

Document:-
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Summary record of the 980th meeting

Topic:
Representation of States in their relations with international organizations

Extract from the Yearbook of the International Law Commission:-
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64. The Commission should ask Mr. Ago to submit his draft on State responsibility in time for the 1969 session in order that it might then discuss the ideas on which the draft was based. Some of his criteria did not appear to be based on legal principles; in particular, Mr. Ago should give the Commission a clear explanation of the distinction between the political and the legal responsibility of States. Once that explanation had been given, the Commission should be in a position to ask the Special Rapporteur a number of questions on that subject and to submit a preliminary report to the General Assembly.

65. Mr. MOVCHAN (Secretary of the Commission) said he was grateful to members for their expressions of appreciation of the Secretariat's two working papers. The working paper on items 4 and 6 (A/CN.4/L.128) gave a picture of the Commission's previous work and included a number of General Assembly decisions, since it was felt that strict observance of decisions of the Commission and of its parent body, the General Assembly was essential for any body of jurists.

66. The secretariat of the Commission, and indeed the whole Codification Division, were always anxious to assist the Commission in the performance of its task and the Commission's decision to include in its report a reference to the need to strengthen the Codification Division would help in that direction.

67. If the Commission so requested, the Codification Division was ready to prepare a survey of topics of international law; it was also prepared to submit a document on the question of treaties between States and international organizations or between two or more international organizations, the subject of a resolution adopted at the first session of the Vienna Conference.

68. Mr. Castrén's appeal for the earlier preparation of documents and their distribution in good time before the session, could, he thought, be answered without undue difficulty by closer co-operation between Special Rapporteurs and the Secretariat.

69. The CHAIRMAN said that the Secretary's remarks would be noted in the report.

70. No suggestions had been made regarding the Commission's methods of work.

71. With regard to the Commission's programme of work, if there were no objection, he would consider that the Commission agreed to adopt his suggestion for a meeting of the officers of the Commission with the Special Rapporteurs, and Mr. Rosenne's suggestion that the Secretariat be invited to prepare for 1970 a survey of topics of international law.

*It was so agreed.*⁶

The meeting rose at 6 p.m.

⁶ For other suggestions concerning the organization of future work, see 977th meeting, paras. 26-28.

980th MEETING

Tuesday, 23 July 1968, at 10 a.m.

Chairman: Mr. José María RUDA

Present: Mr. Bartoš, Mr. Castañeda, Mr. El-Erian, Mr. Eustathiades, Mr. Kearney, Mr. Nagendra Singh, Mr. Rosenne, Mr. Tabibi, Mr. Tammes, Mr. Ushakov, Mr. Ustor, Sir Humphrey Waldoock, Mr. Yasseen.

Relations between States and inter-governmental organizations

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

[Item 2 of the agenda]

(resumed from the 975th meeting)

DRAFT ARTICLES PROPOSED BY THE DRAFTING COMMITTEE *(continued)*

1. The CHAIRMAN invited the Commission to consider the text of articles 2, 4 *bis*, 4 *ter*, 5 and 6 proposed by the Drafting Committee on second reading.

ARTICLE 2 (Scope of the present articles)¹

2. Mr. CASTRÉN (Chairman of the Drafting Committee) said that the Drafting Committee proposed the following text for article 2:

Scope of the present articles

1. The present articles apply to representatives of States to international organizations of universal character.

2. The fact that the present articles do not refer to representatives of States to other international organizations is without prejudice to the application to these representatives of any of the rules set forth in the present articles to which they would be subject independently of these articles. Likewise, it shall not prevent member States of these other organizations from agreeing that the present articles apply to their representatives to the said organizations.

3. The Commission had already approved article 2 in principle, subject to the drafting changes proposed by various members. The Drafting Committee had therefore merely tried to improve the wording of the article.

4. Some members had objected to the words "*à vocation universelle*", in paragraph 1 of the French text, and the Drafting Committee had decided by a majority, to replace them by the words "*à caractère universel*". The Drafting Committee had decided to prepare a paragraph on international organizations of universal character, for inclusion in article 1 (Use of terms); the Special Rapporteur had already drafted a text, which would be examined by the Drafting Committee. The Special Rapporteur intended to explain more precisely the meaning of the words "of universal character" in the commentary.

5. The Drafting Committee had appreciably modified and added to paragraph 2, on the basis of the text pro-

¹ For earlier discussion, see 946th meeting, paras. 19-65; 947th meeting, paras. 1-18; 972nd meeting, paras. 40-89; 973rd meeting, paras. 1-65.

posed by Mr. Ago;² the Drafting Committee had however replaced the words “to the latter” in Mr. Ago’s proposal by the words “to these representatives” and the words “This fact is also without prejudice to the possibility of” by the words “Likewise, it shall not prevent”.

6. Mr. ROSENNE said that, as a matter of drafting, the word “those” should be substituted for the word “these” in paragraph 2 and the word “such” substituted for the words “the said” at the end of the paragraph.

7. He would have to abstain from voting on the article as a whole for the reasons he had given when it had last been discussed.

8. Mr. USTOR said that article 2 was acceptable, but in the last sentence of paragraph 2 the order of the words “member States” should be reversed.

9. Mr. CASTRÉN (Chairman of the Drafting Committee) said that the observations of the last two speakers were well-founded, but affected only the English text.

10. Mr. EL-ERIAN (Special Rapporteur) said that the drafting changes proposed were acceptable.

11. Sir Humphrey WALDOCK suggested the substitution of the word “preclude” for the word “prevent”.

12. The CHAIRMAN said that, subject to a revision of the Spanish text, he would put article 2, with the drafting amendments, to the vote.

Article 2 was adopted by 12 votes to none, with 2 abstentions.

ARTICLES 4 *bis* (Relationship between the present articles and other existing international agreements)³ and 4 *ter* (Derogation from the present articles)

13. Mr. CASTRÉN (Chairman of the Drafting Committee) said that the Drafting Committee proposed the following text for articles 4 *bis* and 4 *ter*:

Article 4 bis

Relationship between the present articles and other existing international agreements

The provisions of the present articles are without prejudice to other international agreements in force between States or between States and international organizations.

Article 4 ter

Derogation from the present articles

Nothing in the present articles shall prevent the adoption by other instruments of different provisions concerning the representatives of States to an international organization.

14. After long discussion, the majority of the Commission had decided in favour of the text for article 4 *bis* proposed by the Special Rapporteur, subject to a few formal amendments. However, in order to meet the objections of certain members, the Drafting Committee now proposed a new article 4 *ter*, because it considered there could be no harm in adding a new provision to meet all possibilities.

² See 973rd meeting, paragraph 1.

³ For earlier discussion, see 972nd meeting, paras. 40-89; 974th meeting, paras. 42-77; 975th meeting, paras. 1-61.

15. In article 4 *bis* the Drafting Committee had replaced the words “shall not affect” by the words “are without prejudice to”, so as to bring the wording into line with that of article 4.

16. One member of the Commission had suggested that article 4 *bis* should be amended so as to cover agreements between international organizations as well. The Drafting Committee had considered that suggestion, but had decided that treaties of that kind were rather rare and unlikely to involve the status of permanent representatives.

17. He thought the title of article 4 *ter* was correct, since the article dealt with a derogation. The Drafting Committee had had before it several suggestions for the wording of the article, but it had chosen the present text and rejected the idea of adding a provision similar to that in article 73, paragraph 2, of the Vienna Convention on Consular Relations for the reasons put forward during the discussion by Mr. Ushakov. That provision was perhaps not broad enough. Furthermore, it had not been drafted by the Commission and could be open to different interpretations.

18. Sir Humphrey WALDOCK said he wondered what the Drafting Committee had had in mind in using the word “instruments” instead of the word “agreements” in article 4 *ter*, which meant that the article did not tally with article 4 *bis*.

19. Also in article 4 *ter*, he would have thought the word “acceptance” would be preferable to the word “adoption”.

20. Mr. NAGENDRA SINGH said he was in favour of the replacement of the words “instrument” and “adoption” by the words “agreements” and “acceptance”.

21. Mr. ROSENNE said he considered that the word “instruments” was correct, as was the word “adoption” which was often used in international organizations, but perhaps the opening words of the article could be redrafted to read “Nothing shall prevent the adoption of other instruments having different . . .”.

22. Mr. KEARNEY said that he had suggested the use of the words “international agreements” in the Drafting Committee, but Mr. Ushakov had pointed out that it might not be broad enough to comprise other forms of agreement. The practice of international organizations showed wide differences.

23. Mr. YASSEEN said that the words “between States or between States and international organizations” in article 4 *bis*, were redundant; “international agreements in force” was quite sufficient.

24. With regard to article 4 *ter*, the interpretation of the word “instruments” referred to by Mr. Kearney seemed to him dangerous; if it did not relate only to agreements, the value of conventions adopted between States might be called in question. The rules stated in the articles were residuary rules from which States could derogate by virtue of an agreement, but they were still legal rules and treaty rules, and States could not repudiate them unilaterally. A simple declaration would not suffice to release a State from the obligations it had contracted in ratifying the convention. He thought the word “agreements” should be used.

25. Mr. USHAKOV said he had now come to the conclusion that the word "instruments" should be replaced by the word "agreements".
26. Sir Humphrey WALDOCK said he presumed that the word "instruments" was meant to cover the adoption by resolution of something in the nature of regulations having binding effect, but it was not a very satisfactory word to describe agreements and other forms of international act.
27. Mr. EUSTATHIADES said that the word "instruments" meant international instruments, but in order to bring out the international character, the word "instruments" should be replaced by the word "agreements".
28. A term was needed to cover bilateral acts and declarations which were not agreements. Apart from agreements, what would be the possibilities of derogation from the present articles? Did an international resolution also have the character of an agreement? In his view, there were two possible solutions: either to use the expression "agreements and other international acts", or to indicate in the commentary that by the word "agreements" was meant all international acts and not only agreements *stricto sensu*.
29. The word "other" should be deleted because it was not yet known whether the draft articles would take the form of a convention; the words "the present articles" had been used in order not to prejudge the issue.
30. The phrase "*l'adoption par d'autres instruments*" in the French text was inelegant; and he accordingly proposed the deletion of the words "*par*" and "*autres*".
31. Sir Humphrey WALDOCK said that he was not certain that there was any need to cover resolutions of an international organization, seeing that there was an article providing for the application of their relevant rules.
32. Mr. EL-ERIAN (Special Rapporteur) said that the point raised by Mr. Yasseen had been considered by the Drafting Committee, which had decided to retain the words "between States or between States and international organizations".
33. Mr. YASSEEN said that he was unable to endorse Mr. El-Erian's comment; he could see no point in retaining the words in question.
34. Mr. USHAKOV said that, in order to avoid a tendentious interpretation of the term "international agreements", it would be better to retain the present wording of article 4 *bis*.
35. The CHAIRMAN said that he was in favour of article 4 *bis* as it stood.
36. Mr. CASTRÉN (Chairman of the Drafting Committee) said that the Drafting Committee had unanimously recognized the usefulness of the words "between States or between States and international organizations", which clarified the text of article 4 *bis*.
37. Mr. BARTOŠ said he was against Mr. Yasseen's proposal. The fact that the article also applied to agreements concluded between States and international organizations should be clearly stated.
38. In the draft convention on the law of treaties, all treaties other than those concluded between States had been left aside, but the present draft articles were concerned with relations between States and international organizations, and should be very precisely worded in order to prevent mistakes in interpretation.
39. Mr. YASSEEN said he thought that the term "international agreements" covered all international agreements concluded between States and international organizations. When the Commission had decided to limit the field of application of its draft on the law of treaties, it had expressly stated that the convention would not apply to agreements concluded between States and other subjects of international law,⁴ thereby recognizing that agreements between international organizations and States were international agreements. The deletion he had proposed would not do any harm, but he would accept the decision of the majority.
40. Mr. CASTRÉN (Chairman of the Drafting Committee) said he noted that members supported the idea of article 4 *ter*.
41. He supported Sir Humphrey Waldock's proposal to replace the word "instruments" by "agreements".
42. The proposal to replace the word "adoption" by the word "acceptance" would appear to relate to the English text only.
43. Mr. Eustathiades' proposal to delete the words "*par*" and "*autres*", in the French text, would improve the wording.
44. Mr. KEARNEY said that, in order to get round the various difficulties that had appeared, he would propose that article 4 *ter* be reworded to read "Nothing in the present articles shall preclude, in international agreements, different provisions concerning the representatives of States to an international organization".
45. Mr. ROSENNE said that if the word "agreements" were used, then the word "adoption", in the present text, would have to be replaced by the word "conclusion".
46. Sir Humphrey WALDOCK proposed that article 4 *ter* read: "Nothing in the present articles shall preclude the conclusion of other international agreements having different provisions concerning the representatives of States to an international organization".
47. Mr. USHAKOV said he thought it would be more elegant to say, in the English version, "Nothing in the present articles shall preclude the conclusion of an agreement...".
48. The omission of the word "*par*" from the French text of article 4 *ter* would, in his opinion, render the article meaningless, but the replacement of the word "instruments" by the word "agreements" would clarify the text.
49. Mr. NAGENDRA SINGH said that Sir Humphrey Waldock's wording was clear and met the points made during the discussion.
50. Mr. ROSENNE and Mr. KEARNEY both supported Sir Humphrey Waldock's wording.
51. Mr. YASSEEN said that the draft convention on the law of treaties gave a very precise and limited meaning to

⁴ See *Yearbook of the International Law Commission, 1966*, vol. II, p. 187, commentary to article 1.

the word "adoption". To avoid confusion, therefore, he proposed that, unless Sir Humphrey Waldock's wording were adopted, it be replaced by the word "acceptance" in English and "*acceptation*" in French.

52. The CHAIRMAN, said that there appeared to be general agreement on the drafting Committee's text for article 4 *bis* and Sir Humphrey Waldock's wording for article 4 *ter*, and he would therefore put those two texts to the vote.

Article 4 bis was adopted by 14 votes to none.

Sir Humphrey Waldock's wording for article 4 ter was adopted by 13 votes to none, with 1 abstention.

ARTICLE 5 (Establishment of permanent missions)⁵

53. Mr. CASTRÉN (Chairman of the Drafting Committee) said that the Drafting Committee proposed the following text for article 5:

Establishment of permanent missions

Member States may establish permanent missions to the Organization for the performance of the functions set forth in article 6 of the present articles.

54. The new text of article 5 did not differ appreciably from the text proposed by the Special Rapporteur; the Drafting Committee had made only drafting changes.

55. The Drafting Committee had had three proposals before it: to maintain the Special Rapporteur's text with a few drafting changes; to indicate that, when Member States established permanent missions to international organizations, the relevant provisions of the draft articles applied; and to delete the article.

56. It had decided in favour of the first proposal because the second did not add anything new, while acceptance of the third would have made it impossible to deal with the important question of the establishment of permanent missions to international organizations. The possibility of establishing such missions was recognized by a number of organizations, including the most important ones, and even if their rules did not expressly provide for the establishment of permanent missions, the practice was nevertheless accepted.

57. The Drafting Committee had replaced the word "*création*" in the French text of the title of the article by the word "*établissement*" and correspondingly, the word "*créer*" in the French text of the article by the word "*établir*". It had deleted the word "seat" because the question of the seat was dealt with in another article, while the word "defined" had been replaced by the words "set forth".

58. The Drafting Committee had also requested the Special Rapporteur to indicate in his commentary that article 5, like all the other articles, was subject to the general reservations set forth in articles 4, 4 *bis* and 4 *ter*.

59. Mr. ROSENNE said that he had had some difficulty about article 5 at first reading, but, in the light of the new drafts for articles 4 *bis* and *ter*, he would now accept it.

60. Sir Humphrey WALDOCK said that the major issue in article 5 was consent. It was of primary interest to the host State to know whether, when it accepted the establishment of the headquarters of an organization in its territory, it thereby also accepted the obligation to receive permanent missions to that organization. That should be brought out in the commentary, and it would be essential at the same time to underline that under article 14 a limitation was imposed on the size of the mission.

61. Mr. EL-ERIAN (Special Rapporteur) said that he proposed to indicate in the commentary that the Commission had adopted a pragmatic approach, and had not pronounced on whether or not States had a right to establish permanent missions in the host State. Article 2 of the Vienna Convention on Diplomatic Relations⁶ had not specified whether diplomatic representation was a right or not. Such issues were usually settled in practice and were subject to the general reservation contained in article 4.

62. Sir Humphrey WALDOCK said that the natural meaning of the words in article 5 was that a member State had a right to establish permanent missions in the host State, without any need for the host State's consent.

63. It would be difficult to codify if the acceptability of a text had to depend on the acceptance of commentaries.

64. Mr. EL-ERIAN (Special Rapporteur) said that nevertheless the commentaries did serve as preparatory work for use in interpretation.

65. The CHAIRMAN, speaking as a member of the Commission, said he agreed with Sir Humphrey Waldock's reading of article 5.

66. Mr. KEARNEY said that commentaries, in the light of the convention on the law of treaties, had little real value for purposes of interpretation.

67. Article 5 did confer a right on Member States to establish permanent missions; if a host State was unable to receive them, it would have to take the necessary measures when the headquarters agreement was being negotiated.

68. He could support the article.

69. Mr. USHAKOV said he thought that Sir Humphrey Waldock's interpretation was correct and that, subject to the provisions of article 4, 4 *bis* and 4 *ter*, a host State which consented to the presence of an organization on its territory also consented to the possibility of the establishment of permanent missions.

70. He favoured the present wording of article 5.

71. Mr. CASTRÉN (Chairman of the Drafting Committee) said he considered that States had a right to establish permanent missions to international organizations. The Commission might adopt article 5 in its present wording and indicate in the commentary that the article was subject not only to the provisions of articles 4, 4 *bis* and 4 *ter* but also to those of article 14.

72. Mr. EL-ERIAN (Special Rapporteur) said that he would indicate in the commentary that the article was subject to the general reservation contained in article 4,

⁵ For earlier discussion, see 949th meeting, paras. 1-66, and 950th meeting, paras. 1-26.

⁶ See United Nations, *Treaty Series*, vol. 500, p. 98.

but would make no reference to the fact that the Commission adopted a pragmatic approach.

73. The CHAIRMAN put article 5 to the vote.

Article 5 was adopted by 14 votes to none.

ARTICLE 6 (Functions of a permanent mission)⁷

74. Mr. CASTRÉN (Chairman of the Drafting Committee) said that the Drafting Committee proposed the following text for article 6:

Functions of a permanent mission

The functions of a permanent mission consist *inter alia* in:

- (a) Representing the sending State in the Organization;
- (b) Keeping the necessary liaison between the sending State and the Organization;
- (c) Carrying on negotiations with or in the Organization;
- (d) Ascertaining activities and developments in the Organization, and reporting thereon to the Government of the sending State;
- (e) Promoting co-operation for the realization of the purposes and principles of the Organization.

75. Some members of the Commission had suggested that articles 5 and 6 should be combined in a single article, but the Drafting Committee had preferred to keep the two texts separate.

76. The Drafting Committee had reversed the order of sub-paragraphs (a) and (b), since some members of the Commission had pointed out that representation was one of the main functions of permanent missions and should be mentioned first.

77. Another point raised was the fact that permanent missions had a limited right of representation, but the Committee had considered it would be very difficult to fix the limits of the right and so had left the sub-paragraph on representation unchanged. A note on that point could be included in the commentary. The right of representation of delegations of States was dealt with in part III of the Special Rapporteur's draft.

78. It had also been suggested that, in the English version, the words "in the Organization" should be replaced by the words "at the Organization", but the Committee had decided not to change the expression, which was used in the Vienna Convention on Diplomatic Relations.

79. In sub-paragraph (c), the word "negotiating" had been replaced by the expression "carrying on negotiations", which should be interpreted in a broad sense, but did not imply that the object of the negotiations was always the conclusion of a treaty. It should be made clear in the commentary what negotiations were meant. As with representation, negotiations might be carried on by other organs, delegations or special representatives. The Committee had also added the words "or in", in order to cover the possibility of negotiations between different permanent missions in the same organization.

80. In the French version of sub-paragraph (d), the words "*suivre les activités*" had been replaced by the words "*s'informer ... des activités*", so as to keep the same wording as was used in a similar provision in the

Vienna Convention on Diplomatic Relations. The Committee had also brought the French text into line with the English.

81. In sub-paragraph (e) a number of substantive as well as drafting changes had been made.

82. Mr. BARTOŠ said he thought that "representing" and "keeping liaison" meant the same thing, so sub-paragraph (b) could be dropped.

83. Mr. CASTAÑEDA said that the purpose of article 6 was to regulate relations between the organization and permanent missions. But among the functions of a permanent mission was one which had not been mentioned, namely, participation in the activities of the organization, and that was a function of primary importance.

84. On the other hand, ascertaining activities in the organization and reporting thereon were not essential functions. It looked as though what the drafters of the article had been mainly concerned with was relations between the sending State and the receiving State, in other words, bilateral diplomacy.

85. Mr. YASSEEN thought that the new wording of article 6 was a considerable improvement; in particular, he welcomed the fact that representation was mentioned in sub-paragraph (a).

86. He was not, however, entirely satisfied with sub-paragraph (d). The phrase "ascertaining developments" suggested bilateral diplomacy, as Mr. Castañeda had said. What the permanent mission should ascertain was not "developments" but "activities" in the organization.

87. Mr. USHAKOV said that article 11 provided that a permanent representative could represent a sending State in the various organs of the organization. Since such participation depended on the will of the sending State, it might perhaps be preferable, if the point was to be mentioned at all, to do so in article 11 rather than in article 6.

88. In sub-paragraph (d), the English word "developments" was rendered in French by the expression "*l'évolution des événements*", which Mr. Reuter had declared to be the best translation of the English term. It would be best to keep that wording for the present, subject to the possibility of altering it later after Governments had submitted their comments.

89. Mr. ROSENNE said that he shared Mr. Bartoš's doubts regarding the necessity for sub-paragraph (b), the contents of which were included in the nature of things in the provisions of sub-paragraph (a).

90. In sub-paragraph (d), there appeared to be a discrepancy between the English and French texts. In the English original, the words "in the Organization" clearly governed both "activities" and "developments", whereas in the French version, the words "*dans l'organisation*" were placed immediately after "*s'informer*" and so would not appear to govern those two concepts.

91. Mr. EUSTATHIADES, referring to Mr. Castañeda's comment, said some might consider that participation in the activities of the Organization was something so self-evident that there was no point in mentioning it, or that the notion was implied in the term of sub-paragraph (e), "promoting co-operation for the realization of the pur-

⁷ For earlier discussion, see 950th meeting, paras. 27-81, and 951st meeting, paras. 1-44.

poses and principles of the organization". But it would be advisable to mention it in any case, either in a separate sub-paragraph, or in sub-paragraph (d), which might open with the words "participating in the activities of the Organization, ascertaining . . .".

92. In sub-paragraph (c), the original wording, "negotiating with the Organization", was preferable to the present text. The words "or in" had been added to cover the possibility of negotiations between different delegations in the same organization, but he questioned the need to refer to them.

93. He did not think the term "developments" had a great deal of meaning. It would be sufficient just to say "ascertaining activities", which also covered ascertaining the development of activities.

94. Mr. USTOR said that the point raised by Mr. Castañeda had been examined by the Drafting Committee in the course of its long discussion on the matter of the representative function of permanent missions, a function which had been questioned by some members. The text as it now stood represented a compromise, and he urged the Commission to adopt it.

95. He was in favour of retaining sub-paragraph (b), despite the feeling on the part of some members that its contents might be already covered by the provisions of sub-paragraph (a).

96. The point raised by Mr. Rosenne could be met by transferring the words "*dans l'organisation*" from their present place in sub-paragraph (d) and inserting them after the word "*événements*".

97. Mr. USHAKOV said that article 3, sub-paragraph (d), of the Vienna Convention on Diplomatic Relations began with the words: "Ascertaining by all lawful means conditions and developments in the receiving State", and in the French version, the English word "developments" was rendered in French by the expression "*l'évolution des événements*".

98. In the French version of article 6, the words "*dans l'organisation*" should be placed after the words "*l'évolution des événements*"; the resulting text would then correspond to that of the Vienna Convention.

99. Mr. CASTRÉN (Chairman of the Drafting Committee) said he was not in favour of deleting sub-paragraph (b), as Mr. Bartoš had suggested; there was a slight difference between "representing" and "keeping liaison", the latter expression having a slightly broader meaning.

100. With regard to Mr. Eustathiade's comment on sub-paragraph (c), the Drafting Committee had preferred to speak of "carrying on negotiations" rather than "negotiating" because it wished to limit the right of permanent missions in that respect. The addition of the words "or in" had been requested by several members of the Commission.

101. The Committee had used the expression "*s'informer des activités*" in the French version of sub-paragraph (d), which was not as strong as the expression "*suivre les activités*", because it was not certain that the rights of permanent missions in that respect were as extensive as the latter expression implied.

102. He agreed with Mr. Ushakov's suggestion that the words "*dans l'organisation*" in the French version should be placed after the words "*l'évolution des événements*".

103. It was true that participation in activities of the organization was not explicitly mentioned. It was, however, implied in terms such as "keeping liaison", "ascertaining activities" and "promoting co-operation". Participation in activities was unquestionably one of the principal functions of permanent missions. If the Commission wished to mention it, something could be added at the beginning of sub-paragraph (d).

104. Mr. EL-ERIAN (Special Rapporteur) said he would urge that sub-paragraph (b), which dealt with the function of liaison as distinct from representation, be retained. Historically, permanent missions had originated as offices to enable Member States to maintain the necessary liaison with the organization in the periods between sessions of the main organs of the United Nations. Experience had shown that, after the departure of delegations to their home countries, there was still a steady stream of liaison work to be carried out.

105. He did not favour the suggestion to make express reference to the participation in the activities of the organization. In fact, sub-paragraphs (a), (b), (c) and (e) all dealt with such participation. Sub-paragraph (d), on the other hand, dealt with the role of the permanent mission in connexion with activities in which it did not participate; one example was the function of following the work of a committee of which the sending State was not a member.

106. Mr. YASSEEN said that the English and French versions of sub-paragraph (d) should be carefully conformed. In the English version there was no mention of "*l'évolution des événements*".

107. Mr. EUSTATHIADES said he agreed with Mr. Yasseen. Ascertaining what was going on and reporting thereon was indeed one of the principal functions of diplomatic missions, but in the case of permanent missions to organizations it was not possible to speak of more than the development of activities. The French version gave the impression that a permanent mission had to follow every event that happened.

108. The CHAIRMAN, speaking as a member of the Commission, said that the wording used in article 3, paragraph 1 (d), of the Vienna Convention on Diplomatic Relations was "conditions and developments", not "activities and developments", as in draft article 6 (d). Perhaps the best solution would be to delete the words "and developments", a deletion which would not involve any change in the meaning.

109. Mr. EL-ERIAN (Special Rapporteur) said that he had used the expression "activities and developments" in order to make it clear that a permanent representative's functions were not confined within the narrow limits of the activities of the different organs of the organization; the representative was also called upon to observe the general trends which became apparent in the organization.

110. Mr. USHAKOV said that according to Mr. Eustathiades's reasoning it might also be said that the

word "developments" which appeared in the Vienna Convention was superfluous, because the word "conditions" was already there. Yet the authors of the Convention had thought it fit to add the word "developments" which, in fact, added precision to the sentence. The French translation of the word was satisfactory and he considered that the text proposed by the Drafting Committee should be maintained.

111. Mr. BARTOŠ said it was very important to mention "developments" so as to emphasize that a permanent mission had to ascertain not only activities in the organization but also any changes that might occur and the reasons for those changes. A wording such as "*l'évolution des événements y relatifs*" could perhaps be used to make clear what kind of developments were meant.

112. Mr. YASSEEN said that a permanent mission had to ascertain intelligently what was happening. It should always take an interest in the activities of the organization viewed in their international context. It was not merely a question of commenting on the day-to-day activities of the organization. The word "*événements*" was not explained in the French text as it stood. The draft would be acceptable only if, as Mr. Bartoš had suggested, something were included explaining the sense in which the word "*événements*" was used.

113. Mr. CASTRÉN (Chairman of the Drafting Committee), suggested that if the French version were amended to read "*l'évolution des événements dans l'organisation*", misinterpretation would be impossible.

114. Mr. CASTAÑEDA said that, when a State formed part of an organization, it had other functions than those listed in the various sub-paragraphs of article 6. For example, the essential function of voting was not mentioned. It might perhaps be said that when there was voting, there was representation, but that would not be entirely correct. The State contributed to the formation of the collective will of the organization. That function was perhaps implied in sub-paragraph (e) which spoke of "promoting co-operation for the realization of the purposes and principles of the organization", but the terms employed were too vague. Mention should be made of the participation of the State in the creation of the common will, and the most appropriate place to do that would appear to be in article 6, which listed the functions of a permanent mission.

115. Mr. BARTOŠ said he could not agree that voting was a regular function of a permanent mission. It was a function of the diplomatic representatives of the State. A permanent mission was not required to represent the State in assemblies of the organization. It might, of course, happen that a member of a permanent mission was given certain powers for that purpose, but that would be a special case. Voting could not be mentioned as a function in article 6.

116. With regard to sub-paragraph (d), it was correct to say that reporting to its government was one of the functions of a permanent mission, but that was an internal matter for the sending State between its mission and its government; there was no need to mention it in article 6.

117. Mr. ROSENNE said that he agreed with Mr. Bartoš's reply to the interesting point raised by Mr.

Castañeda. Article 6 did not claim to give an exhaustive catalogue of the functions of a permanent mission. It simply listed certain diplomatic functions which were not usually provided for specifically in the constituent instruments of organizations; those instruments normally dealt with such matters as voting by delegations.

118. In the light of the discussion, he now doubted whether sub-paragraph (d) was necessary at all, especially if the function of reporting was merely an internal matter for the sending State.

119. He noted that in the English version the word "reporting" was followed by the word "thereon", which clearly referred to both "activities" and "developments". The French version where "thereon" was rendered by "*à ce sujet*", in the singular, did not appear to correspond exactly to the English. He would like to have the views of the Secretariat on the point.

120. Mr. TESLENKO (Deputy Secretary of the Commission) said that exact equivalence was rarely achieved in translation, but the expression "*à ce sujet*" referred to both "*activités*" and "*l'évolution des événements*".

121. Mr. NAGENDRA SINGH said that he also felt that sub-paragraph (d) might not be necessary but, if it were desired to retain it, he would suggest as an alternative wording: "(d) participating in the work of the Organization and keeping the Government of the sending State informed of activities and developments relating to the Organization".

122. Mr. USHAKOV observed that there was no question as yet of approving article 6 in final reading. The present wording, with the change in the French version, would appear adequate for the moment.

123. The CHAIRMAN said that, no formal amendments having been submitted, he would put article 6 to the vote as it stood, on the understanding that in the French version of sub-paragraph (d), the words "*dans l'organisation*" would be moved to after "*événements*", and that in the Spanish version, the concluding words of sub-paragraph (a) would be corrected to read "*ante la organización*".

124. Mr. ROSENNE asked for a separate vote on sub-paragraph (d).

Sub-paragraph (d) was adopted by 8 votes to none, with 6 abstentions.

Article 6 as a whole was adopted by 11 votes to none, with 3 abstentions.

The meeting rose at 1.15 p.m.

981st MEETING

Wednesday, 24 July 1968, at 10 a.m.

Chairman: Mr. José María RUDA

Present: Mr. Ago, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. El-Erian, Mr. Eustathiades, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina,