

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

Vienna, Austria
4 February - 14 March 1975

Document:-
A/CONF.67/C.1/SR.9

9th meeting of the Committee of the Whole

Extract from Volume I of the Official Records of the United Nations Conference on the Representation of States in Their Relations with International Organizations (Summary records of the plenary meetings and of the meetings of the Committee of the Whole)

the Committee had already adopted 6 articles out of a total of 106, it would have at its disposal 34 meetings to complete the first reading of 100 articles, which represented an average of three articles per meeting. The Secretariat accordingly suggested the following schedule of work for the Committee:

From 10 to 14 February: adoption of articles 5 to 31 at first reading and adoption of articles 2 to 28 on the report of the Drafting Committee.

From 17 to 21 February: adoption of articles 32 to 57 at first reading and adoption of articles 29 to 54 on the report of the Drafting Committee.

From 24 to 28 February: adoption of articles 58 to 82 and article 1 at first reading, and adoption of articles 55 to 80 on the report of the Drafting Committee.

From 3 to 7 March: adoption of articles A to X at first reading and adoption of articles 81, 82, 1 and A to T on the report of the Drafting Committee.

10 March: adoption of articles T to X and the final clauses on the report of the Drafting Committee and adoption of the report of the Committee of the Whole.

54. Mr. MOLINA LANDAETA (Venezuela) proposed, to avoid night meetings, that the length of speeches should be limited.

55. The CHAIRMAN said he thought it was too early to impose a time-limit on the length of speeches, but he urged members of the Committee to reduce the length of their statements as much as possible.

The meeting rose at 1 p.m.

9th meeting

Tuesday, 11 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 8 (Multiple accreditation or appointment)
(A/CONF.67/4, A/CONF.67/C.1/L.25)

1. Mr. RITTER (Switzerland) said that his delegation's amendment—to delete article 8 (A/CONF.67/C.1/L.25)—must have caused some surprise, but it reflected his delegation's concern, which stemmed from the particular situation in Geneva. Currently, there were in Geneva approximately 100 permanent missions accredited to the Office, six specialized agencies and three other organizations of universal character coming within the framework of the future convention. As a result of the spirit of understanding prevailing between the Office, the sending States and the host State, a particular practice had been evolved at Geneva whereby the persons accredited to the various organizations by a sending State were all under the responsibility of a head of mission who acted as head of mission to ten organizations. Had such a practice not been evolved, the diplomatic corps at Geneva would have reached unmanageable proportions and there might currently be 1,400 heads of mission in Geneva. Article 8 (see A/CONF.67/4) included one provision which his delegation deemed positive, namely, the first part of paragraph 1. The rest of the article started from the assumption that there would be a plurality of missions. In a certain sense, therefore, it encouraged the multiplication of missions. Hitherto, the European Office had discouraged sending States from multiplying their missions. As drafted, article 8 would deprive the Office of a good argument in that regard. It should be noted that existing practice in no way prevented a division of work

between the members of a mission, one member dealing with the work of the International Labour Organization (ILO), another with that of the World Health Organization (WHO), and so on. There were, indeed, missions in which several persons held the rank of ambassador, but they were all under the responsibility of one head of mission. The discontinuance of that practice would complicate administrative procedures. It would be seen, therefore, that his delegation did not want to change anything; all it wanted was that a practice which had proved satisfactory for Switzerland should be maintained.

2. The CHAIRMAN, in reply to a question from Mr. RICHARDS (Liberia), said that the Swiss proposal could be considered an amendment under rule 41 of the rules of procedure because it deleted from the basic proposal before the Conference, namely the draft articles adopted by the International Law Commission (ILC).

3. Mr. SMITH (United States of America) observed that article 8 was modelled on article 5 of the Vienna Convention on Diplomatic Relations.¹ There was, however, a significant difference between the two articles, in that article 8 did not provide for the right of the host State to object to multiple accreditation. In view of the substance of paragraph 3 of the International Law Commission's commentary on article 8 (see A/CONF.67/4), his delegation did not object to omission of that provision, although it reserved the right to raise the question of host State agreement with reference to later articles. However, in the light of the explanation given by the representative of Switzerland, his delegation could support the proposal for deletion of article 8.

4. Mr. CALLE Y CALLE (Peru) said that the provisions of article 8 differed from those of the

¹ United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

article on the establishment of permanent missions. The statement by the representative of Switzerland in support of his delegation's amendment was impressive, for the multiplication of permanent missions would, indeed, cause difficulties for the host State. Everything depended, however, on the point of view adopted. If the Conference were to include in the convention a provision stating that it would be wrong for one and the same person to represent a State in two different organizations, then it would be engaged in a process of encouraging unnecessary multiplication of heads of mission. Article 8, however, facilitated the practice of multiple accreditation and thereby the possible reduction in the number of heads of mission.

5. Furthermore, permanent missions were costly and States endeavoured to combine several functions in one person, unfortunately, at the expense of specialization. In paragraph 4 of its commentary on article 8, the Commission mentioned the fact that article 5 of the Convention on Special Missions² authorized the sending of a joint special mission by two or more States. In his opinion, consideration should be given to the possibility of two or more States having a joint permanent mission and accrediting one and the same persons as the head of that joint mission to an organization.

6. Mr. ZEMANEK (Austria) said that the point of view adopted on the matter might depend on whether the seat of the international organization was in the capital of the host State or in another city. If it was in the capital, the sending State might not wish to establish a permanent mission to the organization independent of its diplomatic mission to the host State. Instead, it might wish to appoint a member of its diplomatic mission as the permanent representative to the organization. Article 8 should, therefore, be retained in order to give the sending State that possibility. If the Conference started from the assumption that heads of permanent missions and members of diplomatic staff were, for the purposes of privileges and immunities, treated on an equal footing, it was difficult to see what problems would be created if a member of a State's diplomatic staff functioned as permanent representative of that State to an organization.

7. Mr. DORON (Israel) said that in the opinion of his delegation, article 8 could very well be omitted. If it were omitted, the sending State would be in a position to accredit the same person to two or more organizations. In its comments on article 8, communicated to the ILC on 8 April 1969,³ his Government had expressed that opinion and had drawn attention to the difference between the situation for which provision was made in draft article 8 and those for which provision was made in article 5 of the Vienna Convention on Diplomatic Relations and article 4 of the Convention on Special Missions.

8. Mr. ESSY (Ivory Coast) said that, to judge from the statement made by the Swiss representative, the

Swiss delegation's desire was really that article 8 should be redrafted rather than deleted.

9. His delegation was amazed that in article 8 no reference was made to the possibility of several States accrediting one and the same person as head of mission to an international organization. It was easier for several States to appoint a single head of mission to an organization than to a State. The Ivory Coast had already represented four member States of the Council for Alliance, a sub-regional organization grouping West African States. He asked whether the Expert Consultant could explain the reason for the omission from the draft articles of a provision which would enable several States to appoint one person as head of mission to an international organization.

10. Mr. DE YTURRIAGA (Spain) said that initially his delegation had been impressed by the arguments adduced by the Swiss representative in favour of deletion of article 8. The consequence of deletion of the article might, however, be a multiplication rather than a reduction of the number of heads of mission. Article 8 began by establishing the sound principle that a sending State could accredit the same person as head of mission to two or more international organizations. Failure to mention that principle might lead to the interpretation that there must be a head of mission for each organization. That would lead to the increase in the number of heads of mission the Swiss delegation wished to avoid. His delegation considered, therefore, that the text proposed by the ILC, or at least the first part of paragraph 1 and the second part of paragraph 2 of that text should be retained. The representative of Israel had said that even if article 8 were deleted, there was nothing to prevent States from continuing the practice of multiple accreditation. In a certain sense that was true. On the other hand, omission from the future convention of an article on multiple accreditation might result in a restrictive interpretation being placed on the convention, particularly since existing conventions included provisions for multiple accreditation. Therefore, although in theory he could share the opinion of the representative of Israel, he considered that in practice it would be better to follow the line laid down in other diplomatic conventions and include a provision for multiple accreditation.

11. He pointed out that although in its commentary on article 8, the ILC referred to paragraph 1 of article 5 of the Vienna Convention on Diplomatic Relations, it did not refer to paragraph 3 of that article, which was also relevant. He wondered whether an additional paragraph should be added to article 8 to provide for the possibility dealt with in that paragraph or whether a new article covering that question should be added to the new convention.

12. Mr. MOLINA LANDAETA (Venezuela) said that there were three reasons why his delegation considered that the text of article 8 as drafted by the ILC should be retained. The first related to a question of methodology. The fact that the Conference had reached a new stage in the process of the codification and progressive development of international law could not be ignored. The first stage in that process had been the

² General Assembly resolution 2530 (XXIV), annex.

³ See *Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 10*, p. 97.

production of the Vienna instruments; that had been followed by the Convention on Special Missions and the Conference had now embarked on the third stage in the process. Provisions on multiple accreditation had already been included in the other international instruments to which he had referred. Accordingly, it would appear unsystematic to omit such a provision from a convention of the type under consideration. Secondly, the inclusion of the article was consistent with current practice. In Geneva, at least, the heads of most missions were accredited to the European Office and to the specialized agencies. Thirdly, there was the question of economy. Many countries could not afford the luxury of accrediting separate heads of mission to each organization and the practice of multiple accreditation was a useful means of affecting economies. For those reasons, his delegation would be unable to support the Swiss amendment.

13. Mr. BARAKAT (Yemen) said that the number of international organizations of universal character was now so great that the human and financial resources of certain States were insufficient to enable them to appoint permanent missions to each organization separately. They therefore naturally tended to appoint the same permanent mission to all organizations with headquarters or offices in the same city. At the same time, and for the same reasons, a State would often find it convenient to appoint its head of mission as a member of the diplomatic staff of another of its missions, such as its diplomatic mission to the host State.

14. Clearly, any State was entitled to practice such accreditation, even without an article on the lines of article 8. Nevertheless, the inclusion of that article would be useful, so as to make the position clear and formally to acknowledge the right of the sending State in the matter.

15. His delegation accordingly supported article 8 as proposed by the ILC.

16. Mr. RAOELINA (Madagascar) pointed out that the elimination of article 8 was likely to have an effect contrary to the intention of the Swiss delegation. If no provision on multiple accreditation were to be included in the future convention, the result might well be to encourage the proliferation of permanent missions.

17. For that reason, and on grounds of economy which were of particular importance to the developing countries at a time when policies of austerity were prevalent, his delegation favoured retaining article 8 as it stood.

18. Mr. FAHMY (Egypt) said that there was an additional reason for retaining article 8, and particularly its paragraph 1. Multiple accreditation was very useful to facilitate co-ordination. The countries of the third world, in particular, had repeatedly stressed in United Nations bodies the need to ensure proper co-ordination of United Nations activities. The accreditation of the same person as head of mission to several international organizations made it possible for him to keep in touch with the activities of the various organizations and made it also easier to avoid duplication.

19. Mr. WERSHOF (Canada) said that on the whole his delegation was prepared to vote for the deletion

of article 8 although it supported the existing practice of multiple accreditation. That practice was bound to continue whether the article was included or not. As he saw it, the main reason for the Swiss proposal was that some of the language included in article 8 appeared to encourage a proliferation of heads of mission. If taken literally, the language of article 8 would seem to encourage the head of a State's permanent mission in Geneva to appoint his counsellor as head of mission to ILO, his first secretary as head of mission to WHO, and so on.

20. On the other hand, the deletion of article 8 would not prevent countries from carrying on with the useful and sensible arrangements suggested in other parts of that article.

21. Mr. EL-ERIAN (Expert Consultant) said, in reply to the representative of Ivory Coast that the ILC had not included in its draft a provision to deal with the establishment of a permanent mission to represent more than one State because it had been guided by current State practice. However, there were cases, particularly in technical conferences, in which one delegation represented two or more States but that situation was covered by a provision in part III of the draft.

22. There existed of course examples in bilateral diplomacy of a diplomatic mission representing two or more States. Within the framework of international organizations, however, the representation of more than one State by a single mission had been encountered only in the case of delegations to conferences. The ILC had therefore decided not to refer to the possibility of one permanent mission representing two or more States.

23. The Spanish representative had pointed out that, although the commentary to article 8 referred to paragraph 1 of article 5 of the Vienna Convention on Diplomatic Relations, no reference was made therein to paragraph 3 of that same 1961 provision, which read: "A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization".

24. In the preliminary draft, adopted in 1968, the ILC had attempted to deal with that mixed situation in article 9 of that draft, entitled "Accreditation, assignment or appointment of a member of a permanent mission to other functions".⁴ In the second reading, however, when the ILC had reconsidered the position in the light of comments from Governments; it had reached the conclusion that it would be preferable to confine itself to representation within the framework of international organizations and not to deal with all the other cases of multiple accreditation.

25. The Commission had also considered that the case of a permanent representative who was also accredited as ambassador to the host State, when the headquarters or office of the international organization was situated in the capital, was regulated by the provisions of paragraph 3 of article 5 of the 1961 Vienna Convention on Diplomatic Relations.

⁴ *Ibid.*, Twenty-third Session, Supplement No. 9, chap. II, sect. E.

26. Mr. MUSEUX (France) said that his delegation would have been prepared to support the proposal to delete article 8 altogether, not because it objected to the ideas which it contained but rather because it shared the misgivings of the Swiss delegation regarding some parts of the text. Moreover, those parts of the article which were not controversial dealt with matters that could safely be left to the existing practice.

27. In the circumstances, his delegation ventured to suggest to the Swiss delegation and to the Committee the compromise formula of voting separately on paragraph 1 and paragraph 2 and separately also on the two ideas contained in each of those paragraphs.

28. In order to deal with the point suggested by the representative of the Ivory Coast, a vote could be taken on the inclusion of a new paragraph 3 to meet that point, should a formal proposal be made to that effect.

29. Mr. ESSY (Ivory Coast) said that, for the reasons given in his earlier statement, he wished to propose the addition of a paragraph 3 to article 8, reading:

“Several States may accredit the same person as representative to one or more international organizations”.

30. The CHAIRMAN said that, although that oral amendment had been submitted late, he would permit its discussion, if there was no objection.

31. Mr. DO NASCIMENTO E SILVA (Brazil) said that most countries had one head of mission at places where there were headquarters of several organizations. States did not normally send separate representatives to the various organizations, not only in order to avoid undue expense but also in order to rule out the danger of conflicting votes on similar problems in different organizations.

32. His delegation did not favour the deletion of article 8 because its absence from the future convention would lead to difficulties of interpretation. Since all the previous conventions on diplomatic law contained a provision on the subject, its absence from the present text might be construed as an intention to adopt a different rule on the subject.

33. Mrs. THAKORE (India) said that she shared the feelings of the representative of Madagascar on multiple accreditation, which was especially important for developing countries because of the need for economy and of the paucity of trained staff. She accordingly supported article 8 as it stood.

34. Mr. WARNOCK (Ireland) urged that article 8 should be retained and that its text should not be made more restrictive. In practice, his country had only one permanent mission at cities where there were several international organizations and it had no intention of abandoning that system. At the same time, his delegation felt that the possibility should not be ruled out of a country maintaining more than one permanent mission in that type of situation.

35. He took that opportunity for thanking the host countries concerned for the excellent facilities available to permanent missions in New York, Geneva and Vienna.

36. His delegation would have supported any pro-

posal—if one had been made in time—to word the article in such a manner as to state that, as far as possible, the sending State should endeavour to accredit the same person as head of mission to two or more international organizations having their headquarters in the same place.

37. Mr. RITTER (Switzerland) said that his delegation, in making its proposal to delete article 8, had adopted a flexible approach while awaiting the reaction of other delegations in order to take a final stand on the matter.

38. Following the discussion which had taken place and the explanations given by the Expert Consultant, his delegation now withdrew its proposal to delete article 8 (A/CONF.67/C.1/L.25) in favour of the French procedural proposal for separate votes on each of the four elements of article 8.

39. Mr. TANKOUA (United Republic of Cameroon) supported the Ivory Coast proposal and also the French procedural proposal.

40. Mr. DO HUU LONG (Republic of Viet-Nam) said that it would be useful to insert a third paragraph in the article as proposed by the representative of Ivory Coast. He, too, supported the French procedural proposal.

41. The CHAIRMAN said that although the Ivory Coast oral amendment had been submitted long after the deadline, several delegations had supported it and, if he heard no objection, he would take it that the Committee agreed to vote on it.

It was so decided.

42. Mr. DE YTURRIAGA (Spain) said that his delegation supported the oral amendment proposed by the Ivory Coast, but suggested that, in order to bring it into line with the wording of article 6 of the 1961 Vienna Convention, the words “Several States” should be replaced by the words “Two or more States”. He also suggested that the new paragraph proposed by the Ivory Coast should be numbered as article 8 *bis* and not as article 8, paragraph 3, because it concerned a different subject.

43. The CHAIRMAN suggested that the comments made by the representative of Spain concerning the Ivory Coast amendment should be referred to the Drafting Committee.

44. Mr. CALLE Y CALLE (Peru) said that, since the amendment proposed by the Ivory Coast was of great importance to developing countries, his delegation could support it. Moreover, it agreed with the suggestions made by the representative of Spain concerning the wording and the numbering of the new paragraph and with the Chairman that those suggestions should be referred to the Drafting Committee.

45. Mr. RAOELINA (Madagascar) said that his delegation supported the oral amendment proposed by the Ivory Coast because it took account of the problems of developing countries.

46. Mr. FAHMY (Egypt) said that his delegation fully agreed with the reasons which had prompted the Ivory Coast to propose its oral amendment and could support it.

47. Mrs. ESPAÑA DE MÉRIDA (Guatemala), speaking also on behalf of El Salvador, supported the oral amendment proposed by the Ivory Coast.

48. Mr. HAQ (Pakistan), referring to the oral amendment proposed by the Ivory Coast, requested the Expert Consultant to explain why the concept embodied in the proposed new paragraph had been omitted from the text of article 8.

49. Mr. EL-ERIAN (Expert Consultant) reiterated that the ILC had not omitted that concept from the text for substantive reasons. The Commission had based its text on United Nations practice, in which there were very few examples of a permanent mission representing more than one State.

50. After a procedural discussion in which Mr. MUSEUX (France), Mr. DO NASCIMENTO E SILVA (Brazil), Mr. MOLINA LANDAETA (Venezuela), Mr. ZEMANEK (Austria) and Mr. ABDALAH (Tunisia) took part, the CHAIRMAN suggested that, in accordance with the request made by France, separate votes should first be taken on the two parts of paragraph 1 and of paragraph 2, it being understood that the words "the sending State may" would be inserted wherever necessary, depending on the results of the votes. The Committee would thereafter vote on the oral amendment proposed by the Ivory Coast.

51. The CHAIRMAN put to the vote the words "accredit the same person as head of mission to two or more international organizations" in the first part of paragraph 1 of draft article 8.

Those words were adopted unanimously.

52. The CHAIRMAN put to the vote the words "or appoint a head of mission as a member of the diplomatic staff of another of its missions" in the second part of paragraph 1.

Those words were adopted by 42 votes to 10, with 12 abstentions.

53. The CHAIRMAN put to the vote the words "accredit a member of the diplomatic staff of the mission as head of mission to other international organizations" in the first part of paragraph 2.

Those words were adopted by 52 votes to 8, with 5 abstentions.

54. The CHAIRMAN put to the vote the words "or appoint a member of the staff of the mission as a member of the staff of another of its missions" in the second part of paragraph 2.

Those words were adopted by 60 votes to none, with 3 abstentions.

55. The CHAIRMAN noted that paragraphs 1 and 2, as prepared by the ILC, had thus been adopted.

56. The CHAIRMAN put to the vote the oral amendment of the Ivory Coast to add a new paragraph 3 to article 8, subject to drafting changes to be made by the Drafting Committee.

The oral amendment was adopted by 59 votes to none, with 5 abstentions.

57. The CHAIRMAN put to the vote article 8 as a whole, as amended.

Article 8 as a whole, as amended, was adopted by 60 votes to none, with 5 abstentions.

58. Mr. DE YTURRIAGA (Spain), speaking in explanation of vote, said that his delegation had voted in favour of article 8, although the article did not specifically reflect its opinion that a member of the diplomatic staff of a mission could be accredited to more than one international organization, in accordance with article 5, paragraph 3, of the 1961 Vienna Convention.

59. Mr. RITTER (Switzerland), speaking in explanation of vote, said that his delegation had voted in favour of the first part of paragraph 1, against the second part of paragraph 1, against the first part of paragraph 2, in favour of the second part of paragraph 2 and in favour of the oral amendment proposed by the Ivory Coast. His delegation noted that, during the discussion of article 8, no delegation had stated that it was opposed to the existing practice at Geneva or that it interpreted article 8, as adopted, as prohibiting the continuation of that practice.

Article 9 (Appointment of the members of the mission) (A/CONF.67/4)

60. After a procedural discussion in which Mr. KUZNETSOV (Union of Soviet Socialist Republics) and Sir Vincent EVANS (United Kingdom) took part, the CHAIRMAN said that if there was no objection discussion of article 9 would be postponed until the following meeting.

It was so decided.

Article 10 (Credentials of the head of mission) (A/CONF.67/4, A/CONF.67/C.1/L.31)

61. Mr. VON KESSEL (Federal Republic of Germany), introducing his delegation's amendment (A/CONF.67/C.1/L.31), said that article 10 referred to credentials being transmitted "to the Organization". Paragraph 1 of the International Law Commission's commentary on the article quoted General Assembly resolution 257 A (III), which stated that credentials should be transmitted to the Secretary-General. His delegation therefore proposed that the words "Chief Executive Officer of the Organization" should be substituted for the word "Organization". He would withdraw for the time being the consequential amendments which his delegation had proposed in article 44 and article D of the annex.

62. In reply to an enquiry from the Chairman, he said that he would not press for a vote on the understanding that there was no objection to his proposal.

63. Mr. SUY (Legal Counsel of the United Nations) said that the Secretariat sometimes experienced difficulties with the distinction in French between "*lettres de créance*" of permanent representatives and "*pouvoirs*" of delegations. He suggested that in the opening phrase of the French text of article 10, the more exact term, "*lettres de créance*" should be used instead of "*pouvoirs*".

64. The CHAIRMAN suggested that the Committee should refer article 10 to the Drafting Committee with the two observations which had been made.

It was so decided.

Article 11 (Accreditation to organs of the Organization) (A/CONF.67/4)

65. The CHAIRMAN suggested that since there were no amendments to article 11, it should be referred to the Drafting Committee.

It was so decided.

Article 12 (Full powers in the conclusion of a treaty with the Organization) (A/CONF.67/4, A/CONF.67/C.1/L.6, L.29)

66. Mr. DE YTURRIAGA (Spain), introducing his delegation's amendment (A/CONF.67/C.1/L.6), said that he had noted from the comments made by States on article 12 (A/CONF.67/WP.6, page 57 *et seq.*) that a number of States shared his opinion that the article might be deleted, since it added nothing fundamental to the convention. The Expert Consultant had explained that the ILC had felt that it would be convenient to include such a provision but the question of full powers was more appropriately placed in the Convention on the Law of Treaties from which the article had been derived. The matter would also come within the scope of the draft articles on treaties concluded between States and international organizations or between two or more international organizations being studied by the ILC.

67. Sir Vincent EVANS (United Kingdom) agreed with the Spanish representative that the article was out of place in the present convention and should be left to the draft articles to which he had referred.

68. Mr. SURENA (United States of America) said that the reasons for his amendment (A/CONF.67/C.1/L.29) were similar to those put forward by the Spanish and United Kingdom representatives in support of deleting the article. It was an extrapolation of article F of the Vienna Convention on the Law of Treaties⁵ and it would be more appropriate to place it in another text. If however the Conference wished to adopt it, his delegation would find it easier, in view of its position with regard to observer missions, to accept it if the application of paragraph 1 of article 12 were confined to permanent missions.

69. Mr. MUSEUX (France) said that he supported the Spanish proposal for the reasons stated by the Spanish and United Kingdom representatives.

70. Mr. CALLE Y CALLE (Peru) said that from a cursory glance it might be imagined that article 12 fell within the purview of the Vienna Convention on the Law of Treaties and not within that of the convention under consideration. It had however been established in the discussion that one of the main functions of both permanent missions and permanent observer missions was the negotiation of agreements with international organizations. That was also the

case in practice; many activities of international organizations, such as the payment of experts, required the conclusion of international agreements with the organization, which were signed by heads of missions. Article 7 of the Vienna Convention on the Law of Treaties provided the precedent of empowering certain diplomatic representatives to conclude certain types of treaties without having to produce full powers. In his view, article 12 was desirable and necessary; it was not redundant.

71. He could not support the United States amendment to paragraph 1 (A/CONF.67/C.1/L.29). As defined in article 1, paragraph 1 (16), the term "head of mission" covered both permanent representatives and permanent observers. Since both officials had the function and capacity to negotiate with international organizations, the term "head of mission", which covered both categories, should be retained.

72. He suggested the deletion in the Spanish text of paragraph 2 of the words "*los efectos de*". They might be taken to mean "*efectos jurídicos*" and consequently give rise to misunderstanding.

73. Mr. MOLINA LANDAETA (Venezuela) endorsed the substantive arguments put forward by the Peruvian representative; he would vote in favour of retaining article 12.

74. He could not however agree with the Peruvian representative's proposed drafting change in the Spanish text of paragraph 2: there were treaties which took effect from the time of signature and not *ad referendum*. The International Law Commission's formulation in Spanish was therefore correct from the legal standpoint.

75. Mr. BARAKAT (Yemen) inquired why, in view of the interrelationship between paragraphs 1 and 2, the United States representative proposed to replace "head of mission" by "permanent representative" only in paragraph 1.

76. Mr. SURENA (United States of America) said that the thrust of the two paragraphs was not the same. Paragraph 1 sought to confirm a function of the head of mission, whereas paragraph 2 stated that a particular function was not within the purview of the head of mission.

77. Mr. KUZNETSOV (Union of Soviet Socialist Republics) considered that article 12 was a useful measure designed to save international organizations time, since it simplified matters by delegating specific full powers.

78. Mr. TAKEUCHI (Japan) supported the Spanish proposal to delete article 12.

79. Mr. KABUAYE (United Republic of Tanzania) endorsed the arguments put forward by the Peruvian representative for the retention of article 12. Article 7 had been adopted after considerable discussion. Article 12 was required in connexion with the capacity of observer missions to make treaties. He would therefore vote against the United States amendment to paragraph 1 (A/CONF.67/C.1/L.29).

80. Mrs. MIRANDA (Cuba) endorsed the observations of the Peruvian and Venezuelan representatives in support of the International Law Commission's text.

⁵ 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.

Article 12 was in no way a repetition of article 7 of the Vienna Convention on the Law of Treaties—it covered aspects not previously dealt with. She was opposed to the United States amendment to paragraph 1 (A/CONF.67/C.1/L.29), which ran counter to the decision taken earlier on article 7 regarding the negotiating powers of observer missions.

81. The CHAIRMAN put to the vote the Spanish proposal to delete article 12 (A/CONF.67/C.1/L.6).

The amendment was rejected by 36 votes to 16, with 11 abstentions.

82. The CHAIRMAN put to the vote the United States amendment to paragraph 1 of article 12 (A/CONF.67/C.1/L.29).

The amendment was rejected by 35 votes to 5, with 19 abstentions.

83. The CHAIRMAN put to the vote the text of article 12 as prepared by the ILC.

Article 12 was adopted by 48 votes to none, with 14 abstentions.

The meeting rose at 5.55 p.m.

10th meeting

Wednesday, 12 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 9 (Appointment of the members of the mission) (continued) (A/CONF.67/4, A/CONF.67/C.1/L.18, L.27, L.28, L.35)

1. The CHAIRMAN drew attention to a procedural motion concerning article 9 submitted by the Soviet Union in document A/CONF.67/C.1/L.27, to the effect that the amendment to draft article 9 submitted by Canada and the United Kingdom (A/CONF.67/C.1/L.18) should be examined when draft article 75 was being discussed. He accordingly invited the Committee to consider that motion before taking up article 9 and the amendments relating thereto.

2. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that, although his delegation's proposal was, as a matter of form, a procedural motion, it affected the actual substance of article 9. The International Law Commission's text (see A/CONF.67/4) appeared satisfactory to him, since it took into account the special nature of the missions of States to the international organizations. The International Law Commission (ILC) had made it amply clear, in fact, in its Commentary to article 9, that the members of the mission were not accredited to the host State in whose territory the seat of the organization was situated and that they did not enter into direct relationship with the host State, contrary to what happened in the case of bilateral diplomacy. Unlike diplomatic agents, who were accredited to the receiving State in order to perform certain functions of representation and negotiation between the receiving State and their own, the members of a permanent mission to an international organization represented the sending State with the organization and not with the host State. A practice like that of the presentation of credentials could not be extended to the members of permanent missions, and the appointment of the head and members of the mission should not be subject

to the agreement of the host State, which was in fact the purpose of the Canadian and United Kingdom amendment (A/CONF.67/C.1/L.18) and of the United States amendment (A/CONF.67/C.1/L.28).

3. As the ILC had rightly observed in paragraph 2 of its Commentary to article 9, the article should not make the freedom of choice by the sending State of the members of its mission to an international organization subject to the *agrément* of the organization or the host State as regards the appointment of the head of mission, unlike the relevant articles of the Vienna Convention on Diplomatic Relations¹ and the Convention on Special Missions.² That position was confirmed by the statement made by the United Nations Legal Counsel to the Sixth Committee of the General Assembly on 6 December 1967.³ The Canadian and United Kingdom amendment and the United States amendment would completely alter the meaning of article 9, since they would give the host State the possibility of objecting to the appointment of a member of the mission by declaring him *persona non grata* even before he arrived in the territory of the host State. If those amendments were adopted, the appointment of members of a mission would be entirely subject to the *agrément* of the host State, although those members were not accredited to the host State but to the organization.

4. In his view, the host State did not have the right to limit the immunities and privileges of the representatives of States to an international organization and bring about a restriction of their status. He did not dispute the need to take measures to protect the legitimate rights and interests of the host State, and he acknowledged that in some cases "of grave and manifest violation of the criminal law of the host State", the latter might request the recall of the person in question. But those cases were provided for in article 75. It was therefore to that article that the amendments in documents A/CONF.67/C.1/L.18 and L.28 related. Consequently

¹ United Nations, *Treaty Series*, vol. 500, No. 7310, p. 95.

² General Assembly resolution 2530 (XXIX), annex.

³ See *Official Records of the General Assembly, Twenty-second session, Sixth Committee*, 1016th meeting.