

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

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41st meeting of the Committee of the Whole

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lishing the group suggested by the Turkish representative.

40. Mr. PINEDA (Venezuela) said that his delegation endorsed the opinion expressed by the representative of Ecuador. It also endorsed the opinion expressed by the representative of the United Republic of Cameroon concerning the Commission's text of article 75. In the past, Venezuela had for the most part been a sending State; it was, however, beginning to become a host State and, in its opinion, the Commission's text provided sufficient protection for the interests of the host State.

41. He presented some oral subamendments to the Nigerian amendment (A/CONF.67/C.1/L.78) which would bring that text closer into line with the Commission's text. Those subamendments could be considered at the following meeting.

42. Mr. HELLNERS (Sweden) said that the importance of article 75 was proved by the length of time delegations had spent in discussing it. To the argument that the Commission's text was excellent, he would merely reply that there were very few texts which could not be improved on. As a previous speaker had pointed out, even the Commission had acknowledged in its commentary that paragraph 2 of article 75 was not exhaustive in so far as the obligations of the sending State and the rights of the host State were concerned. Most of the amendments submitted to the article were quite acceptable to his delegation.

43. It had been contended that most of the delegations which had submitted amendments were too concerned to protect the interests of the host State. Although Sweden was not a host State to an organization, it did appreciate the anxieties of host States and considered it regrettable that a working group had not been established to try to prepare a text acceptable to the Committee as a whole.

44. It would, of course, be for the Chairman to decide the order in which the various proposals before the Committee were put to the vote. In that connexion, however, he wished to draw attention to the provisions of rule 41 of the rules of procedure, which stated clearly that amendments to a proposal were to be voted on first.

45. Mr. BARAKAT (Yemen) said that of all the texts before the Committee, his delegation preferred that drafted by the ILC. It recognized, however, that paragraph 2 of that article was defective in that it did not indicate a procedure whereby the host State could inform the sending State and the organization of its displeasure in case of grave and manifest violation of its criminal law. The United Kingdom delegation had tried to provide for such a procedure by proposing that the words "at the request of the host State" be inserted in the paragraph. There was a danger, however, that those words might be prejudicial to the principal that the mission was accredited to the organization, not to the host State. It might be useful, therefore, if the last phrase of the United Kingdom amendment (A/CONF.67/C.1/L.141) could be deleted or if the words "conveyed through the Organization" could be inserted after the words "at the request of the host State". He emphasized that he was not proposing a subamendment to the United Kingdom. Nevertheless, if agreement could be reached on the United Kingdom amendment, as subamended by his delegation at the previous meeting and as orally revised by the United Kingdom delegation itself, the Committee would, in his opinion, have a text acceptable to the majority of members.

46. The CHAIRMAN recalled that the representative of Ecuador had already proposed that a separate vote should be taken on the words "at the request of the host State".

The meeting rose at 1 p.m.

41st meeting

Wednesday, 5 March 1975, at 3.25 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 75 (Respect for the laws and regulations of the host State) (*concluded*) (A/CONF.67/4, A/CONF.67/C.1/L.78, L.119, L.132, L.134 and Corr.1. L.141, L.144, L.149)

1. Mr. PINEDA (Venezuela) informed the Committee that the Venezuelan delegation had decided to withdraw the subamendments which it had submitted orally to the Nigerian amendment (A/CONF.67/C.1/L.78). None the less, he requested that a separate vote be taken on paragraph 2, subparagraphs (a), (b) and (c) of the

Nigerian amendment, to which the sponsor had accepted the Japanese subamendments, as well as on the words "on the request of the host State" which Japan was proposing should be inserted in paragraph 2 of the article (A/CONF.67/C.1/L.149).

2. Mr. DO NASCIMENTO E SILVA (Brazil) moved the closure of the debate under rule 26 of the rules of procedure.

3. Sir Vincent EVANS (United Kingdom) pointed out that his delegation had submitted an amendment to article 75 which had been the subject of several comments and suggestions on the part of members of the Committee to which the United Kingdom delegation wished to reply. He hoped that the Brazilian representative's motion would not deprive him of the possibility of explaining, in turn, his position.

4. Mr. MARESCA (Italy) said he considered that the motion for closure by the representative of Brazil did not prevent the sponsors of amendments from speaking.

5. The CHAIRMAN read out rule 26 of the rules of procedure and invited the Committee to vote on the Brazilian motion for closure of the debate.

The motion was adopted by 28 votes to 24, with 11 abstentions.

6. The CHAIRMAN asked the Committee if it was prepared to consider that the decision it had just taken would allow delegations wishing to modify their amendments to do so without having to raise a point of order for the purpose.

7. Mr. DO NASCIMENTO E SILVA (Brazil) said that he had abstained in the vote on the motion for the closure of the debate which he had submitted. He thought that the sponsors of amendments should have a right of reply.

8. Sir Vincent EVANS (United Kingdom) said that during the discussion on article 75 and the related amendments, he had taken note of several comments and suggestions that had been made in regard to the United Kingdom amendment in document A/CONF.67/C.1/L.141. In that connexion, he wished, first of all, to recall that he had already stressed the fact that the United Kingdom amendment was to be considered as an amendment to the first two sentences of article 75, paragraph 2, the third sentence of the paragraph remaining unchanged. Secondly, in the light of the comments made with regard to the paragraph 2 (b) proposed by the United Kingdom delegation, the latter had decided to add the word "seriously" before the word "interfered" and to delete the part of the sentence reading "or of any other State in which he has been employed in a diplomatic or similar capacity". Thirdly, he regretted that he was unable to accept the suggestion made by the representative of Yemen (40th meeting) that the words "conveyed through the Organization" should be inserted after the words "at the request of the host State" in the paragraph 2 (c) proposed by the United Kingdom delegation, since, in the course of the discussion on articles 9 and 75, the Legal Counsel had indicated (16th meeting) that it would be better not to have the organization involved automatically in that type of question. The organization could be consulted in special cases, but not on every question that arose. With regard to the request for a separate vote on the words "on the request of the host State", he hoped that the representative of Ecuador, who had made the request, would not maintain it, since the amendment in document (A/CONF.67/C.1/L.141 should be considered as a whole, and those words were included to give express recognition of the interests of the host State in the matter. The United Kingdom delegation therefore considered that the addition of the words in question constituted an essential part of its amendment.

9. As regards the motion submitted by the representative of the United Republic of Cameroon at the 39th meeting, that the International Law Commission's text

should be put to the vote first, it was contrary to the rules of procedure adopted by the Conference and faithfully applied by the Chairman and followed by the Committee. In fact, rule 29 of the rules of procedure stipulated that the articles adopted by the ILC should constitute the basic proposal, and according to rule 41 of the rules of procedure, when an amendment was moved to a proposal, the amendment was to be voted on first. Nowhere in the rules of procedure was it provided that priority should be given to a basic proposal. The United Kingdom delegation therefore expected that the amendment in document A/CONF.67/C.1/L.141 would be put to the vote first.

10. After a short discussion in which Mr. CABEZAS-MOLINA (Ecuador), Mr. ZEMANEK (Austria), the CHAIRMAN and Mr. SOGBETUN (Nigeria) took part, Mr. CABEZAS-MOLINA (Ecuador) said he maintained his request for a separate vote on the words "on the request of the host State" contained in subparagraph (c) of the amendment in document A/CONF.67/C.1/L.141, but he would not insist that each paragraph should be put to the vote separately.

11. Sir Vincent EVANS (United Kingdom) said that he regretted to have to stress once again that the United Kingdom amendment had to be considered as a whole; consequently, he objected to the words "on the request of the host State", which were of capital importance, being put to the vote separately.

12. Mr. BARAKAT (Yemen) said that, to facilitate the work, he would withdraw his oral subamendment to the amendment in document A/CONF.67/C.1/L.141. Since it considered that in the present instance the best solution would be to keep to the International Law Commission's text, his delegation would vote for article 75 as drafted by the Commission.

13. Mr. MARESCA (Italy) said that, in a spirit of conciliation and to facilitate the work, he would not insist that his amendment in document A/CONF.67/C.1/L.144 be put to the vote.

14. The CHAIRMAN reminded the Committee that it had before it the United Kingdom amendment in document A/CONF.67/C.1/L.141, which had been orally amended, and that Ecuador had requested a separate vote on the words "on the request of the host State", to which the United Kingdom delegation was opposed. Moreover, a separate vote had been requested on paragraph 1 of the subamendments submitted by Japan in document A/CONF.67/C.1/L.149 and on the paragraph 2, subparagraphs (a), (b) and (c) proposed by Nigeria (A/CONF.67/C.1/L.78), revised in accordance with the Japanese subamendments. The Committee also had before it the amendments submitted by Spain in document A/CONF.67/C.1/L.132 and by France in documents A/CONF.67/C.1/L.134 and Corr.1 and L.119. He drew the Committee's attention to the motion of the representative of the United Republic of Cameroon aimed at giving priority to the International Law Commission's article 75.

15. Mr. WERSHOF (Canada) reminded the Committee that, at its 39th meeting, he had mentioned that he would raise a point of order on the subject of the Cameroonian motion. In the opinion of the Canadian

delegation, the motion by the United Republic of Cameroon was contrary to the rules of procedure. According to rule 41, when an amendment was moved to a proposal—the proposal being the ILC draft of article 75 in the present instance—the amendment had to be put to the vote first. Moreover, the Committee was not even competent to take a decision on the matter. By virtue of rule 61, the rules of procedure might be amended by a decision of the Conference taken by a majority of the representatives present and voting, and the Committee was therefore not empowered to amend the rules of procedure. Consequently, he asked the Chairman to declare the motion by the United Republic of Cameroon irregular, irreceivable and outside the competence of the Committee.

16. The CHAIRMAN stated that under the provisions of rule 41 of the rules of procedure of the Conference, when an amendment was moved to a proposal, the amendment should be voted on first. There was no rule which authorized the Committee to vote on a proposal before voting on the amendments. The proposal of the representative of the United Republic of Cameroon was therefore irreceivable. Under the terms of rule 22 of the rules of procedure, the Chairman could decide a point of order immediately.

17. Mr. TODOROV (Bulgaria) said that his delegation was completely befogged; the representative of Canada had submitted a motion in which a question of competence was brought into play and which, under the provisions of rule 31 of the rules of procedure, should be put to the vote. The Canadian motion came under rule 31. As regards the procedural motion by the United Republic of Cameroon, it should be put to the vote.

18. The CHAIRMAN reminded the Committee that the motion by the representative of Canada was that the procedural motion by the United Republic of Cameroon should be declared irregular, irreceivable and outside the competence of the Committee of the Whole. The motion by Canada, therefore, was indeed a motion on a point of order.

19. Mr. TANKOUA (United Republic of Cameroon) said that if the Canadian delegation had the right to submit a motion or a proposal, then the delegation of the United Republic of Cameroon had also the right to speak. In any case, the United Republic of Cameroon could invoke rules 42 and 61 of the rules of procedure to justify its position.

20. The CHAIRMAN explained that under the terms of rule 61 of the rules of procedure, those rules could only be amended by a decision of the Conference; that rule therefore did not apply to the Committee of the Whole.

21. Mr. ABDALLAH (Tunisia) said that his delegation was shocked by the attitude of the Canadian delegation which conduced to preventing any possibility of discussion, and which denied the Conference the sovereign right, provided for in rule 61 of the rules of procedure, to take a decision on the proposal of the United Republic of Cameroon. Since the representatives of the United Republic of Cameroon and Canada had each made a proposal, it was rule 42 of the rules

of procedure which was applicable, and the Committee should put both proposals to the vote.

22. Mr. SHELDON (Byelorussian Soviet Socialist Republic) reminded the Committee that two procedural proposals had been made, one by the delegation of the United Republic of Cameroon and the other by the Canadian delegation. The Cameroonian proposal had subsequently obtained the support of some 15 delegations. It was therefore now a matter of putting the two proposals to the vote in the order in which they had been submitted—namely, first, the Cameroonian proposal and then the Canadian proposal.

23. The CHAIRMAN said that, while the Cameroonian proposal was in fact a proposal, the same was not true of the Canadian one, which was in reality a motion on a point of order.

24. Mr. WERSHOF (Canada) said he wished to make it clear that he had in no wise made a proposal, but that he had risen to a point of order, in accordance with rule 22 of the rules of procedure, on the subject of the proposal by the United Republic of Cameroon.

25. Mr. SOGBETUN (Nigeria) said that it was always possible to amend the rules of procedure, but that implied adjourning the Committee of the Whole. The Chairman had rightly based himself on rule 41, and not on rule 42, of the rules of procedure in order to take his decision. Delegations could, of course, appeal against that decision but, in view of the short time the Committee had at its disposal, it would be better to return to the normal course of the work.

26. The CHAIRMAN reminded the Committee that the representative of Ecuador had requested a separate vote on the words “on the request of the host State” contained in subparagraph (c) of the new paragraph 2 of article 75 proposed by the United Kingdom (A/CONF.67/C.1/L.141). Since the United Kingdom representative had objected to that request for division, the motion for division had to be voted upon, in conformity with rule 40 of the rules of procedure. If the motion was adopted, he would put those words to a separate vote, and, subsequently, the amendment as a whole (A/CONF.67/C.1/L.141).

The motion was adopted by 29 votes to 23, with 14 abstentions.

The words “on the request of the host State” were rejected by 37 votes to 24, with 6 abstentions.

The United Kingdom amendment was rejected by 30 votes to 29, with 9 abstentions.

27. The CHAIRMAN reminded the Committee that the representative of Venezuela had asked for a separate vote on the words “on the request of the host State”, contained in paragraph 2 (a) of the amendment by Nigeria (A/CONF.67/C.1/L.78), revised by the sponsor in conformity with the subamendments by Japan (A/CONF.67/C.1/L.149), as well as on subparagraphs (a), (b) and (c) of the revised amendment by Nigeria.

The words “on the request of the host State”, were rejected by 36 votes to 23, with 9 abstentions.

28. The CHAIRMAN in accordance with the request

made by the representative of Venezuela, invited the Committee to vote on paragraph 2 (a) proposed by Nigeria (A/CONF.67/C.1/L.78), as revised in accordance with the subamendments by Japan (A/CONF.67/C.1/L.149) and modified by the deletion of the words "on the request of the host State". He pointed out that, modified in that way, the text of the paragraph was identical with the International Law Commission's text for paragraph 2. Subsequently, the Committee would vote on subparagraph (b).

Paragraph 2 (a) of the revised amendment by Nigeria, as modified, was adopted by 38 votes to 11, with 16 abstentions.

Paragraph 2 (b) of the revised amendment by Nigeria was rejected by 41 votes to 26, with 4 abstentions.

29. Mr. SOGBETUN (Nigeria) said that since the words "on the request of the host State" had been deleted from subparagraph (a), and subparagraph (b) had been rejected, he would agree to delete the words "within a reasonable period from the date of the request or of the notification" from subparagraph (c) of his revised amendment.

30. The CHAIRMAN put to the vote subparagraph (c) of the revised amendment by Nigeria, as orally amended.

The subparagraph was rejected by 40 votes to 24, with 8 abstentions.

31. The CHAIRMAN pointed out that, since the amendment by Nigeria to paragraph 2 of article 75 had been only partially adopted, the amendments by Spain (A/CONF.67/C.1/L.132) and by France (A/CONF.67/C.1/L.134 and Corr.1) to paragraph 2 could not be put to the vote. He invited the Committee to vote on the amendment by France to paragraph 4 (A/CONF.67/C.1/L.134 and Corr.1), as orally amended at the 40th meeting.

The amendment was adopted by 33 votes to 30, with 8 abstentions.

32. The CHAIRMAN put to the vote article 75 as a whole, as amended.

The article as a whole, as amended, was adopted by 41 votes to 1, with 27 abstentions.

33. Mr. TANKOUA (United Republic of Cameroon) said that he had not participated in the votes on the United Kingdom amendment (A/CONF.67/C.1/L.141), that he had voted for the Nigerian amendment (A/CONF.67/C.1/L.78) revised in conformity with the subamendments by the Japanese delegation, because those subamendments re-established the International Law Commission's text, and that he had voted for the French amendment (A/CONF.67/C.1/L.134 and Corr.1).

34. The Cameroonian delegation was not, however, convinced that paragraph 4 proposed in the French amendment added much to article 75, seeing that the measures that a State could take to ensure its own protection were taken in virtue of its sovereignty and could not be regulated by an international instrument.

35. Mr. TEPAVAC (Yugoslavia) explained that he had abstained in the vote on article 75 as a whole, as

it had been amended, in particular, by the adoption of the paragraph 4 proposed in the amendment by France (A/CONF.67/C.1/L.134 and Corr.1). That new provision was ambiguous. In the opinion of his delegation, it could not be interpreted as conferring on the host State discretionary power not to accept a member of a mission or of a delegation. That view was, moreover, confirmed by the fact that the Committee of the Whole had rejected all the amendments tending to confer such a discretionary power on the host State.

36. Mr. KWON (Republic of Korea) said that he had voted for the United Kingdom amendment (A/CONF.67/C.1/L.141). It was obvious that the concepts of *agrément* and of *persona non grata* had no place in the future convention. However, it was advisable to establish a fair balance between the rights and interests of the host State and those of the sending State. In that respect, the amendment by the United Kingdom, as it had been orally amended, was preferable to the International Law Commission's text.

37. The delegation of the Republic of Korea had voted for the first two paragraphs of the revised Nigerian amendment, but it had abstained in the vote on the third paragraph, which had contemplated adding two subparagraphs to article 75, paragraph 2. Those provisions could have enabled a host State to object to the appointment of a member of a mission or of a delegation without valid reason, which would have been tantamount to the *agrément* procedure. Moreover, in the case of conferences of short duration, the host State could have objected to the participation of certain delegations before their arrival, which would have been manifestly contrary to the principle of universal participation in international conferences.

38. Mrs. MIRANDA (Cuba) said that she had voted against the French amendment (A/CONF.67/C.1/L.134 and Corr.1) providing for the addition of a paragraph 4 to article 75, and that she had abstained in the vote on article 75 as a whole because, once the French amendment had been adopted, the new paragraph had repercussions on the other paragraphs of the article.

Article 75 bis (Insurance against third-party risks) (A/CONF.67/C.1/L.62)

39. Mr. FONDER (Belgium), introducing Article 75 bis which his delegation proposed should be inserted in the future convention (A/CONF.67/C.1/L.62), said that that provision was modelled on article 56 of the Vienna Convention on Consular Relations.¹ That provision, which was based on the principle of functional necessity, was undoubtedly of practical utility, considering the increase in road traffic and the ever-growing number of accidents. The new article 75 bis expressed the idea that all road users should respect the laws and regulations of the host State relating to third-party liability insurance. Article 75 bis would constitute a guarantee, not only for the victims of accidents but also for the members of missions and delegations, who would avoid many difficulties, in case of accident, by taking out a third-party liability insurance.

¹ United Nations, *Treaty Series*, vol. 596, No. 8638, p. 261.

40. Mrs. THAKORE (India) thought that the proposed new article was logical since it corresponded to paragraph 1 (*d*) of article 30 in respect of missions and to paragraph 5 of article 61 in respect of delegations. It sometimes happened, that for one reason or another, the victim did not obtain damages from the insurance company. The new article would therefore fill a gap and contribute towards diminishing the risks of lawsuits between a diplomat and residents of the host State.

41. The Drafting Committee might consider incorporating the content of article 75 *bis* in article 75. Also, in the English version of that provision, the word "boat" should be replaced by the word "vessel".

42. Mr. CALLE Y CALLE (Peru) observed that some States obliged the owners of vehicles to take out a third-party liability insurance. To take account of that obligation, it would be expedient to introduce into the proposed article 75 *bis* the idea of ownership of the vehicle.

43. Mr. TEPAVAC (Yugoslavia), without declaring himself opposed to the new article, wondered whether it was really necessary. Article 75 stipulated that "it is the duty of all persons enjoying [such] privileges and immunities to respect the laws and regulations of the host State", which doubtless implied respect for the laws and regulations relating to third-party liability insurance.

44. Mr. FODHA (Oman) thought that article 75 *bis* was useful in that it completed and clarified the other provisions relating to accidents of which the members of a mission or a delegation might be victims in the performance of their functions. He would therefore vote for that provision.

45. Mr. MARESCA (Italy) recalled that the corresponding provision of the Vienna Convention on Con-

sular Relations had been well received, because it was the necessary complement of certain provisions relating to privileges and immunities. Similarly, article 75 *bis* had its rightful place in the convention under consideration.

46. The CHAIRMAN said that, in the absence of objections, he would take it that the Committee of the Whole decided to adopt the new article 75 *bis* proposed by Belgium (A/CONF.67/C.1/L.62) and to refer it to the Drafting Committee.

It was so decided.

Article 76 (Entry into the territory of the host State)
(A/CONF.67/4, A/CONF.67/C.1/L.140)

47. Mr. SMITH (United States of America), introducing his delegation's amendment (A/CONF.67/C.1/L.140), said that it had been submitted before the Committee of the Whole had considered and adopted article 75. In view of the form in which article 75 had been adopted, his delegation would not insist that a vote be taken on its amendment to article 76, but he suggested that the Drafting Committee should consider whether a modification to that effect would still be justified.

48. Mr. DORON (Israel) pointed out that, under paragraph 2 of article 76, "visas, when required, shall be granted as promptly as possible" to the persons concerned. That did not happen in practice, and the expression "as promptly as possible" might be a source of misunderstanding. For that reason, he proposed that it be replaced by the word "immediately" and that, at the end of the paragraph, the following words be added: "upon confirmation to the host State by the Organization or the conference concerned, that that person is one to whom paragraph 1 of this article applies".

The meeting rose at 5.55 p.m.

42nd meeting

Wednesday, 5 March 1975, at 8.50 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 76 (Entry into the territory of the host State)
(*concluded*) (A/CONF.67/4)

1. Mr. SURENA (United States of America) said that the reasons given by the delegation of Israel (41st meeting) in support of its oral amendment to paragraph 2 were valid but its wording could be improved.

2. Accordingly, he proposed a subamendment to replace the word "immediately" by the words "in adequate time". That phrase would better reflect the idea

that the host State should punctiliously fulfil its obligation to provide the necessary visas.

3. Mr. DORON (Israel) accepted the United States subamendment.

4. Mr. RICHARDS (Liberia) said that his delegation found both the original oral amendment and its subsequent revision unacceptable.

5. Mr. ALMODÓVAR SALAS (Cuba) said that the International Law Commission's text (see A/CONF.67/4) was perfectly adequate to cover all essential requirements. His delegation would therefore vote against all attempts to alter it, even though on several occasions visas required by Cuban representatives to attend conferences or meetings of organs had not been granted either "immediately" or "in adequate time".