

Document:-
A/CN.4/SR.1016

Summary record of the 1016th meeting

Topic:
Representation of States in their relations with international organizations

Extract from the Yearbook of the International Law Commission:-
1969, vol. I

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remained as it stood, property of the mission outside its premises would not be covered either by article 24 or by article 30.

51. Mr. TSURUOKA said he did not believe that the proposed addition to paragraph 1 of article 24 was prompted by an excessive desire for perfection. On the contrary, it reflected a very pragmatic view, and he therefore supported it. The Drafting Committee should perhaps consider, however, whether it was desirable, in a general convention, to deal with *force majeure* in the form of a specific case.

52. Mr. EUSTATHIADES said that, first, he questioned whether limiting the exception to serious threats to public safety was justified. True, it might facilitate adoption of the text, but it might also lead to regrettable inactivity on the part of the authorities in the case of less obviously serious disasters.

53. Secondly, he agreed that provision should be made for the special case of a permanent diplomatic mission and a permanent mission to an international organization occupying the same premises; but it must be remembered that it was because a special mission was to some extent subordinate to the permanent diplomatic mission that, under the text adopted by the Sixth Committee, consent could be given either by the head of the special mission or by the head of the permanent diplomatic mission. Since the situation of permanent missions to international organizations was different, the solution should be different too. The Drafting Committee should consider those two points.

54. Lastly, respect for the text of the 1961 Vienna Convention on Diplomatic Relations should not be carried too far merely for fear of *a contrario* reasoning. If the 1961 Convention was not satisfactory on a particular point, there was no reason to adhere to it. In the present instance, in any event, different treatment of permanent diplomatic missions and permanent missions to international organizations was sufficiently justified by the difference, which had been pointed out, in the kind of premises they occupied.

The meeting rose at 5.55 p.m.

1016th MEETING

Tuesday, 8 July 1969, at 10.10 a.m.

Chairman : Mr. Nikolai USHAKOV

Present: Mr. Albónico, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. Elias, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramanga-soavina, Mr. Rosenne, Mr. Ruda, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor.

Relations between States and international organizations

(A/CN.4/218)

[Item 1 of the agenda]

(continued)

DRAFT ARTICLES PROPOSED BY THE DRAFTING COMMITTEE (continued)

ARTICLE 24 (Inviolability of the premises of the permanent mission) (continued)¹

1. The CHAIRMAN invited the Commission to continue consideration of article 24 as proposed by the Drafting Committee.

2. Mr. ALBÓNICO said that, in his view, the original text of article 25 of the draft on special missions² offered adequate safeguards in case of fire or other disaster; the amendment proposed by Argentina and subsequently adopted by the Sixth Committee³ was unnecessary.

3. He could accept the text of paragraph 1 of article 24, as proposed by the Drafting Committee, on the understanding that agents of the host State could not enter the premises of the permanent mission except with the consent of the head of the mission, as provided in the Commission's original text of article 25 of the draft on special missions.

4. He could also accept paragraphs 2 and 3 of article 24, since they reflected the corresponding provisions of the Vienna Convention on Diplomatic Relations.⁴

5. Mr. ROSENNE said it was unfortunate that the Special Rapporteur was not present, so that the Drafting Committee could have the benefit of his views. In his opinion, the Drafting Committee should be free to scrutinize the texts of the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations⁵ and the draft on special missions adopted by the Sixth Committee at its twenty-third session⁶ and to pick out what was most appropriate for the present draft article 24. The Drafting Committee should not feel itself obliged to give priority to the text of the Diplomatic Convention if it considered it inadequate, incomplete or outdated in any particular respect, since that Convention dealt with quite different matters from those under consideration.

6. The discussion had shown that the premises of the permanent mission could be of two kinds, either a detached set of offices or apartments, or buildings which were open to occupancy by others. There was also, however, a third category, namely, premises occupied by a permanent mission in the headquarters building of

¹ See previous meeting, para. 21.

² See *Yearbook of the International Law Commission, 1967*, vol. II, p. 360.

³ See previous meeting, para. 23.

⁴ United Nations, *Treaty Series*, vol. 500, pp. 106-108, article 22.

⁵ *Op. cit.*, vol. 596, p. 288, article 31.

⁶ See *Official Records of the General Assembly, Twenty-third Session, Annexes*, Agenda item 85, document A/7375, annex I, article 25.

an international organization itself. Such premises were to be found, for example, in the headquarters building of the United Nations Educational, Scientific and Cultural Organization in Paris and in that of the International Civil Aviation Organization in Montreal.

7. In the light of those facts, he wondered whether it was possible for the Commission to propose a categorical text, while at the same time making certain mental reservations to the effect that it could not be applied in many situations which were known to exist.

8. The CHAIRMAN, speaking as a member of the Commission, said there was a very close analogy between permanent diplomatic missions and permanent missions to international organizations, since their tasks were virtually the same. The latter should therefore be given the same privileges, immunities and facilities as the former.

9. Admittedly, article 31 of the 1963 Vienna Convention on Consular Relations provided that the consent of the head of the consular post might be assumed in the situation in question. But State practice did not follow that provision. In most cases, States concluded special agreements on the establishment of consular posts, and those agreements did not include the exception to the inviolability rule contained in article 31 of the 1963 Convention. That applied, in particular, to the many agreements concluded between socialist countries.

10. The solution adopted by the Sixth Committee for special missions could be justified where such missions were not permanent. But for permanent missions to international organizations, it was the 1961 Convention on Diplomatic Relations that should be taken as a model, not the draft on special missions.

11. In any event, the arguments in support of the amendment were technical rather than legal. The aim was to prevent the possible consequences of a fire or other disaster. But nowadays there were many technical methods of doing that without entering the premises of a permanent mission in defiance of the principle of inviolability.

12. In any case, a host State that wished to force an entry into the premises of a permanent mission could always resort to abuse; but in doing so, it would be breaking legal rules and the Commission's task was not to codify abuses. Moreover, the harm done to relations between States by entering the premises of a permanent mission without permission, on the pretext of some disaster, was far more serious than the possible consequences of inability to intervene.

13. Finally, if such a limitation of the inviolability of premises was accepted in the case of permanent missions, there might be a temptation in some quarters to extend it by analogy to the legal status of diplomatic missions. He was therefore entirely against the proposed amendment and hoped the Commission would abide by the text of the 1961 Convention on Diplomatic Relations.

14. Mr. ROSENNE said that he regretted having to disagree with the Chairman, but he thought the Commission should avoid drawing false analogies between

permanent diplomatic missions and permanent missions to international organizations. The key to the whole question was reciprocity, which in the case of permanent missions to international organizations did not exist, since the juridical position of the host State was different from that of the receiving State of a regular diplomatic mission.

15. Mr. BARTOŠ said that he supported the amendment.

16. However, in order to avoid any consequences for permanent diplomatic missions which might result from that exception to the principle of inviolability, an exception to the exception should be made where a permanent diplomatic mission and a permanent mission to an international organization were lodged under the same roof. For if a fire or other disaster occurred, it would not be possible to make a distinction between the premises of the diplomatic mission and those of the permanent mission; the legal régime of the diplomatic mission would take precedence and the exception provided for in the amendment would not apply. Unless an exception were made for that case, the result would be discrimination between diplomatic missions, according to whether or not they occupied the same premises as a permanent mission of their State to an international organization.

17. Mr. USTOR, replying to Mr. Rosenne's point, said that the source of the privileges and immunities of permanent diplomatic missions lay, first, in their representative character, and secondly, in the need to perform their diplomatic functions without hindrance. In his opinion, the situation of permanent missions to international organizations was the same, since they had a representative character and the performance of their duties necessitated the same privileges and immunities as those accorded to permanent diplomatic missions.

18. Certainly, the element of reciprocity did play a large part with respect to diplomatic missions, but the very fact that reciprocity did not play any part with respect to permanent missions to international organizations militated against the acceptance, in the present case, of the provisions contained in the Argentine amendment and the corresponding provision of article 31 of the Vienna Convention on Consular Relations.

19. Mr. EUSTATHIADES said that a layman listening to the Commission's discussions might conclude from the references made to discrimination and reciprocity that the host State itself was liable to set fire to the premises of the permanent mission, or at least to let them burn without taking any action. The difficulty could not be overcome unless the good faith of the host State was presumed. Some legal means must be found to enable the host State to intervene in emergencies where its intervention could only be to the advantage of both the permanent mission and its neighbours.

20. Among the special cases to be considered, that of a permanent mission housed in the same building as the international organization must not, of course, be overlooked. But the Drafting Committee's task would be unduly complicated if it were asked to find a general formula covering that case as well, so it should either

be dealt with in a separate paragraph or mentioned in the commentary.

21. While the Commission should not mistrust the host State too much, it should not go to the other extreme either. The wording of the Argentine amendment adopted by the Sixth Committee allowed the host State a great deal of latitude, for everything depended on how the phrase "that seriously endangers public safety" was interpreted. He therefore considered that while the proposition underlying the Argentine amendment, which was quite right, should be accepted, the idea of "endangering public safety" should be replaced by that of "requiring prompt protective action", which was the formula used in article 31 of the Vienna Convention on Consular Relations, and seemed more satisfactory.

22. Mr. RUDA said he would like to remove what appeared to be a misconception concerning the Argentine amendment. The most important part of article 25 of the Commission's draft on special missions was the idea of the inviolability of the premises of the mission. The Argentine amendment had not been primarily concerned with the question of public safety; that condition came into consideration "only in the event that it has not been possible to obtain the express consent of the head of the special mission or, where appropriate, of the head of the permanent mission".

23. Mr. KEARNEY said that, since the Commission had to draft a rule to cover situations which it could not anticipate in all respects, it should accept the limitation imposed by the Argentine amendment. In addition to the examples cited by Mr. Rosenne, he could think of at least two cases in which premises in Vienna were occupied jointly by United States personnel accredited to the International Atomic Energy Agency and personnel attached to the United States diplomatic or consular missions. In view of the number of unknown situations which might arise, therefore, the best solution would be to adopt the language of the Argentine amendment, with the inclusion of some such phrase as "where appropriate".

24. The CHAIRMAN, speaking as a member of the Commission, said that the absence of reciprocity justified stronger protection of the permanent mission's premises, since the sending State could not take retaliatory measures, as it could in the case of diplomatic relations.

25. With regard to permanent missions housed in blocks of flats or offices, he was not totally opposed to special consideration being given to such cases, but he found it almost impossible to accept the thesis that there was a difference in legal régime. At the very most, it might be stated in the commentary that the situation was technically different, without inferring any legal consequences. He was not, however, opposed to the Drafting Committee's trying to deal with the point, either in the text of the article or in the commentary.

26. Mr. RAMANGASOAVINA said that the wording of the Argentine amendment was ambiguous. The phrase "in the event that it has not been possible to obtain the express consent" of the permanent representative could cover two very different cases: one was

where the permanent representative could not be reached; the other was where he could be reached but refused his consent. In the latter case, if the disaster seriously endangered public safety, could the host State disregard the refusal? The Commission should state its position clearly to help the Drafting Committee.

27. Mr. RUDA said he hoped that the Drafting Committee would give due consideration to Mr. Rosenne's observation concerning the words "other property thereon", in paragraph 3.⁷

28. With regard to Mr. Ramangasoavina's point, if the head of the permanent mission expressly refused his consent, the inviolability of the premises must be respected.

29. Mr. TSURUOKA said that what the Commission had to do was to make provision for a case of *force majeure*. If it was compatible with public safety for the competent authorities of the host State to stand idly by, there could be no question of *force majeure*. He himself would not interpret the amendment adopted by the Sixth Committee as Mr. Ruda had done.

30. At first sight, Mr. Eustathiades' proposal that article 31 of the Vienna Convention on Consular Relations should be taken as a basis seemed to have some advantages, since that article referred not to the rather vague notion of "public safety", but to disasters "requiring prompt protective action", which was far more objective; moreover, the ambiguity in the text adopted by the Sixth Committee, of which Mr. Ramangasoavina had complained, was not to be found in article 31 of the Convention on Consular Relations.

31. He was still in favour of adding a paragraph based on the idea accepted by the Sixth Committee, but thought it would be better to keep closer to the wording of the Convention on Consular Relations. Generally speaking, protection of the interests of the diplomatic mission should take precedence over protection of the interests of the host State, since the latter was in a far stronger position and could call on all the resources of the State. The Commission must, however, make allowances for popular feeling, which, though unjustified, was none the less widespread. Many people believed that diplomats shamelessly exploited the advantages of their status for their personal benefit and to the detriment of the local population. The Commission should therefore be careful, when drafting an article of that kind, to strike a proper balance between the interests involved.

32. Mr. RAMANGASOAVINA said he was not convinced by Mr. Ruda's interpretation of the Argentine amendment. Like Mr. Ushakov, he believed that it was necessary to prevent any possibility of abuse by the host State, and that the wording of the amendment did not make it clear whether it had been impossible to obtain the consent of the head of the mission because he had refused to give it, or because it had not been possible to reach him.

33. In deciding how serious a disaster might be, the authorities could not rely solely on the judgement of the

⁷ See previous meeting, para. 50.

fire brigade; the head of the mission must have a say in the matter. That was why it had been laid down in principle in paragraph 1 that the consent of the permanent representative was required. In order to bring out clearly that the agents of the host State could not disregard a refusal by the permanent representative, the words "as provided in paragraph 1" should be added after the words "express consent", in the Argentine text.

34. Mr. IGNACIO-PINTO said that some solution must be found to enable the agents of the host State to enter the premises of a permanent mission in case of absolute necessity, even without the consent of the permanent representative, when persons or property not belonging to the mission were in danger.

35. The CHAIRMAN observed that the majority of the Commission were in favour of adding a new paragraph stating that, in certain circumstances, the consent of the permanent representative might be assumed. Some members wished it to be worded on the lines of the Argentine amendment to article 25 of the draft on special missions, but other preferred the wording of article 31 of the Vienna Convention on Consular Relations. Others, again, proposed a revised version of article 25 of the draft on special missions. The Drafting Committee should therefore prepare alternative texts reflecting those three positions, and if the Commission did not succeed in reaching agreement a vote would have to be taken.

36. Speaking as a member of the Commission, he drew attention to the danger of preparing several texts on different bases. He would prefer the Commission to follow either article 25 of the draft on special missions or article 31 of the Vienna Convention on Consular Relations. The Drafting Committee could certainly consider the possibility of including, either in the body of the article or in the commentary, a provision to cover the case in which the premises of the permanent mission were in a block of flats or offices.

37. The Drafting Committee might also prepare a variant for paragraph 3 in the light of the discussion. Personally, he was in favour of keeping the present wording, which was modelled on the corresponding article of the Vienna Convention on Diplomatic Relations.

38. Mr. ROSENNE suggested that the Drafting Committee be asked to reconsider the text of article 24 in the light of the discussion. That procedure would conform with the Commission's customary practice. If the Drafting Committee so wished, it could submit two variants for a particular passage, but the Commission should not actually request the Drafting Committee to prepare alternative texts.

39. With regard to emergency situations, he himself preferred the formula used in the second sentence of paragraph 2 of article 31 of the 1963 Vienna Convention on Consular Relations. The Commission could not, however, overlook the fact that, in its discussion of the draft on special missions, the Sixth Committee had not accepted that formula, but had adopted a compromise wording. In the circumstances, he would not press for

the 1963 formula, since it was unlikely to prove generally acceptable.

40. Mr. CASTAÑEDA (Chairman of the Drafting Committee) said he agreed with Mr. Rosenne. The Drafting Committee obviously could not prepare as many variants as there had been opinions expressed. The majority of the Commission seemed to be in favour of providing that, under certain conditions, the consent of the permanent representative might be assumed. It was for the Drafting Committee to decide what form of words was likely to receive the most support; at present, it seemed to be the text of the Argentine amendment to article 25 of the draft on special missions. The majority of the Sixth Committee had certainly had good reason for being reluctant to accept the more radical formula of the Vienna Convention on Consular Relations and preferring the compromise text. The situation in the Commission was the same. Several members were prepared to adopt a rather less rigid formula, and the Drafting Committee might therefore think fit to support it, subject to the amendment suggested by Mr. Ramangasoavina. The Drafting Committee should be left free to choose between several possibilities and then submit a single text to the Commission. That also applied to paragraph 3. The Drafting Committee would decide what was the best form of words in the light of the proposals made in the Commission.

41. The CHAIRMAN suggested that the Drafting Committee be asked to prepare the text it considered most appropriate for article 24. The Commission would take a decision on that text when it was submitted and would vote, if need be, on any amendment that might be proposed orally.

It was so agreed.

ARTICLE 25 (Exemption of the premises of the permanent mission from taxation.)⁸

42. The CHAIRMAN invited the Chairman of the Drafting Committee to introduce the Drafting Committee's text for article 25.

43. Mr. CASTAÑEDA (Chairman of the Drafting Committee) said that the Drafting Committee proposed the following text:

Article 25

Exemption of the premises of the permanent mission from taxation

1. The sending State and the permanent representative shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the permanent mission, whether owned or leased, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this article shall not apply to such dues and taxes payable under the law of the host State by persons contracting with the sending State or the permanent representative.

⁸ For previous discussion, see 994th meeting, para. 58, 995th and 996th meetings.

44. As in article 24, and for the same reasons, the Drafting Committee had substituted the term "permanent representative" for the term "head of the mission". That was the only change in the drafting.

45. The Drafting Committee had considered a substantive question which arose in connexion with paragraph 2. Mr. Ustor had pointed out that the restriction in it worked against sending States which had to lease premises for their permanent mission because they could not afford to buy them. The Drafting Committee had decided to recommend the Commission to adopt the article in its present form and to ask the Special Rapporteur to deal with the problem in the commentary, together with the comments of Governments.

46. The Drafting Committee had also decided to ask the Special Rapporteur to make a more detailed study of the question of reimbursement of dues and taxes, to find out what the practice was in the different countries and then to see if paragraph 2 needed amendment.

47. Mr. ROSENNE said he had some misgivings about the reference to the permanent representative in both paragraphs of article 25. That wording was based on the assumption that the premises of the permanent mission would be either in the name of the sending State or in that of the permanent representative personally. In fact, the title to the premises of a mission was often a very complicated matter and there were cases in which the property was neither in the name of the sending State nor in that of the permanent representative. He therefore suggested that the reference to the permanent representative be dropped from both paragraphs.

48. Article 25 would then be clearly confined to the exemption of the premises of the mission from taxation; the question of the personal exemption from taxation of the permanent representative and the members of the diplomatic staff of the mission was dealt with in article 35.⁹ If it were desired to introduce the personal element into article 25, that could only be done by drawing on the language of article 24 of the draft on special missions, which had been adopted by the Sixth Committee,¹⁰ and referring to "the members of the permanent mission acting on behalf of the mission", instead of to "the permanent representative". The best course, however, would be to drop the personal element from article 25 altogether.

49. Mr. KEARNEY said he supported Mr. Rosenne's suggestion, which would make for clarity. In a federal State, property taxes were usually levied by local authorities. In the United States, there had been considerable controversy between the State Department and various local authorities over the interpretation of the tax exemption provisions of host agreements. A clarification of the text would be very helpful in situations of that kind.

50. Mr. ELIAS said that he too supported Mr. Rosenne's idea. In article 25, the emphasis should

properly be placed on the exemption of the premises as such, as was done in article 32 of the 1963 Vienna Convention on Consular Relations.¹¹ The Drafting Committee should be instructed to take that article as a model. There would then be no danger of overlapping with the provisions of article 35 of the draft which, like article 49 of the 1963 Vienna Convention, dealt with the exemption of certain persons from taxation.

51. Mr. CASTAÑEDA (Chairman of the Drafting Committee), speaking as a member of the Commission, said that the dues and taxes referred to in article 25 were not levied on the owner of the mission's premises personally, but on the building; it would therefore be more correct to state, as in article 32 of the Vienna Convention on Consular Relations, that the premises of the permanent mission "shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered".

52. Mr. ROSENNE said he supported Mr. Elias's suggestion. Paragraph 2 of the article should also be amended, however, by replacing the words "the permanent representative" by the words "the person acting on behalf of the sending State"; that would bring the wording into line with paragraph 2 of article 32 of the Vienna Convention on Consular Relations.

53. Mr. USTOR said that in 1960, when the Commission had formulated article 32 of the draft on consular relations, the article had consisted of only one paragraph which exempted from taxation "the consular premises, whether owned or leased". In paragraph (2) of the commentary, the Commission had stressed that the exemption was "an exemption *in rem*" and had gone on to say that "if this provision was interpreted as according exemption from taxation only to the sending State and head of consular post, but not to the building as such, the owner could charge these taxes and dues to the sending State or head of post under the contract of sale or lease, and the whole purpose which this exemption sets out to achieve would in practice be defeated".¹² Clearly a provision like paragraph 2 of the present article 25 had no place in such a system. For if no exemption were granted to the owner of a building who leased premises to the sending State or the permanent representative, the result would be an increase in the rent, so that the sending State would pay the tax indirectly. A State which was obliged to rent premises for its permanent mission would thus be treated less favourably than a State which could afford to buy property to house its mission.

54. In the circumstances, he suggested that the Commission either drop paragraph 2 or include in the commentary an explanation of the point he had raised.

55. Mr. ELIAS said he was not in favour of dropping paragraph 2. The question whether the property tax should be borne by the owner or by the tenant was

⁹ See 1020th meeting, para. 29.

¹⁰ See *Official Records of the General Assembly, Twenty-third Session, Annexes, Agenda item 85, document A/7375, annex I.*

¹¹ United Nations, *Treaty Series*, vol. 596, p. 288.

¹² See *Yearbook of the International Law Commission, 1960, vol. II, pp. 163 and 164.*

usually settled by the terms of the agreement between them.

56. Mr. BARTOŠ said that in the lengthy discussions on that point at the Vienna Conference on Consular Relations the conclusion had been reached that a question of internal fiscal legislation was involved and that it would be better to pay the dues and taxes, which were sometimes hard to separate from the rent, and then obtain a refund, as was the practice in the United Kingdom, for example.

57. The question raised by paragraph 2 was not so much one of finance as of the existence of treaties of reciprocity. Some States, even wealthy ones, could not acquire property in other States because they did not grant the same privileges in their own territory.

58. He saw no objection to deleting paragraph 2, but he doubted whether the General Assembly would support that decision.

The meeting rose at 1 p.m.

1017th MEETING

Wednesday, 9 July 1969, at 10.15 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Albónico, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. Elias, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Rosenne, Mr. Ruda, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor.

Relations between States and international organizations

(A/CN.4/218 and Add.1)

[Item 1 of the agenda]

(continued)

DRAFT ARTICLES PROPOSED BY THE DRAFTING COMMITTEE (continued)

ARTICLE 25 (Exemption of the premises of the permanent mission from taxation) (continued).¹

1. The CHAIRMAN invited the Commission to continue consideration of article 25 as proposed by the Drafting Committee.

2. Mr. NAGENDRA SINGH said that, in order to meet the point raised by Mr. Rosenne,² it would be advisable either to delete the words "and the permanent representative" in paragraph 1, or to replace them by "and the members of the permanent mission acting

on behalf of the mission", as in article 24 of the draft on special missions.

3. Otherwise, he fully supported the text proposed by the Drafting Committee, which closely followed the wording of the corresponding article 23 of the Vienna Convention on Diplomatic Relations.³ That wording granted the exemption from taxation to the sending State and to its representative. He did not support the idea of making the exemption apply to the property itself. An exemption of that kind would not create any problem where the premises were owned by the sending State, since the property of a sovereign State would be exempt from taxation in the host State; but in the case of premises leased to a mission by a private owner the position would be more complex. He himself would not favour an exemption *in rem*, which would benefit the owner of the building, usually a national of the host State. At New Delhi, the rent restriction legislation in force prevented an owner of leased premises from passing on to the lessee the full amount of the tax levied on the premises. For those reasons, he favoured the retention of paragraph 2.

4. Mr. ALBÓNICO said that, as he understood it, article 25 granted exemption from taxes assessed on the property itself and not from taxes on income derived from the property. The wording of paragraph 1 should therefore be brought more closely into line with the corresponding passage of article 32 of the 1963 Vienna Convention on Consular Relations.⁴

5. He was prepared to accept the concluding proviso "other than such as represent payment for specific services rendered", but was not altogether clear about its scope and meaning. A full explanation of it should be given in the commentary.

6. He also favoured the retention of paragraph 2, but there again the exception stated should be fully explained in the commentary, since the discussion had shown that its meaning was not at all clear.

7. Mr. CASTAÑEDA (Chairman of the Drafting Committee) said that two main points had emerged from the Commission's discussion. The first was that, as Mr. Rosenne had proposed, the words "the permanent representative" should be replaced by the words "the members of the permanent mission acting on behalf of the mission", in order to make the text consistent with article 24 of the draft on special missions.⁵ The reason why that wording had been used in the case of special missions was that a special mission did not always have a head, as was clear from article 9. In the case of a permanent mission, the sending State might wish to have the premises put in the name of a member of the mission, rather than in that of the permanent representative or in its own name. The Drafting Committee could therefore adopt Mr. Rosenne's proposal; but that would mean that article 25 would still be based on the idea behind its present wording.

³ United Nations, *Treaty Series*, vol. 500, p. 108.

⁴ *Op. cit.*, vol. 596, p. 288.

⁵ See *Official Records of the General Assembly, Twenty-third Session, Annexes, Agenda item 85, document A/7375, annex I.*

¹ See previous meeting, para. 43.

² *Ibid.*, paras. 47 and 48.