

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

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6th meeting of the Committee of the Whole

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permanent mission of a non-member State did not participate in any way in the functioning of the organization. Nevertheless, before such a mission could be established, it was likewise necessary that the rules of the organization should admit of such establishment. His delegation therefore opposed any proposal to delete the words "if the rules of the Organization so admit" from paragraph 2.

73. In paragraph 3, his delegation strongly supported the proposals made by Belgium (A/CONF.67/C.1/L.16) and the United Republic of Cameroon (A/CONF.

67/C.1/L.14) to delete the words "if possible". There could be no question of notification *ex post facto* in a matter which involved responsibilities and obligations for a host State. To give but one example, the establishment of a permanent mission imposed upon the host State a duty to protect that mission and its staff, a duty which could be quite onerous or delicate in certain circumstances. It was therefore essential that notification should in all cases take place prior to the establishment of a permanent mission.

The meeting rose at 6 p.m.

6th meeting

Monday, 10 February 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 5 (Establishment of missions) (continued)
(A/CONF.67/4, A/CONF.67/C.1/L.14, L.16, L.20, L.21, L.23, L.26)

1. Mr. MUSEUX (France) introducing his delegation's amendment (A/CONF.67/C.1/L.23), said that its main purpose was to promote a discussion within the Committee of the Whole, so as to clarify ideas. From a reading of article 1, paragraph 1, subparagraph (12) of the draft articles of the International Law Commission (ILC) (see A/CONF.67/4) under the terms of which "host State" means the State on whose territory: (a) the Organization has its seat or an office", and of article 5, it would appear that a sending State could establish, without restriction, a mission not only at an organization's headquarters but also at other offices of that organization. In providing that missions must be established at the actual headquarters of an organization, the French amendment might be too categorical; he acknowledged that there were permanent missions at the United Nations Office at Geneva, for example, but the amendment aimed at defining more accurately the scope of article 5.

2. Mr. RITTER (Switzerland) informed the Committee that, after holding conversations with several delegations, his delegation had decided to withdraw the amendment contained in document A/CONF.67/C.1/L.26.

3. Mr. EL-ERIAN (Expert Consultant) reminded the Committee that the question of the office of the mission was dealt with at the theoretical level in article 5 and at the practical level in article 18. The ILC had not provided that a mission must be established at an organization's headquarters, as there were cases where permanent missions were established at the offices of an organization, for example at the United Nations

Office at Geneva. That was why, in drafting article 5, the Commission had not specified the place at which a State might establish a mission and had confined itself to laying down the actual principle of the establishment of missions.

4. Mr. DE YTURRIAGA (Spain) said he would have supported the amendment in document A/CONF.67/C.1/L.26 if the Swiss delegation had not withdrawn it.

5. The Spanish delegation understood the concerns which had prompted the French delegation to submit the amendment in document A/CONF.67/C.1/L.23, but it considered the form in which that proposal was presented to be wrong; in fact, a State could be represented with an organization, but not at its headquarters. Furthermore, the question of the opening of offices of a mission should be studied in connexion with article 18.

6. The expression "the performance of the functions mentioned in article 6" which was used in article 5, paragraph 1, was liable to give the impression that the list contained in article 6 was exhaustive. It would be more exact to say: "the performance of its functions". He suggested that the Drafting Committee should consider that question.

7. The CHAIRMAN said that that suggestion related to substance, and did not therefore come within the competence of the Drafting Committee.

8. Mr. WERSHOF (Canada) said he endorsed the amendments contained in documents A/CONF.67/C.1/L.14 and L.16, since Canada, as the host State to an international organization, considered that an organization should be obliged to notify the host State of the institution of a mission prior to its opening.

9. As regards the amendment in document A/CONF.67/C.1/L.23, which had given rise to various comments, his delegation considered it reasonable. Its adoption could not entail the closing of missions established, for example, at Geneva, in the case of the United Nations Office. Although articles 5 and 18 did not stipulate that the member States had the right to establish missions at regional offices, they nevertheless enjoyed that right. The Canadian delegation therefore supported

the amendment in document A/CONF.67/C.1/L.23, submitted by France.

10. On the other hand, it was strongly opposed to the amendment contained in document A/CONF.67/C.1/L.20 submitted by Czechoslovakia, since a host State could never foresee which State that was not a member of an organization having its headquarters in its territory might open a mission there. In the Canadian delegation's opinion, article 5, paragraph 2 should be adopted in the wording established by the ILC.

11. Mr. TODOROV (Bulgaria) said he considered article 5 to be one of the most important articles of the draft, as it affected the principles of universality and the sovereign equality of States. Every State should have the right to become a member of an international organization of universal character. Even if a State could not or did not wish to become a member of such an organization, it might nevertheless need to keep in constant touch with it. In the case of an international organization of universal character, any State, whether a member or not, had the right to establish a permanent mission, in conformity with the principle of the sovereign equality of States, which was of greater importance than the rules and practices of international organizations. With regard to the expression "if the rules of the Organization so admit", he reminded the Committee that such rules did not always exist, even if that expression were to be taken in its widest meaning. In that connexion, he read out paragraph (3) of the International Law Commission's commentary on article 5 (see A/CONF.67/4). Moreover, the wording of the article corresponding to article 5 in the sixth report of the Special Rapporteur¹ met the requirements of a progressive development of international law better than did the present wording.

12. For all those reasons, the Bulgarian delegation supported the Czechoslovak amendment (A/CONF.67/C.1/L.20). It endorsed the observations made at the previous meeting by the Peruvian delegation in support of the Czechoslovak amendment. It also wished to call the Committee's attention to General Assembly resolution 3247(XXIX), relating to participation in the United Nations Conference on the Representation of States in their Relations with International Organizations, wherein paragraph 2 refers to national liberation movements, and to say in that connexion that national liberation movements should be accorded the right to establish observer missions to international organizations of universal character.

13. Mr. DORON (Israel) shared the opinion expressed by the representative of Spain on the subject of the use of the words "*auprès de*" ("at") in the amendment contained in document A/CONF.67/C.1/L.23, and suggested replacing the words "at the Organization's headquarters" in that proposal by the words "in the locality of the Organization's headquarters". He further proposed that articles 5 and 18 should be combined into a single article, the first part of which

would be paragraph 1 of the French amendment, with the amendment he himself had just suggested, and completed by the following phrase: "but would require the prior consent of the host State for the establishment of an office of the mission in any other locality within the host State". Lastly, the same formula should be added to paragraph 2 of the French amendment, and the same amendment made to it.

14. The CHAIRMAN said that the problem raised by the use of the words "*auprès de*" ("at") would be referred to the Drafting Committee.

15. Mr. DE VIDTS (Belgium) informed the Committee that the United Republic of Cameroon and Belgium had agreed to submit a joint amendment aimed at deleting the words "if possible" in article 5, paragraph 3. Their respective amendments (A/CONF.67/C.1/L.14 and L.16) were consequently withdrawn.

16. Mr. BABIY (Ukrainian Soviet Socialist Republic) said he supported the amendment contained in document A/CONF.67/C.1/L.20 and endorsed the arguments put forward by the Peruvian and Bulgarian delegations in support of that amendment. At the present time, the principle of peaceful co-existence was asserting itself more and more in international relations, co-operation between States was developing, and the international organizations were being called upon to make their contribution to the strengthening of peace and international security. Moreover, international law governed not only the relations between international organizations and member States, but also the relations between organizations and non-member States, since the latter, as sovereign States, must have the possibility of participating in the work of international organizations that were of interest to them. In that respect, it should be noted that in all the draft articles the ILC had not in fact established a distinction between the right of permanent missions and those of observer missions.

17. None the less, article 5, paragraph 2, was not entirely satisfactory, as the ILC had not taken account of certain fundamental principles, namely the principle of universality and that of the sovereign equality of States. The Ukrainian delegation therefore supported the amendment in document A/CONF.67/C.1/L.20, which made the text more precise and which would have the effect of increasing stability in international relations.

18. Mr. SMITH (United States of America) said he endorsed the idea expressed in the amendments in documents A/CONF.67/C.1/L.14, L.16 and L.21, that the words "if possible" in article 5, paragraph 3 should be deleted. It was indeed essential that the host State should receive notification of the institution of a mission before the latter was in fact established. The United States delegation urged the Committee to adopt the proposal to delete those words.

19. On the other hand, the United States delegation was strongly opposed to the adoption of the amendment in document A/CONF.67/C.1/L.20 relating to article 5, paragraph 2. The view held by the upholders of that amendment was that if an international organization authorized the establishment of permanent

¹ See *Yearbook of the International Law Commission, 1971*, vol. II, part one, document A/CN.4/241 and Add.1-6.

missions, it *ipso facto* authorized the establishment of permanent observer missions. In the opinion of the United States delegation, that was not so; an organization could very well take a different decision in the case of permanent observer missions. The solution of which the Ukrainian and Bulgarian delegations had declared themselves in favour, in supporting the Czechoslovak amendment, consisted in authorizing any entity which claimed to represent a State to establish a mission to an international organization, an eventuality that the United States delegation considered unacceptable.

20. He welcomed the changes made to the International Law Commission's text by the amendment contained in document A/CONF.67/C.1/L.23, which the United States delegation was fully prepared to support.

21. Mr. MOLINA LANDAETA (Venezuela) wished to have fuller information with regard to the meaning and scope of article 5, paragraph 3, since the International Law Commission's commentary on the subject seemed to him somewhat laconic.

22. Mr. EL-ERIAN (Expert Consultant) said that the ILC had wanted to make a distinction between the formal aspect and the material aspect of the establishment of permanent missions to an international organization. Article 15 dealt with the second aspect and provided that the notifications given by the sending State to the organization must be transmitted to the host State. With regard to the formal aspect of the question, which was dealt with in article 5, the Commission had thought it advisable to introduce some flexibility into the procedure to be followed by adding the words "if possible", it being understood that the interests of the host State were in any case safeguarded by article 15 concerning notifications. It had pointed out that, since the establishment of permanent missions of member States to international organizations was an established practice, the question whether, on the admission of a new member, that State had or had not the right to open a permanent mission to the organization, did not arise; it was enough that the new member State should notify the organization of its decision to establish a permanent mission by means of a letter addressed by its Minister for Foreign Affairs to the Secretary-General of the organization.

23. Mrs. THAKORE (India) said that article 5 stressed the optional character of the institution of permanent missions of States to international organizations and made the establishment of those missions depend upon the relevant rules of the organization. She welcomed with satisfaction the provision concerning the establishment of permanent observer missions, which enabled non-member States to follow closely the work of international organizations. She supported the oral amendment, submitted by Belgium and the United Republic of Cameroon, deleting the words "if possible" in article 5, paragraph 3, because she considered that the task of the host State would be made easier if the creation of a mission were notified to it in advance. The second part of the amendment by the Federal Republic of Germany to article 5, paragraph 3 (A/CONF.67/C.1/L.21), seemed to her unnecessary, since the idea it expressed was already contained in the phrase

"if the rules of the Organization so admit", which appeared in paragraphs 1 and 2. She supported the amendment by Czechoslovakia (A/CONF.67/C.1/L.20), which would promote international co-operation.

24. Mr. RAOELINA (Madagascar) said he was opposed to the Czechoslovak amendment, because he thought that the text prepared by the ILC was sufficiently clear and that it would be better for the decision concerning member States to remain distinct from the decision concerning non-member States. He supported the amendment of Cameroon, Belgium and the Federal Republic of Germany deleting the words "if possible" in article 5, paragraph 3, since, in his opinion, it was obligatory to notify the host State of the institution of a mission. He also supported the French amendments to article 5, paragraphs 1 and 2 (A/CONF.67/C.1/L.23).

25. Mr. UNGERER (Federal Republic of Germany) said that he would prefer to keep article 5, paragraphs 1 and 2, in their original form. He thought that it would be better not to limit article 5 to the establishment of permanent missions at the headquarters of an organization, as the French amendment would do, since account must be taken of cases where permanent missions were established elsewhere. It did not seem necessary to him, either, to effect a distinction between member States and non-member States, as the amendment of Czechoslovakia would do.

26. With regard to paragraph 3, he would like to be assured that the second part of his amendment (A/CONF.67/C.1/L.21) was in fact already contained in article 5, paragraphs 1 and 2, as some members of the Committee had asserted.

27. Mr. EL-ERIAN (Expert Consultant) confirmed that interpretation.

28. Mr. UNGERER (Federal Republic of Germany) said that, in that case, he would withdraw both parts of his amendment and become a sponsor of the amendment submitted by Belgium and the United Republic of Cameroon deleting the words "if possible".

29. Mr. UCCAN (Turkey) said that he was prepared to support the International Law Commission's text which seemed to him sound and well-balanced, but with the deletion of the words "if possible", proposed by Belgium, the Federal Republic of Germany and the United Republic of Cameroon.

30. Mr. EUSTATHIADES (Greece) supported the French amendment to paragraphs 1 and 2 (A/CONF.67/C.1/L.23), which introduced a useful element by emphasizing the difference between article 5 and article 18. The Drafting Committee might consider the possibility of bringing article 18 into line with article 5.

31. He was in favour of deleting the words "if possible" in paragraph 3, as it was obligatory for the host State to be informed prior to the establishment of a mission. He also thought that the words "mentioned in article 6" could be deleted in paragraph 1, since article 6 was not exhaustive.

32. As to the Swiss amendment (A/CONF.67/C.1/L.26), the representative of Greece had no objection,

although the "rules of the Organization" included also the practice of the Organization.

33. Mr. SHEDOV (Byelorussian Soviet Socialist Republic) drew attention to the importance of article 5 in respect of the principles of the sovereign equality of States and of the right of all States to equitable participation in international organizations, which as the Expert Consultant had recalled, was to assert a principle. He approved of the way in which the ILC had approached the question, and also shared the view expressed by the Bulgarian, Ukrainian and Indian representatives. Having regard to the importance of international organizations of universal character in present-day international life, non-member States thought it necessary to establish permanent observer missions to those organizations, thereby showing the interest they felt in their activities. He pointed out that the distinction made between member States and non-member States applied solely to the relations between States and organizations, and not to the status of representatives of States, who remained representatives of States in both cases. From that point of view, the Czechoslovak amendment (A/CONF.67/C.1/L.20) was in line with the purpose of article 5, which was to eliminate all discrimination between States. He therefore supported that amendment.

34. Mr. KUZNETSOV (Union of Soviet Socialist Republics) supported the Czechoslovak amendment and endorsed the arguments adduced in favour thereof. He also supported the joint amendment submitted by Belgium, the Federal Republic of Germany and the United Republic of Cameroon.

35. Mr. AL-DHANI (Iraq) said that he, too, supported the Czechoslovak amendment, which was in conformity with the principle of universality, as well as the amendment to deleting the words "if possible" in paragraph 3 of article 5.

36. Mr. TAKEUCHI (Japan) supported the joint amendment of Belgium, United Republic of Cameroon and the Federal Republic of Germany.

37. Mr. FAHMY (Egypt) said he was in favour of paragraphs 1 and 2 of article 5 in the International Law Commission's text which seemed to him to be clear and concise. With regard to paragraph 3, he concurred in the opinion of the majority that the words "if possible" should be deleted.

38. Mr. JALICHANDRA (Thailand) wished to know whether the expression "Member States" in paragraph 1 should be taken to mean all the member States of the Organization, which were entitled to establish permanent missions at the Organization's headquarters and also in localities where the Organizations had offices. Should that expression also be taken to mean States which were not members of regional bodies or organizations? He was thinking of regional organizations such as the regional economic commissions of the United Nations, whose membership was far more limited than that of the United Nations itself, and wondered what practice would be followed in their case.

39. Mr. EL-ERIAN (Expert Consultant) explained

that the establishment of permanent missions to an organization was not an automatic right or an obligation, but an option. In fact, under the terms of the article, the possibility of establishing a permanent mission was subject to the rules of the organization. It was therefore incumbent on each organization concerned to decide that question in accordance with its own practice.

40. Mr. BAJA (Philippines) expressed himself in favour of the present text of paragraphs 1 and 2, and of the deletion of the words "if possible" in paragraph 3.

41. Mr. SANGARET (Ivory Coast) pointed out that the French amendment to paragraphs 1 and 2 of article 5 did not take account of the regional offices of international organizations and of the headquarters of the specialized agencies. If their case was mentioned in article 18, it should also be taken into account in article 5. He therefore proposed a subamendment to the French amendment, consisting in the addition, after the words "at the Organization's headquarters", of the words "and possibly at its offices or with its organs". He approved of the joint amendment to paragraph 3 submitted by Belgium, the Federal Republic of Germany and the United Republic of Cameroon.

42. Sir Vincent EVANS (United Kingdom) said that his delegation was in favour of the amendment submitted by Belgium, the Federal Republic of Germany and the United Republic of Cameroon, and that it could accept the amendment proposed by the French delegation (A/CONF.67/C.1/L.23).

43. The Czechoslovak amendment (A/CONF.67/C.1/L.20), on the other hand, was rather surprising, for it would have the effect of placing non-member States in a more advantageous position than member States. In fact, non-member States would be entitled to establish permanent observer missions without having been invited to do so by the organization in question, without the latter's consent, and irrespective of the rules which the organization might lay down in the matter. The principle of the sovereign equality of States and that of universality could not be validly invoked in support of the Czechoslovak amendment: it was by becoming a member of an international organization that a State could best assert those principles. A State which did not accept the obligations implicit in membership of an organization should not be placed in a more favourable position than a member State. For that reason, his delegation could not accept the Czechoslovak amendment and supported the wording of the International Law Commission's text.

44. Mr. DO HUU LONG (Republic of Viet-Nam) supported the joint amendment of Belgium, the Federal Republic of Germany and the United Republic of Cameroon. It was the duty of an organization to notify to the host State the institution of a permanent mission.

45. The French amendment (A/CONF.67/C.1/L.23) added a necessary detail. It established the principle that permanent missions should be established at headquarters. There was nothing to prevent the organization concerned from authorizing, exceptionally, the establishment of missions at offices.

46. Although he shared the concerns which had led the Czechoslovak delegation to submit its amendment (A/CONF.67/C.1/L.20), he could not accept that amendment, which might place the host State and the organization in a difficult situation. It was important that any institution should be based on a decision or a rule providing for the establishment of that institution.

47. Mr. ELIAN (Romania) said he was in favour both of the amendment submitted by Belgium, the Federal Republic of Germany and the United Republic of Cameroon, which was entirely realistic, and of the Czechoslovak amendment (A/CONF.67/C.1/L.20), which added a useful point. Recognition of the principle of universality and the sovereign equality of States would give more weight to the future convention.

48. In the light of the explanations given by the Expert Consultant, he thought that article 5 should be confined to stating the general principle. Other provisions, such as articles 15 and 18, gave detailed information on the establishment of permanent missions. Consequently, he could not support the French amendment (A/CONF.67/C.1/L.23).

49. Mrs. SLÁMOVÁ (Czechoslovakia) explained that, in proposing its amendment to article 5, her delegation had not intended to detract from the rights of organizations in respect of the establishment of missions, but to guarantee to all States, provided the rules of the organization so admitted, the right to establish permanent missions or permanent observer missions. There was no intention of restricting in any way the powers of organizations or of discriminating against member States. Her delegation, eager to defend the principle of the sovereign equality of States, wished to ensure that the establishment of permanent observer missions was not subjected to a rule different from the one governing the establishment of permanent missions. When the rules of the organization permitted, non-Member States should be able to establish permanent observer missions, just as Member States could establish permanent missions.

50. As had already been stated by other delegations, she pointed out that international organizations of universal character played an essential role in international life, and that the States which, for various reasons, could not be members of the organization had interest in maintaining relations with it. That organization itself had everything to gain by co-operating with non-Member States. The Secretary-General of the United Nations had adopted that stand on several occasions, and it was in the same spirit that the Czechoslovak delegation had submitted its amendment.

51. Mr. TANKOUA (United Republic of Cameroon) noted that the Czechoslovak representative had placed emphasis on the rules of the organization. If the phrase "if the rules of the Organization so admit" were introduced into the Czechoslovak amendment, that amendment would be considerably modified.

52. Mrs. SLÁMOVÁ (Czechoslovakia) said, in reply, that her delegation did not propose to modify its amendment.

53. Mr. BARAKAT (Yemen) was of the opinion that, in view of the explanations given by the Expert

Consultant, the French amendment (A/CONF.67/C.1/L.23) was somewhat restrictive. Permanent missions and permanent observer missions were sometimes established at an office of an organization. He therefore proposed a subamendment to the French amendment to paragraph 1 of article 5, to the effect that the words "at the Organization's headquarters" should be replaced by "to the Organization". That wording would be completely in harmony with draft article 18. Article 5 would set forth the principle, while article 18 would specify the location of the office of the mission. A similar change would obviously have to be made in the French amendment to paragraph 2 of article 5.

54. With regard to the Czechoslovak amendment (A/CONF.67/C.1/L.20), it conferred more rights on non-member States than on member States; for that reason, his own preference went either to the French amendment, subject to the proposed modifications, or to the International Law Commission's text.

55. His delegation supported the joint amendment of Belgium, the Federal Republic of Germany and the United Republic of Cameroon concerning paragraph 3.

56. Mrs. DAHLERUP (Denmark) said that, having regard to the Expert Consultant's explanations of the precise significance of article 3, she supported paragraphs 1 and 2 of article 5 as prepared by the ILC. Her delegation also supported the joint amendment of Belgium, the Federal Republic of Germany and the United Republic of Cameroon concerning paragraph 3.

57. Mr. COULIBALY (Mali) said he saw no need to change the wording of paragraphs 1 and 2 of article 5; he was, however, in favour of deleting the words "if possible" in paragraph 3.

58. Mr. SOGBETUN (Nigeria) thought it was only fair that when the member States of an organization could establish permanent missions, non-member States could establish permanent observer missions, and that that possibility should not be left to the discretion of the organization.

59. On the subject of paragraph 3, he pointed out that it was in the interests of the organization to notify to the host State the institution of a mission. He approved of the amendment to delete the words "if possible".

60. Mr. DO NASCIMENTO E SILVA (Brazil) said he was in favour of deleting the words "if possible" in paragraph 3, and opposed to the Czechoslovak amendment (A/CONF.67/C.1/L.20), for the same reasons as those given by the United Kingdom representative.

61. Mr. KHASHBAT (Mongolia) thought that the Czechoslovak amendment introduced greater precision into the text of article 5. It was in conformity with the principles of the sovereign equality of States, universality and non-discrimination between the member States and the non-member States of an organization.

62. Article 5 confirmed the right of States to establish missions to an organization, but not at its seat. It was to be feared that the French amendment (A/CONF.67/C.1/L.23) would create practical difficulties for certain countries.

63. With regard to the joint amendment, his delegation had no objections to deleting the words "if possible" in paragraph 3.

64. Mr. SUY (Legal Counsel) noted that with the deletion of the words "if possible", organizations would be required to notify to the host State the institution of a mission. That was generally done by the Secretariat at United Nations Headquarters, but it did not make any distinction between the institution and the establishment of a mission. Once a State had become a Member of the Organization, or had acquired the status of observer it normally informed the Secretary-General of the establishment of a mission, without any distinction being made between the institution and the establishment of the mission. If such a distinction were to be made, the host State would have to be informed accordingly. It would be difficult for the organization to notify to the host State the institution of a mission when it was informed of the establishment of a mission.

65. Mr. MUSEUX (France) said that the support given to the amendment proposed by his delegation showed that its concern was largely shared. In submitting its amendment (A/CONF.67/C.1/L.23), his delegation had by no means intended to restrict the existing practice, but had simply wished to draw attention to the difficulties which the International Law Commission's text might cause. In the light of the Expert Consultant's explanations, his delegation withdrew its draft amendment, but pointed out that, in the words of paragraph 5 of the commission's commentary

on article 3 (A/CONF.67/4), "the expression 'relevant rules of the Organization' is broad enough to include all relevant rules whatever their nature: constituent instruments, certain decisions and resolutions of the organization concerned or a well-established practice prevailing in that organization". That passage showed that no unconditional right to establish a mission existed, but that a mission must be established in conformity with the relevant rules of the organization, comprising, *inter alia*, the practice of that organization. His delegation intended to propose an appropriate amendment to article 1 in due course.

66. The CHAIRMAN put to the vote the Czechoslovak amendment to paragraph 2 of article 5 (A/CONF.67/C.1/L.20).

The amendment was rejected by 36 votes to 18, with 8 absentions.

67. The CHAIRMAN put to the vote the oral amendment submitted jointly by Belgium, the Federal Republic of Germany and the United Republic of Cameroon concerning paragraph 3 of article 5.

The amendment was adopted by 58 votes to none, with 6 abstentions.

68. The CHAIRMAN put to the vote article 5 as a whole, as amended.

Article 5 as a whole, as amended, was adopted by 53 votes to none, with 10 abstentions.

The meeting rose at 1.05 p.m.

7th meeting

Monday, 10 February 1975, at 3.15 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 5 (Establishment of missions) (concluded)
(A/CONF.67/4, A/CONF.67/C.1/L.14, L.16, L.20, L.21)

1. Mrs. KONRAD (Hungary) said that her delegation had abstained from the vote on article 5 as a whole at the previous meeting because of the rejection by the Committee of the important Czechoslovak amendment (A/CONF.67/C.1/L.20).

2. Mrs. MIRANDA (Cuba) said that she had abstained from voting on article 5 as a whole because her delegation was in full agreement with the Czechoslovak amendment (A/CONF.67/C.1/L.20), which had been rejected.

Article 6 (Functions of the permanent mission) (A/CONF.67/4, A/CONF.67/C.1/L.4, L.17, L.24)

3. Mr. DE YTURRIAGA (Spain), introducing his

delegation's amendment (A/CONF.67/C.1/L.4), said he agreed only in part with the International Law Commission's statement in the first sentence of paragraph 6 of its commentary to article 6 (see A/CONF.67/4). Any problems which arose in the bilateral relations between a sending State and the host State should, of course, be settled by the usual channels of bilateral diplomacy.

4. There could and did arise, however, problems concerning the protection of the interests of the sending State in relation to the organization itself. In a well-known Advisory Opinion,¹ the International Court of Justice had held that international organizations were subjects of international law, and as such were active subjects of diplomatic protection and were accordingly entitled to exercise diplomatic protection for the benefit of their officials.

5. It followed that international organizations should likewise be held to be passive subjects of diplomatic protection. If the actions of an organ of an international

¹ See case concerning *Reparation for injuries suffered in the service of the United Nations*, Advisory Opinion: I.C.J. Reports 1949, p. 174.