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A/CN.4/SR.1030

Summary record of the 1030th meeting

Topic:

Representation of States in their relations with international organizations

Extract from the Yearbook of the International Law Commission:-

1969, **vol. I**

1030th MEETING

Wednesday, 30 July 1969, at 10.20 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Ago, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Jiménez de Aréchaga, Mr Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Rosenne, Mr. Ruda, Mr. Tammes, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

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

ARTICLE 44 (Respect for the laws and regulations of the host State) *(continued)*

1. The CHAIRMAN invited the Commission to continue consideration of the text for paragraph 3 of article 44 proposed by the Drafting Committee. Mr. Kearney had now submitted, to replace that text, the following two paragraphs:

> "3. In case of grave and clearly established violation of the criminal law of the host State by a person enjoying immunity from criminal jurisdiction, the sending State shall, unless it waives this immunity, either recall the person concerned or terminate his functions with the mission, as appropriate.
>
> "4. The provisions of this article do not apply to words spoken or acts performed within the Organization or any of its organs in carrying out the functions of the permanent mission. "

2. Sir Humphrey WALDOCK said that most of his misgivings concerning the Drafting Committee's text for paragraph 3 were dispelled by the wording now proposed by Mr. Kearney. The expression "clearly established violation" was preferable to "flagrant violation" and the proposed paragraph 4 was less open to objection than the phrase "committed outside the exercise of his functions", which had been proposed by the Drafting Committee and had given rise to difficulties.

3. Mr. JIMÉNEZ de ARÉCHAGA said he could accept either the Drafting Committee's text or Mr. Kearney's wording although, for reasons which he would explain, he did not believe that the proposed new paragraph 4 was really necessary.

4. Paragraph 3 did not reflect the existing practice, under which the host State enjoyed much greater powers, accompanied by fewer safeguards. The existing headquarters agreements of international organizations gave the host State the right to expel any member of a permanent mission who committed an act which the host State deemed to be contrary to its security or interests. That provision had been generally interpreted as meaning that a right of expulsion existed whether the act constituted a criminal offence or not. Many headquarters agreements, such as those relating to the United Nations in New York, FAO at Rome and IAEA at Vienna, contained purely formal safeguards with respect to the exercise of that right. The only important restriction was that expulsion could not be ordered by a minor official or even by the Minister for Internal Affairs; it must be ordered by the Minister for Foreign Affairs after consultation with the sending State.

5. The most important progressive feature of the texts now under consideration was perhaps the non-recognition of the right of expulsion. Another such feature was the transfer of the obligation to the sending State, which was required to withdraw the offending official. Lastly, there was the requirement of consultation not only with the sending State but also with the organization itself. Since, however, under the texts proposed for paragraph 3, the host State would be denied the right of expulsion, some provision must obviously be made to protect it against the danger of a person who had committed a crime, but enjoyed immunity, remaining in its territory.

6. With regard to the crimes to be covered by paragraph 3, he agreed that it was desirable not to use the word "flagrant", which was a term of art having a special connotation. He would suggest instead the word "manifest". He also favoured the deletion of the words "committed outside the exercise of his functions". Paragraph 3 related to immunity from criminal jurisdiction, which was always absolute. The distinction between official and unofficial acts applied only to immunity from civil jurisdiction.

7. He did not believe it was necessary to add the new paragraph 4 proposed by Mr. Kearney. By virtue of Article 105 (2) of the Charter, and of the corresponding provisions of the constituent instruments of the specialized agencies, representatives enjoyed such privileges and immunities as were necessary for the independent exercise of their functions in connexion with the organization. Those provisions would not in any way be strengthened by inserting in the present draft articles a second line of defence in the form of the proposed paragraph 4.

8. Mr. KEARNEY said that in his proposal, the words "flagrant violation", had been replaced by the words "clearly established violation", and the words "committed outside the exercise of his functions" had been dropped in order to meet the objections raised by some members during the discussion.

9. His proposed paragraph 4 was not legally essential; he had introduced it to allay the apprehensions expressed by certain members. Its purpose was to make it clear that nothing in the draft articles could impair the full liberty of action of members of permanent missions in the performance of their functions within the organization.

10. The text covered all the provisions of the draft articles; it was particularly relevant to those of article 44, paragraph 1, prohibiting interference in the internal affairs of the host State. It might be necessary for a representative, in the exercise of his functions, to attack, within the organization, some aspect of the internal policy of the host State, where that policy was a matter of legitimate concern to the organization.

11. He believed that his proposal constituted the minimum which would satisfy the needs of a host State. The Commission should adopt a text capable of securing the acceptance of the main host States concerned; a text which did not meet those requirements would serve no useful purpose.

12. Mr. CASTRÉN said he had noted the explanation given of the meaning of the word "flagrant" as used in the Drafting Committee's text for paragraph 3, but that word was open to several interpretations. The words "clearly established" went too far in the other direction, for they gave the impression that the person concerned had already been convicted. The word "flagrant" might perhaps be replaced by the word "manifest", or it might be enough simply to speak of grave violation.

13. The additional paragraph 4 proposed by Mr. Kearney was too restrictive. A member of a permanent mission might exercise his functions outside the organization. He was therefore in favour of retaining the phrase "outside the exercise of his functions", as in the Drafting Committee's text.

14. Another question to be considered was that of the members of the family. Either they could be excluded from the scope of article 44 by substituting the words "a member of the permanent mission" for "a person enjoying immunity from criminal jurisdiction", or they could be covered by a stipulation that, in the situation contemplated, they must leave the country within a reasonable time or be liable to expulsion.

15. Mr. ROSENNE said he shared the doubts of other speakers regarding the expression "clearly established violation". Indeed, he saw no reason to adopt any qualification of that type and suggested that the opening words should simply read: "In case of serious violation . . .".

16. He also had misgivings regarding Mr. Kearney's proposed new paragraph 4. In practice, some of the functions performed by a member of a permanent mission would not be "performed within the Organization or any of its organs". For example, a permanent representative could be called upon to appear on a television programme in his official capacity. He therefore suggested that, instead of introducing that additional paragraph, the phrase "committed outside the exercise of his functions" in the Drafting Committee's text for paragraph 3 be replaced by the phrase "committed otherwise than in carrying out the functions of the permanent mission".

17. Mr. REUTER said it was extremely difficult to draft a text which would be acceptable to the principal host States and at the same time provide certain safeguards in relation to the present situation. The headquarters agreements in force gave host States substantial rights, even though they might be reluctant to avail themselves of those rights in practice.

18. The text proposed by Mr. Kearney was a definite step forward, although it was still open to criticism. The word "established" had a very strong connotation in English and the word "manifest" would be more satisfactory. It might perhaps be more straightforward to refer to the existence of serious, specific and concurring presumptions. That would bring out the preventive character of the safeguard provided for the host State.

19. Furthermore the new paragraph 4 raised the problem of the classic distinction in parliamentary law between privilege and immunity. In his view, the protection given to words spoken or acts performed within an organization went beyond immunity, and in fact constituted privilege. Where immunity from criminal jurisdiction existed, that immunity protected the person enjoying it against prosecution for an offence which nevertheless had been committed. On the other hand, even where words might, for instance, be held to be defamatory under the ordinary law, there was no offence if they were uttered within the organization.

20. On the subject of immunity, it was clear that, for lack of a jurisdictional authority competent to define the meaning of the expressions "in the exercise of his functions" and "outside the exercise of his functions", a fairly vague wording would have to suffice. The differentiation was not always easy, as was shown by the jurisprudence of the Court of Justice of the European Communities. The Commission had, however, accepted the principle that rules might be established independently of the means of settling disputes; otherwise no codification would be possible. In the case in point, the settlement of difficulties should be left to the practice of international organizations. In that respect, the machinery for consultation provided for in article 49 might prove very useful.

21. He was therefore inclined to favour the text proposed by the Drafting Committee for the new paragraph 3, provided that at least the word "manifest" was substituted for the word "flagrant".

22. The CHAIRMAN, speaking as a member of the Commission, said he found the text proposed by the Drafting Committee entirely satisfactory. Clearly, it did not cover all the violations that a member of a permanent mission might commit, so it was the procedure laid down in article 49 for consultations between the sending State and the host State, together, if necessary, with intervention by the international organization, that would normally be applicable. Article 44 dealt with exceptional cases in which grave and flagrant violations were committed. Only a special case of that sort justified imposing upon the sending State the obligation to recall the person concerned or to terminate his functions.

23. Which of the two proposed alternatives was used would depend on the legal status of the person concerned. If he was a national of the sending State, that State would have to recall him. If he was not a national of the sending State, then it could only terminate his func-

tions. A similar distinction had been made in article 17.[1] That, at least as he saw it, was how the alternatives in the case of a grave and flagrant violation should be understood.

24. A grave violation was hard to define. It depended on the law of the State in whose territory the violation had been committed. Only certain violations were regarded as grave under all legal systems. That did not, however, justify dropping the qualification "grave". The expression "flagrant violation" denoted an evident or manifest violation in the criminal law of almost all countries. The words "clearly established", "evident" or "manifest" might, of course, be used, but the drawback was that they were not legal terms, whereas the word "flagrant" belonged to legal terminology and was perfectly clear and comprehensible in any system of criminal law.

25. As had already been observed, it was impossible to explain in detail the meaning of the expression "committed outside the exercise of his functions". But it was not the first time that the Commission had had recourse to the idea; it had done so, for instance, in article 40, paragraph 1, adopted at the 1023rd meeting.[2] There could be no question of listing in the commentary all the cases which were or were not covered by the words. But that was no argument against using a form of words which might be regarded as standard, and leaving any difficulties to be settled in practice, in particular, by means of consultations.

26. He had no objection to the wording proposed by Mr. Rosenne, which seemed to express the same idea in a different form.

27. In the text proposed by Mr. Kearney, the word "flagrant" had been replaced by the words "clearly established". That expression was less juridical in character and would give rise to more difficulties.

28. Mr. Kearney also proposed the deletion of the expression "committed outside the exercise of his functions" in paragraph 3, and its replacement by a new paragraph 4 covering only "words spoken or acts performed within the Organization or in any of its organs in carrying out the functions of the permanent mission." Apart from the difficulty of interpreting those concepts, the new provision implied, indirectly at least, that the words spoken and acts performed in the circumstances in question always constituted grave and clearly established violations, since they were excluded from the application of paragraph 3, which was concerned precisely with grave and clearly established violations. He was therefore opposed to the proposed paragraph 4.

29. One might share Mr. Castañeda's doubts about the usefulness of the new paragraph 3, but if the idea of including it in the draft was accepted, the wording proposed by the Drafting Committee was the most satisfactory, subject perhaps to the purely drafting change suggested by Mr. Yasseen, who would prefer the expression "criminal laws" to be substituted for "criminal law".[3] No matter what expression was used, it was the laws or law of the host State which would determine whether it embraced both laws and regulations. The Commission had in mind a broad expression, and it would be as well to explain in the commentary that, in general, the expression covered both laws and regulations.

30. Mr. AGO said he appreciated that the word "flagrant" might cause some difficulty, especially to English-speaking jurists. The idea, however, seemed clear. The reference was to a person who was accused of committing a violation. But it was impossible to know whether the accusation was justified, because the courts were the only authority competent to decide that, and they would be precluded from doing so by the immunity of the person concerned.

31. So what safeguard should be required? The sole requirement could not be that the violation must be a grave one. The essential point was that an accusation should not be lightly made. The violation, even if not established by an objective procedure, must at least be manifest to all. That was what happened when it was "flagrant". The expression "clearly established" was inappropriate, since only a court could "establish" a violation. Though his preference was for the word "flagrant", he would accept the word "manifest", which several members of the Commission were prepared to support, or any other word with a similar meaning.

32. The distinction between acts performed in the exercise of functions and acts performed outside the exercise of functions was a standard distinction. The difficulties to which it gave rise in applying other conventions were settled by practice. The question arose whether it was better to draft a separate paragraph rather than use the expression "outside the exercise of his functions" in paragraph 3.

33. In any event, he would be against any provision limited to words spoken and acts performed at the headquarters of the organization. The hypothetical cases mentioned often concerned acts performed outside the organization or its organs. The Commission should therefore find some way of reverting to the classical distinction.

34. Sir Humphrey WALDOCK said that paragraphs 3 and 4 should be more closely related to paragraphs 1 and 2. In particular, paragraph 3 should be placed after paragraph 1 with which it was directly connected.

35. The original purpose of paragraph 3 had been to protect the host State against grave abuses of privileges and immunities and those abuses would include not only serious offences, such as manslaughter by a drunken driver, but also repeated offences of a less serious character, such as the constant violation of traffic regulations. The retention of the proviso "committed outside the exercise of its functions" would have the effect of altering the purpose of paragraph 3 by placing the emphasis on the protection of the sending State. In fact, the position of the sending State

[1] See *Yearbook of the International Law Commission, 1968*, vol. II, Report of the Commission to the General Assembly, chapter II, section E.

[2] For text, see 1022nd meeting, para. 46.

[3] See 1024th meeting, para. 52.

was already safeguarded by the opening words of paragraph 1: "Without prejudice to their privileges and immunities . . .".

36. He supported the idea dropping the adjective "flagrant" and would be prepared to accept the suggested alternative "manifest". The evidence of the offence would not necessarily be public knowledge; it was sufficient that the offence should be manifest to the two interested parties, namely, the sending State and the host State.

37. Mr. EUSTATHIADES said that the use of the word "established" should be avoided, as it was likely to give rise to some confusion in that it raised the question of the procedure to be used in establishing a violation. The word "manifest" was preferable to the word "flagrant", as it often occurred in legal texts and in international case-law. Perhaps, too, it should be made clear that the provision also covered violations which, though not grave in themselves, were repeated, and it would then be better to say "in case of grave and manifest or repeated violation of the criminal law".

38. Mr. YASSEEN said that the interests of the host State must certainly be safeguarded, but that did not mean opening the door wide to abuses. Penalties must be provided for the most serious cases, but it was necessary to rely on the good faith of States and to assume that, in principle, a sending State would not have the effrontery to maintain in his functions one of its representatives who had committed a crime. The idea was, therefore, that precautions must be taken against abuses on either side, but without going too far.

39. He preferred the word "manifest" to the French word "*flagrante*", which perhaps had no exact English equivalent, and to the words "clearly established", which assumed that some body or procedure existed to establish the violation.

40. It would be better to retain the words "outside the exercise of his functions". A member of a permanent mission might well commit a grave violation not in the exercise of his functions, but incidentally to the exercise of his functions, for example, if during a hostile demonstration against the mission, he committed a violation by going beyond self-defence against a demonstrator. In such cases the matter could be settled directly between the host State and the sending State, but not by virtue of an abstract rule. It should therefore be stated that acts which were grounds for recall must be committed outside the exercise of functions.

41. There was not much need for the paragraph 4 proposed by Mr. Kearney, since it was quite obvious, for example, that a member of a permanent mission who committed a grave violation totally extraneous to his diplomatic functions on the premises of the Palais des Nations should be recalled, even though the act had been performed "within the Organization".

42. Mr. KEARNEY said he was prepared to accept the substitution of the words "manifest violation" for the words "clearly established violation", in paragraph 3 of his proposal.

43. He agreed that the retention of the words "committed outside the exercise of his functions" in paragraph 3 would completely alter the purpose of the paragraph and would probably make it unacceptable to most host States. If, as he assumed, the purpose was to provide protection in respect of words spoken or acts performed within the organization in carrying out the permanent mission's functions, that purpose would be served by his own suggested paragraph 4 or a text on similar lines.

44. Reference had been made during the discussion to the possibility of an appearance on television by a permanent representative. In his view, it would be intolerable for a permanent representative to use such a forum for interference in the internal affairs of the host State. In no circumstances could he admit that such action formed part of a permanent mission's functions with respect to an organization.

45. Leastly, he wished to re-emphasize that it would be extremely unwise to formulate draft articles which did not meet the problems of host States. If the draft articles were to be of any practical use, they would have to be acceptable to the States immediately concerned.

46. Mr. RAMANGASOAVINA said he did not consider that either the word "flagrant" or the word "manifest" was appropriate. The terms were practically synonymous and both conveyed the idea of indisputability, but the word "flagrant" in the expressions "flagrant offence" or "flagrant crime" was a standard term, meaning that the person committing the offence or crime had been caught in the act or pursued by hue and cry. The word "flagrant" could not, therefore, be used in the context with which the Commission was concerned. Furthermore, if the provision was to be restricted to violations of a flagrant character, the word "grave" became open to question, since the gravity of a violation was determined, first, by the laws of the country and, secondly, by repetition of the violation. Hence "grave" and "flagrant" could not be equated.

47. The same applied to the word "manifest". A thing that was manifest needed no proof. But to ascertain the truth an investigation was usually needed. No inquiry or investigation could be made in the case of members of a permanent mission, but proof of a violation could be established by the evidence of witnesses or by serious, specific and concurring presumptions. Offences and crimes, however, especially foul crimes, were not usually committed in the public eye, and an investigation was needed to determine the person responsible. If an investigation was held, the violation was not manifest, but the person who had committed it must nevertheless be prosecuted. In the case with which the Commission was dealing, however, the person who had committed a violation would be subject, not to prosecution, but to recall; it was more appropriate, therefore, to use the words "grave and clearly established violation", as Mr. Kearney proposed, since violations were often neither manifest nor flagrant, but could be established by an investigation.

48. Mr. JIMÉNEZ de ARÉCHAGA said that the word "grave" had been used in article 41, paragraph 1,

of the Vienna Convention on Consular Relations,[4] which provided that: "Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime . . .". The word "flagrant" had a more technical meaning and implied that the offender had been caught red handed while committing a crime.

49. The real issue in article 44, however, was whether to retain the words "committed outside the exercise of his functions", or to adopt Mr. Kearney's proposed paragraph 4, which referred to "words spoken or acts performed within the Organization or any of its organs in carrying out the functions of the permanent mission". In his opinion, Mr. Kearney's wording was rather too restrictive, while the Drafting Committee's expression "committed outside the exercise of his functions", seemed rather too broad, as Sir Humphrey Waldock had pointed out. The problem, therefore, was to find some formula which would strike a proper balance between the two. He suggested that such a balance might be found by combining, in some appropriate way, the introductory clause of Mr. Kearney's paragraph 4 with the language of Article 105 (2) of the Charter, which read: "Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization".

50. The CHAIRMAN said the discussion seemed to show that paragraph 3 should be based on the text proposed by the Drafting Committee. Since opinions were much divided on the expression "outside the exercise of his functions", he suggested that Mr. Ago and Mr. Kearney should consult together informally and work out a satisfactory form of words, and that the Commission should defer its decision till the next meeting.

51. Mr. RUDA suggested that Mr. Jiménez de Aréchaga be asked to participate in the consultations with Mr. Ago and Mr. Kearney.

52. The CHAIRMAN said he accepted that suggestion. If there were no objection, he would take it that the Commission agreed to defer a decision on article 44 pending the discussions between Mr. Ago, Mr. Kearney and Mr. Jiménez de Aréchaga.

It was so agreed [5]

ARTICLE 22 (General facilities)

ARTICLE 23 (Accommodation of the permanent mission and its members) [6] and

ARTICLE 23 *bis* (Assistance by the Organization in respect of privileges and immunities)

53. The CHAIRMAN invited Mr. Ustor to introduce the Drafting Committee's texts for articles 22 and 23 and the suggested new article 23 *bis* together.

54. Mr. USTOR said that the Drafting Committee proposed the following texts:

Article 22

General facilities

The host State shall accord to the permanent mission full facilities for the performance of its functions. The Organization shall assist the permanent mission to obtain such facilities and shall accord to it those which lie within its competence.

Article 23

Accommodation of the permanent mission and its members

1. The host State shall either facilitate the acquisition on its territory, in accordance with its laws, by the sending State of premises necessary for its permanent mission or assist the latter in obtaining accommodation in some other way.

2. The host State and the Organization shall also, where necessary, assist permanent missions in obtaining suitable accommodation for their members.

Article 23 bis

Assistance by the Organization in respect of privileges and immunities

The Organization shall, where necessary, assist the sending State, its permanent mission and the members of the permanent mission in securing the enjoyment of the privileges and immunities provided for by the present articles.

55. The only change which the Drafting Committee had made in article 22 was to delete the second part of the first sentence, which had read: "having regard to the nature and task of permanent missions to the Organization". The Special Rapporteur had wished to retain that phrase, which was taken from the draft on special missions, but he had subsequently cabled two alternative texts and had proposed that those words be either deleted or replaced by the words "having regard to the needs of the permanent mission". The Drafting Committee had finally decided that the phrase was not really necessary, since the idea was already adequately covered by the words "for the performance of its functions". Mr. Kearney had suggested that "full facilities" was perhaps not the best expression, because the second sentence also referred to facilities to be provided by the Organization; [7] the Drafting Committee, however, had thought that that was not really an inconsistency and had decided to retain those words.

56. The Drafting Committee had made no change to either the title or the text of article 23, which remained as approved at the 1015th meeting, but it was proposing article 23 *bis*, which was based on a suggestion by the Chairman,[8] and which it considered a useful provision.

57. Mr. RUDA said that he supported the Drafting Committee's deletion of the phrase "having regard to the nature and task of permanent missions to the Organization" from the first sentence of article 22.

58. With regard to the second sentence of that article, the Special Rapporteur had stated in a communication

[4] United Nations, *Treaty Series*, vol. 596, p. 296.

[5] For resumption of the discussion, see 1032nd meeting, para. 26.

[6] For previous discussion see 1014th and 1015th meetings.

[7] See 1014th meeting, para. 16.

[8] *Ibid.*, para. 32.

from New York that he did not consider it necessary to include a reference to the competence of the organization, first, because the wording might create a number of problems of interpretation and, secondly, because the idea was already covered by article 3 (Relationship between the present articles and the relevant rules of international organizations).[9]

59. The Special Rapporteur had proposed two alternative texts for a second paragraph, concerning the role of the organization. The first alternative read: "The Organization shall render the assistance necessary for the performance of the functions of the permanent mission", while the second read: "Paragraph 1 shall not affect the obligation of the Organization to assist the permanent mission in obtaining the facilities required for its functions". He proposed that the Commission adopt the first alternative.

60. Mr. USTOR said that the Drafting Committee had considered the Special Rapporteur's suggestions, but had finally decided that the second sentence, including the reference to facilities "within its competence", was really necessary.

61. Sir Humphrey WALDOCK said he could accept the text proposed by the Drafting Committee, but suggested, purely from the standpoint of English drafting, that the second sentence be amended to read: "The Organization shall assist the permanent mission in obtaining those facilities and shall accord to the mission such facilities as lie within its own competence".

62. Mr. ROSENNE said it was not clear to him why the first sentence of article 22 should not follow the text of article 22 of the draft on special missions and provide that: "The host State shall accord to the permanent mission the facilities required for the performance of its functions, having regard to the nature and task of the permanent mission".

63. With regard to the second sentence, he thought it might be removed from article 22 and embodied in article 23 *bis*, amended to read: "The Organization shall, where necessary, assist the sending State, its permanent mission and the members of the permanent mission in obtaining the necessary facilities and in securing the privileges and immunities provided for by the present articles".

64. He suggested that the words "if requested" be inserted after the words "The host State shall", in paragraph 1 of article 23. Paragraph 2 of that article was unnecessary, since the idea it contained was already covered by article 23 *bis*.

65. Mr. USTOR said that the Drafting Committee had adopted the wording of the first sentence of article 22 because it considered that the permanent mission should not be accorded any less facilities than were accorded to a diplomatic mission under article 25 of the Vienna Convention on Diplomatic Relations.[10]

66. With regard to the second sentence, he could accept the amendment proposed by Sir Humphrey Waldock, but believed that some reference to the facilities which could be accorded by the organization was important and should be retained.

The meeting rose at 1 p.m.

1031st MEETING

Wednesday, 30 July 1969, at 3.5 p.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Bartoš, Mr. Castrén, Mr. Eustathiades, Mr. Jiménez de Aréchaga, Mr. Kearney, Mr. Reuter, Mr. Rosenne, Mr. Ruda, Mr. Tammes, Mr. Tsuruoka, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Relations between States and international organizations

(A/CN.4/218)

[Item 1 of the agenda]
(continued)

DRAFT ARTICLES PROPOSED BY THE DRAFTING COMMITTEE

ARTICLE 22 (General facilities) *(continued)*

ARTICLE 23 (Accommodation of the permanent mission and its members) *(continued)* and

ARTICLE 23 *bis* (Assistance by the Organization in respect of privileges and immunities) *(continued)* [1]

1. The CHAIRMAN invited the Commission to continue consideration of the Drafting Committee's texts for articles 22, 23 and 23 *bis*. Four amendments to those articles had been submitted.

2. Sir Humphrey Waldock had submitted the following wording for the English text of the second sentence of article 22: "The Organization shall assist the permanent mission in obtaining these facilities and shall accord to the mission such facilities as lie within it own competence". The purpose of that amendment was to bring the English version into line with the French and Spanish versions.

3. Mr. Rosenne had proposed three amendments. The first was the deletion of the second sentence in article 22. The second was the insertion of the words "if requested" after the words "the host State shall" in paragraph 1 of article 23. The third was the insertion of the phrase "in obtaining the necessary facilities and" after the words "members of the permanent mission" in article 23 *bis*, so that the article would read: "The Orga-

[9] See *Yearbook of the International Law Commission, 1968*, vol. II, Report of the Commission to the General Assembly, chapter II, section E.

[10] United Nations, *Treaty Series*, vol. 500, p. 108.

[1] For texts see previous meeting, para. 54.