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in Their Relations with International Organizations**

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31st meeting

Wednesday, 26 February 1975, at 8.45 p.m.

Chairman: Mr. NETTEL (Austria).

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

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

1. Mr. EUSTATHIADES (Greece), speaking on the amendments to article 59 (A/CONF.67/C.1/L.92 and L.94), said that the International Law Commission (ILC) had weighed carefully the terms used both in that article and in article 28 (Personal inviolability) in part II of the draft articles (see A/CONF.67/4).

2. When the Committee had dealt with article 28 at its 19th meeting, his delegation had abstained from voting on the Egyptian oral amendment to insert the words "prosecute and punish" after the words "to prevent", and had voted in favour of article 28 as a whole in the form in which it had emerged from the ILC.

3. Nothing had been said during the present debate that would persuade his delegation to adopt a different attitude with regard to article 59. Accordingly, his delegation would not support either of the two amendments which had been proposed to that article (A/CONF.67/C.1/L.92 and L.94).

4. Regarding the United Kingdom amendment in document A/CONF.67/C.1/L.94, he felt that the question of doing away or not doing away with the rule contained in the first sentence of article 59 should not lead to a debate on whether what was involved was codification or progressive development of international law. The Conference was concerned with *lex feranda*, and from that viewpoint a choice had to be made between the argument of uniformity of régime for both permanent missions and delegations and the possibility of having for the former, as well as the latter, a status in keeping to their importance but with due regard to differences in functions. That approach would be the more realistic one and would be in keeping with the principle that all privileges and immunities were granted in response to needs resulting from functions.

5. As the Expert Consultant had explained, there was, of course, the precedent of article 29 of the Convention on Special Missions,¹ and the problem was that the provisions on delegations and delegates covered a wide variety of situations. Certain delegations constituted something much more important than special missions; others were less important than special missions.

6. However, with regard to a definition of what con-

stituted inviolability of the person, research on that point had led to the conclusion that the principle of personal inviolability had only two applications, those which were mentioned in article 59: immunity from personal arrest or detention, and respect and special protection for the person declared inviolable.

7. Consequently, the United Kingdom amendment deleting the reference to "personal inviolability", which had considerable psychological attraction, did not deprive article 59 of its substance, since the two above-mentioned applications of the principle of personal inviolability were retained by that amendment. Moreover, in the absence of a different definition of the concept of personal inviolability, his delegation was not in a position to vote on the Ivory Coast oral amendment made at the previous meeting.

8. As for observer delegations, their exact status had not yet been defined, a fact which made it difficult to discuss the question of parallelism of provisions.

9. Mr. MITIĆ (Yugoslavia) said that personal inviolability, which was the subject-matter of article 59 and in particular of the first sentence thereof, was a most important element of diplomatic immunity. Unless complete inviolability of the person were guaranteed, all the other elements of the inviolability of the delegation would remain an illusion.

10. His delegation therefore found no justification whatsoever to curtailing the scope of the immunity of delegates in the manner proposed in the amendment contained in document A/CONF.67/C.1/L.94. Nor had any valid argument been put forward for introducing differences in treatment between delegations on the one hand and observer delegations on the other in respect of personal inviolability. He was fully aware of the different position of an observer delegation with regard to its rights and duties in the organs of the organization concerned. Where personal inviolability was concerned, however, there could be no question of making any distinction between the two categories. If the representative of a sovereign State was sent to an organ or to a conference in accordance with the rules and decisions of the organization concerned, as provided for in article 3 of the annex, there could be no reason to limit the personal inviolability of the delegates concerned. The present Conference provided a good illustration of an international meeting in which non-member States took an active part in the work of the Conference while some Member States of the United Nations had sent to it only observer delegations.

11. It was for those reasons that his delegation opposed the amendment in document A/CONF.67/C.1/L.94.

12. The argument, derived from the precedent of subparagraph (a) of section 11 in article IV (The representatives of members) of the Convention on the

¹ General Assembly resolution 2530 (XXIV), annex.

Privileges and Immunities of the United Nations,² had no validity. As pointed out in the written comments by the Government of Belgium (see A/CONF.67/WP.6), that argument did not seem convincing when one considered the development and the multitude of international diplomatic conferences in recent years.

13. He failed to see why a different treatment should be envisaged for delegations and for observer delegations when the present draft had rightly sought to avoid as far as possible making any difference between missions and observer missions.

14. He realized that there existed some special elements that were characteristic of observer delegations, and he agreed with the remarks of the Expert Consultant (28th and 29th meetings) on that question. His delegation therefore could not support the amendment contained in document A/CONF.67/C.1/L.124.

15. As for the Ukrainian amendment to article 59 (A/CONF.67/C.1/L.92), it would serve to make provision not only for the prevention of attacks upon internationally protected persons but also for the prosecution and punishment of persons guilty of such attacks. His delegation supported that amendment which took into account the equality of the representatives of sovereign States and enabled the participation of some States in the activities of international organizations, thereby meeting the essential requirements of international co-operation.

16. Mr. RAOELINA (Madagascar) said that the text of article 59 set forth in clear and unmistakable terms the fundamental principle of personal inviolability as recognized by international practice. The attempt, in the amendment contained in document A/CONF.67/C.1/L.94, to curtail the scope of that essential rule of international law by the injection of vague and imprecise language into the article, would make it possible for a host State to shirk its responsibilities to safeguard personal inviolability and to ensure respect for the person and dignity of those protected by the rule. There was no justification for confining the scope of personal inviolability merely to immunity from personal arrest or detention, as was done in the amendment in question. Personal inviolability covered much more than that.

17. His delegation welcomed the Ivory Coast oral amendment to introduce in the second sentence of article 59 the words "in particular", in order to show that personal arrest and detention constituted only two examples of the many possible types of measures which, if applied to a person enjoying inviolability, would constitute a breach thereof.

18. His delegation supported the Ukrainian amendment to article 59 (A/CONF.67/C.1/L.92), in line with its acceptance of a similar amendment for article 28. His delegation took that opportunity to state that its stand on article M (Personal inviolability) of the annex was identical to its position on article 59.

19. Mr. VALLADÃO (Brazil) expressed his delegation's support for the Ukrainian amendment to article

59 (A/CONF.67/C.1/L.92), which would bring the article into line with article 28 as adopted by the Committee. With regard to article M of the annex, his delegation supported the last part of the Ukrainian amendment, purporting to insert the words "prosecute and punish" in the text. However, as far as the first part of that amendment was concerned, his delegation found no improvement therein as compared to the text of the ILC. It would have been preferable not to depart from the original text which employed the expression "observer delegate". That expression, under article A, subparagraph (e), meant "any person designated by a State to attend as an observer the proceedings of an organ or of a conference". It therefore already covered the persons of the head of the observer delegation, other delegates, the persons of members of the diplomatic staff and also the administrative and technical staff.

20. His delegation opposed the amendment in document A/CONF.67/C.1/L.94, which would introduce into article 59 a totally unwarranted restriction of personal inviolability; similarly, it opposed the amendment to article M of the annex in document A/CONF.67/C.1/L.124. At the same time, his delegation wished to voice its concern at the tendency which was becoming manifest in the Committee to try to curtail the vital principle of personal inviolability.

21. Mr. YAÑEZ-BARNEUVO (Spain) said that his delegation would comment on articles 59 and M of the annex together, since they dealt with the same questions; it would adopt the same approach to the other articles in part III and the corresponding ones in the annex.

22. He voiced his delegation's strong support for the texts which had emerged from the careful deliberations of the ILC and which were based on the solid precedent of the 1961 Vienna Convention on Diplomatic Relations and the 1969 Convention on Special Missions. Accordingly, his delegation could not accept the amendment to article 59 in document A/CONF.67/C.1/L.94; similarly, it opposed the amendment to article M of the annex contained in document A/CONF.67/C.1/L.124.

23. The essential character of the rule of personal inviolability had been underlined by the adoption in 1973 by the General Assembly in its resolution 3166 (XXVIII) of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents.

24. For those reasons, his delegation would support the Ukrainian amendments to the two articles (A/CONF.67/C.1/L.92), which would introduce an idea already accepted by the Committee for other articles of the draft and would set forth in explicit terms matters which were implicit in the Vienna Convention on Diplomatic Relations and the Convention on Special Missions.

25. The position thus taken by his delegation was, moreover, justified by the experience of recent events in which representatives of Spain to international organizations had been threatened and noisy demonstrations had been held in front of their hotels.

² General Assembly resolution 22 A (1).

26. He drew attention, for the benefit of the Drafting Committee to the unsatisfactory wording used in Spanish, and in other languages as well, to translate the last sentence of the Ukrainian amendment to article M of the annex: it was appropriate to speak of steps "to prevent . . . any attack" but not of steps "to . . . prosecute and punish any attack", since it would of course be the person committing the attack, and not the attack, which would be prosecuted and punished. Suitable language could perhaps be found by drawing upon the relevant provisions of the 1946 and 1947 Convention on the Privileges and Immunities of the United Nations and on the Privileges and Immunities of the Specialized Agencies, and, more especially, of the 1973 Convention adopted by resolution 3166 (XXVIII), to which he had already referred.

27. He also wished to draw the Drafting Committee's attention to the cumbersome language used in the opening seventeen words of article 59 which could be replaced by the five words "members of the diplomatic staff", a term which was defined in paragraph 1 (22) of article 1 (Use of terms).

28. Mr. MARESCA (Italy) said that the rule of personal inviolability of diplomatic envoys went back to remotest antiquity. In Roman Law, it had very early found expression in the adage *legatores personae sanctae sunt* which endowed the envoy with a sacred character under the religious principles underlying Roman public law.

29. He could only reiterate that, as his delegation saw it, the delegates to organs and to conferences who were the subject of part III of the draft, and those governed by article 59 under discussion, were diplomatic agents, just as members of special missions were diplomatic agents. The principle of personal inviolability applied to them without limitations as it did to all persons endowed with diplomatic status.

30. Throughout the ages, the rule of personal inviolability had been held in high regard and, in the rare instances in which it had been violated, the juridical conscience of mankind had not been slow to react, as had been the case with the murder of the French plenipotentiaries at the Congress of Rastadt (1797-1799) during the period of the French Directoire.

31. The whole international community was agreed on the need to maintain and safeguard the rule of personal inviolability and had only recently reiterated that unanimity when the General Assembly in 1973, by its resolution 3166 (XXVIII), had adopted the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. That Convention clearly imposed obligations upon host States and could provide guidance for the provisions now under discussion.

32. For those reasons, his delegation was sure that nothing in the United Kingdom amendment (A/CONF.67/C.1/L.94) could be construed against the basic idea of "inviolability".

33. On the other hand, his delegation could be prepared to accept the Ukrainian amendment (A/CONF.67/C.1/L.92) to introduce the concept of prosecution and punishment of those responsible for the attacks

referred to in the last sentence of article 59. Nevertheless, a provision in those terms was not necessary after the adoption of the Convention by the General Assembly in 1973.

34. Mr. PREDA (Romania) said that he would not repeat the reasons already given by his delegation during the discussion on earlier articles to uphold observance of the essential rule of personal inviolability.

35. Of the various amendments which had been submitted, his delegation would accordingly support only the one in document A/CONF.67/C.1/L.92.

36. The CHAIRMAN noted that the discussion on article 59 had been concluded and asked whether there were any further speakers on article M of the annex.

37. Mr. APRIL (Canada), explaining his delegation's position on article M of the annex, said that if that article was put to the vote as a whole, his delegation would abstain. The reason was that the whole annex had been prepared in haste and that the ILC had not been able to settle carefully the terms of the various provisions which that annex contained. As a result, the quality of those provisions was not on a par with the usual high level of the International Law Commission's drafts.

38. There could be no doubt that the annex required a much more lengthy and careful consideration than the Committee had the time to give to it. In his delegation's view, the Committee had adopted a mistaken course when it had embarked on the consideration of articles of the annex in conjunction with those of part III of the draft, and particularly when it had plunged into that consideration in the middle of the set of provisions.

39. He recalled that, to begin with, the ILC had not considered in 1970 that it should take up the question of temporary observer delegations.³ In response, however, to observations made in the Sixth Committee at the twenty-fifth session of the General Assembly, the Commission had prepared in 1971 the set of draft articles which now appeared in the annex.

40. In those articles, the term "observer delegation" was explained in subparagraphs (a) and (b) of article A (Use of terms) as meaning the delegation sent by a State "to observe on its behalf" the proceedings of an organ or a conference. That tautological explanation did not constitute a definition of the term "observer delegation". In the circumstances, his delegation could not accept the suggestion that the provisions on observer delegations should simply parallel those of part III, relating to delegations. In his delegation's view, the provisions included in the annex could only be suitable for application in certain exceptional cases.

41. His delegation voiced its concern at the method which had been adopted, and which was neither orderly nor logical, of embarking on the consideration of the articles in the annex at a time when the Committee had already advanced some way into the articles in part III. It proposed to abstain from voting on article M

³ See *Yearbook of the International Law Commission, 1970*, vol. II (document A/8010/Rev.1, para. 14), p. 274.

and might abstain from voting on the other articles of the annex.

42. Mr. SURENA (United States of America), introducing his delegation's amendment to article M of the annex (A/CONF.67/C.1/L.124), said that it was intended to introduce a suitable provision for the fairly restricted type of observer delegation. His delegation had formulated that proposal in the hope that it would set the course for a meaningful approach to the problem of observer delegations, with which the annex attempted to deal.

43. That being said, he wished to make it clear that his delegation could not accept the Ukrainian amendment to article M (A/CONF.67/C.1/L.92), which would place observer delegations virtually on the same footing as permanent missions—a treatment which had not been contemplated even by the ILC during its consideration of the whole topic.

44. The Ukrainian amendment was inappropriate for another reason, in that it was not consistent with other articles of the draft as adopted by the Committee. Above all, it was at variance with the very provisions of the Charter of the United Nations which, in its Article 105, paragraph 2, stated that representatives of the Members of the United Nations enjoyed the privileges and immunities "necessary for the independent exercise of their functions in connexion with the Organization". That fundamental rule was equally relevant, and perhaps even more so, to observers representing non-Member States.

45. Mr. RITTER (Switzerland), explaining his delegation's vote before the vote, said that two principles would govern its votes both on articles 59 and M and on all subsequent articles in part III and in the annex. The first was the fundamental reason that the privileges and immunities of diplomatic agents were granted on the basis of functional necessity; indeed, the articles proposed by the ILC were based on what was required for the performance of diplomatic functions.

46. The second principle was that of inviolability of the person, which was essential. It was for that reason that his delegation could not support either the United Kingdom amendment to article 59 (A/CONF.67/C.1/L.94) or the United States amendment to article M of the annex (A/CONF.67/C.1/L.124).

47. His delegation would vote in favour of granting the same status to observer delegates as to other delegates with the idea that the definition of the observer delegate would be limited to observers endowed with a representative character. The Swiss delegation could revise its position if the definition of observer delegation were modified.

48. The CHAIRMAN said that he would invite the Committee to vote on the amendments to article 59, and later on the article.

The United Kingdom amendment (A/CONF.67/C.1/L.94) was rejected by 36 votes to 13, with 11 abstentions.

The amendment of the Ukrainian Soviet Socialist Republic (A/CONF.67/C.1/L.92) was adopted by 36 votes to 9, with 15 abstentions.

The Ivory Coast oral amendment to insert in the second sentence of article 59 the words "in particular" was adopted by 34 votes to 3, with 21 abstentions.

Article 59 as a whole, as amended, was adopted by 39 votes to 2, with 19 abstentions.

49. The CHAIRMAN invited the Committee to vote on the amendments to article M of the annex.

The United States of America amendment (A/CONF.67/C.1/L.124) was rejected by 35 votes to 9, with 14 abstentions.

The Ivory Coast oral subamendment to insert in the second sentence of article M the words "in particular" was adopted by 32 votes to 3, with 24 abstentions.

The amendment of the Ukrainian Soviet Socialist Republic (A/CONF.67/C.1/L.92) was adopted by 33 votes to 8, with 19 abstentions.

50. Mr. HELLNERS (Sweden), explaining his vote, said that his delegation had abstained from voting in all the votes relating to articles 59 and M. It had done so not out of any disagreement with the principle embodied in those articles but simply because the Swedish delegation firmly believed that the original text formulated by the ILC had not been improved by the inclusion of amendments which detracted from its quality. In particular, his delegation did not approve of any reference to a duty to prosecute and punish certain offences. The position of the host State and the sending States in that regard would not be at all clear.

51. With regard to article M of the annex, the position of his delegation was essentially based on the fact that there existed an element of uncertainty regarding the contents of that article.

52. Mr. ZEMANEK (Austria), explaining his vote, said that he had voted against the United States amendment to article M (A/CONF.67/C.1/L.124) for the simple reason that the Austrian delegation favoured equality of treatment between delegations and observer delegations.

53. His delegation had abstained from voting on both amendments submitted by the Ukrainian Soviet Socialist Republic (A/CONF.67/C.1/L.92) and it had done so for two reasons. The first was that in Austria, which was an open, democratic society, it was not believed that the dignity of a diplomat was in any way different from that of any other person and that a diplomat should be content to have the same protection in that respect as all other persons.

54. The second reason was also connected with the nature of Austria's society. It was impossible for the Austrian Government to subscribe categorically to an undertaking to punish certain persons. It could undertake to prosecute an offender. But if and when, as a result of such proceedings, a person was brought to trial, it was for the competent court in all independence to decide whether the accused should be convicted or not, and if so what punishment he should be given. There could be no question of any interference by the Government of Austria in the due process of law.

55. Mr. TANKOUA (United Republic of Cameroon), explaining his vote, said that when the Com-

mittee, at its 26th and 27th meetings, had discussed article 54 (Inviolability of the premises), he had stressed that the peace and dignity of the delegation could only be protected if the rule of inviolability was observed. The same was true of the personal inviolability of the members of the staff of the delegation, which was governed by article 59. His delegation had accordingly voted against the United Kingdom amendment (A/CONF.67/C.1/L.94) and in favour of the Ukrainian amendment (A/CONF.67/C.1/L.92). His delegation had not participated in the vote on the United States amendment (A/CONF.67/C.1/L.124) to article M of the annex because it believed that the amendment did not relate to that particular article but rather to article N.

56. Mr. MOLINA LANDAETA (Venezuela), explaining his vote, said that his delegation had adopted the same approach as for article 28, the corresponding provision of part II. It had voted against all attempts to curtail the fundamental principle of personal inviolability. When the vote had been taken on article 59 as a whole, as amended, his delegation had abstained in order not to prejudge in any way the attitude which his Government might wish to adopt when the time came to ratify the convention that would emerge from the present Conference.

57. Mr. JOUBLANC MONTAÑO (Mexico), explaining his vote, said that his delegation considered that the International Law Commission's articles 59 and M constituted very well-balanced texts from the standpoint of broadening the personal inviolability of the head of the delegation, of other delegates and members of the diplomatic staff of the delegation proper and of observers. For that reason, his delegation had voted against the amendments in documents A/CONF.67/C.1/L.94 and A/CONF.67/C.1/L.124.

58. His delegation considered that the International Law Commission's text was sufficient to protect the personal freedom and the dignity of the persons designated in the two articles. Therefore, although the Ukrainian amendment (A/CONF.67/C.1/L.92) did not run counter to the essence of article 59, his delegation had not supported it. It had considered that, when an offence was committed, it was for the competent authorities of the host State to enforce the relevant provisions of the internal law of that State.

59. It had therefore abstained from voting on article 59, as it had done with regard to article 28.

60. Mr. KWON (Republic of Korea), explaining his vote, said that his delegation had abstained from voting because it took the same stand in principle as the Swedish delegation.

61. Mr. MAAS GEESTERANUS (Netherlands), explaining his vote, said that his delegation had abstained from voting on the amendment in document A/CONF.67/C.1/L.124 because that amendment would have had the effect of making the provisions of article M depart from those of article 59, and his delegation believed that the observer delegations dealt with in the annex should be placed on the same footing as the delegations governed by the provisions of part III of the draft.

62. Although he saw merit in placing the two articles on the same level, he had also abstained from voting on the Ukrainian amendment (A/CONF.67/C.1/L.92) because the level chosen by its sponsor was not acceptable in the view of his delegation.

63. Mr. EUSTATHIADES (Greece), explaining his vote, said that he had abstained from voting on article M and the amendments thereto because of the uncertainty which surrounded the definition and status of observer delegations.

Article 60 (Inviolability of private accommodation and property) (A/CONF.67/4, A/CONF.67/C.1/L.93, L.103)

64. Mr. AVAKOV (Union of Soviet Socialist Republics), introducing the amendments proposed by his delegation and those of Bulgaria, Cuba, Czechoslovakia and the Ukrainian SSR, to article 60 and to article N of the annex (A/CONF.67/C.1/L.93), said that they reflected the general approach of the sponsors to the whole question of inviolability of private accommodation and property for delegations and for permanent observer delegations.

65. The sponsors whole-heartedly supported the International Law Commission's texts for the article in question and did not propose any important changes to those texts. The fact of the matter was that the ILC had not recognized to either category of delegation any very wide measure of privileges and immunities. Nevertheless, the members of the diplomatic staff of those delegations are true diplomats and they had to perform their duties in the same manner, and were exposed to the same problem and hazards, as diplomats.

66. Mr. SURENA (United States of America), speaking on a point of order, said that article N of the annex was not yet before the Committee, so that the USSR representative's comments thereon were not in order.

67. The CHAIRMAN said that the Committee had agreed that, in the course of the discussion of each of the articles in part III, it would be open to any delegate to refer to the corresponding article in the annex if he so wished.

68. Mr. AVAKOV (Union of Soviet Socialist Republics) explained that the purpose of the amendment in document A/CONF.67/C.1/L.93 was to clarify the meaning of paragraph 1 of article 60 by introducing an explicit reference to the prosecution and punishment of the persons guilty of committing the attacks mentioned in that paragraph.

69. Mr. SURENA (United States of America), introducing his amendment to article 60 (A/CONF.67/C.1/L.103), said that it would reword the provisions of that article by dropping the present paragraph 1 so as to take into account that in the great majority of cases a delegation's accommodation consisted of hotel rooms, which could not be clearly distinguished from other rooms in the same hotel. The provisions contained in the present paragraph 1 were, in the circumstances, not at all practicable. Hence his delegation's proposal for the deletion of those provisions, which would of course entail some drafting changes in what

was now paragraph 2, which would become, if his amendment was adopted, the sole paragraph of the article.

70. As for the amendment in document A/CONF.67/C.1/L.93, it would introduce further elements of complication. It would be difficult for the host State to know the exact location of a particular delegation's private accommodations. In such circumstances, it was certainly inappropriate to impose upon the host State the obligations contemplated. His delegation therefore opposed that amendment which would introduce into article 60 totally unnecessary and inappropriate references to prosecution and punishment.

71. Mr. PASZKOWSKI (Poland) said that there was nothing new in the provisions of article 60. Similar provisions were contained in other international instruments, in particular the 1969 Convention on Special Missions. The inviolability of private accommodation meant, among other things, that the host State was under a special duty to take all appropriate steps to protect that accommodation against any intrusion or damage and to prevent any disturbance of the peace or impairment of the dignity of the head of delegation and of other delegates and members of the diplomatic staff of the delegation.

72. Private accommodation located in hotel rooms was no exception. The special protection due to accommodation had in fact nothing special about it, since it was the duty of any State to protect all individuals on its territory. Article 60 did not require the host State to place a policeman at the door of each hotel room occupied by a delegate. If, however, an attempt at intrusion occurred, it was reasonable to expect that the appropriate organs of the host State would act to prevent the attempt. If noisy demonstrations were held under the windows of hotel rooms occupied by delegates, the host State should take action to prevent that disturbance and the impairment of the dignity of delegates representing other States.

73. Should an attack actually occur against the accommodation of a delegate, it would not be enough for the host State to invoke freedom of expression. The profession of diplomatic agent was unfortunately no longer a safe one. The numerous acts committed against permanent missions and against individual delegates pointed to the necessity of strengthening the traditional rules concerning personal inviolability as well as those governing inviolability of premises and of private accommodation.

74. His delegation therefore supported the amendment in document A/CONF.67/C.1/L.93.

75. Mr. MOLINA LANDAETA (Venezuela) said that his delegation was in full agreement with the International Law Commission's text of article 60 and, for the reasons given during the discussion on articles 28, 29 and 59, it would vote against the amendments contained in both document A/CONF.67/C.1/L.93 and document A/CONF.67/C.1/L.103.

76. Mr. YAÑEZ-BARNUEVO (Spain) said that his delegation agreed with that of Venezuela in supporting the International Law Commission's text of article 60, which was in line with the corresponding provision of

the 1969 Convention on Special Missions. It would vote against any attempt to modify the measure of protection afforded to the private accommodation of the delegation.

77. The amendment in document A/CONF.67/C.1/L.93 had moreover the defect that it did not strictly relate to the contents of article 60. Since it dealt with premises, it was connected with the contents of article 54 (Inviolability of the premises); that article, however, had already been adopted by the Committee.

78. Mr. ZEMANEK (Austria) said that paragraph 1 of article 60 of the International Law Commission's text was thoroughly impracticable. Nothing that had been said during the discussion had changed his delegation's view on that point. It had been said that the host State would be informed of the location of the accommodation through the appropriate notifications. In that regard, he wished to know how many participants at the present Conference had notified the Government of Austria of the exact location of their hotel rooms. Nevertheless, the duty to protect their private accommodation was stated in the article in absolute terms, which was thus altogether unrealistic.

79. There was also the possibility that a participant in a conference might simply stay with a local friend at the city where the conference was held. As article 60 now stood, the effect would then be to render inviolable the flat of the delegate's local friend.

80. For those practical reasons, which did not involve any issue of principle, his delegation would vote in favour of the amendment in document A/CONF.67/C.1/L.103.

81. Mr. CASTILLO RAMIREZ (Peru) said that his delegation strongly supported the International Law Commission's text of article 60, which paralleled the text of article 30 of the Convention on Special Missions. It would accordingly vote against the amendments to article 60.

82. On the question raised by the Austrian representative, he pointed out that if a high official from a sending State rented a villa in the host country, there was no doubt that the villa would become inviolable.

83. Mr. KUZNETSOV (Union of Soviet Socialist Republics), speaking on behalf of the sponsors of the amendment to article 60 in document A/CONF.67/C.1/L.93, said that they withdrew that amendment in the light of the discussion. The amendment to article N of the annex contained in the same document still stood.

84. Mr. WILSKI (Poland) pointed out, in reply to the point made by the Austrian representative, that when the participants had registered on arrival at the present Conference they had specified the location of their private accommodation on their registration forms.

85. The CHAIRMAN, speaking as an official of the Federal Ministry of Foreign Affairs of Austria, explained that the addresses thus indicated by delegates to the present Conference on their registration forms had not been passed on to the Austrian authorities.

86. Mr. JOUBLANC MONTAÑO (Mexico) said that his delegation supported the International Law Commission's text.

87. Mr. MARESCA (Italy) said that, speaking from his long experience in the Protocol Division of the Italian Ministry of Foreign Affairs, he could say that the duty to protect the premises of diplomatic missions was becoming an increasingly intolerable burden for host States, bearing in mind the great number and variety of missions of all sorts. The provisions of article 60, which purported to extend to the private accommodation of delegates the rule of inviolability, would impose upon the host State obligations which were virtually impossible to carry out.

88. There could be no doubt that the rule embodied in paragraph 1 of article 60 was very far removed from practical realities.

89. Sir Vincent EVANS (United Kingdom) proposed, as an oral amendment, the insertion of the words "owned or leased" in paragraph 1 to qualify the expression "private accommodation". The purpose of that amendment was to make it clear that local accommodation which was normally hired or rented, such as a hotel room, was not covered by the provisions of article 60.

90. Mr. TANKOUA (United Republic of Cameroon) said that it would be difficult for his delegation to accept the United Kingdom oral amendment. It was rare that a delegate to a conference or meeting could afford to buy or lease a house in the city where the conference or meeting was being held. Moreover, he failed to see the basis of the distinction between leased premises on the one hand and hired or rented premises on the other.

91. Mr. SHELDON (Byelorussian Soviet Socialist Republic) also opposed the United Kingdom oral amendment. The inviolability of the personal accommodation and property of the delegates was envisaged in article 60. Paragraph 3 of the commentary of the ILC (see A/CONF.67/4) on that article indicated that the inviolability of the personal accommodation of the head of a delegation and of other delegates and also of members of the diplomatic staff of a delegation applied to personal accommodation of any kind: hotel rooms, leased apartments and so forth.

92. Mr. DORON (Israel) suggested the insertion of the words "or on behalf of" to the wording proposed in the United Kingdom oral amendment. His reason for making that suggestion was that the premises would normally not be owned or leased by a delegation but by his Government on his behalf.

93. Sir Vincent EVANS (United Kingdom) accepted that useful suggestion and said that his oral amendment would now be introduced into paragraph 1 of article 60 the words "owned or leased by or on behalf" between the opening words "The private accommodation" and the words "of the head of delegation and of

other delegates . . .". The drafting problems involved in that insertion could be dealt with by the Drafting Committee.

94. If his amendment were adopted, the provisions of paragraph 1 would normally only apply in the case of a long conference when accommodation might be leased or conceivably purchased to house members of the delegation. The Committee should consider whether it wished to cover that type of case, which was quite different from that of a delegate making a short stay in a hotel.

95. Mr. HELLNERS (Sweden) said that he shared the concern of the Austrian representative regarding the practical application of the provisions contained in paragraph 1 of article 60 although the principle underlying that paragraph was undoubtedly correct.

96. Mr. VON KESSEL (Federal Republic of Germany) said that he favoured the United Kingdom oral amendment as now reworded in line with the suggestion by the representative of Israel.

97. The CHAIRMAN invited the Committee to vote on the amendments to article 60, and afterwards on the article itself.

The United States of America amendment (A/CONF.67/C.1/L.103) was rejected by 29 votes to 10, with 15 abstentions.

The United Kingdom oral amendment, as revised, was rejected by 26 votes to 17, with 11 abstentions.

Article 60 was adopted by 38 votes to 11, with 6 abstentions.

98. Mr. KOECK (Holy See), explaining his vote, said that his delegation had voted in favour of the International Law Commission's draft for article 60 on the understanding that the obligations set forth therein could not detract in any way from the time-honoured legal principle expressed in the adage "*ad impossibilia nemo tenetur*" whereby no one could be obliged to do the impossible. His delegation therefore did not believe that the host State could have any obligation resulting from the principle embodied in article 60 if it had not been duly informed in advance.

99. Mr. OSMAN (Egypt), explaining his vote, said that his delegation could not have voted for any of the amendments because it preferred the International Law Commission's text of article 60. On the point raised by the Austrian representative, he wished to say that the members of his delegation had not thought of notifying their hotel addresses to the host State of the present Conference because they felt very safe in Vienna.

100. Mr. RITTER (Switzerland), explaining his vote, said that his delegation expressed its reservations on the possibility of applying the provisions of article 60. For the rest, it endorsed the statement made by the representative of Austria.

The meeting rose at 11.20 p.m.