

**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.34

34th 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)

34th meeting

Friday, 28 February 1975, at 10.50 a.m.

Chairman: Mr. NETTEL (Austria).

Organization of work

1. The CHAIRMAN said that, at its 3rd meeting, the General Committee had suggested that, in order to speed up the Committee's work the reports of the Drafting Committee should be dealt with after the first reading of all the articles had been completed. The latest date for the completion of the first reading would be 7 March. The Committee would then consider the Drafting Committee's reports on 10 March and the meetings of the Plenary Conference would begin on 11 March. Finally, the time-limit for the submission of amendments to the preamble and the final clauses of the draft articles would be 4 March, at noon.

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 65 and article S of the annex (Exemption from personal services) (A/CONF.67/4, A/CONF.67/C.1/L.101)

2. The CHAIRMAN, pursuant to a decision previously taken, invited the Committee to consider article 65 of the draft articles in conjunction with article S of the annex. No amendments had been submitted to article 65 and there was only one amendment, contained in document A/CONF.67/C.1/L.101, to article S. Since similar amendments had already been discussed three times, he did not think it would be necessary for the sponsors to introduce that amendment.

3. Mr. SURENA (United States of America) said that, for reasons already explained several times, his delegation was opposed to the amendment to article S proposed in document A/CONF.67/C.1/L.101.

4. Sir Vincent EVANS (United Kingdom) referring to document A/CONF.67/C.1/L.101, said that if all the articles in the annex were to contain the long expression proposed, the text of those articles would be very ponderous. He suggested that the Drafting Committee should be requested to examine the words in question in order to find a shorter formula for referring to all those categories of persons.

5. The CHAIRMAN said that the United Kingdom suggestion would be referred to the Drafting Committee.

6. If he heard no objection, he would take it that the Committee could agree to adopt the text of article 65 proposed by the International Law Commission (ILC).

It was so decided.

7. The CHAIRMAN put to the vote the amendment to article S in document A/CONF.67/C.1/L.101.

The amendment was adopted by 32 votes to 4, with 24 abstentions.

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

Article S as a whole, as amended, was adopted by 36 votes to none, with 24 abstentions.

Article 66 and article T of the annex (Exemption from customs duties and inspection) (A/CONF.67/4, A/CONF.67/C.1/L.113, L.117)

9. The CHAIRMAN, pursuant to a decision previously taken, invited the Committee to consider article 66 and the amendments thereto contained in document A/CONF.67/C.1/L.117 in conjunction with article T of the annex and the amendment thereto submitted in document A/CONF.67/C.1/L.113.

10. Mr. MUSEUX (France), introducing his delegation's amendments to article 66 (A/CONF.67/C.1/L.117), said that the first amendment, which would replace the word "official" by the word "administrative" in paragraph 1 (a), was intended to take account of the difficulties which customs officials might encounter in granting exemption from duties, taxes and charges on articles for the administrative and official use of the delegation as a result of the fact that delegations arriving in the host State to attend a conference often did not have the necessary documents to prove that they were acting in their official capacity.

11. Since delegations to conferences sometimes came from countries near the host State and could return to their own countries during the conference, it would not be reasonable for them to have unlimited customs exemptions on articles for their personal use. His delegation's second amendment was therefore intended to limit the customs exemption to articles which were strictly necessary for the personal use of delegations and imported in their personal baggage at the time of their first entry into the territory of the host State to attend a meeting of an organ or conference.

12. The CHAIRMAN said that, since the contents of the amendments to article T contained in document A/CONF.67/C.1/L.113 were well known to the Committee, he did not think it was necessary for the sponsors to introduce them.

13. Mr. MARESCA (Italy) said that his delegation had some doubts concerning the words "in accordance with such laws and regulations as it may adopt" in paragraph 1 of article 66. It interpreted those words to mean that the host State had full freedom to establish rules concerning exemptions from customs duties and inspection and considered that, if those words were to be interpreted in any other way, the Drafting Committee should be requested to find another word to replace the word "adopt".

14. Mr. RAOELINA (Madagascar), referring to the amendment to paragraph 1 (a) proposed by France,

said he wondered whether it meant that all delegations would be subject to customs inspection so that the customs officials might be able to determine whether their baggage actually contained articles for the administrative use of the delegation. He requested the representative of France to provide some clarification on that point.

15. Mr. MUSEUX (France) said that the answer to the question asked by the representative of Madagascar was to be found in paragraph 2 of article 66. He assured the representative of Madagascar that his delegation's amendment was not intended to provide for the inspection of the personal baggage of delegations, unless, of course, a member of a delegation to a conference of short duration arrived in the host State with 500 kg of personal baggage. In such a case, a customs official would be justified in questioning the intentions of the member of the delegation and in inspecting his baggage. His amendment was therefore intended to prevent obvious abuses by delegations.

16. Mr. SHELDON (Byelorussian Soviet Socialist Republic), referring to the amendment to paragraph 1 (a) of article 66 proposed by France, requested the Expert Consultant to indicate whether similar difficulties had arisen with regard to the use of the word "official" during the preparation of the draft articles.

17. Mr. EL-ERIAN (Expert Consultant), replying to the question of the representative of the Byelorussian Soviet Socialist Republic, said that he did not recall that similar difficulties had arisen during the International Law Commission's discussions of the draft articles. He pointed out, however, that the word "official" had been used in the corresponding articles of other conventions.

18. Mr. VON KESSEL (Federal Republic of Germany), referring to the amendment to paragraph 2 of article T contained in document A/CONF.67/C.1/L.113, pointed out that the word "may" appeared in the penultimate line of the English text, while, in similar amendments already submitted, the word "shall" had been used. He wondered whether the sponsors had actually intended to use the word "may".

19. Mr. KUZNETSOV (Union of Soviet Socialist Republics), speaking on behalf of the sponsors, said that an error appeared to have been made in the English translation.

20. Mr. TAKEUCHI (Japan) proposed that paragraph 1 (b) of article T should be amended to include the same words the French delegation had proposed to add at the end of paragraph 1 (b) of article 66.

21. The CHAIRMAN put to the vote the French amendments to paragraph 1 (a) and (b) of article 66 (A/CONF.67/C.1/L.117).

The amendment to paragraph 1 (a) was rejected by 20 votes to 12, with 29 abstentions.

The amendment to paragraph 1 (b) was adopted by 20 votes to 18, with 23 abstentions.

22. Mr. TODOROV (Bulgaria), speaking on a point of order, requested that the vote should be taken again since the results had been so close.

23. The CHAIRMAN said that he saw no reason

why the vote should be taken again. He put to the vote article 66 as a whole, as amended.

Article 66 as a whole, as amended, was adopted by 41 votes to none, with 19 abstentions.

24. The CHAIRMAN put to the vote the amendments to article T in document A/CONF.67/C.1/L.113.

The amendments were adopted by 34 votes to 4, with 24 abstentions.

25. The CHAIRMAN put to the vote the oral amendment to paragraph 1 (b) of article T proposed by Japan. After that a vote would be taken on the article as a whole.

The amendment was adopted by 23 votes to 15, with 24 abstentions.

Article T as a whole, as amended, was adopted by 29 votes to none, with 33 abstentions.

26. Mr. TANKOUA (United Republic of Cameroon), speaking in explanation of vote, said that in his view, in article 66, the word "official" included the word "administrative" and in the context could be interpreted only as referring to use for government purposes. The opening phrase of paragraph 1 of the International Law Commission's text left the host State free to decide for what categories and quantities of goods it would grant exemption from customs duties. He had therefore preferred the flexibility of the original text of the amendment in A/CONF.67/C.1/L.117. He had abstained from the vote on the amendment and on the article as a whole as amended. He had also abstained from the vote on article T as a whole in view of the adoption of the amendment (A/CONF.67/C.1/L.113).

Article 67 and article U of the annex (Privileges and immunities of other persons) (A/CONF.67/4, A/CONF.67/C.1/L.102, L.105, L.114, L.118, L.127)

27. Mr. VON KESSEL (Federal Republic of Germany), introducing his amendment to article 67 (A/CONF.67/C.1/L.102), said that it was a consequential amendment to the adoption of his delegation's amendment to article 36 (A/CONF.67/C.1/L.71). The intention was to model the article exactly on the corresponding article 37 of the Vienna Convention on Diplomatic Relations¹ by reinstating the phrase "who are not nationals of or permanently resident in the host State" appearing in paragraphs 3 and 4 of that article.

28. Mr. SURENA (United States of America), introducing his amendment to delete the article (A/CONF.67/C.1/L.105), said that in his delegation's view, the Conference had a mandate to proceed in accordance with paragraph 2 of Article 105 of the Charter of the United Nations, which referred to privileges and immunities necessary for the exercise of functions. Article 67 was modelled on the corresponding provisions in the Vienna Convention on Diplomatic Relations which had been accepted for permanent missions in the convention under consideration but which were not

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

appropriate for delegations to conferences. There was no reason to suppose that the status provided for delegations in the Conventions on the Privileges and Immunities of the United Nations and of the Specialized Agencies² was inadequate.

29. Sir Vincent EVANS (United Kingdom), introducing his amendment to article 67 (A/CONF.67/C.1/L.118), said that the article related to the privileges and immunities of four categories of persons. With regard to members of families, service and private staff, there was no generally applied rule of international law which entitled them to privileges and immunities. The only relevant provision in the Conventions on the Privileges and Immunities of the United Nations and of the specialized agencies, sections 11 (d) and 13 (d) respectively, referred only to spouses and exempted them from immigration restrictions, aliens' registration and national service obligations. Accordingly, the additional privileges and immunities, granted in respect of those categories of persons in article 67 should be justified on the basis of need.

30. It could scarcely be argued that delegates to conferences needed to be accompanied by members of their families in the same way as members of permanent missions. The families of the latter had been accorded in part II of the convention under consideration the same treatment as members of diplomats' families under the Vienna Convention on Diplomatic Relations, but delegations to conferences were clearly in a different position from permanent missions. There was no need or justification for extending to their families the wide-ranging privileges and immunities proposed in paragraph 1 of the article. For most purposes, the privileges and immunities attached to the delegate himself would suffice, particularly with regard to inviolability of private accommodation and property (article 60) and exemption from dues and taxes (article 64). The privileges contained in articles 59, 61 and 63 were either unjustifiable on grounds of functional need or irrelevant. Accordingly, his amendment would restrict the privileges and immunities granted in paragraph 1 of article 67, to those provided in article 65 and paragraph 1 (b) of article 66 and exemption from aliens' registration obligations.

31. Since the proposed amendment to paragraph 1 would cover all members of families including those of the administrative and technical staff, the reference to such persons could be deleted from paragraph 2. The words "in their personal baggage" should be added to the last sentence of paragraph 2 to bring it into line with the amendment just adopted in paragraph 1 (b) of article 66. He also wished to draw the Drafting Committee's attention to the fact that in view of the amendment adopted to article 61, the concluding part of the first sentence of paragraph 2 beginning with the words "except that" appeared to be redundant.

32. His amendment had originally proposed the deletion of paragraphs 3 and 4; on reflection, he had decided to withdraw that part of his amendment and in its place to propose, as an oral amendment to para-

graph 3, that the phrase "immunity in respect of acts performed in the course of their duties" should be amended to read "the same immunity in respect of acts performed in the course of their duties as is accorded to members of the administrative and technical staff of the "delegation". Such a reformulation was necessary in view of the decision taken to qualify the immunity granted to a delegate in article 61 by an additional paragraph 5, relating to actions for damages arising from accidents.

33. The CHAIRMAN suggested that in view of the fact that similar amendments had already been adopted, an introduction of the joint amendment to article U of the annex (A/CONF.67/C.1/L.114) was unnecessary.

34. Mr. SURENA (United States of America), introducing his proposal to delete article U (A/CONF.67/C.1/L.127) said that his reasons were the same as for his proposal to delete article 67. It was clear, however, from the United Kingdom representative's presentation of his delegation's amendment (A/CONF.67/C.1/L.118) to the latter article, that article 67 could be revised in an acceptable way and he would therefore withdraw his proposal to delete it (A/CONF.67/C.1/L.105) and support the United Kingdom amendment. He wished however to maintain his proposal to delete article U (A/CONF.67/C.1/L.127).

35. Mr. DO NASCIMENTO E SILVA (Brazil) said that the United Kingdom amendment (A/CONF.67/C.1/L.118) was quite unacceptable since it would delete from article 67 all the privileges which the ILC had considered appropriate to grant to families of members of delegations. In the United Kingdom proposals, the spouse and members of family would be exempt only from the personal services enumerated in article 65, from aliens' registration obligations and from the customs duties specified in paragraph 1 (b) of article 66. Their personal baggage would be subject to customs inspection. In brief, they would be treated like tourists. He thought that the United States original proposal to delete the article altogether would be preferable since there would certainly be a sentence in the preamble to the convention under consideration stating that the rules of customary international law would continue to govern matters not expressly regulated in the Convention. He was in favour of maintaining the International Law Commission's text of article 67 and article U.

36. Mr. YAÑEZ-BARNUEVO (Spain) said that in his view, article 67 and article U should establish equality of treatment for the persons concerned. To that end, he proposed that a reference to article R, relating to exemption from dues and taxes, should be inserted in paragraph 2 of article U in view of the similar reference in paragraph 2 of article 67. Furthermore, he proposed that paragraphs 3 and 4 of article 67, which the United Kingdom and United States representatives had withdrawn their proposals to delete, should be added to article U. It might be argued that provisions about service and private staff were unnecessary in the case of observer delegations staying only a short time, but

² General Assembly resolutions 22 A (I) and 179 (II).

the same objection could be made with regard to their inclusion in article 67.

37. The CHAIRMAN accepted the oral amendments proposed by the Spanish representative to article U.

38. Mr. SURENA (United States of America) said that his delegation had difficulties with the annex, particularly since the adoption by the Committee of the formula "head of the observer delegation, other observer delegates or members of the diplomatic staff of the observer delegation", instead of the term "observer delegate". That appeared to imply an expansion of the scope of the annex which had not been contemplated by the ILC and the Spanish oral amendments seemed to expand its scope still further. He therefore could not accept them.

39. Mr. WERSHOF (Canada) reiterated his delegation's disapproval of the whole concept of the annex. It was obvious from a reading of the annex and from the fact that paragraphs 3 and 4 of article 67 had been omitted from article U of the annex, that the Commission had felt that some distinction should be made between temporary observer delegations covered by the provisions of the annex and delegations covered by the provisions of part III. It would be interesting to learn from the Expert Consultant the extent to which the Commission had discussed that matter.

40. Mr. EL-ERIAN (Expert Consultant) agreed that in drafting the provisions of the annex the Commission had intended to prepare regulations governing the privileges and immunities of temporary observer delegations. The Commission had realized that while temporary observer delegations should have sufficient privileges and immunities to enable them to function effectively, the privileges and immunities they were accorded could not be identical with those accorded to delegations covered by the provisions of part III. It was in order to take account of the fact that the functions and needs of temporary observer delegations were different from those of delegations covered by the provisions of part III that some of the provisions found in part III had been omitted from the annex.

41. He wished to draw attention to the fact that although the provisions of the annex had not passed through the usual process of submission to Governments in a provisional form and subsequent re-examination by the Commission in the light of Governments' comments, those provisions had been very carefully examined by the Commission. He hoped that he would have an opportunity at a later stage in the session to explain the interpretation to be given to paragraph 5 of the Commission's general comments to the articles in the annex (see A/CONF.67/4).

42. Mr. RITTER (Switzerland) asked whether the Expert Consultant's reply should be understood in the sense that the differences to which the Expert Consultant had referred applied exclusively to delegations having only the passive task of observing.

43. Mr. EL-ERIAN (Expert Consultant) said that it should be understood that the distinction between various categories of participation referred to in paragraph 5 of the Commission's comments to the annex related

only to delegations to meetings of organs; they did not relate to delegations to conferences.

44. Mr. CALLE Y CALLE (Peru), referring to the United Kingdom's amendment to article 67 (A/CONF.67/C.1/L.118), said that he agreed that there was no need to refer in paragraph 1 of the draft article to articles 60, 63 or 64. In his opinion, however, a reference to articles 59 and 61 and to paragraph 2 of article 66 was necessary. Obviously, a member of a delegation would be unable to function effectively if his spouse or children were arrested or detained. Accordingly, the provisions relating to personal inviolability and immunity from jurisdiction should also be applicable to the members of the family of delegates. Similarly, the personal baggage of members of a delegate's family should be exempt from inspection unless there were serious grounds for presuming that it contained articles not covered by the exemptions mentioned in paragraph 1 of article 66, or articles the import or export of which was prohibited by the law or controlled by the regulations of the host State. He proposed, therefore, that articles 59 and 61 and paragraph 2 of article 66 should be added to the articles referred to at the end of paragraph 1 of the United Kingdom amendment.

45. Referring to the amendment to article U of the annex proposed orally by the Spanish representative, he said that he endorsed the Commission's decision that paragraphs 3 and 4 of article 67 should be omitted from article U.

46. Sir Vincent EVANS (United Kingdom) suggested that the Peruvian representative's subamendment to his delegation's amendment should be put to the vote.

47. Mr. ZEMANEK (Austria) asked whether, if paragraph 1 of article 67 contained a reference to article 61 it should not also contain a reference to article 62.

48. Mr. EL-ERIAN (Expert Consultant) said that the question had been discussed by the ILC. The Commission had decided, however, that it would be understood that members of families would enjoy immunity from jurisdiction in the same conditions as members of delegations and that there was, therefore, no need for a specific reference to article 62, on waiver of immunity.

49. Sir Vincent EVANS (United Kingdom) suggested that the point raised by the Austrian representative was already covered by the provisions of paragraph 1 of article 62.

50. Mr. KUZNETSOV (Union of Soviet Socialist Republics) said that his delegation believed that it could accept the amendment to article 67 proposed by the Federal Republic of Germany (A/CONF.67/C.1/L.102). It could not, however, accept the amendment proposed by the United Kingdom (A/CONF.67/C.1/L.118), the purpose of which was to reduce the privileges and immunities of the persons referred to in article 67. His delegation was in favour of the Commission's text.

51. Mr. MARESCA (Italy) drew attention to the fact that the Vienna Convention on Diplomatic Relations had introduced a revolutionary innovation by ex-

tending diplomatic status to a whole range of persons, including members of family, members of household, members of administrative and technical staff, members of the service staff of delegations and private staff of members of delegations, not previously granted such status under classic international law. His country's delegation to the 1961 Vienna Conference was reluctant to that extension but finally agreed because of the permanent character of the missions covered by the Convention. The trend towards extension of the range of persons granted diplomatic status had been continued in the Convention on Special Missions and it appeared that it would also be continued in the convention the Committee was in the process of drafting. In the opinion of his delegation, privileges and immunities should be confined to those necessary to enable a delegation to function efficiently. The United Kingdom amendment to article 67 represented an attempt to reconcile delegations' divergent views on the subject.

52. Mr. TANKOUA (United Republic of Cameroon) said that the meaning of the phrase "exemption from aliens' registration obligations" in paragraph 1 of the United Kingdom amendment was not clear to his delegation.

53. Sir Vincent EVANS (United Kingdom) explained that exemption from aliens' registration obligations was a privilege already enjoyed under the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies. His delegation had added the phrase to the article because it did not wish to deprive anyone of a privilege they already enjoyed.

54. The CHAIRMAN invited the Committee to vote first on the Peruvian oral subamendment to paragraph 1 of the United Kingdom amendment to article 67. Under that subamendment, the last two lines of paragraph 1 of the United Kingdom amendment would read "immunities provided for in articles 59, 61 and 65 and in paragraphs 1 (b) and 2 of article 66 and exemption from aliens' registration obligations". After

that a vote would be taken on paragraph 1 of the United Kingdom amendment (A/CONF.67/C.1/L.118).

The Peruvian oral subamendment was adopted by 36 votes to 1, with 23 abstentions.

Paragraph 1 of the United Kingdom amendment, as amended, was adopted by 26 votes to 12, with 23 abstentions.

55. The CHAIRMAN said that if he heard no objection he would take it that the Committee agreed to vote on paragraphs 2 and 3 of the United Kingdom amendment to article 67 (A/CONF.67/C.1/L.118) together.

It was so decided.

Paragraphs 2 and 3 of the United Kingdom amendment were adopted by 22 votes to 20, with 18 abstentions.

56. The CHAIRMAN noted that paragraphs 5 and 6 of the United Kingdom amendment had been withdrawn. He invited the Committee to vote on the United Kingdom oral amendment to paragraph 3 of article 67.

The amendment was adopted by 20 votes to 17, with 22 abstentions.

57. The CHAIRMAN invited the Committee to vote on the amendments to paragraphs 3 and 4 of article 67 proposed by the Federal Republic of Germany (A/CONF.67/C.1/L.102). If he heard no objection, he would take it that the Committee agreed to vote on both amendments together.

It was so decided.

The amendments were adopted by 55 votes to none, with 4 abstentions.

58. The CHAIRMAN invited the Committee to vote on article 67, as a whole, as amended.

Article 67, as a whole, as amended, was adopted by 32 votes to 11, with 20 abstentions.

The meeting rose at 1 p.m.

35th meeting

Friday, 28 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 U of the annex (Privileges and immunities of other persons) (continued) (A/CONF.67/4, A/CONF.67/C.1/L.102, L.105, L.114, L.118, L.127)

1. The CHAIRMAN reminded the meeting that, in addition to the two written amendments to article U (A/CONF.67/C.1/L.114 and L.127), the Committee

had before it an oral amendment which had been submitted at the previous meeting by the Spanish delegation, providing, on the one hand, for the mention of article R among the articles listed in paragraph 2 of article U and, on the other, for the addition of paragraphs 3 and 4 of article 67, with the necessary drafting changes, at the end of article U.

2. Mr. RITTER (Switzerland) proposed that the wording of paragraph 2 of article U should be modelled on that of paragraph 2 of article 67, as adopted at the previous meeting.

3. Mr. ZEMANEK (Austria), noting that article U contained a reference to articles of the annex which