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- (b) *Reaffirmation of an important immunity of representatives of Member States to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations 347*

Chairman: Mr. Edvard HAMBRO (Norway).

AGENDA ITEM 98

Question of diplomatic privileges and immunities (continued) (A/6832/Rev.1, A/6837, A/C.6/381, A/C.6/L.633, A/C.6/L.634 and Add.1, A/C.6/L.635):

- (a) Measures tending to implement the privileges and immunities of representatives of Member States to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations and the privileges and immunities of the staff and of the Organization itself, as well as the obligations of States concerning the protection of diplomatic personnel and property;
- (b) Reaffirmation of an important immunity of representatives of Member States to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations

1. Mr. OGUNDERE (Nigeria) said that his delegation, representing an African State that had warm fraternal relations with Guinea and the Ivory Coast, regretted the unfortunate incident that had occasioned the inclusion of the item under discussion in the agenda of the General Assembly. Fortunately that incident had been resolved through the efforts of the Organization of African Unity and others, including, in particular, the Secretary-General of the United Nations.

2. Nigeria believed that international relations must be based on the Charter of the United Nations. It had long been a cardinal norm of international law that the representatives of States, who were the vehicles of inter-State relations, should enjoy diplomatic pri-

ileges and immunities in States other than their own. That principle was enshrined in Article 105, paragraph 2, of the Charter, in section 11 of the Convention on the Privileges and Immunities of the United Nations,^{1/} and in articles 29, 31 and 40 of the 1961 Vienna Convention on Diplomatic Relations.^{2/} Nigeria welcomed a reaffirmation of those principles and would urge all States to abide by them.

3. As some representatives had pointed out, there had been a number of violent breaches of the time-honoured inviolability of diplomatic envoys and their residences in recent years, elsewhere than in Africa. The speed of modern communications had no doubt accentuated the general awareness of that evil. His delegation therefore believed that it was opportune to reaffirm the relevant provisions of the Charter and of the Convention on the Privileges and Immunities of the United Nations. With regard to the proposals before the Committee, his delegation considered that the draft resolution submitted by Austria, Chile, the Dominican Republic, Guatemala, Honduras, India, Mexico, Sweden, Uruguay and Yugoslavia (A/C.6/L.635) provided an appropriate enunciation of the relevant norms of international law, and he therefore appealed to the sponsors of the other proposals to withdraw them and to support that draft resolution.

4. Mr. BLIX (Sweden) said that it was easy to understand why one of the oldest rules of international law—the inviolability of ambassadors—was so often transgressed. The interests of the sending community and of the host country were never identical and could well be conflicting, and the sending of an ambassador on a special mission or the maintenance of diplomatic relations was not necessarily a mark of friendly relations between two States. It was those circumstances that necessitated rules for the protection of the ambassador and his mission. The rules themselves were evidence that communities needed a means of communicating with and consulting one another. It was most deplorable when those rules were not fully implemented and when the host community did not succeed in offering adequate protection, for the result was often an impairment in relations at moments when the unimpaired functioning of the channels of communication and consultation was most sorely needed.

5. Neither the evolution of the institution of the ambassador nor the modern innovation of multilateral diplomacy introduced any basically new elements into the legal situation. The host countries of international organizations might have interests or harbour attitudes

^{1/} United Nations, *Treaty Series*, vol. 1 (1946-1947), I, No. 4, p. 16.

^{2/} See *United Nations Conference on Diplomatic Intercourse and Immunities, Official Records*, vol. II (United Nations publication, Sales No.: 62.X.1), p. 83.

that conflicted with those of the organizations, of their officials and of representatives to them. Those considerations called for the development of rules respecting inviolability, immunity and privileges, and the last two decades had seen great progress in the refinement of such rules. Unfortunately, however, the process of ratification of the relevant legal instruments had been slow. Although the Vienna Convention on Diplomatic Relations had been adopted in 1961 and had been generally acclaimed as a very satisfactory instrument, many States had yet to ratify it. An appeal for ratification would therefore seem timely, and would be even more appropriate in the case of the Convention on the Privileges and Immunities of the United Nations, which had been adopted in 1946.

6. His delegation would find it particularly gratifying if the United States, as the host country to the United Nations, would accede to the 1946 Convention. The Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations^{3/} was helpful as far as it went, but it was no substitute for accession to the Convention.

7. Despite the great progress in law-making in the field of immunities and privileges, many regrettable violations of the rules had been recorded. Greater clarification of the rules should make them more respected and, as their exact contents would no longer be in doubt, incidents should not result from uncertainty concerning the law. However, it was scarcely useful to seek to apportion blame or to dwell upon the past. His delegation hoped that the Committee's discussions of past events would have served to clear the air and that any resolution adopted would look to the future, seek to promote the long-term interests of the international community and express a common rededication to the rules concerning the inviolability, the immunities and the privileges of diplomatic agents and of international organizations. Sweden believed that draft resolution A/C.6/L.635, of which it was a sponsor, fulfilled those requirements. While the adoption of that text, which was self-explanatory, would not necessarily preclude the adoption of any other resolutions, he hoped that it might be considered a sufficient response to the item under discussion. The appeals to States to ratify the relevant conventions were naturally without prejudice to the constitutional and administrative procedures required in various countries.

8. Mr. ADJIBADE (Dahomey) observed that all Governments represented in the Committee were agreed on the need to affirm their dedication to peace, to maintain friendly relations and to co-operate for their mutual benefit. Since that point had been sufficiently emphasized, his delegation would confine itself to the strictly legal aspects of the question of diplomatic privileges and immunities. It was convinced that, in the interests of promoting co-operation and preserving peace, all facilities should be made available to the members of diplomatic missions and guarantees afforded for the protection of their property. It was in order to reinforce customary usage that a number of legal instruments had been adopted for the codification of diplomatic privileges and immunities, which had thus been made obligatory. The

principal instruments of that kind were the United Nations Charter, the Convention on the Privileges and Immunities of the United Nations and the Vienna Convention on Diplomatic Relations, and very soon there would be a convention on special missions.

9. It was the view of his delegation that the privileges and immunities provided in such international instruments were permanent unless the international community decided to revoke them, which was scarcely conceivable. Since those privileges and immunities were both numerous and important, and since no State could question their existence, any problem that arose concerned not their validity but their application. Dahomey doubted, therefore, whether the reaffirmation of a particular privilege or immunity would suffice, and felt that the question should be viewed in the broad context of all privileges and immunities and that practical measures should be recommended to ensure their implementation. While having no objection to a reaffirmation of the principles set forth in Article 105 of the Charter and in the Conventions of 1946 and 1961, his delegation considered that particular emphasis should be placed on urging States to ratify or accede to those Conventions, especially the 1946 Convention. Until that appeal had been complied with, the General Assembly should request the States concerned to accord the benefits provided in the Conventions. An appeal should also be made to States already parties to the Conventions to ensure respect for the privileges and immunities in question and to take all the necessary steps for their application.

10. It was those considerations that had led his delegation to join in sponsoring draft resolution A/C.6/L.634 and Add.1, which had some points in common with the text contained in document A/C.6/L.633 but covered more ground. Since the draft sponsored by his delegation had the advantage of covering the entire question, Dahomey hoped that it would meet with the Committee's approval. However, in response to the appeals which had been made, his delegation was ready to collaborate with the sponsors of other draft resolutions with a view to submitting a single text.

11. Mr. FAKHREDDINE (Sudan) said that the United Nations required its Members to adhere to such norms of conduct in relation to the Organization as would facilitate the attainment of its objective of international co-operation in a peaceful world. Those were largely the same norms of conduct which governed diplomatic intercourse, as prescribed by international law and sanctified by long usage. The odium that attached to a breach of those rules had often been a factor in their observance, and such breaches should, therefore, properly engage the serious attention of the membership of the United Nations.

12. His delegation's view on the matter was dictated not by partisanship but by a conviction that the work of the United Nations could be seriously impaired if Member States disregarded the provisions of the Charter concerning the privileges and immunities of representatives to, and officials of, the Organization. The importance of such immunity was demonstrated by the inclusion of a similar provision in the Covenant of the League of Nations (see Article 7) and Article 19 of the Statute of the Permanent Court of International

^{3/} United Nations, Treaty Series, vol. II (1947), No. 147, p. 12.

Justice had provided comparable immunities for judges of the Court.

13. His delegation was particularly happy that the incident which had given rise to the discussion had been amicably resolved, and regretted only that it had not been possible to debate the question without re-creation. However, the Sudan agreed that the inclusion of the item in the agenda had been necessary.

14. The rationale of the immunity provided for the representatives of Member States while exercising their functions or travelling to meetings was the notion that any restriction of their liberty or impairment of their dignity would reflect upon the United Nations. Moreover, the provisions of paragraph 2 of Article 105 of the Charter were implicit in the recognition, in paragraph 1 of the same Article, that the Organization should enjoy privileges and immunities in the territories of its Member States. Section 11 of the 1946 Convention afforded explicit and detailed recognition of that established standard of law. It should perhaps be emphasized that the representatives of Member States merited the immunity provided therein only in the interests of the Organization; for it was those interests that would suffer in the case of infringement. It could even be asserted that Member States not only were obliged to refrain from infringements of such immunity but had a duty to protect representatives to United Nations conferences and facilitate their mission, since they had a duty to further the purposes and objectives of the United Nations.

15. Throughout its history, the United Nations had been very tolerant in respect of serious breaches of the immunities attaching to its property and its agents. In conformity with that attitude of tolerance, the United Nations was now simply seeking a reaffirmation of the importance of the immunity of delegates to its conferences from arbitrary arrest and detention. By making such a reaffirmation and adhering strictly to their obligations under the Charter, Member States would be upholding the rule of law and good government, as well as good relations among nations. Moreover, a Member State should have no hesitation in censuring all violations of the law in its territory and should endeavour to remedy any breach it had committed. In that connexion, it was heartening to see that the three draft resolutions before the Committee specifically reaffirmed Article 105 of the Charter. Being bound by the Charter, Member States had a plain duty to reaffirm the inviolability of United Nations agents and representatives. In so doing, they would be renewing their pledge of support for the Organization.

16. Mr. TSURUOKA (Japan) said that the consideration of the present item was most timely, in view of the number of unfortunate incidents tending to undermine the international rules governing diplomatic immunities and privileges which had taken place in recent years. The advance of communications had made for closer contacts among States, and the observance of generally accepted diplomatic rules was essential for the promotion of friendly international relations. The rules governing diplomatic practice had become firmly established over the years as customary international law and had recently been

codified in the Vienna Convention on Diplomatic Relations. The dispute which had led to the inclusion of the present item in the agenda had arisen not because of any questioning of the validity of the relevant norms of international law but because of failure to recognize the importance of their application.

17. It was essential that receiving States should recognize and apply in good faith the norms of international law governing diplomatic privileges and immunities. His delegation considered that the violation of diplomatic privileges and immunities was not justifiable in any circumstances, even as retaliation for a breach of international law committed by another State. Indeed, it was precisely in such cases that correctly conducted diplomatic intercourse was needed in order to achieve a peaceful settlement of the affair. The general public in many States harboured a certain prejudice against diplomatic privileges and immunities, fearing that they might be used by diplomats to obtain benefits beyond what was necessary for the proper exercise of their functions. States and their representatives should therefore take great care to avoid any abuse of such privileges and immunities.

18. The basic rules governing diplomatic privileges and immunities had found new scope in recent times through their application, for example, to special missions, to representatives of States Members of the United Nations and to United Nations officials. Article 105, paragraph 2, of the Charter stated only the basic principle that representatives of the Members of the United Nations and officials of the Organization should enjoy such privileges and immunities as were necessary for the independent exercise of their functions in connexion with the Organization. Specific details of those privileges and immunities were set forth in the 1946 Convention. Nearly 100 Member States were now parties to that Convention, and for them the privileges and immunities concerned raised no problem. The question arose, however, to what extent Member States which were not parties to the 1946 Convention could be regarded as being bound by the obligations set forth in it. Unlike the 1961 Vienna Convention on Diplomatic Relations, which was generally regarded as *lex lata* and as embodying generally binding customary rules of international law, the 1946 Convention set forth rules which had been formulated, for the most part, as *lex ferenda*. Nevertheless, that did not mean that Member States which were not parties to the 1946 Convention were exempt from all obligations under it, since such an interpretation would conflict with Article 105 of the Charter. A detailed legal study of the instruments concerned would be necessary to determine the precise extent to which the 1946 Convention was binding upon States not parties to it.

19. The ideal solution would, of course, be for all Member States to become parties to the 1946 Convention. Failing that, it was desirable that States which were not parties to the Convention should be governed by its provisions in fulfilling their obligations under Article 105 of the Charter.

20. His delegation hoped that the General Assembly would adopt a resolution appealing to States to reaffirm the privileges and immunities of representatives of Member States and United Nations officials.

21. Mr. RAMIREZ (Philippines) congratulated the Secretary-General on his initiative in helping to resolve the dispute between Guinea and the Ivory Coast. However, the Committee was concerned not with the facts of the dispute but with the principle involved. Diplomacy was an institution as old as mankind itself, and the practice of according privileges and immunities to ambassadors went back to remote antiquity. Immunities and privileges of diplomatic representatives were founded on common usage and tacit consent and were essential to the conduct of relations between independent sovereign States or between States and international organizations. They were granted on the basis of reciprocity, and unless diplomatic representatives were accorded such legal protection to carry out their assignments the representation abroad of their respective States would be prejudicially affected.

22. The increase during the past two decades in the number of States, and also in the number of international and regional organizations, had led to a proportionate increase in diplomatic representation, making international relations even more complex and the need for an effective system of diplomatic privileges and immunities more urgent. His Government had been deeply disturbed by recent infractions of traditional diplomatic immunities, and in particular by the attack on the British mission at Peking in August 1967. At the time of that incident, the Philippine Secretary of Foreign Affairs had said that, if those transgressions were allowed to pass unchallenged, such indifference might eventually lead to a general breakdown of international law and order.

23. The Philippines, which attached great importance to the application of an effective system of diplomatic privileges and immunities, had ratified the Convention on the Privileges and Immunities of the United Nations and the Vienna Convention on Diplomatic Relations. One of the first measures taken by the Congress of the Philippines after gaining its independence had been to enact a law penalizing acts which would impair the proper observance by the Republic and inhabitants of the Philippines of the immunities, rights and privileges of duly accredited foreign diplomatic and consular agents in the Philippines. The provisions of that law were applicable only on a basis of reciprocity.

24. As the Chairman of the United States Atomic Energy Commission had said, the technological progress of the atomic age must be accompanied by a human break-through in international co-operation and understanding. A solemn reaffirmation and effective implementation by the States Members of the United Nations of the provisions of Article 105 of the Charter and section 11 of the Convention on the Privileges and Immunities of the United Nations could contribute greatly to the achievement of that break-through.

25. His delegation was prepared in principle to support draft resolution A/C.6/L.633, but might wish to comment later on other draft resolutions or amendments.

26. Mr. SCHUURMANS (Belgium) expressed his delegation's regret at the circumstances which had led to the inclusion of the item under discussion in the agenda. The task of the General Assembly was not to

sit in judgement, but to remind all Member States of the urgent need to respect the principle involved, namely, that diplomatic relations between States were impossible unless the rules traditionally protecting State representatives and their property and premises were respected. Unfortunately, there had for some time been a progressive deterioration in the observance of those norms of international law, the peremptory nature of which was apparently not appreciated in some quarters, and violations of diplomatic privileges and immunities occurred all too frequently. Such incidents, for which there was no excuse or justification, usually took place when crowds assembled to protest against the policies of the countries represented by the diplomats concerned. In many cases, the responsible authorities were negligent in their duty to provide protection for the diplomats and their property.

27. Most Member States had signed the Vienna Convention on Diplomatic Relations, which set forth the rules governing the traditional customary-law privileges and immunities that must be respected in the conduct of international relations. The necessity of ensuring the strict application of those principles, without which diplomatic representation could not function, should be reaffirmed.

28. Mr. YAKIMENKO (Ukrainian Soviet Socialist Republic) welcomed the Secretary-General's action in proposing the inclusion of the item in the agenda. His delegation shared the Secretary-General's gratification that the dispute between Guinea and the Ivory Coast had been settled. Although that incident was now closed, the Committee must consider the principle involved. Article 105 of the Charter stated that representatives of the Members of the United Nations and officials of the Organization should enjoy such privileges and immunities as were necessary for the independent exercise of their functions in connexion with the Organization. It was obvious that the detention of Guinean officials at Abidjan had constituted an intolerable violation of that principle, and his delegation fully agreed in that regard with the views stated by the representative of Guinea. Any attempt to justify the action taken by the Ivory Coast authorities was legally unjustifiable. The rule set forth in Article 105 of the Charter was of vital concern to all Member States. The question of diplomatic privileges and immunities had formerly been regulated by customary law, and in recent years had been codified in the Convention on the Privileges and Immunities of the United Nations and in the Vienna Convention on Diplomatic Relations, to both of which the Ukrainian SSR was a party.

29. His delegation agreed with the view expressed by the Secretary-General (A/6832/Rev.1) concerning the need for a reaffirmation by the General Assembly of the legal provisions relating to the privileges and immunities of the representatives of Member States to the United Nations and United Nations officials and of the determination of Member States to ensure that all their representatives to the United Nations were accorded such privileges and immunities in the exercise of their functions. His delegation did not agree with some delegations that it was permissible for a State to take reprisals against persons entitled to diplomatic privileges and immunities.

30. It was clear from documents A/CN.4/L.118 and Add.1 and 2 that undesirable ambiguities and discrepancies existed in the treatment accorded to the representatives of Member States and to officials of the United Nations in different countries, and that such treatment was not always in accordance with the provisions of Article 105 of the Charter or of the 1946 Convention. A thorough study of the situation was required, in order to enable United Nations representatives to perform their functions effectively, and his delegation agreed with the suggestion that the Secretariat should compile all the relevant material on the question and submit a report to the General Assembly at its twenty-third session, on the basis of which the Committee could take a decision on practical action to ensure universal respect for diplomatic privileges and immunities. His delegation was ready to support any draft resolution which would help to put an end to violations of such principles and immunities.

31. Mr. SMEJKAL (Czechoslovakia) said that the task of the Committee was to consider means of ensuring general respect for diplomatic privileges and immunities granted under international law. There was no specific legal issue or difficulty of interpretation to be resolved. The illegality of such actions as the arrest and detention of the Minister for Foreign Affairs of Guinea by the Ivory Coast authorities in June 1967, was beyond question. Such incidents merely illustrated the need to ensure the strict application in inter-State relations of the principle involved.

32. A distinction should be made between two categories of diplomatic privileges and immunities, namely, those accorded under the 1961 Vienna Convention and those accorded under Article 105 of the Charter and the 1946 Convention. Measures designed for bilateral relations could not be automatically applied to relations involving international organizations. For example, as was stated in paragraphs 101 and 102, of part one, A, of document A/CN.4/L.118, the principle of reciprocity could not be applied in the case of missions of Member States to the United Nations. The purpose of the provisions of Article 105 of the Charter was to ensure that host countries should grant representatives to the United Nations and United Nations officials such privileges and immunities as were necessary for the effective performance of their functions. It was therefore highly regrettable if a host country placed any undue limitations on the freedom of movement of such persons.

33. In his delegation's view, it was most important that States should ensure, firstly, that the provisions of Article 105 of the Charter and of the 1946 Convention were respected, and, secondly, that representatives of Member States to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations should enjoy, while travelling and while attending such conferences, the privileges and immunities to which they were entitled under international law. In view of the present situation, it was desirable, and indeed necessary, that the State which was host to the United Nations should accede to the 1946 Convention.

34. His delegation appreciated the efforts made by the Secretary-General for a settlement of the problem,

and trusted that he would take any further steps which might prove necessary in that direction.

35. His delegation would comment later on the draft resolutions before the Committee, following the consultations in which it was currently taking part.

36. Mr. JOEI (China) said that his delegation wished to comment on the general aspects of the question of diplomatic privileges and immunities. It did not intend to discuss the specific case which had led to the inclusion of the item in the agenda of the General Assembly. His delegation regretted that a dispute had arisen between two countries of the same continent which were so closely related, but was pleased to note that, as a result of the spirit of conciliation shown by the parties, the dispute had been settled.

37. Some delegations had raised the question of reprisals. Sibert in his "Cours de droit international public", defined reprisals as measures of coercion for the purpose of compelling a State guilty of having violated the law to make reparation for the injury which it had caused. In other words, a State, after exhausting all efforts to obtain satisfaction, found it necessary as an exception to do certain acts for the purpose of obtaining justice for an international delinquency. Thus, reprisals were counteractions which, in certain limited cases, might be justifiable. The exercise of such counteractions was not encouraged, however, lest there should be a misuse of a right. The idea of misuse of a right brought to mind certain outrages recently committed by the illegal Peiping régime, which had not hesitated to inflict indignities on persons entitled to diplomatic immunities and to burn and sack the premises of embassies in violation of all relevant international conventions and the most elementary rules of conduct of the civilized world.

38. His delegation hoped that the Convention on the Privileges and Immunities of the United Nations, the Convention on the Privileges and Immunities of the Specialized Agencies^{4/} and the Vienna Convention on Diplomatic Relations would be generally observed and applied in accordance with the principles of law and equity. The Committee must, therefore, reaffirm the provisions of Article 105 of the Charter and of the various conventions, and the procedure provided in those conventions for the settlement of disputes concerning their interpretation and application.

39. His delegation would vote for any draft resolution which dealt with the question of diplomatic privileges and immunities as a whole and which had as its main objective the harmonizing of relations among the nations of the world.

40. Mr. SOBHAN (Pakistan) said that his delegation fully agreed with the Secretary-General that there was need for a reaffirmation of the important principle of the immunity of representatives of Member States to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations. Despite the guarantee of privileges and immunities in Article 105 of the Charter and in section 11 of the 1946 Convention, there had been violations of those international obligations which made it absolutely

^{4/} *Ibid.*, vol. 33 (1949), No. 521, p. 262.

necessary to reaffirm the important principles involved. It was gratifying that all previous speakers had agreed that the privileges and immunities of representatives of Member States to the principal and subsidiary organs of the United Nations must be guaranteed. All were aware that, if violations of those important principles of international intercourse were ignored or condoned, serious consequences would follow. It was the duty of the United Nations to ensure that every State protected, without reservation and in good faith, the privileges and immunities guaranteed to the representatives of Member States. The failure of the United Nations to take clear action on the matter would surely lead to uncertainty and chaos in international relations. His Government hoped that good sense would prevail and that the international community would reverse the present alarming trend towards chaos in diplomatic relations. His Government considered that a recommendation to Member States would be helpful, and it would support any such constructive action.

41. Mr. TILINCA (Romania) said that the discussion had led to a useful exchange of views on a topic of growing importance in international affairs, namely, the relations between States and international organizations. In its approach to the question before the Committee, his delegation was guided by its policy of co-operation at various levels with all countries, regardless of their social systems. Romania was taking an active part in international affairs because it was convinced that the promotion of justice and law in inter-State relations would contribute to fruitful co-operation, mutual confidence, peace and prosperity. The development of diplomatic, cultural and scientific relations among countries having different political and social systems offered an opportunity to find mutually advantageous solutions for various problems of common interest. Romanian foreign policy was based upon respect for the personality of others and their freedom to choose their social and political systems in accordance with their own needs, non-interference in the domestic affairs of other peoples, and promotion of the principles of independence and national sovereignty. Experience had shown that those principles were essential to friendly relations between countries and to the proper development of international affairs.

42. Bilateral relations between States were of basic importance to the whole system of international relations. At the same time, the United Nations and other international organizations were called upon to play an important role in efforts to achieve détente, the peaceful settlement of disputes between States, and international co-operation. The steady development of relations between States and international organizations was giving a new meaning to diplomatic practice and rules. Observance of those rules and of the relevant conventions was essential to the normal functioning of international organizations. Thus, observance of the privileges and immunities accorded by the Convention on the Privileges and Immunities of the United Nations was a prerequisite for the normal exercise of functions in connexion with the Organization. As many of the previous speakers and various writers had indicated, the privileges and immunities of representatives of Member States to the principal and

subsidiary organs of the United Nations were based not only on a system of conventional norms but also on the progressive development of customary law. The rights of representatives of Member States must be protected by all other States, and especially by the host State, for two purposes: to give those representatives full freedom of action in the exercise of their official duties, and to promote the interests of the Organization and the implementation of its principles.

43. Romania, as a signatory to the 1946 Convention, observed its provisions, and in particular section 11. The observance of those provisions by all States would greatly contribute to the implementation of Article 105 of the Charter.

44. Mr. MWELUMUKA (Zambia) said his delegation hoped that the Committee would consider the item under discussion seriously and take positive steps to eliminate any hardship which diplomats might encounter in the performance of their duties.

45. Diplomatic privileges and immunities had been confirmed in a number of conventions, including the 1946 Convention on the Privileges and Immunities of the United Nations, which stated the need to protect diplomatic personnel and property. His delegation was deeply concerned about the erosion of diplomatic privileges and immunities in recent times. Such utter disregard of international conventions as was to be seen in the recent treatment of diplomats was completely inadmissible. In New York City there were almost daily violations of diplomatic privileges and immunities: diplomats' cars could be towed away by the authorities as they wished, parking spaces reserved for diplomats were not respected, the police were extremely rude to diplomats, landlords showed no respect for diplomatic Missions and entered premises as they wished, and diplomats had no hope of obtaining protection from the city authorities or the host Government.

46. Recently, the Permanent Mission of Zambia to the United Nations had been a victim of the most barbaric and unwarranted violation of diplomatic immunities and privileges. Between 25 and 26 November 1967, its office had been ransacked, and classified documents either removed or tampered with, by criminals who had used acetylene to break through the steel doors. It was difficult to understand how such an act could have been perpetrated, since the building in which the office was situated was guarded twenty-four hours a day. His delegation had condemned that act of vandalism, had submitted a note of protest to the United States Government, and had called upon Washington to ensure that the incident would not be repeated. It was the duty of the United States Government to protect diplomats and their property; after all, other Governments ensured the safety of United States diplomats and property, and reciprocity was the basis of diplomatic immunities and privileges.

47. Disregard of international conventions struck at the very foundation of international law and undermined order in the world. Member States should rededicate themselves to the cause of peace and co-operation and should reaffirm the principle of the inviolability of the representatives of Member States laid down in the 1946 Convention.

48. The draft resolution of which his delegation was a co-sponsor (A/C.6/L.633) contained no controversial provisions, but merely reaffirmed the provisions of Article 105 of the Charter and section 11 of the 1946 Convention. He hoped that it would receive the support of all the members of the Committee.

49. Mr. SAMATA (United Republic of Tanzania) regretted that the discussion of the present item had been the occasion of polemics and recriminations and hoped that the spirit of restraint which had usually characterized the Committee's deliberations would prevail again. His delegation did not wish to inflame feelings further, but fundamental principles were involved in the item under discussion and it deemed it its duty to state its view on them.

50. If international organizations were effectively to implement the ideals and principles which they had been established to pursue, the representatives of Member States must necessarily be able to perform their legitimate duties and to travel in connexion therewith without undue hindrance or obstruction. Where the United Nations was concerned, that obvious but vital fact had been amply recognized in Article 105 of the Charter. The adoption of the Convention on the Privileges and Immunities of the United Nations by the General Assembly was incontrovertible evidence that the world community recognized the importance of the principle involved.

51. His delegation wished to pay a tribute to the Secretary-General for the great wisdom and judgement he had displayed in handling the delicate dispute between Guinea and the Ivory Coast. His Government fully shared the Secretary-General's concern about the importance of a reaffirmation by the United Nations of the necessity of strict compliance by Member States with the norms of international law governing an important immunity.

52. His delegation, after careful and sympathetic study, was unconvinced of the validity of the arguments put forward by the representative of the Ivory Coast in an effort to persuade members that the arrest and detention of the Guinean diplomats had been legitimate acts under the prevailing rules of international law. In his delegation's view, the Government of the Ivory Coast, however strong its feelings against Guinea, had not been entitled to secure compliance with its request by resorting to such action. While his delegation was prepared to concede that a State which was a Member of the United Nations did not *ipso facto* become entitled to the privileges and immunities enumerated in the 1946 Convention, it was unable to agree that there was no customary law in that field. In his delegation's view, the 1946 Convention had to a considerable extent merely codified the norms of international law on the subject, as evidenced by State practice with regard to international organizations which had come into existence before the United Nations. If that was correct, it necessarily followed that customary practice remained the basis of diplomatic relations in that area of international law between a State that was a party to the Convention and one that was not. If the Ivory Coast representative's argument was accepted, it would mean that Member States which had not acceded to the Convention could mistreat the representatives of other Member States with impunity. That,

in his delegation's opinion, was not the legal position; the arbitrary arrest and detention of the Guinean representatives by the Ivory Coast had unquestionably violated the customary rules. His delegation deeply regretted that dignitaries of such high international status had been made the victims of arbitrary and illegal arrest and detention. To condone such acts would do great injustice to the call which had been repeatedly heard in United Nations meetings for strict and unqualified adherence by States to the rule of law in the conduct of their international affairs.

53. The wording of agenda item 98 (b) implied that there had been violations of the important immunity in question which urgently required its reaffirmation. In the conviction that such a reaffirmation was urgently called for, his delegation had co-sponsored draft resolution A/C.6/L.633.

54. In conclusion, his delegation appealed to all Member States to strive unceasingly to settle any differences among themselves in conformity with the letter and spirit of the Charter and, in particular, of Article 2, paragraph 3.

55. Mr. DARWIN (United Kingdom) said that the traditional link between States in the international community had been through ambassadors bilaterally accredited. In addition, the practice of multilateral diplomacy in international organizations had been rapidly built up during recent decades. Those two institutions were the essential channel through which international relations were conducted. From earliest antiquity, in the customs of many parts of the world, it had been recognized that the person of an ambassador and his staff and premises must be protected and his special position and status respected. International law had come to reflect that need. By the force of the same logic, a special status had also been established for representatives to international organizations and for those organizations themselves and their officials. The drafters of the Charter of the United Nations had recognized the importance of the matter by including Article 105.

56. His delegation regretted that, despite the undisputed legal basis for the principle of diplomatic immunity, there had been in recent months a number of incidents in which that immunity had not been accorded and violence had been used or permitted against diplomatic missions. In the general debate in the General Assembly (1567th plenary meeting), the Foreign Secretary of the United Kingdom had pointed out that the real victim of breaches of diplomatic immunity was the structure of international confidence and understanding built up so patiently over the past years, and that it was impossible under those conditions to get real business done. Those remarks had been made with reference to diplomatic missions, but the same was equally true of international organizations.

57. His delegation did not intend to enter into an exchange of accusations concerning particular disputes. The instances affecting his country were sufficiently well known not to need further mention by him. Nor did his delegation intend to comment upon the dispute which had arisen between other States. The action of the General Assembly must be as constructive as possible; it should reaffirm the necessity for

the full observance of the immunities which were essential for the conduct of international relations, and should call upon the members of the international community to comply with those requirements and to accede to international instruments which had been widely accepted in that field. In the light of those considerations, his delegation would support a resolution which did not, even by implication, take a position for or against the parties to any dispute, but which reaffirmed the necessity of those immunities and called for their due observance in future.

58. Mr. MUSA (Somalia) said that the draft resolution of which his delegation was a co-sponsor (A/C.6/L.633) was self-explanatory and uncontroversial. The second preambular paragraph recalled the provisions of Article 105 of the Charter, which were self-evident; unless the representatives of Member States were secure in the enjoyment of such privileges and immunities as were necessary for the independent exercise of their functions in connexion with the Organization, the Organization itself could not function. The third preambular paragraph recalled section 11 of the 1946 Convention, which referred specifically to one of those indispensable immunities, namely, immunity from personal arrest or detention, one of the oldest and most indisputable principles of diplomacy. The brief substantive provisions of the draft resolution emphasized the expectation that all Member States would, in the interest of the Organization and in their own self-interest, fully respect that immunity.

59. Members of the Committee were aware of the significance which the Secretary-General attributed to the matter; he had expressed his concern in his note of 27 September 1967 requesting the inclusion of the item in the agenda of the current session (A/6832/Rev.1).

60. His delegation had no serious disagreement with draft resolution A/C.6/L.634 and Add.1, but felt that it went beyond the scope of agenda item 98 (b) by seeking, *inter alia*, further accessions to the Conven-

tion on the Privileges and Immunities of the United Nations. While his delegation fully agreed that such accessions were highly desirable, it could be said that the essential provisions of that Convention had by now become customary law, because ninety-six nations had become parties to the Convention, because various nations, although not formally parties to it, observed its provisions and thus considered them to be binding, and because there was a general consensus that its provisions were fair and necessary for the proper functioning of the Organization. Draft resolution A/C.6/L.634 and Add.1, however, was not unequivocal on that point. On the one hand, operative paragraph 2 reaffirmed the "obligations on States" arising from that Convention and from the Vienna Convention on Diplomatic Relations, referring—it should be noted—not to the obligations of States that had acceded to the Conventions but to the obligations of States generally; on the other hand, operative paragraph 3 requested the Member States which were not parties to those Conventions to accede to them as soon as possible and, pending such accession, to grant the benefits of the privileges and immunities provided for in those Conventions. Paragraph 3 could thus be interpreted as contradicting the implication of paragraph 2 that the obligations arising from those Conventions were binding even on States that had not acceded to them. Thus, the text of the draft resolution might give rise to complex discussions not strictly related to the agenda item. His delegation was pleased to note that paragraphs 3 and 4 of draft resolution A/C.6/L.635 met that difficulty, and was favourably disposed towards that text as a whole because it reflected its own thinking in a more detailed manner.

61. His delegation believed that the matter could be quickly resolved if the sponsors of the three draft resolutions would prepare a joint text. If no joint text was forthcoming, however, his delegation would urge the adoption of draft resolution A/C.6/L.633.

The meeting rose at 5.40 p.m.