

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

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47th meeting of the Committee of the Whole

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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

the wording of those articles. With regard to the titles of parts I and II, he noted that the Drafting Committee had adopted the same titles as those in the International Law Commission's text.

Article 2 (Scope of the present Convention)

Article 3 (Relationship between the present Convention and the relevant rules of international organizations or conferences)

Article 4 (Relationship between the present Convention and other international agreements)

Article 5 (Establishment of missions)

There were no observations on articles 2 to 5.

Article 6 (Functions of the permanent mission)

3. Sir Vincent EVANS (United Kingdom) suggested that, in order to eliminate the discrepancy between the wording of subparagraphs (c) and (g), the words "with or within" in subparagraph (c) should be replaced by the words "with and within".

4. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, said he thought that the suggestion made by the representative of the United Kingdom would be acceptable to the Drafting Committee.

Article 7 (Functions of the permanent observer mission)

Article 8 (Multiple accreditation or appointment)

Article 9 (Appointment of the members of the mission)

There were no observations on articles 7 to 9.

Article 10 (Credentials of the head of mission)

5. Mr. VON KESSEL (Federal Republic of Germany) requested the Chairman of the Drafting Committee to explain why the Drafting Committee had not taken into account the amendment to article 10 submitted by his delegation in document A/CONF.67/C.1/L.31, which the Committee, at its 9th meeting, had agreed to refer to the Drafting Committee.

6. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, replied that the Drafting Committee had been of the opinion that while it could consider, it was not bound to incorporate into its text, amendments which had not been adopted by the Committee of the Whole or which had simply been referred to it without a vote.

Article 11 (Accreditation to organs of the Organization)

There were no observations on article 11.

Article 12 (Full powers for the conclusion of a treaty with the Organization)

7. Mr. CALLE Y CALLE (Peru) noted that, in the Spanish version of paragraph 2 of the article, the words "*con caracter definitivo*" had been omitted. His delegation therefore preferred the original wording in the text of the International Law Commission (ILC).

8. The CHAIRMAN noted that the same words had been deleted from the English text.

9. Sir Vincent EVANS (United Kingdom) said that the words had been omitted for technical reasons. Thus, in English at least, a treaty was either signed or

signed *ad referendum*. It was therefore not necessary to use the words "whether in full or", which appeared in the International Law Commission's text.

10. Mr. KUZNETSOV (Union of Soviet Socialist Republics) felt that those words, which had been included by the ILC, were necessary in Russian for stylistic reasons.

11. Mr. MUSEUX (France) said that the words were not necessary in French. In order to avoid the difficulties raised by the representatives of Peru and the Union of Soviet Socialist Republics, he suggested that the words "signing a treaty, whether in full or *ad referendum*" might be replaced by the words "concluding a treaty or signing it *ad referendum*".

12. Mr. MARESCA (Italy) said he thought that the question raised by the representatives of Peru and the Union of Soviet Socialist Republics concerning the Spanish and Russian texts were surely drafting problems and suggested that better wording might be found without great difficulty.

13. The CHAIRMAN suggested that, if the wording of the English and French texts were satisfactory, it should be retained and that, if there were problems with the Spanish and Russian texts, the Languages Division should be requested to find appropriate wording for them.

Article 13 (Composition of the mission)

Article 14 (Size of the mission)

Article 15 (Notifications)

There were no observations on articles 13 to 15.

Article 16 (Acting head of mission)

14. Mr. MARESCA (Italy) pointed out that in article 16 the word "acting" had been rendered in French as "*par intérim*". The word "*interim*" was Latin and the suitable expression was "*ad interim*".

Article 17 (Precedence)

There were no observations on article 17.

Article 18 (Location of the mission)

15. Mr. YAÑEZ-BARNUEVO (Spain) pointed out that the verb "should be" in the first sentence had been rendered in French by the present indicative form "*son*"; and in Spanish, by "*deben*". He requested some explanation from the Chairman of the Drafting Committee on that point, since he felt that the meaning in the three languages was not identical. He also requested explanation of the omission in the second sentence of the reference to "an office" of the organization, which had been mentioned appeared in the International Law Commission's text.

16. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, replying to the first point, said that the various members of the Drafting Committee put forward arguments regarding the use of words in their respective working languages. He had been assured by the French- and Spanish-speaking members of the Drafting Committee that the French and Spanish verb forms used to render the English verb "should be" were adequate.

17. With regard to the second sentence, the Drafting

Committee had adjusted the wording in the process of incorporating the amendments adopted by the Committee of the Whole. The reference to "an office" of the organization had been dropped as unnecessary but it had been agreed by all the members of the Drafting Committee that that omission did not affect in any way certain existing situations, in particular at Geneva where the United Nations had its European office.

18. Mr. SYSSOEV (Union of Soviet Socialist Republics) pointed out that the text of the second sentence of article 18 did not reflect fully the wording of the amendment (A/CONF.67/C.1/L.41) which the Committee of the Whole had adopted at its 13th meeting.

19. Mr. von KESSEL (Federal Republic of Germany) said that it was his delegation which had proposed the amendment to article 18 in document A/CONF.67/C.1/L.41, which had been adopted by the Committee of the Whole. It had specified three conditions for permitting a sending State to establish a mission or an office of a mission in a locality other than that in which the organization had its seat. Two of those conditions were reflected in the text of the second sentence of article 18 as reported back by the Drafting Committee. The third condition, however, had been left out; according to his delegation's amendment, it was also necessary that the organization should itself have an office at the locality in question.

20. He wished to know the reason for that omission. It had been his understanding that the Drafting Committee should not make changes of substance in amendments adopted by the Committee of the Whole.

21. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, said that the text adopted by the Drafting Committee reflected the decision of the majority of its members. The decisions of the Drafting Committee were, of course, always subject to review by the Committee of the Whole and ultimately by the plenary Conference.

22. Mr. EL-ERIAN (Expert Consultant) observed that the requirement relating to the rules of the organization could well be regarded as covering the third condition indicated by the representative of the Federal Republic of Germany.

23. Sir Vincent EVANS (United Kingdom) said that the Drafting Committee had not found completely satisfactory the wording of the amendment in document A/CONF.67/C.1/L.41. It had therefore redrafted the amendment so as to make the position as clear as possible without affecting the substance in any way.

24. It was his opinion that the text adopted by the Drafting Committee covered everything that was intended by the delegation of the Federal Republic of Germany in its amendment, and did so for the reason just stated by the Expert Consultant.

25. The CHAIRMAN said that the Committee could perhaps take it that the reference to the "rules of the Organization" indicated that those rules would refer to an office of the organization at the locality where the sending State would be establishing a mission or an office of its mission.

26. Mr. von KESSEL (Federal Republic of Ger-

many) said that his delegation could accept the text of article 18 on the understanding that the interpretation which had just been given to it by the representative of the United Kingdom, the Expert Consultant and the Chairman would be placed on record. It would thus be made clear that the omission of the reference to an office of the organization in the second sentence did not represent any change in the substance of the article as amended following the adoption of his delegation's amendment (A/CONF.67/C.1/L.41) by a large majority at the 13th meeting of the Committee of the Whole.

27. The CHAIRMAN assured the representative of the Federal Republic of Germany that the three statements which he had mentioned would be suitably recorded in the record of the meeting.

Article 19 (Use of flag and emblem)

Article 20 (General facilities)

Article 21 (Premises and accommodation)

Article 22 (Assistance by the Organization in respect of privileges and immunities)

There were no observations on articles 19 to 22.

Article 23 (Inviolability of premises)

28. Mr. MAAS GEESTERANUS (Netherlands) asked the Chairman of the Drafting Committee to state the reason for the inclusion in paragraph 2 of the new subparagraph (b).

29. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, said that, at its 19th meeting, during the discussion on article 29, the Committee of the Whole had adopted an amendment (A/CONF.67/C.1/L.63), as revised by its sponsor, on the understanding that the Drafting Committee would examine the relationship between that article and article 23.

30. The Drafting Committee had examined the position and had arrived at the conclusion that, since the adopted amendment referred not only to the private residence of the head of mission and of the members of the diplomatic staff of the mission, i.e., the subject-matter of article 29, but also to the premises of the mission, which was the subject-matter of article 23, the most appropriate course was to incorporate the text of the amendment into paragraph 2 of article 23; and to include in article 29 a reference back to article 23.

Article 24 (Exemption of the premises from taxation)

31. Mr. SHEDOV (Byelorussian Soviet Socialist Republic) observed that a foot-note was attached to the Drafting Committee's text of article 24. The foot-note contained a comment on the interpretation of article 24, which was stated to depend "on the system of taxation in each country".

32. He was puzzled by that strange foot-note and naturally wished to know its implications.

33. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, said that, when article 24 had been adopted by the Committee of the Whole, it had been informed by one of its members that the contents of article 24, which referred to the exemption of the

"premises" of the mission, did not fit in with the law of his country. The same was true of a number of other countries.

34. Broadly speaking, there were two types of tax systems. In some countries, the tax attached to the person of the taxpayer; in some others, it attached to the property itself, regardless of its holder.

35. The text which had been adopted for article 24 by the Committee of the Whole created difficulties for certain members of the Drafting Committee in whose countries taxes were "personal" and not "real". The Drafting Committee had accordingly decided to solve the problem by retaining the text as adopted and introducing a foot-note indicating that if a tax system made no provision for exemption of premises, then the exemption from taxation referred to in article 24 could relate only to persons, since it was obvious that only the sending State or the person acting on its behalf was the beneficiary of the exemption.

36. Mr. DO NASCIMENTO E SILVA (Brazil) said that the Drafting Committee's comments in the foot-note should be regarded as non-existent.

37. The Committee of the Whole had adopted article 18 as drafted by the ILC. The text of the ILC was a serious document which had its own interpretation. There should be no interpretation by the Drafting Committee in the form of a comment. It was certainly out of the question to incorporate into the future convention rules to cover all the legal systems of the world.

38. Mr. ZEMANEK (Austria) said that he shared the preoccupations of the Brazilian representative, and had a further argument to put forward.

39. The problem was one of interpretation of a treaty, namely, the future convention on the representation of States in their relations with international organizations. He therefore turned for guidance to the three articles of section 3 (Interpretation of treaties) of the 1969 Vienna Convention on the Law of Treaties.¹

40. If the foot-note was intended simply as part of the "preparatory" work of the treaty, it could only be a "supplementary means of interpretation", in accordance with article 32 of the 1969 Vienna Convention. In other words, it could be of assistance in interpreting the meaning only when "the ordinary meaning to be given to the terms of the treaty in their context" was "ambiguous or obscure". Since the terms of article 18 were perfectly clear in their context, there would be no need to have recourse to the preparatory work for the interpretation of the article. The foot-note could thus be safely ignored.

41. The position, however, would be totally different if there was any intention to present the contents of the foot-note as an understanding relating to article 18 arrived at in connexion with the conclusion of the future convention. If there were any such intention, a vote would have to be taken in order to confirm that such an understanding really existed.

42. The CHAIRMAN assured the representative of Austria that his comment and that of the previous speaker would be fully reflected in the summary record of the meeting.

43. Mr. MUSEUX (France) said that his delegation had been interested in the insertion of the foot-note to article 24 in order to bring the interpretation of that article into line with article 55 since the former referred to "the premises of the mission" whereas the latter referred to the "sending State or any member of the delegation". The object was to make it clear that a private person who rented property to a mission for use as premises had no claim on that account for exemption from taxation on the property concerned.

44. Mr. DE ROSENZWEIG-DIAZ (Mexico) said that he agreed with the Brazilian representative that the foot-note should be deleted; it served to confuse rather than to clarify. An explanation in the summary record would suffice. The problem had arisen, as the French representative had stated, owing to inconsistency between articles 24 and 55, which could be resolved by bringing the texts of the two articles into line.

45. Mr. GOBBI (Argentina) said that if the interpretation of article 24 with the foot-note was the same as that of article 55, he agreed that it would have been more logical to have adopted the same formulation as in article 55.

46. Mr. TAKEUCHI (Japan) associated himself with the views expressed by the Austrian and Brazilian representatives.

47. Mr. WERSHOF (Canada) said that the foot-note should not appear in the draft of the convention either as approved by the Committee of the Whole or by the plenary Conference. The foot-note represented a majority opinion by the Drafting Committee, with which a number of delegations had expressed disagreement.

48. Mr. RYBAKOV (Executive Secretary) said that the problem was a technical one which could be resolved by the inclusion in the report of the Committee of the Whole of a sentence stating that the interpretation given in the foot-note to article 24 did not find support in the Committee.

49. Mr. EL-ERIAN (Expert Consultant) said that the French delegation had accepted the draft of article 24 without alteration on the understanding expressed in the foot-note. He had agreed that it should be inserted since the French civil code formed the basis of legislation in many countries.

50. Mr. VRANKEN (Belgium) said he shared the views of the Austrian representative. The right solution to the difficulty was that suggested by the Executive Secretary.

51. Mr. RAOELINA (Madagascar) said that he wished to record his delegation's full support for the views expressed by the Austrian and Brazilian representatives.

Article 25 (Inviolability of archives and documents)
52. Mr. ESSY (Ivory Coast) suggested that in the French text, it would be better if the concluding phrase read "*où ils se trouvent*".

53. Mr. MUSEUX (France) said that the text should

¹ See United Nations Conference on the Law of Treaties, 1968 and 1969, *Official Records* (United Nations publication, Sales No. E.70.V.5), document A/CONF.39/27, p. 287.

be identical with the corresponding text in the Vienna Convention on Diplomatic Relations.²

Article 26 (Freedom of movement)

There were no observations on article 26.

Article 27 (Freedom of communication)

54. The CHAIRMAN, in reply to a point raised by Mr. ESSY (Ivory Coast) regarding the French text of paragraph 3 of article 27, said that it would be better to use the wording of the Vienna Convention on Diplomatic Relations.

Article 28 (Personal inviolability)

Article 29 (Inviolability of residence and property)

There were no observations on articles 28 and 29.

Article 30 (Immunity from jurisdiction)

55. Mr. ESSY (Ivory Coast) said that in paragraph 1 (d) the phrase “y compris” in the French text had been wrongly used, because the word “véhicule” could not include either a ship or an aircraft.

56. Sir Vincent EVANS (United Kingdom) said that in English it would be better to follow the language of the United Kingdom amendment (A/CONF.67/C.1/L.61) and refer to “a vehicle, vessel or aircraft”.

57. Mr. CALLE Y CALLE (Peru) said that as the Argentine representative had explained the derivation of the word “vehículo” to the Drafting Committee, the term “incluido” should be retained in the Spanish text.

58. The CHAIRMAN suggested that the English and

French texts should be altered to take account of the observations made by the representatives of the Ivory Coast and the United Kingdom.

Article 31 (Waiver of immunity)

Article 32 (Exemption from social security legislation)

Article 33 (Exemption from dues and taxes)

Article 34 (Exemption from personal services)

Article 35 (Exemption from customs duties and inspection)

There were no comments on articles 31 to 35.

With the foregoing observations, the titles of parts I and II and the titles and texts of articles 2 to 35 adopted by the Drafting Committee (A/CONF.67/C.1/1/Rev.1) were adopted by the Committee of the Whole.

Article 36 (Privileges and immunities of other persons)

59. Sir Vincent EVANS (United Kingdom) said that on reflection, he thought that in paragraph 3, the first sentence should be expanded to read: “shall enjoy the immunity specified in article 30 in respect of acts”. Such an addition would bring the formulation in paragraph 3 into line with that used in paragraphs 1 and 2 of the article.

60. The CHAIRMAN suggested that the proposal of the United Kingdom representative should be referred to the Drafting Committee for its views.

² United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

The meeting rose at 1.05 p.m.

48th meeting

Monday, 10 March 1975, at 8.20 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 (concluded)

CONSIDERATION OF THE TITLES AND TEXTS OF ARTICLES ADOPTED BY THE DRAFTING COMMITTEE (A/CONF.67/C.1/1/REV.1 AND ADD.1, A/CONF.67/C.1/2, 3 AND 4) (concluded)

Article 36 (Privileges and immunities of other persons) (concluded)

1. Mr. SOGBETUN (Nigeria) Chairman of the Drafting Committee, referring to the suggestion made by the representative of the United Kingdom at the previous meeting concerning paragraph 3 of that article, said that there was no time to reopen a discussion and that the Drafting Committee had kept to the draft presented by the Committee of the Whole. Paragraph 3 should therefore be maintained in its present form.

Article 37 (Nationals and permanent residents of the host State)

2. Mr. SOGBETUN (Nigeria), Chairman of the Drafting Committee, pointed out that the Drafting Committee had adopted a simplified wording for the title of that article, namely: “nationals and permanent residents of the host State”; that title was similar to the title of the corresponding article of the Vienna Convention on Consular Relations of 1963.¹

3. So as to bring the wording of that article into line with the wording of paragraphs 3 and 4 of the previous article, the Drafting Committee had decided to insert, in paragraph 2 of article 37, after the first sentence, a new sentence reading as follows: “In all other respects, those members, and persons on the private staff who are nationals of or permanently resident in the host State, shall enjoy privileges and immunities only to the extent admitted by the host State”. In addition, the word “official” had been inserted between the words “in respect of” and the word “acts” in the first sentence

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