

Document:-
A/CN.4/SR.1053

Summary record of the 1053rd meeting

Topic:
Other topics

Extract from the Yearbook of the International Law Commission:-

1970, vol. I

*Downloaded from the web site of the International Law Commission
(<http://www.un.org/law/ilc/index.htm>)*

of article 0, was intended to cover both temporary representatives of States and temporary observers. In recent conference practice, the only observers present had been from international organizations, but at the sessions of various United Nations organs, particularly the Economic and Social Council, States which were not members of those organs had adopted the practice of sending observers. No doubt a separate part dealing solely with observer delegations could be included in the draft, but he thought they could be taken together with delegations of representatives. It would, however, be necessary to explain in the commentary that the expression "delegation" covered both temporary representatives and temporary observers.

43. As to the definition of the term "conference", subparagraph (b) should be brought into line with the title of Part IV, which specified "conferences convened by international organizations". Personally, he would have been in favour of extending the scope of the draft to cover all types of conferences, but if the Special Rapporteur wished to limit it to a certain kind of conference, as the title of Part IV suggested, that should be reflected in the language of sub-paragraph (b).

44. Mr. EL-ERIAN (Special Rapporteur) said he would include at the end of his fifth report a note on temporary observers, who were mentioned in a number of headquarters agreements. It would conclude with the suggestion that temporary observers should be covered by the definition of the term "delegation".

45. With regard to conferences not convened by international organizations, he would also append a note at the end of the report, in which he would suggest an article assimilating those conferences to conferences convened by international organizations.

46. During the discussion of the draft convention on special missions in the Sixth Committee, the United Kingdom had proposed that an article on conferences should be included.¹⁰ That proposal had been withdrawn on the understanding that the International Law Commission, when considering the topic of relations between States and international organizations, would deal with the status, privileges and immunities of delegations to international conferences. It was essential that the Commission should do so, because otherwise there would be a gap in the law. The matter was not one that was likely to be dealt with as a separate topic.

47. A conference convened by an organization was regarded as an extension of that organization. The General Convention on the Privileges and Immunities of the United Nations always mentioned representatives to conferences together with representatives to meetings of organs.

The meeting rose at 12.55 p.m.

¹⁰ See *Official Records of the General Assembly, Twenty-fourth Session, Annexes*, Agenda item 87, document A/7799, para. 175.

1053rd MEETING

Thursday, 21 May 1970, at 10.55 a.m.

Chairman: Mr. Taslim O. ELIAS

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. El-Erian, Mr. Eustathiades, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Reuter, Mr. Rosenne, Mr. Ruda, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Humphrey Walcock, Mr. Yasseen.

Filling of casual vacancies in the Commission (article 11 of the Statute)

[Item 1 of the agenda]

1. The CHAIRMAN announced that, at a private meeting, the Commission had elected Mr. José Câmara, of Brazil, Mr. Doudou Thiam, of Senegal, and Mr. Gonzalo Alcívar, of Ecuador, to fill, respectively, the casual vacancies caused by the death of Mr. Gilberto Amado and the resignations of Mr. Louis Ignacio-Pinto and Mr. Eduardo Jiménez de Aréchaga on their election as Judges of the International Court of Justice.

Sixth session of the International Law Seminar

2. The CHAIRMAN invited Mr. Raton, the senior officer in charge of the sixth session of the International Law Seminar, to address the Commission.

3. Mr. RATON (Secretariat) said that he wished first to thank the members of the Commission who had agreed to address participants in the sixth session of the International Law Seminar. There would be twenty-four participants selected from among sixty candidates. Eighteen participants would be coming from developing countries, as a result of a special effort made in accordance with the wishes of the International Law Commission and the Sixth Committee of the General Assembly. That effort had been successful thanks to the generosity of several States which had financed the award of fellowships. Denmark, Finland, the Netherlands, Norway and Sweden had awarded fellowships of \$1,500 each and the Federal Republic of Germany and Israel fellowships of \$1,000 each. In addition UNITAR fellowships had been awarded to four participants. In tribute to the memory of Gilberto Amado, the organizers of the Seminar had decided to give his name to its sixth session.

4. Mr. YASSEEN said he would like to take the opportunity of thanking Mr. Raton for his continuing efforts to ensure the Seminar's success.

Relations between States and international organizations

(A/CN.4/221 and Add.1; A/CN.4/227 and Add.1)

[Item 2 of the agenda]

(resumed from the previous meeting)

ARTICLE 0 (Use of terms) and

ARTICLE 62 (Composition of the delegation) (continued)

5. The CHAIRMAN invited the Commission to resume consideration of articles 0 and 62 in the Special Rapporteur's fifth report (A/CN.4/227/Add.1).

6. Mr. EL-ERIAN (Special Rapporteur) said he withdrew the suggestion he had made at the previous meeting that the word "meeting" should be replaced by the word "session" in sub-paragraph (a) of article 0 (Use of terms).¹ The term "session" was not suitable, because it would not cover all situations. The Security Council, for example, did not hold separate sessions: it functioned continuously.

7. Mr. ROSENNE said that the Drafting Committee would have to scrutinize very closely the words "body of persons" used in sub-paragraph (a) of article 0. Those words could be interpreted as meaning a body corporate in municipal law. They could give rise to difficulties, particularly if the draft articles were later converted into internal law. Moreover, the word "bodies" had already been used by the Commission in sub-paragraph (m) of article 1 (Use of terms)² in quite a different sense.

8. In sub-paragraph (b) of article 0, it would be necessary, following the discussion at the 945th and 946th meetings,³ to adopt more flexible language, because conferences often met for purposes other than "negotiating or concluding a treaty".

9. There was, however, a more fundamental question he wished to raise: was there any real need to define the use of the terms "delegation" and "conference"? The descriptions given were arbitrary and it was possible to point to many examples of delegations and conferences which were not covered by the language used. In fact, the two terms were not used in the draft articles in any very special sense; the meanings attached to them were those given in any dictionary. Since definitions were always dangerous, because they could lead to unexpected results, it would be preferable not to define the terms "delegation" and "conference" at all.

10. He had great difficulties over the group of articles 62 to 64. One difficulty arose from the fact that article 3 as adopted by the Commission in 1968 might well not be applicable in respect of those articles. The safeguard in article 3 related to the "relevant rules of the Organization" and would therefore not cover cases where no relevant rules existed, which were likely to occur quite often where conferences were concerned. For example, at the United Nations Conference on the Law of Treaties, as at other similar conferences, there had been no "rele-

vant rules" until the Conference had adopted its rules of procedure. It had done so at the first plenary meeting; but a conference might well not adopt its rules of procedure so early, and delegations had to be present from the beginning. Moreover, the rules of procedure of a conference of plenipotentiaries would hardly be the "relevant rules of the Organization".

11. The Special Rapporteur had referred in his fifth report (A/CN.4/227, section I, para. 9) to the proposal, made by the United Kingdom in the Sixth Committee of the General Assembly, to include an article on conferences in the draft Convention on Special Missions.⁴ That proposal, which had been limited to privileges and immunities, had been withdrawn on condition that the Committee included in its report a summary of the views expressed during the discussion of the question of conferences. The summary in question contained the following significant passage:

"The Committee was of the opinion that the question of the legal status, privileges and immunities of members of delegations to international conferences... constituted a gap in the law relating to international representation which remained to be filled. Once again, it was necessary to start from the proposition that the status, privileges and immunities should be those necessary to ensure the efficient and independent exercise of their respective functions."⁵

The Sixth Committee had also noted that the International Law Commission, in its work on relations between States and international organizations, would be dealing with "the status, privileges and immunities of delegations to international conferences" and had requested it to take into account "the interest and the views expressed" in the Sixth Committee.⁶

12. The matters dealt with in articles 62 to 64, namely, the composition of the delegation, the appointment of a joint delegation to two or more organs or conferences and the appointment of the members of the delegation, were not covered by the rules of organizations or by the rules of procedure of conferences. They went beyond the question of "the status, privileges and immunities of delegations to international conferences" which the Commission was called upon to discuss.

13. He wondered whether it was really possible, or desirable, to generalize on such subjects. Obviously, the Commission could not dictate to States on matters of that kind. Moreover, the requirements of States differed from one State to another and from one agenda item to another. For example, the requirements of a government regarding its representation in the General Assembly would vary very much according to the subjects discussed. The matter was not one of concern either to the organization or to the host State, nor was it relevant to the question of privileges and immunities.

14. In his view, Part IV of the draft, which in any case

¹ 1052nd meeting, para. 32.

² See *Yearbook of the International Law Commission, 1968*, vol. II, p. 196.

³ Op. cit., 1968, vol. I, pp. 13-25.

⁴ See *Official Records of the General Assembly, Twenty-fourth Session, Annexes*, Agenda item 87, document A/7799, para. 175.

⁵ *Ibid.*, para. 178.

⁶ *Ibid.*

contained a difficult set of provisions, should be confined to the question of the status, privileges and immunities of delegations, with which the Commission was called upon to deal on the basis of the consensus reached by the Sixth Committee at the twenty-fourth session of the General Assembly.

15. Mr. USHAKOV said he would like to raise two preliminary points. First, the Commission would recall that, as stated in paragraph 17 of the report on the work of its twenty-first session,⁷ it had provisionally decided that the draft should include articles on delegations to conferences convened by international organizations, leaving the final decision to be taken at a later stage. He himself was in favour of including such articles, and he thought the Commission should now take a final decision on the matter.

16. The second point was whether it was necessary, useful and possible to draft provisions applicable both to delegations to organs of international organizations and to delegations to conferences convened by international organizations. The situations of the two kinds of delegation were entirely different. The Special Rapporteur had been right to draft two separate sets of articles, one on permanent missions, which concerned member States, and the other on permanent observer missions, which concerned non-member States. He should have done likewise for delegations to organs of international organizations and delegations to conferences, since the former concerned States which were members of the organs, whereas the latter concerned all States. Again, the reference to the relevant rules of international organizations in articles 3, 4 and 5 would apply to permanent missions of member States, to permanent observer missions for non-member States and to delegations to organs of international organizations. But the situation was completely different in the case of delegations to conferences, for which the rules of international organizations were of no consequence whatever, since conferences were fully sovereign organs which adopted their own rules of procedure, and those rules were not subordinate to the rules of any international organization.

17. Being intended to regulate two entirely different situations, each of the articles drafted by the Special Rapporteur raised extremely serious difficulties. For instance, the expression "sending State" in article 64 did not mean the same thing when it referred to delegations to organs of international organizations as it did when it referred to delegations to conferences. In the former case, the sending State was a member State of the organ in question, whereas in the latter case it was any State invited to participate in the conference. The same applied to the word "freely" in article 53. In the case of delegations to organs, if the relevant rule of the organization provided that a State must be represented by a person holding a particular position, there was no freedom of choice, whereas in the case of delegations to conferences the situation was manifestly different, for each State participating was naturally free to

appoint the members of its delegation. Articles 62 and 63, and even article 0, raised equally insuperable difficulties. He therefore considered it impossible to prepare a single draft applying both to delegations to organs of international organizations and to delegations to conferences convened by international organizations.

18. Mr. ALBÓNICO said he thought Part IV was narrower in scope and clearer in intent than the statement by the previous speaker would seem to suggest. Its sole purpose was to regulate the question of the representation of States in conferences convened by international organizations, and it merely put in written form rules which constituted the more or less established practice of the United Nations. In any case the rules embodied in Part IV would only apply in the absence of a relevant rule or practice in the organization concerned; they met a need which was becoming daily more apparent in the various organizations.

19. The description of the use of the term "delegation" in sub-paragraph (a) of article 0 seemed to him to be adequate. With regard to sub-paragraph (b), however, he agreed with Mr. Rosenne that the language should be made broader, because a conference might well meet for a purpose other than that of "negotiating or concluding a treaty". Sub-paragraph (b) should therefore be reworded to state that a conference was a meeting for the discussion of any problem of interest to the participating States.

20. Paragraph (2) of the commentary to article 0 discussed the use of the terms "conference" and "congress", but that was not a question of any great contemporary importance.

21. Article 62, paragraph 1, attempted to regulate the composition of a delegation and thus entered into a matter pertaining to the domestic jurisdiction of the sending State. Each State would act in accordance with its own needs and practices. The matter was quite different from that dealt with in article 56, for in the case of a permanent observer mission it was appropriate to lay down a rule regarding size and to specify that it should not exceed what was "reasonable and normal, having regard to the functions of the Organization, the needs of permanent observer missions and the circumstances and conditions in the host State".

22. He was in general agreement with the Special Rapporteur on the present group of articles, but he might have occasion to speak again on individual provisions.

23. Mr. CASTRÉN observed that in article 0 the Special Rapporteur had given two new definitions which were both necessary and useful. The Special Rapporteur had not commented on sub-paragraph (a) in his report, but he had stated during the discussion that, in his view, the term "delegation" should include participants in all conferences, not merely those convened by international organizations. Since several members did not agree with that interpretation, the Commission would have to settle the question and state its decision in the commentary to the draft articles. With regard to the drafting, sub-paragraph (a) should specify that the "persons charged with the duty of representing a State" had the right, recog-

⁷ Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 10.

nized by the organ of the organization or the conference, to represent the sending State. The word "authorized" might perhaps be used, as it covered both elements: the mandate of the sending State and the consent of the organization or conference. He agreed with Mr. Reuter that the aims and functions of conferences were described too restrictively in sub-paragraph (b), so that it would be necessary to recast the definition of the term "conference" in the way Mr. Reuter had suggested.

24. With regard to article 62, he wondered whether it might not be necessary, or at least useful, to specify in paragraph 1 that every delegation must have a head, as in the case of permanent missions and special missions. Referring to paragraph 2, the Special Rapporteur had explained in paragraph (2) of his commentary that he had given the term "representatives" the same definition as that used in article IV, section 16 of the general Convention,⁸ which seemed right. The commentary also stated that the term "secretaries of delegations" was deemed to refer to diplomatic secretaries, and it might be as well to say so explicitly in the body of article 62, paragraph 2; that also applied to advisers and technical experts, who must have diplomatic status if they were to be regarded as representatives.

25. Mr. Rosenne had expressed some doubt whether the draft articles should include provisions on the legal status of delegations to organs of international organizations and to conferences. His own view was that it was rather hard to say at the present stage whether that part of the draft was necessary, because the Commission had not yet seen the other articles the Special Rapporteur was to submit to it. He could only say that he found some of the provisions already submitted useful. As to Mr. Ushakov's comments, he recognized that there were differences between the situation of delegations to organs of international organizations and that of delegations to conferences convened by international organizations, and that they should be taken into consideration.

26. Mr. NAGENDRA SINGH said it had been suggested that the terms "delegation" and "conference" were so well known that it was unnecessary to define them. He did not think, however, that the meaning of those terms was self-evident and he agreed with Mr. Castrén that they should be defined in the draft articles. It had also been argued that complications would be avoided if a separate chapter were devoted to the privileges and immunities of delegations to conferences, or if that subject was left outside the scope of the draft, but he did not believe that the Commission, responsible as it was for the codification of international law, could leave the privileges and immunities of delegations to conferences undefined. In his opinion, article 0 was necessary, and the Special Rapporteur should be congratulated on having presented the basic material in his commentary. Conferences were a common, well-established feature of international life and they could not be omitted.

27. With regard to the drafting of sub-paragraph (a) of article 0, he agreed with Mr. Rosenne that the term "body of persons" was not entirely satisfactory; he suggested that the phrase should be amended to read "person or persons". The word "session" would not be correct, as it would not cover the meetings of the Security Council, for example. In the circumstances, the existing text, "at a meeting of an organ", was appropriate.

28. As to sub-paragraph (b), he agreed with Mr. Reuter that it was necessary to state explicitly that a conference was convened by an international organization. That would limit the sphere, but it was necessary, because the Commission was primarily concerned with organizations. He had no objection, however, to widening the concept of "conference" to include meetings held to consider matters arising out of problems of international law and the like.

29. He could understand Mr. Ushakov's objection to drafting a single text to cover two entirely different situations, but he still found article 0 generally satisfactory. He agreed with Mr. Castrén, however, that the Drafting Committee should be careful to avoid any overlapping; he suggested, for example, that the term "sending State" should be defined more clearly as the "sending member State" or "sending non-member State", as appropriate. If that would help Mr. Ushakov he would have no objection, although it was not strictly necessary.

30. He hoped that the Special Rapporteur would also include a definition of temporary observers at a conference.

31. Article 62 was acceptable to him, though he would suggest that paragraph 3 could be abbreviated. A delegation had already been defined as covering both an organ and a conference, so the words "to an organ . . . by an international organization" could be omitted. Perhaps the substance of the paragraph, which was that a delegation might include administrative and technical staff, could be incorporated in paragraph 1, so that a separate paragraph 3 would not be necessary.

32. Mr. TAMMES said that the Special Rapporteur's draft articles 0, 62, 63 and 64 represented a substantial contribution to the solution of the problem of the ambiguous status of international conferences—a problem which had been discussed by jurists since the days of the League of Nations.

33. He wished to associate himself with Mr. Reuter's suggestion that the scope of article 0, sub-paragraph (b), should be somewhat extended so as not to limit the purposes of conferences to the negotiation or conclusion of treaties.

34. In his view, a conference was master of its own procedure. The following passage occurred in the report of the Sixth Committee of 28 November 1969:⁹

"Several representatives agreed with the Commission's conclusion that its draft should also include

⁸ See *Official Records of the General Assembly, Twenty-fourth Session, Annexes, Agenda items 86 and 94(b)*, document A/7746, para. 21.

articles dealing with delegations to sessions of organs of international organizations. With regard, however, to delegations to conferences convened by such organizations, some representatives reserved their position. It was said, in this connexion, that an international conference was a sovereign body, irrespective of who convened it."

Nobody could legislate for a sovereign body which did not yet exist; every conference started its independent life at the moment when it was convened and it was not obliged to adopt any model which might have been made for it by the international organization convening it or by the International Law Commission. That the problem was not a purely theoretical one could be seen from article 9, paragraph 2, of the Vienna Convention on the Law of Treaties,¹⁰ which stated that: "The adoption of the text of a treaty at an international conference takes place by the vote of two-thirds of the States present and voting, unless by the same majority they shall decide to apply a different rule". The final clause in that sentence amounted to a reservation of the sovereignty of the conference.

35. What was needed in Part IV, therefore, was some saving clause similar to article 3;¹¹ it might read: "The application of the present articles is without prejudice to any rules adopted by the conference".

36. Mr. AGO said that the Special Rapporteur was specially to be commended because, in drafting the articles on delegations to organs of international organizations and to conferences convened by international organizations, he had had to venture into unknown territory, since there were practically no precedents. The articles he was submitting to the Commission were all the more useful because, although the various kinds of mission and delegation had some features in common, their situations differed widely in many respects, and needed to be regularized. Perhaps the Commission should provide for each possible situation in a different chapter, rather than try to deal with all eventualities together by means of drafting devices which might make the wording of the articles difficult to understand.

37. There was one class of representatives in certain organs of international organizations which the Special Rapporteur had not taken into account in his draft articles. They were not heads of permanent missions to an organization, nor were they delegates to a particular meeting or session of an organ of an organization: they were the permanent representatives of member States *in* or *to* an organ—generally an organ with a small membership, such as the councils of WHO, UNESCO, FAO, ICAO, ITU and UPU. Those representatives were accredited on a permanent basis. The privileges and immunities they enjoyed were extended to them not for one meeting or for one particular session, but permanently. Hence, if the draft referred only to members of

delegations, it would not cover their case, although it was common to the great majority of international organizations.

38. In his view, heads of permanent missions, permanent representatives in certain organs of international organizations, delegates to a particular meeting of an organ and delegates to conferences should be dealt with separately in the draft articles.

39. Mr. CASTAÑEDA congratulated the Special Rapporteur on having submitted to the Commission a set of draft articles containing a substantial amount of innovation. Those articles raised some questions and called for some comment. For example, it might be asked, as Mr. Reuter had asked at the previous meeting,¹² whether the definition in article 0, sub-paragraph (a), should be limited to persons charged with the duty of representing a State, since it would seem that other persons too should be entitled to enjoy privileges and immunities, among them members of the governing bodies of international organizations and highly qualified experts who were members of commissions such as the International Law Commission. The problem posed by the status of such persons brought to mind that other problem which had arisen in labour law in defining the labour relationship, the criterion used there being either dependence or technical subordination. Perhaps, on similar lines, the representative of a State could be regarded as the person who received instructions from his government.

40. As to the question whether to refer to a "meeting" or a "session" of an organ, it might be better just to say "in an organ", in view of the complexity of the subject, which Mr. Ago had well brought out.

41. It had been proposed that the words "convened by an international organization" should be added at the end of sub-paragraph (a), so that the régime for conferences convened by an international organization would be the same as that for an organ of such an organization. Despite Mr. Ushakov's opinion that the two questions should be treated separately, the régime for an organ of an international organization and the régime for a conference convened by it were very much alike, at least so far as codification conferences were concerned. The rules of procedure for such conferences, as established in 1957 for the first Conference on the Law of the Sea¹³ by experts convened by the Secretary-General, were to all intents and purposes modelled on the rules of procedure of the General Assembly, and similar rules had been used at the other conferences. Such conferences were the subject of an agreement between the United Nations and the country in which they met, their secretariat was provided by the Secretariat of the United Nations and it was the United Nations which decided who should participate in them. The resemblance between them and an organ of an organization was therefore very close and that should be reflected in the régime

¹⁰ *United Nations Conference on the Law of Treaties, Official Records, Documents of the Conference*, document A/CONF.39/27 (United Nations publication, Sales No.: E.70.V.5).

¹¹ See *Yearbook of the International Law Commission, 1968*, vol. II, p. 197.

¹² See 1052nd meeting, para. 41.

¹³ *United Nations Conference on the Law of the Sea, Official Records*, vol. II, p. xxxi (United Nations publication, Sales No.: 58.V.4, vol. II).

for privileges and immunities. In the case of other conferences, such as conferences of Heads of State or technical conferences, it was impossible to provide for a uniform régime.

42. He supported Mr. Castrén's proposal that the words "charged with the duty" should be replaced by "authorized" in sub-paragraph (a). In sub-paragraph (b) the words "relations between the States" should be replaced by words with a broader meaning, since the subject-matter of treaties was not confined to those relations. Lastly, the Special Rapporteur should take into consideration, at least in the commentary, the special, though rare, situation in which a State was not wholly free to appoint its representative, as in the case of the World Meteorological Organization, for example, where representatives were required to be specialists responsible for the meteorological services of their countries, and in that of the International Union of Official Travel Organizations, which had a similar requirement.

43. Mr. RUDA said that in his opinion the Commission should conclude consideration of the draft articles as a whole before taking any final decision on the question of delegations to conferences convened by international organizations. The discussion had only increased his misgivings about the desirability of dealing with that question in the draft articles, and he would have to reserve his position until a later stage.

44. He agreed with the criticisms made of the definition of a "conference" in article 0, sub-paragraph (b) and suggested that it might be improved by taking as a basis Sir Ernest Satow's definition, quoted in paragraph (2) of the commentary, which was more comprehensive.

45. He questioned the definition of a "delegation" given in sub-paragraph (a); there appeared to be some contradiction between that sub-paragraph and the provisions of article 62, which referred not only to representatives, but also to administrative, technical and service staff.

46. Another point which caused him some concern was that there was no mention of a problem similar to that contemplated in article 9, paragraph 2, of the Convention on Special Missions,¹⁴ that was to say, the problem of the privileges and immunities of members of a permanent diplomatic mission or consular post who served on a delegation to an organ of an international organization or to a conference convened by such an organization. He thought that that important, practical, everyday problem, which had been appropriately dealt with in the article on the composition of the special mission, should also be dealt with in article 62 of the present draft, on the composition of the delegation.

The meeting rose at 12.55 p.m.

¹⁴ See *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 30*, p. 100.

1054th MEETING

Friday, 22 May 1970, at 10.10 a.m.

Chairman: Mr. Taslim O. ELIAS

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. El-Erian, Mr. Eustathiades, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Rosenne, Mr. Ruda, Mr. Tammes, Mr. Ushakov, Mr. Ustor, Sir Humphrey Wal-dock, Mr. Yasseen.

Letter from the President of the Security Council

1. The CHAIRMAN said he had received the following letter, dated 14 May 1970, from the President of the Security Council:

"I have the honour to transmit to you herewith a copy of document S/9789 which reproduces the text of a letter addressed to me by the Netherlands representative to the United Nations on 5 May concerning the problem of the protection and inviolability of diplomatic agents.

"In the fourth paragraph of that letter, the Netherlands Government requests me to inform not only the members of the Security Council, but also appropriate organs of the United Nations, of its concern at recent infringements of the inviolability of diplomatic agents.

"To meet that request, I have decided to transmit the text of the letter to the President of the International Court of Justice and to the Chairman of the International Law Commission for such purposes as may be desirable.

"Accept, Sir, etc.

Jacques KOSCIUSKO-MORIZET
President of the Security Council"

2. The letter of 5 May 1970 reproduced in document S/9789 read as follows:

"Upon instructions from my Government, I have the honour to bring the following to your attention in relation to the protection and inviolability of diplomatic agents.

"The Government of the Netherlands wishes to recall that from ancient times peoples of all nations have recognized the status of diplomatic agents. Their immunity and inviolability have clearly been established by time-honoured rules of international law.

"The increasing number of attacks on diplomats which have inflicted great danger and hardship and have, in some cases, resulted in loss of life, is a cause of alarm to the Netherlands Government. My Government is of the opinion that such incidents may endanger the conduct of friendly relations between States, and that attacks on the person, the freedom or dignity of diplomats could lead to situations which might give rise to a dispute and as such even could