

Document:-
A/CN.4/SR.992

Summary record of the 992nd meeting

Topic:
Representation of States in their relations with international organizations

Extract from the Yearbook of the International Law Commission:-
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8. The question had also been raised whether there should be a single set of privileges and immunities for all special missions, or different sets of privileges and immunities for different categories of special missions (A/CN.4/218, para. 18). The United Kingdom delegation had proposed that the Commission's articles should apply to "ministerial" special missions, and that only functional immunities should be enjoyed by other special missions, which would be regarded as "standard" special missions (A/CN.4/218, para. 20). The United Kingdom had also proposed the inclusion of a new article on conferences (A/CN.4/218, para. 21).

9. At a previous session the Commission had authorized him to request, through the Secretariat, the comments of the specialized agencies and the International Atomic Energy Agency, and to consult those agencies in order to obtain material from them on certain points which had arisen in their practice. That material had been provided and would be published in a revised edition of the Secretariat paper on the subject (A/CN.4/L.118). Since the agencies had provided information, it would be logical to enable them to make a further contribution by submitting comments on the draft articles adopted by the Commission; their comments could be taken into account, together with those made by governments, when the Commission came to prepare the final text of the draft articles.

10. With regard to the arrangement of the draft articles, he said that in his fourth report the articles concerning permanent observers from non-member States would immediately follow those dealing with permanent missions. The articles on delegations to organs of international organizations and to conferences would follow. That arrangement was a reversal of the order followed in his third report. The reasons for the reversal were both theoretical and practical: the theoretical reason was that permanent observers were not engaged in *ad hoc* diplomacy, so that their treatment followed logically after that of permanent missions; the practical reason was that the privileges and immunities of observers had hitherto remained almost entirely unregulated by international law. The position regarding delegations to organs of international organizations and to conferences convened by international organizations was quite different: the privileges and immunities applicable to them were regulated by the Convention on the Privileges and Immunities of the United Nations⁴ and the Convention on the Privileges and Immunities of the Specialized Agencies.⁵

11. He suggested that the Commission should begin consideration of his report by examining the draft articles on the facilities, privileges and immunities of permanent missions to international organizations (Part II, section II). When it had dealt with them, it could proceed to examine the draft articles on permanent observers and on delegations to organs of international organizations and to conferences.

12. Mr. BARTOŠ said he wished to associate himself with those members of the Commission who, at the

previous meeting, had expressed their satisfaction at the results achieved by the Vienna Conference on the Law of Treaties. The new Convention crowned the Commission's work on that topic with success and would be a landmark in the history of international law. Four members of the Commission—Sir Humphrey Waldock, Mr. Ago, Mr. Elias and Mr. Yasseen—had made an outstanding contribution to the success of the Conference. Praise was also due to the other members of the Commission who had taken part in it, to the Legal Counsel, representing the Secretary-General, and to the Conference Secretariat.

13. At the previous meeting the Legal Counsel had referred to the possibility of a third conference on the law of the sea. He (Mr. Bartoš) thought that, if such a conference was to be held, the Commission or its officers, in consultation with the Legal Counsel and the Secretariat, should rearrange the programme of work as soon as possible, so that the Commission could submit a carefully prepared draft completing the existing Conventions on the law of the sea.

14. With regard to the topic of relations between States and international organizations, he supported the proposal that the Commission should start by considering the facilities, privileges and immunities of permanent missions to international organizations, and then take up the other matters to which the Special Rapporteur had referred.

The meeting rose at 11.15 a.m.

992nd MEETING

Wednesday, 4 June 1969, at 10.15 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. El-Erian, Mr. Ignacio-Pinto, Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasoavina, Mr. Reuter, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Relations between States and international organizations

(A/CN.4/218)

[Item 1 of the agenda]

(continued)

GENERAL DEBATE

1. Mr. USTOR said he wished to associate himself with those members of the Commission who had expressed their great satisfaction at the results achieved by the Vienna Conference on the Law of Treaties. The adoption of the Vienna Convention on the Law of

⁴ United Nations, *Treaty Series*, vol. 1, p. 16.

⁵ *Op. cit.*, vol. 33, p. 262.

Treaties was an event of the greatest importance for the whole process of codification and progressive development of international law; it was also a great encouragement and a good omen for the future work of the International Law Commission. He commended those members of the Commission, past and present, who had participated in the preparation of the draft articles, in particular Sir Humphrey Waldock, whose splendid contribution as Special Rapporteur in the Commission and as Expert Consultant at the Conference had been invaluable.

2. There was one aspect of the Vienna Conference which should be mentioned in the Commission, because it had a bearing on future codification work. It was to be regretted that the Conference had failed to include in the Convention a provision on, and a definition of, general multilateral treaties. An important group of States and an equally important school of thought considered that that omission marked a failure, because they believed that the rule of universal participation in general multilateral treaties was part of contemporary international law.

3. In its 1962 draft, the Commission had adopted, in article 8, a provision on participation in general multilateral treaties and had stated in its commentary that "It was unanimous in thinking that these treaties because of their special character should, in principle, be open to participation on as wide a basis as possible".¹

4. That idea and the unanimous thinking of the Commission had been mentioned time and again at the Conference with great insistence, but with curious results. On the one hand, the Conference had accepted the idea in principle and had adopted a Declaration in which it expressed its conviction that multilateral treaties dealing with the codification and progressive development of international law or other subjects of general interest should be open to universal participation.² On the other hand, the Conference had refused to put that principle into effect; the final clauses of the Convention followed the old restrictive pattern. The adoption of the principle of universality by the Conference was of the greatest importance for the work of codification and progressive development of international law, however, and sooner or later the practice would have to yield to the force of that principle.

5. Mr. NAGENDRA SINGH congratulated the Special Rapporteur on his fourth report (A/CN.4/218). The Commission had discussed at its last session the question whether it should include in the draft articles provisions concerning delegations to organs of international organizations and to conferences convened by international organizations, and provisions concerning permanent observers from non-member States accredited to international organizations. Since the Sixth Committee of the General Assembly had raised that question, he thought the Commission should inform the Committee whether it intended such delegations and observers to

be included in the present topic, to form a separate topic or to be included in the topic of special missions.

6. While it was too early for the Commission to reach any definite conclusion on the matter, it should, before the end of the present session, give the Sixth Committee a clear idea of the scope it thought the present study should have. He himself was convinced that the subject of permanent observers from non-member States was closely linked with that of permanent missions and should be included in the study. On the other hand, the subject of delegations to international conferences convened by international organizations was a very extensive one and should be dealt with in a separate chapter, since it was obviously a separate matter altogether. Most international conferences were convened under the auspices of some international organization, and the Commission should therefore take a definite stand on how and when that topic was to be codified.

7. He proposed that, before their final adoption, the draft articles should be submitted to the specialized agencies and to the IAEA, since their comments would be of the greatest value.

8. Mr. TAMMES thanked the Special Rapporteur for his lucid introduction to his fourth report. He drew attention to the fact that while draft article 22 in that report laid down that "The organization and the host State shall accord to the permanent mission the facilities required for the performance of its functions...", article 23, paragraph 2, stated that "The host State and the organization shall also, where necessary, assist permanent missions in obtaining suitable accommodation for their members". That would seem to place a legal obligation on the organization and on the host State. The obligation might seem to be a reasonable one, but it raised the general question whether the draft articles were intended to be signed and ratified by organizations as independent subjects of international law. If it was not intended to place organizations in such a sovereign position, he thought the references to them in articles 22 and 23 should be omitted. It was true that certain obligations for international organizations were set forth in the Convention on the Privileges and Immunities of the United Nations,³ but that Convention had been concluded between the members of a single international organization constituting a group which could be identified with the organization itself, namely, the United Nations.

9. The CHAIRMAN said it would be better, for the time being, to discuss representation in general, without reference to particular articles. The Special Rapporteur would later be asked to introduce each article separately.

10. Mr. KEARNEY, after congratulating the Special Rapporteur on his very able report, said he agreed that permanent observers should be dealt with in the draft articles. The procedure to be followed in dealing with delegations to international conferences convened by international organizations was a more difficult question, however. The United Kingdom delegation had submitted amendments on that question in the Sixth Committee

¹ See *Yearbook of the International Law Commission, 1962*, vol. II, p. 168, para. (2).

² See Final Act of the United Nations Conference on the Law of Treaties, document A/CONF.39/26, annex.

³ United Nations, *Treaty Series*, vol. 1, p. 16.

of the General Assembly, in connexion with the draft convention on special missions (A/CN.4/218, para. 21). In his opinion, the Commission should decide whether the present draft articles were to be supplemented by a series of articles dealing with delegations to international conferences convened by international organizations. That would be better than leaving the question to be dealt with by the Sixth Committee in the context of special missions, since that Committee did not yet have any adequate foundation on which to work out a proper set of provisions.

11. While appreciating the Chairman's suggestion that the Commission should confine itself at present to a general discussion, he hoped that the Legal Counsel would give members the benefit of his views on the point raised by Mr. Tammes concerning articles 22 and 23.

12. The CHAIRMAN, speaking as a member of the Commission, congratulated the Special Rapporteur on his excellent report. He agreed that it would be better to place the part dealing with permanent observers from non-member States accredited to international organizations immediately after the part relating to permanent missions to international organizations. With regard to the suggestion that the articles should not be accompanied by commentaries, he thought that that would have no disadvantages so far as the work of the Commission was concerned; but when the draft articles on permanent missions to international organizations were submitted to the General Assembly, commentaries should be included, even where the text of the articles was very close to that of the Vienna Convention on Diplomatic Relations or that of the draft convention on special missions. Consequently, the Special Rapporteur should in any case prepare commentaries on the draft articles on relations between States and international organizations.

13. Mr. EL-ERIAN (Special Rapporteur), summing up the discussion, said that the question of permanent observers from non-member States accredited to international organizations did not appear to raise any difficulties; the Commission was in agreement that it should be taken up in connexion with the present topic and at the present stage. Permanent missions were a part of permanent diplomacy, not of *ad hoc* diplomacy, which included international conferences and delegations to such conferences.

14. The question of delegations to organs of international organizations and to conferences convened by international organizations was a much more difficult one. In previous discussions, the Commission had preferred not to commit itself on that question; at its last session, for example, it had decided not to take any decision until it had had an opportunity to consider the draft articles.⁴

15. It was necessary to distinguish between three types of delegation. First, there were delegations to organs

forming an integral part of an international organization. Secondly, there were delegations to conferences convened by international organizations; such conferences were legally distinct from organs of international organizations, since, although their rules of procedure were usually modelled on those of the General Assembly, their membership consisted of sovereign States which could always adopt their own rules of procedure. Thirdly, there were delegations to international conferences convened by States; at the last session, some members had expressed the view that such conferences constituted a separate topic and had questioned whether the Commission should include them in the topic of relations between States and international organizations.

16. The question was further complicated, as Mr. Kearney had pointed out, by the fact that the United Kingdom had submitted draft amendments to the Sixth Committee of the General Assembly, which were still pending. The present trend in the Sixth Committee seemed to favour the approach taken by the Commission in regard to special missions. When the Sixth Committee had discussed article 6 of the draft on special missions at the last session of the General Assembly, Mr. Bartoš, the Special Rapporteur on that topic, had explained that it comprised the regulation of matters of common interest to a limited number of States. Hence it seemed that neither the Commission nor the Sixth Committee intended to take up the question of international conferences in connexion with the topic of special missions. He therefore agreed with Mr. Nagendra Singh that the Commission should take a preliminary decision concerning delegations to organs of international organizations and to conferences convened by international organizations. At present, most international conferences were convened under the auspices of international organizations and conferences convened by States were in the minority, so it would hardly be logical to deal with conferences convened by States before settling the question of conferences convened by international organizations.

17. Furthermore, the regulation of the status of delegations to international conferences was not an aspect of bilateral diplomacy and it should not be dealt with as part of the topic of special missions. The topic of special missions in fact constituted an appendix to inter-State bilateral diplomacy and the Commission had decided to complete that subject by codifying the law of special missions. The question of delegations to international conferences was one of multilateral, collective and parliamentary diplomacy: it was not clear to him whether the Commission should take it up at the present stage together with permanent missions, or later on as a chapter in the draft articles on relations between States and international organizations, or possibly as part of a separate topic comprising the law of international conferences in general.

18. The Commission seemed to be in agreement that the provisional draft articles should be submitted to the specialized agencies and to the IAEA for their comments, which could be taken into account when the draft was put into its final form. Furthermore, he hoped that the present highly satisfactory co-operation with the

⁴ See *Yearbook of the International Law Commission, 1968*, vol. II, Report of the Commission to the General Assembly, para. 28.

legal advisers of the United Nations, the specialized agencies and the IAEA would continue, so that the Commission would also have the benefit of their views before preparing its final draft.

19. Mr. YASSEEN said he had read the Special Rapporteur's clear, comprehensive and precise report with great interest. With regard to the scope of the draft articles which the Commission had been asked to prepare, his view was that, after completing consideration of the part dealing with permanent missions, on which considerable progress had already been made, the Commission should establish the rules governing the status of permanent observers from non-member States accredited to international organizations, so that there would be a complete set of rules on representation in international organizations. As to the part dealing with delegations to organs of international organizations, the Commission should review the rules on the matter stated in certain conventions which had been concluded, but which many countries had not yet ratified, with a view to adapting them to present international circumstances.

20. He did not think that international conferences convened by international organizations or held under their auspices formed part of the topic which the Commission was studying. International conferences were sovereign bodies which were not dependent on the United Nations, and some of the States represented at them were not members of the convening organization. Such conferences therefore formed a separate topic and the Commission might be asked to treat them accordingly. Admittedly, during the discussion on special missions in the Sixth Committee, at the twenty-third session of the General Assembly, some delegations had expressed the desire that the question of international conferences should be made the subject of a draft of articles, but in general the Sixth Committee had taken the view that a preliminary study should be made of the rules involved. Hence it would be inappropriate for the Commission to study the matter in connexion with the draft articles now before it.

21. Mr. USTOR said he wished to deal with only one of the general issues raised in connexion with the Special Rapporteur's excellent report. He fully agreed with the view that the draft should include articles on permanent observers. The part which dealt with that subject should begin with an introductory article fulfilling, for permanent observers, the purpose served for permanent missions by article 6 (Establishment of permanent missions).⁵ The introductory article would specify which States had the right to send permanent observers. Where the organization was of a universal character, the rule should be that all States which were not members of the organization had the right to send permanent observers. That rule would be in accordance with the principle of universality, which had recently been endorsed by the United Nations Conference on the Law of Treaties.

22. Mr. STAVROPOULOS (Legal Counsel) said that during the Sixth Committee's discussion on the draft convention on special missions, a new article on the

subject of conferences had been proposed. He understood that that proposal was not likely to be adopted and, in view of the danger that the question of conferences might not be dealt with at all, it would perhaps be useful for the Commission to include, in its report on the present session, a passage indicating its interest in the subject. The Sixth Committee would then probably decide that the Commission should be invited to deal with it.

23. A conference convened by the United Nations was not a subsidiary organ of the Organization and did not report to the General Assembly. It had been said that a conference was sovereign, but it might perhaps be more correct to describe it as semi-sovereign, because such matters as the date and place of meeting and the composition of the conference were decided by the General Assembly.

24. The question of conferences convened by States should also receive attention. It was not usual for important international conferences to be convened otherwise than under the auspices of an international organization, but such conferences were sometimes convened by States and raised problems in international law.

25. For those reasons, it was desirable that the Commission should be empowered to examine the question of conferences.

26. He wished to make a comment on article 22 (General facilities) and article 23 (Accommodation of the permanent mission and its members), which contained references to the organization concerned. Although those references were not absolutely indispensable, they were very useful for practical reasons. The primary responsibility for granting facilities was borne by the host State, but the organization concerned could not ignore the problem. For example, the Housing Service of the United Nations in New York co-operated with the host State in assisting delegations to solve their housing problems. Since that was the real situation, it was appropriate to include a reference to the organization in articles 22 and 23, thereby emphasizing that the granting of facilities was not the exclusive responsibility of the host State.

27. At the previous session, during the discussion on the draft article dealing with general facilities, he had drawn attention to the clause which required an organization to "accord to the permanent mission the facilities required for the performance of its functions", and had expressed the hope that that clause would not be interpreted as meaning that the organization assumed the obligation to provide facilities for which it had no provision in its budget.⁶ To guard against any such interpretation, the Commission might wish to point out, in its commentary on article 22, that it followed from article 3 that the granting of facilities to a permanent mission by an international organization was subject to the relevant rules of the organization, in particular those concerning budgetary and administrative matters. A statement to that effect in the commentary was necessary in order to

⁵ *Ibid.*, chapter II, section E.

⁶ See *Yearbook of the International Law Commission, 1968*, vol. I, p. 97, para. 59.

avoid misunderstandings between organizations and permanent missions.

28. In that connexion, he drew attention to a discrepancy in the wording used in articles 22 and 23. Article 22 began with the words "The organization and the host State . . .", whereas article 23, paragraph 2, read: "The host State and the organization . . .". He thought that the second formula was preferable to the first, because the main burden rested on the host State; from his experience he could say that the principal role of the organization was to assist in securing action on the part of the host State.

29. Sir Humphrey WALDOCK said that if the question of representatives to international conferences were not dealt with either in the context of special missions or in the context of permanent missions, there was a danger that it might not be dealt with at all.

30. When the Commission had first engaged in considering the topic of relations between States and international organizations, it had envisaged a large project dealing with the whole range of the subject. Subsequently, however, it had decided to confine its work to the privileges and immunities of permanent missions. By doing so, the Commission had limited its work to what constituted a branch of diplomatic law and the draft articles now under consideration represented a stage in the codification of diplomatic law, rather than a codification of relations between States and international organizations.

31. If the Commission decided to ask for a mandate to deal with the question of representatives to international conferences, it should first determine the scope of the new topic. It had the choice between a general examination of the whole of the law of international conferences and the more limited task of filling a gap in diplomatic law by dealing only with the question of representatives to international conferences.

32. The question of international conferences was one of wide scope. He recalled that, when the Commission had examined the law of treaties, it had found it necessary to lay down a residuary rule, applicable to international conferences, regarding the adoption of the text of a treaty. The need to include such a provision in the draft on the law of treaties showed the impact of the law of international conferences on other branches of international law.

33. Mr. CASTRÉN thanked the Special Rapporteur for his very clear and comprehensive report. He supported the Special Rapporteur's suggestion that the Commission should ask international organizations for their comments on the draft articles, as it was permitted to do by its Statute.

34. It was clear from the discussion and from the Special Rapporteur's remarks that the rules on permanent observers accredited to international organizations should be placed immediately after the rules on permanent representatives.

35. On the question whether the Commission's study should also deal with delegations to organs of international organizations and to conferences convened by international organizations or by States, he considered

that, in the light of the General Assembly's instructions, the Commission should confine itself to delegations to organs of international organizations. To go further, it would need a wider mandate from the General Assembly.

36. In any case, the provisional rules already set out by the Special Rapporteur could provide a useful basis for defining the situation of all kinds of delegations, whether permanent missions, delegations to organs or delegations to conferences convened by international organizations or even by States, for they all had much in common.

37. Mr. USTOR said that the work of codification of diplomatic law had begun with the bilateral aspects of that law, such as diplomatic relations and special missions. The Commission was now engaged in the first phase of the study of multilateral diplomatic law, which related to permanent missions and permanent observers accredited to international organizations. That part of multilateral diplomatic law corresponded to the topic of sedentary bilateral diplomacy covered by the 1961 Vienna Convention on Diplomatic Relations.

38. After the Commission completed its work on permanent missions and permanent observers, it would have to study the questions of *ad hoc* multilateral diplomacy and examine the legal position of delegations to organs of international organizations. For practical reasons, however, it was desirable not to treat the subject of delegations to conferences separately from that of delegations to organs of organizations, since the position of those two types of delegation was in fact almost identical.

39. Mr. REUTER congratulated the Chairman and officers on their election and expressed his appreciation of the Special Rapporteur's fourth report.

40. Like Mr. Ustor, he thought it would be useful to establish a logical system of diplomatic law. After bilateral diplomatic relations and consular relations, the subjects of the Vienna Conventions of 1961 and 1963, the next topic to be dealt with should be that of multilateral relations between States at international conferences. The diplomatic law of international organizations should be dealt with afterwards, for reasons of history and logic. International organizations had introduced a new element into inter-State relations because, unlike conferences, they had a status of their own. For practical reasons, however, he agreed that the Commission should not go beyond its instructions without referring the matter to the General Assembly.

41. After listening to the comments by the Legal Counsel on articles 22 and 23 of the draft, he thought it rather disturbing that the obligations of the organization and those of the host State were placed on the same level in those two articles, though their extent and nature were in fact very different. It might be possible to get over that difficulty simply by making a drafting change; for example, a proviso might be inserted in the articles making it clear that the organization and the host State were each required to grant the facilities and assistance in question within the limits of their competence and even perhaps within the limits of their

resources. In any case it would be difficult to retain articles 22 and 23 in their present form.

42. Mr. EL-ERIAN (Special Rapporteur) said that a number of important points of substance had been raised in connexion with conferences. Attention had also been drawn to an important practical consideration, namely, the danger that the matter might be left unregulated because it had not been dealt with either in the draft articles on special missions or in the draft articles on permanent missions.

43. He did not think there was any need to request an extension of the Commission's instructions on the matter. The exact limits of the topic "Relations between States and international organizations" had never been precisely laid down by the General Assembly and the Commission itself was in the best position to decide what matters it should include.

44. The Commission had first adopted a broad approach to the topic, but had subsequently decided, for practical reasons, to give priority to the diplomatic law aspect. The treatment of the question of permanent missions would serve to complete the codification of diplomatic law.

45. He noted that there was general agreement on the desirability of dealing with permanent observers. With regard to delegations to organs of organizations and to conferences, he had confined the draft articles he had prepared to conferences convened by international organizations; they did not cover conferences convened by States. It should be remembered that section 11 of the Convention on the Privileges and Immunities of the United Nations linked representatives to organs of the United Nations with representatives to conferences convened by the United Nations.

46. The late Mr. Sandström, the first Special Rapporteur on *ad hoc* diplomacy, had included provisions on the organization of congresses and conferences in his report, and had pointed out that a conference convened by the United Nations "is, in a way, a prolongation of the United Nations Organization, and it can be argued that such a conference ought to be regulated in the same way as the meeting of an organ of the United Nations and not as an ordinary congress or conference".⁷ That remark strengthened the practical point made by Mr. Ustor regarding the desirability of regulating the status of delegations to conferences in the same manner as that of delegations to organs of organizations, despite the legal differences between the two categories.

47. The Commission was now called upon to decide whether to deal solely with the privileges and immunities of delegations, or with the whole range of the law, organization and procedure of diplomatic conferences.

48. A brief reference to the history of the subject would perhaps shed some light on that question. The Committee of Experts for the Progressive Codification of International Law which had been appointed by the League of Nations to prepare for the Codification Conference held at the Hague in 1930, had set up at

its first session, in 1925, a Sub-Committee to examine the possibility of formulating rules to be recommended for the procedure of international conferences and the conclusion and drafting of treaties, and a report had been submitted on the subject by the Sub-Committee's Rapporteur.⁸ No action had, however, been taken on the matter by the League of Nations.

49. The United Nations, for its part, had begun to evolve a pattern for the organization and procedure of international conferences. There had grown out of the rules of procedure worked out by organs of the United Nations and by the specialized agencies a substantial body of rules and regulations concerning the organization and procedure of diplomatic conferences, which had become known as "multilateral" or "parliamentary" diplomacy.

50. In particular, the Secretary-General of the United Nations had carried out important preparatory work on the method of work and procedures to be adopted by the first United Nations Conference on the Law of the Sea, in response to the request made to him in General Assembly resolution 1105 (XI). The memorandum on the subject⁹ contained provisional rules of procedure, which had been adopted by the first and second United Nations Conferences on the Law of the Sea in 1958 and 1960, the Conference on Diplomatic Intercourse and Immunities in 1961, the Conference on Consular Relations in 1963 and the Conference on the Law of Treaties held in 1968 and 1969, with few variations.

51. As to the articles on congresses and conferences drafted by Mr. Sandström and included in his report, the Commission had decided that in view of the links with the topic of relations between States and international organizations it would be "difficult to undertake the subject of 'diplomatic conferences' in isolation". It had accordingly decided not to deal with diplomatic conferences for the time being.¹⁰

52. For his part, he thought that if the Commission were to delay consideration of the privileges and immunities of delegations to conferences until it took up the question of conferences as a whole, there would be a real danger of the matter not being considered at all. He therefore suggested that, when the Commission had completed its consideration of the subjects of permanent missions and permanent observers, it should examine the draft articles he had prepared on the privileges and immunities of delegations to organs of international organizations and to conferences convened by such organizations. A decision on that subject at the present session would not create any difficulties for the Sixth Committee, since the United Kingdom amendment before that Committee related to conferences convened by States. Moreover, such a decision would serve a practical purpose, since the Sixth Committee might decide not to take up the question of conferences convened by States until the Commission had examined

⁸ League of Nations publication No. C.196. M.70. 1927. V.

⁹ *United Nations Conference on the Law of the Sea, 1958, Official Records*, vol. I, p. 172.

¹⁰ See *Yearbook of the International Law Commission, 1960*, vol. II, p. 179, para. 33.

⁷ *Yearbook of the International Law Commission, 1960*, vol. II, p. 111, para. 41.

the more frequent case of conferences convened by international organizations.

53. In conclusion, he recommended that the Commission should provisionally decide to complete its work on diplomatic law by taking up the subject of delegations to organs of international organizations and to conferences convened by such organizations. By submitting draft articles on that subject, the Commission would be able to obtain the views of the Sixth Committee and to elicit comments from governments.

54. Mr. STAVROPOULUS (Legal Counsel) said he agreed with the Special Rapporteur that the question of conferences convened by the United Nations came within the Commission's mandate. The Convention on the Privileges and Immunities of the United Nations specified, in section 11, that "Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations" enjoyed privileges and immunities "while exercising their functions and during their journey to and from the place of meeting". The Convention thus placed on the same footing delegations to organs of the United Nations and delegations to conferences convened by the United Nations. The position was different with regard to conferences convened by States otherwise than under the auspices of an international organization, and the United Kingdom amendment to the draft convention on special missions related exclusively to such conferences.

55. The CHAIRMAN said the general discussion had shown that the members of the Commission were agreed that the topic of relations between States and international organizations covered the legal position of permanent missions to international organizations, the legal position of permanent observers accredited to international organizations and the legal position of delegations from member States to organs of international organizations. There was, however, a difference of opinion on whether, in dealing with that topic, the Commission should also consider the legal position of representatives of States to conferences convened by international organizations, or whether that subject should constitute a separate part of international law or perhaps be included in the law of conferences.

56. He suggested that the Commission should postpone its decision on that point until it had concluded its work on permanent missions and permanent observers.

It was so agreed.

The meeting rose at 12.45 p.m.

993rd MEETING

Thursday, 5 June 1969, at 11.5 a.m.

Chairman: Mr. Nikolai USHAKOV

Present: Mr. Ago, Mr. Bartoš, Mr. Castañeda, Mr. Castrén, Mr. El-Erian, Mr. Ignacio-Pinto,

Mr. Kearney, Mr. Nagendra Singh, Mr. Ramangasovina, Mr. Reuter, Mr. Ruda, Mr. Tabibi, Mr. Tammes, Mr. Ustor, Sir Humphrey Waldock, Mr. Yasseen.

Relations between States and international organizations

(A/CN.4/218 and Add.1)

[Item 1 of the agenda]

(continued)

GENERAL DEBATE *(continued)*

1. The CHAIRMAN said it seemed that Mr. El-Erian might be hindered in his work if, as had been decided at the end of the previous meeting, the Commission deferred its decision on whether or not the draft should deal with representatives of States to conferences convened by international organizations. He therefore proposed that the Commission should now decide, provisionally, that the draft would deal with the status of such representatives.

2. Mr. TABIBI said that conferences constituted a separate subject which required thorough study. That study should cover the subject of representatives to conferences, whether convened by an international organization or not. It might be advisable not to burden the Special Rapporteur with that additional task; the Commission should concentrate for the present on permanent missions and permanent observers.

3. Mr. CASTAÑEDA supported the Chairman's suggestion. There were, no doubt, certain theoretical differences between representatives to an organ of an international organization and representatives to a conference convened by an international organization, but for practical purposes—and it was practical considerations which should prevail in the current study—it was hardly possible to draw a distinction between those two categories of representatives from the point of view of diplomatic law, especially in respect of the privileges and immunities which should be accorded them.

4. Several existing conventions contained provisions applying to both representatives to organs and representatives to conferences. For example, in the Convention on the Privileges and Immunities of the United Nations, article IV, section 11, specified the privileges and immunities to be enjoyed by "Representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations".¹

5. Examples from the past and modern instances both showed that there was no fundamental difference between an organ of an international organization and a conference convened by such an organization. For instance, at the twenty-third session of the General Assembly, the Sixth Committee had turned itself into

¹ United Nations, *Treaty Series*, vol. 1, p. 20.