

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

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**A/CONF.67/C.1/SR.24**

**24th meeting of the Committee of the Whole**

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the latter would not have affected the meaning of the amendment in document A/CONF.67/C.1/L.75. The United Kingdom oral subamendment would have bereft the amendment of its content. His delegation had voted for the latter amendment in the belief that the expression "in accordance with the rules and decisions of the Organization" constituted a useful saving clause.

59. Mr. TAKEUCHI (Japan) endorsed the Swedish representative's statement.

#### Organization of work

60. Mr. TODOROV (Bulgaria), referring to the decision taken by the conference at its 5th plenary meeting to recommend that, whenever feasible, the Committee of the Whole should consider part III of the

draft jointly with annex, proposed that the Committee should examine and put to the vote article B of the annex, which corresponded to article 42. At its 4th plenary meeting the Conference had adopted the recommendations by the General Committee that it should discuss the draft article by article and that whenever feasible the Secretariat's suggested grouping of articles (A/CONF.67/3, p. 6) could serve as useful guidance. According to that plan, it was precisely recommended that article 42 should be considered jointly with article B of the annex. Since the wording of those two provisions was identical, apart from the expressions "delegation" and "observer delegation", the Chairman might decide, at the next meeting, to put article B to the vote, without previous discussion.

*The meeting rose at 1.05 p.m.*

## 24th meeting

Friday, 21 February 1975, at 3.15 p.m.

Chairman: Mr. NETTEL (Austria).

#### Organization of work

1. The CHAIRMAN recalled that, following the adoption by the Committee at its previous meeting of the text of article 42 (Sending of delegations) proposed by the International Law Commission (ILC) (see A/CONF.67/4), the Bulgarian delegation had moved that the Committee should proceed to deal with article B (Sending of observer delegations) of the annex (*ibid.*), the contents of which were almost identical with those of article 42 except, of course, that the expression "observer delegation" appeared instead of the term "delegation".

2. In that connexion, he recalled his ruling at a previous meeting that if articles of the annex were to be considered together with the corresponding articles in part III, the meeting of the Committee of the Whole would have to be suspended for two days, or at least one, in order to allow for the usual time-limit for the submission of amendments in so far as the articles of the annex were concerned.

3. That being so, it was his opinion that the procedural motion relating to article B of the annex could only be considered if no delegation wished to submit any amendment to that article and, furthermore, if there was general agreement in the Committee that article B should be worded in the same manner as article 42, in the form in which it had emerged from the discussion at the previous meeting.

4. He invited delegations to state whether they wished to submit any amendments to article B of the annex.

5. Mr. SURENA (United States of America) said that, at the present stage, his delegation was not in a position to say whether it would submit an amendment to article B of the annex. Moreover, it found it difficult to accept that article B should be disposed of simply by a treatment parallel to that given to article 42.

6. Mr. TODOROV (Bulgaria) said that his procedural motion relating to article B of the annex was the logical outcome of decisions taken both by the Conference in plenary and by the Committee of the Whole, decisions which he had fully described to at the previous meeting.

7. At that meeting, the Committee had rejected a number of amendments proposed for article 42, which had thus emerged in its original form. As a result, the text of article B of the annex was almost identical with that of article 42 as adopted; moreover, the objections made in the General Committee by some of its members related only to articles of the annex which were not similar in terms to the corresponding articles in part III.

8. In the circumstances, he proposed that the Committee should now embark on the consideration of article B of the annex.

9. The CHAIRMAN recalled this ruling at a previous meeting on that question. He could only interpret the decisions of the Conference in plenary with regard to the articles in part III (Delegations to organs and to conferences) (articles 42 to 57) as implying that, should a joint discussion take place on an article of part III and the corresponding article of the annex, he would have to allow delegations one or two days to submit any amendments to the article of the annex. He would therefore not put to the vote the proposal submitted by the Bulgarian delegation but would be prepared to put to the vote any appeal from his ruling.

10. Since no delegation wished to take the floor on that point, he wished to request delegations to submit, by noon on Monday, 24 February 1975, amendments to articles 66–70 and to any articles of the annex discussion of which might, in the opinion of delegations, be possible in conjunction with those articles.

**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 43 (Appointment of the members of the delegation) (A/CONF.67/4)*

11. The CHAIRMAN observed that no amendments had been submitted for article 43.

12. Mr. WERSHOF (Canada) said that he would abstain from voting on article 43 which was unacceptable to his delegation for the reasons already explained by it at length during the discussion on article 9 (16th meeting).

13. Sir Vincent EVANS (United Kingdom) said that the position of his delegation was the same as that of the Canadian delegation.

14. Mr. CALLE Y CALLE (Peru) said that his delegation favoured the unrestricted freedom of choice for the sending State with regard to the appointment of the members of its delegation, just as it upheld the unrestricted freedom of choice of members of the staff of the permanent mission. The only exceptions to that rule should be those relating to size, set forth in article 46 in the case of delegations, and nationality of members of the staff, dealt with in article 72 of the general provisions, covering both missions and delegations.

15. He therefore wished to place on record his delegation's full support for article 43 as prepared by the ILC.

16. In order to save time, he wished to place also on record his unqualified support for article C of the annex which stated an identical rule for observer delegations.

17. Mr. SMITH (United States of America) said that he associated himself with the remarks of the Canadian representative regarding article 43.

*Article 43 was adopted by 36 votes to none, with 17 abstentions.*

18. Mr. MUSEUX (France), explaining his vote, said that he had abstained from voting on article 43 for the reasons stated by the Canadian representative before the vote.

19. Mr. SINAGRA (Italy), explaining his vote, said that his delegation had voted in favour of article 43, as it had done in favour of article 9, on the understanding that the provisions of that article were subject to the obligations set forth in article 72 (Nationality of the members of the mission or the delegation) in part IV (General provisions). At the appropriate time, his delegation would comment on the contents of article 72 itself.

20. Mr. GÜNEY (Turkey), explaining his vote, said that his delegation had voted in favour of article 43, having in mind an additional restriction to the freedom of choice of the sending State, namely that arising from the constitutional provisions of that State itself.

21. Mr. SYSSOEV (Union of Soviet Socialist Republics), explaining his vote, said that he had voted

in favour of article 43 in the International Law Commission's text, as it had done for article 9, for reasons similar to those explained by the delegation of Peru.

*Article 44 (Credentials of delegates) (A/CONF.67/4, A/CONF.67/C.1/L.31)*

22. The CHAIRMAN recalled that the Federal Republic of Germany had submitted amendments (A/CONF.67/C.1/L.31) of a similar character to article 10 (Credentials of the head of mission) and article 44 (Credentials of delegates). During the discussion, the Committee had referred the amendment to article 10 to the Drafting Committee. It was not known, however, what decision the Drafting Committee would adopt in respect of the amendment.

23. Mr. VON KESSEL (Federal Republic of Germany), introducing his delegation's amendment to article 44 (A/CONF.67/C.1/L.31), said that the amendment was based on the same grounds as those expressed by his delegation in introducing its amendment to article 10 (9th meeting). He hoped the Committee would give his amendment to article 44 its full support.

24. His amendment would have the advantage of specifying the title of the official to whom the credentials should be transmitted. The question was one on which the Vienna Convention on Diplomatic Relations was not of any assistance. His delegation had therefore proposed its amendment precisely in order to provide some guidance in the matter.

25. Mr. SHELDON (Byelorussian Soviet Socialist Republic) noted that the amendments submitted by the Federal Republic of Germany related to articles 10 and 44 and to article D of the annex and had been put forward in a single document submitted on 10 February (A/CONF.67/C.1/L.31). That was an additional fact which bore out the possibility and desirability of considering several articles of chapter III of the ILC draft and of the annex together, which had been advocated by many delegations, including his own.

26. His delegation could not, however, support the substance of the proposed amendment to article 44. The question of who acted for the organization or the conference in receiving the credentials transmitted under article 44 was a matter to be decided on the basis of the rules of the organization concerned, for the conditions in some organizations differed from those in other organizations. The amendment could create a difficulty because if it was adopted, problems could arise in the event of the absence of the officials therein envisaged. His delegation opposed the amendment.

27. Mr. MAAS GEESTERANUS (Netherlands) asked the Expert Consultant what had been the position of the ILC on the subject.

28. Mr. CALLE Y CALLE (Peru) said that the amendment submitted by the Federal Republic of Germany (A/CONF.67/C.1/L.31) had the merit of putting forward the same idea for three parallel articles. His delegation, however, opposed the the proposal therein made to introduce the concept of "Chief Executive Officer of the Organization" into the three articles

in question. Conditions varied from one organization to another and that terminology might well not be appropriate for some of them.

29. Mr. EL-ERIAN (Expert Consultant) said in reply to the Netherlands representative that the draft articles covered a wide range of organizations. The present system of leaving the determination of the competent official for the submission of credentials to the rules of the organization itself had not led to any difficulties in practice. Usually, of course, credentials were in fact addressed to the chief executive officer of the organization concerned.

30. In his first draft on the subject, contained in his third report on relations between States and intergovernmental organizations,<sup>1</sup> he had submitted to the ILC draft provisions to the effect that, according to its article 10, credentials would be transmitted to the "Secretary-General"<sup>2</sup> on the understanding, expressed in subparagraph (k) or article 1 (Use of terms) of the same draft, that the term "Secretary-General" meant the principal executive official of the international organization in question.<sup>3</sup>

31. The ILC, however, in its preliminary draft had included an article 12 on the subject of credentials of the permanent representative which simply stated that they would be "transmitted to the competent organ of the Organization".<sup>4</sup>

32. The question under discussion was one which was settled in each organization in accordance with its own practice.

33. Mr. KIM (Democratic People's Republic of Korea) said that, following the explanations given by the Expert Consultant and the statements of a number of delegations, he opposed the amendment to article 44.

34. Mr. UNGERER (Federal Republic of Germany) said that, in order to speed up the work of the Committee and in a spirit of compromise, he had decided to withdraw his amendments to articles 10 and 44 and article D of the annex (A/CONF.67/C.1/L.31). He wished to stress, however, that the presentation of the amendments to the three articles in question in a single document had been made purely in the interests of economy. That presentation was without any significance in relation to other proposals or issues which had been, or still were, before the Committee.

35. The CHAIRMAN said that, following the withdrawal of the amendment, he would put to the vote article 44 as it stood.

*Article 44 was adopted unanimously.*

36. Mr. ESSY (Ivory Coast) said that, although his delegation had not opposed article 44, it wished to state that in its view the determination of the authority competent in the sending State to issue credentials was a matter governed exclusively by the constitutional law of the State concerned.

*Article 45 (Composition of the delegation) (A/CONF.67/4)*

37. The CHAIRMAN observed that no amendments had been submitted to article 45 and no change had been made in the corresponding article 13 of part II of the draft.

38. If there were no comments, he would take it that the Committee agreed to adopt article 45 in the form in which it had been submitted by the ILC.

*It was so decided.*

*Article 46 (Size of the delegation) (A/CONF.67/4)*

39. The CHAIRMAN observed that no amendment had been submitted to article 46 and no change had been made by the Committee in the corresponding article 14 of part II of the draft.

40. Mr. SMITH (United States of America) said that his delegation had no amendment to propose for article 46 but wished to make a statement with regard to the article.

41. The principles involved had been extensively discussed in connexion with article 14. By a very narrow majority, the Committee had then decided not to add in article 14 the wording proposed by his delegation which would have clarified the concept of what was "reasonable and normal" with respect to the size of a mission. Nevertheless, his delegation took the position that the size of the mission was a matter that concerned the sending State, the host State and the organization, even though that point was not spelt out in the text. The argument was equally compelling with respect to delegations. It was not uncommon for a large conference to be held at a city far from a major capital. Unless the size of the delegations was kept under control by the organization, or the conference secretariat, and the host State, the facilities available could be severely taxed and the work of the Conference would suffer.

42. Accordingly, he reaffirmed his delegation's understanding of the language in article 46 to mean that what was a "reasonable and normal" size of a delegation had to be determined, where necessary, by agreement between the sending State, the host State and the organization, or the conference secretariat, as the case might be.

43. Sir Vincent EVANS (United Kingdom) observed that some words seemed to have been omitted from the English text of article 46. Surely the words "of the Conference" should be inserted after the words "or the object"?

44. The CHAIRMAN confirmed that the words "of the Conference" appeared in the other language versions of the text. The matter would be drawn to the attention of the Drafting Committee.

45. Mr. WERSHOF (Canada) recalled that his delegation had been a sponsor of the amendment to article 14 (A/CONF.67/C.1/L.33) which had been narrowly defeated. That amendment had sought to insert into the article the idea that the size of the mission was a matter that should be agreed upon between the sending State, the host State and the organization. That idea should also have been reflected in article 46. Since it

<sup>1</sup> *Yearbook of the International Law Commission, 1968*, vol. II, documents A/CN.4/203 and Add.1-5, p. 119.

<sup>2</sup> *Ibid.*, p. 137.

<sup>3</sup> *Ibid.*, p. 124.

<sup>4</sup> *Ibid.*, vol. II, document A/7209/Rev.1, p. 204.

was not, his delegation regarded article 46 as unacceptable and would abstain if it was put to the vote.

46. Mr. SUY (Legal Counsel of the United Nations) said that, in the light of the statements made by the representatives of the United States and Canada, he wished to refer members to the reservations he had expressed at the 11th meeting when the Committee had discussed the joint amendment to article 14 submitted by the delegations of Canada and the United States (A/CONF.67/C.1/L.33).

*Article 46 was adopted by 61 votes to none, with 2 abstentions.*

*Article 47 (Notifications) (A/CONF.67/4, A/CONF.67/C.1/L.72)*

47. Mr. SMITH (United States of America), introducing his delegation's amendment to article 47 (A/CONF.67/C.1/L.72), said that the participial clause his delegation wished to delete was a qualifying clause describing the premises and the private accommodation in terms of articles 54 and 60. The Committee had not yet considered those articles, so it did not know exactly what the words in question would mean. Moreover, they were unnecessary. It seemed reasonable that the sending State should notify the organizations, or the conference, of the location of the premises of the delegation and of the private accommodation regardless of the type of inviolability it might be decided they would enjoy.

48. Mr. MEISSNER (German Democratic Republic) said that the provisions of article 47 were similar to those of article 15. After a lengthy discussion, the Committee had adopted article 15 by a large majority. Unless absolutely essential, therefore, there should be no deletions from article 47. Accordingly, his delegation would be unable to support the United States amendment.

49. Mr. KIM (Democratic People's Republic of Korea) said that in the opinion of his delegation the Commission's text of article 47 contained no unacceptable or unsatisfactory elements. Indeed, that text was correct from the legal and practical point of view. Moreover, it was consistent with the text of article 15, which the Committee had adopted. His delegation, which had voted in favour of article 15, would, therefore, vote for the Commission's text and against the United States amendment.

50. Mr. MOLINA LANDAETA (Venezuela) said that the United States proposal was quite reasonable. Unfortunately, its adoption might upset the balance of the draft articles. When it had discussed article 15, the Committee had not known what the outcome of the discussion on articles 23 and 29, referred to in subparagraph (e) of paragraph 1 of that article, would be. Since the reference to articles 23 and 29 had not been deleted from paragraph 15, the reference to paragraphs 54 and 60 should not be deleted from article 47.

51. Mr. UNGERER (Federal Republic of Germany), speaking on article 47 as a whole, said that the notifications required seem to be excessive, at least in so far as delegations to short meetings or conferences were concerned, for in such cases it was sometimes difficult

to provide information concerning the arrival and final departure of "any person" accompanying a member of the delegation. In many instances, too, the delegations in question would not have rented premises. He realized that the matter was closely linked to the questions raised in the Swiss proposal for a new article (A/CONF.67/C.1/L.77). In the case of long conferences, the situation was different. In some cases, if the Swiss proposal was accepted, it would be possible to provide delegations with premises, and notifications concerning arrivals and departures could be given. However, the Committee had not yet taken a decision on the Swiss proposal. He suggested, therefore, that a separate vote should be taken on subparagraph (a) of paragraph 1 of article 47. Information concerning the composition of the delegation should be provided, but his delegation was not convinced that the other details required under the article were necessary.

52. Mr. SMITH (United States of America) said that the point made by the representative of Venezuela was well taken. If the United States delegation's amendment were adopted, the problem could be taken care of by the Drafting Committee. In order to expedite the Committee's work, however, he would merely express his delegation's concern that the provisions of article 47 prejudged the outcome of the discussions on articles 54 and 60. Nevertheless, he would be willing to withdraw the amendment (A/CONF.57/C.1/L.72) provided that, when working on article 47, the Drafting Committee would, in the light of the Committee's decisions on articles 54 and 60, take account of the point made by his delegation.

53. Mr. RITTER (Switzerland), referring to the request by the representative of the Federal Republic of Germany for a separate vote on subparagraph (a) of paragraph 1, and to that representative's reference to the link between the other provisions of the article and the Swiss proposal in document A/CONF.67/C.1/L.77, suggested that it would be logical to defer the decision on the subsequent provisions of the article until a decision had been taken on his delegation's proposal.

54. Mr. MOLINA LANDAETA (Venezuela), referring to the provisions of rule 40 of the rules of procedure, said that his delegation objected to the request made by the representatives of the Federal Republic of Germany for a separate vote on subparagraph (a) of paragraph 1.

55. Mr. MUSEUX (France) supported the Swiss representative's proposal that decision on article 47 should be deferred until after a decision had been taken on the Swiss delegation's proposal.

56. The CHAIRMAN, observing that two delegations had proposed that further discussion on article 47 should be deferred pending a decision on the Swiss proposal, said that unless he heard an objection he would take it that the Committee wished to adopt that proposal.

*It was so decided.*

57. The CHAIRMAN said that the Committee should bear in mind, when it reverted to the discussion on article 47, that a request had been made for a sepa-

rate vote on subparagraph (a) of paragraph 1, that an objection had been made to the request for division, and that the Drafting Committee would be requested to consider the substance of the proposal the delegation of the United States had made in document A/CONF.67/C.1/L.72 in the light of any decisions the Committee might reach on articles 54 and 60.

*Article 48 (Acting head of the delegation) (A/CONF.67/4)*

58. The CHAIRMAN, observing that no amendments had been submitted to article 48, said that unless he heard an objection, he would take it that the Committee wished to adopt the article and send it to the Drafting Committee.

*It was so decided.*

*Article 49 (Precedence) (A/CONF.67/4)*

59. The CHAIRMAN observed that no amendment had been submitted to article 49. He reminded members that the Committee had held a long discussion on the question of precedence when it had discussed article 17 and had decided (13th meeting) that precedence among permanent representatives should be determined by the alphabetical order of the names of the States.

60. Sir Vincent EVANS (United Kingdom) recalled that, at the 13th meeting, during the discussion on article 17, his delegation had expressed the view that an article on precedence should not be included even in part II of the convention. In his opinion, the arguments adduced by his delegation at that time were even stronger when applied to the inclusion of article 49 in the convention. In the experience of his delegation, at meetings of organs of international organizations and at conferences it was normally the elected officers of the organ or conference who enjoyed precedence. Inclusion of the article in the convention might cause confusion. Preferably, therefore, article 49 should be dropped from part III of the convention. If the article was put to the vote, his delegation would vote against it.

61. Mr. CALLE Y CALLE (Peru) said that in diplomacy, problems of precedence could be delicate and give rise to problems. That fact had been noted throughout history. As all members were aware, at certain conferences there had been protracted discussion on how delegations were to be seated. In the opinion of his delegation, therefore, an article such as that proposed by the ILC should be included in the convention. His delegation would vote in favour of article 49.

62. Mr. MUSEUX (France) endorsed the comments made by the representative of the United Kingdom. At nearly all conferences, it was the seating order of delegations that was determined by the alphabetical order of the names of States. Precedence was given only to persons elected to serve as officers of an organ or conference. His delegation would therefore vote against the article.

63. Mr. WERSHOF (Canada) said that in the opinion of his delegation article 49 was even more unnecessary than article 17. In so far as delegations to conferences were concerned, the question of precedence

did not arise. The order in which delegations were seated in the hall had nothing whatever to do with precedence. At official luncheons and dinners, precedence was given to such persons as the President of the General Assembly, the Secretary-General of the United Nations, the chairmen of the Main Committees and, possibly, the vice-chairmen and rapporteurs of committees. The fact that that practice was followed did not, however, mean that a solemn article on the question should be included in the convention. His delegation would vote against the article.

64. Mr. EL-ERAIN (Expert Consultant) said that the Commission had intended article 49 as a residual rule. A saving clause relating to practice in the matter had been included in the General Provisions; the rule should not give rise to concern. The rule that precedence was to be by alphabetical order was not intended to mean that the officers of the body concerned should not continue to enjoy precedence.

65. Mr. OSMAN (Egypt) said that, in the opinion of his delegation, article 49 should remain in the convention. He fully subscribed to the comments made by the Expert Consultant.

66. The CHAIRMAN put to the vote the text of article 49 prepared by ILC.

*Article 49 was adopted by 38 votes to 14, with 9 abstentions.*

67. Mr. MOLINA LANDAETA (Venezuela), speaking in explanation of vote, said that his delegation had voted against article 49 for the same reasons it had voted at the 13th meeting against article 17.

68. Mr. SMITH (United States of America), speaking in explanation of vote, said that his delegation had voted against article 49 for the reasons which had just been given by the representative of Canada and in accordance with its position of trying to eliminate unnecessary provisions from the proposed convention.

*Article 50 (Status of the Head of State and persons of high rank) (A/CONF.67/4, A/CONF.67/C.1/L.73, L.74)*

69. Mr. SMITH (United States of America), introducing his delegation's amendment to article 50 (A/CONF.67/C.1/L.73), said that it was intended to delete the article, which was unnecessary in view of the fact that the privileges and immunities already provided for in the draft convention would be accorded to Heads of States and persons of high rank. His delegation also had some doubts as to the need for the amendment proposed by the Soviet Union and Mongolia (A/CONF.67/C.1/L.74) because the question of who performed the functions of the Head of State was determined by the internal law of the country concerned.

70. Mr. KUZNETSOV (Union of Soviet Socialist Republics), introducing the amendment to paragraph 1 of article 50 proposed by his delegation and the delegation of Mongolia, said the motivation behind the amendment was obvious because, in a number of States, a collegial body performed the functions of Head of State and members of that body travelled abroad as



members of various types of delegations. It was therefore a matter of importance to the States which sent such representatives abroad to know exactly which privileges and immunities would be accorded to them. His delegation was of the opinion that members of a collegial body performing the functions of Head of State should enjoy the privileges and immunities accorded to Heads of State by international law. He pointed out that a precedent was contained in the provisions of article 1, paragraph 1 (a) of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly in resolution 3166 (XXVIII).

71. Mr. AUST (United Kingdom) said that his delegation agreed with the representative of the United States that article 50 was unnecessary. Moreover, as his Government had stated with regard to the Convention on Special Missions and also in its comments on the present draft articles, it could not accept the implication in paragraph 2 of article 50 that the persons referred to should have privileges and immunities under international law, as opposed to those which may be accorded as a matter of courtesy, which would go beyond those provided for in the succeeding articles of part III of the proposed convention.

72. Mrs. KONRAD (Hungary) said that her delegation could not support the amendment proposed by the United States because it considered that the proposed convention should contain an article relating to the status of the Head of State and persons of high rank and to the privileges and immunities accorded to them by international law. Moreover, her delegation supported the amendment proposed by the Soviet Union and Mongolia because Hungary, too, had a collegial body which performed the functions of Head of State.

73. Mr. KIM (Democratic People's Republic of Korea) said that, in view of current international practice, it was in the interest of all States to retain article 50 concerning the status of the Head of State and persons of high rank. His delegation could therefore not support the amendment proposed by the United States and would vote in favour of the amendment proposed by the Soviet Union and Mongolia. It believed that the latter amendment was in accord with the principles followed by the ILC in drafting articles acceptable to the largest possible number of States.

74. Mr. WERSHOF (Canada), referring to the amendment to paragraph 1 proposed by the Soviet Union and Mongolia, said that, in countries where collegial bodies performed the functions of Head of State, one of the members was usually elected as chairman and, though he was not technically the Head of State, he was in practice considered as such because he received the credentials of incoming ambassadors and the visits of other Heads of State.

75. If the chairman of a collegial body visited another country, he would, of course, be received as the Head of State, but his delegation wondered what would happen in the case of the visit to another country by another member of the collegial body who was not its chairman. According to the amendment proposed by

the Soviet Union and Mongolia, any member of the collegial body would be accorded the privileges and immunities granted to Heads of State by international law. Such a provision was, however, unrealistic and his delegation was of the opinion that it should be specified in the amendment to paragraph 1 that only the chairman of the collegial body should be granted such privileges and immunities by international law.

76. Mr. CALLE Y CALLE (Peru) said that the text of article 50 proposed by the ILC was very useful because it provided that the Head of State would be accorded not only the privileges and immunities referred to in the proposed convention, but also those accorded by international law. That article was therefore necessary and appropriate and his delegation would not be able to support the United States amendment to delete it.

77. Referring to the amendment proposed by the Soviet Union and Mongolia, which was technical in nature, he said that the composition of a collegial body performing the functions of Head of State was a matter to be determined by the internal law of the country concerned. His delegation was, however, of the opinion that, when members of a collegial body acted as heads of delegation, they should be treated as Heads of State and be accorded the privileges and immunities provided for in paragraph 1 of article 50.

78. Mr. SINAGRA (Italy) said that his delegation agreed with the United States and the United Kingdom that article 50 was unnecessary, but, should the United States amendment be rejected, he would suggest that the words "and other persons of high rank", in paragraph 2, should be deleted because they were ambiguous.

79. His delegation could not support the amendment proposed by the Soviet Union and Mongolia for the reasons which had just been given by the representative of Canada.

80. Mr. AARS-RYNNING (Norway), noting that, according to paragraph 4 of the commentary to article 50 (see A/CONF.67/4), certain Governments had expressed the view that article 50 was unnecessary, said he did not think that the proposed convention should embody a norm which the entire international community already recognized as binding. His delegation therefore supported the amendment proposed by the United States and would vote against the amendment proposed by the Soviet Union and Mongolia.

81. Mr. BABIY (Ukrainian Soviet Socialist Republic) said that since the Committee was dealing with the codification of international law on the basis of new practice, the amendment proposed by the Soviet Union and Mongolia was of particular significance. His delegation could therefore not agree with the view which had been expressed in the Committee that it was not necessary to include in the future convention norms recognized in international law concerning the status of Heads of State. The convention which was being elaborated should take account of existing practice in all countries, including those which had collegial bodies performing the functions of Head of State. The members of such bodies had very high rank in their own

countries and should be accorded special privileges and immunities under international law. His delegation therefore supported the amendment proposed by the Soviet Union and Mongolia and would vote against the United States amendment to delete article 50.

82. Mr. GÜNEY (Turkey) said that his delegation agreed with the reasons given by the ILC in paragraph 4 of its commentary to article 50 for the inclusion of that article and would therefore not be able to support the United States amendment.

83. With regard to the amendment proposed by the Soviet Union and Mongolia, he noted that the status of members of collegial bodies performing the functions of Head of State had been provided for in article 1, paragraph 1 (a) of the Convention on the Prevention of Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly in resolution 3161 (XXVIII).

84. Mr. WARNOCK (Ireland) said that his delegation supported the United States amendment because it was also of the opinion that article 50 was unnecessary. It had great difficulties with the amendment proposed by the Soviet Union and Mongolia because it did not know whether all the members of collegial bodies performing the functions of Head of State received the treatment accorded to the Head of State in their own countries or whether it was only the chairman of the Head of State who received such treatment.

85. The CHAIRMAN, after indicating the order of voting on article 50 and the amendments thereto, put to the vote the amendments which had been submitted, as well as the article as a whole.

*The United States of America amendment (A/CONF.67/C.1/L.73) was rejected by 33 votes to 16, with 11 abstentions.*

*The joint amendment of Mongolia and the Union of Soviet Socialist Republics (A/CONF.67/C.1/L.74) was adopted by 25 votes to 6, with 28 abstentions.*

*The Italian oral amendment to delete the phrase "and other persons of high rank" from paragraph 2 was rejected by 32 votes to 11, with 19 abstentions.*

*Article 50, as a whole, as amended, was adopted by 45 votes to 2, with 17 abstentions.*

86. Mr. MOLINA LANDAETA (Venezuela), speaking in explanation of vote, said that in line with Venezuela's position on the corresponding article in the Convention on Special Missions, he had voted in favour of the International Law Commission's text.

87. Mr. LARSSON (Sweden) said that he had voted in favour of the United States proposal to delete article 50 (A/CONF.67/C.1/L.73) in view of his Government's opinion that the article was superfluous. He had abstained from the subsequent votes.

88. Mr. TANKOUA (United Republic of Cameroon) said that he had not taken part in the votes on the amendments. He had abstained from the vote on the article as a whole, in view of the adoption of the joint amendment (A/CONF.67/C.1/L.74) because he did not know what would be the attitude of his Government on that amendment.

89. Mr. SINAGRA (Italy), speaking in explanation of vote, reiterated his view that the text would never be applied in practice, since the phrase "other persons of high rank" was incapable of precise interpretation. He had voted against article 50 as a whole with the inclusion of the amendment in A/CONF.67/C.1/L.74, because he was convinced that plurality of Heads of States would cause difficulties for host States.

*New article proposed by the Swiss delegation  
(continued) \* (A/CONF.67/C.1/L.77)*

90. The CHAIRMAN recalled that at its 22nd meeting the Committee had decided to continue its discussion of the Swiss proposal in document A/CONF.67/C.1/L.77 at the present meeting. He reminded the Committee that the Netherlands representative had submitted an oral amendment to the third line of the proposed text which would replace the phrase "between the States concerned" by the words "between the States participating and the host State".

91. Mr. MEISSNER (German Democratic Republic) said that he was unable to reconcile the Swiss proposal (A/CONF.67/C.1/L.77) with his delegation's understanding of the convention under consideration. The merits of the International Law Commission's draft were most conspicuous in the sections dealing with delegations and observer delegations since the status of permanent missions had been largely established by existing practice. Delegations, as the representatives of States, should enjoy the same legal status as permanent missions. He could not therefore accept that equality of treatment should depend in each case on the consent of the host State: that would be tantamount to the atomization of the legal status of delegations and was diametrically opposed to the International Law Commission's draft. It was clear from article 4 (b) that special agreements were not precluded by the convention under consideration, but to make such agreements the generally accepted basis for the legal status of delegations would render part III and the annex superfluous.

92. Mr. MUSEUX (France) thought that the Swiss proposal improved the existing draft of part III by giving it a flexibility it lacked. In view of the many variations between conferences in terms of importance, nature and duration, it would be irksome not to have the possibility of adapting the rules to practical requirements. The Swiss proposal would not replace the rest of part III: the latter would establish the basic rules for ordinary conferences while special arrangements would be agreed for very long or important conferences. He also supported the Netherlands oral amendment (A/CONF.67/C.1/L.77), which clarified the text.

93. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that, in his opinion, the idea of the Swiss proposal (A/CONF.67/C.1/L.77) continued being obscure in many respects. If its objective was to undermine the provisions of part III, he would categorically reject it. He would like to hear the Expert Consultant's views on the Swiss proposal and its bearing on the other articles in the convention.

\* Resumed from the 22nd meeting.



94. Mr. EL-ERIAN (Expert Consultant) said that in his presentation of the proposal, the Swiss representative had started from the premise that in view of the great variety of conferences, the emphasis should be laid on flexibility in the rules applicable to them. Consequently, the main idea was that the status of a great many conferences should be determined by agreement. The Swiss representative had made it clear, however, that he recognized the value of general regulations, for he had cited the example of his country making use of the Convention on Special Missions, although not a party to it. That illustrated the importance of the work of codification, since in addition to providing an instrument for those States which ratified it, a convention could also serve as a model for other States. A similar example from his own experience had been the use of the Vienna Convention on Consular Relations in drawing up the agreement establishing consular relations between Egypt and the German Democratic Republic, although neither State was a party to that Convention.

95. In dealing with conferences, the ILC had encoun-

tered the same difficulties as in dealing with special missions: they were so varied that it was impossible to devise regulations to suit particular categories, although a body of opinion had wanted to differentiate between them in that way. After careful consideration, the ILC had decided to draft general regulations, which, according to statistics based on existing practice, would cover the great majority of cases. Important conferences were more frequent than unimportant conferences. There was scope to use agreements to cover certain types of conferences, for which some of the provisions of part III might appear excessive. With the Chairman's permission, he would like to give a considered opinion on the subject at the next meeting of the Committee.

96. The CHAIRMAN said if there was no objection he would take it that the Committee agreed to continue the discussion at the next meeting.

*It was so decided.*

*The meeting rose at 6 p.m.*

## 25th meeting

Monday, 24 February 1975, at 10.45 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)**

*New article proposed by the Swiss delegation (concluded) (A/CONF.67/C.1/L.77)*

1. The CHAIRMAN pointed out that the Netherlands representative had not submitted an oral amendment to the Swiss proposal; he had merely made a suggestion for consideration by the Drafting Committee if the proposal was adopted.

2. Mr. EL-ERIAN (Expert Consultant) said that in his statement at the end of the previous meeting he had confined his comments to conferences, but part III of the draft articles proposed by the International Law Commission (ILC) (see A/CONF.67/4) also covered delegations to organs and would probably be more frequently applied for that purpose, since the number of meetings of both principal and subsidiary organs of international organizations was increasing even more rapidly than the number of conferences.

3. The ILC had discussed the dilemma described by the Swiss representative; some members had thought that a distinction should be made between different categories of meetings of organs. The majority however had realized that it would be difficult to establish criteria for such a distinction. Furthermore, it might result in subsidiary organs of the same organization receiving different treatment.

4. He recalled that the ILC had faced the same situa-

tion with regard to special missions. It had requested the Special Rapporteur to examine the possibility of applying the functional theory and limiting the extent of certain privileges and immunities in the case of particular categories of special missions. The Special Rapporteur had however concluded that all special missions must be assured all the privileges, immunities and facilities which they required to represent properly the State whose sovereign will they expressed.<sup>1</sup> That attitude had been confirmed by the General Assembly when it had adopted the Convention on Special Missions.<sup>2</sup>

5. In dealing with the subject-matter of part III of the convention under consideration, the ILC had based itself on the assumption that delegations to organs and conferences occupied in multilateral diplomacy a position analogous to that of special missions in bilateral diplomacy and that its approach should be similar.

6. Mr. EUSTATHIADES (Greece) said that the Swiss proposal (A/CONF.67/C.1/L.77) required further clarification on a number of points. First of all, it was not clear whether it was an amendment in the ordinary sense of the term or a new idea referring to new subject-matter. That point raised the further question of whether it should be placed at the beginning of part III or indeed discussed at the present juncture, rather than later on.

7. The proposed new article should be examined first of all in the context of article 4, which had already

<sup>1</sup> See *Yearbook of the International Law Commission, 1967*, documents A/CN.4/194 and Add.1-5, paras. 270 and 271.

<sup>2</sup> Resolution 2530 (XXIV), annex.