

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

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45th meeting of the Committee of the Whole

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the international organization with the definition contained in the Vienna Convention on the Law of Treaties.

59. The CHAIRMAN suggested that, since the Spanish amendment to subparagraph (1) of paragraph 1 of article 1 had been withdrawn, the Committee should decide to adopt the subparagraph and refer it to the Drafting Committee.

It was so decided.

Subparagraph (2)

60. The CHAIRMAN recalled that the Committee

had already adopted subparagraph (2) at its 5th meeting on 7 February.

Subparagraphs (3) to (8)

61. The CHAIRMAN suggested that since there were no longer any amendments to subparagraphs (3) to (8), the Committee should decide to adopt them and refer them to the Drafting Committee.

It was so decided.

The meeting rose at 6 p.m.

45th meeting

Friday, 7 March 1975, at 10.50 a.m.

Chairman: Mr. NETTEL (Austria).

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

Article 1 (Use of terms) (continued) (A/CONF.67/4, A/CONF.67/C.1/L.108, L.138, L.146, L.148)

Subparagraphs (9) and (10) of paragraph 1

1. Mr. MAAS GEESTERANUS (Netherlands), introducing his delegation's amendments to article 1 (A/CONF.67/C.1/L.138), said that the amendment concerned not only the question of definition but also the question of the status of the whole annex to the draft articles. Should the amendments be adopted, the effect would be to broaden the scope of the definition of "delegation to an organ" in paragraph 1 (9) and of "delegation to a conference" in paragraph 1 (10) in such a way that even "passive" observer delegations would henceforth be covered by those two definitions. In consequence, the "passive" observer delegations would be included in the body of the future convention and the whole annex would become superfluous.

2. Since he had first introduced during the discussion on article 59 (Personal inviolability) (29th meeting) his oral proposal now embodied in the amendment in document A/CONF.67/C.1/L.138, the Committee had examined most of the articles of the annex and had adopted them in a form almost identical with that of the corresponding articles of part III, which dealt with delegations and "active" observer delegations. Despite that action by the Committee, it could still adopt his delegation's proposal and thereby dispense with the annex altogether.

3. He noted that the Committee had before it another proposal, sponsored by four delegations (A/CONF.67/C.1/L.146), which would seem to have the effect of distinguishing between two groups of delegations: first, delegations proper and "active" observer delegations, which would be covered by part III of the con-

vention; and secondly, "passive" observer delegations, which would be covered by a new part IV consisting of the articles of the annex. He would welcome an explanation from the sponsors of that proposal regarding their motives for wishing to keep the two categories of delegations separate.

4. The Committee had also before it a proposal submitted by 10 delegations (A/CONF.67/C.1/L.108), to amend subparagraphs (a) and (b) of article A of the annex and to insert two new subparagraphs in that article. Adoption of that proposal would also affect the status of the annex as a whole. He would welcome an explanation from one of its sponsors concerning their intentions in that regard.

5. Mrs. MIRANDA (Cuba), introducing on behalf of the four sponsors the proposal in document A/CONF.67/C.1/L.146, recalled that articles B to X of the annex had been adopted by the Committee, on occasion with amendments, by substantial majorities. That set of provisions could thus not be considered in any way as superfluous. On the contrary, their adoption justified integration into the body of the future convention, as proposed in the above-mentioned document.

6. Mr. WERSHOF (Canada) said that he favoured the idea behind the Netherlands proposal (A/CONF.67/C.1/L.138). It was important that the Committee should adopt that amendment with a clear understanding of its purpose.

7. In that connexion, he had heard with interest the introduction of the four-Power proposal (A/CONF.67/C.1/L.146) by the previous speaker. In the circumstances, he felt that the sponsors of that proposal owed the Committee an explanation. They had successfully pressed for a treatment of observer delegations which was almost identical with that of the delegations covered by the provisions of part III. Logically, they should now welcome the Netherlands proposal, which completed that process by simply equating those observer delegations to the ordinary delegations covered by part III.

8. He failed to see what purpose would be served by

keeping the so-called “passive” observer delegations separate in a new part IV, which would contain the articles of the former annex as adopted in recent meetings of the Committee. Those articles contained practically the same provisions as the corresponding articles in part III and there would now seem to be little purpose in having two parallel sets of provisions.

9. His own delegation, he would recall, had fought throughout against the efforts to give “passive” observer delegations the same treatment as other delegations. From that point of view, there had been a reason for keeping the two sets of provisions separate. His delegation, however, had lost that battle and it was therefore puzzled by the attitude of those who had won it. Some of them appeared to be unwilling to accept the logical consequences of their victory when they put forward the proposal in document A/CONF.67/C.1/L.146, instead of purely and simply supporting the Netherlands amendment.

10. Mr. HELLNERS (Sweden) said that it would be difficult for the Committee to continue its present discussion before it had a clear idea of what was meant by the term “observer”. It was also essential to determine what was the distinction between “passive” and “active” observer delegations, bearing in mind the contents of subparagraph (a) of paragraph 5 of the International Law Commission’s general comments on the annex (see A/CONF.67/4). The time had come for the Committee to decide whether “passive” observers really existed and, if so, whether they were of such marginal importance that it would not be justified to make them the subject of a separate set of articles. As he saw it, it would be an advantage to deal with all observers as one category, treating them all as “active” observers although, of course, not using that unnecessary adjective.

11. He noted that the 10-Power amendment to article A of the annex (A/CONF.67/C.1/L.108) touched on the problem under discussion since it dealt with the very vital question of the definition of an observer. His delegation would therefore welcome a discussion of that proposal.

12. Mr. MARESCA (Italy) said that his delegation had never been able to understand the subtle difference being made by others between what they claimed to be different kinds of observer delegations. As he saw it, any observer was an agent of his State. The artificial division of observers into two separate categories had been accompanied by another serious error, namely, that of relegating one of the categories in question to the annex, which would inevitably be treated as having an inferior or subordinate position. A presentation of that sort was most unsystematic and therefore altogether undesirable.

13. For those reasons, his delegation strongly supported the Netherlands amendment (A/CONF.67/C.1/L.138), which, by its unifying definition of “delegation”, would result in incorporating into the body of the future convention the rules now contained in the annex. The four-Power proposal (A/CONF.67/C.1/L.146) pursued a similar purpose: it, too, was aimed

at avoiding the unsatisfactory arrangement of a separate annex.

14. Mr. BARAKAT (Yemen) said that he was surprised by the repeated references to a new category of observer missions which would be “passive” rather than “active”. He did not recall the Expert Consultant mentioning any such new category. Certainly, the International Law Commission (ILC) had not established two categories of observer delegations, one “active” and the other “passive”. He would welcome a clarification on that point from the Expert Consultant.

15. Mr. EL-ERIAN (Expert Consultant) said that, at a previous meeting, he had stated that he would revert to the question now under discussion when the Committee took up the problem of the definition of “observer”.

16. The difficulty had arisen during the discussion of article A of the annex when reference had been made by the representative of the United States to a passage in subparagraph (a) of paragraph 5 of the International Law Commission’s general comments on the annex. In that passage it was stated that participation in proceedings would comprise any form of activity such as the right to speak without vote, as contrasted with “the passive task of observing”. It was only in that context that the Commission had used the adjective “passive”. It had never used that term elsewhere and it certainly had never spoken of a “passive” observer delegation.

17. The question of the status of observer delegations had been discussed in the ILC and the Commission had entrusted him, as the then Special Rapporteur, with the preparation of a working paper. He had accordingly submitted in 1971 to the Commission, at its 23rd session, a working paper entitled “Draft articles on observer delegations of States to organs and to conferences”.¹

18. The approach which he, as Special Rapporteur, had adopted in that working paper was that an observer delegation to an organ meant a delegation sent by a State which was not a member of an organ to observe on its behalf the proceedings of that organ and to report to the sending State thereon.

19. When the ILC had discussed that definition, it had decided to adopt a different approach. The Commission had considered that the question of observer delegations to conferences was clear but that, as far as observer delegations to organs was concerned, membership in the organ was not the criterion for determining whether a delegation was an observer delegation or not.

20. As to conferences, the present Conference itself provided an illustration which was both clear and interesting. Two States Members of the United Nations, Iran and Portugal, which had been invited by the General Assembly to participate in the Conference, had preferred to be represented by observers. The question was one of choice as far as those countries were concerned.

¹ See *Yearbook of the International Law Commission, 1971*, vol. II, part two, document A/CN.4/L.173, p. 106.

21. Reverting to the problem of observer delegations to organs, he explained that the ILC had kept very much in mind the important example of a State Member of the United Nations which was not a member of the Security Council and which, in accordance with Article 31 of the Charter of the United Nations was entitled to “participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected”.

22. In that important example, the State concerned could not be said to be an observer and its representation in the Security Council constituted purely and simply a “delegation” and not an “observer delegation”. It was for that reason that the ILC had included in paragraph 5 of its general comments on the annex the passage to which he had referred earlier, so as to make it clear that there existed three possible categories of delegations. The first was that of normal delegations of Member States which participated in the proceedings of a United Nations organ with the right to speak and vote. The second was that of a delegation which participated in the proceedings of an organ but without the right to vote, as in the Security Council example he had just mentioned. The third category was that of an observer delegation which was allowed to watch the proceedings of an organ without participating in the actual discussion.

23. In order to illustrate the point, he wished to draw attention to the case of States like Liechtenstein, Monaco, San Marino and Switzerland which were not Members of the United Nations but were parties to the Statute of the International Court of Justice, as specifically allowed by Article 93, paragraph 2 of the Charter. Those States had, of course, the right to participate in the election of judges to the Court by voting in the General Assembly of the United Nations, and they could similarly participate with full rights in any General Assembly debate on the revision of the Statute of the Court. Thus, although non-member States, they became members of the competent organ of the United Nations—in practice the Sixth Committee of the General Assembly—for the purposes of the discussion of particular items relating to the International Court of Justice and were therefore represented by full-fledged “delegations”. As soon as the Sixth Committee concluded the discussion of the item in question, the representatives of the States concerned automatically reverted to the status of observers.

24. An observer could, of course, be invited to address a meeting and his role was therefore not always “passive”. As far as the ILC was concerned, an “observer delegation” was simply a delegation which did not function as a full or ordinary “delegation” as defined in paragraphs 1 (9) and 1 (10) of article 1.

25. It would, of course, be for the Conference to decide on the treatment to be given to observers. One method might be to broaden the scope of the definition of the term “delegation” so that it would cover observers as well. Another method might be to deal with delegations and observers in separate parts of the future convention.

26. Sir Vincent EVANS (United Kingdom) thanked the Expert Consultant for his lucid explanation, which had helped to clarify considerably the very complicated and obscure problem of observers.

27. It had become apparent that the confusion in the Committee’s earlier discussion of the problem had been created by the passage in subparagraph (a) of paragraph 5 of the general comments on the annex. The passage in question appeared to suggest that there existed some sort of distinction between “active” and “passive” observers, or at least some participants in the present discussions had been led so to believe. It had now become absolutely clear in the light of the explanations of the Expert Consultant that there was no such distinction in the mind of the ILC.

28. The ILC had clearly intended that delegations other than observer delegations should be covered by the provisions of part III of the draft articles, whether they were delegations to conferences or delegations to meetings of organs. It had also been the clear intention of the Commission that all observer delegations should be covered by the articles of the annex.

29. After commenting on the two approaches before the Committee, that of dealing with observer delegations separately, whether in an annex to, or as a new part IV of, the future convention, and that of dealing with them simply by including them in the definition of “delegation” in article 1, he suggested that there was, theoretically at least, yet another possibility, namely, that the convention should not cover observer delegations at all. Such an approach would be in accordance with the original intention of the ILC, which had produced the provisions in the annex as something of an afterthought. His own delegation had abstained in all the votes taken on articles in the annex because it had not yet made up its mind whether the provisions should be in the convention or not.

30. If there were significant differences between the treatment the Conference would propose to accord to observer and non-observer delegations, he would agree with the proposals that the two categories of delegation should be dealt with in separate parts of the convention. With one or two exceptions, however, the differences between the provisions adopted for part III and those adopted for the annex were not of major significance and were to a large extent fortuitous. He concluded, therefore, that it was the intention of the majority of the Committee that the treatment accorded under the convention to non-observer delegations in part III should be substantially accorded also to observer delegations. That led to the conclusion that there was no substantial reason for dealing with the two categories of delegation in separate parts of the convention and that the Netherlands proposal (A/CONF.67/C.1/L.138) had very considerable advantages.

31. Those advantages were partly of a practical and partly of a presentational character. Taking the presentational aspect first, he said that two categories of mission—permanent missions and permanent observer missions—were dealt with, together, in part II of the proposed convention. It would therefore seem logical to treat delegations and observer delegations in the

same way in part III of the convention. Moreover, readers would find the convention simpler to understand if both categories of delegation were dealt with in part III, since the treatment to be accorded to those categories was substantially the same. Lastly, from the point of view of final preparation of the convention, consideration should be given to the practical advantages of dealing with both categories in one part of the convention. The final stages of the work of the Drafting Committee would be greatly simplified if both categories of delegation could be dealt with in a single set of articles in part III.

32. Mrs. SLÁMOVÁ (Czechoslovakia) agreed with the Italian representative that it would be incorrect to have an annex in the convention. It was for that reason that her delegation supported those delegations which contended that the provisions of the articles currently in the annex should constitute a separate part of the convention and thus make it possible for the future convention to be applicable to conferences and organs of a universal character. Furthermore, from the structural point of view, it would be logical for the convention to contain a separate part relating to observer delegations.

33. She said that it seemed premature to discuss the proposal in document A/CONF.67/C.1/L.108 since that proposal had not yet been introduced.

34. Mr. TAKEUCHI (Japan) thanked the Expert Consultant for his clear explanation of the situation. It appeared from that explanation that a country like, say, Switzerland, could be represented at the United Nations General Assembly for part of the session by a fully participating delegation and for the rest of the session by an observer delegation. That meant that the host State would constantly have to be on the alert to determine which category of privileges and immunities were to be accorded to that delegation at various times. Such a situation would place both the delegation concerned and the host State in a very difficult position.

35. Mr. DO NASCIMENTO E SILVA (Brazil) agreed that adoption of the Netherlands proposal would result in a neater text from the point of view of legal drafting. Its adoption, however, would mean that the Committee would have to re-examine all the provisions in part III and in the annex in order to determine precisely those cases in which the treatment accorded to the delegation concerned was identical and those in which it was different. From the practical point of view it would seem appropriate to re-open the discussion on part III and on the annex. Accordingly, his delegation would support the proposal in document A/CONF.67/C.1/L.146, as a result of which a separate part IV, indicating, precisely the situation of observer delegations, would be included in the future convention.

36. Mr. KOECK (Holy See) said that his delegation had decided to sponsor the proposal in document A/CONF.67/C.1/L.146 because it attached great importance to the articles currently contained in the annex. Apparently, the ILC had presented those articles as an annex only because it had not been possible to submit them to Governments for prior scrutiny. Those provi-

sions had now, however, been thoroughly examined by the members of the Committee of the Whole, all of whom represented their Governments. There was, therefore, no longer any reason why those provisions should be relegated to an annex. The future convention should cover all types of representation of States in their relations with international organizations and should form a single, unified instrument. In the opinion of his delegation, the proposal in document A/CONF.67/C.1/L.146 was the simplest and best means of achieving that goal. While his delegation was not, in principle, opposed to the Netherlands proposal (A/CONF.67/C.1/L.138), it did not feel that it was in a position to engage in all the consequential work that might ensue if that proposal were to be adopted. What worried his delegation was the great sympathy with which the Netherlands proposal had been received by those delegations which, at the beginning of the Conference, had been violently opposed to the institution of observer delegations.

37. His delegation attached great importance to that institution because it constituted the best way in which the Holy See—in accordance with its particular mission in the world—could play its role in the international field. While the Holy See had no desire to interfere unnecessarily in political questions, its role was never so passive as to allow it to consider that provisions concerning observers should be dealt with in a mere annex.

38. Mr. MITIĆ (Yugoslavia) said that his delegation still failed to understand why those who originally had tried to ensure that observer delegations were given fewer privileges and immunities than fully participating delegations were now trying to convince the Committee that both types of delegations should be accorded the same treatment. His delegation supported the proposal in document A/CONF.67/C.1/L.146 which, it believed, corresponded to the views of the ILC.

39. Mr. MUSEUX (France) said that a misunderstanding seemed to have arisen in the Committee. His delegation had, indeed, abstained from the votes on all the provisions in the annex. It was now supporting the Netherlands proposal for logical, not Machiavellian, reasons and in order to simplify the Committee's task. A previous speaker had said that he failed to see why provisions concerning observer delegations should be relegated to an annex. That question was no longer relevant. He doubted whether there was a single delegation which now proposed that the provisions concerning observers should be placed in an annex. Originally, there had been delegations which had not wanted to grant extensive privileges and immunities to observer delegations. As a result of the votes taken in the Committee, however, the provisions adopted for observer delegations were very similar to those adopted for delegations proper. Logically, therefore, it could be asked why the future convention must contain one part dealing with delegations proper and another dealing with observer delegations. As originally drafted by the ILC the convention had contained one part on permanent missions and another on permanent observer missions. At the second reading, however, the Commission had

decided to merge the two parts. The Commission had placed its provisions on observer delegations in an annex simply because it had not submitted it to Governments for scrutiny. It was, therefore, the task of the Committee of the Whole to complete the Commission's work and incorporate the provisions on observer delegations in part III of the convention.

40. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that until recently observer delegations had enjoyed no rights in respect of privileges and immunities. They had not, for instance, been accorded any privileges and immunities under the Convention on the Privileges and Immunities of the United Nations.² Such a situation was abnormal. The ILC was, therefore, to be commended on having taken up the question and prepared acceptable provisions on the matter. The Committee was codifying progressive rules of international law; it should, therefore, ensure that the privileges and immunities of observer delegations were protected. It was clear from the Expert Consultant's last statement that there was a difference between delegations to organs and observer delegations to organs. It was only logical, therefore, that there should be a separate part in the convention dealing with the privileges and immunities of observer delegations.

41. The representative of the United Kingdom had contended that the differences between the two types of delegation were slight. If that was so, it was largely as a result of the work of the Committee. Nevertheless, however slight the differences, jurists would surely prefer the two categories to be treated in separate parts of the convention. Moreover, the significance of observer delegations would be emphasized if those delegations were dealt with in a separate part of the convention. Accordingly, he appealed to all delegations to support the proposal in document A/CONF.67/C.1/L.146.

42. Mr. STAEHELIN (Switzerland) said that as a result of the Expert Consultant's statement, his delegation had a better understanding of the reasons which had led the ILC to make a distinction between the provisions in part III and those in the annex. With respect to States members of an organization having different organs, such a distinction seemed logical. The situation with respect to non-member States was, however different, for such States were unable to make the choice of status open to member States, namely, whether or not they should have the right to speak. The differences between the provisions in part III and those in the annex were small, but they did exist. His delegation failed to see why such differences should exist. It therefore supported the Netherlands proposal (A/CONF.67/C.1/L.138) under which delegations of non-member States would be given the same treatment as delegations of member States. The merger of the provisions of part III and those of the annex which would result from the adoption of the Netherlands proposal would be consistent with the merger of the provisions relating to permanent missions and permanent observer missions effected by the ILC itself in part II of the convention.

43. His delegation had always considered that observer delegations should be assimilated to other delegations. He agreed with the French representative that if the Netherlands proposal was adopted, observer delegations would have the same privileges and immunities as those accorded to delegations in part III.

44. Mr. SHELDON (Byelorussian Soviet Socialist Republic) recalled that the Netherlands amendment had been submitted orally at the time the Committee had been trying to decide whether or not to consider the articles in part III jointly with the articles in the annex and that it was intended to oppose such joint consideration. The Committee had, however, finally decided to consider the articles of part III in conjunction with the articles of the annex and it would now be impossible to reopen the discussion because of lack of time. His delegation considered that the adoption of the Netherlands amendment would create an extremely complex situation. It therefore fully supported the proposal contained in document A/CONF.67/C.1/L.146 because it felt that the proposed convention should contain a separate part relating to observer delegations.

45. Mr. MAAS GEESTERANUS (Netherlands), referring to the questions raised in connexion with his delegation's amendment, noted that the representatives of Brazil and the Byelorussian Soviet Socialist Republic had stated that, because of the lack of time, it would not be possible to combine the articles contained in the annex with the articles contained in part III. His delegation was, however, of the opinion that it would take very little time indeed to add a few words to the definitions in article 1 so as to provide that the status of the observer delegation should be the same as the status of the delegations referred to in the articles in part III. Moreover, in view of the point raised by the representative of Japan concerning a delegation which might change its status during a session of the General Assembly, it would be almost ridiculous to try to have a separate status for observer delegations and the easiest course would therefore be to change the definition in article 1.

46. Referring to the proposal in document A/CONF.67/C.1/L.146 for the inclusion of the articles of the annex in a separate part IV of the proposed convention, he said that his delegation agreed with the idea behind that proposal because it felt that all delegations wished the annex to be part of the convention. It was, however, not fully convinced that it would be appropriate to create a separate part IV for that purpose.

47. Sir Vincent EVANS (United Kingdom) said that, since it was the aim of all delegations to adopt a sound legal instrument, they must all take into account not only the immediate results to be achieved, but also the long-term effects of the work now being carried out. During the present discussions, the representative of the Soviet Union had expressed the view of the majority of delegations when he had stated that the Committee should give observer delegations the same status as non-observer delegations. Moreover, the representative of the Soviet Union had agreed that there were no great differences between the articles contained in part

² General Assembly resolution 22 A (1).

III and the articles contained in the annex. There were, however, some minor differences and shades of meaning, and the representative of the Soviet Union had expressed the view that those differences would help to clarify the application of the proposed convention. His delegation could not, however, share that view because it considered that, if the Committee decided to retain those largely fortuitous differences between the articles of part III and the articles of the annex, considerable difficulties would arise in the future. To avoid them, it would be necessary for the Committee to compare the corresponding articles of part III and the annex in order to ensure that it really intended those differences to be included in the proposed convention. His delegation felt that the wisest course would be for the Committee to combine the articles on the two types of delegation in part III.

48. Mr. KUZNETSOV (Union of Soviet Socialist Republics), referring to the comments made by the representative of the United Kingdom, said that, if the Committee now decided to reconsider the articles of the annex it had already adopted, the first discussion of those articles would have been a waste of time.

49. Mr. OSMAN (Egypt) said that his delegation would vote in favour of the four-Power proposal (A/CONF.67/C.1/L.146) and against the Netherlands amendment (A/CONF.67/C.1/L.138) because, although there were no major differences between the privileges and immunities of non-observer delegations and observer delegations, the legal basis for their representation was not the same and it would therefore be necessary for the status of those two types of delegations to be treated separately in the proposed convention.

50. Mr. RITTER (Switzerland) said that, when the Committee had considered the annex, some delegations had been in favour of drawing a distinction between non-observer and observer delegations while others had been in favour of the assimilation of the status of those two types of delegations. The Committee had agreed to consider the articles contained in part III in conjunction with the articles contained in the annex. Although it had been able to reduce the differences between non-observer and observer delegations to a minimum, it had not succeeded in eliminating them entirely. In view of that fact, his delegation fully supported the amendment proposed by the Netherlands delegation.

51. Mr. KWON (Republic of Korea) said that, in view of current practice in international organizations with regard to the status of non-observer and observer delegations to organs and conferences, his delegation fully supported the amendment proposed by the Netherlands.

52. Mr. ALMODÓVAR SALAS (Cuba) said that it was now too late for the Committee to request the Drafting Committee to try to combine the articles contained in part III with the articles contained in the annex. Moreover, he thought that, like his own delegation, most others were in favour of the proposal contained in document A/CONF.67/C.1/L.146 that the annex should become a separate part IV of the proposed convention.

53. The CHAIRMAN put to the vote the Netherlands amendment to article 1, paragraph 1, subparagraph (9), in document A/CONF.67/C.1/L.138.

The amendment was rejected by 36 votes to 20, with 11 abstentions.

54. The CHAIRMAN put to the vote the text of article 1, paragraph 1, subparagraph (9), as drafted by the ILC.

The text was adopted by 49 votes to none, with 17 abstentions.

55. The CHAIRMAN put to the vote the four-Power proposal in document A/CONF.67/C.1/L.146.

The proposal was adopted by 45 votes to 1, with 20 abstentions.

56. Mr. WERSHOF (Canada), speaking in explanation of vote, said that his delegation had voted in favour of the Netherlands amendment and had abstained from voting on the proposal in document A/CONF.67/C.1/L.146. He noted that, during the discussions, it had been implied that his delegation had been opposed to observer delegations, but now wished them to be covered by the provisions of part III. He wished to make it clear that his delegation had never been opposed to observer delegations as such. Rather, it had been opposed to something quite different, namely, to attempts to give them the same privileges and immunities as non-observer delegations. Since it had been the decision of the majority that they should have the same privileges and immunities, his delegation would abide by that decision, but could see nothing unreasonable in stating that, in such a case, observer delegations should be fully covered by the provisions of part III.

57. Mr. YAÑEZ BARNUEVO (Spain), speaking in explanation of vote, said that his delegation had voted in favour of the Netherlands amendment and against the proposal contained in document A/CONF.67/C.1/L.146. As a result of the adoption of the proposal made by Cuba, Czechoslovakia, the Holy See and Iraq, the proposed convention would be very broad in scope, disorganized and difficult to understand.

58. Mr. JALICHANDRA (Thailand), speaking in explanation of vote, said that his delegation had voted in favour of the Netherlands amendment and also in favour of the proposal contained in document A/CONF.67/C.1/L.146 because it considered that the purpose of both of those proposals was, in so far as possible, to treat non-observer delegations and observer delegations on the same footing.

59. Mr. HELLNERS (Sweden), speaking in explanation of vote, said that his delegation had abstained from voting on the Netherlands amendment and on the proposal in document A/CONF.67/C.1/L.146 because it considered that the result of both amendments would have been unsatisfactory from the drafting and general legal points of view.

60. The CHAIRMAN said that the text of subparagraph (9) would be referred to the Drafting Committee.

61. He had been informed that the representative of the Netherlands had withdrawn his delegation's amendment to subparagraph (10), and he would take it that

the Committee could decide to adopt that subparagraph, as drafted by the ILC, and refer it to the Drafting Committee.

It was so decided.

62. The CHAIRMAN said that, since the United States had withdrawn its amendments to subparagraphs

(11) and (21), and the United Kingdom had withdrawn its amendment to subparagraph (16), he would take it that the Committee could decide to adopt subparagraphs (11) to (21) inclusive, as drafted by the ILC and refer them to the Drafting Committee.

It was so decided.

The meeting rose at 1 p.m.

46th meeting

Friday, 7 March 1975, at 3.30 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 1 (Use of terms) (concluded) (A/CONF.67/4, A/CONF.67/C.1/L.1, L.10, L.138, L.146, L.148)

Paragraph 1, subparagraph (22)

1. Mr. YAÑEZ-BARNUEVO (Spain) said that the purpose of the amendment submitted by his delegation to subparagraph (22) (A/CONF.67/C.1/L.1) was to facilitate and simplify the drafting of very many articles which accorded the same privileges and immunities to the head of the mission or delegation as to the members of the mission or delegation. It was purely a question of drafting, which had become complicated by reason of the many amendments made to the articles of the annex in which reference was now made to "observer delegates" and to "head of the observer delegation, other delegates and members of the diplomatic staff of the observer delegation". In the opinion of his delegation, the drafting of such articles would be greatly simplified if article 1 contained a definition covering all such persons. If the expression "members of the diplomatic staff" were to mean the head of the mission or delegation and members of the mission or delegation enjoying diplomatic status, it would be possible to simplify the text of a great many articles. He explained that the amendment was of a purely drafting nature and that it would be sufficient to refer it to the Drafting Committee.

2. Mr. MUSEUX (France) said that, like the Spanish amendment, his delegation's amendment to subparagraph (22) (A/CONF.67/C.1/L.10) was rather a drafting proposal than a real amendment. The proposal was that, in that subparagraph, the words "members of the diplomatic staff" should be replaced by the words "members of the staff possessing diplomatic rank". His delegation considered that the status of diplomat was reserved to bilateral diplomatic relations, whereas the persons referred to in the subparagraph were persons who had diplomatic rank without being diplomats in the strict sense of the term. It was merely a matter of

terminological preciseness which could be examined by the Drafting Committee.

3. Mr. MARESCA (Italy) considered, on the contrary, that the representatives of States to conferences were diplomats in the strict sense of the term. He could not subscribe to the theory that only permanent diplomats were real diplomats.

4. Mr. SHELDON (Byelorussian Soviet Socialist Republic) pointed out that in the case of a good many specialized agencies, such as the Universal Postal Union, the World Meteorological Organization, the International Telecommunication Union and the World Health Organization, delegations consisted of experts in certain subjects (telecommunications, health or meteorology). In their written comments on the draft articles (see A/CONF.67/WP.6), the specialized agencies seemed to attach great importance to that factor and the International Law Commission (ILC) had borne it in mind when preparing its text. He considered that, at the current stage, it would be prudent not to modify the terminology used by the Commission. He hoped, therefore, that the representative of France would not insist on his amendment because, in his opinion, the question involved there was not one of drafting but of substance.

5. Mr. EL-ERIAN (Expert Consultant), in reply to a question put by Mr. TODOROV (Bulgaria), said that the representative of the Byelorussian SSR had correctly interpreted the Commission's thinking on subparagraph (22). The Commission had considered that, since the convention was to be applied to widely varying international organizations, including technical organizations, the words "diplomatic status" would better express the idea of assimilation to diplomats of members of the staff of the mission or of the delegation. It was acknowledged that persons who were not diplomats were assimilated to diplomats when they had a certain status in a mission or a delegation to an international organization. The Commission had tried several formulae, including the one proposed by the French representative, but the majority of its members had preferred that used in subparagraph (22).

6. Mr. MUSEUX (France) observed that the French text of subparagraph (22) did not correspond to the English text. In his opinion, the term "diplomatic status" (*statut diplomatique*) used in the English text