



UNITED NATIONS

GENERAL ASSEMBLY



Distr.
GENERAL

A/7375
11 December 1968
ENGLISH
ORIGINAL: FRENCH

Twenty-third session
Agenda item 85

DRAFT CONVENTION ON SPECIAL MISSIONS

Report of the Sixth Committee

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INTRODUCTION

A. General

1. By its resolution 2273 (XXII) of 1 December 1967, the General Assembly, having considered chapter II of the report of the International Law Commission on the work of its nineteenth session,^{1/} which contained the final draft articles on special missions adopted by the Commission, decided to include an item entitled "Draft Convention on Special Missions" in the provisional agenda of the twenty-third session, with a view to the adoption of such a convention by the General Assembly. At its 1676th plenary meeting on 27 September 1968, the General Assembly included the above-mentioned item in the agenda of its twenty-third session and referred it to the Sixth Committee.
2. The Sixth Committee reached a decision at the present session on twenty-nine of the fifty draft articles, in two stages.
3. In the first stage - 1039th to 1059th and 1061st to 1072nd meetings, held between 15 October and 15 November 1968 - it considered twenty-nine articles (articles 2 to 29 and article 31)^{2/} and referred them all to a Drafting Committee in their original or in an amended form, together with any amendments that had been submitted to the Sixth Committee itself.
4. In the second stage - 1087th to 1090th meetings, held on 5, 6 and 9 December 1968 - it considered and adopted the texts recommended by the Drafting Committee for the twenty-nine articles in question (see para. 11 below).
5. At its 1039th meeting, on 15 October 1968, the Committee decided, pursuant to a request submitted by the Head of the Federal Political Department of the Swiss Confederation (A/C.6/389), to invite Switzerland, in view of its particular interest in the subject of special missions, to participate, without the right to vote, in the Committee's deliberations on the subject, on the understanding that that invitation would not create a precedent.

^{1/} Official Records of the General Assembly, Twenty-Second Session, Supplement No. 9 (A/6709/Rev.1 and Corr.1).

^{2/} During the discussion on articles 29 and 31, at the 1069th, 1070th and 1071st meetings, a number of representatives made observations on article 30, but no decision was taken by the Committee on that article.

6. Furthermore, in accordance with paragraph 5 of General Assembly resolution 2273 (XXII), Mr. Milan Bartoš, Special Rapporteur on special missions, attended the discussions as an expert consultant.

B. Basic proposal and documentation

7. The Sixth Committee had before it, as the basic proposal, the draft articles on special missions adopted by the International Law Commission at its nineteenth session^{3/} and some observations thereon reproduced in documents A/7156 and Add.1 and 2 and A/C.6/L.732.

C. Organization of work

8. In this connexion the Committee had before it a note by the Secretariat entitled "Methods of work and procedures" (A/C.6/L.646), containing observations based upon the experience of United Nations conferences which had had to deal with drafts similar to the draft on special missions.

9. On the basis of that document, the Committee decided at its 1039th meeting on 15 October 1968:

(a) To begin immediately a discussion of the draft, article by article, without first holding a general debate;

(b) To begin with article 2, leaving aside at that stage article 1, on use of terms;

(c) To take decisions on the draft articles by simple majority, in accordance with the rules of procedure;^{4/}

(d) To request the Chairman to appoint, after consultation with the various regional groups, a drafting committee composed of fifteen members chosen on the basis of equitable geographical distribution (see para. 10 below);

(e) To request the drafting committee to prepare a draft preamble taking into consideration the draft prepared by the International Law Commission, and a set of final clauses for the future Convention, and to submit them to the Sixth Committee.

^{3/} Official Records of the General Assembly, Twenty-Second Session, Supplement No. 9 (A/6709/Rev.1 and Corr.1).

^{4/} With regard to the majority to be required for the adoption of the draft articles in plenary meeting, the Sixth Committee, at its 1039th meeting also, decided to submit to the General Assembly a recommendation which is reproduced in section II below.

10. At the 1043rd meeting, on 17 October 1968, the Chairman announced that, in accordance with the Committee's decision referred to in sub-paragraph (d) of the foregoing paragraph, he had appointed a Drafting Committee composed of the following States: Congo (Democratic Republic of), Denmark, France, Ghana, Iraq, Italy, Japan, Mexico, Pakistan, Peru, Poland, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland and United States of America. It was agreed that the representative of Iraq would be the Chairman of the Drafting Committee and that the Rapporteur of the Sixth Committee and the Expert Consultant would attend its meetings in their respective capacities.

11. As mentioned in paragraph 4 above, the Sixth Committee referred articles 2 to 29 and article 31 to the Drafting Committee. It received from the Drafting Committee the texts adopted by it for the various articles. Each article adopted by the Drafting Committee was introduced in the Sixth Committee by the Chairman of the Drafting Committee, who indicated the principal considerations on which the text recommended was based. The statements made in this way by the Chairman of the Drafting Committee are contained in the summary records of the 1087th to 1089th meetings of the Sixth Committee (A/C.6/SR.1087-1089). With regard to the general presentation, the preamble and the final clauses, the Chairman of the Drafting Committee indicated that the Committee had decided to postpone until later:

(a) The question whether the headings of the articles and parts of the draft, and their wording should be maintained (in the case of articles 3 and 7, however, the Committee had felt that they should be headed "Functions of a special mission" and "Non-existence of diplomatic or consular relations", respectively, in the event of the question of maintaining the headings being decided affirmatively);

(b) Examination of the suggestions regarding the place and possible rearrangement of the articles;

(c) Preparation of the draft preamble and the final clauses of the future Convention which the Drafting Committee had been asked to prepare (see para. 9 above).

D. Plan of this report

12. This report consists of three sections: section I contains a brief report, article by article, on the work of the Sixth Committee on articles 2 to 29 and article 31 of the International Law Commission's draft; section II contains the text of a draft resolution and the Sixth Committee's **decisions with regard to** further work on the item under consideration; section III contains the Sixth Committee's recommendations. Lastly, in annex I will be found the text of the articles adopted by the Sixth Committee and, in annex II, the text of the articles and amendments which were not considered at the twenty-third session.

13. The report as a whole should be read in conjunction with the summary records of the meetings which the Sixth Committee devoted to the item in question (A/C.6/SR.1039-1059, 1061-1072 and 1087-1090).

I. CONSIDERATION OF ARTICLES 2 TO 29 AND ARTICLE 31 OF THE
DRAFT ARTICLES ON SPECIAL MISSIONS

14. This section presents a brief report on the Committee's work, article by article, beginning with article 2 and following generally the order of the articles in the International Law Commission's draft (see para. 9 above). In the few cases where the Committee decided to wait until it had completed the consideration of two or more articles before taking a decision on them or followed an order other than the numerical order, a note to that effect has been inserted at the appropriate place.

Article 2

A. Text of the International Law Commission

15. The text of the International Law Commission was worded as follows:

"Article 2

"Sending of special missions

"A State may, for the performance of a specific task, send a special mission to another State with the consent of the latter."

B. Amendments

16. Amendments were submitted to article 2 by the following countries: Belgium (A/C.6/L.659, Cameroon, Canada, France, Ghana, Haiti, United Kingdom of Great Britain and Northern Ireland and United Republic of Tanzania (A/C.6/L.663), Canada (A/C.6/L.661), France (A/C.6/L.657), Ghana (A/C.6/L.656), Haiti (A/C.6/L.660), United Kingdom of Great Britain and Northern Ireland (A/C.6/L.653).

17. The amendments were the following:

(a) United Kingdom of Great Britain and Northern Ireland (A/C.6/L.653):

"Before 'consent of the latter' insert 'express'."

/Withdrawn; see para. 19 below./

(b) Ghana (A/C.6/L.656):

"Replace the article by the following:

'Article 2

'Sending and receiving of special missions

'The sending and receiving by States of missions designated as special missions shall take place by mutual consent.'"

/Withdrawn; see para. 19 below./

(c) France (A/C.6/L.657):

"Add at the end of the article:

'The mission shall enjoy on the territory of the receiving State the treatment provided for in the present convention if the State in question had recognized its representative character following the submission of a request through the diplomatic channel.'"

/Withdrawn; see para. 19 below./

/...

(d) Belgium (A/C.6/L.659 [provisional text]):^{5/}

"Replace article 2 by the following:

'Sending and receiving of special missions

'The sending and receiving by States of missions recognized as special missions shall take place by express mutual consent. This agreement may depart from the provisions of articles 21 to 47.'

[First sentence withdrawn; second sentence rejected; see paras. 19 and 20 below.]

(e) Haiti (A/C.6/L.660):

"Replace article 2 by the following:

'The sending and receiving of missions designated as special missions by the sending State and recognized as such by the receiving State shall be done on the basis of express mutual consent.'

[Withdrawn; see para. 19 below.]

(f) Canada (A/C.6/L.661):

"Replace article 2 by the following:

'A State may send a special mission to another State with the express consent of the latter, to be sought through the diplomatic or other agreed channels.'

[Withdrawn; see para. 19 below.]

(g) Cameroon, Canada, France, Ghana, Haiti, United Kingdom of Great Britain and Northern Ireland and United Republic of Tanzania (A/C.6/L.663):

"Replace article 2 by the following:

'A State may send a special mission to another State with the consent of the latter, previously obtained through diplomatic or other agreed channel.'

[Adopted; see para. 20 below.]

^{5/} In its final version, this amendment was worded as follows:

"Add the following to article 2:

'The agreement given may depart from the provisions of articles 21 to 47.'

/...

C. Work of the Sixth Committee

(i) Meetings

18. The Sixth Committee considered article 2 for the first time at its 1040th and 1041st meetings, on 16 October 1968. At its 1087th meeting, on 5 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

(ii) Initial consideration

19. At the 1041st meeting, the amendments of the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.653), Ghana (A/C.6/L.656), France (A/C.6/L.657), Haiti (A/C.6/L.660) and Canada (A/C.6/L.661) and the first sentence of the amendment of Belgium (A/C.6/L.659) were withdrawn by their sponsors in favour of the joint amendment submitted by Cameroon, Canada, France, Ghana, Haiti, United Kingdom of Great Britain and Northern Ireland and United Republic of Tanzania (A/C.6/L.663).

20. At the same meeting, the remaining amendments were put to the vote:

(a) Seven-Power amendment (A/C.6/L.663):

Separate votes were requested on the words "through diplomatic or other agreed channel" by the representative of Czechoslovakia, on the word "agreed" by the USSR representative, and on the words "previously obtained" by the representative of Guatemala. The results of the voting were as follows:

The word "agreed" was adopted by 33 votes to 25, with 14 abstentions.

The words "through diplomatic or other agreed channel" were adopted by 41 votes to 19, with 15 abstentions.

The words "previously obtained" were adopted by 43 votes to 5, with 27 abstentions.

The first part of the seven-Power amendment, up to the words "with the consent of the latter", was adopted by 68 votes to none, with 3 abstentions.

The seven-Power amendment as a whole was adopted by 48 votes to none, with 27 abstentions.

(b) Second sentence of the Belgian amendment (A/C.6/L.659):

The second sentence of the Belgian amendment was rejected by 28 votes to 5, with 39 abstentions.

21. Also at its 1041st meeting, the Sixth Committee referred the text thus adopted to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

22. At the 1087th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 2 (A/C.6/L.728/Add.1; see para. 23 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

23. The text adopted by the Sixth Committee is worded as follows:

"Article 2

"A State may send a special mission to another State with the consent of the latter, previously obtained through the diplomatic or other agreed or mutually acceptable channel."

Article 3

A. Text of the International Law Commission

24. The text of the International Law Commission was worded as follows:

"Article 3

"Field of activity of a special mission

"The field of activity of a special mission shall be determined by the mutual consent of the sending and the receiving State."

B. Amendments

25. An amendment to article 3 was submitted by the following countries: Ecuador, Iran, Mongolia and Romania (A/C.6/L.662 and Add.1).

26. This amendment was the following:

"In the first line, insert the words 'including its functions' after the word 'mission'."

[Referred to the Drafting Committee; see para. 28 below.]

/...

C. Work of the Sixth Committee

(i) Meetings

27. The Sixth Committee considered article 3 for the first time at its 1042nd meeting, on 17 October 1968. At its 1087th meeting, on 5 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

(ii) Initial consideration

28. At its 1042nd meeting, the Sixth Committee referred to the Drafting Committee article 3 and the relevant amendment (A/C.6/L.662 and Add.1), together with an oral proposal by the representative of Colombia.

29. That proposal was to replace the words "field of activity" by the words "the functions and field of activity" and to amend the title of the article accordingly (see A/C.6/SR.1042).

(iii) Consideration of the text adopted by the Drafting Committee

30. At the 1087th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 3 (A/C.6/L.728/Add.1; see para. 30 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

31. The text adopted by the Sixth Committee is worded as follows:

"Article 3

"The functions of a special mission shall be determined by the mutual consent of the sending and the receiving State."

Article 4

A. Text of the International Law Commission

32. The text of the International Law Commission was worded as follows:

"Article 4

"Sending of the same special mission to two or more States

"A State may send the same special mission to two or more States after having consulted all of them beforehand. Any of those States may refuse to receive that special mission."

B. Amendments

33. An amendment to article 4 was submitted by Canada (A/C.6/L.669).

34. The amendment was the following:

"Replace article 4 by the following:

"'If a State intends to send the same special mission to two or more States, it shall so inform each receiving State when it seeks its consent.'"

[Adopted; see para. 36 below]

C. Work of the Sixth Committee

(i) Meetings

35. The Sixth Committee considered article 4 for the first time at its 1042nd and 1043rd meetings, on 17 October 1968. At its 1087th meeting, on 5 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

(ii) Initial consideration

36. At its 1042nd meeting, the Sixth Committee adopted the amendment of Canada (A/C.6/L.669) by 60 votes to none, with 19 abstentions and referred the text thus adopted to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

37. At the 1087th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 4 (A/C.6/L.728/Add.1; see para. 38 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

38. The text adopted by the Sixth Committee is worded as follows:

"Article 4

"A State which wishes to send the same special mission to two or more States shall so inform each receiving State when seeking the consent of that State."

Article 5

A. Text of the International Law Commission

39. The text of the International Law Commission was worded as follows:

"Article 5

"Sending of a joint special mission by two or more States

"Two or more States may send a joint special mission to another States unless that State, which shall be consulted beforehand, objects thereto."

B. Amendments

40. No amendments were submitted to article 5.

C. Work of the Sixth Committee

(i) Meetings

41. The Committee considered article 5 for the first time at its 1044th meeting, on 18 October 1968. At its 1087th meeting, on 5 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

(ii) Initial consideration

42. At its 1044th meeting, the Sixth Committee referred article 5 to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

43. At the 1087th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 5 (A/C.6/L.728/Add.1; see para. 44 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

44. The text adopted by the Sixth Committee is worded as follows:

"Article 5

"Two or more States which wish to send a joint special mission to another State shall so inform the receiving State when seeking the consent of that State."

/...

Article 6

Explanatory note

45. In view of two decisions taken by the Sixth Committee at its 1045th and 1087th meetings, held on 21 October and 5 December 1968 respectively, the account of the work on article 6 is given later in this report under the heading "Articles 6 and 18".

Article 7

A. Text of the International Law Commission

46. The text of the International Law Commission was worded as follows:

"Article 7

"Non-existence of diplomatic or consular relations
and non-recognition"

"1. The existence of diplomatic or consular relations is not necessary for the sending or reception of a special mission.

"2. A State may send a special mission to a State, or receive one from a State, which it does not recognize."

B. Amendments

47. Amendments to article 7 were submitted by the following countries: France (A/C.6/L.664), Ghana (A/C.6/L.672/Rev.1), Nigeria and the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.654 and Add.1). In addition, sub-amendments to the amendment of France (A/C.6/L.664) were submitted by the following countries: Hungary (A/C.6/L.675) and the Ukrainian Soviet Socialist Republic (A/C.6/L.676).

48. The amendments were as follows:

(a) Nigeria and the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.654 and Add.1):

"Paragraph 2

"Delete entire paragraph."

/Adopted, see para. 51 below7.

/...

(b) France (A/C.6/L.664):^{6/}

"Add the following to paragraph 2:

"'The sending of a special mission to a State which is not recognized or the reception of a special mission from a State which is not recognized shall not imply recognition.'"

/Subsequently became inapplicable; see para. 52 below^{7/}.

(c) Ghana (A/C.6/L.672/Rev.1):^{7/}

"Replace paragraph 2 by the following:

"'2. A State may send a special mission to a State, or receive one from a State, which it does not recognize; and this act by itself unless so intended by them shall not constitute one of recognition.'"

/Subsequently became inapplicable; see para. 52 below^{7/}.

49. The sub-amendments to the amendment of France (A/C.6/L.664/Rev.1) (see para. 48 above) were as follows:

(a) Hungary (A/C.6/L.675):

"(a) Add to the first sentence after the words 'does not recognize' the words 'without prejudice to the question of recognition'.

"(b) Delete the second sentence."

/Subsequently became inapplicable; see para. 52 below^{7/}.

6/ In a revised version (A/C.6/L.664/Rev.1) subsequently circulated, the text of this amendment was worded as follows:

"Add the following paragraph:

"'A State may send a special mission to a State or receive one from a State which it does not recognize. The sending or reception of a special mission in such circumstances does not imply recognition unless the contrary intention has been clearly expressed.'"

7/ In its original version, this amendment was worded as follows:

"Replace paragraph 2 by the following:

"'2. A State may send a special mission to a State or to an entity, or receive one from a State or an entity, which it does not recognize; and this act by itself unless so agreed between them shall not constitute one of recognition.'"

/...

(b) Ukrainian Soviet Socialist Republic (A/C.6/L.676):

"In the second sentence of the French amendment, replace the words 'in such circumstances does not imply recognition unless the contrary intention has been clearly expressed' by the words 'in such cases does not prejudice the question of recognition'."

/Subsequently became inapplicable; see para. 52 below/.

C. Work of the Sixth Committee

(i) Meetings

50. The Sixth Committee considered article 7 for the first time at its 1045th, 1046th, 1047th, 1048th and 1049th meetings, on 21, 22, 23 and 24 October 1968. At its 1087th meeting, on 5 December 1968, the Committee considered the text adopted by the Drafting Committee for this article (A/C.6/L.728/Add.1).

(ii) Initial consideration

51. At the 1048th meeting, the amendment of Nigeria and the United Kingdom (A/C.6/L.654 and Add.1) was adopted, as the result of a roll-call vote requested by the representative of Venezuela, by 38 votes to 18, with 31 abstentions. The voting was as follows:

In favour: Algeria, Australia, Belgium, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Cyprus, Czechoslovakia, Denmark, Ecuador, Greece, Iraq, Italy, Japan, Lebanon, Libya, Luxembourg, Mongolia, Morocco, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Poland, Portugal, Sudan, Sweden, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Barbados, Chile, France, Ghana, Guatemala, Guyana, Honduras, Indonesia, Jamaica, Kenya, Liberia, Philippines, Rwanda, South Africa, Spain, Trinidad and Tobago, Uruguay, Yugoslavia.

Abstaining: Afghanistan, Argentina, Burma, Cameroon, Chad, Colombia, Congo (Democratic Republic of), Costa Rica, Cuba, Dahomey, Ethiopia, Finland, Gabon, Haiti, Hungary, India, Iran, Ireland, Israel, Ivory Coast, Mali, Mexico, Niger, Peru, Romania, Senegal, Tunisia, Turkey, United Republic of Tanzania, Venezuela, Zambia.

/...

52. As a result of the adoption of this amendment, the purpose of which was to delete paragraph 2 of the text prepared by the International Law Commission, the other amendments and sub-amendments were not put to the vote.

53. At its 1049th meeting, the Sixth Committee adopted article 7, as amended, by 79 votes to none, with 3 abstentions, and referred the text thus adopted to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

54. At the 1087th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by the Drafting Committee for article 7 (A/C.6/L.728/Add.1; see para. 55 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

55. The text adopted by the Sixth Committee is worded as follows:

"Article 7

"The existence of diplomatic or consular relations is not necessary for the sending or reception of a special mission."

Article 8

Explanatory note

56. At its 1050th meeting, on 25 October 1968, the Committee decided that, in view of the close relationship between articles 8, 10, 11 and 12, it would consider those articles in succession as soon as it had disposed of article 9. Thus, a heading for articles 8, 10, 11 and 12 will be found immediately after the heading for article 9. It is, however, to be noted that during the second phase of its work, that is, when the texts adopted by the Drafting Committee were being considered, article 8 was taken up for consideration in its proper numerical order.

Article 9

A. Text of the International Law Commission

57. The text of the International Law Commission was worded as follows:

/...

"Article 9

"Composition of the special mission

"1. A special mission consists of one or more representatives of the sending State from among whom the sending State may appoint a head. It may also include diplomatic staff, administrative and technical staff and service staff.

"2. Members of a permanent diplomatic mission accredited to the receiving State may be included in the composition of the special mission while retaining their privileges and immunities as members of the diplomatic mission."

B. Amendments

58. An amendment to article 9 was submitted by France (A/C.6/L.666).

59. This amendment was as follows:

"Replace paragraph 1 by the following:

"'1. A mission consists of the representative of the sending State, serving as head of the special mission, and any alternates and advisers. It may also include administrative and technical staff and service staff.'"

/Withdrawn; see para. 61 below/.

C. Work of the Sixth Committee

(i) Meetings

60. The Sixth Committee considered article 9 for the first time at its 1050th and 1051st meetings, on 25 October 1968. At its 1089th and 1090th meetings, on 6 and 9 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

(ii) Initial consideration

61. At the 1050th meeting, the representative of France said that she would not press her country's amendment to a vote. At the same meeting, the Sixth Committee approved article 9 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Text adopted by the Drafting Committee

62. At the 1089th meeting, the Chairman of the Drafting Committee presented the text adopted by that Committee for that article (A/C.6/L.728/Add.1). This text was worded as follows:

"Article 9

"1. A special mission consists of one or more representatives of the sending State from among whom the sending State may appoint a head. It may also include diplomatic staff, administrative and technical staff and service staff.

"2. Members of a permanent diplomatic mission accredited to the receiving State may be included in the composition of the special mission while retaining their privileges and immunities as members of the diplomatic mission."

63. At the 1090th meeting, the representatives of Cameroon, Spain, the United States of America and Venezuela submitted an amendment (A/C.6/L.736/Rev.1)^{8/} worded as follows:

"Paragraph 2

"Paragraph 2 of the article should read as follows:

"'2. When members of a permanent diplomatic mission or of a consular post in the receiving State are included in a special mission, they shall continue to enjoy their privileges and immunities as members of their permanent diplomatic mission or consular post, respectively, in addition to the privileges and immunities stated in this Convention.'"

8/ The original version of this amendment, submitted by the United States of America and Venezuela (A/C.6/L.736) at the 1089th meeting, was worded as follows:

"Paragraph 2

"Paragraph 2 of the article should read as follows:

"'2. Members of a permanent diplomatic mission accredited to the receiving State may be included in the composition of the special mission while retaining their privileges and immunities as members of the diplomatic mission. Members of a consular post in the receiving State may also be included in the composition of the special mission, in which case they shall, during the period of their service on the special mission, have the privileges and immunities stated in part II of this convention.'"

/...

The representative of Iraq proposed that the word "situés" in the French version and the word "situadas" in the Spanish version should be deleted. The Committee adopted the amendment, as thus amended by the representative of Iraq. It then adopted the text of the Drafting Committee as amended.

(iv) Text adopted by the Sixth Committee

64. The text adopted by the Sixth Committee is worded as follows:

"Article 9

"1. A special mission consists of one or more representatives of the sending State from among whom the sending State may appoint a head. It may also include diplomatic staff, administrative and technical staff and service staff.

"2. When members of a permanent diplomatic mission or of a consular post in the receiving State are included in a special mission, they shall continue to enjoy their privileges and immunities as members of their permanent diplomatic mission or consular post, respectively, in addition to the privileges and immunities stated in this Convention."

Articles 8, 10, 11 and 12

65. In the light of the Committee's decision referred to above under the heading "Article 8", articles 8, 10, 11 and 12 have been grouped under a single heading. At the 1050th meeting, on 25 October 1968, the Committee decided that it would wait until it had completed its consideration of the four articles and the relevant amendments before voting on them. At the 1051st meeting, on 25 October 1968, it further decided that it would vote first on article 12, then on article 11, then on article 10 and last on article 8. For greater clarity, however, it has been considered preferable to present the four articles in their proper numerical order and to refer to the decisions of the Committee on each of them. It is nevertheless to be noted that during the second phase of its work, that is, when the texts adopted by the Drafting Committee were being considered, articles 8, 10, 11 and 12 were taken up for consideration in their proper numerical order.

Article 8

A. Text of the International Law Commission

66. The text of the International Law Commission was worded as follows:

"Article 8

"Appointment of the members of the special mission

"Subject to the provisions of articles 10 and 12, the sending State may freely appoint the members of the special mission after having informed the receiving State of its size and of the persons it intends to appoint."

B. Amendments

67. Amendments to article 8 were submitted by the following countries: Australia (A/C.6/L.672/Rev.1), Australia, Belgium and France (A/C.6/L.678), Belgium (A/C.6/L.670), Czechoslovakia (A/C.6/L.668), France (A/C.6/L.665).

68. The amendments were as follows:

(a) France (A/C.6/L.665):

"After the words 'the receiving State', insert the words 'in a precise manner'; between the words 'of its size and' and the words 'of the persons', insert the words 'of the names and capacities'."

/Withdrawn; see para. 70 below/.

(b) Czechoslovakia (A/C.6/L.668):

"Amend article 8 to read as follows:

"'The sending State may freely appoint the members of the special mission, subject to the provisions of articles 10, 11 and 12.'"

/Adopted in an amended form; see para. 71 below/.

(c) Belgium (A/C.6/L.670):

"Amend the second part of the article to read as follows:

"' ... of the special mission and shall inform the receiving State, before the departure of the mission, of the latter's size and of the persons comprising it.'"

/Withdrawn; see para. 70 below/.

/...

(d) Australia (A/C.6/L.671/Rev.1)^{9/}

"Replace draft article 8 by the following:

- "(1) Subject to the provisions of paragraph 2 and 3 of this article and of articles 10 and 12, the sending State may appoint the members of the special mission after having informed the receiving State of its size and of the persons it intends to appoint.
- "(2) The receiving State may without giving reasons refuse its consent to the appointment of any person as a member of the special mission.
- "(3) The receiving State may also refuse its consent to the sending of a mission of a size that is not considered by it to be reasonable having regard to circumstances and conditions in the receiving State and to the needs of the particular mission."

/Withdrawn; see para. 70 below/.

(e) Australia, Belgium and France (A/C.6/L.678):

"Replace draft article 8 by the following:

"Subject to the provisions of articles 10 and 12, the sending State may freely appoint the members of the special mission, after having given to the receiving State information of the size and composition of the special mission, and in particular the names and designations of the persons it intends to appoint. The receiving State may refuse to accept a special mission of a size that is not considered by it to be reasonable having regard to circumstances and conditions in the receiving State and to the needs of the particular mission. It may also without giving reasons refuse to accept any person as a member of the special mission."

/Adopted; see para. 71 below/.

C. Work of the Sixth Committee

(i) Meetings

69. The Sixth Committee considered article 8 for the first time at its 1049th, 1050th and 1051st meetings, on 24 and 25 October 1968. At its 1087th meeting,

9/ In its original version A/C.6/L.671), this amendment was worded as follows:

"Add the following to article 8:

"The receiving State may refuse consent to the appointment of any such person or to the proposed size of the special mission."

/...

on 5 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.3).

(ii) Initial consideration

70. At the 1050th meeting, the representatives of Australia, Belgium and France submitted a joint amendment (A/C.6/L.678) replacing their respective individual amendments (A/C.6/L.671/Rev.1, L.665 and L.670).

71. At the 1051st meeting, the Committee voted on article 8 and the relevant amendments:

(a) Three-Power amendment (A/C.6/L.678)

At the request of the representative of Nigeria, separate votes were taken on the words "Subject to the provisions ... composition of the special mission", on the words "and in particular the names and designations of the persons it intends to appoint" and on the second and the third sentences. The results of the voting were as follows:

The words "Subject to the provisions ... composition of the special mission" were adopted by 61 votes to 10, with 14 abstentions.

The words "and in particular the names and designations of the persons it intends to appoint" were adopted by 52 votes to 1, with 31 abstentions.

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

The third sentence was adopted by 31 votes to 16, with 38 abstentions.

(b) Amendment of Czechoslovakia (A/C.6/L.668).

Because of the adoption of the three-Power amendment, the amendment of Czechoslovakia, which referred to the text of the International Law Commission, could not be voted on in the form in which it had been submitted. It was consequently replaced by another calling for a reference to article 11 to be included in the first line of the three-Power text in the form in which it had just been adopted. The Committee decided to include such a reference by 26 votes to 1, with 55 abstentions.

(c) The three-Power text as a whole, as amended, was then adopted, as the result of a roll-call vote requested by the representative of the Union of Soviet Socialist Republics, by 42 votes to 20, with 23 abstentions. The voting was as follows:

/...

In favour: 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, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ecuador, Guyana, Haiti, Honduras, Hungary, Iraq, Jamaica, Liberia, Mongolia, Niger, Nigeria, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yugoslavia.

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

72. Also at the 1051st meeting, the Sixth Committee referred the text thus adopted to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

73. At the 1087th meeting of the Sixth Committee, the Chairman of the Drafting Committee submitted the text adopted by the Committee for article 8 (A/C.6/L.728/Add.3; see para. 74 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

74. The text adopted by the Sixth Committee is worded as follows:

"Article 8

"Subject to the provisions of articles 10, 11 and 12, the sending State may freely appoint the members of the special mission, after having given to the receiving State all necessary information concerning the size and composition of the special mission, and in particular the names and designations of the persons it intends to appoint. The receiving State may decline to accept a special mission of a size that is not considered by it to be reasonable having regard to circumstances and conditions in the receiving State and to the needs of the particular mission. It may also without giving reasons decline to accept any person as a member of the special mission."

Article 10

A. Text of the International Law Commission

75. The text of the International Law Commission was worded as follows:

"Article 10

"Nationality of the members of the special mission

"1. The representatives of the sending State in the special mission and the members of its diplomatic staff should in principle be of the nationality of the sending State.

"2. Nationals of the receiving State may not be appointed to a special mission except with the consent of that State, which may be withdrawn at any time.

"3. The receiving State may reserve the right provided for in paragraph 2 with regard to nationals of a third State who are not also nationals of the sending State."

B. Amendments

76. Amendments to article 10 were submitted by the following countries:

France (A/C.6/L.667) and Kuwait (A/C.6/L.677).

77. The amendments were the following:

(a) France (A/C.6/L.667):

"Replace paragraph 1 by the following:

"'1. The representative of the sending State serving as head of the special mission and his alternates and advisers should in principle be of the nationality of the sending State.'"

/Withdrawn; see para. 79 below/

(b) Kuwait (A/C.6/L.677)

"Add to paragraph 1 the following sentence:

"'The sending State may, however, include nationals of third States in its special mission.'"

/Referred to the Drafting Committee; see para. 80 below/

C. Work of the Sixth Committee

(i) Meetings

78. The Sixth Committee considered article 10 for the first time at its 1051st meeting, on 25 October 1968. At its 1088th meeting, on 6 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

/...

(ii) Initial consideration

79. At the 1051st meeting, the representative of France said that she would not press for a vote on her amendment.

80. At the same meeting, the Sixth Committee approved article 10, as drafted by the International Law Commission, by 88 votes to 1, with 1 abstention, and referred it to the Drafting Committee with the amendment of Kuwait (A/C.6/L.677).

(iii) Consideration of the text adopted by the Drafting Committee

81. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 10 (A/C.6/L.728/Add.1; see para. 82 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee.

82. The text adopted by the Sixth Committee is worded as follows:

"Article 10

"1. The representatives of the sending State in the special mission and the members of its diplomatic staff should in principle be of the nationality of the sending State.

"2. Nationals of the receiving State may not be appointed to a special mission except with the consent of that State, which may be withdrawn at any time.

"3. The receiving State may reserve the right provided for in paragraph 2 with regard to nationals of a third State who are not also nationals of the sending State."

Article 11

A. Text of the International Law Commission

83. The text of the International Law Commission was worded as follows:

"Article 11

"Notifications

"1. The Ministry of Foreign Affairs, or such other organ of the receiving State as may be agreed, shall be notified of:

"(a) The composition of the special mission and any subsequent changes therein;

"(b) The arrival and final departure of members of the mission and the termination of their functions with the mission;

"(c) The arrival and final departure of any person accompanying a member of the mission;

"(d) The engagement and discharge of persons residing in the receiving State as members of the mission or as private staff;

"(e) The appointment of the head of the special mission or, if there is none, of the representative referred to in paragraph 1 of article 14, and of any substitute for them;

"(f) The site of the premises occupied by the special mission and any information that may be necessary to identify them.

"2. Whenever possible, notification of arrival and final departure must be given in advance."

B. Amendments

84. An amendment to article 11 was submitted by Spain (A/C.6/L.674).

85. The amendment was the following:

"Paragraph 1

"Amend sub-paragraph (f) to read as follows:

"'The site of the premises occupied by the special mission and of the private quarters of the representatives of the sending State and of the members of the diplomatic staff of the special mission as well as any information that may be necessary to identify them.'"

/...

[Approved in substance and referred to the Drafting Committee; see para. 87 below.]

C. Work of the Sixth Committee

(i) Meetings

86. The Sixth Committee considered article 11 for the first time at its 1051st meeting, on 25 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

(ii) Initial consideration

87. At its 1051st meeting, the Sixth Committee approved article 11 as drafted by the International Law Commission and the substance of the amendment of Spain (A/C.6/L.674) and referred the article and the amendment to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

88. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 11 (A/C.6/L.728/Add.1: see para. 89 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

89. The text adopted by the Sixth Committee is worded as follows:

"Article 11

"1. The Ministry of Foreign Affairs, or such other organ of the receiving State as may be agreed, shall be notified of:

"(a) the composition of the special mission and any subsequent changes therein;

"(b) the arrival and final departure of members of the mission and the termination of their functions with the mission;

"(c) the arrival and final departure of any person accompanying a member of the mission;

"(d) the engagement and discharge of persons residing in the receiving State as members of the mission or as private staff;

/...

"(e) the appointment of the head of the special mission or, if there is none, of the representative referred to in paragraph 1 of article 14, and of any substitute for them;

"(f) the location of the premises occupied by the special mission and of the private accommodation of the representatives of the sending State and of the members of the diplomatic staff of the special mission as well as any information that may be necessary to identify such premises and accommodation.

"2. Unless it is impossible, notification of arrival and final departure must be given in advance."

Article 12

A. Text of the International Law Commission

90. The text of the International Law Commission was worded as follows:

"Article 12

"Persons declared non grata or not acceptable

"1. The receiving State may, at any time and without having to explain its decision, notify the sending State that any representative of the sending State in the special mission or any member of its diplomatic staff is persona non grata or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared non grata or not acceptable before arriving in the territory of the receiving State.

"2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this article, the receiving State may refuse to recognize the person concerned as a member of the special mission."

B. Amendments

91. No amendments were submitted to article 12.

C. Work of the Sixth Committee

(i) Meetings

92. The Sixth Committee considered article 12 for the first time at its 1051st meeting, on 25 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

/...

(ii) Initial consideration

93. At its 1051st meeting, the Sixth Committee approved article 12 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

94. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 12 (A/C.6/L.728/Add.1; see para. 95 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

95. The text adopted by the Sixth Committee is worded as follows:

"Article 12

"1. The receiving State may, at any time and without having to explain its decision, notify the sending State that any representative of the sending State in the special mission or any member of its diplomatic staff is persona non grata or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared non grata or not acceptable before arriving in the territory of the receiving State.

"2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this article, the receiving State may refuse to recognize the person concerned as a member of the special mission."

Article 13

A. Text of the International Law Commission

96. The text of the International Law Commission was worded as follows:

"Article 13

"Commencement of the functions of a special mission

"1. The functions of a special mission shall commence as soon as the mission enters into official contact with the Ministry of Foreign Affairs or with such other organ of the receiving State as may be agreed.

"2. The commencement of the functions of a special mission shall not depend upon presentation of the mission by the permanent diplomatic mission of the sending State or upon the submission of letters of credence or full powers."

/...

B. Amendments

97. No amendments were submitted to article 13.

C. Work of the Sixth Committee

(i) Meetings

98. The Sixth Committee considered article 13 for the first time at its 1052nd meeting, on 28 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.1).

(ii) Initial consideration

99. At its 1052nd meeting, the Sixth Committee approved article 13 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

100. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 13 (A/C.6/L.728/Add.1; see para. 101 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

101. The text adopted by the Sixth Committee is worded as follows:

"Article 13

"1. The functions of a special mission shall commence as soon as the mission enters into official contact with the Ministry of Foreign Affairs or with such other organ of the receiving State as may be agreed.

"2. The commencement of the functions of a special mission shall not depend upon presentation of the mission by the permanent diplomatic mission of the sending State or upon the submission of letters of credence or full powers."

Article 14

A. Text of the International Law Commission

102. The text of the International Law Commission was worded as follows:

/...

"Article 14

"Authority to act on behalf of the special mission

"1. The head of the special mission or, if the sending State has not appointed a head, one of the representatives of the sending State designated by the latter, is authorized to act on behalf of the special mission and to address communications to the receiving State. The receiving State shall address communications concerning the special mission to the head of the mission or, if there is none, to the representative referred to above, either direct or through the permanent diplomatic mission.

"2. A member of the special mission may be authorized by the sending State, by the head of the special mission or, if there is none, by the representative referred to in paragraph 1 above, either to substitute for the head of the special mission or for the aforesaid representative, or to perform particular acts on behalf of the mission."

B. Amendments

103. An amendment to article 14 was submitted by the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.655).

104. The amendment was the following:

"Paragraph 1

"(a) In the first sentence before the word 'authorized' insert the words 'normally the only person'.

"(b) In the second sentence before the word 'address' insert the word 'normally'."

/Referred to the Drafting Committee; see para. 106 below./

C. Work of the Sixth Committee

(i) Meetings

105. The Sixth Committee considered article 14 for the first time at its 1052nd meeting, on 28 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.2).

(ii) Initial consideration

106. At its 1052nd meeting, the Sixth Committee approved article 14 as drafted by the International Law Commission and referred it to the Drafting Committee with the amendment of the United Kingdom (A/C.6/L.655).

(iii) Consideration of the text adopted by the Drafting Committee

107. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 14 (A/C.6/L.728/Add.2; see para. 108 below). The sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

108. The text adopted by the Sixth Committee is worded as follows:

"Article 14

"1. The head of the special mission or, if the sending State has not appointed a head, one of the representatives of the sending State designated by the latter, is authorized to act on behalf of the special mission and to address communications to the receiving State. The receiving State shall address communications concerning the special mission to the head of the mission, or, if there is none, to the representative referred to above, either direct or through the permanent diplomatic mission.

"2. However, a member of the special mission may be authorized by the sending State, by the head of the special mission or, if there is none, by the representative referred to in paragraph 1 above, either to substitute for the head of the special mission or for the aforesaid representative, or to perform particular acts on behalf of the mission."

Article 15

A. Text of the International Law Commission

109. The text of the International Law Commission was worded as follows:

"Article 15

"Organ of the receiving State with which official business is conducted

"All official business with the receiving State entrusted to the special mission by the sending State shall be conducted with or through the Ministry of Foreign Affairs or with such other organ of the receiving State as may be agreed."

B. Amendments

110. No amendments were submitted to article 15.

C. Work of the Sixth Committee

(i) Meetings

111. The Sixth Committee considered article 15 for the first time at its 1052nd meeting, on 28 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.2).

(ii) Initial consideration

112. At its 1052nd meeting, on 28 October 1968, the Sixth Committee approved article 15 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

113. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 15 (A/C.6/L.728/Add.2; see para. 114 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

114. The text adopted by the Sixth Committee is worded as follows:

"Article 15

"All official business with the receiving State entrusted to the special mission by the sending State shall be conducted with or through the Ministry of Foreign Affairs or with such other organ of the receiving State as may be agreed."

Article 16

A. Text of the International Law Commission

115. The text of the International Law Commission is worded as follows:

"Article 16

"Rules concerning precedence

"1. Where two or more special missions meet on the territory of the receiving State or of a third State, precedence among the missions shall be determined, in the absence of a special agreement, according to the alphabetical order of the names of the States used by the protocol of the State on whose territory the missions are meeting.

/...

"2. Precedence among two or more special missions which meet on a ceremonial or formal occasion shall be governed by the protocol in force in the receiving State.

"3. Precedence among the members of the same special mission shall be that which is notified to the receiving State or to the third State on whose territory two or more special missions are meeting."

B. Amendments

116. No amendments were submitted to article 16.

C. Work of the Sixth Committee

(i) Meetings

117. The Sixth Committee considered article 16 for the first time at its 1052nd meeting, on 28 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.2).

(ii) Initial consideration

118. At its 1052nd meeting, the Sixth Committee approved article 16 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

119. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 16 (A/C.6/L.728/Add.2; see para. 120 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

120. The text adopted by the Sixth Committee is worded as follows:

"Article 16

"1. Where two or more special missions meet on the territory of the receiving State or of a third State, precedence among the missions shall be determined, in the absence of a special agreement, according to the alphabetical order of the names of the States used by the protocol of the State on whose territory the missions are meeting.

"2. Precedence among two or more special missions which meet on a ceremonial or formal occasion shall be governed by the protocol in force in the receiving State.

/...

"3. Precedence among the members of the same special mission shall be that which is notified to the receiving State or to the third State on whose territory two or more special missions are meeting."

Article 17

A. Text of the International Law Commission

121. The text of the International Law Commission was worded as follows:

"Article 17

"Seat of the special mission

"1. A special mission shall have its seat in the locality agreed by the States concerned.

"2. In the absence of agreement, the special mission shall have its seat in the locality where the Ministry of Foreign Affairs of the receiving State is situated.

"3. If the special mission's functions are performed in different localities, the special mission may have more than one seat; one of such seats may be chosen as its principal seat."

B. Amendments

122. An amendment to article 17 was submitted by Belgium (A/C.6/L.679).

123. The amendment was the following:

"Paragraph 3

"Replace the words 'may be chosen' in paragraph 3 by the words 'shall be chosen'."

[Rejected; see para. 125 below.]

C. Work of the Sixth Committee

(i) Meetings

124. The Sixth Committee considered article 17 for the first time at its 1052nd and 1053rd meetings, on 28 and 29 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.2).

(ii) Initial consideration

125. At its 1053rd meeting, the Sixth Committee rejected the Belgian amendment (A/C.6/L.679) by 34 votes to 17, with 36 abstentions.

126. At the same meeting, it approved article 17 as drafted by the International Law Commission, by 79 votes to none, with 8 abstentions, and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

127. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 17 (A/C.6/L.728/Add.2; see para. 128 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

128. The text adopted by the Sixth Committee is worded as follows:

"Article 17

"1. A special mission shall have its seat in the locality agreed by the States concerned.

"2. In the absence of agreement, the special mission shall have its seat in the locality where the Ministry of Foreign Affairs of the receiving State is situated.

"3. If the functions of the special mission are performed in different localities, the States concerned may agree that the special mission shall have more than one seat from among which they may choose one as the principal seat."

Articles 6 and 18

129. These two articles are presented under a single heading as a result of the decisions taken by the Sixth Committee at its 1045th and 1087th meetings, on 21 October and 5 December 1968 (see paras. 135 and 138 below).

A. Text of the International Law Commission

130. The text of the International Law Commission for each of these articles was worded as follows:

/...

"Article 6

"Sending of special missions by two or more States in
order to deal with a question of common interest"

"Two or more States may each send a special mission at the same time to another State in order to deal, with the agreement of all of them, with a question of common interest."

"Article 18

"Activities of special missions on the territory of
a third State"

"1. Special missions from two or more States may meet on the territory of a third State only after obtaining the express consent of that State, which retains the right to withdraw it.

"2. In giving its consent, the third State may impose conditions which shall be observed by the sending States.

"3. The third State shall assume in respect of the sending States the rights and obligations of a receiving State only to the extent that it so indicates."

B. Amendments

131. No amendments were submitted to article 6.^{10/}

132. An amendment to article 18 was submitted by Zambia (A/C.6/L.681).

133. The amendment was the following:

"Insert a new paragraph as follows:

"Two or more States may, as a result of consultation between them, send special missions to the territory of one of them with the consent of that State, in order to deal with a question of common interest to all of them." ^{11/}

^{10/} But see foot-note 11 below.

^{11/} At the 1053rd meeting, on 29 October 1968, the representative of Zambia said that his amendment could be regarded either as adding a new paragraph to article 18 or as proposing a new wording for article 6.

C. Work of the Sixth Committee

(i) Meetings

134. The Sixth Committee considered article 6 for the first time at its 1044th and 1045th meetings, on 18 and 21 October 1968. The article was subsequently considered in conjunction with article 18 at the 1053rd meeting, on 29 October 1968. At its 1087th, 1088th and 1089th meetings, on 5 and 6 December 1968, the Committee considered the texts adopted by the Drafting Committee for those articles (A/C.6/L.728/Add.1 and 3).

(ii) Initial consideration

135. At the 1044th meeting, the representative of the United States of America orally proposed the deletion of article 6. At its 1045th meeting, the Committee decided not to take a decision on article 6 until it had considered article 18.

136. At its 1053rd meeting, the Committee considered article 6 in conjunction with article 18 and decided to refer both articles, together with the amendment of Zambia (A/C.6/L.681), to the Drafting Committee.

(iii) Texts adopted by the Drafting Committee

137. At the 1087th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 6 (A/C.6/L.728/Add.3). The text was as follows:

"Article 6

"Two or more States may each send a special mission at the same time to another State, with the consent of that State obtained in accordance with article 2, in order to deal, with the agreement of all of these States, with a question of common interest to all of them."

138. An oral amendment to that text was submitted by the United States of America to add the word "jointly" after the word "deal". The Committee decided not to come to any decision until it had considered the text adopted by the Drafting Committee for article 18.

139. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 18 (A/C.6/L.728/Add.3; see para. 141 below).

/...

140. At the 1089th meeting, the Committee considered together the texts adopted by the Drafting Committee for articles 6 and 18. It had before it a revised version of the United States oral amendment to article 6 (see para. 138 above), sponsored jointly by Cameroon and the United States, for the addition of the word "together" after the word "deal". The Committee adopted that amendment and the text of the Drafting Committee, thus amended. It also adopted the text recommended by the Drafting Committee for article 18.

(iv) Texts adopted by the Sixth Committee

141. The texts adopted by the Sixth Committee are worded as follows:

"Article 6

"Two or more States may each send a special mission at the same time to another State, with the consent of that State obtained in accordance with article 2, in order to deal together, with the agreement of all of these States, with a question of common interest to all of them."

"Article 18

"1. Special missions from two or more States may meet on the territory of a third State only after obtaining the express consent of that State, which retains the right to withdraw it.

"2. In giving its consent, the third State may lay down conditions which shall be observed by the sending States.

"3. The third State shall assume in respect of the sending States the rights and obligations of a receiving State to the extent that it indicates in giving its consent."

Article 19

A. Text of the International Law Commission

142. The text of the International Law Commission was worded as follows:

"Article 19

"Right of special missions to use the flag and emblem
of the sending State

"1. A special mission shall have the right to use the flag and emblem of the sending State on the premises occupied by the mission, and on its means of transport when used on official business.

/...

"2. In the exercise of the right accorded by this article, regard shall be had to the laws, regulations and usages of the receiving State."

B. Amendments

143. Amendments to article 19 were submitted by Belgium (A/C.6/L.680) and the Netherlands (A/C.6/L.689).

144. The amendments were the following:

(a) Belgium (A/C.6/L.680):

"Paragraph 1

"Replace the second part of the paragraph, after the words 'by the mission, and', by the words 'on the means of transport of the representative who is the head of the special mission, when used on official business'."

/Rejected; see para. 146 below./

(b) Netherlands (A/C.6/L.689):

"Paragraph 1

"Insert at the beginning of article 19, paragraph 1, the words 'Except as otherwise agreed'."

/Referred to the Drafting Committee; see para. 147 below./

C. Work of the Sixth Committee

(i) Meetings

145. The Sixth Committee considered article 19 for the first time at its 1054th meeting, on 29 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.3).

(ii) Initial consideration

146. At its 1054th meeting, the Sixth Committee rejected the Belgian amendment (A/C.6/L.680) by 35 votes to 34, with 12 abstentions.

147. At the same meeting, it approved article 19 as drafted by the International Law Commission and referred it to the Drafting Committee, together with the Netherlands amendment (A/C.6/L.689).

/...

(iii) Consideration of the text adopted by the Drafting Committee

148. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 19 (A/C.6/L.728/Add.3; see para. 149 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

149. The text adopted by the Sixth Committee is worded as follows:

"Article 19

"1. A special mission shall have the right to use the flag and emblem of the sending State on the premises occupied by the mission, and on its means of transport when used on official business.

"2. In the exercise of the right accorded by this article, regard shall be had to the laws, regulations and usages of the receiving State."

Article 20

A. Text of the International Law Commission

150. The text of the International Law Commission was worded as follows:

"Article 20

"End of the functions of a special mission

"1. The functions of a special mission shall come to an end, inter alia, upon:

"(a) The agreement of the States concerned;

"(b) The completion of the task of the special mission;

"(c) The expiry of the duration assigned for the special mission, unless it is expressly extended;

"(d) Notification by the sending State that it is terminating or recalling the special mission;

"(e) Notification by the receiving State that it considers the special mission terminated.

"2. The severance of diplomatic or consular relations between the sending State and the receiving State shall not of itself have the effect of terminating special missions existing at the time of such severance."

/...

B. Amendments

151. No amendments were submitted to article 20.

C. Work of the Sixth Committee

(i) Meetings

152. The Sixth Committee considered article 20 for the first time at its 1052nd and 1054th meetings, on 28 and 29 October 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.3).

(ii) Initial consideration

153. At its 1054th meeting, the Sixth Committee approved article 20 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

154. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 20 (A/C.6/L.728/Add.3; see para. 155 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

155. The text adopted by the Sixth Committee is worded as follows:

"Article 20

"1. The functions of a special mission shall come to an end, inter alia, upon:

"(a) the agreement of the States concerned;

"(b) the completion of the task of the special mission;

"(c) the expiry of the duration assigned for the special mission, unless it is expressly extended;

"(d) notification by the sending State that it is terminating or recalling the special mission;

"(e) notification by the receiving State that it considers the special mission terminated.

"2. The severance of diplomatic or consular relations between the sending State and the receiving State shall not of itself have the effect of terminating special missions existing at the time of such severance."

Article 21

A. Text of the International Law Commission

156. The text of the International Law Commission was worded as follows:

"Article 21

"Status of the Head of State and persons of high rank

"1. The Head of the sending State, when he leads a special mission, shall enjoy in the receiving State or in a third State, in addition to what is granted by these articles, the facilities, privileges and immunities accorded by international law to Heads of State on an official visit.

"2. The Head of the Government, the Minister for Foreign Affairs and other persons of high rank, when they take part in a special mission of the sending State, shall enjoy, in the receiving State or in a third State, in addition to what is granted by these articles, the facilities, privileges and immunities accorded by international law."

B. Amendments

157. Amendments were submitted to article 21 by the following States: Belgium (A/C.6/L.682), France (A/C.6/L.692), United Kingdom of Great Britain and Northern Ireland (A/C.6/L.697). In addition, a sub-amendment was submitted by Ghana (A/C.6/L.719) to the French amendment (A/C.6/L.692).

158. The amendments were the following:

(a) Belgium (A/C.6/L.682):

"Delete the entire article."

/Withdrawn; see para. 161 below.

(b) France (A/C.6/L.692):

"Replace the article by the following:

'1. The Head of the sending State, when he leads a special mission, shall enjoy in the receiving State or in a third State, the facilities, privileges and immunities accorded by international law to Heads of State on an official visit.

'2. The Head of the Government, the Minister for Foreign Affairs and Ministers of comparable rank, when they take part in a special mission of the sending State, shall enjoy, in the receiving State or in a third State, the facilities, privileges and immunities accorded to diplomatic

/...

agents by the Vienna Convention on Diplomatic Relations⁷. The privileges and immunities of diplomatic agents may be accorded to other persons of high rank by special agreement between the sending State and the receiving State.

'3. Members of special missions other than the persons of high rank referred to in the preceding paragraph shall enjoy the privileges and immunities defined in the following articles.'

Paragraph 1 adopted, paragraphs 2 and 3 rejected; see para. 162 below.⁷

(c) United Kingdom of Great Britain and Northern Ireland (A/C.6/L.697):

"(a) Insert a new paragraph 1 as follows:

'The privileges and immunities set out in this Part shall be accorded to a special mission led by the Head of State, the Head of Government or the Foreign Minister or other Ministers of the Government of the sending State by whatever title they may be called. Any other special mission may be accorded the privileges and immunities set out in this Part by agreement between the sending and receiving States.'

"(b) Renumber the present paragraphs 1 and 2 as paragraphs 2 and 3.^{12/}

Withdrawn; see para. 161 below.⁷

159. The sub-amendment of Ghana (A/C.6/L.719) to the amendment of France (A/C.6/L.692) was the following:

"Paragraph 2

"After the words 'by the Vienna Convention on Diplomatic Relations⁷' delete the full-stop and add the words 'and the privileges and immunities accorded them normally by custom'."

Rejected; see para. 162 below.⁷

^{12/} This amendment was accompanied by the following note:

"The proposed new paragraph 1 for article 21 should be read in conjunction with new articles 47 bis to sexies proposed by the United Kingdom. (See annex II.) If the Committee decides to include titles for the parts and articles, the title of Part II might read 'Facilities, Privileges and Immunities of Special Missions led by the Head of State and Persons of High Rank' and the title to article 21 might read 'High-ranking special missions'."

/...

C. Work of the Sixth Committee

(i) Meetings

160. The Sixth Committee considered article 21 for the first time at its 1055th to 1059th, 1061st and 1063rd meetings, on 30 and 31 October and 1, 4 and 6 November 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728).

(ii) Initial consideration

161. At its 1063rd meeting, the representatives of Belgium and the United Kingdom said that they would not press for their respective amendments (A/C.6/L.682 and A/C.6/L.697) to be put to the vote.

162. At the same meeting, the Committee voted on article 21 and on the relevant amendment and sub-amendment:

(a) Amendment of France (A/C.6/L.692) (put to the vote paragraph by paragraph) and sub-amendment of Ghana (A/C.6/L.719)

Paragraph 1 of the amendment was adopted by 34 votes to 22, with 28 abstentions;

The sub-amendment to paragraph 2 was rejected by 21 votes to 18, with 46 abstentions;

Paragraph 2 of the amendment was rejected by 41 votes to 30, with 16 abstentions;

Paragraph 3 of the amendment was rejected by 33 votes to 16, with 35 abstentions.

(b) Paragraph 2 of article 21 as drafted by the International Law Commission

Paragraph 2 of article 21 as drafted by the International Law Commission was approved by 76 votes to 2, with 10 abstentions.

163. At its 1063rd meeting, the Sixth Committee referred the text thus adopted to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

164. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 21 (A/C.6/L.728; see para. 165 below). The Sixth Committee adopted that text.

/...

(iv) Text adopted by the Sixth Committee

165. The text adopted by the Sixth Committee is worded as follows:

"Article 21

"1. The Head of the sending State, when he leads a special mission, shall enjoy in the receiving State or in a third State the facilities, privileges and immunities accorded by international law to Heads of State on an official visit.

"2. The Head of the Government, the Minister for Foreign Affairs and other persons of high rank, when they take part in a special mission of the sending State, shall enjoy in the receiving State or in a third State, in addition to what is granted by these articles, the facilities, privileges and immunities accorded by international law."

Article 22

A. Text of the International Law Commission

166. The text of the International Law Commission was worded as follows:

"Article 22

"General Facilities

"The receiving State shall accord to the special mission the facilities required for the performance of its functions, having regard to the nature and task of the special mission."

B. Amendments

167. Amendments to article 22 were submitted by the following countries:

Ghana (A/C.6/L.695), Ghana and Zambia (A/C.6/L.720), Zambia (A.C.6/L.691).

The amendments were the following:

(a) Zambia (A/C.6/L.691):

"Replace the words 'the facilities' by the words 'reasonable facilities'."

/Withdrawn; see para. 170 below./

(b) Ghana (A/C.6/L.695):

"By agreement with the sending State the receiving State shall accord to the special mission such facilities as may be necessary for the performance of its functions."

/Withdrawn; see para. 170 below./

/...

(c) Ghana and Zambia (A/C.6/L.720):

"Replace the article by the following:

"'By agreement with the sending State the receiving State shall accord to the special mission such reasonable facilities as may be required for the performance of its functions, having regard to the nature and task of the special mission.'"

/Withdrawn; see para. 170 below./

C. Work of the Sixth Committee

(i) Meetings

169. The Committee considered article 22 for the first time at its 1062nd meeting, on 5 November 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.3).

(ii) Initial consideration

170. At the 1062nd meeting, the representatives of Ghana and Zambia withdrew their respective amendments (A/C.6/L.695 and L.691) and submitted instead their joint amendment (A/C.6/L.720); they then indicated that they would not press for a vote on the latter amendment.

171. At the same meeting, the Sixth Committee approved article 22 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

172. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 22 (A/C.6/L.728/Add.3; see para. 173 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

173. The text adopted by the Sixth Committee is worded as follows:

"Article 22

"The receiving State shall accord to the special mission the facilities required for the performance of its functions, having regard to the nature and task of the special mission."

/...

Article 23

A. Text of the International Law Commission

174. The text of the International Law Commission was worded as follows:

"Article 23

"Accommodation of the special mission and its members

"The receiving State shall assist the special mission if it so requests in procuring the necessary premises and obtaining suitable accommodation for its members."

B. Amendments

175. No amendments were submitted to article 23.

C. Work of the Sixth Committee

(i) Meetings

176. The Sixth Committee considered article 23 for the first time at its 1062nd meeting, on 5 November 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.3).

(ii) Initial consideration

177. At its 1062nd meeting, the Sixth Committee approved article 23 as drafted by the International Law Commission and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

178. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 23 (A/C.6/L.728/Add.3; see para. 179 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

179. The text adopted by the Sixth Committee is worded as follows:

/...

"Article 23

"The receiving State shall assist the special mission if it so requests in procuring the necessary premises and obtaining suitable accommodation for its members."

Article 24

A. Text of the International Law Commission

180. The text of the International Law Commission was worded as follows:

"Article 24

"Exemption of the premises of the special mission from taxation

"1. The sending State and the members of the special mission acting on behalf of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises occupied by the special mission, other than such as represent payment for specific services rendered.

"2. The exemption from taxation referred to in this article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or with a member of the special mission."

B. Amendments

181. Amendments to article 24 were submitted by Belgium (A/C.6/L.683) and France (A/C.6/L.693).

182. The amendments were the following:

(a) Belgium (A/C.6/L.683):

"Paragraph 1

"Replace the words 'on behalf of the mission' by the words 'on behalf of the sending State'."

[Referred to the Drafting Committee; see para. 185 below.]

(b) France (A/C.6/L.693):

"Start paragraph 1 with the following words: 'To the text compatible with the nature and duration of the functions performed by the special mission, the sending State...'"

[Adopted; see para. 184 below.]

C. Work of the Sixth Committee

(i) Meetings

183. The Sixth Committee considered article 24 for the first time at its 1063rd meeting, on 6 November 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.3).

(ii) Initial consideration

184. At its 1063rd meeting, the Committee adopted the French amendment (A/C.6/L.693) by 32 votes to 25, with 25 abstentions.

185. At the same meeting, it adopted article 24, as amended, by 41 votes to 14, with 28 abstentions, and referred the text thus adopted to the Drafting Committee together with the Belgian amendment (A/C.6/L.683).

(iii) Consideration of the text adopted by the Drafting Committee

186. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 24 (A/C.6/L.728/Add.3; see para. 187 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

187. The text adopted by the Sixth Committee is worded as follows:

"Article 24

"1. To the extent compatible with the nature and duration of the functions performed by the special mission, the sending State and the members of the special mission acting on behalf of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises occupied by the special mission, other than such as represent payment for specific services rendered.

"2. The exemption from taxation referred to in this article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or with a member of the special mission."

Article 25

A. Text of the International Law Commission

188. The text of the International Law Commission was worded as follows:

"Article 25

"Inviolability of the premises

"1. The premises of the special mission shall be inviolable. The agents of the receiving State may not enter the premises of the special mission, except with the consent of the head of the special mission or, if appropriate, of the head of the permanent diplomatic mission of the sending State accredited to the receiving State. Such consent may be assumed in case of fire or other disaster requiring prompt protective action.

"2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the special mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

"3. The premises of the special mission, their furnishings, other property used in the operation of the special mission and its means of transport shall be immune from search, requisition, attachment or execution."

B. Amendments

189. Amendments to article 25 were submitted by the following countries: Argentina (A/C.6/L.723), Australia and United Kingdom of Great Britain and Northern Ireland (A/C.6/L.722), France (A/C.6/L.694), Ukrainian Soviet Socialist Republic (A/C.6/L.690).

190. The amendments were the following:

(a) Ukrainian Soviet Socialist Republic (A/C.6/L.690):

"Paragraph 1

"Delete the sentence: 'Such consent may be assumed in case of fire or other disaster requiring prompt protective action.'"

/Rejected; see para. 192 below./

/...

(b) France (A/C.6/L.694):

"Paragraph 1

"Replace the first sentence by the following sentence: 'The premises where the special mission is officially established shall be inviolable.'

"Paragraph 3

"Delete the paragraph."

/Amendment to paragraph 1 adopted; amendment to paragraph 3 rejected; see para. 192 below.]

(c) Australia and United Kingdom of Great Britain and Northern Ireland
(A/C.6/L.722):^{13/}

"Paragraph 1

"At the end of the paragraph, add the following sentence:

"'The receiving State shall not be required to apply the provisions of this paragraph where the sending State maintains a permanent diplomatic mission in the locality where the seat of the special mission is situated and it is reasonably practicable for the permanent diplomatic mission to make provision within its own premises for the special mission.'"

/Rejected; see para. 192 below.]

(d) Argentina (A/C.6/L.723):

"Paragraph 1

"Replace the last sentence of paragraph 1 by the following:

"'Such consent may be assumed in case of fire or other disaster that seriously endangers public safety, and only in the event that it has not been possible to obtain the express consent of the head of the special mission or, where appropriate, of the head of the permanent mission.'"

/Adopted; see para. 192 below.]

^{13/} This amendment replaced a text submitted by the United Kingdom as document A/C.6/L.721, which was worded as follows:

"Paragraph 1

"At the end of the paragraph, add the following sentence:

"'The receiving State shall not be required to apply the provisions of this paragraph where the sending State maintains a permanent diplomatic mission in the locality where the seat of the special mission is situated.'"

C. Work of the Sixth Committee

(i) Meetings

191. The Sixth Committee considered article 25 for the first time at its 1064th, 1065th, 1066th and 1067th meetings, on 6, 7 and 8 November 1968. At its 1088th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.4).

(ii) Initial consideration

192. At its 1067th meeting, the Sixth Committee voted as follows on article 25 and the relevant amendments:

(a) Amendments

The amendment of the Ukrainian Soviet Socialist Republic (A/C.6/L.690) was rejected by 42 votes to 21, with 20 abstentions;

The amendment of Argentina (A/C.6/L.723) was adopted by 48 votes to 5, with 29 abstentions;

The amendment of Australia and the United Kingdom of Great Britain and Northern Ireland (A/C.6/L.722) was rejected by 47 votes to 17, with 22 abstentions;

The amendment of France to paragraph 1 (A/C.6/L.694) was adopted by 32 votes to 23, with 25 abstentions;

The amendment of France to paragraph 3 (A/C.6/L.694) was rejected by 60 votes to 14, with 10 abstentions.

(b) Article 25, as amended

Article 25, incorporating the amendment of Argentina (A/C.6/L.722) and the amendment of France to paragraph 1 (A/C.6/L.694), was adopted by 69 votes to none, with 15 abstentions.

193. At the 1067th meeting, the Sixth Committee also referred the text thus adopted to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

194. At the 1088th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by the Committee for article 25 (A/C.6/L.728/Add.4; see para. 195 below). The Sixth Committee adopted the text.

/...

(iv) Text adopted by the Sixth Committee

195. The text adopted by the Sixth Committee is worded as follows:

"Article 25

"1. The premises where the special mission is established in accordance with the present Convention shall be inviolable. The agents of the receiving State may not enter the said premises, except with the consent of the head of the special mission or, if appropriate, of the head of the permanent diplomatic mission of the sending State accredited to the receiving State. Such consent may be assumed in case of fire or other disaster that seriously endangers public safety, and only in the event that it has not been possible to obtain the express consent of the head of the special mission or, where appropriate, of the head of the permanent mission.

"2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the special mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

"3. The premises of the special mission, their furnishings, other property used in the operation of the special mission and its means of transport shall be immune from search, requisition, attachment or execution."

Article 26

A. Text of the International Law Commission

196. The text of the International Law Commission was worded as follows:

"Article 26

"Inviolability of archives and documents

"The archives and documents of the special mission shall be inviolable at any time and wherever they may be."

B. Amendments

197. An amendment to article 26 was submitted by Kuwait (A/C.6/L.718).

198. The amendment was the following:

"Add at the end of the article the following sentence:

"Whenever they are not easily identifiable they should bear visible external marks of their character."

/Adopted; see para. 200 below./

/...

C. Work of the Sixth Committee

(i) Meetings

199. The Sixth Committee considered article 26 for the first time at its 1067th meeting, on 8 November 1968. At its 1089th meeting, on 6 December 1968, it considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.4).

(ii) Initial consideration

200. At its 1067th meeting, the Sixth Committee adopted the amendment of Kuwait (A/C.6/L.718) by 56 votes to 2, with 24 abstentions.

201. At the same meeting, it adopted article 26, as amended, by 73 votes to none, with 4 abstentions, and referred the text thus adopted to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

202. At the 1089th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 26 (A/C.6/L.728/Add.4; see para. 203 below).^{14/} The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

203. The text adopted by the Sixth Committee is worded as follows:

"Article 26

"The archives and documents of the special mission shall be inviolable at all times and wherever they may be. They should, when necessary, bear visible external marks of identification."

Article 27

A. Text of the International Law Commission

204. The text of the International Law Commission was worded as follows:

^{14/} At the 1089th meeting, the representative of Mexico proposed that the words "debieran ir" in the Spanish version of the text should be replaced by the words "se procurará que esten". The Committee postponed its decision on the matter until a later stage in its work.

"Article 27

"Freedom of movement

"Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the special mission such freedom of movement and travel on its territory as is necessary for the performance of the functions of the special mission."

B. Amendments

205. An amendment to article 27 was submitted by France (A/C.6/L.705).

206. The amendment was the following:

"Replace the opening phrase, ending with the words 'for reasons of national security', by the phrase 'Subject to the exigencies of national security,'."

/Rejected; see para. 208 below./

C. Work of the Sixth Committee

(i) Meetings

207. The Sixth Committee considered article 27 for the first time at its 1068th meeting, on 11 November 1968. At its 1089th meeting, on 6 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.4).

(ii) Initial consideration

208. At the 1068th meeting, the amendment of France was rejected by 30 votes to 13, with 36 abstentions.

209. At the same meeting, the Sixth Committee approved article 27 as drafted by the International Law Commission by 72 votes to none, with 6 abstentions, and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

210. At the 1089th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 27 (A/C.6/L.728/Add.4; see para. 211 below). The Sixth Committee adopted that text.

/...

(iv) Text adopted by the Sixth Committee

211. The text adopted by the Sixth Committee is worded as follows:

"Article 27

"Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the special mission such freedom of movement and travel on its territory as is necessary for the performance of the functions of the special mission."

Article 28

A. Text of the International Law Commission

212. The text of the International Law Commission was worded as follows:

"Article 28

"Freedom of communication

"1. The receiving State shall permit and protect free communication on the part of the special mission for all official purposes. In communicating with the Government of the sending State, its diplomatic missions, its consular posts and its other special missions, or with sections of the same mission, wherever situated, the special mission may employ all appropriate means, including couriers and messages in code or cipher. However, the special mission may install and use a wireless transmitter only with the consent of the receiving State.

"2. The official correspondence of the special mission shall be inviolable. Official correspondence means all correspondence relating to the special mission and its functions.

"3. The bag of the special mission shall not be opened or detained.

"4. The packages constituting the bag of the special mission must bear visible external marks of their character and may contain only documents or articles intended for the official use of the special mission.

"5. The courier of the special mission, who shall be provided with an official document indicating his status and the number of packages constituting the bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

"6. The sending State or the special mission may designate couriers ad hoc of the special mission. In such cases the provisions of paragraph 5 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when the courier ad hoc has delivered to the consignee the special mission's bag in his charge.

"7. The bag of the special mission may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a courier of the special mission. By arrangement with the appropriate authorities, the special mission may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft."

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B. Amendments

213. Amendments to article 28 were submitted by the following countries: Belgium (A/C.6/L.684), France (A/C.6/L.706), Ghana (A/C.6/L.696/Rev.1), United Kingdom of Great Britain and Northern Ireland (A/C.6/L.699).

214. The amendments were the following:

(a) Belgium (A/C.6/L.684):

"Paragraph 1

"After the words 'may employ', insert a comma and the words 'through the diplomatic and consular channel,'."

/Withdrawn; see para. 216 below./

(b) Ghana (A/C.6/L.696/Rev.1):^{15/}

"1. Add the following new paragraph 3:

"'3. Where practicable, the special mission shall use the communications facilities, including the bag and the courier, of the permanent diplomatic mission of the sending State.'

"2. Renumber existing paragraphs 3 to 7 accordingly."

/Adopted; see para. 217 below./

(c) United Kingdom of Great Britain and Northern Ireland (A/C.6/L.699):

"Paragraph 1

"Insert the following sentence after the first sentence:

"'The special mission shall, however, make use wherever possible of the communications facilities of the permanent diplomatic mission of the sending State in cases where the public correspondence facilities are not appropriate.'"

/Withdrawn; see para. 216 below./

^{15/} The original version of this amendment (A/C.6/L.696) was worded as follows:

"1. Add the following new paragraph 3:

"'3. Where appropriate the special mission shall use the bag of the permanent diplomatic mission of the sending State for the importation and exportation of its official documents, and shall also employ the services of the courier of the permanent diplomatic mission.'

"2. Renumber the present paragraphs 3 to 7 accordingly."

/...

(d) France (A/C.6/L.706):

"Add the following paragraph 2 bis:

"'The special mission shall use the bag of the diplomatic mission or consular posts of the sending State. If there are no diplomatic or consular relations between the sending State and the receiving State or if it is physically impossible to use the diplomatic bag or the consular bag, the special mission may have a bag of its own.'"

"Add the following text to paragraph 3:

"'If, however, the appropriate authorities of the receiving State have serious grounds for presuming that the bag contains articles other than the correspondence, documents and articles referred to in paragraph 4 of this article, they may request that the bag be opened in their presence by an authorized representative of the sending State. If the authorities of the latter State deny the request, the bag shall be returned to its place of origin.'"

/First part withdrawn; second part rejected; see paras. 216 and 217 below.]

C. Work of the Sixth Committee

(i) Meetings

215. The Sixth Committee considered article 28 for the first time at its 1068th meeting, on 11 November 1968. At its 1089th meeting, on 6 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.4).

(ii) Initial consideration

216. At the 1068th meeting, the representatives of Belgium and the United Kingdom withdrew their respective amendments (A/C.6/L.684 and L.699) and the representative of France withdrew the first part of his amendment (A/C.6/L.706).

217. At the same meeting, the Sixth Committee adopted the amendment of Ghana (A/C.6/L.696/Rev.1) by 54 votes to none, with 26 abstentions, and rejected the remaining part of the amendment of France (A/C.6/L.706) by 38 votes to 8, with 34 abstentions.

218. Finally, it adopted article 28, as amended, by 78 votes to none, with 4 abstentions, and referred it to the Drafting Committee.

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(iii) Consideration of the text adopted by the Drafting Committee

219. At the 1089th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 28 (A/C.6/L.728/Add.4; see para. 220 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

220. The text adopted by the Sixth Committee is worded as follows:

"Article 28

"1. The receiving State shall permit and protect free communication on the part of the special mission for all official purposes. In communicating with the Government of the sending State, its diplomatic missions, its consular posts and its other special missions, or with sections of the same mission, wherever situated, the special mission may employ all appropriate means, including couriers and messages in code or cipher. However, the special mission may install and use a wireless transmitter only with the consent of the receiving State.

"2. The official correspondence of the special mission shall be inviolable. Official correspondence means all correspondence relating to the special mission and its functions.

"3. Where practicable, the special mission shall use the means of communication, including the bag and the courier, of the permanent diplomatic mission of the sending State.

"4. The bag of the special mission shall not be opened or detained.

"5. The packages constituting the bag of the special mission must bear visible external marks of their character and may contain only documents or articles intended for the official use of the special mission.

"6. The courier of the special mission, who shall be provided with an official document indicating his status and the number of packages constituting the bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

"7. The sending State or the special mission may designate couriers ad hoc of the special mission. In such cases the provisions of paragraph 6 of this article shall also apply, except that the immunities therein mentioned shall cease to apply when the courier ad hoc has delivered to the consignee the special mission's bag in his charge.

"8. The bag of the special mission may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a courier of the special mission. By arrangement with the appropriate authorities, the special mission may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft."

Articles 29 and 31

Explanatory note

221. At its 1068th meeting, on 11 November 1968, the Sixth Committee decided to consider articles 29 and 31 together. However, it has been thought preferable for the sake of clarity to present the two articles separately and to indicate in the case of each of them the relevant decisions adopted by the Committee.

Article 29

A. Text of the International Law Commission

222. The text of the International Law Commission was worded as follows:

"Article 29

"Personal inviolability

"The persons of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall be inviolable. They shall not be liable to any form of arrest or detention. The receiving State shall treat them with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity."

B. Amendments

223. An amendment to article 29 was submitted by France (A/C.6/L.707/Rev.1).

224. The amendment was the following:^{16/}

"Replace article 29 by the following text:

"1. The receiving State shall treat the representatives of the sending State in the special mission and the members of its diplomatic staff with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity.

"2. The representatives of the sending State in the special mission and the members of its diplomatic staff shall not be liable to arrest or preventive detention, except in cases involving a crime or serious offence and following a ruling by the competent judicial authority.

"3. With the exception of the cases specified in paragraph 2 of this article, the representatives of the sending State in the special mission and the members of its diplomatic staff shall not be liable to imprisonment or any other form of restriction of their personal freedom, except in pursuance of a definitive judicial ruling."

/Rejected; see para. 226 below./

C. Work of the Sixth Committee

(i) Meetings

225. The Sixth Committee considered article 29 for the first time at its 1069th, 1070th, 1071st and 1072nd meetings, on 12, 13, 14 and 15 November 1968. At its 1089th meeting, on 6 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.4).

16/ The original version of this amendment (A/C.6/L.707) was worded as follows:

"Replace article 29 by the following text:

"1. The receiving State shall treat the representatives of the sending State in the special mission and the members of its diplomatic staff with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity.

"2. The representatives of the sending State in the special mission and the members of its diplomatic staff shall not be liable to arrest or preventive detention, except in cases of serious crime or flagrante delicto following a ruling by the competent judicial authority.

"3. With the exception of the cases specified in paragraph 2 of this article, the representatives of the sending State in the special mission and the members of its diplomatic staff shall not be liable to imprisonment or any other form of restriction of their personal freedom, except in pursuance of a definitive judicial ruling."

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(ii) Initial consideration

226. At the 1072nd meeting, the amendment of France (A/C.6/L.707/Rev.1) was rejected by 52 votes to 16, with 20 abstentions.

227. At the same meeting, the Committee approved article 29 as drafted by the International Law Commission by 72 votes to 3, with 10 abstentions, and referred it to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

228. At the 1089th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 29 (A/C.6/L.728/Add.4; see para. 229 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

229. The text adopted by the Sixth Committee is worded as follows:

"Article 29

"The persons of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall be inviolable. They shall not be liable to any form of arrest or detention. The receiving State shall treat them with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity."

Article 31

A. Text of the International Law Commission

230. The text of the International Law Commission was worded as follows:

"Article 31

"Immunity from jurisdiction

"1. The representatives of the sending State in the special mission and the members of its diplomatic staff shall enjoy immunity from the criminal jurisdiction of the receiving State.

"2. They shall also enjoy immunity from the civil and administrative jurisdiction of the receiving State, except in the case of:

(a) A real action relating to private immovable property situated in the territory of the receiving State, unless the person in question holds it on behalf of the sending State for the purposes of the mission;

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(b) An action relating to succession in which the person in question is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) An action relating to any professional or commercial activity exercised by the person in question in the receiving State outside his official functions;

(d) An action for damages arising out of an accident caused by a vehicle used outside the official functions of the person in question.

"3. The representatives of the sending State in the special mission and the members of its diplomatic staff are not obliged to give evidence as witnesses.

"4. No measures of execution may be taken in respect of a representative of the sending State in the special mission or a member of its diplomatic staff except in the cases coming under sub-paragraphs (a), (b), (c) and (d) of paragraph 2 of this article, and provided that the measures concerned can be taken without infringing the inviolability of his person or his accommodation.

"5. The immunity from jurisdiction of the representatives of the sending State in the special mission and of the members of its diplomatic staff does not exempt them from the jurisdiction of the sending State."

B. Amendments

231. Amendments to article 31 were submitted by Chile (A/C.6/L.729) and France (A/C.6/L.709).

232. In addition, the Netherlands submitted two sub-amendments, one (A/C.6/L.731) to the Chilean amendment and the other (A/C.6/L.730) to the amendment of France.

233. The amendments were the following:

(a) France (A/C.6/L.709):

"Replace article 31 by the following:

"The representatives of the sending State in the special mission and the members of its diplomatic staff shall enjoy immunity from the criminal, civil and administrative jurisdiction of the receiving State for acts performed in the exercise of their functions and within the limits of their powers."

[Rejected; see para. 236 below.]

/...

(b) Chile (A/C.6/L.729):

"Paragraph 2

"Replace paragraph 2 by the following:

"'They shall also enjoy immunity from the civil and administrative jurisdiction for acts performed in the exercise of their functions in the special mission.'"

"Paragraph 4

"Replace paragraph 4 by the following:

"'The representatives of the sending State in the special mission and the members of its diplomatic staff shall enjoy immunity from measures of execution only within the limits specified in paragraph 2 of this article. When a measure of execution is allowable, it may in no case infringe the inviolability of their person or their accommodation.'"

/Rejected; see para. 236 below./

234. The sub-amendments of the Netherlands were the following:

(a) Sub-amendment (A/C.6/L.730) to the amendment of France:

"Add to the text of article 31 as proposed by France in document A/C.6/L.709 the following words:

"'except in the case of a civil action for damages arising out of an accident caused by a vehicle'."

/Rejected; see para. 236 below./

(b) Sub-amendment (A/C.6/L.731) to the amendment of Chile:

"Add to the text of paragraph 2 proposed by Chile in document A/C.6/L.729 the following words:

"'except in the case of a civil action for damages arising out of an accident caused by a vehicle'."

/Rejected; see para. 236 below./

C. Work of the Sixth Committee

(i) Meetings

235. The Sixth Committee considered article 31 for the first time at its 1069th, 1070th, 1071st and 1072nd meetings, on 12, 13, 14 and 15 November 1968. At its

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1089th meeting, on 6 December 1968, the Committee considered the text adopted by the Drafting Committee for that article (A/C.6/L.728/Add.4).

(ii) Initial consideration

236. At its 1072nd meeting, the Committee voted as follows on article 31 and on the relevant amendments and sub-amendments:

(a) Amendment of France (A/C.6/L.709) and sub-amendment of the Netherlands (A/C.6/L.730):

The Netherlands sub-amendment to the French amendment was rejected by 38 votes to 19, with 27 abstentions;

The French amendment was rejected by 47 votes to 18, with 22 abstentions;

(b) Amendment of Chile (A/C.6/L.729) and sub-amendment of the Netherlands (A/C.6/L.731):

The Netherlands sub-amendment to the Chilean amendment was rejected by 34 votes to 26, with 27 abstentions;

The representative of the United Arab Republic having requested a separate vote on the amendment of Chile (A/C.6/L.729), the Committee voted first on the part of the amendment relating to paragraph 2, which it rejected by 33 votes to 31, with 25 abstentions, and then on the part relating to paragraph 4, which it adopted by 30 votes to 28, with 29 abstentions. Since the results of the vote gave rise to discussion, the representative of the United States of America made a motion under rule 124 of the rules of procedure. There were 46 votes for the motion, 22 against and 18 abstentions; having received the required two-thirds majority, the motion was adopted. The Committee accordingly reconsidered its decision on the Chilean amendment. The amendment as a whole was then put to the vote and was rejected, in a roll-call vote requested by the representative of Venezuela, by 45 votes to 28, with 17 abstentions. The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Canada, Ceylon, Chile, Colombia, Denmark, Ghana, Greece, Iceland, Ireland, Israel, Japan, Mexico, Netherlands, New Zealand, Norway, South Africa, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America.

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Against: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Congo (Democratic Republic of), Cuba, Czechoslovakia, Dahomey, Ecuador, Equatorial Guinea, Ethiopia, Guatemala, Guyana, Hungary, India, Indonesia, Iraq, Kenya, Kuwait, Liberia, Libya, Madagascar, Mongolia, Morocco, Niger, Nigeria, Panama, Paraguay, Peru, Philippines, Poland, Romania, Saudi Arabia, Sierra Leone, Singapore, Sudan, Syria, Togo, Trinidad and Tobago, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yugoslavia, Zambia.

Abstaining: Barbados, Burma, Chad, China, Cyprus, Finland, France, Gabon, Haiti, Iran, Pakistan, Portugal, Rwanda, Thailand, Tunisia, Uganda, United Arab Republic.

(c) Finally, article 31 as drafted by the International Law Commission was approved by 68 votes to 5, with 16 abstentions.

237. At the 1072nd meeting, the Sixth Committee also referred article 31 to the Drafting Committee.

(iii) Consideration of the text adopted by the Drafting Committee

238. At the 1089th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text adopted by that Committee for article 31

(A/C.6/L.728/Add.4; see para. 239 below). The Sixth Committee adopted that text.

(iv) Text adopted by the Sixth Committee

239. The text adopted by the Sixth Committee is worded as follows:

"Article 31

"1. The representatives of the sending State in the special mission and the members of its diplomatic staff shall enjoy immunity from the criminal jurisdiction of the receiving State.

"2. They shall also enjoy immunity from the civil and administrative jurisdiction of the receiving State, except in the case of:

(a) a real action relating to private immovable property situated in the territory of the receiving State, unless the person in question holds it on behalf of the sending State for the purposes of the mission;

(b) an action relating to succession in which the person in question is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

/...

(c) an action relating to any professional or commercial activity exercised by the person in question in the receiving State outside his official functions;

(d) an action for damages arising out of an accident caused by a vehicle used outside the official functions of the person in question.

"3. The representatives of the sending State in the special mission and the members of its diplomatic staff are not obliged to give evidence as witnesses.

"4. No measures of execution may be taken in respect of a representative of the sending State in the special mission or a member of its diplomatic staff except in the cases coming under sub-paragraphs (a), (b), (c) and (d) of paragraph 2 of this article and provided that the measures concerned can be taken without infringing the inviolability of his person or his accommodation.

"5. The immunity from jurisdiction of the representatives of the sending State in the special mission and of the members of its diplomatic staff does not exempt them from the jurisdiction of the sending State."

II. PROPOSAL AND DECISIONS CONCERNING FURTHER WORK

A. Proposal

240. At the 1087th meeting of the Sixth Committee, on 5 December 1968, a draft resolution (A/C.6/L.735) was submitted by Argentina, India, Iraq and Romania, which were subsequently joined by the United States of America.

241. The draft resolution was worded as follows:

"The General Assembly,

"Having considered the item entitled 'Draft Convention on Special Missions',

"Noting that it has not been possible in the time available at the twenty-third session of the General Assembly to complete the text of the Convention on Special Missions,

1. Decides to include an item entitled 'Draft Convention on Special Missions' in the provisional agenda of the twenty-fourth session with a view to the adoption of the convention by the General Assembly at that session;

2. Requests the Secretary-General to arrange for the presence of the Special Rapporteur on Special Missions as an expert during the debates on the topic at the twenty-fourth session of the General Assembly."

242. At its 1089th meeting, on 6 December 1968, the Committee had before it a statement of the financial implications of the above draft resolution, submitted by the Secretary-General in accordance with rule 154 of the rules of procedure of the General Assembly (A/C.6/L.737).

B. Decisions of the Sixth Committee

243. At its 1039th meeting, on 15 October 1968, the Committee decided to recommend that the General Assembly should take its decisions on the draft articles by a two-thirds majority of the members present and voting, pursuant to rule 85 of the rules of procedure (see para. 248 below).

244. At its 1089th meeting, on 6 December 1968, the Committee unanimously adopted the draft resolution reproduced in paragraph 241 (see para. 247 below).

245. At the same meeting, the Committee, taking account of a statement made by the Legal Counsel at the 1072nd meeting, on 15 November 1968, decided that if,

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at the twenty-fourth session of the General Assembly, the item entitled "Draft Convention on Special Missions" was referred to the Committee:

(a) the amendments which had not been considered at the twenty-third session of the Assembly would remain before the Committee and would be issued as documents of the twenty-fourth session, unless the sponsors of the amendments informed the Secretariat before the opening of that session that the amendments had been withdrawn;

(b) The Drafting Committee would remain as constituted at the twenty-third session;

(c) Switzerland would again be invited to participate without the right to vote in the discussion of the item in question.

246. Finally, at the 1089th meeting, the Committee decided, also taking account of the statement by the Legal Counsel referred to in the preceding paragraph, to make the following recommendation to the General Assembly (see para. 248 below):

"In the consideration of the item entitled 'Draft Convention on Special Missions' by a Main Committee at the twenty-fourth session of the General Assembly, without prejudice to the right of the Committee to consider any changes proposed by the Drafting Committee when it co-ordinates and reviews the drafting of the whole text, articles already adopted or rejected by the Sixth Committee may not be reconsidered unless the Main Committee, by a two-thirds majority of the members present and voting, so decides. Permission to speak on a motion to reconsider will be accorded only to two speakers opposing the motion, as provided by rule 124 of the rules of procedure of the General Assembly."

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

247. The Sixth Committee recommends to the General Assembly that it should adopt the following draft resolution:

DRAFT CONVENTION ON SPECIAL MISSIONS

The General Assembly,

Having considered the item entitled "Draft Convention on Special Missions",

Noting that it has not been possible in the time available at the twenty-third session of the General Assembly to complete the text of the Convention on Special Missions,

/...

1. Decides to include an item entitled "Draft Convention on Special Missions" in the provisional agenda of the twenty-fourth session with a view to the adoption of the convention by the General Assembly at that session;

2. Requests the Secretary-General to arrange for the presence of the Special Rapporteur on Special Missions as an expert during the debates on the topic at the twenty-fourth session of the General Assembly.

248. The Sixth Committee also recommends to the General Assembly that it should adopt the following decisions:

(1) In the consideration of the item entitled "Draft Convention on Special Missions" by a Main Committee at the twenty-fourth session of the General Assembly, without prejudice to the right of the Committee to consider any changes proposed by the Drafting Committee when it co-ordinates and reviews the drafting of the whole text, articles already adopted or rejected by the Sixth Committee may not be reconsidered unless the Main Committee, by a two-thirds majority of the members present and voting, so decides. Permission to speak on a motion to reconsider will be accorded only to two speakers opposing the motion, as provided by rule 124 of the rules of procedure of the General Assembly.

(2) At its twenty-fourth session, the General Assembly will take its decisions on the draft articles by a two-thirds majority of the members present and voting, pursuant to rule 85 of the rules of procedure.

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ANNEX I

TEXT OF ARTICLES ADOPTED BY THE SIXTH COMMITTEE

Article 2

A State may send a special mission to another State with the consent of the latter, previously obtained through the diplomatic or other agreed or mutually acceptable channel.

Article 3

The functions of a special mission shall be determined by the mutual consent of the sending and the receiving State.

Article 4

A State which wishes to send the same special mission to two or more States shall so inform each receiving State when seeking the consent of that State.

Article 5

Two or more States which wish to send a joint special mission to another State shall so inform the receiving State when seeking the consent of that State.

Article 6

Two or more States may each send a special mission at the same time to another State, with the consent of that State obtained in accordance with article 2, in order to deal together, with the agreement of all of these States, with a question of common interest to all of them.

Article 7

The existence of diplomatic or consular relations is not necessary for the sending or reception of a special mission.

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Article 8

Subject to the provisions of articles 10, 11 and 12, the sending State may freely appoint the members of the special mission, after having given to the receiving State all necessary information concerning the size and composition of the special mission, and in particular the names and designations of the persons it intends to appoint. The receiving State may decline to accept a special mission of a size that is not considered by it to be reasonable having regard to circumstances and conditions in the receiving State and to the needs of the particular mission. It may also without giving reasons decline to accept any person as a member of the special mission.

Article 9

1. A special mission consists of one or more representatives of the sending State from among whom the sending State may appoint a head. It may also include diplomatic staff, administrative and technical staff and service staff.
2. When members of a permanent diplomatic mission or of a consular post in the receiving State are included in a special mission, they shall continue to enjoy their privileges and immunities as members of their permanent diplomatic mission or consular post, respectively, in addition to the privileges and immunities stated in this Convention.

Article 10

1. The representatives of the sending State in the special mission and the members of its diplomatic staff should in principle be of the nationality of the sending State.
2. Nationals of the receiving State may not be appointed to a special mission, except with the consent of that State, which may be withdrawn at any time.
3. The receiving State may reserve the right provided for in paragraph 2 with regard to nationals of a third State who are not also nationals of the sending State.

Article 11

1. The Ministry of Foreign Affairs, or such other organ of the receiving State as may be agreed, shall be notified of:

- (a) The composition of the special mission and any subsequent changes therein;
- (b) the arrival and final departure of members of the mission and the termination of their functions with the mission;
- (c) the arrival and final departure of any person accompanying a member of the mission;
- (d) the engagement and discharge of persons residing in the receiving State as members of the mission or as private staff;
- (e) the appointment of the head of the special mission or, if there is none, of the representative referred to in paragraph 1 of article 14, and of any substitute for them;
- (f) the location of the premises occupied by the special mission and of the private accommodation of the representatives of the sending State and of the members of the diplomatic staff of the special mission as well as any information that may be necessary to identify such premises and accommodation.

2. Unless it is impossible, notification of arrival and final departure must be given in advance.

Article 12

1. The receiving State may, at any time and without having to explain its decision, notify the sending State that any representative of the sending State in the special mission or any member of its diplomatic staff is persona non grata or that any other member of the staff of the mission is not acceptable. In any such case, the sending State shall, as appropriate, either recall the person concerned or terminate his functions with the mission. A person may be declared non grata or not acceptable before arriving in the territory of the receiving State.

2. If the sending State refuses or fails within a reasonable period to carry out its obligations under paragraph 1 of this article, the receiving State may refuse to recognize the person concerned as a member of the special mission.

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Article 13

1. The functions of a special mission shall commence as soon as the mission enters into official contact with the Ministry of Foreign Affairs or with such other organ of the receiving State as may be agreed.
2. The commencement of the functions of a special mission shall not depend upon presentation of the mission by the permanent diplomatic mission of the sending State or upon the submission of letters of credence or full powers.

Article 14

1. The head of the special mission or, if the sending State has not appointed a head, one of the representatives of the sending State designated by the latter, is authorized to act on behalf of the special mission and to address communications to the receiving State. The receiving State shall address communications concerning the special mission to the head of the mission, or, if there is none, to the representative referred to above, either direct or through the permanent diplomatic mission.
2. However, a member of the special mission may be authorized by the sending State, by the head of the special mission or, if there is none, by the representative referred to in paragraph 1 above, either to substitute for the head of the special mission or for the aforesaid representative, or to perform particular acts on behalf of the mission.

Article 15

All official business with the receiving State entrusted to the special mission by the sending State shall be conducted with or through the Ministry of Foreign Affairs or with such other organ of the receiving State as may be agreed.

Article 16

1. Where two or more special missions meet on the territory of the receiving State or of a third State, precedence among the missions shall be determined, in the absence of a special agreement, according to the alphabetical order of the names of the States used by the protocol of the State on whose territory the missions are meeting.

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2. Precedence among two or more special missions which meet on a ceremonial or formal occasion shall be governed by the protocol in force in the receiving State.
3. Precedence among the members of the same special mission shall be that which is notified to the receiving State or to the third State on whose territory two or more special missions are meeting.

Article 17

1. A special mission shall have its seat in the locality agreed by the States concerned.
2. In the absence of agreement, the special mission shall have its seat in the locality where the Ministry of Foreign Affairs of the receiving State is situated.
3. If the functions of the special mission are performed in different localities, the States concerned may agree that the special mission shall have more than one seat from among which they may choose one as the principal seat.

Article 18

1. Special missions from two or more States may meet on the territory of a third State only after obtaining the express consent of that State, which retains the right to withdraw it.
2. In giving its consent, the third State may lay down conditions which shall be observed by the sending States.
3. The third State shall assume in respect of the sending States the rights and obligations of a receiving State to the extent that it indicates in giving its consent.

Article 19

1. A special mission shall have the right to use the flag and emblem of the sending State on the premises occupied by the mission, and on its means of transport when used on official business.
2. In the exercise of the right accorded by this article, regard shall be had to the laws, regulations and usages of the receiving State.

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Article 20

1. The functions of a special mission shall come to an end, inter alia, upon:
 - (a) the agreement of the States concerned;
 - (b) the completion of the task of the special mission;
 - (c) the expiry of the duration assigned for the special mission, unless it is expressly extended;
 - (d) notification by the sending State that it is terminating or recalling the special mission;
 - (e) notification by the receiving State that it considers the special mission terminated.
2. The severance of diplomatic or consular relations between the sending State and the receiving State shall not of itself have the effect of terminating special missions existing at the time of such severance.

Article 21

1. The Head of the sending State, when he leads a special mission, shall enjoy in the receiving State or in a third State the facilities, privileges and immunities accorded by international law to heads of State on an official visit.
2. The Head of the Government, the Minister for Foreign Affairs and other persons of high rank, when they take part in a special mission of the sending State, shall enjoy in the receiving State or in a third State, in addition to what is granted by these articles, the facilities, privileges and immunities accorded by international law.

Article 22

The receiving State shall accord to the special mission the facilities required for the performance of its functions, having regard to the nature and task of the special mission.

Article 23

The receiving State shall assist the special mission if it so requests in procuring the necessary premises and obtaining suitable accommodation for its members.

Article 24

1. To the extent compatible with the nature and duration of the functions performed by the special mission, the sending State and the members of the special mission acting on behalf of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises occupied by the special mission, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in this article shall not apply to such dues and taxes payable under the law of the receiving State by persons contracting with the sending State or with a member of the special mission.

Article 25

1. The premises where the special mission is established in accordance with the present Convention shall be inviolable. The agents of the receiving State may not enter the said premises, except with the consent of the head of the special mission or, if appropriate, of the head of the permanent diplomatic mission of the sending State accredited to the receiving State. Such consent may be assumed in case of fire or other disaster that seriously endangers public safety, and only in the event that it has not been possible to obtain the express consent of the head of the special mission or, where appropriate, of the head of the permanent mission.

2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the special mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

3. The premises of the special mission, their furnishings, other property used in the operation of the special mission and its means of transport shall be immune from search, requisition, attachment or execution.

Article 26

The archives and documents of the special mission shall be inviolable at all times and wherever they may be. They should, when necessary, bear visible external marks of identification.

Article 27

Subject to its laws and regulations concerning zones entry into which is prohibited or regulated for reasons of national security, the receiving State shall ensure to all members of the special missions such freedom of movement and travel on its territory as is necessary for the performance of the functions of the special mission.

Article 28

1. The receiving State shall permit and protect free communication on the part of the special mission for all official purposes. In communicating with the Government of the sending State, its diplomatic missions, its consular posts and its other special missions, or with sections of the same mission, wherever situated, the special mission may employ all appropriate means, including couriers and messages in code or cipher. However, the special mission may install and use a wireless transmitter only with the consent of the receiving State.
2. The official correspondence of the special mission shall be inviolable. Official correspondence means all correspondence relating to the special mission and its functions.
3. Where practicable, the special mission shall use the means of communication, including the bag and the courier, of the permanent diplomatic mission of the sending State.
4. The bag of the special mission shall not be opened or detained.
5. The packages constituting the bag of the special mission must bear visible external marks of their character and may contain only documents or articles intended for the official use of the special mission.
6. The courier of the special mission, who shall be provided with an official document indicating his status and the number of packages constituting the bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.
7. The sending State or the special mission may designate couriers ad hoc of the special mission. In such cases the provisions of paragraph 6 of this article shall also apply, except that the immunities therein mentioned shall cease to

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apply when the courier ad hoc has delivered to the consignee the special mission's bag in his charge.

8. The bag of the special mission may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorized port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a courier of the special mission. By arrangement with the appropriate authorities, the special mission may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

Article 29

The persons of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall be inviolable. They shall not be liable to any form of arrest or detention. The receiving State shall treat them with due respect and shall take all appropriate steps to prevent any attack on their persons, freedom or dignity.

Article 31

1. The representatives of the sending State in the special mission and the members of its diplomatic staff shall enjoy immunity from the criminal jurisdiction of the receiving State.

2. They shall also enjoy immunity from the civil and administrative jurisdiction of the receiving State, except in the case of:

(a) a real action relating to private immovable property situated in the territory of the receiving State, unless the person in question holds it on behalf of the sending State for the purposes of the mission;

(b) an action relating to succession in which the person in question is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;

(c) an action relating to any professional or commercial activity exercised by the person in question in the receiving State outside his official functions;

(d) an action for damages arising out of an accident caused by a vehicle used outside the official functions of the person in question.

3. The representatives of the sending State in the special mission and the members of its diplomatic staff are not obliged to give evidence as witnesses.
4. No measures of execution may be taken in respect of a representative of the sending State in the special mission or a member of its diplomatic staff except in the cases coming under sub-paragraphs (a), (b), (c) and (d) of paragraph 2 of this article and provided that the measures concerned can be taken without infringing the inviolability of his person or his accommodation.
5. The immunity from jurisdiction of the representatives of the sending State in the special mission and of the members of its diplomatic staff does not exempt them from the jurisdiction of the sending State.

ANNEX II

TEXT OF ARTICLES AND AMENDMENTS WHICH WERE NOT EXAMINED
DURING THE TWENTY-THIRD SESSION

ARTICLE 1

A International Law Commission text

Use of terms

For the purposes of the present articles:

(a) A "special mission" is a mission of a representative and temporary character sent by one State to another State to deal with that State on specific questions or to perform in relation to the latter State a specific task;

(b) A "permanent diplomatic mission" is a diplomatic mission sent by one State to another State and having the characteristics specified in the Vienna Convention on Diplomatic Relations;

(c) A "consular post" is any consulate-general, consulate, vice-consulate or consular agency;

(d) The "head of a special mission" is the person charged by the sending State with the duty of acting in that capacity;

(e) A "representative of the sending State in the special mission" is any person on whom the sending State has conferred that capacity;

(f) The "members of a special mission" are the head of the special mission, the representatives of the sending State in the special mission and the members of the staff of the special mission;

(g) The "members of the staff of the special mission" are the members of the diplomatic staff, the administrative and technical staff and the service staff of the special mission;

(h) The "members of the diplomatic staff" are the members of the staff of the special mission who have diplomatic status;

(i) The "members of the administrative and technical staff" are the members of the staff of the special mission employed in the administrative and technical service of the special mission;

/...

(j) The "members of the service staff" are the members of the staff of the special mission employed by it as household workers or for similar tasks;

(k) The "private staff" are persons employed exclusively in the private service of the members of the special mission.

B. Amendments submitted

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.652)

Sub-paragraph (h)

Delete sub-paragraph (h) and substitute:

"(h) The 'members of diplomatic rank' are the members of the staff of the special mission who have a rank equivalent to that of a diplomatic agent."

Note: If this amendment is adopted, consequential changes to substitute the expression "members of diplomatic rank" will be required to articles 1 (g), 9, 12, 29, 30, 31, 32, 33, 34, 35, 39, 40, 41, 43 and 49.

France (A/C.6/L.658)

Paragraph (a)

"A 'Special mission' is a mission of a representative and temporary character sent by one State to another State to deal with that State on specific questions or to perform in relation to the latter State a specific task which are directly linked with government activities."

Paragraph (e)

Delete paragraph (e).

Paragraph (f)

Replace paragraph (f) by the following:

"The 'members of a special mission' are the representative of the sending State, head of the special mission, his alternates and advisers, the members of the administrative and technical staff and the members of the service staff of the special mission."

Paragraph (g)

Delete paragraph (g).

Paragraph (h)

Delete paragraph (h).

Paragraph (i)

Replace paragraph (i) by the following:

"The 'members of the service staff' are the members of the staff of the special mission employed in the domestic service of the mission."

ARTICLE 30

A. International Law Commission text

Inviolability of the private accommodation

1. The private accommodation of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall enjoy the same inviolability and protection as the premises of the special mission.
2. Their papers, correspondence and, except as provided in paragraph 4 of article 31, their property, shall likewise enjoy inviolability.

B. Amendments submitted

France (A/C.6/L.708)

Delete the article.

ARTICLE 32

A. International Law Commission textExemption from social security legislation

1. Subject to the provisions of paragraph 3 of this article, representatives of the sending State in the special mission and members of its diplomatic staff shall with respect to services rendered for the sending State be exempt from social security provisions which may be in force in the receiving State.
2. The exemption provided for in paragraph 1 of this article shall also apply to persons who are in the sole private employ of a representative of the sending State in the special mission or of a member of its diplomatic staff, on condition:
 - (a) That such employed persons are not nationals of or permanently resident in the receiving State; and
 - (b) That they are covered by the social security provisions which may be in force in the sending State or a third State.
3. Representatives of the sending State in the special mission and members of its diplomatic staff who employ persons to whom the exemption provided for in paragraph 2 of this article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.
4. The exemption provided for in paragraphs 1 and 2 of this article does not exclude voluntary participation in the social security system of the receiving State where such participation is permitted by that State.
5. The provisions of the present article do not affect bilateral and multilateral agreements on social security which have been previously concluded and do not preclude the subsequent conclusion of such agreements.

B. Amendments submitted

No amendments were submitted to article 32.

ARTICLE 33

A. International Law Commission text

Exemption from dues and taxes

The representatives of the sending State in the special mission and the members of its diplomatic staff shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except:

- (a) Indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) Dues and taxes on private immovable property situated in the territory of the receiving State, unless the person concerned holds it on behalf of the sending State for the purposes of the mission;
- (c) Estate, succession or inheritance duties levied by the receiving State, subject to the provisions of article 45;
- (d) Dues and taxes on private income having its source in the receiving State and capital taxes on investments made in commercial undertakings in the receiving State;
- (e) Charges levied for specified services rendered;
- (f) Registration, court or record fees, mortgage dues and stamp duty, with respect to immovable property, subject to the provisions of article 24.

B. Amendments submitted

Belgium (A/C.6/L.685)

Replace article 33 by the following text:

"The head and the members of the special mission and the members of the diplomatic staff of the special mission shall be exempt from all dues and taxes, national, regional or municipal, in the receiving State on all income relating to their functions in the special mission and for all acts performed for the purposes of the special mission."

France (A/C.6/L.710)

Replace article 33 by the following:

"The representatives of the sending State in the special mission and the members of its diplomatic staff shall be exempt from all dues and taxes on their salaries and emoluments in the receiving States."

ARTICLE 34

A. International Law Commission text

Exemption from personal services

The receiving State shall exempt the representatives of the sending State in the special mission and the members of its diplomatic staff from all personal services, from all public service of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

B. Amendments submitted

No amendments were submitted to article 34.

ARTICLE 35

A. International Law Commission text

Exemption from customs duties and inspection

1. Within the limits of such laws and regulations as it may adopt, the receiving State shall permit entry of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services, on:

(a) Articles for the official use of the special mission:

(b) Articles for the personal use of the representatives of the sending State in the special mission and the members of its diplomatic staff or of the members of their family who accompany them.

2. The personal baggage of the representatives of the sending State in the special mission and of the members of its diplomatic staff shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the receiving State. Such inspection shall be conducted only in the presence of the person concerned, or of his authorized representatives.

B. Amendments presented

Belgium (A/C.6/L.686)

Paragraph 1

In paragraph 1 (b), replace the words "Articles for the personal use" by the words "Personal effects and baggage".

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.701)

Paragraph 1 (b)

Delete the words "or of the members of their family who accompany them".

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France (A/C.6/L.711)

Replace sub-paragraphs (a) and (b) of paragraph 1 by the following:

- "(a) Articles for the administrative functioning of the special mission;
- "(b) Articles for personal use imported by the representatives of the sending State in the special mission and the members of its diplomatic staff at the time of their arrival in the receiving State".

ARTICLE 36

A. International Law Commission text

Administrative and technical staff

Members of the administrative and technical staff of the special mission shall enjoy the privileges and immunities specified in articles 29 to 34, except that the immunity from civil and administrative jurisdiction of the receiving State specified in paragraph 2 of article 31 shall not extend to acts performed outside the course of their duties. They shall also enjoy the privileges mentioned in paragraph 1 of article 35 in respect of articles imported at the time of their first entry into the receiving State.

B. Amendments submitted

France (A/C.6/L.712)

Replace article 36 by the following:

"Members of the administrative and technical staff of the special mission shall enjoy the privileges and immunities specified in articles 31 to 34 and paragraph 1 of article 35."

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.726)

Replace article 36 by the following text:

"Members of the administrative and technical staff of the special mission shall enjoy -

(a) immunity from the jurisdiction of the receiving State in respect of acts performed in the course of their duties;

(b) exemption from dues and taxes on the emoluments they receive by reason of their employment;

(c) exemption from social security legislation as provided in article 32;

(d) exemption from personal services as provided in article 34;

(e) within the limits of such laws and regulations as the receiving State may adopt, in respect of their personal baggage, exemption from all customs duties, taxes and related charges, other than charges for storage, cartage and similar services."

ARTICLE 37

A. International Law Commission text

Members of the service staff

Members of the service staff of the special mission shall enjoy immunity from the jurisdiction of the receiving State in respect of acts performed in the course of their duties, exemption from dues and taxes on the emoluments they receive by reason of their employment, and exemption from social security legislation as provided in article 32.

B. Amendments submitted

France (A/C.6/L.713)

Delete the words:

"immunity from the jurisdiction of the receiving State in respect of acts performed in the course of their duties".

ARTICLE 38

A. International Law Commission text

Private staff

Private staff of the members of the special mission shall be exempt from dues and taxes on the emoluments they receive by reason of their employment. In all other respects, they may enjoy privileges and immunities only to the extent admitted by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the special mission.

B. Amendments submitted

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.727)

Replace the first two sentences by the following sentence:

"Private staff of the members of the special mission may enjoy privileges and immunities only to the extent admitted by the receiving State."

ARTICLE 39

A. International Law Commission text

Members of the family

1. The members of the families of representatives of the sending State in the special mission and of members of its diplomatic staff shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in articles 29 to 35.
2. Members of the families of the administrative and technical staff of the special mission shall, if they are not nationals of or permanently resident in the receiving State, enjoy the privileges and immunities specified in article 36.

B. Amendments submitted

Belgium (A/C.6/L.687)

1. In paragraph 1 replace the words "in articles 29 to 35" with the words "in articles 29 to 32, 34 and 35".
2. In paragraph 2 replace the words "in article 36" with the words "in articles 29 to 32, 34 and 35".

France (A/C.6/L.714)

Paragraph 1

After the words "members of its diplomatic staff" add the words "forming part of their households" and after the word "enjoy" add the words "if they have received an official invitation or with the express agreement of the receiving State".

Paragraph 2

Delete the paragraph.

ARTICLE 40

A. International Law Commission text

Nationals of the receiving State and persons permanently
resident in the receiving State

1. Except in so far as additional privileges and immunities may be granted by the receiving State, the representatives of the sending State in the special mission who are nationals of or permanently resident in that State shall enjoy immunity from jurisdiction and inviolability only in respect of official acts performed in the exercise of their functions.

2. Other members of the special mission and private staff who are nationals of or permanently resident in the receiving State shall enjoy privileges and immunities only to the extent granted to them by the receiving State. However, the receiving State must exercise its jurisdiction over those persons in such a manner as not to interfere unduly with the performance of the functions of the special mission.

B. Amendments submitted

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.702)

In the second part of paragraph 1

(a) substitute the words "the receiving State" for the words "that State".

(b) insert the word "only" before the words "immunity from the jurisdiction" and delete the word "only" after the word "inviolability."

France (A/C.6/L.715)

Paragraph 1

Replace the words "shall enjoy immunity from jurisdiction and inviolability only" by the words "shall only enjoy immunity from jurisdiction and inviolability".

ARTICLE 41

A. International Law Commission text

Waiver of immunity

1. The sending State may waive the immunity from jurisdiction of its representatives in the special mission, of the members of its diplomatic staff, and of other persons enjoying immunity under articles 36 to 40.
2. Waiver must always be express.
3. The initiation of proceedings by one of the persons referred to in paragraph 1 of this article shall preclude him from invoking immunity from jurisdiction in respect of any counter-claim directly connected with the principal claim.
4. Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgement, for which a separate waiver shall be necessary,

B. Amendments submitted

No amendments were submitted to article 41.

ARTICLE 42

A. International Law Commission text

Settlement of civil claims

The sending State shall waive the immunity of any of the persons mentioned in paragraph 1 of article 41 in respect of civil claims in the receiving State when this can be done without impeding the performance of the functions of the special mission, and when immunity is not waived, the sending State shall use its best endeavours to bring about a just settlement of the claims.

B. Amendments submitted

No amendments were submitted to article 42.

ARTICLE 43

A. International Law Commission text

Transit through the territory of a third State

1. If a representative of the sending State in the special mission or a member of its diplomatic staff passes through or is in the territory of a third State, while proceeding to take up his functions or returning to the sending State, the third State shall accord him inviolability and such other immunities as may be required to ensure his transit or return. The same shall apply in the case of any members of his family enjoying privileges or immunities who are accompanying the person referred to in this paragraph or travelling separately to join him or to return to their country.
2. In circumstances similar to those specified in paragraph 1 of this article, third States shall not hinder the transit of members of the administrative and technical or service staff of the special mission, or of members of their families, through their territories.
3. Third States shall accord to official correspondence and other official communications in transit, including messages in code or cipher, the same freedom and protection as is accorded by the receiving State. Subject to the provisions of paragraph 4, they shall accord to the couriers and bags of the special mission in transit the same inviolability and protection as the receiving State is bound to accord.
4. The third State shall be bound to comply with the obligations with respect to the persons mentioned in the foregoing three paragraphs only if it has been informed in advance, either in the visa application or by notification, of the transit of those persons as members of the special mission, and has raised no objection to it.
5. The obligation of third States under paragraph 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in these paragraphs and to the official communications and the bags of the special mission, when the use of the territory of the third State is due to force majeure.

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B. Amendments submitted

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.703)

Paragraph 1

(a) In the first sentence, insert the word "directly" after the word "proceeding".

(b) In the same sentence, insert the word "directly" after the word "returning".

Paragraph 4

At the end of the paragraph, delete the words "and has raised no objection to it" and insert the words "and has expressly consented both to the transit and to the application of the provisions of this article".

France (A/C.6/L.716)

Paragraph 4

Replace the latter half of the sentence, from the words "only if it has been informed", by the words "only if it has expressly consented to their transit as members of the special mission and has been exactly informed, by a prior notification, of the mission's composition".

ARTICLE 44

A. International Law Commission text

Duration of privileges and immunities

1. Every person entitled to privileges and immunities shall enjoy them from the moment he enters the territory of the receiving State for the purpose of performing his functions in the special mission, or, if already in its territory, from the moment when his appointment is notified to the Ministry of Foreign Affairs or such other organ of the receiving State as may be agreed.
2. When the functions of a person enjoying privileges and immunities have come to an end, such privileges and immunities shall normally cease at the moment when he leaves the country, or on expiry of a reasonable period in which to do so, but shall subsist until that time, even in the case of armed conflict. However, with respect to acts performed by such a person in the exercise of his functions as a member of the special mission, immunity shall continue to subsist.
3. In the event of the death of a member of the special mission, the members of his family shall continue to enjoy the privileges and immunities to which they are entitled until the expiry of a reasonable period in which to leave the country.

B. Amendments submitted

France (A/C.6/L.717)

Paragraph 1

Replace the latter half of the sentence, from the words "for the purpose of performing", by the words "if he does so within the period agreed upon by the sending State and the receiving State for the duration of the mission or, if the person in question is already in the territory of the receiving State, from the moment he takes up his functions".

Paragraph 2

After the first sentence, add the following: "The privileges and immunities of persons who are resident in the territory of the receiving State shall cease as soon as their functions come to an end."

In the third sentence, replace the words "by such a person" by the words "by the persons mentioned in this paragraph" and the word "his" by the word "their".

ARTICLE 45

A. International Law Commission text

Property of a member of the special mission or of a member
of his family in the event of death

1. In the event of the death of a member of the special mission or of a member of his family, if the deceased was not a national of or permanently resident in the receiving State, the receiving State shall permit the withdrawal of the movable property of the deceased, with the exception of any property acquired in the country the export of which was prohibited at the time of his death.
2. Estate, succession and inheritance duties shall not be levied on movable property which is in the receiving State solely because of the presence there of the deceased as a member of the special mission or as one of the family of a member of the mission.

B. Amendments submitted

Belgium (A/C.6/L.688)

1. Replace the title of the article with the words "Death of a member of the special mission".
2. Insert the following new paragraph 1:

"In the event of the death of a member of the special mission or of a member of his staff, the members of his family shall continue to enjoy the privileges and immunities from which he benefits, until the expiration of a reasonable time-limit allowing them to leave the territory of the receiving State."
3. Re-number paragraphs 1 and 2 accordingly.

ARTICLE 46

A. International Law Commission text

Right to leave the territory of the receiving State

1. The receiving State must, even in the case of armed conflict, grant facilities to enable persons enjoying privileges and immunities, other than nationals of the receiving State, and members of the families of such persons irrespective of their nationality, to leave at the earliest possible moment. In particular it must, in case of need, place at their disposal the necessary means of transport for themselves and their property.
2. The receiving State is required to grant the sending State facilities for removing the archives of the special mission from the territory of the receiving State.

B. Amendments submitted

No amendments were submitted to article 46.

ARTICLE 47

A. International Law Commission text

Consequences of the cessation of the functions of
the special mission

1. When the functions of a special mission come to an end, the receiving State must respect and protect the premises of the special mission so long as they are allocated to it, as well as the property and archives of the special mission. The sending State must withdraw that property and those archives within a reasonable time.
2. In case of absence or breach of diplomatic or consular relations between the sending State and the receiving State and if the functions of the special mission have come to an end, the sending State, even if there is an armed conflict, may entrust the custody of the property and archives of the special mission to a third State acceptable to the receiving State.

B. Amendments submitted

No amendments were submitted to article 47.

ARTICLE 48

A. International Law Commission text

Obligation to respect the laws and regulations of
the receiving State

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying these privileges and immunities under the present articles to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

2. The premises of the special mission must not be used in any manner incompatible with the functions of the special mission, as envisaged in the present articles or in other rules of general international law or in any special agreements in force between the sending and the receiving State.

B. Amendments submitted

No amendments were submitted to article 48.

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ARTICLE 49

A. International Law Commission text

Professional activity

The representatives of the sending State in the special mission and the members of its diplomatic staff shall not practise for personal profit any professional or commercial activity in the receiving State.

B. Amendments submitted

No amendments were submitted to article 49.

ARTICLE 50

A. International Law Commission text

Non-discrimination

1. In the application of the provisions of the present articles, no discrimination shall be made as between States.

2. However, discrimination shall not be regarded as taking place:

(a) Where the receiving State applies any of the provisions of the present articles restrictively because of a restrictive application of that provision to its special mission in the sending State;

(b) Where by custom or agreement States extend to each other more favourable treatment than is required by the provision of the present articles;

(c) Where States agree among themselves to reduce reciprocally the extent of facilities, privileges and immunities for their special missions, although such a limitation has not been agreed with other States.

B. Amendments submitted

No amendments were submitted to article 50.

PROPOSED ADDITIONAL ARTICLES

New article 33 bis

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.700)

Add the following new article after article 33:

"Article 33 bis

(Exchange control)

The representatives of the sending State in the special mission and the members of its diplomatic staff shall be accorded the treatment in matters of exchange control which is accorded in the receiving State to a diplomatic agent of the sending State."

New Part III

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.698)^{a/}

A. After article 47 insert a new Part consisting of the following new articles:

"Part III

FACILITIES, PRIVILEGES AND IMMUNITIES OF OTHER SPECIAL MISSIONS

Article 47 bis

The privileges and immunities set out in this Part shall be accorded to special missions to which Part II does not apply.

Article 47 ter

Articles 22, 23, 26, 27, 28, 32, 34, 35 (i) (a), 40, 41, 42, 43, 44, 45, 46 and 47 shall apply in the case of special missions to which this Part applies.

Article 47 quater

1. The representatives of the sending State in a special mission to which this Part applies and the members of the diplomatic staff shall while exercising their functions enjoy:

(a) immunity from personal arrest or detention and from seizure of their personal baggage and inviolability for all official papers and documents;

(b) in respect of words spoken or written and all acts done by them in their official capacity, immunity from legal process of every kind;

(c) exemption in respect of themselves and their spouses from immigration restrictions and aliens' registration formalities;

(d) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents.

2. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of the sending State in a special mission to which this Part applies and the members of the diplomatic staff

^{a/} Incorporating A/C.6/L.698/Corr.1.

are present in the receiving State for the discharge of their duties as members of the special mission shall not be considered as periods of residence.

Article 47 quinquies

Members of the administrative and technical staff of a special mission to which this Part applies shall enjoy the privileges and immunities specified in articles 32, 34 and 47 quater with the exception of immunity from personal arrest and detention and from inspection or seizure of their personal baggage.

Article 47 sexies

Members of the service staff of a special mission to which this Part applies shall enjoy immunity from the jurisdiction of the receiving State in respect of acts performed in the course of their duties and the exemptions specified in articles 32 and 47 quater (2)."

- B. Renumber of the existing Part III as Part IV.

New article 0

United Kingdom of Great Britain and Northern Ireland (A/C.6/L.704)

Add the following new article before article 48 in the existing part III of the draft articles:

"Article 0

Conferences

1. A State may apply the provisions of Part II or Part III of the present articles, as appropriate, in respect of a conference attended by representatives of States or Governments which is held in its territory and which is not governed by similar provisions in any other international agreement.

2. Where a State applies the provisions of paragraph 1 of this article in respect of a conference held in its territory, officials of the Secretariat of that conference shall:

(a) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) unless they are nationals or permanent residents of the receiving State, enjoy exemption from taxation on the emoluments paid to them in respect of their services to the conference;

(c) be immune from immigration restrictions and from aliens' registration;

(d) be accorded the treatment in matters of exchange control which is accorded in the receiving State to a diplomatic agent of the State of which the official concerned is a national;

(e) be given the same repatriation facilities as members of diplomatic missions of comparable rank;

(f) have the right to import free of duty the personal baggage accompanying them at the time of first arriving in the receiving State to take up their duties in connexion with the conference.

/...

3. Where a State applies the provisions of paragraph 1 of this article in respect of a conference held in its territory, the premises occupied for the purposes of the conference and all archives, papers and documents relating to the conference shall enjoy inviolability."

(Note: The reference in paragraph 1 of the above new article to "part II or part III of the present articles" is to the existing part II of the draft articles and to the new part III which would be created as a consequence of the United Kingdom proposals in A/C.6/L.697 b/ and L.698.) c/

b/ Reproduced above in Chapter I under the heading "Article 21".

c/ Reproduced above in this Annex under the heading "New Part III".