Document:-

A/CN.4/SR.970

Summary record of the 970th meeting

Topic:

Representation of States in their relations with international organizations

Extract from the Yearbook of the International Law Commission:-

1968, vol. I

able in the organization concerned, as the Special Rapporteur had proposed. It was the organization which would know, for example, whether the Chairman of a particular organ should take precedence over the Vice-Chairman of another organ, or vice-versa.

81. In his opinion, therefore, article 17 should be completed by the addition of a rule on precedence between permanent representatives.

82. Mr. BARTOŠ observed that some permanent representatives had no diplomatic title, but they did not on that account belong to an inferior or different category. From the point of view of the organization, all permanent representatives were equal. Thus their situation was quite different from that of the diplomatic agents covered by the Vienna Convention on Diplomatic Relations.

83. He was in favour of retaining the article proposed by the Special Rapporteur, but suggested that the wording should be slightly modified to show that it referred not only to the rules, but also to the practice of international organizations.

The meeting rose at 1.5 p.m.

970th MEETING

Monday, 8 July 1968, at 3 p.m.

Chairman: Mr. José María RUDA

Present: Mr. Ago, Mr. Albónico, Mr. Amado, Mr. Bartoš, Mr. Bedjaoui, Mr. Castañeda, Mr. Castrén, Mr. El-Erian, Mr. Kearney, Mr. Reuter, Mr. Rosenne, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Relations between States and inter-governmental organizations

(A/CN.4/195 and Add.1; A/CN.4/203 and Add.1-3; A/CN.4/L.118 and Add.1-2; A/CN.4/L.129)

[Item 2 of the agenda]

(continued)

ARTICLE 17 (Precedence) [1] *(continued)*

1. The CHAIRMAN invited the Commission to continue consideration of article 17 of the Special Rapporteur's draft (A/CN.4/203/Add.2).

2. Mr. CASTRÉN observed that some members of the Commission had found his draft on precedence [2] too rigid and thought that the rule should be made more flexible, as in the Special Rapporteur's text. But the text of his own proposal was not at all rigid and in any case article 17 was subject to the general reservation in article 4. What he had proposed was a residuary rule and hence nothing more than a recommendation.

3. He noted, however, that few members of the Commission were prepared to support his proposal and he would therefore withdraw it.

4. He might support the suggestion by Mr. Rosenne and Mr. Ago that article 17 be deleted. Certainly the article added nothing new, but since it was only provisional, it might be worth retaining in the draft in order to ascertain the reaction of Governments.

5. Mr. AMADO said he would be interested to hear from Mr. Castrén what precedents the rule in his proposal had been based on.

6. Mr. CASTRÉN said that Mr. El-Erian's report pointed out that the practice of international organizations was very diverse and that no uniform rule on the subject existed.

7. Mr. TABIBI said it was clear from the discussion that there was no uniform rule on precedence in the United Nations or in other international organizations, so something very flexible was needed. In the United Nations, for seating purposes the alphabetical order of the names of countries was used in recognition of the sovereign equality of States, while sometimes, for certain ceremonial purposes, the five permanent members of the Security Council were given precedence. In the International Atomic Energy Agency some eminent scientists were given precedence. In the International Bank for Reconstruction and Development, the number of shares held by a country was the determining factor.

8. The rule drafted by the Special Rapporteur was flexible enough and acceptable.

9. Mr. AMADO said he thought it would be difficult to improve on article 17 as drafted. The Special Rapporteur had offered the best solution of the problem, which in any case was only of relative importance.

10. Mr. BARTOŠ said that in the United Nations and in several other international organizations there was no fixed rule on precedence. There was a series of rules of minor importance which gave precedence to certain officials or representatives of the organization's members. The chairman, for example, was always regarded as having absolute priority; then came the vice-chairmen, rapporteurs and former chairmen. When he attended the meetings of the Sixth Committee, the senior member of the International Law Commission was always accorded precedence. Thus there were always certain rules, but they were rules of courtesy, not rules of law. At Vienna, for example, Nobel prize-winners among the heads of permanent missions to the International Atomic Energy Agency always had some precedence; that was a personal tribute. When Mr. Molotov, the former Minister for Foreign Affairs of the Soviet Union, had been head of the permanent mission of the USSR to the International Atomic Energy Agency, special courtesy had been extended to him because of his personal qualities and the fact that he had sometimes presided over the General Assembly; thus it was his personal authority which had been the determining factor.

11. He was in favour of article 17 as worded by the Special Rapporteur.

[1] See previous meeting, para. 54.

[2] *Ibid.*, para. 62.

12. Mr. USTOR said he was in favour of retaining article 17, which was simple and flexible and did not go into complicated questions of precedence as between different kinds of diplomatic mission. The rule could be amplified by referring to the principle that, in the absence of any special agreement, the alphabetical order should be used. A similar clause had been inserted in the draft on special missions.[3]

13. Mr. REUTER said that, generally speaking, he had no objection to article 17, but he had two comments to make on the drafting. First, he was not certain that the French version corresponded to the English. The expression "*règlement en vigueur*" in the organization concerned was perhaps rather restrictive, for it was possible that there might be no "*règlement*" (regulations), but only decisions. He was not sure that the word "*règlement*" was an absolutely accurate translation of the word "rule". The English text seemed to be broader, and the French should be made more flexible.

14. Secondly, it was quite clear that the article only governed questions within the organization, so that if the Commission decided to retain the text as it stood, it should explain in the commentary that the article related only to problems governed by the law of the organization. The article rightly used the words "the organization concerned", but it did not refer to problems of precedence which might arise in the locality where the organization had its seat and which concerned other organizations or the host State.

15. Mr. AGO said it was clear that if article 17 was to be acceptable, it must be confined to the problem of permanent missions. That problem must not be confused with the problem of delegations or permanent representatives to certain organs of an international organization.

16. In the case of members of permanent missions, it would be a delusion to believe that the problem had been solved by referring to the rule applicable in the organization concerned. For there was no rule on the precedence of permanent missions in international organizations; at the most, there was usually an unwritten practice. Reference could be made to that practice, but it would probably be preferable, in the interest of the Commission's work, to insert a kind of residuary rule to cover cases where no such practice existed. In Geneva, for example, the system of the date of accreditation of permanent missions to the international organizations was applied, in fact, to establish the order of precedence. To refer to a rule assumed to be in force in the organization concerned was useless and did not constitute a rule.

17. The criterion proposed by Mr. Castrén came closest to the practice and to requirements.

18. Either there should be no rule on precedence in the draft, or it should be a rule which would be followed whenever an organization did not wish to adopt a different practice. Admittedly the article was only concerned with permanent missions to organizations and with relationships within organizations, but the organizations were situated in the territory of a State, and problems would inevitably arise for that State. The Commission should lay down a rule, rather than refer to more or less established usages.

19. He agreed with Mr. Reuter that "*règlement*" was not a good translation of the English word "rule".

20. Mr. KEARNEY said that the weakness of article 17 was that it laid down no rule and was therefore redundant. If any rule at all was to be adopted, it should be a residuary rule which would apply in the event of an organization having no rules on precedence. Mr. Castrén's proposal seemed to be reasonable.

21. The CHAIRMAN, speaking as a member of the Commission, said that the Secretariat's valuable note on the precedence of representatives to the United Nations (A/CN.4/L.129) explained much that had previously seemed mystifying. Although the contents of article 17 were covered by article 4, the article was useful and should be retained.

22. The word "*norma*" in the Spanish version would have to be changed, as it did not render the meaning of the word "rule".

23. Mr. EL-ERIAN (Special Rapporteur), summing up the discussion, said that article 17 had been drafted in provisional form, because the Special Rapporteur had not been furnished with material on precedence. He had asked the Office of Legal Affairs to provide additional information.

24. Some members considered article 17 unnecessary because of article 4, but the purpose of the two articles was not the same. Article 4 was intended to operate in conjunction with general rules, whereas article 17 laid down that there was no rule and that organizations developed such rules as they thought fit. There would be a gap in the draft if article 17 was dropped, especially as the articles were intended to complete those on diplomatic law. Precedence was not merely a formal question, but touched upon the equality of States.

25. He would have no objection to specifying that the article dealt with precedence among heads of permanent missions.

26. The problem of associate members was covered in article 4.

27. The word "rule" had given rise to some criticism; he had used it in the belief that it was broad enough, but was prepared to replace it by the word "usage".

28. He agreed with Mr. Reuter that some thought should be given to whether the precedence of the host State should also be dealt with in the article.

29. The Commission would have to decide whether to adopt a system of seniority based on the date of presentation of credentials or one based on alphabetical order.

30. Perhaps the article could be approved in its present form and sent to Governments for comment, so as to enable the Commission to take a final decision after the second reading.

31. Mr. AMADO endorsed Mr. El-Erian's comments.

32. With regard to Mr. Ago's remarks, he stressed that the Commission was not concerned with the question whether international organizations had a practice in the

[3] See *Official Records of the General Assembly, Twenty-second Session, Supplement No. 9*, p. 11, article 16.

matter of precedence. The fact that they had no rule on precedence did not invalidate article 17.

33. He, too, thought that the word "rule" could not be translated by "*règlement*".

34. Mr. EL-ERIAN (Special Rapporteur) said that the word "rule" covered both written rules and practice.

35. Mr. ROSENNE said it would be better to drop article 17 and state in the report that the Commission had considered the question of precedence, but had decided not to include an article on the subject. One reason for doing so was that, as the Special Rapporteur had indicated, the article stated that there was no rule on precedence. It would be better to drop the article than to provoke reactions from Governments or force international organizations to put on paper what had better be left unsaid. He reserved his position on the article until the Drafting Committee had reported on it.

36. The title was too bald; it should indicate the limited purpose of the article.

37. The Drafting Committee would also have to consider inserting a provision on the lines of article 17 of the Vienna Convention on Diplomatic Relations [4] and article 16, paragraph 3, of the draft articles on special missions, concerning the precedence of members of missions. There was no reason to limit the present article to permanent representatives.

38. Sir Humphrey WALDOCK said he was in favour of including a specific rule of precedence as between heads of permanent missions, since it would be rather futile to lay down that precedence was to be established in accordance with the rule applicable in the organization concerned if that organization had no rule at all. It should be framed in the form of a residuary rule, and in any event there could be no possible objection to the Commission's putting forward a rule to test the views of Governments. The rule should be so framed as to deal with precedence for the purposes of the organization. He agreed that precedence as between the members of missions ought to be covered too.

39. Mr. ALBÓNICO said it was necessary to adopt a rule on precedence; that rule should reflect the practice of the United Nations family and of regional organizations.

40. A distinction should perhaps be made between two aspects of the matter. The first, of an objective and formal character, was that of relations between the sending State and the organization, and affected permanent representatives; some objective criterion was necessary and that proposed by Mr. Castrén was acceptable.

41. The second aspect was that of internal arrangements within the organization, for which it could adopt its own rules. Naturally, the organization would have to take the views of the host State into consideration.

42. Mr. CASTRÉN said it might be interesting to know the views of Governments on the problem; the Drafting Committee should therefore be asked to prepare a text on the question of precedence.

43. Mr. USHAKOV said that the Commission should ask the Drafting Committee to prepare two variants of the text, the first based on article 17, as drafted by the Special Rapporteur, and the second on Mr. Castrén's proposal.

44. Mr. CASTAÑEDA said he was not sure that the reference to the rule applicable in the organization did not in fact amount to the formulation of a legal rule. It might be laid down that precedence was established in accordance with aphabetical order or with usage. A reference to usage in a rule of law was not very unusual; many examples were to be found in commercial law. A rule thus formulated would mean that the practice was not uniform.

45. Some international organizations accepted alphabetical order and others were opposed to it. He could not see any point in proposing a uniform rule when there was such diversity in practice. If the article were not accepted in its present form, it might be wiser to ask Governments for their views, rather than propose a rule that would only suit a certain number of international organizations.

46. Mr. BARTOŠ observed that if a rule were laid down, it would not be applicable only within the organization. It would also be applicable to States signing the future convention, including the host State. If only one organization had its seat in the territory of the host State, there would be no problem. But if several organizations had their seats in its territory, it would be very difficult to settle the questions of precedence that would arise. An ambassador, for example, might be accredited to one international organization at a certain date and to another at a different date. In the first organization, the order of precedence would place him above certain representatives, while in the second it would place him below them. Obviously then, when the heads of permanent missions to two or more international organizations were brought together, there would be insoluble problems of protocol if the matter were left to the rules of the organizations.

47. Moreover, many heads of permanent missions were neither ambassadors nor ministers plenipotentiary. They had been appointed on other grounds, for example, their scientific qualifications. It would be hard to decide their position in relation to representatives to a body which included no ambassadors or ministers plenipotentiary, such as the European Conference of Ministers of Transport, which had its headquarters in Paris, as did UNESCO also. That showed how difficult it was to lay down a perfect rule of precedence applicable outside the framework of a particular organization. It would be better to give up the attempt.

48. If, on the other hand, the rule was to be confined to the framework of only one organization, the problem was simple; in that case, he would support the text proposed by the Special Rapporteur, which left the solution to the rules of the organization concerned.

49. In the last analysis there were only two solutions to choose from: to lay down no rule at all, or to leave it to the organization to settle the question.

50. The CHAIRMAN, speaking as a member of the Commission, said he was concerned about the fact that the precedence of the members of a mission was not covered in article 17. Perhaps the matter could be dealt with in article 15, on notifications, since it had been pro-

[4] See United Nations, *Treaty Series*, vol. 500, p. 106.

posed that the receiving State should be notified of their rank.

51. Mr. EL-ERIAN (Special Rapporteur) said that the order of precedence of members of a mission was dealt with in article 17 of the Vienna Convention on Diplomatic Relations in connexion with notification, and the same could be done in the present case.

52. Some thought would have to be given to the question whether the rule should regulate the position of the host State, because if the rule were limited to the organization, there would be a gap in the draft.

53. The idea of providing for an alternative system of establishing precedence, either according to alphabetical order or according to the date of presentation of credentials, was an attractive one, and had been used in article 13 of the Vienna Convention on Diplomatic Relations.

54. The CHAIRMAN suggested that article 17 be referred to the Drafting Committee.

It was so agreed.[5]

ARTICLES 18 and 19

55.

Article 18

Seat of the permanent mission

1. A permanent mission shall have its seat in the locality in which the seat of the Organization is established.

2. A permanent mission may, with the consent of the host State or the State concerned, have its seat in localities other than those in which the seat of the Organization is established.

Article 19

Offices away from the seat of the permanent mission

A permanent mission may not, without the consent of the host State, establish offices in localities other than those in which the mission itself is established.

56. The CHAIRMAN invited the Special Rapporteur to introduce articles 18 and 19 of his draft (A/CN.4/203/Add.2).

57. Mr. EL-ERIAN (Special Rapporteur) said that articles 18 and 19 were modelled on the corresponding articles of the 1961 Vienna Convention on Diplomatic Relations and of the draft on special missions. They had been included to forestall the awkward situation which would result for the host State if the premises of a mission were established in localities other than that in which the seat of the organization was situated.

58. In paragraphs 2 and 3 of his commentary he had given particulars of the practice at the Headquarters and the Geneva Office of the United Nations.

59. The replies received from the specialized agencies indicated that, as a general rule, no restrictions had ever been imposed, either by the organization or by the host State, on the location of the premises of a permanent mission. The IAEA had pointed out in its reply that "the premises of some permanent missions accredited to IAEA are not in Austria, but in other European countries".

60. Mr. CASTRÉN said that articles 18 and 19 were useful and he accepted their content. It was well to leave the sending State some latitude in choosing the location of the seat and offices of a permanent mission, though it seemed justified to require the consent of the host State or a third State on whose territory the sending State might establish the seat or the offices of its permanent mission; but the consent of the organization concerned did not seem really necessary.

61. With regard to drafting, the two articles could be combined in a single article, reading:

"*Seat and offices of the permanent mission*

"1. Subject to the provisions of paragraph 2, a permanent mission shall have its seat and offices in the locality in which the seat of the Organization is situated.

"2. A permanent mission may, with the consent of the host State or the State concerned, establish its seat and its offices in localities other than that in which the seat of the Organization is situated."

62. That would result in a more concise text, free from needless repetition, and the omission from article 19 of any reference to the consent of the other States concerned would be rectified. The addition of the words "Subject to the provisions of paragraph 2" was intended to show that that paragraph provided for an exception to the rule stated in paragraph 1.

63. Mr. AGO said that, on the whole, he approved of the two articles; he, too, thought they could be combined in a single article.

64. He would like the Special Rapporteur to explain what he meant by the expression "the State concerned". If it meant a State which was host to a permanent mission but not to the organization, the wording should be made clearer.

65. Mr. EL-ERIAN (Special Rapporteur) said that the other "State concerned" was a State, other than the host State, on whose territory a permanent mission was established in cases such as that mentioned by IAEA in its reply referred to in paragraph 4 of the commentary.

66. Mr. YASSEEN said that articles 18 and 19 faithfully reflected what happened in practice. It was natural to require the consent of the host State of the organization and that of a third State in whose territory a permanent mission might have its seat, since those States had some say in the matter.

67. The expression "the State concerned" was certainly not very clear and more precise wording was needed. Further, as Mr. Castrén had proposed, articles 18 and 19 should be combined.

68. On the whole, he agreed with the substance of the articles and with Mr. Castrén's comments.

69. Mr. USHAKOV said he supported the wording proposed by Mr. Castrén.

70. He wished to ask the Special Rapporteur what he meant by the word "locality". It might be too narrow a term. Perhaps it should be explained in the commentary that the word was to be understood in its broadest sense.

71. Mr. CASTAÑEDA said that he, too, approved of the content of articles 18 and 19, but agreed with Mr.

[5] For resumption of discussion, see 985th meeting, paras. 55-86.

Castrén that it would be better to combine them in a single article. As Mr. Ago had requested, a more appropriate expression should be found to designate third States.

72. Mr. KEARNEY said that, while he supported the idea of combining articles 18 and 19, he thought that Mr. Castrén's wording was too compressed: it could lend itself to the interpretation that the seat and the offices of a permanent mission must always be in the same place, and that was certainly not the intention of the Special Rapporteur.

73. The difficulty could be avoided by beginning the combined article with a provision similar to that in article 18, paragraph 1, and wording the second paragraph to read:

"2. A permanent mission may, with the consent of the host State and of any other State concerned,

"(*a*) have its seat in localities other than that in which the seat of the Organization is established;

"(*b*) establish offices in localities other than those in which the mission is established."

74. Mr. ROSENNE asked what was the precise meaning of the "seat" of a permanent mission, and what distinction was drawn between the "seat" and the "offices" of the mission.

75. Mr. BARTOŠ said he endorsed Mr. Ushakov's remarks about the word "locality". Permanent missions often established their seats in the vicinity of the town where the organization had its seat. The word "locality" should not be interpreted in its narrow administrative sense. It would be better to find another word.

76. With regard to paragraph 2 of article 18, he did not think the host State and other States concerned should be placed on the same footing. The host State was under an obligation to accept the establishment of permanent missions in its territory, for that obligation was bound up with its capacity as host State. On the other hand, the establishment of a permanent mission in the territory of a third State was not the normal practice and the third State should not be required to authorize it. In his opinion, a special paragraph should therefore be devoted to that separate situation.

77. There was no need to make a separate article of the provision in article 19. The fact that a mission had offices in several different buildings, either away from the seat or at the place of the seat, was more a question of fact than a question of law. In that connexion, he would join Mr. Rosenne in asking the Special Rapporteur to explain his understanding of the distinction he had made between the seat of a permanent mission and the offices of a permanent mission.

78. In any case, if the Special Rapporteur considered that the case of offices should be mentioned, that might form paragraph 2 of a single article, while paragraph 3 could deal with the case in which the permanent mission had its seat in the territory of a third State.

79. On the whole, however, he found the content of articles 18 and 19 acceptable; the questions that arose were mainly questions of form which could be left to the Drafting Committee.

80. Sir Humphrey WALDOCK said that, in the course of its work on special missions, the Commission had tried to find a better word than "locality", but had been obliged to retain that word, which was also used in article 4 of the 1963 Vienna Convention on Consular Relations.[6] For reasons of coherence in drafting terminology, it would therefore be desirable to retain it.

81. He, too, would like to know what was the intended difference between "seat" and "offices". In the draft on special missions, it had been stated that the special mission might have more than one seat, it being specified that one of those seats might be chosen as the principal seat.[7]

82. The question of the other "State concerned" was one which needed more careful consideration. If a permanent mission were to have premises in a State other than the host State of the organization, a number of problems would undoubtedly arise, such as that of the facilities which the third State should grant to the permanent mission for communicating with the organization. The matter could not be disposed of merely by means of a passing reference in article 18.

83. Mr. BARTOŠ said it was for functional reasons that special missions might need to have, in addition to a principal seat, other seats at which small groups were entrusted with special tasks, such as inspecting work done or examining a site. Reasons of that kind did not exist in the case of permanent missions to international organizations.

84. Mr. YASSEEN stressed that articles 18 and 19 reflected a real need of permanent missions. Every permanent mission had a general seat, but sometimes, for practical reasons, it needed an office elsewhere than at the seat. At Geneva, for instance, it might need to have an office at the Palais des Nations during the sessions of the Economic and Social Council. Again, a permanent mission which had its seat rather a long way from the United Nations Headquarters building in New York might, owing to traffic difficulties, need to have an office nearer at hand during sessions of the General Assembly. That was a practical need that should be taken into account.

85. Mr. EL-ERIAN (Special Rapporteur) said that "Seat of the special mission" was the title of article 17 of the draft on special missions. Since the present draft was part of diplomatic law, it was normal that its terminology should conform with that of previous texts.

86. The idea behind the provisions of articles 18 and 19 was that, as a general rule, the principal office of the permanent mission should be in the city where the organization itself was established and where the system of privileges and immunities was organized. In the case of the United Nations, for example, the New York state authorities were accustomed to the privileges and immunities of permanent missions: it would be undesirable for a permanent mission to establish itself in a city situated in another state which was unfamiliar with those privileges

[6] See *United Nations Conference on Consular Relations, Official Records*, vol. II, p. 175-176.

[7] See *Official Records of the General Assembly, Twenty-second Session, Supplement No. 9*, p. 12, article 17.

and immunities, without the consent of the host State, namely, the United States of America.

87. The provisions should not, however, be made unduly strict. In addition to its principal office, which was covered by article 18, a permanent mission might need to establish other offices. That was why article 19 made provision for such a situation, as an exception subject to the consent of the host State.

88. As he had pointed out in the commentary, there were cases in which the permanent mission was established in a country other than that in which the organization itself was situated. Those cases should therefore be covered and the need for the consent of the other State concerned should be specified.

89. Mr. ROSENNE said that if a permanent mission, either at Geneva or in New York, established an auxiliary office in the same city, there would be no problem; both the main office of the mission and the auxiliary office would be situated in the locality of the seat of the organization.

90. In article 12 of the 1961 Vienna Convention on Diplomatic Relations, the word "seat" was not used at all: instead, reference was made to "offices forming part of the mission". In article 17 of the draft on special missions, the Commission had for good reasons made use of the term "seat", and had even made provision for more than one seat.

91. In the present instance, he saw no reason for using both the term "seat" and the term "office", and he suggested that the Drafting Committee be invited to consider choosing between the two.

92. The CHAIRMAN, speaking as a member of the Commission, said he agreed with the suggestion that the provision on the other "State concerned" should be taken out of paragraph 2 of article 18, where it had no place, and form a separate paragraph.

93. He saw no real difference between the "seat" and the "offices" of a permanent mission. He found it hard to imagine an office of a permanent mission elsewhere than in the locality where the permanent mission was situated.

94. Mr. YASSEEN said it was not a question of "the" office of a permanent mission but of "an" office. To call an office a secondary seat would be going too far. There was a difference in scope, if not in kind, between the seat and an office.

95. The CHAIRMAN said he quite understood that a permanent mission might wish to have an auxiliary office elsewhere than at its seat, but the case referred to in article 19 was different; it was that of an office in a locality other than that where the organization was situated.

96. Mr. YASSEEN said that the seat of a permanent mission had a certain legal status. A permanent mission would not be able to establish several seats or even several offices in the same locality if that was not clearly authorized by the future convention. The host State might object, and that would hinder the activities of the permanent mission. He agreed, however, that the case might be considered to be implicitly covered by the present text of the article.

97. Mr. AGO said that, in the case referred to by Mr. Yasseen, an office situated in the same place as the seat of the permanent mission was more often an office for delegates to sessions of an organ than an office of the permanent mission.

98. It was mainly the case of offices established away from the seat of the permanent mission that deserved attention. For instance, a permanent mission established at Geneva might have an office at Berne for its work with the Universal Postal Union. Some permanent missions at Geneva were accredited to international organizations which had their headquarters in third countries. The utmost caution was needed and only very broad definitions should be adopted.

99. Mr. REUTER said that there were three competing terms: "seat", "offices" and "premises". He fully understood the word "seat", which expressed a legal concept. The word "premises" belonged to the realm of pure fact. But he was not clear about the meaning of "office"—whether it meant another site selected purely for material convenience or whether it was a specific legal concept. When Mr. Bartoš, the Special Rapporteur on special missions, had said that they could have several seats, he had been thinking of the legal concept covered by that term.

100. If the word "office" did not express a legal concept, he would prefer the word "premises", which was used by the International Atomic Energy Agency, as recorded in paragraph 4 of the commentary.

101. Mr. KEARNEY said that the draft would apply to an enormous variety of organizations. To take an example, an international rocket launching organization might have its seat at one place, but do much of its work at another, and it was extremely likely that permanent missions to such an organization would require to have offices at that other place of work.

102. Mr. ALBÓNICO said that the distinction between "seat", "offices" and "premises" was of no importance from the legal standpoint. Regardless of the designation, they all enjoyed the same privileges, immunities and facilities.

103. Mr. BARTOŠ said he agreed with Mr. Kearney. It was sometimes necessary, however, for a permanent mission to have certain premises away from the seat for the performance of various functions. The term "office" was perhaps badly chosen, but the intention had been to distinguish between the seat and the other premises, which were also of an official character and should also enjoy privileges and immunities. There seemed to be no doubt about the substance. It only remained to find the right wording and that was a matter for the Drafting Committee.

104. Mr. YASSEEN said that in using the term "office" he had in mind premises that were used for some specific purpose connected with the functions of a permanent mission. All offices were premises, but not all premises were offices.

105. Mr. TSURUOKA said he would like the Special Rapporteur to give a further explanation of the notion of "seat". In traditional diplomacy, for instance, there

was a difference between the ambassador's residence and the chancery.

106. Mr. AGO said it was necessary to make a distinction between the different designations because, although all the premises should enjoy certain privileges, only the seat entered into consideration for certain purposes, for example, when it was stipulated that a notification must be made to the seat.

The meeting rose at 6.10 p.m.

971st MEETING

Tuesday, 9 July 1968, at 11 a.m.

Chairman: Mr. José María RUDA

Present: Mr. Ago, Mr. Albónico, Mr. Amado, Mr. Bartoš, Mr. Bedjaoui, Mr. Castrén, Mr. El-Erian, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Ramangasoavina, Mr. Reuter, Mr. Rosenne, Mr. Tabibi, Mr. Tammes, Mr. Tsuruoka, Mr. Ushakov, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Co-operation with Other Bodies

[Item 5 of the agenda]

(resumed from the 957th meeting)

STATEMENT BY THE VICE-PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

1. The CHAIRMAN welcomed Mr. Koretsky, the Vice-President of the International Court of Justice, and invited him to address the Commission.

2. Mr. KORETSKY (Vice-President of the International Court of Justice) said he had been asked by the President and the members of the Court to visit the International Law Commission in order to wish it every success in its work, which was so important for the consolidation and development of international law.

3. There was a close and natural link between the International Court of Justice and the International Law Commission. The Commission played an increasingly active part in preparing what might be termed legislative drafts, in formulating the principles and norms of international law, and in the systematization, codification and progressive development of international law in the form of multilateral treaties. The Court, for its part, did not merely study the Commission's work; norms drafted by the Commission had crossed and continued to cross the threshold of the Peace Palace, where the Court sat, and were increasingly interpreted and applied by the Court in its examination of the cases referred to it.

4. In addition to that close link, there were the personal relations between members of the two institutions. Three of the Court's pres nt judges had, as it were, assisted at the birth of the International Law Commission by helping to draft its Statute, and several other judges had been members of the Commission.

5. Twenty years had passed since the establishment of the Commission. Looking back over those twenty years and weighing its achievements, the success of the Commissions' work was seen to be beyond question. After various difficulties in the early years, connected with the choice of subjects and methods of work, the Commission had produced results which had received universal acclaim, and which the General Assembly had welcomed in numerous resolutions. In the past ten years, six international conventions now in force had been adopted on the basis of the Commission's drafts, while consideration of a seventh had already begun and everyone hoped that the particularly important draft international convention on the law of treaties would be adopted in 1969. The questions still before the Commission — State succession, State responsibility, and relations between States and inter-governmental organizations — were no less important.

6. The Commission was an assembly of jurists who were not only eminent themselves, but also represented the different legal systems of the world, so that it was able to work without national bias. Thus there was good reason to view with optimism the wide field of action which lay open to the Commission for consolidating what had been gradually established in international law and for making further advances in its progressive development.

7. The CHAIRMAN, thanking Mr. Koretsky on behalf of the Commission for his appreciative words, said that there was a natural link between the International Court and the Commission, since the Commission was engaged in formulating rules for acceptance by States, which the Court would have to apply. The aim of the work of both bodies was to promote international peace and security. Rules of law had to be set above the power ideologies of States.

8. Members of the two bodies were also united by personal ties, for a number of judges had formerly been members of the Commission. The Commission, in pursuance of its Statute, had been successful in performing the task for which it had been created.

9. Mr. AMADO said it was a great pleasure to see Mr. Koretsky again. He had the honour of working with him in the earliest days of the United Nations, when the Organization had been only a promise, a forest clothed in the green leaves of hope. Mr. Koretsky had then appeared as a harbinger of peace. He had been the great revelation of the juridical culture of the Soviet Union; but he had spoken a familiar language and had quoted the writers on whose works all jurists had been trained. In the course of lively discussions in the Sixth Committee, he had revealed a perfect familiarity with the South American writers. He (Mr. Amado) welcomed the visit, to men of good will striving to honour jurisprudence, of one of its most eminent representatives.

10. Mr. YASSEEN said that Mr. Koretsky's visit to the Commission was of great consequence by reason both of his personal distinction and of the position he occupied at the International Court of Justice. He had had the pleasure of meeting Mr. Koretsky for the first