

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

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26th meeting of the Committee of the Whole

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of the United Republic of Cameroon would not press his suggestion. If he heard no objection, he would take it that the Committee could agree to proceed to the vote.

It was so decided.

55. The CHAIRMAN put to the vote the Indian oral amendment to the new article proposed by Switzerland.

The amendment was rejected by 24 votes to 14, with 29 abstentions.

56. The CHAIRMAN put to the vote the Swiss proposal for a new article (A/CONF.67/C.1/L.77).

The proposal was rejected by 29 votes to 16, with 20 abstentions.

57. Mr. MOLINA LANDAETA (Venezuela), speaking in explanation of vote, said that, although his delegation had not taken part in the discussion, it had had some doubts concerning the legal implications of the Swiss proposal for a new article and, in particular, concerning the way in which small and large delegations to conferences and meetings of organs would be treated. In order to maintain the present balance between delegations of various kinds, it had therefore abstained from voting on the Swiss proposal.

58. Mr. HELLNERS (Sweden), speaking in explanation of vote, said that his delegation had abstained from voting on the Swiss proposal because it had not been able to foresee exactly what implications the adoption of that proposal would have for the implementation of the other provisions of part III of the draft articles.

59. Mr. SURENA (United States of America), speaking in explanation of vote, said that his delegation had abstained from voting on the Swiss proposal for a new article because it was not sure what the full implications of that proposal would be for the Committee's past and future decisions on the draft articles. He pointed out, however, that his delegation's abstention did not mean that it shared the view expressed by one delegation that all delegations should be accorded the status of permanent missions. Rather, his delegation took the view that there was a distinction between types of delegations and that it should be reflected in the draft articles.

60. Mr. GÜNEY (Turkey), speaking in explanation of vote, said that his delegation had abstained from voting on the Indian oral amendment and on the Swiss

proposal for a new article because the goal of the Swiss proposal was covered by article 4 of the draft convention and because the adoption of the Swiss proposal would have made it necessary to simplify the provisions of part III. Such a simplification would have been difficult, if not impossible, and would have upset the balance created in the draft articles.

61. Mr. OSMAN (Egypt), speaking in explanation of vote, said that his delegation had voted against the Swiss proposal because of the many uncertainties to which it gave rise. It might have been able to vote in favour of the proposal if it had been stated that the proposed new article would not affect the application of part III of the draft articles.

Article 47 (Notifications) (continued) (A/CONF.67/4)

62. Mr. UNGERER (Federal Republic of Germany), introducing an oral amendment to article 47, recalled that, at the 24th meeting, his delegation had requested separate votes on parts of article 47. It now withdrew that request and proposed an oral amendment to article 47 designed to add, after the present paragraph 1, subparagraph (a), the following new paragraph 2: "It may notify, as appropriate, the Organization or the conference of:". The present subparagraphs (b) to (e) would then be renumbered as subparagraphs (a) to (d) of the new paragraph 2. The reason for his delegation's oral amendment was that the notifications required in the present subparagraphs (b) to (e) were not indispensable for many types of meetings and should therefore not be compulsory.

63. The CHAIRMAN said that the Committee would continue its consideration of article 47 at the next meeting.

64. He announced that the time-limit for the submission of amendments to articles 71 to 75 was noon on Tuesday 25 February and observed that there were no corresponding articles in the annex to be considered in connexion with those articles.

65. Mr. SHELDON (Byelorussian Soviet Socialist Republic) raised the question of the time-limit for the submission of amendments to articles B to L in the annex corresponding to articles 42 to 58 of part III.

66. The CHAIRMAN said in reply that an announcement concerning those articles would be made at the next meeting.

The meeting rose at 1.05 p.m.

26th meeting

Monday, 24 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)

1. The CHAIRMAN invited delegations to submit by noon of the following day any amendments they wished to make to articles 71 to 75 and to such of articles B to L of the annex to the draft of the International Law Commission (ILC) (see A/CONF.67/4) as they considered should be examined in conjunction therewith.

Amendments to the other articles of the annex should be submitted by noon on the day after that.

Article 47 (Notifications) (concluded) (A/CONF.67/4)

2. The CHAIRMAN invited the Committee to continue its consideration of article 47 and of the oral amendment submitted by the delegation of the Federal Republic of Germany at the previous meeting.

3. Mr. ZEMANEK (Austria) pointed out that the amendment in question would raise difficulties for host States. The subsequent articles of the draft, and in particular those concerning personal inviolability and the inviolability of private accommodation and property, imposed on host States obligations which it would be very difficult, even impossible, for them to fulfill if the sending State was not required to notify to the organization the particulars enumerated in subparagraphs (b) to (e) of article 47. His delegation could accept the amendment of the Federal Republic of Germany only if the obligations of the host State depended on the sending State notifying the organization. It did not seem possible to ask the host State to accord privileges and immunities to members of delegations unless it knew whether or not those persons were in its territory.

4. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that, for the same reasons which had prompted it to vote against the new article proposed by the Swiss delegation (A/CONF.67/C.1/L.77) at the previous meeting, his delegation was unable to support the amendment under consideration.

5. Mr. UNGERER (Federal Republic of Germany) said that the articles in part III of the draft would give rise to difficulties in application, since they should apply both to small organs and to large conferences. The purpose of his delegation's oral amendment was to make the provisions of article 47 more flexible. It was essential that the sending State should notify the organization or the conference of the composition of its delegation. On the other hand, notification of the other particulars referred to in article 47 should be optional, as the sending State was not always in a position to communicate such information.

6. With reference to the statement by the Austrian representative, he said that the host State could obviously only accord privileges and immunities in so far as it had received the necessary notifications.

7. The CHAIRMAN put to the vote the oral amendment of the Federal Republic of Germany to recast the beginning of article 47 as follows: "The sending State shall notify the Organization or, as the case may be, the conference of the composition of the delegation, including the position, title and order of precedence of the members of the delegation, and any subsequent changes therein." A new paragraph would then be inserted, beginning: "2. It may notify as appropriate the Organization or the conference of". That would be followed by the remaining subparagraphs and paragraphs, re-numbered accordingly. After that the Committee would vote on the article.

The amendment was rejected by 16 votes to 8, with 30 abstentions.

8. Mr. MUSEUX (France) said he had abstained in the vote on article 47 because the wording of that provision opened the door to a great many uncertainties. His delegation would interpret article 47 in the same way that it had said it would interpret article 15 (11th meeting).

Article 51 (General facilities) (A/CONF.67/4, A/CONF.67/L.82)

9. Miss BEKS (Netherlands), introducing her delegation's amendment (A/CONF.67/C.1/L.82), said that it corresponded to an amendment to article 20, which had been submitted jointly by several delegations and adopted almost unanimously by the Committee of the Whole at its 13th meeting. Whether in the case of permanent missions or in that of delegations, the principle that the facilities to be accorded should correspond to the functions to be performed remained decisive. That was why her delegation proposed replacing the first sentence of article 51 by the words: "The host State shall accord to the delegation all the facilities required for the performance of its tasks."

10. The CHAIRMAN put to the vote the Netherlands amendment (A/CONF.67/C.1/L.82) and article 51.

The amendment was adopted by 47 votes to none, with 8 abstentions.

Article 51, as a whole, as amended, was adopted by 56 votes to none, with 1 abstention.

Article 52 (Premises and accommodation) (A/CONF.67/4, A/CONF.67/C.1/L.87)

11. Miss BEKS (Netherlands), introducing the Netherlands and United Kingdom amendment (A/CONF.67/C.1/L.87), drew a parallel between the article under consideration and article 21. It would seem logical to provide for the same system of assistance to delegations as that which had been provided for missions in article 21. That was the object of the amendment in document A/CONF.67/C.1/L.87. It did not refer to any assistance which the conference might give, as it was difficult to see how a conference could assist a delegation in procuring premises and accommodation.

12. Having noted that, before the arrival of members of the delegation, it was the sending State, far more than the delegation, which needed the assistance of the host State and the organization, her delegation had decided, in agreement with the United Kingdom delegation, to revise the text proposed in document A/CONF.67/C.1/L.87 as follows: "If so requested, the host State and the organization shall assist the sending State in obtaining on reasonable terms the premises necessary for it and suitable accommodation for its members."

13. Mr. SUY (Legal Counsel of the United Nations) said he must repeat the reservations he had made at the 13th meeting when the Committee had considered article 21 concerning the premises and accommodation of the mission. The organization could in nowise be transformed into a housing service. Moreover, if the

proposed amendment were approved, it would also have financial implications for the organization.

14. Mr. CALLE Y CALLE (Peru) said he thought that, in principle, the amendment under consideration was satisfactory. He emphasized, however, that part III of the draft dealt with delegations sent to organs or to conferences. In the case of delegations to organs, it was unquestionably the duty of the organization to accord the facilities referred to in article 52. On the other hand, when delegations were sent to a conference, it was not the organization, but rather the conference, which should assume that task. Articles 51 and 52 of the International Law Commission's text established that distinction whereas the amendment in document A/CONF.67/C.1/L.87 did not specify that the conference should also assist delegations if they so requested.

15. Sir Vincent EVANS (United Kingdom), speaking as a sponsor of the amendment under consideration, drew the Peruvian representative's attention to paragraph 1 of article 2, according to which "The present articles apply to the representation of States in their relations with international organizations of universal character and to their representation at conferences convened by or under the auspices of such organizations." Part III of the draft therefore concerned delegations sent to organs or to conferences convened by organizations or under their auspices. Consequently, there was always an organization behind the conference. In practice, it was not the conference, but the organization, which could assist the sending State in procuring the necessary premises and accommodation. For that reason, the sponsors of the amendment under consideration considered that there was no need to mention the conference in article 52.

16. Mr. EL-ERIAN (Expert Consultant), replying to a question put by Mr. CALLE Y CALLE (Peru) explained that the reason why the ILC had included, in the article under consideration, the words "or, as the case may be, the conference", was to provide for the case where the conference would be better placed than the organization to provide the assistance in question.

17. Mr. SHEDOV (Byelorussian Soviet Socialist Republic) said he thought that the ILC had displayed great prudence in its drafting of articles 51 and 52. The expressions "as the case may be" and "where necessary" in article 52 showed that the obligation of the host State, on the one hand, and that of the organization or the conference, on the other, had not been placed on the same level. It should be noted moreover, that international organizations of universal character were not in a position to undertake the activities referred to in article 52 and that those activities would have financial implications. So as to respect the International Law Commission's thinking, he proposed that the words "where necessary" should be inserted between the words "the host State" and the words "the Organization" in the amendment in document A/CONF.67/C.1/L.87.

18. Mr. CALLE Y CALLE (Peru) proposed that, in the amendment in document A/CONF.67/C.1/L.87,

the words "or the conference" should be inserted after the words "the Organization", as the ILC had pointed out in its commentary to article 52 (see A/CONF.67/4) that in some cases the conference might be better placed than the organization to accord such assistance, particularly if the conference was held in a place other than that in which the seat of the organization was established.

19. Mr. STAEHELIN (Switzerland) recalled that when the Committee had discussed article 21, his delegation had pointed out that many host States were unable to intervene in the matter of accommodation, as that situation was governed by the market, but that they could nevertheless do their utmost to put the interested parties in touch with each other.

20. Sir Vincent EVANS (United Kingdom) accepted, on behalf of the sponsors, the two subamendments submitted to the amendment in document A/CONF.67/C.1/L.87.

21. Mr. EL-ERIAN (Expert Consultant), supplementing his previous remarks, pointed out that the term "conference" appeared in other articles and that that reference was of theoretical, as well as of practical, interest. The conference was autonomous and sovereign; it adopted its own rules of procedure and, while being considered as an extension of the organization, existed in its own right.

22. Mr. ZEMANEK (Austria) pointed out that the situation with regard to premises and accommodation differed according to whether it concerned delegations or permanent missions. Host States which were unable to supply delegations with accommodation were rare; his Government was nevertheless one of those, and delegations had to apply to travel agencies. For that reason, his delegation accepted the article, it being understood, as the Swiss representative had stressed, that it could only do its utmost to assist delegations.

23. Mr. SURENA (United States of America) questioned the argument that an international organization was not established to provide the assistance referred to in the article under consideration, though, supposedly, the host State was in a position and under an obligation to do so. In the case of the United Nations, some people had maintained that it had not been set up to deal with such matters. It was equally clear that the host State had assumed its responsibilities at a time when, on the establishment of the Organization, it had had absolutely no idea that permanent missions would be instituted with large personnel and that they would have to be provided with assistance. His delegation could therefore hardly admit the argument that because it had not been anticipated, when an organization was set up, that problems of accommodation would arise, that organization was not in a position to provide assistance in that regard.

24. In his delegation's view, the original version of the amendment in document A/CONF.67/C.1/L.87 took more account than did the revised version of the co-operation provided for in article 52. That being so, the words "where necessary", proposed by the representative of the Byelorussian Soviet Socialist Republic,

should apply not only to the organization but also to the host State.

25. Mr. KUZNETSOV (Union of Soviet Socialist Republics) proposed that the Committee should proceed to vote, as the United Kingdom had agreed, on behalf of the sponsors, to the subamendments to the amendment in document A/CONF.67/C.1/L.87 suggested by Peru and the Byelorussian Soviet Socialist Republic.

26. The CHAIRMAN invited the Committee to vote on the Netherlands and United Kingdom amendment (A/CONF.67/C.1/L.87), as revised.

The revised amendment was adopted by 56 votes to 1, with 7 abstentions.

27. The CHAIRMAN said that the text of the new article 52 would be referred to the Drafting Committee.

Article 53 (Assistance in respect of privileges and immunities) (A/CONF.67/4, A/CONF.67/C.1/L.83)

28. Mr. ZEMANEK (Austria), introducing the amendment in document A/CONF.67/C.1/L.83, said that it constituted the logical consequence of the amendment which the Austrian delegation had submitted to article 22 and which the Committee had adopted unanimously. The present amendment aimed at bringing out the tripartite relationship which existed in that area as regards the rights of the sending State as well as the assistance that the organization or the conference should give the host State.

29. Mr. MOLINA LANDAETA (Venezuela) proposed that, having regard to the precedent which the Austrian representative had just recalled, the Committee should vote without delay on the amendment in document A/CONF.67/C.1/L.83.

30. The CHAIRMAN said that if there were no objections, he would consider that the Committee had decided to adopt article 53, as modified by the amendment in document A/CONF.67/C.1/L.83, and to refer the text to the Drafting Committee.

It was so decided.

Article 54 (Inviolability of the premises) (A/CONF.67/4, A/CONF.67/C.1/L.80 and Corr.1, L.81, L.88)

31. Mr. TODOROV (Bulgaria), introducing the amendment in document A/CONF.67/C.1/L.80 and Corr.1 on behalf of the sponsors, said that the principle of the inviolability of premises should be strictly respected. The eight-Power amendment was modelled on article 22 of the Vienna Convention on Diplomatic Relations¹ and was based on Article 105, paragraph 2, of the Charter of the United Nations. It was to enable delegations not only to exercise their functions, but also to represent the sending State in international relations that they enjoyed privileges and immunities and, in particular, inviolability of their premises. Whether delegations' tasks were political or technical, great importance attached to the representative character of a delegation. That was why the sponsors of the amend-

ment in document A/CONF.67/C.1/L.80 and Corr.1 had serious misgivings with regard to the last sentence of article 54, paragraph 1, which restricted the principle of inviolability of the premises of the delegation; it was a provision which, in practice, was liable to result in a negation of that principle. The authorities of the host State were thereby being offered the possibility of making a subjective evaluation of the situation, to the detriment of the rights of the sending State; apart from the fact that the provision opened the way to abuses, its wording was ambiguous and was liable to give rise to disagreements and disputes. For instance, in case of fire, it might be interpreted as authorizing the local authorities to enter the delegation's premises, even if the head of delegation expressly refused to admit them because, in his opinion, public safety was not seriously endangered. That exception to the principle of inviolability of the premises created greater difficulties than strict application of the principle would do.

32. Furthermore, the text of article 54 seemed to suggest that the delegation of the sending State might be of bad faith and might not authorize the agents of the host State to enter the premises in case of disaster. However, the Committee should presume good faith on the part of the head of delegation and proceed from the assumption that he would co-operate with the agents of the host State in case of disaster. It had been said that, since the adoption of the Vienna Convention on Diplomatic Relations, international law had developed in such a way that a provision similar to the last sentence in article 54, paragraph 1, had had to be included in the Vienna Convention on Consular Relations² and in the Convention on Special Missions.³ In the opinion of the sponsors of the amendment in document A/CONF.67/C.1/L.80/Corr.1, a delegation to a conference or to an organ required more privileges and immunities than those provided for in the case of consular relations and special missions. Moreover, in the last named cases, the ILC had not prepared any text that corresponded to the last sentence of article 54, paragraph 1. It was for those reasons that the eight Powers had submitted their amendment to article 54.

33. Mr. SMITH (United States of America), introducing the amendment in document A/CONF.67/C.1/L.81), reminded the Committee that it had already adopted an identical amendment (see A/CONF.67/C.1/L.53) submitted to article 23, having considered as convincing the arguments put forward in its support.

34. Referring to the remarks made by the representative of Bulgaria, he said he could not see how it was possible to plead for a strict application of the principle of inviolability of the premises in the cases described in article 54. He pointed out, moreover, that if the Committee did not proceed from the principle that the parties concerned would act in good faith, none of the articles in the present convention would be of any consequence. On that subject, he reminded the members of the Committee of the discussion that had taken place

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

² *Ibid.*, vol. 596, No. 8638, p. 261.

³ General Assembly resolution 2530 (XXIV), annex.

on article 23. The United States delegation also considered that any objection to the exception provided for in article 54, paragraph 1, was even less convincing in the case of a delegation to an organ or to a conference, since such a delegation would generally be installed in temporary premises.

35. Sir Vincent EVANS (United Kingdom), introducing the amendment in document A/CONF.67/C.1/L.88 on behalf of the sponsors, drew the Committee's attention to the comment they had attached to their amendment. The sponsors had considered that it was difficult to appreciate the scope of an article concerning the inviolability of premises without taking account of the meaning given to the word "premises" in article 1, paragraph 1 (27). Further, according to that definition the expression "premises of the delegation" included the accommodation of the head of delegation. However, the question of the inviolability of the private accommodation of the head of delegation was dealt with in article 60. If the definition of premises was retained as it stood, articles 54 and 60 would overlap.

36. Before dealing with article 54, paragraph 2, he cited an example which well illustrated the force of the arguments adduced in favour of the amendment to article 23 which the Committee had already adopted, and of the United States amendment to article 54, paragraph 1. A few days previously an article had appeared in the English press on an incident that had taken place in one of the towers of the World Trade Center at New York. A short time before the people who worked in that skyscraper arrived, a fire had broken out on the eleventh floor and had spread to six other floors. What would have happened if that floor had been occupied by the delegation of a permanent mission claiming the absolute inviolability of its premises?

37. Returning to the amendment proposed by the three Powers (A/CONF.67/C.1/L.88), he pointed out that the present text of article 54, paragraph 2, would impose the same duties on the host State as those provided for in the corresponding article in part II concerning permanent missions. While it was quite appropriate in the case of permanent missions that the host State should be required to protect the premises in the same way as those of diplomatic missions, the same did not apply in the case of delegations to meetings of organs or conferences, for such delegations generally occupied hotel rooms on a temporary basis. That was why article 54, paragraph 2, as drafted by the ILC, would be extremely difficult to apply, and the three Powers had thought it better to express the obligation of the host State in that respect in more precise and realistic terms, believing that the provision would in that way prove more effective.

38. Mr. MUSEUX (France) said he shared the United Kingdom representative's view that in the present case it would be logical to consider article 1, paragraph 1 (27), which dealt with the premises of the delegation, so as to know exactly what premises enjoyed the inviolability provided for in article 54. Introducing the amendment to article 1, paragraph 1 (27) contained in document A/CONF.67/C.1/L.10, he pointed out

that the definition of the premises of the delegation adopted by the ILC was based on the definition that had been adopted in the case of the premises of the mission. However, the circumstances were completely different since, as the ILC indicated in paragraph 4 of its commentary to article 54 (see A/CONF.67/4), delegation premises were often established in hotel rooms or buildings to which the public had access. It seemed difficult to accord such premises the same régime as that enjoyed by a permanent mission established permanently in a building which it had purchased or rented. Moreover, the definition given to the word "premises" by the ILC contemplated "the land ancillary thereto", which in the present case would be the courtyard or the gardens of the hotel, and the French delegation did not see how they could benefit from inviolability vis-à-vis the authorities of the host State. For that reason, in its amendment the French delegation had deleted those words. It seemed pointless to deal with the accommodation of the head of delegation in that definition, as the matter was dealt with in article 60. The French amendment thus sought to limit the meaning of the expression "premises of the delegation" to premises that merited special protection for the efficient functioning of the delegation, namely, premises which were used as offices, since that was the real criterion which justified the granting of special protection.

39. Mr. WERSHOF (Canada) said that his delegation was in favour of the amendment to article 54 proposed by Japan, Thailand and the United Kingdom (A/CONF.67/C.1/L.88) for the reasons given by the United Kingdom representative.

40. With regard to the other two amendments proposed to the article (A/CONF.67/C.1/L.80 and Corr. 1 and L.81), the Canadian delegation would vote against the first and in favour of the second. Although it had already had an opportunity during the consideration of article 23 of the draft convention (15th meeting) to make its views known in that connexion, the Canadian delegation wished to stress the fact that the inviolability of the premises of the delegation, dealt with in article 54, did not present the whole picture; that inviolability was extended in article 60 to the private accommodation of the members of the delegation, and in article 67, paragraph 2, to the residence of members of the administrative and technical staff of the delegation. Consequently, it was in that context that the amendments in question should be re-examined. The amendment to article 54, paragraph 1, proposed by Bulgaria, Byelorussian SSR, Cuba, Czechoslovakia, German Democratic Republic, Hungary, Mongolia and the USSR (A/CONF.67/C.1/L.80 and Corr.1), was identical with the amendment to article 23, which had been proposed by Cuba, Iraq, Mongolia, Poland, Romania and the Union of Soviet Socialist Republics (A/CONF.67/C.1/L.46) and rejected by 27 votes to 22, with 14 abstentions, whereas the amendment by the United States delegation (A/CONF.67/C.1/L.81) was identical with the one that the same delegation had proposed to article 23 (A/CONF.67/C.1/L.53), which had been adopted by 33 votes to 18, with 12 abstentions.

41. Consequently, he hoped that the Committee would remain consistent, all the more so since the United States amendment (A/CONF.67/C.1/L.81) was even more necessary in the case of delegations, since delegations to conferences were often accommodated in hotels. The Canadian delegation hoped therefore that the eight-Power amendment would be rejected and that the United States amendment would be approved.

42. Mr. CALLE Y CALLE (Peru) said that there was a parallelism between article 54 and article 23, which laid down the principle of the inviolability of premises and the host State's obligation to protect that inviolability. The same parallelism was to be found between the amendments relating to those articles.

43. With regard to the amendment in document A/CONF.67/C.1/L.80 and Corr.1, the Peruvian delegation agreed with the principle set forth in the first part of article 54; as the amendment in question would result in the deletion of the presumption of consent contained in the following part of the article, his delegation would abstain in the vote, since it preferred to keep to the text established by the ILC. The amendment proposed by the United States of America (A/CONF.67/C.1/L.81) reiterated in substance that presumption in the case of fire or other disaster.

44. The amendment proposed by Japan, Thailand and the United Kingdom (A/CONF.67/C.1/L.88) departed from article 54, in that the special obligation of the host State in regard to the protection of the premises derived from the principle of the inviolability of those premises. The United Kingdom representative had stated, in support of his amendment that the new text was more realistic, easier to apply; it would thus be for practical reasons that paragraph 2 of the present text would be replaced by that new wording. But if a choice had to be made between practical reasons and reasons of principle, it would be better, in his view, to stick to reasons of principle. If special protection were to be given in certain cases, that would mean that other delegations would be left to their fate and would have to provide their own protection.

45. Delegations might include Ministers and persons of high rank, whose accommodation should benefit from the protection of the host State in the same way as the premises. Moreover, it was stipulated in article 1, paragraph 1 (27), that the expression "premises of the delegation" also included the accommodation of the head of delegation, who should therefore benefit from the same protection.

46. If the sponsors of the amendment had proposed adding to the article a further paragraph devoted to the special protection of a delegation, the Peruvian delegation would have been able to agree to such an amendment. But as they proposed to leave to the side and without mentioning the protection of all the premises of all the delegations, it could not accept the amendment in document A/CONF.67/C.1/L.88.

47. Mr. JALICHANDRA (Thailand) said that the text prepared by the ILC for article 54, paragraph 2, did not take sufficient account of the diversity of cases which were currently arising in practice. Without re-

tracing the arguments put forward at the previous meeting in respect of the new article proposed by Switzerland (A/CONF.67/C.1/L.77), he pointed out that every day in Bangkok meetings were held of committees or of groups of experts from different countries responsible for studying a variety of problems (mercantile marine, telecommunications, etc.). Those experts were generally met at the airport by officials of the branch of the organization or of the technical Minister of the host State that dealt with matters of protocol, who facilitated their entry and looked after their accommodation. According to the International Law Commission's text, the security services of the host country would be automatically alerted on the occasion of the arrival of any foreign representative; that would entail permanent mobilization of the police forces of the country and would constitute an intolerable burden for a small country like Thailand.

48. The amendment of which Thailand was one of the sponsors (A/CONF.67/C.1/L.88) provided for special protection only when the circumstances so required, and in such a case the host State would take the necessary steps to ensure the protection of the premises of the delegation. That was a practical and effective solution capable of satisfying everyone.

49. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said, in support of the amendment of which his delegation was a sponsor (A/CONF.67/C.1/L.80 and Corr.1), that that amendment was not dictated by tactical considerations but related to a basic issue.

50. The total inviolability of premises was set forth in a great number of international agreements and, in particular, in the 1961 Vienna Convention on Diplomatic Relations, and the principle should be applied to all forms of representation, whether they be missions (article 23 of the draft convention), delegations (article 54) or observer missions (article N of the annex). The Soviet Union had already had an opportunity of making its views known during the consideration of article 23 (15th meeting).

51. Many delegations had questioned the efficacy of the amendment proposed to article 54, paragraph 1 (A/CONF.67/C.1/L.80 and Corr.1), arguing that that principle would be difficult to apply in the case of delegations accommodated in hotels. He did not deny that if the head of a delegation or a member of a delegation lived in a hotel, the principle, might be somewhat difficult—though not impossible—to apply in an absolute way. But if a delegation were accommodated in a villa or if it occupied one or two floors of a hotel, where it kept its documents and archives, it was essential that those premises should be totally inviolable. The principle of total inviolability should be contained in a convention like the one under consideration, and he hoped that a solution would be found similar to the one that had been selected in the 1961 Vienna Convention on Diplomatic Relations.

52. The Soviet Union delegation considered that the clarification of the concept of "premises of the delegation" in article 1, paragraph 1 (27), as proposed by the French delegation, would, if it was adopted, strengthen the conviction that it was essential to accept the prin-

ciple of the complete inviolability of the premises of the delegation.

53. Mrs. SLÁMOVÁ (Czechoslovakia) thought that the text proposed by Japan, Thailand and the United Kingdom (A/CONF.67/C.1/L.88) was far too vague. She wondered what would be the specific circumstances justifying special protection for the premises of a delegation by the host State, who would be responsible for determining them, and who would be responsible for the decision on a delegation's need to enjoy special protection.

54. Mr. HELYES (Hungary) said that the subject-matter of article 54 was of great importance from both the practical and the theoretical viewpoint. From the practical viewpoint, the object was to enable the delegation to conduct its activities under normal conditions. From the theoretical viewpoint, the article sought to affirm the principle that delegations, as representatives of States, should enjoy the immunity essential to the performance of their functions. That was the attitude adopted by the ILC in providing, in paragraph 2, that the host State was "under a special duty to take all appropriate steps" to ensure the inviolability of the delegation's premises.

55. The representative of Czechoslovakia had asked a very pertinent question with regard to the amendment in A/CONF.67/C.1/L.88. Who would be the judge of whether "the circumstances are such that a delegation requires special protection"? It would probably be the host State as being the best acquainted with local conditions. In his view, however, special protection for a delegation's premises should not depend on such a subjective criterion because the purpose of that protection would be to prevent those very "circumstances" from arising. He could not therefore agree to the joint amendment to paragraph 2. In addition, he could not agree to the United States amendment to paragraph 1 (A/CONF.67/C.1/L.81) for the reasons which he had already stated in connexion with article 23 (15th meeting).

56. Mr. TAKEUCHI (Japan) pointed out that paragraph 2 of article 54 followed the wording of paragraph 2 of article 23, which was itself modelled on paragraph 2 of article 22 of the Vienna Convention on Diplomatic Relations. In his view, however, for both practical and theoretical reasons, some differentiation was called for in the treatment of the three articles. Theoretically, delegations differed from permanent missions, because they were not permanent but temporary, and they differed from diplomatic missions because they were not accredited to the host State. From the practical viewpoint, there was the problem that members of delegations often stayed in hotels where other persons stayed. Such other persons, as well as the members of delegations themselves, might be inconvenienced by over-strict security measures. He said that it would not be necessary for the host State to send a large number of policemen who would be watching everybody in hotel lobbies and corridors even where the circumstances were not such that a delegation required special protection. Furthermore, small States might not have sufficient police available to ensure the

protection of such premises and it would be more difficult when the conference was held outside the capital city. It was for that reason that the amendment submitted jointly by Thailand, the United Kingdom and Japan (A/CONF.67/C.1/L.88) specified that the host State was required to ensure the protection of the delegation's premises only "when the circumstances are such that a delegation requires special protection". The amendment did not detract in any way from the general principle set out in article 54.

57. Mr. COULIBALY (Mali) was of the opinion that the principle of the absolute inviolability of the premises of the mission should be safeguarded. He therefore supported the amendment in document A/CONF.67/C.1/L.80 and Corr.1, but wished to propose an oral subamendment providing for the addition, at the end of the amendment, of the words "or of another members of the delegation".

58. Mr. SHELDON (Byelorussian Soviet Socialist Republic) thought that account should be taken of the opinion of the majority of the members of the ILC, who had repeatedly confirmed the principle of the inviolability of the premises of missions and delegations. As a general approach, he stressed that no one could be deprived of a given right because he did not exercise that right. The principle of the inviolability of premises should be stated in absolute terms and there should be no conditions attached to it. To refuse delegations the right of inviolability of premises would be a clearly discriminatory approach to them in comparison with the approach to the inviolability of premises, a delegation could not be guaranteed the exercise of the immunities and privileges relating to the inviolability of papers and correspondence. Article 54 should therefore be brought in line with the principle of the inviolability of premises laid down in the Vienna Convention on Diplomatic Relations. That was the object of the amendment in document A/CONF.67/C.1/L.80 and Corr.1.

59. In his view the United States amendment in document A/CONF.67/C.1/L.81 was contrary to the principle of the inviolability of the premises of the delegation. He would therefore vote against that amendment. He would also vote against the three-Power amendment (A/CONF.67/C.1/L.88), which introduced into paragraph 2 of article 54 an entirely new provision and concerning which he shared the point of view expressed by the representative of Peru.

60. Mr. MUSEUX (France) thought that the Committee should vote on the French amendment to paragraph 1 (27) of article 1 (A/CONF.67/C.1/L.10) before voting on article 54, since the decision to be taken on the latter article depended on the definition of the term "premises of the delegation" that would be given in article 1.

61. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that the sponsors of the amendment in document A/CONF.67/C.1/L.80 and Corr.1 accepted the oral subamendment proposed by Mali, which they considered very constructive.

62. The CHAIRMAN invited the Committee to vote

on the French amendment to paragraph 1 (27) of article 1 (A/CONF.67/C.1/L.10).

The amendment was adopted by 33 votes to 18, with 12 abstentions.

63. The CHAIRMAN invited the Committee to vote on the eight-Power amendment to paragraph 1 of article 54 (A/CONF.67/C.1/L.80 and Corr.1) with the oral subamendment proposed by Mali and accepted by the sponsors, on the United States amendment (A/CONF.67/C.1/L.81) and on the amendment by Japan, Thailand and the United Kingdom (A/CONF.67/C.1/L.88). Then the Committee would vote on the article as a whole.

The eight-Power amendment (A/CONF.67/C.1/L.80 and Corr.1) was rejected by 26 votes to 25, with 13 abstentions.

The United States amendment (A/CONF.67/C.1/L.81) was adopted by 30 votes to 19, with 17 abstentions.

The amendment by Japan, Thailand and the United Kingdom (A/CONF.67/C.1/L.88) was adopted by 29 votes to 23, with 13 abstentions.

Article 54 as a whole, as amended, was adopted by 38 votes to 14 with 13 abstentions.

64. Mr. TODOROV (Bulgaria) stated, on behalf of the sponsors of the amendment in document A/CONF.67/C.1/L.80 and Corr.1, that, with regard to the inviolability of the premises of delegations, no restrictions were admissible since they might be utilized to the detriment of the normal exercise of the functions of delegations and the fruitful activity of international conferences, and might also cause complications in relations between States.

65. Mr. YAÑEZ-BARNUEVO (Spain) considered that a remarkable degree of balance had been achieved in the text of article 54 prepared by the ILC. For that reason he had voted against all the amendments to that text—against both those which were designed to expand the protection afforded to the premises of the delegation and those which tended to restrict it. As two of those amendments had been adopted, he had been obliged to abstain from voting on the article as a whole, but he hoped that the plenary Conference would show common sense and re-establish the International Law Commission's text.

66. Mrs. DE MEYER (Venezuela) said that she had

not taken part in the debate on article 54 and that she had abstained from voting for the reasons stated by her delegation in connexion with article 23 (15th meeting). She would, however, have preferred keeping the text prepared by the ILC.

67. Mr. TANKOUA (United Republic of Cameroon) said that he would have been unable to agree to the initial text of the amendment in document A/CONF.67/C.1/L.80 and Corr.1, but that with the subamendment proposed by Mali that text had seemed to him to be well balanced. He had therefore voted in favour of it. He had voted against the amendment in document A/CONF.67/C.1/L.81, which seemed to him to be rigid and even prejudicial to the very principle of the inviolability of the premises of the delegation. He had also voted against the amendment in document A/CONF.67/C.1/L.88, because that amendment contained a subjective element which he considered unacceptable. In his view, a careful reading showed that the amendment implied that, when there had been an intrusion into or damage to the premises of a delegation, a breach of the peace had been committed against it and its dignity had been impaired, the responsibility of the host State was involved only if special circumstances had necessitated the protection of those premises. The question then arose as to what was meant by "special circumstances", who was to decide whether such circumstances existed and when the decision should be taken. He considered that the principle of inviolability was unconditional and that the relevant measures should be primarily preventive.

68. He had therefore abstained from the vote on article 54 as a whole.

69. Mr. REID (Ireland) said he had voted in favour of article 54. He thought, however, that paragraph 3 did not exclude the right of the host State to take charge of a vehicle which constituted a traffic hazard. That observation also applied to his delegation's vote on article 23.

70. Mr. CALLE Y CALLE (Peru) said that he had abstained from the vote on article 54 because it had been distorted by the amendment to paragraph 2 (A/CONF.67/C.1/L.88). In his view, the premises of delegations should be considered as being of the same nature as the premises of missions.

The meeting rose at 6 p.m.

27th meeting

Tuesday, 25 February 1975, at 10.50 a.m.

Chairman: Mr. NETTEL (Austria).

In the absence of the Chairman, Mr. Wershov (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 54 (Inviolability of the premises) (concluded)
(A/CONF.67/4, A/CONF.67/C.1/L.80 and Corr.1, L.81, L.88)

1. Mr. MARESCA (Italy), speaking in explanation of vote, said that his delegation had voted in favour of the amendment to paragraph 2 of article 54 proposed by the United Kingdom (A/CONF.67/C.1/L.88) because the text of paragraph 2 prepared by the Interna-