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Chairman: Mr. K. Krishna RAO (India).

AGENDA ITEM 85

Draft Convention on Special Missions (continued)
(A/6709/Rev.1 and Corr.1, A/7156 and Add.1 and 2;
A/C.6/L.646, A/C.6/L.668, A/C.6/L.678, A/C.6/
L.666, A/C.6/L.667, A/C.6/L.677, A/C.6/L.674)

Article 9 (Composition of the special mission)
(continued)

1. Mr. REIS (United States of America) said that in proposing at the 1050th meeting that article 9 should be referred to the Drafting Committee, his delegation had in no sense meant that the latter should consider a question of substance. While it was true that the wording of the article presented certain problems, those problems—and particularly the one relating to the use of the expression "diplomatic staff"—were by no means insoluble and should be dealt with by the Drafting Committee. Once the question of the appropriateness and consistency of the terminology had been discussed, the text would, of course, be sent back to the Sixth Committee. His delegation, for its part, felt that the text prepared by the International Law Commission was fairly satisfactory. He did not think it necessary to take a vote at the present stage of the Committee's work.

2. Mr. DELEAU (France) said that he supported the United States representative's observations.

3. Mrs. KELLY DE GUIBOURG (Argentina) said that her delegation did not share that view. The question of whether to accept the International Law Commission's text or replace it by another raised substantive issues and could be decided only on the basis of a vote, which should be taken without delay.

4. The CHAIRMAN said that, since the Committee agreed that the existing text of article 9 did not give rise to any objections, he suggested that it should approve the article and refer it to the Drafting Committee, which would consider it in accordance with its terms of reference.

It was so decided.

5. Mr. VEROSTA (Austria) said that he had supported the decision which had just been taken on the understanding that, when the Sixth Committee took up article 1 of the draft Convention, it would make certain that that article conformed to the provisions in the body of the draft—particularly those of article 9—which mentioned "diplomatic staff".

6. Mr. ALCIVAR (Ecuador) and Mr. DADZIE (Ghana) said they felt that the Committee should go further and should, when it took up article 1, refrain from making any change, however slight, which might require changes to be made in other provisions which had already been adopted.

7. Mr. OSTROVSKY (Union of Soviet Socialist Republics) said that his delegation had supported the approval of article 9, which fully reflected its views, on the understanding that the Drafting Committee would not go beyond its terms of reference when it considered the article.

8. Mr. RATTANSEY (United Republic of Tanzania) said that it had been his delegation's intention to support the approval of article 9 as it now stood. He wished to point out, in that connexion, that the Sixth Committee, when it took up article 21, might have to deal with the question of the privileges and immunities to be granted to persons of diplomatic rank who were members of special missions.

Article 8 (Appointment of the members of the special mission) (continued), Article 10 (Nationality of the members of the special mission), Article 11 (Notifications) and Article 12 (Persons declared non grata or not acceptable)

9. The CHAIRMAN invited the Committee to take up articles 10, 11 and 12, together with the relevant amendments, and to resume its consideration of article 8, which had been broken off at the 1050th meeting as a result of the submission of the joint amendment sponsored by Australia, Belgium and France (A/C.6/L.678). It should be noted that the amendments to article 10 proposed by France (A/C.6/L.667) and by Kuwait (A/C.6/L.677) involved merely drafting changes, whereas the Spanish amendment to article 11 (A/C.6/L.674) related to the substance.

10. Mrs. d'HAUSSY (France) confirmed the fact that the French amendment (A/C.6/L.667) to article 10 involved merely a drafting change similar to the one her delegation had proposed in the case of article 9. In view of the outcome with regard to that change when the Committee had considered article 9, her delegation would not, however, press for its amendment to article 10 to be put to the vote.

11. Mr. HAMBYE (Belgium), speaking on a point of order, said that his delegation wished to propose an amendment to article 11 which it had been unable to submit before the adoption of a decision on article 9.

12. The CHAIRMAN said that since the deadline for the introduction of amendments to the articles under consideration had expired some time ago, it was no longer possible to permit the introduction of a new amendment to article 11.

13. He invited the Committee to resume its consideration of article 8.

14. Mr. YASSEEN (Iraq) said that, after carefully comparing the text of the joint amendment (A/C.6/L.678) with the present wording of article 8, his delegation felt that the existing text was better balanced and took duly into account the rights and interests arising from the principles involved. On the one hand, the fact that the special mission was a body which owed its existence to the sending State gave the latter the right freely to appoint the members of the mission; hence, the question of appointing those members could not be decided jointly unless a special agreement was concluded on the subject. On the other hand, the interests of the receiving State required respect for the principles of sovereignty and of the necessity of giving consent to the sending of a special mission. The information for which provision was made in article 8 made it possible for the receiving State to give its views concerning any difficulties that might arise as a result of the appointments made by the sending State. The International Law Commission had noted, in that connexion, that there was a preliminary phase which preceded the making of appointments. What was involved was a period of informal consultations between the two parties during which opposing views could be brought to light. The text prepared by the Commission was a well-balanced one which, without placing undue stress on that point, made it possible for the receiving State to voice objections.

15. That was not true in the case of the formula contained in the joint amendment, which put too much emphasis on the receiving State's role with regard to the appointment of members of special missions and gave the impression that the receiving State was permitted to oppose an appointment without giving any reason for doing so. Furthermore, the size of a special mission could hardly be permitted to depend exclusively on the wishes of the receiving State. The receiving State had the advantage, for if, for example, a special mission having twenty members was confronted in the receiving State with twenty negotiators from the other side, the latter would have unlimited staff to assist them. The joint amendment seemed to give too much power of decision on that point to the receiving State. The International Law Commission, for its part, had been in favour of permitting the size of the mission to be determined by the two States by means of a simplified agreement between them.

16. In view of the abuses to which the provisions of the joint amendment might give rise, he preferred the present text of article 8.

17. Mr. PRESBURGER (Yugoslavia) said that he found the provisions of article 8 of the International Law Commission's draft satisfactory. Like all the other draft articles, they were the product of lengthy and constructive deliberations. In that connexion, he referred to the Committee's decision to delete paragraph 2 of article 7 (1048th meeting), which it had apparently taken only because of the opposition of numerous delegations to the French amendment to that paragraph (A/C.6/L.664/Rev.1). Although that amendment had not been pressed to a vote, that action had eliminated an important provision which might have enlisted considerable support, as the explanations of vote (1049th meeting) had indicated.

18. Article 8 met the requirements of State practice, owing to the flexibility with which it had been formulated. While his delegation did not believe it was essential to adhere strictly to the present wording, any future amendments should in no event alter the basic structure of the draft.

19. Mr. BREWER (Liberia) said that the draft Convention should include a provision which, like the present article 8, dealt with the appointment of the members of special missions. However, unlike the rules applicable to permanent missions, the provisions of that article should allow the sending State, which had the initiative in the matter, full freedom in the appointment of the members of the mission, since the outcome of the mission depended to a large degree on its membership. Accordingly, the only reasons for the notification by the sending State should be courtesy, the desire to give the receiving State an opportunity to object to the appointment of a given member of the mission if it so desired, and the desire of the receiving State to make the necessary arrangements to accommodate the members of the special mission.

20. There could be no question of the sending State having to obtain the prior consent of the receiving State before appointing the members of the mission, since that would interfere with the mission's functions. In the light of those considerations, he supported the Czechoslovak amendment (A/C.6/L.668).

21. Mr. PRANDLER (Hungary) said that, on the whole, his delegation was prepared to support the provisions of articles 8, 10, 11 and 12 prepared by the International Law Commission. In the case of article 8, however, the present wording, while acceptable, would be improved by the Czechoslovak amendment (A/C.6/L.668), which contained a more concise statement of the general rules governing the appointment of members of special missions. Another point in favour of that amendment was that it referred to article 11, the provisions of which should be brought into line with those of article 8.

22. On the other hand, his delegation could not accept the joint amendment (A/C.6/L.678), although it was clear that its sponsors had sought to facilitate the solution of the problem arising in connexion with the appointment of the members of special missions. As the Iraqi representative had pointed out, the formula contained in that amendment laid too much stress on the prerogatives of the receiving State and,

consequently, placed excessive limitations on the principle of freedom of choice.

Mr. Gobbi (Argentina) took the Chair.

23. Mr. OSTROVSKY (Union of Soviet Socialist Republics) said that the statements by some delegations, including those of Iraq and Liberia, had strengthened his view that the effect of the joint amendment (A/C.6/L.678) would be to disturb the balance which the International Law Commission had taken pains to maintain in the wording of article 8. He also wished to draw attention to the practical consequences that the adoption of that amendment would have, since it was often difficult for the sending State to notify the receiving State beforehand of the membership of the special mission, because some of the members might be appointed by the Parliament and others by the Government. Accordingly, in view of the inadequacies of that amendment, with regard to both form and substance, his delegation would be unable to support it.

24. Mr. ALCIVAR (Ecuador) shared the views expressed by the Iraqi representative. In his opinion, the draft prepared by the International Law Commission maintained the necessary balance between the sovereign right of the sending State to appoint the persons of its choice and the discretionary power of the receiving State to raise objections in respect of the persons appointed, whereas the joint amendment (A/C.6/L.678) completely upset the balance by giving all the rights to the receiving State; as a result, his delegation was unable to support that amendment.

25. On the other hand, it had no difficulty in supporting the Czechoslovak amendment (A/C.6/L.668), which not only maintained the balance of the Commission's draft but had the further merit of simplifying the text of article 8 and of referring to article 11.

26. Mr. OGUNDERE (Nigeria) said that his delegation favoured retaining the present wording of article 8, for the reasons stated by the Iraqi representative. With regard to the joint amendment (A/C.6/L.678), he considered that the last sentence of that text should be rejected, inasmuch as paragraph 1 of article 12 dealt with the same question. Consequently, if the amendment was put to the vote he would request a separate vote on each sentence.

27. Mr. SPERDUTI (Italy) said that the Czechoslovak amendment (A/C.6/L.668) had the merit of simplicity but that it did not take sufficient account of the purpose of article 8, which was primarily to enable the receiving State to express its views and, if necessary, to raise objections regarding the membership of the special mission; his delegation was therefore unable to support that amendment.

28. The joint amendment (A/C.6/L.678) did not differ in substance from the International Law Commission's draft; it merely stated explicitly certain ideas accepted by the Commission in its commentary on article 8 and also in paragraph (6) of its commentary on article 9. While it might be questionable whether those ideas should be expressly included in the draft articles when the Commission had not deemed it necessary to do so, he believed that the amendment was useful

because the Commission's draft might give rise to certain difficulties: the phrase "subject to the provisions of articles 10 and 12" might give the impression that the only objections which the receiving State could make were those covered by those two provisions.

29. There remained the question whether the wording of the joint amendment was satisfactory; he believed that it could be improved, particularly in the second sentence, which seemed to go too far. Perhaps article 8 could be divided into two paragraphs; the first would contain the first sentence of the amendment whereas the second would reflect the idea expressed by the Commission in paragraph (3) of its commentary on article 8; that paragraph might read: "After receiving the information provided for in paragraph 1, the receiving State may raise objections both to the size of the special mission and to the persons selected to serve on it".

30. Mr. MYSLIL (Czechoslovakia) said that the joint amendment (A/C.6/L.678) had the drawback of unduly favouring the receiving State, which could impose whatever limitations it deemed appropriate, whereas the rights of the sending State were quite limited. An analysis of that amendment showed that it contained four elements. The first was the principle that the sending State was entitled to appoint the members of the special mission—a principle also stated in the amendment submitted by his delegation (A/C.6/L.668). The second element was the right of the receiving State to refuse to accept a person as a member of the special mission; he acknowledged that that right existed, both in law and in practice, but wondered whether it was really necessary to formulate it in article 8, which, as its title indicated, referred to appointment; the proper place for the receiving State's right of refusal was in article 12. The third element concerned the size of the special mission; in its draft, the International Law Commission had made no provision on that point, whereas the 1961 Vienna Convention on Diplomatic Relations had devoted one article to it. The Commission had felt that the question was of less importance for special missions than for permanent missions, since in practice the size of special missions did not give rise to serious difficulties, in view of the limited length of time they remained on the territory of the receiving State; however, his delegation would not oppose the formulation in a separate article of the principle stated in the joint amendment. With regard to the fourth element—information on the size and composition of the special mission—his delegation felt that paragraph 1 of article 11 adequately covered the question, although it could be worded more precisely; the fact remained, however, that the proper place for that idea was in article 11.

31. The CHAIRMAN invited the Committee to consider article 10 and the amendment submitted by Kuwait (A/C.6/L.677).

32. Mr. ALBAN (Kuwait) observed that paragraph 1 of article 10 of the International Law Commission's draft was based on article 8 of the 1961 Vienna Convention on Diplomatic Relations; although it was perfectly normal that the diplomatic staff of permanent missions should be of the nationality of the sending State, that principle was not valid with regard to

special missions, whose task was often of a technical nature. It often happened that the sending State wished to appoint experts as members of a special mission, and thus it was sometimes obliged to employ the services of foreigners. That was true in particular of the vast majority of developing countries. His delegation therefore felt that article 10 in its present form was not entirely satisfactory in that it did not make allowance for that fact. It had accordingly submitted amendment A/C.6/L.677, the effect of which would be to state the principle to which he had just drawn attention in paragraph 1 of article 10, without changing the substance of the paragraph. Paragraphs 2 and 3 of article 10 remained unchanged and still enabled the receiving State fully to protect its interests. He would like to stress that his delegation's amendment had been prompted by a desire for clarity and was designed to avoid any ambiguity. In view of the nature of the amendment, it could appropriately be referred to the Drafting Committee together with article 10.

33. Mr. SINCLAIR (United Kingdom) was of the opinion that the amendment of Kuwait (A/C.6/L.677) did not give rise to any difficulties of principle, and he supported it. It should therefore be referred to the Drafting Committee, as its sponsor had suggested.

34. Mr. POLLARD (Guyana) said he felt that paragraphs 1 and 2 of article 10, as drafted by the International Law Commission, were unnecessary, since they created more problems than they solved. One might well wonder what would happen when a member of a special mission who was refused entry by the receiving State was a national of both the sending State and the receiving State; in such an instance, could one talk of a legitimate objection on the ground of the nationality of the representative in question? As the first two paragraphs of article 10 did not provide any answer to such questions, his delegation felt that they should be deleted and that only paragraph 3 should be retained.

Mr. Rao (India) resumed the Chair.

35. Mrs. d'HAUSSY (France) said that the present text of article 10 seemed to provide for the possibility of a derogation from the principle stated; however, if some delegations felt it necessary to make the wording of the paragraph more precise, her delegation would not oppose a more explicit draft; it could therefore support the Kuwaiti amendment (A/C.6/L.677).

36. The CHAIRMAN invited the Committee to consider article 11 and the amendment submitted by Spain (A/C.6/L.674).

37. Mr. YAÑEZ-BARNUEVO (Spain) said that the amendment submitted by his delegation (A/C.6/L.674) was merely designed to improve the International Law Commission's text, which otherwise seemed perfectly satisfactory. The purpose of the amendment was to modify paragraph 1 (f), which stipulated that the sending State should notify the receiving State of the site of the premises occupied by the special mission. Such notification was entirely justified, in view of the fact that articles 24, 25 and 47 imposed upon the receiving State certain obligations concerning those premises, and the Spanish amendment was designed to extend its scope to the private accommodation of

the representatives of the sending State and of the members of the diplomatic staff of the special mission; under article 30, such accommodation enjoyed the same inviolability as the premises of the special mission. The intention was to simplify the task of the receiving State, upon which the obligation of protection was imposed.

38. The submission of the amendment did not prejudge the position his delegation might take with regard to articles 24, 25, 30 and 47. Finally, he wished to point out that the English and French versions of his delegation's amendment contained mistranslations, in that the expression "alojamiento particular" had been translated by "private quarters" and "demeure privée"; since those expressions, unlike the Spanish expression, did not conform with those used in article 30, the wording of the translations of the amendment should be changed accordingly.

39. Mr. HAMBYE (Belgium) said that the Spanish amendment seemed logical in so far as it was necessary to ensure the inviolability of the private accommodation of the representatives of the sending State and of the members of the diplomatic staff of the special mission. He would also like to make a suggestion, which might be submitted to the Drafting Committee, with regard to paragraph 2 of article 11, namely, that the expression "whenever possible" should be deleted, since it was purely subjective and might give rise to disputes. If, as his delegation thought, notification was really necessary, it was essential that it should be given. If his suggestion was rejected, he would request a separate vote on that expression.

40. Mr. OSTROVSKY (Union of Soviet Socialist Republics) said that his delegation had no objection to the substance of the amendment submitted by Spain, but thought that it should be worded more precisely. Private quarters should be understood, as the Spanish representative had no doubt intended, to be the places where the members of special missions actually resided, which might be hotels and other such establishments.

41. It might be advisable to consider replacing the words "representatives of the sending State" in the amendment by a more exact expression, because the persons in question were in fact the members of the special mission.

42. Subject to those observations, his delegation supported the idea put forward by the representative of Spain and hoped that the Drafting Committee would consider the possibility of introducing the necessary precision into the wording of the amendment.

43. Mr. DELEAU (France) agreed with the comment made by the representative of Belgium. It was necessary that the receiving State should be informed in advance of the appointment of the members of the special mission, and it would also be desirable that such prior notification should cover the strength of the mission, the arrival and departure of its members and the cessation of their functions. His delegation therefore proposed that the Drafting Committee should draw up a formulation taking those considerations into account.

44. As far as paragraph 1 (a) of article 11 was concerned, his delegation's position would depend on the formulation adopted for article 8; the notification sent in advance to the Ministry of Foreign Affairs of the receiving State should also include information on the composition of the special mission, and in particular the names and functions of the persons sent.

45. Finally, he pointed out that since paragraph 1 (e) of article 11 referred to paragraph 1 of article 14, the question he had raised would have to be reconsidered when article 14 was taken up.

46. Mr. RWAGASORE (Rwanda) supported the Spanish amendment but considered that the idea of "premises occupied" should be made more precise, for it certainly seemed that most of the notifications provided for in article 11 could be very useful in connexion with the privileges and immunities of members of special missions.

47. Article 11, paragraph 2, might, in its present wording, give rise to the following situation: a receiving State which wanted to make an objection to the arrival or final departure of a special mission might meet opposition from the sending State, which might argue that it had not been able to send prior notification. The sending State should be obliged to send such prior notification, or, if that was impossible, to produce proof of the fact. The wording of paragraph 2 should therefore be modified accordingly, transferring the burden of proof.

48. Mr. EL REEDY (United Arab Republic) said that he was convinced of the great merits of the Spanish amendment, which could not but improve the text of article 11, since it was in complete harmony with the legal principles of the draft Convention. The amendment should be adopted and sent to the Drafting Committee, taking into account the observations made by the Soviet delegation.

49. Mr. BARTOS (Expert Consultant) said that it was sometimes necessary to make allowance for diplomatic practice. In the present case, the final arrival of a special mission in the receiving State might depend on preliminary approaches made by some of its members who had left for the receiving State before the rest of the mission. The return of the mission, on the other hand, was always certain. But it might be in the interests of the two parties that the final date should not be fixed too early in order not to prejudice the mission's chances of success. That was the reason why the International Law Commission had inserted the phrase "whenever possible".

50. Mr. SONAVANE (India), referring to the difficulties regarding the idea of private quarters to which the Soviet representative had referred, said that the suggestion might be made to the Drafting Committee that in article 11 it should use the expression "private accommodation", which appeared in paragraph 1 of article 30 of the draft Convention.

51. Mr. YAÑEZ-BARNUEVO (Spain) said that in his amendment he had simply used the terminology of paragraph 1 of article 30. It was through a mistake in translation that the English and French texts of

his delegation's amendment restricted the sense of private accommodation, a restriction which had given rise to the Soviet delegation's comments. In Spanish, the expression "alojamiento particular" was very clear and very general and it covered all the possibilities provided for in paragraph (3) of the International Law Commission's commentary on article 30.

52. He also wished to point out that if, when article 30 was discussed, it was desired to extend the idea of private accommodation and apply it to the rest of the members of special missions, paragraph 1 (f) of article 11 could be amended accordingly.

53. Mr. CHAMMAS (Lebanon) said that there were no difficulties about the substance of article 11 and that the wording should be in accordance with the practice followed by States. He considered the reference to article 30 appropriate and supported the Spanish amendment, but would like it extended to cover all members of the special mission.

54. As far as paragraph 2 of article 11 was concerned, he agreed with the suggestion made by the Belgian delegation, because the text seemed to him to give the discretionary power of the sending State too much importance. As the International Law Commission had stated in paragraph (4) of its commentary on article 11, the departure of the special mission could be notified verbally and informally, without any question of there being a delay. It should therefore be simple to delete the phrase "whenever possible" and to refer article 11 to the Drafting Committee so that it could be reworded accordingly, without any change in the substance.

55. Mr. VEROSTA (Austria) supported the Spanish amendment, on condition that the Drafting Committee made the terminology sufficiently precise. He also supported the Belgian proposal for the deletion of the words "whenever possible", because it was quite obvious that if the receiving State was not informed in advance of the arrival of a special mission, it would not be able to receive the mission properly, giving the necessary instructions to the customs administration and other departments concerned.

56. Mr. MOLINA LANDAETA (Venezuela) said that he found the text of article 11 of the International Law Commission's draft acceptable. He had no objection, however, to the substance of the amendment submitted by the Spanish delegation, which was in harmony with article 30. That amendment limited the information in question to the diplomatic representatives of the sending State and did not apply to the administrative, technical and service staff of special missions, who did not enjoy the same advantages as such representatives. The Drafting Committee should therefore take the Spanish amendment into account.

57. In addition, he wished to point out that the amendment referred to the representatives of the sending State and the members of the diplomatic staff of the special mission, whereas in the present text of paragraph 1 (f) of article 11, the Commission referred to the premises and not to the persons occupying them. He would therefore be grateful if the representative of Spain would make it clear that his

amendment referred to the premises and not to their occupants.

58. Mr. BARTOS (Expert Consultant) said that the International Law Commission had long debated the use of the word "residence". That word, both in French and in English, implied continual occupation, whereas the word "accommodation" implied that the occupation was temporary. If the legally recognized residence of members of permanent diplomatic missions was in their embassy or legation, the same was not true of members of special missions, whose residence was in their own country. The Commission had therefore decided, after consulting the French Civil Code, not to use the word "residence" and had opted in favour of the terms "accommodation", "logement" and "alojamiento" because they implied a temporary state; a person could have several accommodations but only one residence, which in many cases determined the competence of courts.

59. The CHAIRMAN noted that no amendment had been submitted to article 12 and that no representative wished to speak on it. He suggested that since article 8 contained provisions which depended on those of article 10, the Committee should vote first on articles 10, 11 and 12.

60. Mr. HAMBYE (Belgium) did not agree. Article 8 should be voted on first, because articles 10 and 12 depended on it. He was ready to support articles 10, 11 and 12 if the joint amendment to article 8 (A/C.6/L.678) submitted by his delegation, Australia and France was approved. If not, he would abstain on those three articles.

61. The CHAIRMAN said that he did not subscribe to that view; he announced that he would put articles 12, 11, 10 and 8 to the vote, in that order.

Article 12 was approved unanimously.

62. The CHAIRMAN, recalling that there had been no objection to the Spanish amendment to article 11 (A/C.6/L.674) in so far as its substance was concerned, said that it should be referred to the Drafting Committee.

63. Mr. SINCLAIR (United Kingdom) said that it had been his impression at the 1050th meeting that the words "whenever possible", in paragraph 2 of article 11, would be voted on separately.

64. Mr. CHAMMAS (Lebanon) proposed that those words should be regarded as deleted.

65. The CHAIRMAN said that the Drafting Committee, before referring the text of article 11 back to the Sixth Committee for a second reading, could recast the provisions on the basis of the terminology used in the Vienna Conventions of 1961 and 1963.

66. Mr. OSTROVSKY (Union of Soviet Socialist Republics), noting that no request had been made for a separate vote on the different parts of article 11, said he wondered whether, in the light of the comment made by the representative of Lebanon, the Sixth Committee was to be regarded as having just approved that article and the Spanish amendment.

67. The CHAIRMAN replied that that assumption was correct.

Article 11 was approved, due account being taken of the Spanish amendment (A/C.6/L.674).

68. The CHAIRMAN suggested that article 10 and the amendment of Kuwait (A/C.6/L.677)—which related only to matters of form and had not given rise to any objections—should be referred to the Drafting Committee.

69. Mr. POLLARD (Guyana) requested that article 10 should be put to the vote.

Article 10 was approved by 88 votes to 1, with 1 abstention, due account being taken of the amendment of Kuwait (A/C.6/L.677).

70. Mr. OGUNDERE (Nigeria) requested that a separate vote should be taken on four different parts of the joint amendment to article 8 (A/C.6/L.678) submitted by Australia, Belgium and France.

71. The first separate vote would be taken on the first part of the first sentence of the amendment, from the words "Subject to the provisions" to the words "composition of the special mission". The second vote would relate to the latter part of the first sentence, from the words "and in particular" to the words "it intends to appoint". The third vote would be on the second sentence: "The receiving State... and to the needs of the particular mission". The fourth vote would be on the final sentence: "It may also... special mission".

72. Mr. MYSLIL (Czechoslovakia) said that, with regard to the first sentence of the joint amendment (A/C.6/L.678), he would like a separate vote to be taken on the words "Subject to the provisions... the members of the special mission", and on the words "after having given... composition of the special mission". It seemed to him that when the first of those votes was taken, a reference to article 11 might be included in the first line of the joint amendment.

73. Mr. REIS (United States of America) said that he was prepared to accept the exceptional procedure requested by the Nigerian representative, but he could not agree to the procedure suggested by the Czechoslovak delegation.

74. Mr. OSTROVSKY (Union of Soviet Socialist Republics) pointed out that according to rule 91 of the rules of procedure of the General Assembly, "a representative may move that parts of a proposal or of an amendment shall be voted on separately". He would like in addition, however, to support the Czechoslovak motion for a separate vote because that motion had the merit of calling attention to the fact that the joint amendment (A/C.6/L.678) contained terms identical with those already appearing in article 11. As article 11 had just been approved by the Committee, the draft Convention was thus apt to become repetitive.

75. The CHAIRMAN suggested to the Czechoslovak representative that the Committee should vote first according to the Nigerian delegation's suggestion and should then consider the possible inclusion of a reference to article 11 in the first line of the joint amendment.

76. Mr. MYSLIL (Czechoslovakia) replied that he deferred to the decision of the Chair regarding the order of voting but that he was maintaining the request he had made, which concerned a question of substance and not a question of procedure.

77. The CHAIRMAN put to the vote the first part of the first sentence ("Subject to the provisions ... composition of the special mission") of amendment A/C.6./L.678.

The first part of the first sentence of the amendment was approved by 61 votes to 10, with 14 abstentions.

78. The CHAIRMAN put to the vote the final part of the first sentence ("and in particular the names and designations of the persons it intends to appoint") of amendment A/C.6./L.678.

The final part of the first sentence was approved by 52 votes to 1, with 31 abstentions.

79. The CHAIRMAN put the second sentence of amendment A/C.6./L.678 to the vote.

The second sentence was approved by 45 votes to 18 with 21 abstentions.

80. The CHAIRMAN put the final sentence of amendment A/C.6./L.678 to the vote.

The final sentence was approved by 31 votes to 16, with 38 abstentions.

81. The CHAIRMAN put to the vote the Czechoslovak proposal for the inclusion of a reference to article 11 in the first line of amendment A/C.6./L.678.

The proposal was approved by 26 votes to 1, with 55 abstentions.

82. The CHAIRMAN put to the vote the amendment to article 8 (A/C.6./L.678) as a whole, as amended. He said that if the vote on the amendment as a whole was affirmative, the Czechoslovak amendment (A/C.6./L.668) would not be put to the vote.

At the request of the representative of the Soviet Union, the vote was taken by roll-call.

The Ukrainian Soviet Socialist Republic, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Australia, Austria, Belgium, Brazil, Burma, Cameroon, Canada, Ceylon, Chile, China, Cyprus, Dahomey, Denmark, El Salvador, Finland, France, Gabon, Greece, Guatemala, India, Iran, Ireland, Italy, Ivory Coast, Japan, Lebanon, Luxembourg, Madagascar, Mauritius, Mexico, Netherlands, New Zealand, Norway, Pakistan, Philippines, Portugal, South Africa, Spain, Turkey.

Against: Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ecuador, Guyana, Haiti, Honduras,

Hungary, Iraq, Jamaica, Liberia, Mongolia, Niger, Nigeria, Poland, Romania.

Abstaining: United Arab Republic, Uruguay, Venezuela, Zambia, Afghanistan, Algeria, Argentina, Bolivia, Chad, Colombia, Ethiopia, Ghana, Indonesia, Libya, Malawi, Morocco, Peru, Rwanda, Saudi Arabia, Syria, Trinidad and Tobago, Tunisia, Uganda.

The amendment to article 8 (A/C.6./L.678) as a whole, as amended, was approved by 42 votes to 20, with 23 abstentions.

83. Mr. OGÜNDERE (Nigeria) said that he had voted against the amendment (A/C.6./L.678) because he was convinced that it would not be adopted by the plenary Assembly.

84. Mr. OWADA (Japan) said that he had been unable to vote for the proposal for the inclusion of a reference to article 11 in the first line of the amendment, because, as the International Law Commission had pointed out in paragraph (3) of its commentary on article 11, the information to be supplied under article 8 was in a different category from, and therefore should not be confused with, the notification provided for in article 11.

85. Mr. SECARIN (Romania) said that he had voted against the new version of article 8 represented by amendment A/C.6./L.678 because it did not have the flexibility which had made the draft articles of the International Law Commission acceptable.

86. Mr. OSTROVSKY (Union of Soviet Socialist Republics) believed that, among the various defects of the new version of article 8 incorporated in the amendment which had just been approved, the principal one was the presentation of the prerogatives of the receiving State in a false light. The new version of that article might prevent a great many countries from ratifying the draft Convention. In addition, it ran counter to the work which had been accomplished thus far. It was for those reasons that the Soviet delegation had felt that it must not cast a favourable vote.

87. Mr. YAÑEZ-BARNUEVO (Spain) said that, although he had abstained in some of the separate votes, he had voted in favour of the amendment to article 8 as a whole, in order that the greatest possible measure of agreement might be reached on its final version. However, he reserved the attitude of his delegation in the event of new proposals being made in connexion with that article during the second reading by the Committee or in the plenary Assembly.

Organization of the work of the Committee

88. The CHAIRMAN suggested that the time-limit for the submission of amendments to articles 16 to 20 of the draft Convention should be Monday, 28 October 1968, at 3 p.m.

It was so decided.

The meeting rose at 6.30 p.m.

