

Document:-
A/CN.4/SR.904

Summary record of the 904th meeting

Topic:
<multiple topics>

Extract from the Yearbook of the International Law Commission:-
1967, vol. I

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

of the consent "of the State". There would be no objection to that solution from the legal point of view, but there were certain matters, such as notification, which were not mentioned in article 1. The Commission would have to go into the problem in greater detail in its commentary, and explain that notice was required where a special mission was to be sent to more than one State, either successively or simultaneously; the two possibilities should be distinguished in the interests of greater clarity. Also, paragraph 3 (b) of the commentary on article 5 stated that the special mission's "full powers may consist of a single document accrediting it to all the States with which the convention is to be concluded"; from the point of view of legal technicalities, that was a distinctive feature of the subject-matter of article 5.

85. According to the commentary, it was essential for the same special mission to have the same membership and the same task. The Commission might also provide for cases in which the membership was the same but the tasks were not; it should also draw a clear distinction between itinerant missions and simultaneous missions. That was not an academic problem but a real problem, and would become even more pressing in the future.

86. So far as presentation was concerned, the Commission could have drafted a single article beginning with the provisions of article 5 *bis*. That was a point of detail and he would not dwell on it, but he urged that more detailed explanations should be given in the commentary to article 5.

The meeting rose at 12.55 p.m.

904th MEETING

Monday, 22 May 1967, at 3 p.m.

Chairman: Sir Humphrey WALDOCK

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Rosenne, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Mr. Yasseen.

Welcome to Participants in the Third Seminar on International Law

1. The CHAIRMAN, welcoming the participants in the seminar on international law, said he hoped participants would benefit from listening to the Commission's discussions and from the opportunity of exchanging views with members and each other.

Letter from Mr. de Luna's son

2. The CHAIRMAN said that he had received a letter from Mr. de Luna's son in reply to the Commission's

message of condolence on the death of his father. Mr. de Luna's son said that his family had been profoundly moved by the Commission's message. It had been his father's constant wish that the Commission continue its efforts to secure respect for international law by every State and respect for the values of every State so that each enjoyed legal guarantees in a stable peace.

The Commission took note of Mr. de Luna's letter.

Special Missions

(A/CN.4/193 and Addenda; A/CN.4/194 and Addenda)

(resumed from the previous meeting)

[Item 1 of the agenda]

ARTICLES 5 (Sending the same special mission to more than one State) [4] and 5 *bis* (Sending of the same special mission by two or more States) [5] *(resumed from the previous meeting)*¹

3. The CHAIRMAN invited the Commission to continue its consideration of articles 5 and 5 *bis*.

4. Mr. BARTOŠ, Special Rapporteur, said that, on reflection, he had changed his mind about articles 5 and 5 *bis*. On reading the comments sent in by Governments he had had a feeling that the two articles were perhaps superfluous. He had found, however, that all but two of the members of the Commission were in favour of the two texts, subject to a few changes, and the arguments advanced by those members during the debate had convinced him.

5. The Union of Soviet Socialist Republics, the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic had requested the deletion of article 5. Mr. Ushakov had shown some hesitancy, and Mr. Rosenne had taken the view that the Commission should transfer the provisions of article 5 to article 1.

6. Some members of the Commission had wondered whether it was possible to state in article 5 a rule which was not merely a matter of protocol but a rule of law. Since the Commission's last meeting he had studied both theory and practice, and had concluded that it was possible to impose on a State which sent a special mission to more than one State the obligation to inform the receiving States that it was one and the same special mission.

7. Allowances had to be made for the susceptibilities of receiving States which must be given an opportunity to lodge an objection if they considered that their prestige was at stake. Thus the State of Israel and the Arab States were firmly opposed, for political reasons, to the sending of a special mission with the same membership and the same task to both.

8. With regard to notification, it had been suggested² that the word "information" should be used in article 3;

¹ See 902nd meeting, paras. 78 and 80.

² See 902nd meeting, para. 35.

in article 5, subject to the Drafting Committee's approval, the words "prior notice" seemed appropriate. At all events, it was essential that the sending State should inform the receiving State that the same special mission was to visit other States, and should specify which States those were; in the United States, for example, the State Department announced its intention of sending a special mission or an itinerant envoy, and gave details of the route which the mission or envoy would take.

9. Article 5, then, met the need to establish a legal rule and to determine the legal consequences of an existing practice. The Commission could leave it to the Drafting Committee to prepare a text and to state with greater precision the conditions under which a special mission could be considered as one and the same mission.

10. There was no rule obliging a State to receive such special missions, and any State could invoke a change in the composition of a mission, such as the replacement of one person by another of lower rank, as grounds for refusing to receive the mission.

11. Referring to the task of the special mission, some members had questioned whether a special mission which was to negotiate imports of a given commodity in a given country, and which then went to another country to negotiate imports of another commodity, could be regarded as one and the same special mission. In his opinion it could not, unless the task had been defined in such general terms as to cover both sets of negotiations and the States concerned had accepted that definition of the task.

12. As for the link between articles 1 and 5, the provisions of article 1 were general in character, whereas article 5 laid down a particular rule, and he did not think the Commission should combine the two texts into a single article.

13. With regard to the new article 5 *bis*, there were many instances in practice of the same special mission being sent by two or more States to conclude a treaty or to perform a specific task. The Scandinavian countries, for example, often sent a single special mission to negotiate with a third State; Denmark, Norway and Sweden did so regularly and were sometimes joined by Iceland and Finland. The negotiations conducted by such joint missions could lead to the conclusion of bilateral agreements. For example, a special mission sent by the five States in question to Yugoslavia to negotiate the abolition of the visas had prepared a draft text with the representatives of Yugoslavia, and that text had been adopted by each of the six States in the form of a bilateral agreement. That was not an isolated example; the Belgo-Luxembourg Economic Union appointed a single negotiator to conclude treaties on behalf of Belgium and Luxembourg, although the text of each treaty might vary so as to reflect the legislation, especially the labour legislation, of the country concerned. In short, the proposal for a new article 5 *bis* seemed to him to meet a real need.

14. The CHAIRMAN said that it appeared to be the Commission's wish to refer articles 5 and 5 *bis* to the Drafting Committee for revision and the clarification of certain points in the light of the discussion, but without

taking any final decision at that stage as to whether or not they should be retained.

*It was so agreed.*³

ARTICLE 6 (Composition of the special mission) [9]

15. [9]

Article 6

Composition of the special mission

1. The special mission may consist of a single representative or of a delegation composed of a head and other members.

2. The special mission may include diplomatic staff, administrative and technical staff and service staff.

3. In the absence of an express agreement as to the size of the staff of a special mission, the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal, having regard to circumstances, to the tasks and to the needs of the special mission.

16. The CHAIRMAN invited the Commission to consider article 6, the Special Rapporteur's proposals for which were contained in paragraph 21 of the section on that article in his fourth report (A/CN.4/194/Add.1) and in his additional comments on article 6 in document A/CN.4/194/Add.3.

17. Mr. BARTOŠ said that article 6, unlike articles 3, 4, 5 and 5 *bis*, did not give rise to any difficulties.

18. In a special mission, the members, just like the head, represented the sending State within the limits of their powers; that was one of the features which, from the standpoint of composition, distinguished the special mission from the permanent diplomatic mission.

19. With regard to the size of the staff, paragraph 3 contained a clause under which it could be kept within reasonable limits. The same provisions appeared in the two Vienna Conventions. The Conference on Diplomatic Intercourse and Immunities had adopted it by majority vote;⁴ the Union of Soviet Socialist Republics and the United States had voted against it on the ground that every State, by virtue of its sovereignty, was the sole judge of the size of the mission it accredited to another State.

20. The Belgian Government had proposed that the word "delegate" in article 6 should be substituted for the word "representative". He had been in favour of that proposal at first, but had come round to the opinion of most members of the Commission that all the members of the special mission were delegates. A special mission might be composed of a single member, who was then called a "representative"; in that case, the Belgian Government wanted the sole member of the special mission to be called a "delegate". In his view that was a question of terminology which could be settled by the Drafting Committee.

21. He saw no need to distinguish, in the composition of the special mission, any categories other than those of head of the special mission, the members and the staff.

22. The Government of Israel had made a comment (A/CN.4/188) on paragraph 3, but as only a drafting

³ For resumption of discussion, see 926th meeting, paras. 69-73.

⁴ See United Nations Conference on Diplomatic Intercourse and Immunities, *Official Records*, vol. I, 5th plenary meeting, paras. 16-25.

change was involved, and one which he considered justified, he did not think the Commission would wish to dwell on it.

23. The Union of Soviet Socialist Republics, the Ukrainian SSR and the Byelorussian SSR had requested the deletion of paragraph 3, which dealt with the possible limitation of the size of the staff on the grounds that such a provision was unnecessary in view of the tasks which were usually given to special missions and the fact that they were given for a specified time.

24. The Governments of Gabon and Greece had asked for improvements in the text of article 6. He thought the Drafting Committee would be able to meet their wishes.

25. The CHAIRMAN said that the Netherlands Government's comment (A/CN.4/193), to which the Special Rapporteur had referred in his report (A/CN.4/194/Add.1), seemed quite simple. It was that definitions such as "head of the special mission" or "members of the administrative and technical staff" should correspond to those used in the Vienna Convention on Diplomatic Relations.

26. Mr. AGO said that on the whole he agreed with the Special Rapporteur; he was in favour of the drafting amendments designed to improve the text, but he was not convinced of the utility of the proposals by Belgium and by the USSR, the Ukrainian SSR and the Byelorussian SSR.

27. He was not sure, however, whether the Commission had made enough allowance for the varied character of special missions. Article 6 provided that a special mission might consist of a single representative or of a delegation composed of a head and other members; but there were cases where for reasons other than reasons of protocol a State might send a special mission composed of two or three members without designating a head. One was the historical case of a special mission sent by a great Power to another State to re-establish relations which had been broken off; the mission had been composed of two persons of the same rank, neither of whom held the title of head of the special mission. Another possible case was that of a mission consisting of, for instance, the Minister of Foreign Affairs and the Minister of Trade, where, for obvious reasons, the sending State would not wish to subordinate either to the other. He therefore suggested the adoption of a more flexible wording, such as: "... a delegation composed of two or more members from among whom the sending State may designate a head".

28. Mr. CASTRÉN said that he approved of the text of article 6 as a whole, but doubted whether it was necessary to distinguish the members of the special mission from its diplomatic staff. No such distinction was made in the Vienna Convention on Diplomatic Relations, and all the diplomats attached to a permanent mission were included in the category of members of the mission.

29. Some Governments, in their comments, had raised the question whether the Commission was wise to adopt for special missions a different system from that established by the Vienna Conventions. Since the tasks of special missions could vary widely from mission to mission, it was arguable that the rules concerning the composition of such missions should be less strict. If the

special mission's functions were mainly of a technical nature, all its members would normally be technical experts, but it was possible that such a mission would need diplomatic staff as well.

30. On examining the draft articles on special missions it would be found that, generally speaking, the Commission placed the diplomatic staff on the same footing as the members of the special mission where facilities, privileges and immunities were concerned. There were, however, some provisions, such as article 7, paragraph 2, which provided a different regime for the members on the one hand and the diplomatic staff on the other. He was not proposing that the Commission reverse the decision it had taken at the first reading; he merely wished to draw its attention to that problem once again.

31. Mr. USHAKOV said that he supported the proposal submitted by three Governments for the deletion of paragraph 3. That paragraph was based on article 11 of the Vienna Convention on Diplomatic Relations, but the problem had given rise to much discussion and some Governments had entered reservations when signing the Convention.

32. There were some inconsistencies between paragraph 7 of the commentary and paragraph 3 of the article. According to sub-paragraph (a) of paragraph 7 of the commentary, "It is customary for the receiving State to notify the sending State that it wishes the size of the mission to be restricted"; that presupposed the existence of a prior agreement between the sending State and the receiving State. According to sub-paragraph (b), "the agreement on the establishment... limits the size of the mission", while sub-paragraph (c) referred to "preliminary negotiations"; there again, there was clearly a prior agreement. Paragraph 3 of the article on the other hand provided that "the receiving State may require that the size of the staff be kept within limits considered by it to be reasonable and normal".

33. States were always at liberty to conclude a prior agreement in order to limit the size of a mission's staff and, since the Commission had accepted the principle of notification or information, the receiving State could signify its acceptance or refusal before the special mission entered its territory. If the receiving State were left free to impose limits on the size of the staff after the special mission's arrival, that would create serious difficulties and might well prevent the special mission from performing its task.

34. Furthermore, it should be remembered that the special mission was not a permanent mission but a temporary mission, which might be led by a person of high rank such as the Head of State or the Prime Minister; in such a case it was out of the question for the receiving State to pass any comment on the composition of the special mission. Notification was still required, but its purpose was to inform the receiving State, not to enable that State to raise objections to the composition of the special mission. It was inconceivable that a Head of State should be asked to limit the number of persons in his suite or the size of the staff of the mission he was leading. Paragraph 3 should therefore be deleted.

35. Mr. ROSENNE said that he agreed with the Special Rapporteur's conclusions, subject to the necessary drafting changes advocated by a number of Governments.

36. He endorsed Mr. Ago's remarks and was also concerned lest the Commission might be drafting the articles in an unduly rigid form and thereby placing special missions in a strait-jacket which had little connexion with real life.

37. Mr. KEARNEY said that, in view of the fact that the Commission evidently intended to include an article on the sending of the same special mission by more than one State, it would be preferable not to insist on a head being appointed, in case they found it difficult to agree on the person. That would need some consequential changes in article 7 and might create certain problems for ministries of foreign affairs, but the fundamental considerations which Mr. Rosenne had in mind about the need to avoid undue rigidity outweighed the need for precision.

38. Mr. EUSTATHIADES said he agreed with the Special Rapporteur that there was no need to take up the Belgian Government's proposal that the word "delegate" should be substituted for the word "representative". He also agreed with the Special Rapporteur on the other points at issue.

39. The Commission and the Drafting Committee would do well to consider Mr. Ago's proposal that the designation of a head for a special mission should not be made compulsory. Such designation might present difficulties, and not only where the special mission was at a high level. If the proposal were adopted, article 7, paragraph 1, would have to be amended accordingly, perhaps by the insertion of the words "where such a head is designated" after the words "The head of the special mission".

40. Mr. Ushakov's comments on paragraph 3 were most apposite. He himself, however, was concerned mainly with the possibility that, at a time when the special mission was already at work in the receiving State, its staff might be increased to an extent which that State considered excessive and incompatible with the arrangements arrived at by prior agreement. He would therefore prefer paragraph 3 to be retained, but in an amended form less open to the criticism expressed by Mr. Ushakov.

41. The expression "be kept" was ambiguous. It would be better to specify that "the receiving State may, before the special mission is sent, request that the size of the mission be kept within the limits considered by it to be reasonable". Moreover that wording would have the advantage of enabling the receiving State to state its position in advance with regard to any possible reduction or increase in the size of the special mission while its work was in progress.

42. With regard to the Belgian Government's comment on the use of the term "diplomatic staff" (A/CN.4/188), the Special Rapporteur's reply was satisfactory but he would suggest that the Commission amend slightly the end of paragraph 5 of the commentary so as to avoid stating that advisers and experts were necessarily included in the category of diplomatic staff; that was the very point which had prompted the Belgian comment.

43. Mr. YASSEEN said that at the first reading he had expressed some reservations about the idea contained in article 6, paragraph 3.⁵ The ground for those reservations still held good, namely, that a balance had to be struck between the interests of the two States. It was true that, as the Special Rapporteur had pointed out, there were practical reasons why a receiving State might be unable to accept too large a mission. On the other hand, the sending State was entitled to appoint enough persons to enable the special mission to perform its task. A special mission only a few persons strong, on reaching the capital of a foreign State, found itself confronting the entire administration of the other party. Since the sending State was already at some disadvantage on that account, it would be going too far to give the receiving State the final say with regard to the mission's size.

44. Paragraph 3 was not well drafted; the verb "require" was too strong. All that was really involved was an agreement between the States. If the sending State did not accept the receiving State's judgement with regard to the special mission's size, there would be no special mission. It would be better to express the idea differently, perhaps by saying that the size of the special mission was a matter for agreement between the two States. In addition, the subjective criterion—"within limits considered by it to be reasonable"—should be replaced by an objective criterion, such as "within reasonable limits".

45. Mr. TSURUOKA said that he agreed with Mr. Ago on the substance of paragraph 1, but wondered whether the wording of that paragraph as it stood precluded the possibility that the sending State might refrain from designating a head for the special mission. Since there was some doubt on the subject, the Commission might adopt Mr. Ago's proposal in the interests of clarity.

46. That proposal however, raised the question who, if the special mission had no head, was entitled to express its will if its equal members disagreed. It was a point that needed clearing up, perhaps elsewhere in the draft; the lack of a head of the special mission should not be allowed to place the receiving State at a disadvantage.

47. He agreed with Mr. Yasseen about paragraph 3. The initial size of the special mission and the possibility of increasing or decreasing it should be the subject of a prior agreement between the sending State and the receiving State. That was the overriding consideration, but it must not be allowed to thwart the purpose of the draft, which was to facilitate international relations by means of special missions. In practice, if the sending State maintained the size of the special mission in the face of a protest from the receiving State, the special mission would find it harder to achieve its purpose than if the sending State met the receiving State's wishes. The receiving State's objection should, however, be presented in the form of a proposal rather than of a requirement. The main fault of paragraph 3, therefore, was its wording.

48. Mr. USTOR said that he would not dwell on the many questions of drafting which arose in connexion with

⁵ *Yearbook of the International Law Commission, 1964, vol. I, 761st meeting, para. 51.*

article 6, except to recall his remarks on articles 3, 4 and 6 at the 901st meeting⁶ when the Commission began its discussion on article 3.

49. On the substance of paragraph 1, he agreed with Mr. Ago. It was possible that a special mission might consist of two or three members, none of them bearing the title of head of the mission. That possibility was recognized by paragraph (3) of the commentary to article 7, where the second sentence read:

“If it is composed of only two members, the sending State decides whether one shall bear the title of first delegate or head of the special mission.”

The second sentence of paragraph (4) of that commentary added:

“There are in practice instances of special missions whose members are delegates with equal rights under collective letters of credence for performing the tasks assigned to the special mission.”

Clearly, situations of that kind must be kept in mind when drafting article 6.

50. With regard to paragraph 3, he had been much impressed by Mr. Ushakov's arguments in favour of its deletion. The receiving State's interests were sufficiently safeguarded by the need to obtain its consent for sending the special mission.

51. There remained the not very common case of a sending State increasing the size of its special mission by sending additional members in the course of its operations. That problem deserved consideration and his own view was that the receiving State, despite the consent given by it at the time of sending the special mission, had an implicit right to oppose a subsequent disproportionate increase in the size of the mission.

52. Mr. BARTOŠ, Special Rapporteur, said that there were two sides to Mr. Ago's question whether every special mission need have a head. At the domestic level, admittedly, it need not; a special mission often included several ministers, party leaders or other high-ranking persons among whom it was not desired to establish any hierarchy. At the international level, however, in relations with a foreign State, international custom and the rules of procedure of most international conferences required that even in such cases one person should be responsible for representing the mission vis-à-vis the other party.

53. By analogy with the rather exceptional situation where the Head of State was not an individual but a collective body—a situation which other States accepted but in which arrangements were made for one of the persons in question to represent the State vis-à-vis foreign States—the Commission might agree that a special mission should be composed of several equal members, but in that case the sending State would have to designate the member of the mission who was to represent it.

54. It was essential to preserve the distinction between the members of the special mission and the members of the staff of the special mission. That was one of the points

where the draft articles should depart from the Vienna Convention on Diplomatic Relations.

55. Despite Mr. Ushakov's arguments, he was still convinced that the question of the size of a special mission sometimes arose after it had arrived in the receiving State and begun its work there. Paragraph 3 stated a dynamic, not a static, rule. What had initially seemed reasonable and normal might prove excessive or inadequate later on. Furthermore the rule applied “in the absence of an express agreement.” Practice supplied arguments both for and against retaining such a provision in the draft articles. Some States, taking advantage of their material and financial superiority, had unduly increased the size of their special missions, often more for reasons of prestige than to meet any real need. Each case must be considered on its merits.

56. Some of the expressions in paragraph 3 which had been criticized, in particular the words “may require” and “within limits considered by it to be reasonable”, had been taken from article 11 of the Vienna Convention on Diplomatic Relations and also appeared in article 20 of the Vienna Convention on Consular Relations.

57. If the Commission decided to include in the draft a provision similar to those articles 11 and 20 respectively of the two Vienna Conventions, it would still have to decide whether to make it as rigid as, or more flexible than, those articles. Several members had suggested that the idea should be kept but expressed in milder terms; he supported that suggestion.

58. The settlement of any dispute on that issue depended on the political relations between the two States. If those relations were bad, and if the receiving State feared that the sending State was trying to bring political influence to bear on it, it would request the sending State to reduce the size of its special mission and would allege as a pretext that some members of the mission were dealing with matters outside their duties or interfering in the domestic affairs of the receiving State.

59. Some means of settling a dispute should also be indicated. The rule that the receiving State was the sole judge in the matter had been adopted at Vienna under pressure from the smaller States. The Vienna Conferences, however, had left two questions unanswered, namely, what effect the receiving State's decision was to have, and at what point in time the supernumerary persons must leave the country. If the receiving State's request was not complied with, the law would be broken, but the receiving State had no legal remedy except to declare those persons *non grata*, and that was hardly a satisfactory procedure where a number of persons were concerned.

60. Another reason for mitigating the terms of the Vienna Conventions was that a special mission's task might be something entirely new, for which the requisite number of persons could not possibly be decided beforehand.

61. He suggested that it be left to the Drafting Committee to consider the questions of terminology raised by the Belgian Government and the observations made by the Netherlands Government, and that the obligation to designate a head for the special mission be removed

⁶ Paras. 2-4.

on the understanding that, if the sending State did not designate a head, it would designate the member of the special mission who was to represent it vis-à-vis the receiving State. Paragraph 3 should be retained provisionally but the Drafting Committee should be asked to make its terms less rigid.

62. Mr. AGO said that the problem of paragraph 3 was not merely a matter of toning down the wording. The real problem, as Mr. Ushakov had cogently pointed out, depended on the content of the preceding articles.

63. The provision had been included in the two Vienna Conventions because, in the case of diplomatic and consular missions alike, the sending State was free to decide by whom and by how many persons it would be represented. If the sending State was equally free to decide the composition of a special mission, paragraph 3 was necessary. If, however, the Commission laid down in a preceding article a rule requiring the sending State to inform the receiving State in advance of the composition of the special mission so that the receiving State might present its objections if any, that was an adequate safeguard and paragraph 3 was unnecessary.

64. It remained to consider the hypothetical case, envisaged by Mr. Ustor and the Special Rapporteur, of an increase in the size of the special mission while its work was in progress. But if the sending State had stated in advance how large the special mission was to be, it could make no drastic change in the size of the mission without the agreement of the receiving State; otherwise it would be in breach of the original arrangements.

65. Everything depended, therefore, on the wording adopted for articles 1 and 3. In any case, as Mr. Amado had often reminded the Commission, it must be assumed that States had sufficient experience to be able to cope with exceptional situations.

66. Mr. BARTOŠ, Special Rapporteur, said that he agreed with Mr. Ago. If, however, the Commission decided to delete paragraph 3, it should explain in the commentary that it had done so because the draft provided that the sending State should give the receiving State notice of the composition of the special mission and that the receiving State should have an opportunity to object. Then the Commission would not incur the reproach of having neglected an important provision of the Vienna Conventions.

67. The CHAIRMAN said that, leaving aside for the time being the question of paragraph 3, the Special Rapporteur's proposals had met with approval and the Commission could now refer article 6 to the Drafting Committee for consideration of the various points which had arisen during the discussion.

68. With regard to paragraph 3, he noted that some members wished to delete it outright; others thought that it was useful but that its wording needed to be revised in order to take account of the different situation of special missions; lastly, Mr. Ago had stated that the Commission's final view on the retention of paragraph 3 would depend on its ultimate decision with regard to articles 1 and 3. That meant that it would be premature to discuss now the question of the omission of paragraph 3

and of any explanation that might be given in the commentary for its omission.

69. Mr. CASTAÑEDA said he did not believe that it would be a satisfactory solution to delete paragraph 3 and explain the deletion in the commentary. Paragraph 3 was necessary in order to deal with the case in which there was no agreement between the sending State and the receiving State regarding the size of the mission; where an agreement existed on that point, there was no problem.

70. The CHAIRMAN suggested that article 6 be referred to the Drafting Committee for consideration in the light of the discussion; the Drafting Committee would examine, in the light of its decisions concerning earlier articles, the question whether paragraph 3 was necessary.

*It was so agreed.*⁷

The meeting rose at 6.5 p.m.

⁷ For resumption of discussion, see 926th meeting, paras. 74-98.

905th MEETING

Tuesday, 23 May 1967, at 10 a.m.

Chairman: Sir Humphrey WALDOCK

Present: Mr. Ago, Mr. Albónico, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. Eustathiades, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Mr. Yasseen.

Special Missions

(A/CN.4/193 and Addenda; A/CN.4/194 and Addenda)

(continued)

[Item 1 of the agenda]

ARTICLE 7 (Authority to act on behalf of the special mission) [14]

Article 7

[14]

Authority to act on behalf of the special mission

1. The head of the special mission is normally the only person authorized to act on behalf of the special mission and to send communications to the receiving State. Similarly, the receiving State shall normally address its communications to the head of the mission.

2. A member of the mission may be authorized either by the sending State or by the head of the special mission to replace the head of the mission if the latter is unable to perform his functions, and to perform particular acts on behalf of the mission.

2. The CHAIRMAN invited the Commission to consider article 7, the Special Rapporteur's proposals for which were contained in paragraph 20 of his comments on that article in his fourth report (A/CN.4/194/Add.1) and in