentences proposed by the Ukrainian representative had been submitted as a subamendment to the consolidated amendment. So far, however, the Committee had not set any time-limit for the submission of subamendments.

84. That being said, he felt that the Ukrainian proposal appeared to relate to paragraph 2 of article 23 (Inviolability of the premises). He therefore appealed to the Ukrainian representative to submit it in writing as an amendment to that later article.

85. Mr. BABIY (Ukrainian Soviet Socialist Republic) said that, in the light of the exchange of views that had taken place in a spirit of co-operation, his delegation agreed to submit its oral subamendment in writing for discussion in connexion with the relevant article at a later meeting.

86. The CHAIRMAN thanked the Ukrainian representative for his co-operation and put to the vote the consolidated amendment to replace paragraph 1 of article 20 by the following text: "The host State shall accord to the mission all the facilities required for the performance of its functions".

*The amendment was adopted by 60 votes to none, with 2 abstentions.*

*Article 20, as a whole, as amended, was adopted unanimously.*

87. Mr. KABAUYE (United Republic of Tanzania), explaining his vote, said that his delegation had voted in favour of the article as amended on the understanding, expressed by it during the discussion, that the host State's obligations were conditioned by its possibilities in the matter.

*The meeting rose at 6.15 p.m.*

## 14th meeting

Friday, 14 February 1975, at 10.45 a.m.

Chairman: Mr. NETTEL (Austria).

*In the absence of the Chairman, Mr. Wershof (Canada), Vice-Chairman, took the Chair.*

**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 21 (Premises and accommodation) (A/CONF.67/4, A/CONF.67/C.1/L.42, L.47)*

1. Mr. UNGERER (Federal Republic of Germany), introducing the amendment by his delegation to article 21