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Summary record of the 951st meeting

Topic:
Representation of States in their relations with international organizations

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cerning relations with the host State. The wording of article 6 could be extended to cover that function.

80. Several speakers had dwelt on the notion of representation, and different opinions had been expressed on the right of representation and the scope of that function. Some speakers regarded it as the most important function, and it had been suggested that it should be listed first. He himself thought it preferable for the article to be in general terms. The intention was not to exclude other forms of representation; but it could not be denied that the permanent mission had a certain representational function. Mr. Rosenne had drawn the Commission's attention to the fact that the official documents of the United Nations and the specialized agencies used the term "permanent representatives".

81. With regard to sub-paragraph (c), it was true that a permanent mission could negotiate, but not on all questions. For example, it could not conclude a treaty, as was clear from article 12 (A/CN.4/203/Add.2). The draft contained other articles restricting the right of representation as well as that of negotiation.

The meeting rose at 6 p.m.

951st MEETING

Tuesday, 11 June 1968, at 10 a.m.

Chairman: Mr. Erik CASTRÉN

Present: Mr. Ago, Mr. Abónico, Mr. Amado, Mr. Bartoš, Mr. El-Erian, Mr. Eustathiades, Mr. Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Rosenne, Mr. Tammes, Mr. Ushakov, Mr. Ustor, Mr. Yasseen

Relations between States and inter-governmental organizations

(A/CN.4/195 and Add.1; A/CN.4/203 and Add.1-2; A/CN.4/L.118 and Add.1-2)

[Item 2 of the agenda]
(continued)

ARTICLE 6 (Functions of a permanent mission) (continued)¹

1. The CHAIRMAN invited the Commission to continue consideration of article 6.

2. Mr. KEARNEY said that to some extent he shared Mr. Ago's concern regarding the delicate problem of representation raised by sub-paragraph (b). The wording of that provision could be construed as having a bearing on the internal political arrangements of the sending State regarding representation in international organizations. It could be taken as prejudicing the question who was entitled to represent a particular State, and difficulties might then arise when the sending State wished to appoint some prominent person to act as its representative for a

particular purpose, instead of the permanent representative.

3. He supported the idea that article 6 should be cast in the form of a descriptive article, which would largely avoid those political difficulties.

4. Mr. USHAKOV said he wished to refer to the question, raised by Mr. Reuter, whether article 6 was descriptive or whether it stated residuary legal rules. In his opinion, the article was descriptive, like article 3 of the Vienna Convention on Diplomatic Relations,² which began similarly, with the words "The functions of a diplomatic mission consist, *inter alia*, in", and went on to enumerate various functions. It would be difficult to regard such a formula as stating a rule: the word "consist" suggested a description rather than a rule, and the words "*inter alia*" showed that the description was not exhaustive. At the most it might be said that there was a mixture of two elements in such articles, the content of which did represent residuary legal rules to some extent. The drafting of article 6 could probably be improved, but no formal statement of a residuary legal rule should be attempted in it.

5. Mr. ROSENNE suggested that, in order to overcome the difficulties that had been pointed out, the words "consist *inter alia* in", should be replaced by the words "comprise in particular", the formula used in article 72 of the 1966 draft on the law of treaties.³

6. Mr. EL-ERIAN (Special Rapporteur) said that apart from some drafting questions and certain discrepancies between the English and French texts, the main issues raised had related to the nature of the article and the two principal functions of representation and negotiation.

7. It had been argued that a permanent mission did not properly possess the function of representation, which belonged to *ad hoc* representatives at meetings of the organization concerned. But a distinction should be made between representatives of States to a meeting of an organ of the organization, who sometimes included the permanent representative, and the representation of States to the organization as an entity. The permanent representative's main duty was to provide liaison with the Secretary-General, who, in that context, acted on behalf of the organization.

8. Paragraph 2 of draft article 6 on the law of treaties, adopted by the Committee of the Whole at the first session of the Vienna Conference, specified that "representatives accredited by States to an international conference or to an international organization or one of its organs" were considered as representing their State "for the purpose of the adoption of the text of a treaty in that conference, organization or organ".⁴ The Vienna Conference had thus accepted the idea that the permanent representative was accredited to the organization itself.

9. Some doubts had been expressed regarding negotiation although, as stressed by several members, it was part of the daily work of a permanent representative,

² See United Nations, *Treaty Series*, vol. 500, p. 98.

³ See *Yearbook of the International Law Commission*, 1966, vol. II, p. 269.

⁴ A/CONF.39/C.1/L.370.

¹ See previous meeting, para. 27.

especially in technical matters. In article 12 (Full powers and action in respect of treaties) (A/CN.4/203/Add.2) he had drawn a distinction between negotiation, for which representatives did not need special powers, and the signing of a treaty, for which they were required to furnish evidence of their authority to sign on behalf of the State. That distinction was consistent with the terms of the draft articles on the law of treaties adopted at the first session of the Vienna Conference.

10. The fear expressed that the function of negotiation specified in article 6 might overlap with the functions of *ad hoc* representatives, was rather exaggerated. Later articles dealing with such *ad hoc* representatives referred to the rules of procedure of the organization concerned, and those rules invariably required full powers to be produced.

11. The recognition in article 6 of the functions of representation and negotiation thus represented a general statement of the functions of a permanent mission which should cause no difficulty.

12. Mr. Ushakov had pointed out that it was the head of a permanent mission, rather than the mission itself, which represented the State. That point was made clear in paragraph 3 of the commentary, which explained that the head of a permanent mission was the spokesman of its government. But it was not desirable to have two separate provisions in the draft, one dealing with the functions of a permanent mission and the other with the functions of the head of the mission.

13. It had been asked whether the provisions of sub-paragraph (e) covered relations between permanent missions: that was precisely the type of activity he had had in mind when drafting them. Permanent missions did not merely serve to provide liaison with the secretariat of an organization; they also served for purposes of *inter se* relations, especially when no diplomatic relations existed between the two sending States concerned, or when such relations had been broken off. A permanent mission should not confine its activities to serving the interests of the sending State in the narrow sense; it should have the purposes and principles of the organization at heart and help to strengthen the organization and to fulfil those purposes and principles. Perhaps the Drafting Committee would consider making the language of sub-paragraph (e) more explicit.

14. It had been suggested that the order of the sub-paragraphs should be changed for reasons of logic. He had followed a chronological order, placing first the function of liaison, which had been the first historically. Permanent missions had first developed as a means of liaison between the United Nations Secretariat and Member States in the intervals between sessions of the main organs. The liaison function was the *raison d'être* of permanent missions and constituted their main work; it was also the characteristic feature distinguishing permanent missions from diplomatic missions. The order of the sub-paragraphs could be settled by the Drafting Committee.

15. The enumeration in article 6 was not, of course, exhaustive and the commentary could explain that, apart from the functions listed, permanent missions also occa-

sionally undertook functions vis-à-vis the host State and even, in certain rare cases, functions of diplomatic protection. Such protection might be given, for example, when the responsibility of the organization was involved in a claim concerning a national of the sending State.

16. The question had been raised whether the provisions of the article should be of an expository character or should state legal rules. He thought it would be rather dangerous to attempt a clear-cut answer to what was largely a doctrinal question. In most cases, a rule was of a hybrid character; a provision which had been framed as a descriptive rule could well contain some regulatory elements. The converse was also true, as shown by some of the criticisms made of the Commission's draft on the law of treaties, which had been framed as a draft convention, but nonetheless included some descriptive elements.

17. At the risk of giving an over-simplified answer, however, he would say that the main purpose of article 6 was to describe the practice as it had developed, though it might contain some regulatory elements. The position called to mind the distinction between codification and progressive development: when the Commission codified an existing rule of international law, its formulation often included not only codification, but also the seeds of progressive development.

18. It had been suggested that the provisions of article 6 should be made expressly subject to those of other articles of the draft; but in view of the general reservation in favour of the particular rules of the organization contained in article 4, he did not think that type of reservation was necessary.

19. Summing up the views of the Commission, he noted that there was general agreement to include an article on the functions of permanent missions, and broad agreement on the functions themselves. The Drafting Committee would consider whether to describe more fully the functions specified in sub-paragraph (e) and whether to mention in the commentary the possibility of a permanent mission performing functions of diplomatic protection and functions in relation to the host State, especially where the sending State had no diplomatic mission in the host State.

20. He proposed that article 6 should be referred to the Drafting Committee for consideration in the light of the discussion.

21. Mr. AGO said he regretted that he could not entirely share the optimism of the Special Rapporteur regarding the extent of agreement in the Commission. He was still very concerned about the misunderstanding to which the article might give rise. The difficulty derived from the fact that the Commission was dealing with questions concerning permanent missions of States to international organizations as though such missions were an institution established by a custom as long-standing as that of diplomatic missions. In fact, however, the practice was quite recent, and States adopted very diverse attitudes. Some entrusted very extensive and important tasks to their permanent missions, instructing the head of the mission, for example, also to represent them in the organs of the organizations in question; others merely used their permanent missions to maintain liaison with secretariats

between the sessions of organs, for which they appointed special representatives. It was very difficult to find a formula which covered such a variety of cases.

22. The question whether the article was descriptive or whether it created a legal obligation was not theoretical, nor was it one the Commission could avoid answering. Either the Commission intended to confine itself to describing what generally happened, in which case the article might say both too little and too much—too little because the enumeration of functions was incomplete, and too much because the functions enumerated might be too extensive—or the Commission intended to lay down some sort of rule establishing that permanent missions must have those functions; but in that case it would be innovating and modifying practice, and he could not believe that that would be a really progressive development of international law.

23. Article 6 needed much more thought. If the Commission referred it to the Drafting Committee, that Committee's task would go far beyond mere drafting; it would have to try to settle the remaining questions of substance. Unless those questions were clarified, he could not support the adoption of the article.

24. Mr. EUSTATHIADES said that, on reflection, he found the problem less complicated than did Mr. Ago. The fundamental question was obviously that of representation. That was why he had suggested at the previous meeting that the article should contain a reservation concerning the provisions of Part III of the draft.⁵ It seemed that the Special Rapporteur preferred not to begin or end the article with such a reservation for technical reasons. He would not press his suggestion, especially as, taking everything into consideration, the reservation was not absolutely necessary; for the draft did contain, in article 11, an accurate reflection of United Nations practice. In that article, the Special Rapporteur recognized that permanent missions had no right of representation, and it provided all the necessary flexibility. It was self-evident that even without an express reservation, article 6 in no way detracted from the validity of the rule stated in article 11.

25. The question of relations with the host State belonged more to the subject-matter of article 8 (A/CN.4/203/Add.1), the commentary on which could be amplified to reflect the ideas which various members of the Commission had expressed on the matter.

26. As to the more general question whether article 6 was descriptive or whether it stated rules—in other words, whether it stated what the functions of the permanent mission could be or what they must be—he did not think the answer was particularly important. Even if article 6 stated rules, it would still be subject to the general reservation in article 4 concerning the particular rules of each international organization. There was no doubt that the practices and rules of existing organizations were safeguarded; at the very most, the effect of article 6 would be to steer those organizations in a particular direction if they were undecided. New organizations set up in the future would also be entitled not to attribute all the functions listed to permanent missions. Article 6 would there-

fore contain a minimum of progressive development. After all, it would do no harm if the Commission, while safeguarding the full freedom of existing and future organizations, could guide them towards a little more uniformity in regard to the functions of permanent missions.

27. In view of the foregoing considerations, he would not insist on the article being purely descriptive. He was not opposed to its having a law-making character.

28. Mr. KEARNEY said he was still concerned about the heavy emphasis placed, in article 6, on the functions of permanent missions in relation to a variety of international organizations. The main issue was that the exercise of functions was determined by the sending State; for example, it was for that State to decide whether it wished its permanent mission to negotiate with the secretary-general of an organization or whether it preferred to send a special representative for that purpose.

29. He therefore suggested that the words "as determined by the sending State" be inserted after the words "The functions of a permanent mission".

30. Mr. USHAKOV said that none of the sub-paragraphs of article 6 created any right or obligation, either for the sending State or for the organization. The article did not state any legal rule; it merely indicated the reasons for which permanent missions were established. Hence he did not understand why it raised difficulties.

31. The drafting could probably be improved, particularly in sub-paragraphs (b) and (c); in sub-paragraph (e), the English wording "within the organization" was better than the French "*avec l'organisation*". The opening phrase could also be worded differently, but the purport of the article would remain the same.

32. Mr. REUTER said he understood that the general feeling was in favour of article 6 being purely descriptive. He could accept that point of view, although he had raised two other questions.

33. The first was whether, having regard to article 4, article 6 stated a residuary rule for the case in which neither the constituent instrument nor the rules of procedure of the organization contained any provisions concerning permanent missions. The general feeling seemed to be that the answer to that question was in the negative.

34. The second question was whether, in view of the fact that sub-paragraphs (a) to (e) referred only to functions relating to the organization, the inference was that, unless otherwise agreed, permanent missions could exercise functions only with regard to the organization, to the exclusion, for example, of functions concerning relations with the host State. He thought the commentary could specify that, where appropriate, plurality of functions was permissible.

35. It was clear from the last statement made by Mr. Eustathiades that, even if article 6 was purely descriptive, it could have some sort of psychological influence. If it was considered as representing normal practice, it could serve as a guide in the event of disagreement as to the functions of permanent missions. If the Commission wished the article to have that character, it should be drafted

⁵ See previous meeting, para. 33.

in extremely broad terms, beginning with a formula such as: "The functions of permanent missions are generally connected with the following activities".

36. If it subsequently appeared that the Commission wished the article to state a positive rule, the drafting problem would be quite different.

37. Mr. AGO said that the essential point was to safeguard the freedom of States as to the functions they entrusted to their permanent missions to organizations. For reasons which concerned them alone, some States preferred to concentrate all powers in the permanent mission, whereas others made it responsible only for routine contacts, and appointed special representatives, who were sometimes permanent, to organs.

38. It was especially important to avoid giving the impression that article 6 invited States to choose representation through permanent missions rather than some other arrangement. With the draft in its present form, however, article 6 inevitably gave that impression, if only because the articles relating to permanent missions were placed first. Relations between States and an organization were governed primarily by the rules of the organization. Article 6 should be so worded as to convey that a State could entrust its permanent mission with the functions enumerated, but was in no way obliged to do so.

39. The CHAIRMAN,* speaking as a member of the Commission, said that the fact of enumerating some of the functions of a permanent mission did not mean that a State could not entrust those functions to other organs. That point could be made clear in the commentary.

40. Mr. EL-ERIAN (Special Rapporteur) said he had based article 6 on existing practice, in which he had tried to detect a general pattern or common denominator. An article of that type must not be too restrictive, so as not to inhibit the development of practice.

41. The provisions of article 6 were no more than a factual statement of the practice, which showed that the permanent representative represented the sending State in its relations with the organization as an entity, not merely in its relations with the secretariat. Permanent missions conducted daily negotiations with, for example, the President of the General Assembly and the President of the Security Council of the United Nations.

42. In the circumstances, the provisions of sub-paragraph (b) did not represent any innovation, especially as the representative character of a mission was the very foundation of the diplomatic immunities and privileges granted to its members.

43. The wording of article 6 did not in any way restrict the freedom of the sending State to designate *ad hoc* representatives, just as the provisions of the 1961 Vienna Convention on Diplomatic Relations in no way prevented a State from appointing a special mission to discharge specific functions.

44. The CHAIRMAN said that, if there were no objection, he would assume that the Commission agreed to refer article 6 to the Drafting Committee for consideration in the light of the discussion.

*It was so agreed*⁶

* Mr. Castrén.

⁶ For resumption of discussion, see 980th meeting, paras. 74-124.

ARTICLE 7

45.

Article 7

Appointment of the same permanent mission to two or more organizations

The sending State may appoint the same permanent mission to two or more organizations.

46. The CHAIRMAN said that although articles 7 and 8 appeared together in the Special Rapporteur's report (A/CN.4/203/Add.1), with a joint commentary, he thought they should be considered separately, since they dealt with two different questions.

47. Mr. EL-ERIAN (Special Rapporteur), introducing article 7, said that it was based on article 5 of the Vienna Convention on Diplomatic Relations and the similar article of the draft on special missions. The article reflected the existing practice of appointing a permanent mission to represent a State in its relations with a number of organizations; that practice had developed more particularly at Geneva, where many States were represented by permanent missions, both to the United Nations Office and to the various specialized agencies with headquarters there.

48. The text of the article, unlike that of article 5 of the Vienna Convention on Diplomatic Relations, did not contain a provision requiring absence of objection by the organizations concerned; such a requirement was not part of the practice of international organizations.

49. Mr. YASSEEN said he was in favour of article 7, which faithfully reflected current practice. In his opinion, the question of acceptance by the organization did not arise.

50. Mr. REUTER said he shared the view expressed by Mr. Yasseen. He merely wished to ask the Special Rapporteur one question, and a secondary one at that. Since persons sent to an organization permanently by non-member States were termed "observers", and their position was the subject of articles 53-56 of the draft,⁷ was the intention that a permanent mission to one or more organizations should be able to perform the functions of an observer in another organization?

51. Mr. USHAKOV said he approved of article 7 in general, but feared that its drafting might be open to misunderstanding. For example, it could be interpreted to mean that a permanent mission to the United Nations Office at Geneva could also perform functions in the Organization of African Unity, although that organization was very far away from Geneva. Again, the draft contained articles referring to the seat of a permanent mission and the seat of an organization. For instance, article 18 (A/CN.4/203/Add.2) provided that a permanent mission should have its seat in the locality in which the seat of the organization was established. That being so, could a permanent mission to organizations having their seats at Geneva perform functions in an organization having its seat at Berne, for example?

52. He thought the word "appoint" was inappropriate, but that was merely a question of drafting.

⁷ A/CN.4/203/Add.5.

53. Mr. BARTOŠ said he too considered that article 7 reflected the existing practice. If the letter of articles 5 and 7 was strictly adhered to, however, article 7 would only be applicable if the international organizations in question had their seats in the same locality. But a recent survey showed that many permanent missions to the United Nations Office at Geneva were also accredited to organizations which did not have their seats at Geneva, such as FAO, certain organizations whose seats were at Berne, and UNESCO. Thus there were exceptions to the rule that a permanent mission was established only at the seat of an organization. To cover that case, article 7 should perhaps include the words "at the seat of one of the organizations". In any case, article 5 should be revised to bring it into line with the practical situations covered by article 7.

54. The term "sending State" was not out of place in article 7, but it should be defined in article 1, so that the definitions corresponded to the terminology used in the articles.

55. Provision should also be made, either by adding to article 7 or by inserting a new article, for the situation referred to in article 5, paragraph 3, of the Vienna Convention on Diplomatic Relations, which stipulated that: "A head of mission or any member of the diplomatic staff of the mission may act as representative of the sending State to any international organization". In principle, he was not opposed to plurality of functions; but the State Department had pointed out a definite objection to it in international practice. The members of a permanent diplomatic mission were bound by certain obligations to the State to which they were accredited. They had a duty not to interfere in the internal affairs of that State or criticize its policy, and they also had duties of courtesy towards the host State. But it was sometimes the duty of the head and members of a permanent mission to an international organization to criticize certain States, which might include the State to which they were accredited as diplomatic representatives. That was a possible source of conflict. At Vienna, however, the majority of delegations had been in favour of allowing the heads and members of diplomatic missions to be accredited to international organizations as permanent representatives, without obtaining the consent of the State to which they were accredited.

56. The addition he was requesting concerned a different situation from the one covered by article 8 of the draft. That article authorized the sending State to instruct its permanent representatives to an international organization to represent it in relations with the host State or neighbouring States as well. The situation covered by article 5, paragraph 3, of the Vienna Convention on Diplomatic Relations, which should also be dealt with in the present draft, was the converse: the diplomatic agents accredited to a State were instructed at the same time to represent the sending State in an international organization.

57. Mr. KEARNEY agreed that article 7 was an acceptable statement of the existing practice. In order to make it less restrictive, however, he proposed that the words "or members thereof" should be added after the words "the same permanent mission".

58. Mr. ROSENNE said that he had no objection to article 7 as drafted, but he seriously doubted whether it was really necessary; as the Special Rapporteur had already explained in paragraph 4 of his commentary, the corresponding provisions of the Vienna Convention on Diplomatic Relations and of the draft articles on special missions dealt with the question of the *agrément* of the receiving State, but since no question of *agrément* arose in the case of permanent missions to international organizations, the provision lost its *raison d'être* in the present draft. He suggested, however, that all the material contained in the commentary on article 7 should be included in the commentary on article 6.

59. Some members had expressed the view that the words "The sending State" should be replaced by the words "Member States", but he thought the former expression was correct in the present context. The Federal Republic of Germany, which was not a Member of the United Nations, maintained a permanent mission in Geneva, which was accredited to the United Nations Office as well as to the specialized agencies there.

60. As to a diplomatic mission to a State acting as a permanent mission to an international organization, some receiving States were hesitant about recognizing that practice because of the incompatibility of the functions. He hoped the Commission would not be too eager to recognize it.

61. Mr. EUSTATHIADES pointed out that in paragraph 2 of the commentary, the French version used the words "*la mission en tant qu'organe*" to translate the English phrase "the mission as a body". The English phrase was perfectly clear; it meant the whole mission, that was to say all its members. The French translation was incorrect. Perhaps the phrase could be amended to read "*les membres de la mission dans son ensemble*".

62. He supported the proposal made by Mr. Kearney, for it was not necessarily the permanent mission itself that would be accredited to another organization, but probably one or more of its members.

63. Mr. USTOR said he was in favour of retaining article 7, because it was a useful statement of existing practice. He supported Mr. Kearney's proposal, however, since, as stated in paragraph 2 of the commentary, it must be assumed that article 7 covered "the instances where the permanent representative or other members of the permanent mission were appointed to represent their country at two or more organizations during the same period".

64. He supported the proposal that the words "The sending State" should be replaced by the words "Member States". Permanent missions to the United Nations, for example, could be established only by Member States; representatives of non-Members had the status of observers. It had been suggested that the Federal Republic of Germany maintained a permanent mission to the United Nations Office at Geneva, but its status was, in fact, only that of an observer and to refer to it as a mission to the United Nations was not good law.

65. Mr. BARTOŠ pointed out that the Federal Republic of Germany was a member of certain United Nations organs, including the Economic Commission for Europe. It was also a member of several specialized agencies. Its

representative at Geneva was thus permanent representative to certain organs of the United Nations and to some other agencies, and at the same time observer to the United Nations. The representative of the Holy See was in a similar position. The Holy See was a member of several international organizations having their seats at Geneva and its representative to those organizations was also an observer in the United Nations. Those were cases in point. The two functions were combined under the title of permanent mission, which had been selected by the State in question and was tolerated by the United Nations.

66. The Universal Postal Convention specified that UPU was a union of countries, not States—a provision which had been used as a pretext for denying East Germany the capacity to be a member. That interpretation, which was of a political character, had been approved on several occasions by a majority of the member countries. The question arose whether or not the member countries of UPU could establish permanent missions to that specialized agency, in other words, whether there was an inter-State relationship, a relationship between States and an international organization, or something else, and whether members of that organization, as a specialized agency brought into relationship with the United Nations, had the right to participate in international conferences convened by the United Nations to draw up major conventions unifying and codifying various branches of international law (law of the sea, diplomatic law, consular law, law of treaties, etc.). The legal position of the representation of member countries to UPU was a separate issue, however, because the Special Rapporteur had strictly adhered to the notion of a State, leaving it to other texts to say what a State was. It could thus be seen that the permanent representation of States to international organizations could be pure, combined with some other capacity, or dubious from the point of view of interpretation.

67. Mr. AMADO said he was in favour of retaining the term "sending State", which was used in the Vienna Conventions. By doing so the Commission would be reserving the future, because the more restrictive notion of a member State might be a source of difficulties.

68. The CHAIRMAN,* speaking as a member of the Commission, agreed with the Special Rapporteur that the possibility of simultaneous representation in several organizations did not make the non-objection of the organizations concerned necessary. Practice confirmed that view. There was no analogy between permanent missions to international organizations and special or permanent diplomatic missions.

69. He was in favour of retaining article 7, subject to a few drafting changes. In particular, he thought the words "or one of its members" should be added after the words "permanent mission". With regard to the term "sending State", opinion was divided; he would prefer the term "member State", because of the absence of any analogy between permanent diplomatic missions and permanent missions to international organizations. Moreover, where the host State was a member of the organization, it did not need to send a mission. He was also in favour of replacing the word "appoint" by the word "accredit".

* Mr. Castrén.

It might be sufficient to say: "A State may accredit ...", without qualifying the word "State".

70. Mr. EL-ERIAN (Special Rapporteur) pointed out that he had used the words "sending State" throughout Parts II and III of the draft articles. If the words "member States" were used in Part II, it would be necessary to qualify that expression, since both the host State and third States could be members. He had not considered it necessary to define a "sending State" in article 1, since the term was self-explanatory. It was necessary, however, to distinguish between the State to which the permanent mission belonged, the host State in whose territory it operated and a third State which would have to accord privileges and facilities to it under article 40.

71. He agreed with Mr. Kearney that article 7, as drafted at present, was too restrictive and that the Drafting Committee should consider adding some such phrase as "or members thereof".

72. With regard to Mr. Reuter's suggestion that permanent missions to one organization might also be appointed as observers to another, he would fill that gap when he dealt with the articles on observers, since such cases undoubtedly did exist.

73. Reference had been made to the situation in which a permanent mission might have to be appointed to two different seats of the same organization. That was not a practical difficulty, since article 7 covered the case in which more than one organization had its seat in the same general locality. With regard to the possibility of a permanent mission being appointed simultaneously to a universal and a regional organization whose seats were far apart, he drew Mr. Ushakov's attention to paragraph 3 of his commentary. United Nations Headquarters, for example, was in New York, while the seat of the Organization of American States was in Washington, D.C. The final text of article 7 would, of course, depend on whether the Commission decided that the draft articles as a whole should cover both universal and regional organizations.

74. Mr. Bartoš had suggested that article 7 should not be confined to organizations having their seat in the same locality. In its present form, the article stated the principle in general terms, but he agreed that it might be advisable for the Drafting Committee to make it less restrictive.

The meeting rose at 12.55 p.m.

952nd MEETING

Wednesday, 12 June 1968, at 10.15 a.m.

Chairman: Mr. Erik CASTRÉN

Present: Mr. Albónico, Mr. Amado, Mr. Bartoš, Mr. El-Erian, Mr. Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Rosenne, Mr. Tammes, Mr. Ushakov, Mr. Ustor, Mr. Yasseen.

Also present: Mr. Sen, Observer for the Asian-African Legal Consultative Committee.