

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

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**46th meeting of the Committee of the Whole**

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 The CHAIRMAN said that, since the United States had withdrawn its amendments to subparagraphs

(11) and (21), and the United Kingdom had withdrawn its amendment to subparagraph (16), he would take it that the Committee could decide to adopt subparagraphs (11) to (21) inclusive, as drafted by the ILC and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

was preferable to the term “*qualité de diplomate*”. He was, therefore, prepared to give up his amendment provided that the French text of subparagraph (22) was brought into line with the English text.

7. The CHAIRMAN suggested that the Committee should decide to adopt subparagraph (22) and refer it to the Drafting Committee with the amendments by Spain (A/CONF.67/C.1/L.1) and France (A/CONF.67/C.1/L.10).

*It was so decided.*

*Subparagraph (23)*

*Subparagraph (23) was adopted.*

*Subparagraph (24)*

8. Mr. YAÑEZ-BARNUEVO (Spain) said that his delegation's amendment to subparagraph (24) (A/CONF.67/C.1/L.1) reproduced the formula used in subparagraph (g) of article 1 of the Vienna Convention on Diplomatic Relations.<sup>1</sup> In his opinion, the question was one which should be examined by the Drafting Committee.

9. The CHAIRMAN proposed that the Committee should decide to adopt subparagraph (24) and refer it to the Drafting Committee with the amendment proposed by Spain (A/CONF.67/C.1/L.1).

*It was so decided.*

*Subparagraph (25) and (26)*

10. Sir Vincent EVANS (United Kingdom) recalled that at its 26th meeting the Committee had adopted an amendment (A/CONF.67/C.1/L.10) to subparagraph (27) defining the premises of the delegation. It would therefore be logical, since subparagraph (26) defined the premises of the mission, if the Drafting Committee were to bring the definition given in subparagraph (26) into line with that given in subparagraph (27).

11. Mr. SHEDOV (Byelorussian SSR) said that he had no objection to the Drafting Committee's examining that point, on the understanding, however, that the premises of the delegation and those of the mission corresponded to different concepts and that their status should, therefore, be different.

12. The CHAIRMAN suggested that the Committee should decide to adopt subparagraphs (25) and (26), bearing in mind the comments made by the representatives of the United Kingdom and the Byelorussian Soviet Socialist Republic, and refer them to the Drafting Committee.

*It was so decided.*

*Subparagraph (27)*

13. The CHAIRMAN recalled that at its 26th meeting the Committee had already adopted subparagraph (27) with the amendment proposed by France (A/CONF.67/C.1/L.10).

*Article A of the annex (Use of terms) (A/CONF.67/4, A/CONF.67/C.1/L.108)*

14. Mrs. SLÁMOVÁ (Czechoslovakia) said that the 10-Power amendments (A/CONF.67/C.1/L.108) to

article A of the annex all derived from the Committee's debates. The purpose of the amendments to subparagraphs (a) and (b) was to clarify the meaning of the terms “observer delegation to an organ” and “observer delegation to a conference”. The new subparagraph which it was proposed to insert after subparagraph (d) had been drafted on the basis of article F *bis* entitled “Acting Head of Observer Delegation” which had already been adopted by the Committee. The amendment to subparagraph (f) corresponded to other amendments already adopted. With regard to the new subparagraph to follow subparagraph (f), its object was to define the expression “members of the diplomatic staff” and it completed logically Article A.

15. Mr. WERSHOF (Canada) asked the Expert Consultant why the ILC, when drafting the annex, had only used the terms “observer delegation to an organ”, “observer delegation to a conference”, and “observer delegate”, excluding the terms used in the ten-Power amendments (A/CONF.67/C.1/L.108), namely, “head of the observer delegation” and “members of the observer delegation”.

16. Mr. EL-ERIAN (Expert Consultant) replied that the differences in terminology between the annex and parts II and III of the draft articles were explained by the different idea the Commission had formed of observer delegations to organs or to conferences, on the one hand, and missions and delegations, on the other. In the case of observer delegations to organs or conferences, it had considered it preferable to adopt a simplified terminology.

17. The CHAIRMAN put to the vote the amendments to article A of the annex in document A/CONF.67/C.1/L.108, it being understood that article A in its final form would be incorporated in paragraph 1 of article 1 of the draft articles.

*The amendments were adopted by 33 votes to none, with 23 abstentions.*

*Article A of the annex, as a whole, as amended, was adopted by 37 votes to none, with 22 abstentions.*

*Proposed new subparagraph (A/CONF.67/C.1/L.148)*

18. Mr. MUSEUX (France) said that it was because the term “rules of the Organization” appeared in several provisions of the draft convention, particularly in articles 3, 5, 10 and 18, that his delegation had proposed a definition of it in document A/CONF.67/C.1/L.148. In the course of a previous discussion, his delegation had expressed the opinion that the term “rules of the Organization” should be supplemented by the words “and its established practice”. In fact, it was not obvious that the rules of an international organization also included the practice of that organization, and that in cases where its constituent instrument and its rules of procedure were silent on a point, reference had to be made to its practice.

19. The proposed definition introduced no innovation; it was taken from paragraph 5 of the Commission's commentary to article 3 (see A/CONF.67/4) in which it was stated that the expression “relevant rules of the Organization” was broad enough to include “all relevant rules whatever their nature: constituent instru-

<sup>1</sup> United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

ments, certain decisions and resolutions of the organization concerned or a well-established practice prevailing in that organization”.

20. The enumeration of “constitutive documents, decisions and resolutions, and established practice of the Organization”, which appeared in the draft definition was not necessarily exhaustive. It merely meant that the rules of the organization included all the law it applied. The expression “resolutions” was broad enough to cover both resolutions which were binding on Member States and those which were merely of the nature of recommendations.

21. Mr. PINEDA (Venezuela) supported the draft definition under consideration but suggested that the word “recommendations” should be added after the words “decisions and resolutions”. Recommendations could be kinds of appeal launched with a view to giving effect to norms. The proposed addition was not, however, essential, since the word “resolutions” was taken to mean both those resolutions which were binding on Member States and those which were merely in the nature of recommendations. The resolutions of the International Labour Organization, for instance, belonged to both categories.

22. In so far as established practice was concerned, he considered that it was not necessary to qualify it by the word “*bien*” (“well”) which appeared in the French and Spanish texts. The delicate difference implied by the word “*bien*” might give rise to practical difficulties.

23. Mr. OSMAN (Egypt) fully supported the French amendment, which would add precision and clarity to the text.

24. Mrs. SLAMOVA (Czechoslovakia) said that she favoured a reference to “recommendations” in the proposed new definition, but she hoped that the term “*bien établi*” (“well established”) qualifying the practice of the organization, would be deleted.

25. Sir Vincent EVANS (United Kingdom) said that, having regard to the variety of form and content of resolutions, it would be preferable to mention neither resolutions nor recommendations in the definition. The word “decisions” sufficed. If the French delegation was not prepared to delete the words “and resolutions” in its amendment, his delegation would request that they be put to a separate vote. If they were retained, they should be interpreted as denoting resolutions of a binding character.

26. Mr. EL-ERIAN (Expert Consultant) said he hoped that if the amendment under consideration were adopted, the Drafting Committee would see to it that the term “constitutive documents” in the English version of that text was replaced by the term “constituent instruments”.

27. Mr. MUSEUX (France), referring to the expression “*bien établi*”, said that his delegation had taken over the words used by the ILC in paragraph 5 of its commentary to article 3 and that consequently it had no objection to deleting the word “*bien*”, as the Venezuelan representative had requested. With regard to the “resolutions” mentioned in the new subparagraph

proposed by his delegation, the latter thought that they could only be considered as rules of the organization in so far as the law thus constituted was ordinary law; and there could be no question of resolutions having the character of recommendations.

28. Mr. PINEDA (Venezuela) thanked the French delegation for agreeing to his suggestion for the deletion of the word “*bien*”, and said that he would not press his second suggestion concerning the insertion of the word “recommendations”.

29. Sir Vincent EVANS (United Kingdom) pointed out that in paragraph 5 of its commentary to article 3, the ILC referred to “certain decisions and resolutions of the organization concerned” and not to all of its decisions and resolutions; he therefore proposed that the word “certain” should be inserted before the words “decisions and resolutions”.

30. Mr. MUSEUX (France) agreed to the subamendment submitted orally by the United Kingdom representative.

31. Mr. OSMAN (Egypt) said that he would ask for a separate vote on the word “certain” if it were inserted in the new subparagraph proposed by France, because, in his delegation’s opinion, no distinction could be made between the various resolutions adopted by the international organizations.

32. Mr. MARESCA (Italy) said he approved of the amendment in document A/CONF.67/C.1/L.148, which enumerated the sources of diplomatic law; those were not only the instruments which had brought an organization into being but also the instruments which the competent organs of that organization had elaborated subsequently. He pointed out in that connexion that the enumeration of instruments should be limited to those which really constituted sources of law, seeing that there were others which might contain wishes, aspirations and invitations and which were not rules in the proper sense of the term. His delegation was therefore in favour of inserting in the new subparagraph the word “certain”, without which the Committee would be excessively widening the concept of sources of the diplomatic law of international organizations.

33. Mr. JALICHANDRA (Thailand) said he approved of the amendment in document A/CONF.67/C.1/L.148, but thought, with regard to the word “certain”, that the effect of the resolutions of an organization was determined by its constituent instruments, and that consequently the word in question in no way affected the character and force of its resolutions.

34. Mr. MUSEUX (France) said he understood the position of the Egyptian representative, according to which there were no grounds for making a distinction between resolutions; but, in regard to the convention, it was quite clear that not all resolutions were to be taken into consideration; for that reason, he suggested replacing the expression “certain decisions and resolutions, and established practice of the Organization” by the phrase “decisions and relevant resolutions, and established practice of the Organization”.

35. Mr. OSMAN (Egypt) said he supported the French amendment, as revised.

36. The CHAIRMAN said that if he heard no objection he would take it that the Committee decided to adopt the French amendment (A/CONF.67/C.1/L.148), as revised orally, and to refer it to the Drafting Committee.

*It was so decided.*

37. Mr. YÁÑEZ-BARNUEVO (Spain) observed that the Drafting Committee should examine the terminology used in various articles. For instance, articles 5, 10 and 18, adopted by the Committee, referred to "rules of the Organization", whereas article 3 spoke of "relevant rules"; since the word "relevant" now appeared in the definition of the word "rules", it might perhaps be deleted. Moreover, paragraph 2 of article 12, adopted by the Committee, referred to the "practice of the Organization", and there again the Drafting Committee might replace those words by the expression "rules of the Organization". Article B of the annex referred to the "rules and decisions of the Organization". Having regard to the new subparagraph inserted in paragraph 1 of article 1, the word "decisions" should be deleted.

38. The CHAIRMAN put to the vote paragraph 2 of article 1, and article 1 as a whole.

*Paragraph 2 of article 1 was adopted.*

*Article 1 as a whole, as amended, was adopted.*

*Article E of the annex (Composition of the observer delegation) (concluded) \* (A/CONF.67/4, A/CONF.67/C.1/L.110)*

39. The CHAIRMAN recalled that the Committee had begun its consideration of article E of the annex at its 35th meeting and that a number of amendments and subamendments had been submitted to it on that occasion. The Committee had therefore to consider the 10-Power amendment (A/CONF.67/C.1/L.110) to which the Spanish representative (35th meeting) had submitted a subamendment, that had been accepted by the Bulgarian representative on behalf of the co-sponsors, providing for the addition, at the end of the proposed paragraph 1, of the words "administrative and technical staff and service staff", so as to bring the text into line with that of article 45 of part III of the draft convention. He pointed out that the adoption of that amendment would entail deleting paragraph 2 of article E prepared by the ILC. Further, the United Kingdom representative had proposed adding a paragraph worded as follows: "The size of the observer delegation shall not exceed what is reasonable and normal having regard to the functions of the delegation and the circumstances and conditions in the host State". Subsequently, the Spanish representative had withdrawn an oral amendment which he had submitted to the United Kingdom subamendment.

40. Mr. PAK (People's Democratic Republic of Korea) said that he fully supported the amendment in document A/CONF.67/C.1/L.110, since at the present time a large number of observer delegations participated actively in the work of international organizations

and international conferences, to which they made a valuable contribution. In the majority of cases, the members of observer delegations were real representatives of sovereign States and, like other delegations, they should be able to include, in addition to the head of the observer delegation, other observer delegates and diplomatic staff.

41. Mr. ZEMANEK (Austria) reminded the meeting that, during the debate on article U of the annex (37th meeting), he had drawn the Committee's attention to the need to include a provision on service staff. In the present instance, too, a provision on the privileges and immunities of service staff was lacking.

42. Sir Vincent EVANS (United Kingdom) said that it was rare for an observer delegation to consist of more than one or two persons, and to include, in addition to diplomatic staff, technical and administrative staff. He considered that the amendment in A/CONF.67/C.1/L.110 inflated the notion of the observer delegation and gave it more importance than the ILC had contemplated. That made it especially important to include a provision governing the size of the observer delegation, as had been done in the case of permanent missions and delegations other than observer delegations. His delegation therefore maintained the subamendment which it had submitted orally at the 35th meeting.

43. Mr. MARESCA (Italy) said that the rule making the size of missions subject to certain criteria had been included in the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and the Convention on Special Missions. Such a rule was essential, since there was a limit to a State's possibilities in its role as host, and his delegation therefore supported the United Kingdom subamendment.

44. The CHAIRMAN invited the Committee to vote on the United Kingdom oral subamendment to the 10-Power amendment (A/CONF.67/C.1/L.110) calling for the addition of a new paragraph concerning the size of the observer delegation. After that a vote would be taken on the 10-Power amendment and on the article.

*The United Kingdom oral subamendment was adopted by 41 votes to none, with 21 abstentions.*

*The 10-Power amendment as amended, was adopted by 38 votes to 2, with 20 abstentions.*

*The article as a whole, as amended, was adopted.*

45. Mr. RICHARDS (Liberia) said that, though his delegation fully supported the initial 10-Power amendment, it was unable to support the Spanish oral subamendment which the sponsors had accepted, and it had therefore abstained from voting.

46. Mrs. SLÁMOVÁ (Czechoslovakia) observed that the general provisions relating to missions and delegations had been considered and adopted by the Committee of the Whole and that the Drafting Committee would have to take those provisions into account in preparing the definitive text of the articles of the annex.

#### **Statement by the representative of Egypt**

47. Mr. OSMAN (Egypt) recalled that at the 35th meeting he had announced that his delegation and other

\* Resumed from the 35th meeting.

delegations intended to submit a working paper containing an idea to which they attached great importance and which they would like to see reflected in the Convention.

48. That morning, his delegation had transmitted that document, bearing the names of 24 delegations represented at the Conference, to the secretariat. The idea contained in the document was quite simple: for some years the United Nations, its organs, its specialized agencies and international conferences held under their auspices had granted observer status to national liberation movements recognized by the Organization of African Unity and by the Arab League and had invited them to participate in their sessions. Annexed to the working paper was a list of resolutions adopted by the United Nations and the specialized agencies and conferences inviting those movements to participate in their deliberations and according them observer status.

49. The 24 delegations subscribing to the working paper considered that, since the observer status of national liberation movements had been recognized in principle, it was only legitimate and right that the status, privileges and immunities of the delegations of those movements to those organizations as observers should be defined, particularly as the status of the delegations of States to those organizations was about to be specified.

50. The delegations which had signed the working paper considered that the most direct way of dealing with that lacuna in contemporary international law—for which no one could be held responsible, since the draft articles had been prepared in 1971—was to add at the end of the Convention a new article which would make its provisions applicable, *mutatis mutandis*, to observer delegations of national liberation movements recognized by the Organization of African Unity and the Arab League, to which observer status had already been accorded by the international organization in

question, in accordance with the practice of the United Nations.

51. A number of friendly delegations had drawn attention to certain difficulties which that proposal would involve and to the little time available to the Conference for the completion of the specific task which had been assigned to it, namely, the representation of States in their relations with international organizations. Accordingly, deferring to those friendly delegations and motivated by a sincere desire for co-operation and compromise, his delegation had not pressed for a formal discussion of its idea, and it reserved the right to submit to the Conference a draft resolution reflecting its legitimate concern regarding the status, privileges and immunities of observer delegations of national liberation movements recognized by the Organization of African Unity and by the Arab League. He hoped that the draft would receive unanimous support in the Committee of the Whole.

52. Mr. DORON (Israel) protested vehemently against all the proposals contained in the working paper and in the annex the distribution of which had been announced, and against the statement by the Egyptian representative. His delegation also protested against the fact that a working paper which was not within the purview of the Conference could be submitted and circulated. That was particularly inadmissible, from the moral point of view, in view of the recent murder at Tel Aviv of civilians and tourists by the so-called Palestine Liberation Organization, which accepted responsibility for that terrorist act. In those circumstances, how could the Egyptian representative ask that assassins should enjoy the privileges and immunities provided for in the future Convention? Such an idea was unacceptable and scandalous. He reserved the right to speak at greater length if that question was discussed in the Committee of the Whole.

*The meeting rose at 5.10 p.m.*

## 47th meeting

Monday, 10 March 1975, at 11.05 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)**

#### **CONSIDERATION OF THE TITLES AND TEXTS OF ARTICLES ADOPTED BY THE DRAFTING COMMITTEE (A/CONF.67/C.1/1/Rev.1)**

1. The CHAIRMAN said that the texts of the articles of the proposed convention had been prepared by the Drafting Committee in accordance with the decisions taken during the earlier meetings of the Committee of the Whole and that further substantive decisions con-

cerning the articles could, of course, be taken by the plenary Conference. He invited the members of the Committee to consider and make observations on the texts adopted by the Drafting Committee that were contained in document A/CONF.67/C.1/1/Rev.1.

2. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, introducing the titles of parts I and II and the titles and texts of articles 2 to 41 adopted by the Drafting Committee (A/CONF.67/C.1/1/Rev.1), said that, in carrying out the difficult task of preparing the articles of the proposed convention, the Drafting Committee had been fully aware of its limitations and had therefore not made any substantive changes in the articles that had been adopted by the Committee of the Whole. It had merely tried to improve