

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

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**29th meeting of the Committee of the Whole**

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defined, in paragraph 1 (19) of article 1, as “any person designated by a State to participate as its representative in the proceedings of an organ or in a conference”. It was the word “participate” which expressed the criterion adopted by the ILC for defining delegates. In the corresponding provision relating to observer delegations (*ibid.*, article A (e)) the term “observer delegate” was used to mean “any person designated by a State to attend as an observer the proceedings of an organ or of a conference”. It would be seen that, in that definition, there was no reference to a State not member of the organization, a condition which was specified in the case of the “permanent observer mission” defined in paragraph 1 (7) of article 1; the criterion of State not member had therefore not been retained in the case of observer delegates referred to in the annex.

58. The representatives of States to organs or to conferences were delegates or observer delegates, as the case might be. To consider one possible situation: if a State that was a member both of the organization and of the organ concerned sent a representative, the latter would obviously be a delegate. But it might happen that a State which was a member of an organization was not a member of the organ, as for example the Security Council. Such representatives sometimes participated in the work of organs or of conferences as quasi-observers, as had occurred for instance at the session of the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, held at Mexico City. He agreed that the general comments of the ILC at the beginning of the annex (*ibid.*, paragraph (5), subparagraph (a))

allowed for some ambiguity, since they related to active participation or to passive attendance at meetings. Actually, a distinction should be drawn between participation as full members in the formulation and taking of decisions, on the one hand, and participation by delegates who simply attended meetings but who might have documents distributed, on the other.

59. In another situation—that of States not members of the organization—it might happen that a non-member State participated in certain meetings of an organ—as in the case of elections to the International Court of Justice—and the representatives of that State would then have to be considered as delegates. Lastly, it might happen that a non-member State sent representatives to observe the proceedings of an organ, and that case was covered by the annex.

60. To sum up, provision had to be made in the draft for the situation of temporary observers; and, although the present wording of the International Law Commission's text was a little ambiguous, it nevertheless made it possible to cover most cases.

#### Statement by the Chairman

61. The CHAIRMAN announced that the delegations which wished to be able to sign the convention to be adopted by the Conference should communicate their credentials to the Secretariat, if they had not already done so. In conformity with the Organization's practice, the Final Act could be signed by duly accredited delegates, without their necessarily possessing full powers.

*The meeting rose at 6.05 p.m.*

## 29th meeting

Wednesday, 26 February 1975, at 10.55 a.m.

Chairman: Mr. NETTEL (Austria).

*In the absence of the Chairman, Mr. Wershow (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 59 (Personal inviolability) (continued) (A/CONF.67/4, A/CONF.67/C.1/L.92, L.94, L.96)*

1. Mr. MAAS GEESTERANUS (Netherlands) said that his delegation had re-examined the relationship of the articles in the annex with part III of the draft articles submitted by the International Law Commission (ILC) (see A/CONF.67/4), in the light of the comments made by the Expert Consultant at the end of the previous meeting and in the light of the International Law Commission's general comments on the draft art-

icles in the annex (*ibid.*). It was the understanding of his delegation that the great majority of observer delegations would be covered by the provisions in part III of the convention; only in very exceptional cases would the status of such delegations have to be regulated by the provisions in the annex. Accordingly, his delegation suggested that the scope of the definitions in article 1, paragraph 1, subparagraphs 9 and 10 should be enlarged in such a way as to render the annex entirely superfluous and to ensure that the provisions in part III applied to all observer delegations. If the Committee could adopt that suggestion many procedural difficulties would be avoided.

2. His delegation also had the impression that many delegations wished the privileges and immunities provided for in part III to be confined to those a delegation would require in order to be able to perform its functions. It suggested, therefore, that the Committee should consider the possibility of deciding that under part III all delegations, both delegations proper and

observer delegations, would be accorded the privileges and immunities they needed to perform their functions. Such an approach to the provisions of part III and those of the annex might make it possible for delegations to reconcile their differences and ensure that the convention adopted by the Conference was generally acceptable.

3. Mr. SKOBELEV (Byelorussian Soviet Socialist Republic), observing that, according to the decision taken by the Conference (5th plenary meeting), the Committee was supposed to be considering article 59 and article M of the annex simultaneously, said that he wished to comment on both those articles and the amendments thereto. In its text of article 59, the Commission had deemed it necessary to confirm the provisions concerning inviolability contained in earlier conventions. Just as in bilateral diplomacy, the right to inviolability was a basic condition for achieving multi-lateral co-operation. In the opinion of his delegation, the United Kingdom amendment (A/CONF.67/C.1/L.94) deprived article 59 of its essential meaning and undermined the principle of inviolability. Accordingly, that amendment was unacceptable to his delegation.

4. On the other hand, in view of the trend discernible in the development of international law, it would be useful to strengthen the principle of inviolability. Accordingly, his delegation fully supported the amendments to article 59 and article M of the annex submitted by the delegation of the Ukrainian SSR (A/CONF.67/C.1/L.92). Those amendments were based on the provisions of article 28, which the Committee had adopted by an overwhelming majority.

5. The United States amendment to article M of the annex (A/CONF.67/C.1/L.124) tended to restrict the privileges and immunities granted to observer delegations. It therefore ran counter to the decision on the subject taken by the ILC after a long discussion. The general opinion seemed to be that observer delegations should not be discriminated against. Such delegations represented sovereign States and to decide that the principle of personal inviolability should not be applicable to them would be a breach of international law. His delegation could not, therefore, support the United States amendment.

6. Mr. SURENA (United States of America) recalled that at the previous meeting the Expert Consultant had conceded that some of the International Law Commission's general comments on the scope of the provisions of the annex (see A/CONF.67/4) could be regarded as ambiguous. The delegation of the Netherlands had proposed a means of dealing with that ambiguity. In the opinion of his delegation, the question of the scope of the provisions of the annex had not yet been settled and it would be inappropriate to consider those provisions until their scope had been clarified as a result of discussion in the Committee. In preparing the provisions of the annex, the ILC had not followed its usual procedure of submitting them to Governments in provisional form and subsequently re-examining them in the light of Governments' comments. The discussion which should have taken place in the Commission must therefore, take place in the Committee. He wondered

whether, in the light of his delegation's comments and those of the Expert Consultant, the delegation of the Ukrainian SSR maintained its request that provisions of the annex should be discussed together with provisions of part III. The exchange of views which had taken place at the previous meeting had shown that there was a difference between the intended scope of the provisions of the annex and the intended scope of the provisions of part III. He therefore urged the representative of the Ukrainian SSR to withdraw his request that article 59 and article M of the annex should be discussed together. Unless that request was withdrawn, his delegation would enter a formal objection to the Committee's considering any provisions of the annex at the current stage of its proceedings. His delegation had submitted its amendment to article M of the annex (A/CONF.67/C.1/L.124) at that stage solely because of the time-limit for the submission of amendments announced by the Chairman.

7. The CHAIRMAN recalled that at its 5th plenary meeting the Conference had decided that wherever possible the articles in part III should be discussed jointly with the corresponding articles in the annex. The Committee of the Whole had interpreted that decision as meaning that, starting with article 58, articles in part III should be discussed in conjunction with the corresponding articles in the annex whenever, in the opinion of delegations, such procedure was possible. He recalled, further, that at the Committee's 22nd meeting he had stated that in the event of any opposition to a proposal that an article in part III should be discussed together with an article in the annex, it would be for the Committee to decide how the situation was to be dealt with. In document A/CONF.67/C.1/L.96, the delegations of Bulgaria, the Byelorussian SSR, Cuba, Czechoslovakia, the German Democratic Republic, Hungary and the Union of Soviet Socialist Republics had proposed that articles 59, 62, 64 and 65 of part III should be considered in conjunction with their counterparts in articles M, P, R and S of the annex. The delegation of the United States had formally objected to that proposal.

8. He could only assume that the delegation of the United States was not of the opinion that a joint discussion of article 59 and article M of the annex was possible and that, therefore, the procedure envisaged by the Conference in plenary meeting could not apply. That was a matter on which only the Committee could decide. He would not, therefore, give any ruling on it. He was, however, prepared to put the question to the vote at any time.

9. Mr. TAKEUCHI (Japan) said that his delegation did not consider it possible to consider articles in part III in conjunction with articles in the annex because it did not fully understand the scope of the articles in the annex. Quoting paragraph 8 of the commentary of the ILC to article 1 (see A/CONF.67/4), he said that before coming to the Conference, his delegation had had no doubt that the delegations referred to in part III included delegations normally known as observer delegations. In its opinion, for instance, the observer delegations attending the current Conference would be

covered by the provisions in part III. In the circumstances, it was not at all certain about the scope of the provisions in the annex. Careful consideration should therefore be given to the very good suggestion made by the representative of the Netherlands.

10. The CHAIRMAN thought that it might be advisable to suspend the meeting in order to enable delegations and regional groups to consider the suggestion made by the delegation of the Netherlands.

11. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that his delegation had no objection to the Chairman's suggestion that the meeting should be suspended. He wished, however, to draw attention to the fact that the Conference had decided that whenever possible articles in part III should be discussed together with the corresponding articles in the annex. Furthermore, the Chairman had established time-limits for the submission of amendments to the articles in the annex, with the exception of article A. He failed to see why the procedure decided upon by the Conference should be changed.

12. Mr. MAAS GEESTERANUS (Netherlands), at the request of Mr. MOLINA LANDAETA (Venezuela), repeated the suggestion he had made at the beginning of the meeting.

13. Mr. KUZNETSOV (Union of Soviet Socialist Republics) requested the representative of the Netherlands to explain whether he intended that articles 42 to 58 should apply to observer delegations also.

14. Mr. MAAS GEESTERANUS (Netherlands) said that his delegation had not intended to reopen the discussion of articles which had already been adopted.

15. Mr. OSMAN (Egypt) said that his delegation objected to the Netherlands suggestion and considered that the Committee should discuss the articles contained in part III in conjunction with the relevant articles of the annex.

16. Mr. EL-ERIAN (Expert Consultant) said that he thought he should provide some clarifications concerning the concluding part of the statement he had made at the last meeting. He had not meant to imply that all cases of observer delegations could be dealt with by extending the scope of the definition of "delegation" in article 1. The ILC had considered it necessary to include in the annex provisions relating to temporary observer delegations to which the definition of the delegation contained in article 1 did not apply. It was for that reason that the Commission had, for example, limited the scope of article E of the annex relating to the composition of the observer delegation.

17. Since the practice followed with regard to the status of observer delegations varied according to the internal law of each organization, the Committee could not possibly deal with all the situations which might arise. Its task was to deal with the external aspects of relations between States and international organizations.

18. Mr. MARESCA (Italy) said that the success of the Conference depended on its ability to ensure the continuity of the work already carried out with a view to the codification and progressive development of international law. Thus, during the discussions of the

1961 and 1963 Vienna Conventions on Diplomatic Relations and on Consular Relations and the Convention on Special Missions, it had been decided to make a clear distinction between the legal attributes of the various types of missions, consular posts and delegations. If the Committee decided to consider observer delegations on the same level as the delegations referred to in part III of the draft articles, it would be departing from the method of work decided upon at previous international law conferences.

19. Sir Vincent EVANS (United Kingdom) said that his delegation supported the Chairman's suggestion to suspend the meeting so as to allow time for the consideration of the Netherlands suggestion.

20. Mr. SURENA (United States of America) recalled that it was the task of the Committee to consider the representation of States in their relations with international organizations of universal character, namely, the United Nations, the specialized agencies and a few other organizations with world-wide responsibilities. In that connexion, he noted that since the twenty-eighth session of the General Assembly, when the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, had been adopted, the trend had developed to invite all States to participate fully in conferences of the United Nations and the specialized agencies. For various reasons, however, a few States chose to send only observer delegations to such conferences, of which the present Conference was a good example. His delegation therefore did not think it was necessary to devote an entire section of the proposed convention to the status of observer delegations which chose to attend conferences without having the right to vote. Moreover, it was difficult to make a distinction between such observer delegations and delegations participating in conferences which did not, for reasons of their own, choose to participate in the vote on certain questions.

21. It was also necessary for the Committee to consider the question of the status of the observer delegation to an organ of the organization. His delegation was of the opinion that there again there was no practical need to devote an entire section of the proposed convention to the status of such delegations. As pointed out in paragraph 5, subparagraph (a) of the International Law Commission's general comments on the annex, the definition of the term "observer delegation to an organ" given in subparagraph 9 of paragraph 1 of article 1 applied to delegations sent by States to participate on their behalf in the proceedings of an organ, whether they were members of the organ or not. Thus, for all practical purposes, such observer delegations would be covered by part II of the draft articles relating to missions to international organizations. In view of those considerations and because his delegation had, for substantive reasons, opposed the decision concerning the joint consideration of the articles contained in part III and the annex, it considered that it would be a disservice to the work of the Committee to adopt the proposal contained in document A/CONF.67/C.1/L.96.

22. Mr. ZEMANEK (Austria) requested the sponsors of the proposal contained in document A/CONF.67/C.1/L.96 to provide some clarifications concerning the future status of the articles now contained in the annex. If those articles were adopted, it would be necessary to decide whether they should be a separate legal instrument or whether they should be included in the convention after the present article 82.

23. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said the sponsors of the proposal in document A/CONF.67/C.1/L.96 considered that the articles contained in the annex must be part of the proposed convention. It would be for the Conference, however, to decide how those articles should be incorporated in the final document.

24. Mr. CALLE Y CALLE (Peru) said that, in view of the decision taken by the Conference concerning the joint consideration of the articles contained in part III and the annex, his delegation considered that the Neth-

erlands suggestion was not practical and could therefore support the Chairman's suggestion that the Committee should take a decision on the joint consideration of article 59 and article M of the annex.

25. Mr. EUSTATHIADES (Greece) said that his delegation supported the suggestion made by the Chairman to suspend the meeting so as to enable the regional groups to consult on the Netherlands suggestion.

26. Sir Vincent EVANS (United Kingdom), referring to rule 27 of the rules of procedure, formally moved the adjournment of the meeting in order to allow the regional groups to hold such consultations.

27. The CHAIRMAN called for a vote on the United Kingdom motion.

*The motion was adopted by 39 votes to 14, with 5 abstentions.*

*The meeting rose at 12.10 p.m.*

## 30th meeting

Wednesday, 26 February 1975, at 3.35 p.m.

Chairman: Mr. NETTEL (Austria).

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

**Consideration of the question of the representation of States in their relations with international organizations in accordance with resolutions 2966 (XXVII), 3072 (XXVIII) and 3247 (XXIX) adopted by the General Assembly on 14 December 1972, 30 November 1973 and 29 November 1974 (continued)**

*Article 59 (Personal inviolability) (continued) and article M of the annex (Personal inviolability) (A/CONF.67/4, A/CONF.67/C.1/L.92, L.94, L.96, L.124, L.138)*

1. Mr. MAAS GEESTERANUS (Netherlands) recalled that, at the previous meeting, his delegation had made a proposal to help the Committee to find a way out of the difficulties confronting it in connexion with article 59. After considering the comments made by other delegations, his delegation had submitted an amendment<sup>1</sup> to subparagraphs 9 and 10 of paragraph 1 of the draft of the International Law Commission (ILC) (see A/CONF.67/4). According to that amendment, part III of the draft articles would be combined with the annex, since the proposed definitions merged the definitions of delegations and observer delegations contained respectively in article 1 of the draft convention and article A of the annex. The observer delegations currently forming the subject of the annex would then be dealt with in exactly the same way as the delegations referred to in part III of the draft articles. That would obviate considering each article of the annex separately, and the time thus saved might be usefully

devoted to real negotiations on questions of substance, including that of ascertaining how far the facilities, immunities and privileges provided for were necessary for the performance of the functions of delegations and observer delegations.

2. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that he did not quite see from what difficulties the Netherlands delegation was endeavouring to extricate the Committee. The group of socialist countries had proposed (A/CONF.67/C.1/L.69) that article 59 should be considered in conjunction with article M of the annex, and it was now for the Committee of the Whole to decide whether or not it wished to consider that proposal.

3. The Netherlands amendment had serious implications. It called in question the actual text prepared by the ILC and it conducted to the annulment of the joint proposal by the group of socialist countries and to the reduction of the privileges and immunities accorded to delegations in part III of the draft articles. His delegation could therefore not support that amendment. From the procedural point of view, the Netherlands was undoubtedly entitled to submit an amendment to article 1 if it wished to do so, but his delegation would ask the Committee first to take a decision on the proposal submitted by the group of socialist countries.

4. The CHAIRMAN explained that in the absence of any other procedural motions which would have priority over the joint proposal by the group of socialist countries, it was, in fact, that proposal (A/CONF.67/C.1/L.96) which should be considered briefly and put to the vote.

5. Mr. KUZNETSOV (Union of Soviet Socialist Republics), in reply to a question by Mr. HELLINERS

<sup>1</sup> Distributed later under the symbol A/CONF.67/C.1/L.138.