

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

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8th plenary meeting

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)

An attempt should in fact be made to fill the gap resulting from the disappearance of article 54.

83. Mr. AVAKOV (Union of Soviet Socialist Republics) proposed that the words "the same" before "inviolability" and "as the premises of the delegation" at the end of paragraph 1 of article 60 should be deleted.

84. Mr. BARAKAT (Yemen) said he considered that the future convention would be incomplete if article 60 were to be drafted as though article 54 did not exist.

85. Mr. YAÑEZ-BARNUEVO (Spain) reminded the Conference that the representative of Austria had proposed adjourning the discussion on article 60, which seemed to be a wise proposal.

86. Sir Vincent EVANS (United Kingdom) reminded the Conference that his delegation had voted against article 54 because the provision concerning measures to be taken in the event of fire or other disaster had been deleted. Even if article 54 had been adopted in the form in which it had been submitted by the Committee of the Whole, the United Kingdom delegation would have been opposed to retaining paragraph 1 of article 60. The private accommodation of members of delegations usually consisted of hotel rooms. In the opinion of the United Kingdom delegation, neither existing practice nor consideration of functional need justified granting the inviolability provided for in paragraph 1 of article 60, and to do so would give rise to practical difficulties.

87. That was why, quite independently of what happened to article 54, he was against article 60.

88. Mr. SURENA (United States of America) said that his delegation would have voted against paragraph 1 of article 60 even if article 54, in the form adopted by the Committee of the Whole, had been adopted by the Conference. As the International Law Commission had observed in its commentary, the private accommodation contemplated in article 60 generally consisted of hotel rooms. According to other provisions, and in particular article 67, the provisions of article 60 would be extended to the private accommodation of administrative and technical staff, which could constitute far too broad an extension of the notion of the inviolability of hotel rooms.

89. When the representative of the Soviet Union had requested a separate vote on article 54, he had said that the premises of the delegation would not, in his opinion, include hotel rooms and that such premises could, consequently, be inviolable. As article 60 mainly contemplated hotel rooms, the Soviet Union representative should logically admit that the latter ought not to be considered as inviolable.

90. The United States delegation considered, like the French delegation, that paragraph 1 of article 60 entailed a general question of drafting. The Conference had already taken several contradictory decisions and it would take a further one if it were to decide not to delete paragraph 1 of article 60.

The meeting rose at 6.05 p.m.

8th plenary meeting

Tuesday, 11 March 1975, at 8.50 p.m.

President: Mr. SETTE CÂMARA (Brazil).

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)

[Agenda item 11]

TITLE AND PREAMBLE OF THE CONVENTION
(A/CONF.67/12)

1. The PRESIDENT said that, in order to expedite preparation of the final text of the Convention, it was necessary that the Conference should adopt the title and preamble of the Convention as soon as possible. He suggested, therefore, that the Conference should consider the draft title and preamble submitted by the Drafting Committee (A/CONF.67/12) before resuming its consideration of article 60 from the previous meeting.

It was so decided.

The title of the Convention submitted by the Drafting Committee (A/CONF.67/12, part A) was adopted.

2. Sir Vincent EVANS (United Kingdom) drew attention to the fact that a comma should be inserted between the word "Nations" and the word "its" in the first paragraph of the preamble.

3. Mr. SHELDON (Byelorussian Soviet Socialist Republic) drew attention to the fact that in the Russian text the word "qualification" should be replaced by the word "codification" in the third paragraph.

4. The PRESIDENT said that the drafting points made by the representatives of the United Kingdom and the Byelorussian Soviet Socialist Republic had been noted.

The preamble of the Convention submitted by the Drafting Committee (A/CONF.67/12, part B) was adopted.

CONSIDERATION OF THE TITLES AND TEXTS OF ARTICLES ADOPTED BY THE COMMITTEE OF THE WHOLE (continued) (A/CONF.67/11/Add.3)

Article 60 (Inviolability of private accommodation and property) (continued)

5. Mr. DO NASCIMENTO E SILVA (Brazil) said that, having considered all the comments made on

article 60 at the previous meeting, his delegation wished to propose that paragraph 1 of the article should be amended to read: "The private accommodation of the head of delegation and of other delegates and members of the diplomatic staff of the delegation as well as the premises of the delegation shall enjoy inviolability and protection".

6. Mr. MUSEUX (France) said that, in so far as it referred to the premises of the delegation, the oral amendment of Brazil constituted a reopening of the debate on a question on which the Conference had already taken a decision when it had voted on article 54. In that connexion, his delegation wished to invoke the provisions of article 33 of the rules of procedure.

7. Sir Vincent EVANS (United Kingdom) endorsed the opinion expressed by the French representative. The oral amendment of Brazil could not be put to the vote unless the Conference decided, by a two-thirds majority of the representatives present and voting to reopen the question which the Conference had already decided by its vote on article 54. But even if the Conference decided to reopen the question, his delegation would have to vote against the Brazilian proposal because, firstly, it would reintroduce the concept of inviolability without the qualification in respect of fire or other disaster seriously endangering public safety and, secondly, it would aggravate the difficulty by extending inviolability to the private—in other words, hotel—accommodations of all members of delegations.

8. Mr. SYSSOEV (Union of Soviet Socialist Republics) said that he could not agree that consideration of the Brazilian proposal would be tantamount to reopening the discussion on a question on which the Conference had already taken a decision. Articles 54 and 60 dealt with the question of inviolability on different levels. The Brazilian proposal should be discussed and the convention should contain some reference to the inviolability of the premises of the delegation, even if only in a short sentence.

9. Mr. SURENA (United States of America) associated himself with the opinions expressed by the representatives of France and the United Kingdom.

10. Mr. CALLE Y CALLE (Peru) said that, as a norm, article 60 could stand on its own, particularly if account was taken of the fact that the members of the International Law Commission (ILC) had been of the opinion that the private accommodation of the head of delegation and of other delegates should enjoy the same inviolability and protection as the premises of the delegation. As adopted by the Committee of the Whole, the provisions of article 54 did not reflect the thinking of the ILC on the subject. In the opinion of his delegation, therefore, the Brazilian proposal was perfectly pertinent. In any case, even if the Convention contained no provision on the question, it could be argued that the inviolability of the premises in question derived not from a contractual stipulation or a concession by the host State but from customary international law.

11. Mr. CABEZAS-MOLINA (Ecuador) said that the Brazilian delegation had made a formal proposal which the Conference was competent to examine. His delegation endorsed that proposal.

12. Mr. EL-ERIAN (Expert Consultant), replying to a question put by Mr. SYSSOEV (Union of Soviet Socialist Republics), said that the problem confronting the Conference had not arisen in the ILC. He was not therefore, in a position to explain the thinking of the ILC on the matter. He hoped, however, that the Conference would be able to solve the problem in such a way that there was no lacuna in the final text of the convention.

13. Mr. TODOROV (Bulgaria) agreed with those representatives who had said that consideration of the Brazilian proposal would not constitute a re-opening of the discussion on article 54. Indeed, it appeared to offer a very good solution to the problem confronting the Conference.

14. Mr. MITIĆ (Yugoslavia) said that he agreed with those speakers who had said that unless it contained a provision on the inviolability of the premises of the delegation and of the private accommodation and property of the head of delegation and other delegates, the convention would be defective. It should be noted in that connexion, that during the discussion of article 54 no delegation had been opposed to the first sentence of paragraph 1; the only question on which the opinions had been divided was that of the extent of the inviolability to be accorded. In the circumstances, it seemed reasonable to try to come to a compromise agreement in the matter. Accordingly, his delegation was prepared to support the Brazilian proposal or any other attempt to find a compromise solution.

15. Sir Vincent EVANS (United Kingdom) disagreed with the Yugoslav representative. The first sentence of paragraph 1 of article 54 would not have been acceptable to a number of delegations unless it had been qualified by the third sentence of that paragraph. It was because that third sentence had been deleted as a result of a vote that the whole article had become unacceptable.

16. He requested the President to give a ruling on the status of the oral proposal of Brazil. Should the President rule that consideration of the Brazilian proposal would involve a reconsideration of the decision taken on article 54, the terms of rule 33 of the rules of procedure would apply.

17. Mr. MUSEUX (France) formally moved that the provisions of rule 33 of the rules of procedure should be applied to the Brazilian proposal.

18. The PRESIDENT said that the Brazilian proposal did contain some aspects that could be regarded as involving a reconsideration of the decision taken on article 54. He would therefore treat it as a motion to reconsider. According to the provisions of rule 33 of the rules of procedure, two speakers could oppose the motion.

19. Mr. JALICHANDRA (Thailand) said that his delegation was opposed to reconsideration of the decision taken by the Conference on article 54. Referring to the eighth paragraph of the preamble of the convention adopted earlier in the meeting (A/CONF.67/12), he expressed the view that, as a question not expressly regulated by the provisions of the convention, the subject would continue to be governed by the rules of customary international law. The Conference should not,

therefore, try to introduce into the convention rules which could not command the general acceptance of delegations.

20. Mr. DO NASCIMENTO E SILVA (Brazil) said that so far as the Brazilian delegation was concerned, the President could consider that it, too, was opposed to the motion to reconsider the decision taken on article 54.

21. The PRESIDENT put to the vote the motion that the Conference should reconsider the decision it had taken on article 54, inasmuch as the Brazilian oral amendment entailed such reconsideration.

The result of the vote was 25 in favour and 25 against, with 10 abstentions.

The motion was not adopted, having failed to obtain the required two-thirds majority.

22. The PRESIDENT invited the Conference to resume discussion of the substance of article 60.

23. Mr. PINEDA (Venezuela) said that his delegation would have liked to see included in article 60 a reference to the inviolability of the premises of the delegation. As the Expert Consultant pointed out, the absence in the future convention of an article on that inviolability would leave an undesirable gap.

24. The Conference was now faced, however, with the question of including a provision on the inviolability of the private accommodation of delegates. In order to enable the Conference to reach a meaningful decision on that question he requested a separate vote on the following words in paragraph 1 of article 60: first, the words "the same", and secondly, the words "as the premises of the delegation" at the end of the paragraph. The separate vote would probably lead to the elimination of those words, and the resulting text of paragraph 1 would then state simply the private accommodation in question enjoyed "inviolability and protection".

25. Mr. PLANA (Philippines) said that his delegation had no statement to make on the substance of article 60, because its views on the question now before the plenary of the Conference had been overtaken by the result of vote just taken.

26. Mr. WERSHOF (Canada) said that his delegation shared the feeling, which of course had been that of the ILC, that the future convention should contain provisions on the inviolability of both the premises of the delegation and of the private accommodation of its members of diplomatic rank. Indeed, his delegation had consistently supported the idea of including provisions on both subjects in the future convention provided that those provisions were couched in suitable terms and made subject to reasonable qualifications.

27. With regard to the claim that the non-acceptance of article 54 would result in an undesirable gap in the future convention, he observed that for the some 30 years that had elapsed since the establishment of the United Nations, there had existed no treaty provision in force which conferred inviolability on the premises of delegations and still less on the private accommodations of its head and other members of diplomatic rank. There was certainly no provision on that point either in the Convention on the Privileges and Immunities of the

United Nations of 1946, or in the Convention on the Privileges and Immunities of the Specialized Agencies of 1947, or indeed in the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations of 1947.¹ The absence of such a treaty provision had not led to any disaster and the conclusion to be derived was that if in the present convention, all the provisions on inviolability of premises or accommodation for delegations were to disappear, the future convention would still read perfectly well.

28. The views he had just expressed applied primarily to article 54. As for article 60, the argument in favour of inviolability of private accommodation was even weaker, since there was no great necessity for such inviolability. What was really important was that the head of delegation and the other diplomatic persons concerned should fully enjoy the personal inviolability and protection appropriate to their functions.

29. It was clear that paragraph 1 could not possibly be adopted as it now stood because it referred back to the provisions of article 54, which had disappeared. As for the wording which would result if certain words were dropped following the request for a separate vote by the Venezuelan delegation, it would have the effect of conferring upon the private accommodation of the head of delegation and the other persons concerned much too general and vague an inviolability and protection. For those reasons, he could not support such a text.

30. Mr. SURENA (United States of America) associated himself with the remarks of the previous speaker. In addition, he had to stress that paragraph 1, if worded in the manner apparently desired by the Venezuelan representative, would create virtually insoluble legal and practical problems. It would have the effect of conferring on the hotel rooms of delegates an unqualified inviolability which would go even beyond what the Committee of the Whole had accepted for the premises of the delegation itself in article 54, which had failed of adoption by the plenary Conference. From the legal point of view, such a provision would be entirely without precedent.

31. There was also the practical difficulty that it would be virtually impossible to implement such a provision. In the circumstances, it was difficult to see what real meaning could be given to a rule which specified in broad and unqualified terms that such hotel rooms would enjoy "inviolability and protection". His delegation would therefore vote against paragraph 1 in the form envisaged by the Venezuelan delegation.

32. Mr. SYSSOEV (Union of Soviet Socialist Republics) said that, during the discussions on article 54, a number of delegations had emphasized that they were in favour of the inviolability of the premises of the delegation in principle but had argued that it was not possible for a host State to implement that principle in the event of fire or other disaster. As a result of that insistence, article 54 had failed of adoption by the Conference but that failure could not in any way be construed

¹ See General Assembly resolutions 22A(I), 179(II) and 169(II).

as detracting from the principle of inviolability, which of course, was and remained an existing rule of contemporary international law. For those reasons, his delegation would so cast its vote as to achieve the result envisaged by the Venezuelan representative.

33. Mr. GOBBI (Argentina) said that his delegation regretted the failure of the Conference to adopt article 54, relating to inviolability of the premises of the delegation. The Conference now faced the totally different question of inviolability of the private accommodation of members of the delegation of diplomatic rank. The loss of article 54, now made it imperative to retain article 60 in the future convention. The reason was quite simple: since no provision was now made for the inviolability of the premises of the delegation, the head of delegation and the other delegates simply must have some inviolable place in which to carry out their functions free from all possible interference.

34. The only possible solution in the circumstances was to adopt paragraph 1 of article 60 without the words on which the Venezuelan representative had requested a separate vote.

35. Lastly, he moved the closure of the debate on article 60.

36. The PRESIDENT said that if no speaker requested the floor to oppose the motion for closure, under rule 26 of the rules of procedure, he would take it that the Conference agreed to close the debate on article 60 except, of course, for explanations of vote.

It was so decided.

37. Sir Vincent EVANS (United Kingdom), explaining his vote before the vote, said that if the words referred to by the Venezuelan representative were deleted, that would be no more than a formal recognition by the Conference of a situation of fact, namely the non-adoption of article 54, because the words in question referred the question of inviolability back to the provisions of article 54. Accordingly, his delegation would abstain from the vote on the words in question.

38. If the Conference decided against retaining those words, the resulting text of paragraph 1 of article 60 would be unqualified by any reference to fire or other disaster. That would have the effect of extending inviolability to private accommodation in a manner which went far beyond the existing practice. For those reasons, when the remainder of paragraph 1 was put to the vote, his delegation would vote against it.

39. Mr. MUSEUX (France), explaining his vote before the vote, said that in the Committee of the Whole, his delegation had voted against paragraph 1 of article 60. He would do the same with respect to the provision that might emerge after the elimination of the words on which the Venezuelan representative had requested a separate vote. Such a provision would be extremely difficult for a host State to apply, bearing in mind that the private accommodation of the head of a delegation and of other delegates normally consisted of hotel rooms.

40. In order to carry out an obligation to protect accommodation declared inviolable, in respect of hundreds, and possibly thousands of hotel rooms and similar dispersed premises, the host State would have to

deploy police forces out of all proportion to the tasks involved.

41. For those reasons, his delegation would abstain from the vote on the words which were to be put to the vote separately. When paragraph 1 as a whole was put to the vote, with or without the words in question, his delegation would vote against it.

42. Mr. CALLE Y CALLE (Peru), explaining his vote before the vote, said that his delegation would vote in favour of each and every word which appeared in the present text of paragraph 1 of article 60. It would do so fully convinced that it was voting in favour of a principle, the principle of inviolability which applied equally to the premises of a delegation and to the private accommodation of its members.

43. The words on which a separate vote had been requested by the Venezuelan delegation were not, for the Peruvian delegation, a mere cross-reference to article 54. They were a reference to the rule of customary international law which established the inviolability of the premises of delegations. That rule existed regardless of the presence in, or absence from, the convention under discussion of an article on the subject of inviolability of the premises of the delegation. He challenged anyone to cite the example of a State which did not respect the inviolability of the premises of a delegation and of the private accommodation of its head and other members.

44. He wished to refer to paragraph 3 of the commentary by the ILC to article 60 (A/CONF.67/4), which stated that the inviolability of the private accommodation under consideration applied regardless of the nature of that accommodation, i.e. "hotel rooms, rented apartments, etc." Thus, in the view of the Commission, the question whether the number of hotel rooms occupied ran into hundreds or into thousands did not affect the legal rule applicable.

45. Another point to be remembered was that the Conference had already adopted article 47 on notifications (A/CONF.67/11/Add.3), paragraph 1 (e) of which laid down the duty of the sending State to notify the Organization or the conference of the location of the premises of the delegation and of the private accommodation "enjoying inviolability under articles 54 and 60". By thus adopting article 47, the Conference had accepted that, in principle, both the premises and the private accommodation of a delegation were entitled to enjoy inviolability.

46. For those reasons, his delegation would vote in favour of paragraph 1 as it stood.

47. Mr. YAÑEZ-BARNUEVO (Spain), explaining his vote before the vote, said that his delegation would have preferred seeking a solution of the problem of article 54 before tackling article 60 as suggested by the delegations of Austria and Yemen at the previous meeting. Since, however, the matter had been pressed to an early vote, his delegation would take the same stand as that of Argentina and support the retention of paragraph 1 of article 60, without of course the words on which the Venezuelan representative had requested a separate vote.

48. It had been said during the discussion that the adoption of paragraph 1 of article 60 after the non-

adoption of article 54 would create an anomaly. He observed in that regard that a similar anomaly would be encountered in the part of the draft convention which dealt with observer delegations; that part, now renumbered part IV, contained an article 86, entitled "Inviolability of private accommodation and property" (A/CONF.67/11/Add.4), although there was no provision made in that part IV for any inviolability of the premises of the observer delegation.

49. Naturally, he was not altogether satisfied with an arrangement which would mean that the provisions on the inviolability of private accommodation of observer delegates—article 86—were formulated in greater detail and with more precision than those which would remain in article 60, which dealt with delegations proper. He accepted, however, that further anomaly as the inevitable consequence of the manner in which articles 54 and 60 had been discussed and voted upon.

50. Mr. SYSSOEV (Union of Soviet Socialist Republics), explaining his delegation's vote before the vote, said that he fully agreed with the remarks of the Spanish representative.

51. His delegation attached much more importance to the provisions of paragraph 1 of article 60 than it did to those of the former article 54. It had to be remembered that delegations to conferences and meetings—unlike permanent missions—often did not have offices of their own, to which article 54 as such would have applied. The position was totally different with regard to article 60, since the head of a delegation and the other persons concerned were nearly always accommodated outside the actual residence of their country's ambassador or permanent representative. The provisions of paragraph 1 of article 60 were therefore of great practical importance, much more so than those of article 54, which had failed of adoption.

52. His delegation hoped that the Conference would vote in favour of retaining paragraph 1 of article 60, without of course the words on which the Venezuelan representative had requested a separate vote. In that form, the paragraph would give expression to a just principle of international law, namely, the principle of inviolability of the accommodation of members of the delegation of diplomatic rank. By upholding that vital principle of international law, and enshrining it in the international instrument that would emerge from its deliberations, the Conference would be making a significant contribution to multilateral co-operation.

53. Mr. MAAS GEESTERANUS (Netherlands), explaining his vote before the vote, said that he would abstain in the separate vote on certain words in paragraph 1 of article 60 requested by the Venezuelan representative. He believed that the inclusion or exclusion of those words would not make much difference as far as the principle at issue was concerned. His delegation would, however, vote against the resulting paragraph 1 as a whole, and against article 60 as a whole. It favoured the principle underlying paragraph 1 but felt that the Conference had not been convened simply to proclaim principles but rather to make legal rules. Paragraph 1 would not contain any legal rule.

54. Mr. TAKEUCHI (Japan), explaining his vote be-

fore the vote, said that his delegation would abstain from voting on the words of paragraph 1 to be put to a separate vote at the request of the Venezuelan representative.

55. His delegation would vote against the remainder of paragraph 1. It felt that the absence of that paragraph from the future convention would not represent a serious gap because, by articles 56, 58 and 59, the Conference had already adopted for delegations to organs and to conferences a number of important provisions dealing with inviolability. In addition, the future convention was also bound to contain what was now paragraph 2 of article 60, conferring inviolability on the papers, correspondence and property of delegations. Delegates would thus have a broad range of privileges and immunities, and he saw no real need for an additional provision to confer inviolability upon private accommodation.

56. Mr. HOFFMAN (Federal Republic of Germany), explaining his vote before the vote, said that his delegation would vote against paragraph 1 of article 60 even in its envisaged new form because it would in practice impose upon host States an obligation to grant inviolability and protection of private accommodation in terms that were totally unacceptable to his delegation. Before playing host to a conference or meeting, a State would have to ask itself whether it could accept the obligation to grant such a broad spectrum of privileges and immunities. The inclusion in the future convention of a provision on the lines of paragraph 1 would almost certainly seriously deter a great many countries from ratifying or accepting it. It was worth noting that the Vienna Convention on Diplomatic Relations of 1961, which was a very well-balanced instrument, had by now been ratified or accepted by over 100 States. The Convention on Special Missions of 1969, on the other hand, had been ratified by only five States in over five years and had not yet entered into force. The two examples clearly illustrated the need to avoid unbalanced provisions that would make it difficult for States to ratify the convention under discussion.

57. Mr. RACELINA (Madagascar), explaining his vote before the vote, said that his delegation strongly supported the principle of inviolability for the private accommodation of delegations. It would therefore support the retention of article 60, and particularly its paragraph 1, because the absence of the latter provision would leave a serious gap in the future convention, as explained by the Expert Consultant.

58. He had also been much impressed by the arguments put forward by the Peruvian representative. In particular, he agreed that the adoption by the Conference of article 47 implied the recognition of the principle of inviolability of the private accommodation of the persons concerned.

59. Mr. GOBBI (Argentina), explaining his delegation's vote before the vote, said that he would vote in favour of paragraph 1 of article 60 without the words on which the Venezuelan representative had requested a separate vote. He would do so because he was fully convinced that a delegation must have some place which enjoyed inviolability. In that connexion, he could not

understand the position of certain delegations which had proclaimed their faith in the principle of inviolability but were not prepared to vote for its recognition in an article of the future convention.

60. The PRESIDENT invited the Conference to vote separately on the following words appearing in paragraph 1 of article 60: first, the words "the same" which appeared before the words "inviolability and protection"; and secondly, the final words of the paragraph "as the premises of the delegation".

The result of the vote was 3 in favour and 30 against, with 35 abstentions.

Those words were not adopted, having failed to obtain the required two-thirds majority.

61. The PRESIDENT put to the vote paragraph 1 of article 60 without the words which had just been rejected.

At the request of the representative of Peru, a vote was taken by roll-call.

Hungary, having been drawn by lot by the President, was called upon to vote first.

In favour: Hungary, India, Iraq, Ivory Coast, Lebanon, Madagascar, Mali, Mexico, Mongolia, Morocco, Niger, Pakistan, Peru, Poland, Qatar, Romania, Saudi Arabia, Spain, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Cameroon, Venezuela, Yemen, Yugoslavia, Zaire, Argentina, Bangladesh, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Chile, Colombia, Cuba, Czechoslovakia, Democratic People's Republic of Korea, Ecuador, Egypt, El Salvador, German Democratic Republic, Guatemala, Holy See.

Against: Ireland, Israel, Italy, Japan, Netherlands, Norway, Republic of Korea, Republic of Viet-Nam, Switzerland, Thailand, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Austria, Belgium, Canada, Denmark, France, Germany (Federal Republic of).

Abstaining: Indonesia, Khmer Republic, Liberia, Malaysia, Philippines, Sweden, Syrian Arab Republic, Finland, Greece.

The result of the vote was 43 in favour and 19 against, with 9 abstentions.

Paragraph 1 of article 60, as amended, was adopted, having obtained the required two-thirds majority.

62. The PRESIDENT put to the vote article 60 as a whole, as amended.

The result of the vote was 46 in favour and 17 against, with 7 abstentions.

Article 60 as a whole, as amended, was adopted, having obtained the required two-thirds majority.

63. Mr. WERSHOF (Canada), speaking in explanation of vote, said that his delegation had voted against paragraph 1 of article 60 and against article 60 as a whole because it considered the article, and paragraph 1 in particular, as being highly unsatisfactory and in some ways meaningless. His delegation had never been of the opinion that it was necessary to make provision in the convention for the inviolability of the private accommo-

dation of delegates. His delegation had, however, demonstrated in several votes that it was willing to accept the principle of inviolability for the premises of missions and for the premises of delegations. It had voted in favour of articles 23 and 54 in the Committee of the Whole. The difficulty in the Conference had been created by the attempts made to delete essential parts of those articles as they had been approved by the Committee of the Whole.

64. Mr. BARAKAT (Yemen) said that his delegation had voted in favour of paragraph 1 of article 60 as amended and in favour of article 60 as a whole because it considered that provision should be made in the convention for the protection of delegates, which would otherwise not be ensured owing to the non-adoption of article 54.

65. Mr. JALICHANDRA (Thailand) said his delegation had voted against paragraph 1 of article 60, as amended, not because it was opposed to the principle of the inviolability of the premises of delegations and the accommodation of delegates, but because it would have preferred the question to be governed by customary international law. For the same reason it had abstained from the vote on article 60 as a whole.

66. Mr. ESSY (Ivory Coast) said that his delegation had voted in favour of the Venezuelan amendment to paragraph 1 of article 60 and in favour of article 60 as a whole, as amended, because it was impossible to disregard the importance of the principle of inviolability in diplomatic relations. The Venezuelan amendment was the only concrete proposal which could have provided a practical solution to the problem confronting the Conference as a result of the rejection of article 54. Although aware of the imprecision of the terms "inviolability" and "protection", he was mindful of the last preambular paragraph of the convention (A/CONF.67/12), which provided that the rules of customary international law would continue to govern questions not expressly regulated by the provisions of the convention.

67. Mr. HELLNERS (Sweden) said that his delegation's abstentions in the votes on article 60 should not be construed as implying opposition to the principle of inviolability. The connexion between article 60, particularly paragraph 1 thereof, and article 54, which had not been adopted, was so apparent that, in the vacuum that had resulted his delegation had been unable to take a firm position on the matter. A further reason for its abstention from the vote on paragraph 1 of article 60 had been its doubts about the possibility of giving effect to the principle of the inviolability of private accommodation which, in the case of the persons covered by the article, would consist, for the most part, of hotel rooms.

68. Mr. SURENA (United States of America) said that his delegation had voted against paragraph 1 of article 60 and against article 60 as a whole, as amended, because it considered that the adoption by the Conference of the article as amended did not constitute progressive development of international law. For the reasons his delegation had stated earlier, it considered

article 60, as adopted, as legally deficient and probably impossible to implement.

69. Referring to the statement made in explanation of vote by the representative of the Soviet Union, he said that his delegation had been quite willing to accept an appropriately qualified provision concerning the inviolability of the premises of the delegation and it was compelled to reject any allegation to the contrary. Furthermore, it could not accept the Peruvian representative's statement that inviolability of the premises of the delegation was a principle of customary international law. In that connexion, reference should be made to the substance of paragraph 3 of the International Law Commission's commentary to article 54 (A/CONF.67/4).

70. Mr. KWON (Republic of Korea) said that his delegation had voted against paragraph 1 of article 60 because it endorsed the comments made by the representative of the Federal Republic of Germany in explanation of vote. It had, however, abstained from the vote on article 60 as a whole, as amended, because it supported the principle of inviolability, considered that a compromise should, if possible, be reached in the matter, and hoped that the Conference would adopt a convention whose provisions were consistent.

71. Mr. MARESCA (Italy), explaining his delegation's vote, said that he had voted against the words in paragraph 1 on which the Venezuelan representative had requested a separate vote. Those words referred back to the provisions of article 54, which no longer existed. His delegation therefore could not but have opposed the inclusion of wording which no longer had even a shadow of a meaning.

72. His delegation had also voted against paragraph 1 of article 60 as amended for compelling practical reasons. It was impossible for a host State to afford special protection to the private accommodation of delegates who resided in hotel rooms.

73. In that connexion, he stressed that the permanent mission of the sending State constituted the organic institutional centre for the application of all the rules relating to members of permanent missions. Likewise, all the privileges and immunities enjoyed by the head of a delegation and by the other delegates properly belonged to the delegation as such. Following the non-adoption of article 54, which related to inviolability of the premises of the delegation, there could be no question of conferring any measure of inviolability upon the private accommodation of members of the delegation.

74. He made an appeal in favour of a spirit of conciliation and compromise. He was alarmed at the way in which one question after another was being decided merely through a process of counting votes. Acceptable rules of international law should be framed in a spirit of understanding and conciliation.

75. Mr. CALLE Y CALLE (Peru) pointed out that, in view of the results of the votes on articles 54 and 60, it would be necessary to reword the provisions of paragraph 1 (e) of article 47.

76. He wished to state that the Peruvian Government would continue to notify in each case the organization concerned, or the conference secretariat as appropriate, and of course the host State concerned, of the location of the premises of the Peruvian delegation; it would also similarly notify them of the location of the private accommodation of Peruvian delegates.

77. He totally disagreed with the remarks of the United States representative. He could say from his own experience that all host States with which he had dealt throughout his career had scrupulously observed the inviolability of both the premises of the Peruvian delegation and of his own private accommodation and that of the members of his staff, and that in doing so, those States had been fulfilling a legal obligation.

78. Mr. PINEDA (Venezuela), explaining his delegation's vote, said that he had asked for a separate vote on certain words in paragraph 1 so that the paragraph, without those words, would give acceptable, though not perfect, expression to a very useful and well-established principle of international law.

Article 38 (Duration of privileges and immunities) (concluded) (A/CONF.67/11/Add.2)

79. The PRESIDENT, observing that the French text of article 38 was now available, suggested that the Conference should take a decision on that article.

80. Mr. MUSEUX (France) said that in practice the authorities of the host State, particularly the frontier authorities, would be unable to apply the provisions of article 38 unless the host had been given due notice of the arrival of the person to whom the provisions of the article related. Accordingly, his delegation requested that article 38 be put to the vote. It would be unable to vote in favour of the article.

81. Mr. RITTER (Switzerland) requested a separate vote on the words "from the moment he enters the territory of the host State on proceeding to take up his post or, if already in its territory" in paragraph 1 of article 38.

82. The PRESIDENT, observing that there was no objection to the Swiss representative's request for a separate vote, invited the Conference to vote on whether the words "from the moment he enters the territory of the host State on proceeding to take up his post or, if already in its territory," should be maintained in paragraph 1 of article 38.

The result of the vote was 36 in favour and 17 against, with 13 abstentions.

The words in question were adopted, having obtained the required two-thirds majority.

83. The PRESIDENT put to the vote article 38 as a whole.

The result of the vote was 48 in favour and 4 against, with 8 abstentions.

Article 38 was adopted, having obtained the required two-thirds majority.

The meeting rose at 11.25 p.m.