



Twenty-fourth session
Agenda item 87

DRAFT CONVENTION ON SPECIAL MISSIONS

Report of the Sixth Committee

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INTRODUCTION

A. General

1. By its resolution 2419 (XXIII) of 18 December 1968 adopted on the recommendation of the Sixth Committee, the General Assembly, noting that it had not been possible, in the time available at its twenty-third session, to complete the text of the Convention on Special Missions on which it had embarked at the beginning of that session, decided to include in the provisional agenda of its twenty-fourth session the item "Draft Convention on Special Missions". At its 1758th plenary meeting, on 20 September 1969, the Assembly included the above-mentioned item in the agenda of the twenty-fourth session and referred it to the Sixth Committee.

2. In accordance with the decision taken by the Sixth Committee at its 1089th meeting on 6 December 1968, Switzerland was invited to participate, without the right to vote, in the Committee's deliberations on the question of special missions.

3. Furthermore, in accordance with paragraph 2 of resolution 2419 (XXIII), Mr. Milan Bartos, the International Law Commission's Special Rapporteur on special missions, attended the discussions as expert consultant.

B. Basic proposal and documentation

4. 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; observations on the draft articles are reproduced in documents A/7156 and Add.1 and 2 and A/C.6/L.732.

5. In accordance with a decision taken at the 1089th meeting, on 6 December 1968, the Committee also had before it the amendments which could not be considered at the twenty-third session and had not been withdrawn by their sponsors before the opening of the twenty-fourth session. Those amendments, with the exception of four which had been withdrawn by their sponsors before the opening of the twenty-fourth session (A/C.6/L.725 (Sweden) and A/C.6/L.652, A/C.6/L.698 and Corr.1 and A/C.6/L.700 (United Kingdom of Great Britain and Northern Ireland)), were all issued together as a document of the twenty-fourth session under the symbol A/C.6/L.745 and Corr.1.

C. Drafting Committee

6. In accordance with a decision taken at the 1089th meeting, on 6 December 1968, the Drafting Committee was to remain as constituted at the twenty-third session. But as the representative of the United Arab Republic had withdrawn from the Drafting Committee, the Sixth Committee decided at the 1121st meeting, on 10 October 1969, to appoint Algeria to the vacancy thus created. The Drafting Committee was therefore composed of the following fifteen States: Algeria, Congo (Democratic Republic of), Denmark, France, Ghana, Iraq, Italy, Japan, Mexico, Pakistan, Peru, Poland, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Likewise in pursuance of the above-mentioned decision, the representative of Iraq continued to serve as Chairman of the Drafting Committee, and the Rapporteur of the Sixth Committee and the Expert Consultant attended its meetings in their respective capacities.

D. Methods of work

7. The Sixth Committee had before it a note by the Secretariat entitled "Organization and Methods of Work" (A/C.6/L.747).

8. At the 1121st meeting, on 10 October 1969, the Sixth Committee decided to refer to the Drafting Committee the definition of the term "special mission" proposed in article 1, sub-paragraph (a), of the draft articles and in other texts, so that the Drafting Committee could study the definition and report accordingly, and in the meantime to continue its work on the other articles still to be considered. At the 1126th meeting, on 16 October 1969, the Chairman of the Drafting Committee introduced in the Sixth Committee the text of article 1, sub-paragraph (a) adopted by the Drafting Committee, and the Sixth Committee took a decision on it at its 1128th meeting, on 20 October 1969.

9. With this exception, the Sixth Committee followed the same procedure as at the twenty-third session: i.e. as a first step (1122nd to 1147th meetings, held from 13 October to 11 November 1969), it took decisions on the articles still to be considered (article 1, sub-paragraphs (b) to (k), article 30 and articles 32 to 50) and on the new articles proposed by the United Kingdom (A/C.6/L.745/Corr.1) and

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by Switzerland (A/C.6/L.766) and referred the texts adopted to the Drafting Committee; and as a second step (1145th, 1147th, 1148th and 1153rd meetings, held on 7, 11, 12 and 18 November 1969), it considered and adopted the texts recommended by the Drafting Committee. Each text 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 wording recommended was based. The statements made in this way by the Chairman of the Drafting Committee are contained in the summary records of the 1145th, 1147th, 1148th and 1153rd meetings of the Sixth Committee.

10. With regard to the general presentation, the preamble and the final clauses, the Drafting Committee had the task, under its terms of reference and in accordance with a decision taken at the twenty-third session (1039th meeting, held on 15 October 1968), of making appropriate recommendations to the Sixth Committee. With respect to the first two matters, the Drafting Committee made recommendations which were adopted by the Sixth Committee at its 1147th and 1153rd meetings, held on 11 and 18 November 1969. With respect to the third matter, however, the Drafting Committee was not able to reach agreement and referred the three drafts before it to the Sixth Committee which, after considering them at its 1148th to 1152nd meetings, held from 12 to 17 November 1969, took a decision and referred the text adopted back to the Drafting Committee. The Drafting Committee considered the text and recommended wording to the Sixth Committee which it adopted at its 1153rd meeting, on 18 November 1969.

11. Lastly, the Sixth Committee devoted its 1170th meeting, held on 4 December 1969, to the consideration of the draft Convention as a whole, in the final version prepared by the Drafting Committee.

E. Tribute to the International Law Commission's Special Rapporteur on special missions

12. At the 1151st meeting of the Sixth Committee, on 17 November 1969, the Chairman of the Sixth Committee expressed to the International Law Commission's Special Rapporteur on special missions, Mr. Milan Bartos, the gratitude and admiration of the Committee for his most valuable contribution to the work of the Assembly on the draft Convention.

F. Plan of the present report

13. The present report consists of three sections: section I contains a brief report, article by article, on the work of the Sixth Committee on article 1, article 30 and articles 32 to 50 of the International Law Commission's draft and on the amendments proposing the addition of new articles; section II is devoted to the general presentation, the draft preamble and the final clauses; section III gives an account of the final phase of the work of the Sixth Committee on the draft Convention and contains the Committee's recommendations to the General Assembly.

14. 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 (see paras. 9, 10 and 11 above).

I. CONSIDERATION OF ARTICLE 1, ARTICLE 30 AND ARTICLES 32 to 50
OF THE DRAFT ARTICLES ON SPECIAL MISSIONS AND OF THE
AMENDMENTS PROPOSING THE ADDITION OF NEW ARTICLES

Article 1

1. Text prepared by the International Law Commission

15. The International Law Commission's text was worded as follows:

"Article 1

"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."

16. Because of the special procedure followed by the Sixth Committee with regard to sub-paragraph (a) of this article (see para. 8 above), sub-paragraph (a) is considered separately from sub-paragraphs (b) to (k).

A. Sub-paragraph (a)

1. Amendments

17. An amendment to sub-paragraph (a) was submitted by France (A/C.6/L.658, reproduced in document A/C.6/L.745). It was worded as follows:

"Replace sub-paragraph (a) by the following:

"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."

(Became inapplicable - see para. 19 below)

2. Work of the Sixth Committee

18. At the 1121st meeting, on 10 October 1969, the Sixth Committee decided to refer to the Drafting Committee the question of the definition of the term "special mission", so that the Drafting Committee could consider the question and report back on it.

19. At the 1126th meeting, on 16 October 1969, the Chairman of the Drafting Committee presented in the Sixth Committee the text adopted by the Drafting Committee for sub-paragraph (a) (A/C.6/L.751). When doubts were expressed at the 1127th meeting about the English version of the text, the Sixth Committee referred that version to the Drafting Committee. At the 1128th meeting, on 20 October 1969, the Chairman of the Drafting Committee presented in the Sixth Committee an English text which was identical with the one originally introduced, except for the addition of two commas (A/C.6/L.751/Corr.1).

20. The Sixth Committee adopted that text by 87 votes to none, with 5 abstentions.

3. Text adopted by the Sixth Committee

21. The text adopted by the Sixth Committee reads as follows:

"(a) a 'special mission' is a temporary mission, representing the State, which is sent by one State to another State with the consent of the latter for the purpose of dealing with it on specific questions or of performing in relation to it a specific task;"

B. Sub-paragraphs (b) to (k)

1. Amendments

22. Amendments to sub-paragraphs (b) to (k) were submitted by France (A/C.6/L.658, reproduced in document A/C.6/L.745) and Australia (A/C.6/L.765).

23. The amendments were worded as follows:

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

"Sub-paragraph (e):

Delete sub-paragraph (e).

Sub-paragraph (f):

Replace sub-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.'

Sub-paragraph (g):

Delete sub-paragraph (g).

Sub-paragraph (h):

Delete sub-paragraph (h).

Sub-paragraph (j):

Replace sub-paragraph (j) 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.'

(Withdrawn with the exception of the part concerning sub-paragraph (j), which was referred to the Drafting Committee - see para. 26 below)

(b) Australia (A/C.6/L.765):

"Sub-paragraph (e):

Amend the definition of 'representative of the sending State in the special mission' to read as follows:

'A 'representative of the sending State in the special mission' is any person whom the sending State has duly designated to act in that capacity;'

(Referred to the Drafting Committee - see para. 26 below)

2. Work of the Sixth Committee

(a) Meetings

24. The Sixth Committee considered sub-paragraphs (b) to (k) for the first time at its 1143rd meeting, on 5 November 1969. At its 1148th meeting, on 12 November 1969, it considered the text adopted by the Drafting Committee for those sub-paragraphs (see A/C.6/L.751/Add.4).

(b) Initial consideration

25. At the 1143rd meeting, the representative of France withdrew the whole of the amendment submitted by his delegation with the exception of the part concerning sub-paragraph (j).

26. At the same meeting, the Sixth Committee approved article 1, sub-paragraphs (b) to (k), as drafted by the International Law Commission, and referred them to the Drafting Committee, together with the French amendment to sub-paragraph (j) (A/C.6/L.658) and the Australian amendment (A/C.6/L.765).

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

27. At the 1148th meeting of the Sixth Committee, on 12 November 1969, the Chairman of the Drafting Committee introduced the text it had adopted for sub-paragraphs (b) to (k) (See A/C.6/L.751/Add.4). The Sixth Committee adopted that text.

(d) Text adopted by the Sixth Committee

28. The text adopted by the Sixth Committee for sub-paragraphs (b) to (k) reads as follows:

"Article 1

"For the purposes of the present Convention:

...

(b) a 'permanent diplomatic mission' is a diplomatic mission within the meaning of 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 for the purposes of the special mission;

(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."

Article 30

1. Text prepared by the International Law Commission

29. The International Law Commission's text was worded as follows:

"Article 30

"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."

2. Amendments

30. Amendments to article 30 were submitted by the following countries: France (A/C.6/L.708, reproduced in document A/C.6/L.745), Ghana (A/C.6/L.750), Lebanon and the United States of America (A/C.6/L.749).

31. The amendments were worded as follows:

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

"Delete the article."

(Rejected - see para. 34 below)

(b) Lebanon and the United States of America (A/C.6/L.749):

"Paragraph 1

After the words 'of its diplomatic staff', insert the words ', of which the receiving State has been duly notified,'"

(Rejected - see para. 34 below)

(c) Ghana (A/C.6/L.750):

"Paragraph 1

At the beginning of the paragraph, add the words 'where appropriate,'"

(Withdrawn - see para. 33 below)

3. Work of the Sixth Committee

(a) Meetings

32. The Sixth Committee considered article 30 for the first time at its 1122nd, 1123rd and 1124th meetings, on 13, 14 and 15 October 1969. At its 1145th meeting, on 7 November 1969, the Sixth Committee considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

33. At the 1123rd meeting, on 14 October 1969, the representative of Ghana announced that he was withdrawing his amendment.

34. At the 1124th meeting on 15 October 1969, the Sixth Committee voted as follows on article 30 and the amendments thereto:

Amendment submitted by France (A/C.6/L.708)

The French amendment was rejected by 73 votes to 12, with 7 abstentions.

Article 30, paragraphs 1 and 2, as prepared by the International Law Commission, and amendment of Lebanon and the United States of America

At the request of the representative of Belgium, the Committee voted separately on the two paragraphs of the article; it rejected the amendment proposed by Lebanon and the United States of America to paragraph 1 (A/C.6/L.749) by 56 votes to 21, with 14 abstentions; it adopted paragraph 1 by 75 votes to 6, with 10 abstentions, and then paragraph 2 by 80 votes to none, with 9 abstentions.

Article 30, as a whole, as prepared by the International Law Commission

The Committee adopted article 30, as a whole, by 76 votes to none, with 13 abstentions.

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

35. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 30 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 36 below).

(d) Text adopted by the Sixth Committee

36. The text adopted by the Sixth Committee reads as follows:

"Article 30

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."

Article 32

1. Text prepared by the International Law Commission

37. The International Law Commission's text was worded as follows:

"Article 32

"Exemption 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."

2. Amendments

38. No amendments were submitted to article 32.

3. Work of the Sixth Committee

(a) Meetings

39. The Sixth Committee considered article 32 for the first time at its 1125th meeting, on 16 October 1969. At its 1145th meeting, on 7 November 1969, it

considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

40. At its 1125th meeting, the Sixth Committee approved article 32, as prepared by the International Law Commission, and referred it to the Drafting Committee.

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

41. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee introduced the text it had adopted for article 32 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 42 below).

(d) Text adopted by the Sixth Committee

42. The text adopted by the Sixth Committee reads as follows:

"Article 32

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."

Article 33

1. Text prepared by the International Law Commission

43. The International Law Commission's text was worded as follows:

"Article 33

"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 specific 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."

2. Amendments

44. Amendments to article 33 were submitted by Belgium (A/C.6/L.685, reproduced in document A/C.6/L.745) and France (A/C.6/L.710, reproduced in document A/C.6/L.745).

45. The amendments were worded as follows:

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

"Replace article 33 by the following:

"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.'"

(Rejected - see para. 48 below)

(b) 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 State.'

(Withdrawn - see para. 47 below)

3. Work of the Sixth Committee

(a) Meetings

46. The Sixth Committee considered article 33 for the first time at its 1125th meeting, on 16 October 1969. At its 1145th meeting, on 7 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

47. At the 1125th meeting, the representative of France stated that she was withdrawing her amendment (A/C.6/L.710) but she submitted an oral amendment proposing the deletion of the words "with respect to immovable property" from sub-paragraph (f) of the article.

48. At the same meeting, the Sixth Committee rejected the Belgian amendment (A/C.6/L.685) by 60 votes to 8, with 21 abstentions, and adopted the French amendment by 24 votes to 23, with 39 abstentions.

49. Finally, the Sixth Committee adopted the text prepared by the International Law Commission, as amended, by 80 votes to 1, with 8 abstentions, and referred it to the Drafting Committee.

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

50. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 33 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 51 below).

(d) Text adopted by the Sixth Committee

51. The text adopted by the Sixth Committee reads as follows:

"Article 33

"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, subject to the provisions of article 24."

Article 34

1. Text prepared by the International Law Commission

52. The International Law Commission's text was worded as follows:

"Article 34

"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."

2. Amendments

53. No amendments were submitted to article 34.

3. Work of the Sixth Committee

(a) Meetings

54. The Committee considered article 34 for the first time at its 1126th meeting, on 16 October 1969. At its 1145th meeting, on 7 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

55. At its 1126th meeting, the Committee approved article 34 as drafted by the International Law Commission and referred it to the Drafting Committee.

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

56. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 34 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 57 below).

57. The text adopted by the Sixth Committee reads as follows:

"Article 34

"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."

Article 35

1. Text prepared by the International Law Commission

58. The International Law Commission's text was worded as follows:

"Article 35

"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."

2. Amendments

59. Amendments to article 35 were submitted by the following countries: Australia (oral amendment), Cameroon (A/C.6/L.753), France (A/C.6/L.711, reproduced in document A/C.6/L.745), Ghana (A/C.6/L.752), United Kingdom (A/C.6/L.701, reproduced in document A/C.6/L.745).^{1/}

60. The amendments were worded as follows:

(a) United Kingdom (A/C.6/L.701):

"Paragraph 1 (b):

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

(Rejected - see para. 63 below)

(b) 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."

(Withdrawn - see para. 62 below)

^{1/} Belgium submitted an amendment (A/C.6/L.686), reproduced in document A/C.6/L.745) at the twenty-third session, but withdrew it at the 1122th meeting of the Committee, on 13 October 1969.

(c) Ghana (A/C.6/L.752):

"Paragraph 1

Replace the word 'shall' by the words 'may, by mutual consent with the sending State,'."

(Rejected - see para. 63 below)

(d) Cameroon (A/C.6/L.753):

"Paragraph 1

In sub-paragraph (b), after the words 'diplomatic staff', replace the word 'or' by the words 'and, when mutual consent exists,'."

(e) Australia (amendment submitted orally at the 1127th meeting of the Sixth Committee):

"Paragraph 1, sub-paragraph (b):

Replace the words 'Articles for the personal use' by the words 'Personal effects and baggage'."

(Rejected - see para. 63 below)

3. Work of the Sixth Committee

(a) Meetings

61. The Committee considered the article for the first time at its 1126th and 1127th meetings, on 16 and 17 October 1969. At its 1145th meeting, on 7 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

62. At the 1127th meeting, the representative of France withdrew his amendment (A/C.6/L.711).

63. At the same meeting, the Committee voted as follows on article 35 and the amendments thereto:

The amendment submitted by Ghana (A/C.6/L.752) was rejected by 54 votes to 1, with 25 abstentions.

The amendment submitted by the United Kingdom (A/C.6/L.701) was rejected by 43 votes to 25, with 14 abstentions.

The amendment submitted by Cameroon (A/C.6/L.753) was rejected by 38 votes to 10, with 34 abstentions.

The Australian oral amendment was rejected by 46 votes to 18, with 18 abstentions.

Article 35 as prepared by the International Law Commission was adopted by 64 votes to none, with 18 abstentions.

At the same meeting, the Committee referred the text thus adopted to the Drafting Committee.

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

64. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 35 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 65 below).

(d) Text adopted by the Sixth Committee

65. The text adopted by the Sixth Committee reads as follows:

"Article 35

"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.

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."

Article 36

1. Text prepared by the International Law Commission

66. The International Law Commission's text was worded as follows:

"Article 36

"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."

2. Amendments

67. Amendments to article 36 were submitted by France (A/C.6/L.712, reproduced in document A/C.6/L.745) and the United Kingdom (A/C.6/L.726, reproduced in document A/C.6/L.745).

68. The amendments were worded as follows:

(a) 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.'

(Withdrawn - see para. 70 below)

(b) United Kingdom (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'."

(Withdrawn - see para. 70 below)

3. Work of the Sixth Committee

(a) Meetings

69. The Sixth Committee considered the article for the first time at its 1129th meeting on 20 October 1969. At its 1145th meeting, on 7 November 1969, it considered the text adopted by the Drafting Committee for the article (A/C.6/L.751/Add.1).

(b) Initial consideration

70. At the 1129th meeting, the amendments submitted by France (A/C.6/L.712) and the United Kingdom (A/C.6/L.726) were withdrawn.

71. At the same meeting the Committee approved article 36 as drafted by the International Law Commission and referred it to the Drafting Committee.

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

72. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 36 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 73 below).

(d) Text adopted by the Sixth Committee

73. The text adopted by the Sixth Committee reads as follows:

"Article 36

"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."

Article 37

1. Text prepared by the International Law Commission

74. The International Law Commission's text was worded as follows:

"Article 37

"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."

2. Amendments

75. An amendment to article 37 was submitted by France (A/C.6/L.713, reproduced in document A/C.6/L.745); it was worded as follows:

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

(Withdrawn - see para. 77 below)

3. Work of the Sixth Committee

(a) Meetings

76. The Sixth Committee considered the article for the first time at its 1129th meeting on 20 October 1969. At its 1145th meeting, on 7 November 1969, it considered the text adopted by the Draft Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

77. At the 1129th meeting, the amendment submitted by France (A/C.6/L.713) was withdrawn.

78. At the same meeting, the Sixth Committee approved article 37 as prepared by the International Law Commission and referred it to the Drafting Committee.

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

79. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 37 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 80 below).

(d) Text adopted by the Sixth Committee

80. The text adopted by the Sixth Committee reads as follows:

"Article 37

"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."

Article 38

1. Text prepared by the International Law Commission

81. The International Law Commission's text was worded as follows:

"Article 38

"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."

2. Amendments

82. An amendment to article 38 was submitted by the United Kingdom (A/C.6/L.727, reproduced in document A/C.6/L.745). It was worded as follows:

"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.'"

(Withdrawn - see para. 84 below)

/...

3. Work of the Sixth Committee

(a) Meetings

83. The Sixth Committee considered the article for the first time at its 1129th meeting, on 20 October 1969. At the 1145th meeting, on 7 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

84. At the 1129th meeting, the United Kingdom amendment (A/C.6/L.727) was withdrawn.

85. At the same meeting, the Sixth Committee approved article 38 as prepared by the International Law Commission and referred it to the Drafting Committee.

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

86. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 38 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 87 below).

(d) Text adopted by the Sixth Committee

87. The text adopted by the Sixth Committee reads as follows:

"Article 38

"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."

Article 39

1. Text prepared by the International Law Commission

88. The International Law Commission's text was worded as follows:

"Article 39

"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."

2. Amendments

89. Amendments to article 39 were submitted by the following countries: Belgium (A/C.6/L.687, reproduced in document A/C.6/L.745), Colombia (A/C.6/L.755), France (A/C.6/L.714, reproduced in documents A/C.6/L.745 and A/C.6/L.756), Greece (A/C.6/L.758), Guatemala (A/C.6/L.757), Guatemala and Tunisia (A/C.6/L.760), Tunisia (A/C.6/L.754).

90. The amendments were worded as follows:

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

"In paragraph 1, replace the words 'in articles 29 to 35' by the words 'in articles 29 to 32, 34 and 35'.

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

(Withdrawn - see para. 92 below)

(b) 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."

(Withdrawn - see para. 92 below)

(c) Tunisia (A/C.6/L.754):

"Add a paragraph 3 reading as follows:

'For the purposes of the present Convention, the phrase "members of the family" as used in this article shall mean the spouses and issue of the members of the special mission. Other members of the family may enjoy privileges and immunities only in so far as the receiving State so authorizes'."

(Withdrawn - see para. 93 below)

(d) Colombia (A/C.6/L.755):

"(a) In paragraph 1, after the words 'its diplomatic staff', insert the following text: 'accompanying the former or the latter'.

(b) Add the following as a new paragraph:

'3. For the purposes of the applicable privileges and immunities, the number of accompanying family members shall not exceed four'."

(The second part of this amendment was withdrawn; the first part was adopted - see paras. 93 and 94 below)

(e) Guatemala (A/C.6/L.757*):

"Add a paragraph 3 reading as follows:

'For the purposes of the application of this Convention, the term "members of the family" which appears in this article shall mean spouses, parents who are economically dependent upon the child, minor children and unmarried daughters who have reached majority, unless they are economically independent.'"

(Withdrawn - see para. 93 below)

(f) Greece (A/C.6/L.758):

"Paragraph 2

Add the words 'who accompany it' after the words 'of the special mission'."

(Adopted - see para. 94 below)

(g) Guatemala and Tunisia (A/C.6/L.760):

"Add a paragraph 3 reading as follows:

'For the purposes of the present Convention, the phrase "members of the family", which appears in this article, shall mean spouses, parents who are economically dependent upon the child and issue of the member of the special mission. Other persons forming part of the household of the member of the special mission shall enjoy privileges and immunities to the extent recognized by the receiving State'."

(Rejected - see para. 94 below)

3. Work of the Sixth Committee

(a) Meetings

91. The Sixth Committee considered article 39 for the first time at its 1129th, 1130th and 1131st meetings, on 20, 21 and 22 October 1969. At its 1145th meeting, on 7 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

92. At the 1129th meeting, the amendment submitted by Belgium (A/C.6/L.687) and the amendment submitted by France at the twenty-third session (A/C.6/L.714) were withdrawn.

93. At the 1130th meeting, the representative of Colombia withdrew the second part of his amendment (A/C.6/L.755) and the representatives of Guatemala and Tunisia withdrew their respective amendments (A/C.6/L.757* and A/C.6/L.754) and replaced them by a joint amendment (A/C.6/L.760).

94. At the 1131st meeting, the Committee voted as follows on article 39 and the amendments thereto:

The amendment submitted by France (A/C.6/L.756) was rejected by 52 votes to 22, with 11 abstentions;

The first part of the amendment submitted by Colombia (A/C.6/L.755) was adopted in principle by 44 votes to 11, with 26 abstentions;

The amendment submitted by Greece (A/C.6/L.758) was adopted by 39 votes to 16, with 31 abstentions;

The joint amendment submitted by Guatemala and Tunisia (A/C.6/L.760) was rejected by 47 votes to 5, with 37 abstentions;

Article 39 as a whole, as amended, was adopted by 78 votes to none, with 10 abstentions.

95. At the same meeting, the Committee referred the text thus adopted to the Drafting Committee.

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

96. At the 1145th meeting of the Sixth Committee, on 7 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 39 (see A/C.6/L.751/Add.1). The Sixth Committee adopted that text (see para. 97 below).

(d) Text adopted by the Sixth Committee

97. The text adopted by the Sixth Committee reads as follows:

"Article 39

"1. Members of the families of representatives of the sending State in the special mission and of members of its diplomatic staff shall, if they accompany such members of the special mission, enjoy the privileges and immunities specified in articles 29 to 35 provided they are not nationals of or permanently resident in the receiving State.

2. Members of the families of the administrative and technical staff of the special mission shall, if they accompany such members of the special mission, enjoy the privileges and immunities specified in article 36 provided they are not nationals of or permanently resident in the receiving State."

Article 40

1. Text prepared by the International Law Commission

98. The International Law Commission's text was worded as follows:

"Article 40

"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 and the members of its diplomatic staff 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."

2. Amendments

99. Amendments to article 40 were submitted by Argentina (A/C.6/L.762), France (A/C.6/L.715, reproduced in document A/C.6/L.745), and the United Kingdom (A/C.6/L.702, reproduced in document A/C.6/L.745).

100. The amendments were worded as follows:

(a) United Kingdom (A/C.6/L.702):

"Paragraph 1

(a) Substitute the words 'the receiving State' for the words 'that State'.

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

(Referred to the Drafting Committee - see para. 102 below)

(b) 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'."

(Referred to the Drafting Committee - see para. 102 below)

(c) Argentina (A/C.6/L.762):

"Paragraph 1

(a) Add the words 'administrative and technical' after the word 'diplomatic'.

(b) Delete the word 'official'."

(Rejected - see para. 103 below)

3. Work of the Sixth Committee

(a) Meetings

101. The Sixth Committee considered the article for the first time at its 1132nd and 1133rd meetings, on 22 and 24 October 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.2 and Corr.1).

(b) Initial consideration

102. At its 1132nd meeting on 22 October 1969, the Sixth Committee decided to refer the amendments submitted by the United Kingdom (A/C.6/L.702) and France (A/C.6/L.715) to the Drafting Committee.

103. At its 1134th meeting on 24 October 1969, the Sixth Committee voted as follows on article 40 and the remaining amendment thereto:

(a) Amendment submitted by Argentina (A/C.6/L.762)

At the request of the representative of Argentina, a separate vote was taken on the two parts of the amendment.

The first part was rejected by 47 votes to 14, with 25 abstentions.

The second part was rejected by 36 votes to 8, with 24 abstentions.

(b) Article 40 as prepared by the International Law Commission

Subject to the indications given in paragraph 102 above, article 40 as prepared by the International Law Commission was adopted by 87 votes to 1, with 3 abstentions.

104. At the 1134th meeting, the Committee also referred article 40 to the Drafting Committee.

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

105. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 40 (see A/C.6/L.751/Add.2 and Corr.1). The Sixth Committee adopted that text (see para. 106 below).

(d) Text adopted by the Sixth Committee

106. The text adopted by the Sixth Committee reads as follows:

"Article 40

"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 and the members of its diplomatic staff who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and inviolability 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."

Article 41

1. Text prepared by the International Law Commission

107. The International Law Commission's text was worded as follows:

"Article 41

"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."

2. Amendments

108. No amendments were submitted to article 41.

3. Work of the Sixth Committee

(a) Meetings

109. The Sixth Committee considered article 41 for the first time at its 1132nd meeting, on 22 October 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.2).

(b) Initial consideration

110. At its 1132nd meeting, the Sixth Committee approved article 41 as prepared by the International Law Commission and referred it to the Drafting Committee.

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

111. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for the article (see A/C.6/L.751/Add.2). The Committee adopted that text (see para. 112 below).

(d) Text adopted by the Sixth Committee

112. The text adopted by the Sixth Committee reads as follows:

"Article 41

"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 any 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."

Article 42

1. Text prepared by the International Law Commission

113. The International Law Commission's text was worded as follows:

"Article 42

"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."

2. Amendments

114. Amendments to article 42 were submitted by the following countries: Bolivia, Brazil, India, Iraq, Trinidad and Tobago and Tunisia (A/C.6/L.764 and Add.1 and 2), Sweden (A/C.6/L.759) and Trinidad and Tobago (A/C.6/L.763).

115. The amendments were worded as follows:

(a) Sweden (A/C.6/L.759):

"Replace the word 'when' after the words 'in the receiving State' by the words 'in any case where, in the opinion of the sending State,'"

(Withdrawn - see para. 117 below)

(b) Trinidad and Tobago (A/C.6/L.763):

"Delete the entire article."

(Withdrawn by the sponsor and subsequently reintroduced by the United States of America, but made inapplicable by the adoption of another amendment - see paras. 117, 118 and 121 below)

(c) Bolivia, Brazil, India, Iraq and Trinidad and Tobago and Tunisia (A/C.6/L.764 and Add.1 and 2):

"Replace article 42 by a separate draft resolution for adoption by the General Assembly, reading as follows:

'The General Assembly,

'Taking note that the United Nations Convention on Special Missions adopted by the General Assembly provides for immunity from the jurisdiction of the receiving State of members of a special mission of the sending State,

'Recalling that such immunity may be waived by the sending State,

'Mindful of the deep concern expressed during the deliberations of the General Assembly that claims of diplomatic immunity might, in certain cases, deprive persons in the receiving State of remedies to which they are entitled by law,

'Recommends that the sending State should waive the immunity of members of its special mission in respect of civil claims of persons in the receiving State when this can be done without impeding the performance of the functions of the special mission, and that, when immunity is not waived, the sending State should use its best endeavours to bring about a just settlement of the claims.'" 2/

(Adopted - see para. 117 below)

2/ The English text of this amendment was sub-amended orally, the words "when this can be done" in the operative paragraph of the draft resolution being replaced by "when it can do this". /...

3. Work of the Sixth Committee

(a) Meetings

116. The Sixth Committee considered the article for the first time at its 1132nd, 1136th and 1137th meetings, on 22, 28 and 29 October 1969. At its 1153rd meeting, on 18 November 1969, it considered the text of the relevant draft resolution, as adopted by the Drafting Committee (see A/C.6/L.777).

(b) Initial consideration

117. At its 1132nd meeting, on 22 October 1969, the Committee suspended discussion of the article and resumed it at its 1136th meeting, on 28 October 1969. At that meeting, the representative of Sweden withdrew his amendment (A/C.6/L.759); the amendment submitted by Trinidad and Tobago (A/C.6/L.763) was also withdrawn in favour of a joint amendment submitted by Bolivia, Brazil, India, Iraq, Trinidad and Tobago and Tunisia (A/C.6/L.764 and Add.1 and 2).

118. At that same 1136th meeting, the representative of Zambia requested that the first part of the joint amendment, namely, the words "Replace article 42 by a separate draft resolution for adoption by the General Assembly", should be put to the vote separately; his request for a separate vote was rejected by 44 votes to 30, with 14 abstentions. The representative of the United States then reintroduced the amendment originally submitted and subsequently withdrawn by Trinidad and Tobago.

119. Finally, the representative of Hungary proposed a motion to give priority to the six-Power amendment over that of the United States. At the 1137th meeting, on 29 October 1969, the motion was adopted by 44 votes to 27, with 17 abstentions.

120. At the same meeting, the six-Power amendment (A/C.6/L.764 and Add.1 and 2) was adopted, in a roll-call vote requested by the representative of Australia, by 52 votes to 26, with 19 abstentions.

The voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Ceylon, Czechoslovakia, Dahomey, Ethiopia, Guatemala, Guyana, Hungary, India, Indonesia, Iran, Iraq, Jamaica, Kuwait, Libya, Mali, Mauritania, Mongolia, Morocco, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Poland, Romania, Saudi Arabia, Senegal, Sierra Leone, Southern Yemen, Sudan, Syria, Togo, Trinidad and Tobago, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yemen, Yugoslavia, Zambia.

Against: Australia, Belgium, Canada, Costa Rica, Denmark, Ecuador, Finland, France, Greece, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Panama, Philippines, Portugal, South Africa, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Barbados, Chad, Chile, China, Colombia, Cuba, Cyprus, Ghana, Ivory Coast, Kenya, Lebanon, Liberia, Madagascar, Mexico, Peru, Spain, Thailand, Turkey, Uganda.

121. The United States amendment, having become inapplicable, was not put to the vote.

122. Also at the 1137th meeting, the Sixth Committee referred the draft resolution thus adopted to the Drafting Committee.

(c) Consideration of the draft resolution adopted by the Drafting Committee

123. At the 1153rd meeting of the Sixth Committee on 18 November 1969, the Chairman of the Drafting Committee presented the text of the draft resolution it had adopted (A/C.6/L.777). The Committee adopted that text (see para. 129 below).

(d) Text of the draft resolution adopted by the Sixth Committee

124. The draft resolution adopted by the Sixth Committee reads as follows:

"The General Assembly,

"Taking note that the Convention on Special Missions adopted by the General Assembly provides for immunity from the jurisdiction of the receiving State of members of a special mission of the sending State,

"Recalling that such immunity may be waived by the sending State,

"Noting, in addition, that, as recalled in the preamble to the Convention, the purpose of immunities is not to benefit individuals but to ensure the efficient performance of the functions of special missions,

"Mindful of the deep concern expressed during the deliberations of the General Assembly that claims of immunity might, in certain cases, deprive persons in the receiving State of the benefit of a judicial settlement,

"Recommends that the sending State should waive the immunity of members of its special mission in respect of civil claims of persons in the receiving State when it can do this without impeding the performance of the functions of the special mission; and that, when immunity is not waived, the sending State should use its best endeavours to bring about a just settlement of the claims."

Article 43^{3/}

1. Text prepared by the International Law Commission

125. The International Law Commission's text was worded as follows:

"Article 43

"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.

3/ With the deletion of article 42 (see para. 120 above), articles 43-50 are numbered 42-49 in the definitive text of the draft convention submitted to the General Assembly (see section III below). For the sake of convenience, however, the numbering used in the draft articles prepared by the International Law Commission has been retained in this section of the report.

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 paragraphs 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."

2. Amendments

126. Amendments to article 43 were submitted by France (A/C.6/L.716, reproduced in document A/C.6/L.745) and the United Kingdom (A/C.6/L.703, reproduced in document A/C.6/L.745).

127. The amendments were worded as follows:

(a) United Kingdom (A/C.6/L.703):

"Paragraph 1

In the first sentence, insert the word 'directly' after the word 'proceeding'.

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'."

(Subsequently withdrawn and replaced by an oral amendment - see para. 129 below)

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

"Paragraph 4

Replace the latter half of the paragraph, 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'."

(Withdrawn - see para. 129 below)

3. Work of the Sixth Committee

(a) Meetings

128. The Sixth Committee considered the article for the first time at its 1134th and 1135th meetings, on 24 and 27 October 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751, Add.2).

(b) Initial consideration

129. At the 1134th meeting, on 24 October 1969, the representative of France withdrew his amendment (A/C.6/L.716). At the 1135th meeting, on 27 October 1969, the representative of the United Kingdom withdrew his amendment (A/C.6/L.703) and submitted instead an oral amendment calling for the replacement of the words "and has raised no objection to it", at the end of paragraph 4 of the International Law Commission's text, by the words "and has consented to it".

130. Also at the 1135th meeting, the Sixth Committee rejected the United Kingdom oral amendment by 34 votes to 30, with 20 abstentions. It then adopted the text of the article as prepared by the International Law Commission, by 73 votes to 1, with 10 abstentions.

131. At the same meeting, the Sixth Committee referred the text thus adopted to the Drafting Committee.

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

132. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 43 (see A/C.6/L.751/Add.2). The Sixth Committee adopted that text (see para. 133 below).

(d) Text adopted by the Sixth Committee

133. The text adopted by the Sixth Committee reads as follows:

"Article 43

"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, whether travelling with him 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 the receiving State is bound to accord under the present Convention. 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 under the present Convention.

"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 paragraphs 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."

Articles 44 and 45

134. These two articles are presented under one heading pursuant to a decision taken by the Sixth Committee at its 1137th meeting, on 29 October 1969 (see para. 140 below).

1. Text prepared by the International Law Commission

135. The International Law Commission's text for these articles was worded as follows:

"Article 44

"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."

"Article 45

"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."

2. Amendments

136. Amendments to article 44 were submitted by Belgium (A/C.6/L.761) and France (A/C.6/L.717, reproduced in document A/C.6/L.745).

137. The amendments were worded as follows:

(a) 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 last 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'.

(Withdrawn - see para. 140 below)

(b) Belgium (A/C.6/L.761)

"Paragraph 3

Delete the paragraph."

(Replaced by an oral amendment - see para. 141 below)

138. An amendment to article 45 was submitted by Belgium (A/C.6/L.688, reproduced in document A/C.6/L.745); it was worded as follows:

"Replace the title of the article by the words 'Death of a member of the special mission'.

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'. Renumber paragraphs 1 and 2 accordingly."

(Replaced by an oral amendment - see para. 141 below)

3. Work of the Sixth Committee

(a) Meetings

139. The Sixth Committee considered the two articles for the first time at its 1137th and 1138th meetings, on 29 and 30 October 1969. At its 1147th meeting, on 11 November 1969, it considered the texts adopted by the Drafting Committee for the articles (see A/C.6/L.751/Add.3).

(b) Initial consideration

140. At the 1137th meeting, the representative of France withdrew his amendment (A/C.6/L.717). At the same meeting, the Committee decided to refer articles 44 and 45, together with the relevant amendments submitted by Belgium (A/C.6/L.688 and L.761), to the Drafting Committee.

141. At the 1138th meeting, the representative of Belgium replaced his two amendments by an oral amendment under which paragraph 3 of article 44 would become paragraph 1 of article 45 and the title of article 45 would be replaced by "Death of a member of the special mission"; alternatively, articles 44 and 45 would be combined in a single article.

(c) Consideration of the texts adopted by the Drafting Committee

142. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the texts it had adopted for articles 44 and 45 (see A/C.6/L.751/Add.3). The Sixth Committee adopted those texts (see paras. 143 and 144 below).

(d) Texts adopted by the Sixth Committee

143. The text adopted by the Sixth Committee for article 44 reads as follows:

/...

"Article 44

"1. Every member of the special mission shall enjoy the privileges and immunities to which he is entitled 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 member of the special mission have come to an end, his 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, in respect to acts performed by such a member in the exercise of his functions, 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."

144. The text adopted by the Sixth Committee for article 45 reads as follows:

"Article 45

"1. In the event of the death of a member of the special mission or of a member of his family accompanying him, 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."

Article 46

1. Text prepared by the International Law Commission

145. The International Law Commission's text was worded as follows:

"Article 46

"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."

2. Amendments

146. No amendments were submitted to article 46.

3. Work of the Sixth Committee

(a) Meetings

147. The Sixth Committee considered article 46 for the first time at its 1138th meeting, on 30 October 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.3).

(b) Initial consideration

148. At its 1138th meeting, the Sixth Committee approved article 46 as prepared by the International Law Commission and referred it to the Drafting Committee, together with a suggestion by the representative of Czechoslovakia that the title of article 42 should contain a reference to the subject of paragraph 2, namely, the withdrawal of the archives of the special mission (see section II below).

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

149. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 46 (see A/C.6/L.751/Add.3). The Sixth Committee adopted that text (see para. 150 below).

(d) Text adopted by the Sixth Committee

150. The text adopted by the Sixth Committee reads as follows:

"Article 46

"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."

Article 47

1. Text prepared by the International Law Commission

151. The International Law Commission's text was worded as follows:

"Article 47

"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."

2. Amendments

152. No amendments were submitted to article 47.

3. Work of the Sixth Committee

(a) Meetings

153. The Sixth Committee considered article 47 for the first time at its 1138th meeting, on 30 October 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.3).

(b) Initial consideration

154. At its 1138th meeting, the Sixth Committee approved article 47 as drafted by the International Law Commission and referred it to the Drafting Committee, together with the comments made during the debate.

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

155. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 47 (see A/C.6/L.751/Add.3). The Sixth Committee adopted that text (see para. 156 below).

(d) Text adopted by the Sixth Committee

156. The text adopted by the Sixth Committee reads as follows:

"Article 47

"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 assigned 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."

Article 48

1. Text prepared by the International Law Commission

157. The International Law Commission's text was worded as follows:

"Article 48

"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."

2. Amendments

158. No amendments were submitted to article 48.

3. Work of the Sixth Committee

(a) Meetings

159. The Sixth Committee considered article 48 for the first time at its 1138th meeting, on 30 October 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.3).

(b) Initial consideration

160. At its 1138th meeting, the Sixth Committee approved article 47 as prepared by the International Law Commission and referred it to the Drafting Committee.

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

161. At the 1147th meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text it had adopted for article 48 (see A/C.6/L.751/Add.3). The Sixth Committee adopted that text (see para. 162 below).

(d) Text adopted by the Sixth Committee

162. The text adopted by the Sixth Committee reads as follows:

"Article 48

"1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying these privileges and immunities under the present Convention 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 Convention or in other rules of general international law or in any special agreements in force between the sending and the receiving State."

Article 49

1. Text prepared by the International Law Commission

163. The International Law Commission's text was worded as follows:

"Article 49

"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."

2. Amendments

164. No amendments were submitted to article 49.

3. Work of the Sixth Committee

(a) Meetings

165. The Sixth Committee considered article 49 for the first time at its 1138th meeting, on 30 October 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.1).

(b) Initial consideration

166. At its 1138th meeting, the Sixth Committee approved article 49 as prepared by the International Law Commission and referred it to the Drafting Committee, together with the comments made during the debate.

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

167. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 49 (see A/C.6/L.751/Add.3). The Sixth Committee adopted that text (see para. 168 below).

(d) Text adopted by the Sixth Committee

168. The text adopted by the Sixth Committee reads as follows:

"Article 49

"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."

Article 50

1. Text prepared by the International Law Commission

169. The International Law Commission's text was worded as follows:

"Article 50

"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."

2. Amendments

170. No amendments were submitted to article 50, but the representative of Italy submitted a working paper (A/C.6/L.767 and Corr.1 [Spanish only]), worded as follows:

"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 States modify among themselves, by custom or agreement, the extent of facilities, privileges and immunities for their special missions, although such a modification has not been agreed with other States, provided it is not incompatible with the object and purpose of the present articles and does not prejudice the enjoyment of the rights or the fulfilment of the obligations of third States."

(Adopted - see para. 173 below)

3. Work of the Sixth Committee

(a) Meetings

171. The Sixth Committee considered article 50 for the first time at its 1138th, 1139th, 1140th and 1141st meetings, on 30 and 31 October and

3 and 4 November 1969. At its 1147th meeting, on 11 November 1969, it considered the text adopted by the Drafting Committee for the article (see A/C.6/L.751/Add.3/Corr.1).

(b) Initial consideration

172. At its 1141st meeting, on 4 November 1969, the Sixth Committee adopted the working paper submitted by Italy (A/C.6/L.767 and Corr.1 [Spanish only]) by a vote of 31 to 1, with 9 abstentions.

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

173. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for article 50 (see A/C.6/L.751/Add.3/Corr.1). The Committee adopted that text by a vote of 80 to none, with 7 abstentions (see para. 174 below).

(d) Text adopted by the Sixth Committee

174. The text adopted by the Committee reads as follows:

"Article 50

"1. In the application of the provisions of the present Convention 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 Convention restrictively because of a restrictive application of that provision to its special mission in the sending State;

(b) where States modify among themselves, by custom or agreement, the extent of facilities, privileges and immunities for their special missions, although such a modification has not been agreed with other States, provided it is not incompatible with the object and purpose of the present Convention and does not affect the enjoyment of the rights or the performance of the obligations of third States."

Amendment concerning conferences

1. Text of the amendment concerning conferences

175. The United Kingdom introduced an amendment (distributed at the twenty-third session as document A/C.6/L.704 and reproduced as a twenty-fourth session document under the symbol A/C.6/L.745/Corr.1), the purpose of which was to add the following new article to the draft convention:

"Article 0

"Conferences

"1. A State may apply the provisions of part II 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 given the same repatriation facilities as members of diplomatic missions of comparable rank;

(e) 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."

(Withdrawn - see para. 177 below)

2. Work of the Sixth Committee

176. The Sixth Committee considered the amendment at its 1142nd and 1143rd meetings, on 5 November 1969.

177. At the 1148th meeting, on 12 November 1969, the representative of the United Kingdom withdrew his amendment.

178. The Committee decided, on the proposal of the United Kingdom representative, to include in its report the following summary of the views expressed during the discussion of the question of conferences:

"The Committee was of the view that the question of the legal status, privileges and immunities of members of delegations to international conferences and of the Secretariat of conferences constituted a gap in the law relating to international representation which remained to be filled. Once again, it was necessary to start from the proposition that the status, privileges and immunities should be those necessary to ensure the efficient and independent exercise of their respective functions. There were a number of precedents which could serve as a starting point for the study of the problem - the Conventions on the privileges and immunities of international organizations (including those relating to the United Nations and to the specialized agencies) together with the Vienna Conventions on Diplomatic and Consular Relations and the forthcoming Convention on Special Missions.

"The Committee noted that the International Law Commission's Special Rapporteur on relations between States and international organizations, Mr. El-Erian, had indicated his intention to include articles on the status of delegations to conferences in the draft articles on relations between States and international organizations. The Committee also noted that the International Law Commission had discussed, and would discuss again at its next session, the general question of further work on the status, privileges and immunities of delegations to international conferences.

"The Committee requested the International Law Commission to take into account in its further work on the subject the interest and the views expressed in the debates in the Sixth Committee at the twenty-fourth session of the General Assembly."

Amendment concerning settlement of disputes

1. Text of the amendment concerning settlement of disputes

179. Switzerland submitted an amendment (A/C.6/L.766), worded as follows:

"After article 50 of the draft convention add a new article 51 as follows:

Article 51

Settlement of disputes

1. Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a party to the present Convention.

2. The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by an application.

3. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application."

(Withdrawn - see para. 184 below)

180. A sub-amendment (A/C.6/L.769 and Add.1) was submitted by the following countries: Brazil, Ghana, Guatemala, India, Indonesia, Morocco, Nigeria, Sudan, Syria, Uganda, Yugoslavia and Zambia. It was worded as follows:

"Substitute for the proposed new article 51 the following:

OPTIONAL PROTOCOL CONCERNING THE COMPULSORY
SETTLEMENT OF DISPUTES

The States Parties to the present Protocol and to the Convention on Special Missions, hereinafter referred to as 'the Convention', adopted by...

Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period,

Have agreed as follows

/...

Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by an application made by any party to the dispute being a party to the present Protocol.

Article II

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by an application.

Article III

1. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by an application.

Article IV

The present Protocol shall, until..., be open for signature by all States which may become parties to the Convention.

Article V

The present Protocol is subject to ratification. The instrument of ratification shall be deposited with the Secretary-General of the United Nations.

Article VI

The present Protocol shall remain open for accession by all States which may become parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VII

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations, whichever day is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article VIII

The Secretary-General of the United Nations shall inform all States which may become parties to the Convention:

(a) Of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with articles IV, V and VI;

(b) Of the date on which the present Protocol will enter into force, in accordance with article VII.

Article IX

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article IV.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

DONE AT NEW YORK, this _____ "

(Adopted - see para. 185 below)

Work of the Sixth Committee

(a) Meetings

181. The Sixth Committee considered the amendment and the sub-amendment for the first time at its 1143rd, 1144th, 1145th and 1146th meetings, on 5, 6, 7 and 10 November 1969. At its 1153rd meeting, on 18 November 1969, it considered the text adopted by the Drafting Committee on the subject.

/...

(b) Initial consideration

182. At its 1145th meeting, on 7 November 1969, the Sixth Committee rejected, by 34 votes to 31, with 26 abstentions, a motion by the Australian representative that document A/C.6/L.766 should be put to the vote first. At the request of the representative of the United States of America, the vote was taken by roll-call. The voting was as follows:

In favour: Australia, Austria, Belgium, Canada, Chile, Colombia, Costa Rica, Denmark, Finland, France, Greece, Guyana, Ireland, Israel, Italy, Ivory Coast, Japan, Lebanon, Liberia, Mexico, Netherlands, New Zealand, Norway, Pakistan, Philippines, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Algeria, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Congo (Brazzaville), Cuba, Czechoslovakia, Ghana, Guatemala, Hungary, India, Indonesia, Iraq, Kuwait, Libya, Mali, Mongolia, Morocco, Nicaragua, Nigeria, Poland, Romania, Saudi Arabia, Sierra Leone, Spain, Sudan, Syria, Thailand, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yemen, Zambia.

Abstaining: Afghanistan, Argentina, Barbados, Bolivia, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, Cyprus, Dahomey, Dominican Republic, Ecuador, Ethiopia, Haiti, Iran, Kenya, Madagascar, Nepal, Niger, Peru, Rwanda, South Africa, Togo, Uganda, United Republic of Tanzania, Yugoslavia.

183. At its 1146th meeting, on 10 November 1969, the Sixth Committee had before it a proposal by the representative of India that the Committee should reverse the decision it had taken on the Australian motion and vote on the Swiss amendment (A/C.6/L.766) before voting on the twelve-Power text (A/C.6/L.769 and Add.1). The voting was 48 in favour and 19 against, with 26 abstentions; having obtained the required two-thirds majority, the proposal was adopted.

184. The Committee then voted on the Swiss amendment (A/C.6/L.766), which was rejected by 53 votes to 33, with 11 abstentions. At the request of the representative of Panama, the vote was taken by roll-call and the voting was as follows:

In favour: Australia, Austria, Barbados, Belgium, Canada, China, Colombia, Costa Rica, Denmark, Finland, France, Greece, Guyana, Iceland, Ireland, Israel, Italy, Ivory Coast, Japan, Liberia, Mexico, Netherlands, New Zealand, Norway, Pakistan, Philippines, Portugal, Senegal, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Against: Afghanistan, Algeria, Argentina, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Czechoslovakia, Ethiopia, Ghana, Guatemala, Haiti, Hungary, India, Indonesia, Iran, Iraq, Kenya, Kuwait, Lebanon, Libya, Madagascar, Mali, Mauritania, Mongolia, Morocco, Nepal, Niger, Nigeria, Panama, Poland, Romania, Saudi Arabia, Sierra Leone, South Africa, Southern Yemen, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Venezuela, Yemen, Yugoslavia, Zambia.

Abstaining: Chile, Cyprus, Dahomey, Ecuador, Jamaica, Peru, Rwanda, Spain, Togo, Trinidad and Tobago, Uganda.

185. The Committee then voted on the twelve-Power text (A/C.6/L.769 and Add.1), which it adopted by 84 votes to none, with 13 abstentions. At the request of the representative of Zambia, the vote was taken by roll-call and the voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Brazil, Bulgaria, Burma, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Czechoslovakia, Dahomey, Denmark, Ecuador, Ethiopia, Finland, France, Ghana, Guatemala, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Kuwait, Lebanon, Liberia, Libya, Madagascar, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Philippines, Portugal, Romania, Rwanda, Saudi Arabia, Sierra Leone, South Africa, Southern Yemen, Spain, Sudan, Sweden, Syria, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia.

Against: None.

Abstaining: Byelorussian Soviet Socialist Republic, Congo (Brazzaville), Cuba, Greece, Pakistan, Panama, Peru, Poland, Senegal, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United States of America.

186. The Committee referred the draft protocol, as thus adopted, to the Drafting Committee.

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

187. At the 1153rd meeting of the Sixth Committee, on 18 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for the draft protocol (A/C.6/L.776). The Sixth Committee adopted that text (see para. 188 below).

(d) Text of the draft protocol adopted by the Sixth Committee

188. The draft protocol adopted by the Sixth Committee reads as follows:

"OPTIONAL PROTOCOL CONCERNING THE COMPULSORY
SETTLEMENT OF DISPUTES

The States Parties to the present Protocol and to the Convention on Special Missions, hereinafter referred to as 'the Convention', adopted by the General Assembly of the United Nations on...,

Expressing their wish to resort in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period,

Have agreed as follows:

Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by a written application made by any party to the dispute being a Party to the present Protocol.

Article II

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not

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to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by a written application.

Article III

1. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by a written application.

Article IV

The present Protocol shall be open for signature by all States which may become Parties to the Convention until 31 December 1970 at the United Nations Headquarters in New York.

Article V

The present Protocol is subject to ratification. The instrument of ratification shall be deposited with the Secretary-General of the United Nations.

Article VI

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VII

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification or accession to the Protocol with the Secretary-General of the United Nations, whichever day is the later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article VIII

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention:

(a) of signatures to the present Protocol and of the deposit of instruments of ratification or accession, in accordance with articles IV, V and VI;

(b) of the date on which the present Protocol will enter into force, in accordance with article VII.

Article IX

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article IV.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

DONE AT NEW YORK, this _____".

II. GENERAL PRESENTATION, FINAL CLAUSES AND
DRAFT PREAMBLE

A. General presentation

(a) Question of the division of the draft Convention into parts

189. At the 1147th meeting of the Sixth Committee, on 11 November 1969, the Chairman of the Drafting Committee said that the Drafting Committee recommended that the draft Convention should not be divided into parts. The recommendation was approved by the Sixth Committee at the same meeting.

(b) Question of the titles of articles

190. At the 1153rd meeting of the Sixth Committee, on 13 November 1969, the Chairman of the Drafting Committee presented the report of the Drafting Committee on the titles of articles (A/C.6/L.775). In accordance with the report's recommendations, the Sixth Committee decided to adopt the titles established by the International Law Commission for all the articles of the draft Convention with the exception of articles 3, 7, 18, 37, 46 and 48. The Sixth Committee adopted the following titles for those articles:

Article 3

Functions of a special mission

Article 7

Non-existence of diplomatic or consular relations

Article 18

Meeting of special missions on the territory of a third State

Article 37

Service staff

Article 46

Facilities to leave the territory of the receiving State and
to remove the archives of the special mission

Article 48

Respect for the laws and regulations of the receiving State
and use of the premises of the special mission

B. Final clauses

1. Initial consideration by the Drafting Committee

191. As stated in paragraph 10 above, at the twenty-third session the Drafting Committee was instructed to prepare a set of final clauses for the Convention. At the 1148th meeting of the Sixth Committee, on 12 November 1969, the Chairman of the Drafting Committee presented the relevant report of the Drafting Committee (A/C.6/L.773) which stated, inter alia, that it had not been possible to reach agreement on the provisions concerning participation and that consequently the Drafting Committee was transmitting to the Sixth Committee the three sets of draft final clauses (annexed to the above-mentioned report) submitted by the Union of Soviet Socialist Republics, by Ghana and India, and by France, the United Kingdom and the United States.

2. Work of the Sixth Committee

(a) Initial consideration

192. The Sixth Committee considered the report of the Drafting Committee at its 1148th, 1149th, 1150th, 1151st and 1152nd meetings, on 12, 13, 14 and 17 November 1969.

193. At its 1152nd meeting, on 17 November 1969, the Sixth Committee voted in turn on the draft final clauses submitted by the USSR, those submitted by Ghana and India, and those submitted by France, the United Kingdom and the United States:

(i) Draft final clauses submitted by the Union of Soviet Socialist Republics

This draft was rejected by 46 votes to 39, with 25 abstentions. At the request of the representative of France, the vote was taken by roll-call and the voting was as follows:

In favour: Afghanistan, Algeria, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Ceylon, Congo (Brazzaville), Cuba, Czechoslovakia, Dominican Republic, Ecuador, Ethiopia, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Kuwait, Libya, Mali, Mauritania, Mongolia, Nepal, Pakistan, Poland, Romania, Sierra Leone, Southern Yemen, Sudan, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia, Zambia.

Against: Argentina, Australia, Austria, Belgium, Brazil, Canada, Central African Republic, Chad, China, Costa Rica, Denmark, France, Gabon, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Ivory Coast, Japan, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Malta, Mexico, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Paraguay, Philippines, Rwanda, Spain, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Barbados, Bolivia, Cameroon, Chile, Colombia, Congo (Democratic Republic of), Cyprus, Dahomey, Finland, Guyana, Iran, Jamaica, Kenya, Laos, Lebanon, Morocco, Nigeria, Peru, Portugal, Saudi Arabia, Senegal, South Africa, Togo, Trinidad and Tobago, Tunisia.

(ii) Draft final clauses submitted by Ghana and India

This draft was rejected by 48 votes to 37, with 25 abstentions. At the request of the representative of France, the vote was taken by roll-call and the voting was as follows:

In favour: Afghanistan, Algeria, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Congo (Brazzaville), Cuba, Czechoslovakia, Dominican Republic, Ecuador, Ghana, Guinea, Hungary, India, Indonesia, Iraq, Kuwait, Libya, Mali, Mauritania, Mongolia, Morocco, Nigeria, Pakistan, Poland, Romania, Sierra Leone, Southern Yemen, Sudan, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia.

Against: Argentina, Australia, Belgium, Brazil, Canada, Central African Republic, Chile, China, Colombia, Costa Rica, Denmark, France, Gabon, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Ivory Coast, Japan, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Malta, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Portugal, Rwanda, South Africa, Spain, Thailand, Togo, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Austria, Barbados, Bolivia, Ceylon, Chad, Congo (Democratic Republic of), Cyprus, Dahomey, Ethiopia, Finland, Guyana, Iran, Jamaica, Kenya, Laos, Lebanon, Mexico, Nepal, Niger, Saudi Arabia, Senegal, Sweden, Trinidad and Tobago, United Republic of Tanzania, Zambia.

(iii) Draft final clauses submitted by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America

At the request of the representative of the Union of Soviet Socialist Republics, a separate vote was taken on articles A and C. By 68 votes to 26, with 16 abstentions, the Committee decided to retain those articles. At the request of the representative of France, the vote was taken by roll-call, and the voting was as follows:

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Brazil, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Dahomey, Denmark, Ethiopia, France, Gabon, Greece, Guatemala, Guyana, Honduras, Iceland, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Laos, Lebanon, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Malta, Mauritania, Mexico, Netherlands, New Zealand, Nicaragua, Niger, Norway, Panama, Paraguay, Philippines, Portugal, Rwanda, Saudi Arabia, Senegal, Spain, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Ceylon, Congo (Brazzaville), Cuba, Czechoslovakia, Dominican Republic, Ecuador, Ghana, Guinea, Hungary, India, Iraq, Libya, Mongolia, Poland, Romania, Sierra Leone, South Africa, Southern Yemen, Sudan, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Zambia.

Abstaining: Burma, Burundi, Cameroon, Finland, Indonesia, Kenya, Kuwait, Mali, Morocco, Nepal, Nigeria, Pakistan, Peru, United Arab Republic, United Republic of Tanzania, Yugoslavia.

The draft final clauses submitted by France, the United Kingdom and the United States, as a whole, were adopted by 71 votes to 9, with 30 abstentions. At the request of the representative of France, the vote was taken by roll-call and the voting was as follows:

In favour: Afghanistan, Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Brazil, Burma, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo (Democratic Republic of), Costa Rica, Cyprus, Dahomey, Denmark, Ethiopia, France, Gabon, Greece, Guatemala, Guyana, Honduras, Iceland, Indonesia, Iran, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Laos, Lebanon, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Malta, Mauritania, Mexico, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Philippines, Portugal, Rwanda, Saudi Arabia, Senegal, Spain, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Yugoslavia.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ecuador, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Algeria, Burundi, Cameroon, Ceylon, Congo (Brazzaville), Dominican Republic, Finland, Ghana, Guinea, India, Iraq, Kenya, Kuwait, Libya, Mali, Mongolia, Morocco, Nepal, Pakistan, Peru, Romania, Sierra Leone, South Africa, Southern Yemen, Sudan, Syria, Uganda, United Arab Republic, United Republic of Tanzania, Zambia.

194. The Sixth Committee referred the draft final clauses as thus adopted to the Drafting Committee.

(b) Consideration of the text adopted by the Drafting Committee for the final clauses

195. At the 1153rd meeting of the Sixth Committee, the Chairman of the Drafting Committee presented the text it had adopted for the final clauses (A/C.6/L.751/Add.5). The Sixth Committee adopted that text (see para. 196 below).

(c) Text adopted by the Sixth Committee

196. The text adopted by the Sixth Committee for the final clauses reads as follows:^{4/}

^{4/} In the final text of the draft Convention submitted to the General Assembly, articles A to F are numbered 50 to 55 (see Section III below).

"Article A

"Signature

"The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention, until 31 December 1970 at the United Nations Headquarters in New York.

Article B

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article C

Accession

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article A. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article D

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article E

Notifications by the Secretary-General

The Secretary-General of the United Nations shall inform all States belonging to any of the categories mentioned in article A:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession, in accordance with articles B and C;

(b) of the date on which the present Convention will enter in force, in accordance with article D.

Article F

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the categories mentioned in article A.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Convention.

DONE AT NEW YORK THIS..."

C. Preamble

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

197. As stated in paragraph 10 above, at the twenty-third session the Drafting Committee was instructed to prepare a draft preamble for the Convention. At the 1153rd meeting of the Sixth Committee, on 18 November 1969, the Chairman of the Drafting Committee presented the text it had adopted for the preamble (A/C.6/L.751/Add.6). The Sixth Committee adopted that text (see para. 198 below).

(b) Text adopted by the Sixth Committee

198. The text adopted by the Sixth Committee for the preamble reads as follows:

"The States Parties to the present Convention,

Recalling that special treatment has always been accorded to special missions,

/...

Having in mind the Purposes and Principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security and the development of friendly relations and co-operation among States,

Recalling that the importance of the question of special missions was recognized during the United Nations Conference on Diplomatic Intercourse and Immunities and in resolution I adopted by the Conference on 10 April 1961,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations which was opened for signature on 18 April 1961,

Considering that the United Nations Conference on Consular Relations adopted the Vienna Convention on Consular Relations which was opened for signature on 24 April 1963,

Believing that an international convention on special missions would complement those two Conventions and would contribute to the development of friendly relations among nations, whatever their constitutional and social systems,

Realizing that the purpose of privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of special missions as missions representing the State,

Affirming that the rules of customary international law continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:"

III. FINAL PHASE OF THE WORK OF THE SIXTH COMMITTEE ON THE DRAFT
CONVENTION ON SPECIAL MISSIONS

A. Co-ordination and review by the Drafting Committee of the draft Convention on Special Missions and the draft Optional Protocol concerning the Compulsory Settlement of Disputes

199. At the 1170th meeting of the Sixth Committee, on 4 December 1969, the Chairman of the Drafting Committee indicated that, in accordance with its terms of reference, the Committee had co-ordinated and reviewed the text of the Convention and the draft Optional Protocol. He explained that the English, French, Spanish and Russian versions of both the draft Convention (preamble and texts and titles of articles) and of the draft Optional Protocol adopted by the Sixth Committee (see section II above) had been the subject of changes and corrigenda as listed in the following documents: English version A/C.6/L.778/Add.1 and Corr.1 and A/C.6/L.779/Add.1 and Corr.1; French version A/C.6/L.778/Add.2 and Corr.1 and A/C.6/L.779/Add.2; Spanish version A/C.6/L.778/Add.3 and Corr.1 and A/C.6/L.779/Add.3; Russian version A/C.6/L.778/Add.4 and Corr.1 and 2 and A/C.6/L.779/Add.4. The text of the draft Convention and the text of the draft Optional Protocol embodying those changes and corrigenda in the five official languages appear under the symbols A/C.6/L.778/Add.5 and Corr.1 (English only), Corr.2 (French only), Corr.3 (Spanish only), Corr.4 and 6 (Russian only), and Corr.5 (Chinese only), and A/C.6/L.779/Add.5.

200. Likewise at the 1170th meeting, the Sixth Committee approved the changes and corrigenda thus made in the text of the draft Convention and the text of the draft Optional Protocol.

B. Adoption by the Sixth Committee of the draft resolutions before it, and of the draft Convention

201. The Sixth Committee had before it a draft resolution submitted by Algeria, Congo (Democratic Republic of), Denmark, Ghana, Iraq, Italy, Pakistan, Peru, and the United States of America (A/C.6/L.782) worded as follows:

"CONVENTION ON SPECIAL MISSIONS AND OPTIONAL PROTOCOL
CONCERNING THE COMPULSORY SETTLEMENT OF DISPUTES

"The General Assembly,

Considering that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Recalling that in its resolutions 1687 (XVI) of 18 December 1961, 1902 (XVIII) of 18 November 1963 and 2045 (XX) of 8 December 1965 it recommended that the International Law Commission should continue the work of codification and progressive development of the topic of special missions and that, as recommended in resolution 2167 (XXI) of 5 December 1966 of the General Assembly, the Commission submitted final draft articles on special missions in chapter II of its report on the work of its nineteenth session,

Recalling further that in accordance with its resolutions 2273 (XXII) of 1 December 1967 and 2419 (XXIII) of 18 December 1968 it decided to consider the item entitled 'Draft Convention on Special Missions' during its twenty-third and twenty-fourth sessions, with a view to the adoption of such a convention by the General Assembly,

Having completed the consideration of the item entitled 'Draft Convention on Special Missions',

Adopts and opens for signature and ratification or for accession the following instruments, the texts of which are annexed to the present resolution:

- (a) Convention on Special Missions;
- (b) Optional Protocol concerning the Compulsory Settlement of Disputes.

Annex

Convention on Special Missions

Follows the entire text of the Convention as an instrument, namely the Convention's preamble, its substantive articles and the articles relating to the final clauses of the Convention,

Optional Protocol concerning the Compulsory Settlement of
Disputes

Follows text of the Protocol,

202. An amendment to this draft resolution was submitted by the Union of Soviet Socialist Republics (A/C.6/L.783*) worded as follows:

"1. Add the following text at the end of the preamble:

'Noting that articles 50 and 52 of the Convention on Special Missions which has been prepared enable the General Assembly to issue special invitations to States which are not Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice to become parties to the Convention,

'Convinced that multilateral treaties which deal with the codification and progressive development of international law, or the object and purpose of which are of interest to the international community as a whole, should be open to universal participation,'

2. Add the following new paragraph to the operative part of the draft resolution:

'2. Resolves to consider at its twenty-fifth session the question of issuing such invitations in order to ensure the widest possible participation in the Convention on Special Missions.'

3. Number the existing text of the operative part of the draft resolution paragraph 1."

203. At its 1170th meeting, on 4 December 1969, the Committee took a decision on this amendment. The representative of Guyana asked for a separate vote on the words "or the object and purpose of which are of interest to the international community as a whole". The words were retained by 45 votes to 2, with 45 abstentions. The Committee then adopted the USSR amendment, following a roll-call vote requested by the representative of the Union of Soviet Socialist Republics, by 47 votes to none, with 48 abstentions. The voting was as follows:

In favour: Afghanistan, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Ceylon, Congo (Brazzaville), Congo (Democratic Republic of), Cuba, Cyprus, Czechoslovakia, Dominican Republic, Ecuador, Ethiopia, Finland, Ghana, Guyana, Haiti, Hungary, India, Indonesia, Iraq, Jamaica, Kenya, Kuwait, Libya, Mauritius, Mexico, Mongolia, Morocco, Nepal, Pakistan, Peru, Poland, Romania, Sierra Leone, Southern Yemen, Sudan, Sweden, Syria, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Yugoslavia.

/...

Against: none.

Abstaining: Argentina, Australia, Austria, Barbados, Belgium, Bolivia, Brazil, Canada, Central African Republic, Chad, Chile, China, Denmark, France, Greece, Guatemala, Iceland, Iran, Ireland, Israel, Italy, Ivory Coast, Japan, Lebanon, Liberia, Malaysia, Malta, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Panama, Paraguay, Philippines, Portugal, Saudi Arabia, South Africa, Spain, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

204. At the same meeting, the Committee adopted the draft Convention as a whole, in the final version produced by the Drafting Committee (see para. 200 above) by 94 votes to none, with 1 abstention.^{5/}

205. Finally, the Committee adopted by 94 votes to none, with 1 abstention, the nine-Power draft resolution (A/C.6/L.782) as modified by the Soviet amendment (A/C.6/L.783) (see para. 208 below, draft resolution I).

206. The Committee also had before it a draft resolution submitted by Ecuador (A.C.6/L.780) worded as follows:^{6/}

"Tribute to the International Law Commission

The General Assembly,

Having adopted the Convention on Special Missions on the basis of the draft articles prepared by the International Law Commission,

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution to the codification and progressive development of the rules of international law on special missions."

207. At its 1170th meeting, on 4 December 1969, the Sixth Committee adopted this text unanimously.^{6/}

5/ It should be recalled that the draft Optional Protocol to be annexed to the draft resolution had been adopted previously by the Sixth Committee (see paras. 185 to 188 above).

6/ It should be recalled that the Sixth Committee had already adopted another draft resolution on the settlement of civil claims (see paras. 120 to 124 above). (See para. 208 below, draft resolution II.)

RECOMMENDATIONS OF THE SIXTH COMMITTEE

208. In view of the foregoing, the Sixth Committee recommends to the General Assembly that it adopt the following draft resolutions:

Draft resolution I

CONVENTION ON SPECIAL MISSIONS AND OPTIONAL PROTOCOL CONCERNING
THE COMPULSORY SETTLEMENT OF DISPUTES

The General Assembly,

Considering that the codification and progressive development of international law contributes to the implementation of the purposes and principles set forth in Articles 1 and 2 of the Charter of the United Nations,

Recalling that in its resolutions 1687 (XVI) of 18 December 1961, 1902 (XVIII) of 18 November 1963 and 2045 (XX) of 8 December 1965 it recommended that the International Law Commission should continue the work of codification and progressive development of the topic of special missions and that, as recommended in resolution 2167 (XXI) of 5 December 1966 of the General Assembly, the Commission submitted final draft articles on special missions in chapter II of its report on the work of its nineteenth session,

Recalling further that in accordance with its resolutions 2273 (XXII) of 1 December 1967 and 2419 (XXIII) of 18 December 1968 it decided to consider the item entitled "Draft Convention on Special Missions" during its twenty-third and twenty-fourth sessions, with a view to the adoption of such a convention by the General Assembly,

Having completed the consideration of the item entitled "Draft Convention on Special Missions",

Noting that articles 50 and 52 of the Convention on Special Missions which has been prepared enable the General Assembly to issue special invitations to States which are not Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice to become parties to the Convention,

Convinced that multilateral treaties which deal with the codification and progressive development of international law, or the object and purpose of which are of interest to the international community as a whole, should be open to universal participation,

Adopts and opens for signature and ratification or for accession the following instruments, the texts of which are annexed to the present resolution:

- (a) Convention on Special Missions;
- (b) Optional Protocol concerning the Compulsory Settlement of Disputes.

2. Resolves to consider at its twenty-fifth session the question of issuing such invitations in order to ensure the widest possible participation in the Convention on Special Missions.

ANNEX

CONVENTION ON SPECIAL MISSIONS

The States Parties to the present Convention,

Recalling that special treatment has always been accorded to special missions,

Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security and the development of friendly relations and co-operation among States,

Recalling that the importance of the question of special missions was recognized during the United Nations Conference on Diplomatic Intercourse and Immunities and in resolution I adopted by the Conference on 10 April 1961,

Considering that the United Nations Conference on Diplomatic Intercourse and Immunities adopted the Vienna Convention on Diplomatic Relations, which was opened for signature on 18 April 1961,

Considering that the United Nations Conference on Consular Relations adopted the Vienna Convention on Consular Relations, which was opened for signature on 24 April 1963,

Believing that an international convention on special missions would complement those two Conventions and would contribute to the development of friendly relations among nations, whatever their constitutional and social systems,

Realizing that the purpose of privileges and immunities relating to special missions is not to benefit individuals but to ensure the efficient performance of the functions of special missions as missions representing the State,

Affirming that the rules of customary international law continue to govern questions not regulated by the provisions of the present Convention,

Have agreed as follows:

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Article 1

Use of terms

For the purposes of the present Convention:

(a) a "special mission" is a temporary mission, representing the State, which is sent by one State to another State with the consent of the latter for the purpose of dealing with it on specific questions or of performing in relation to it a specific task;

(b) a "permanent diplomatic mission" is a diplomatic mission within the meaning of 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 for the purposes of the special mission;

(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;

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(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.

Article 2

Sending of a special mission

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

Article 3

Functions of a special mission

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

Article 4

Sending of the same special mission to two or more States

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

Sending of a joint special mission by two or more States

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.

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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, 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

Non-existence of diplomatic or consular relations

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

Article 8

Appointment of the members of the special mission

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

Composition of the special mission

1. A special mission shall consist 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 retain their privileges and immunities as members of their permanent diplomatic mission or consular post in addition to the privileges and immunities accorded by the present Convention.

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 of this article with regard to nationals of a third State who are not also nationals of the sending State.

Article 11

Notifications

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

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

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(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 resident 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 enjoying inviolability under articles 30, 36 and 39, as well as any other 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

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.

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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.

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. 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 of this article, 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

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

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Foreign Affairs or with such other organ of the receiving State as may be agreed.

Article 16

Rules concerning precedence

1. Where two or more special missions meet in 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 in 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 in whose territory two or more special missions are meeting.

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 performs its functions in different localities, the States concerned may agree that it shall have more than one seat from among which they may choose one as the principal seat.

Article 18

Meeting of special missions in the territory of a third State

1. Special missions from two or more States may meet in 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

Right of the special mission 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.

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;

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(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

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 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 the present Convention, the facilities, privileges and immunities accorded by international law.

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.

Article 23

Premises and accommodation

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

Exemption of the premises of the special mission from taxation

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

Inviolability of the premises

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

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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

Inviolability of archives and documents

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

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 in its territory as is necessary for the performance of the functions of the special mission.

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

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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. The captain 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

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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

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.

Article 30

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, their correspondence and, except as provided in paragraph 4 of article 31, their property shall likewise enjoy inviolability.

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:

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(a) a real action relating to 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;

(b) an action relating to succession in which the person concerned 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 concerned 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 concerned.

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.

Article 32

Exemption 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, in respect of 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 shall not preclude voluntary participation in the social security system of the receiving State where such participation is permitted by that State.

5. The provisions of this article shall not affect bilateral or multilateral agreements concerning social security concluded previously and shall not prevent the conclusion of such agreements in the future.

Article 33

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 44;

(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 specific services rendered;

(f) registration, court or record fees, mortgage dues and stamp duty, subject to the provisions of article 24.

Article 34

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.

Article 35

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.

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

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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. In such cases, inspection shall be conducted only in the presence of the person concerned or of his authorized representative.

Article 36

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 territory of the receiving State.

Article 37

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.

Article 38

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 permitted 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.

Article 39

Members of the family

1. Members of the families of representatives of the sending State in the special mission and of members of its diplomatic staff shall, if they accompany such members of the special mission, enjoy the privileges and immunities specified in articles 29 to 35 provided that they are not nationals of or permanently resident in the receiving State.

2. Members of the families of members of the administrative and technical staff of the special mission shall, if they accompany such members of the special mission, enjoy the privileges and immunities specified in article 36 provided that they are not nationals of or permanently resident in the receiving State.

Article 40

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 and the members of its diplomatic staff who are nationals of or permanently resident in the receiving State shall enjoy only immunity from jurisdiction and

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inviolability 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 that 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.

Article 41

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 any 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.

Article 42

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,

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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, whether travelling with him 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 the receiving State is bound to accord under the present Convention. Subject to the provisions of paragraph 4 of this article, 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 under the present Convention.

4. The third State shall be bound to comply with its obligations in respect of the persons mentioned in paragraphs 1, 2 and 3 of this article 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, members of their families or couriers, and has raised no objection to it.

5. The obligations of third States under paragraphs 1, 2 and 3 of this article shall also apply to the persons mentioned respectively in those 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.

Article 43

Duration of privileges and immunities

1. Every member of the special mission shall enjoy the privileges and immunities to which he is entitled from the moment he enters the territory of the receiving State for the purpose of performing his functions in the special mission or, if he is 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 member of the special mission have come to an end, his privileges and immunities shall normally cease at the moment when he leaves the territory of the receiving State, or on the expiry of a reasonable period in which to do so, but shall subsist until that time, even in case of armed conflict. However, in respect of acts performed by such a member in the exercise of his functions, 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 territory of the receiving State.

Article 44

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 accompanying him, 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 of the family of a member of the mission.

Article 45

Facilities to leave the territory of the receiving State and to remove the archives of the special mission

1. The receiving State must, even in 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 must grant the sending State facilities for removing the archives of the special mission from the territory of the receiving State.

Article 46

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 assigned to it, as well as the property and archives of the special mission. The sending State must withdraw the property and archives within a reasonable period of time.

2. In case of the absence or severance 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 may, even if there is an armed conflict, entrust the custody of the property and archives of the special mission to a third State acceptable to the receiving State.

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Article 47

Respect for the laws and regulations of the receiving State
and use of the premises of the special mission

1. Without prejudice to their privileges and immunities, it is the duty of all persons enjoying those privileges and immunities under the present Convention 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 Convention, in other rules of general international law or in any special agreements in force between the sending and the receiving State.

Article 48

Professional or commercial 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.

Article 49

Non-discrimination

1. In the application of the provisions of the present Convention, 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 Convention restrictively because of a restrictive application of that provision to its special mission in the sending State;

(b) where States modify among themselves, by custom or agreement, the extent of facilities, privileges and immunities for their special missions, although such

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a modification has not been agreed with other States, provided that it is not incompatible with the object and purpose of the present Convention and does not affect the enjoyment of the rights or the performance of the obligations of third States.

Article 50

Signature

The present Convention shall be open for signature by all States Members of the United Nations or of any of the specialized agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to the Convention, until 31 December 1970 at United Nations Headquarters in New York.

Article 51

Ratification

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 52

Accession

The present Convention shall remain open for accession by any State belonging to any of the categories mentioned in article 50. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 53

Entry into force

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 54

Notifications by the depositary

The Secretary-General of the United Nations shall inform all States belonging to any of the categories mentioned in article 50:

(a) of signatures to the present Convention and of the deposit of instruments of ratification or accession in accordance with articles 50, 51 and 52;

(b) of the date on which the present Convention will enter into force in accordance with article 53.

Article 55

Authentic texts

The original of the present Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States belonging to any of the categories mentioned in article 50.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Convention, opened for signature at New York on _____.

OPTIONAL PROTOCOL CONCERNING THE COMPULSORY
SETTLEMENT OF DISPUTES

The States Parties to the present Protocol and to the Convention on Special Missions, hereinafter referred to as "the Convention", adopted by the General Assembly of the United Nations on...,

Expressing their wish to resort, in all matters concerning them in respect of any dispute arising out of the interpretation or application of the Convention, to the compulsory jurisdiction of the International Court of Justice, unless some other form of settlement has been agreed upon by the parties within a reasonable period of time,

Have agreed as follows:

Article I

Disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice and may accordingly be brought before the Court by a written application made by any party to the dispute being a Party to the present Protocol.

Article II

The parties may agree, within a period of two months after one party has notified its opinion to the other that a dispute exists, to resort not to the International Court of Justice but to an arbitral tribunal. After the expiry of the said period, either party may bring the dispute before the Court by a written application.

Article III

1. Within the same period of two months, the parties may agree to adopt a conciliation procedure before resorting to the International Court of Justice.

2. The conciliation commission shall make its recommendations within five months after its appointment. If its recommendations are not accepted by the parties to the dispute within two months after they have been delivered, either party may bring the dispute before the Court by a written application.

Article IV

The present Protocol shall be open for signature by all States which may become Parties to the Convention, until 31 December 1970 at United Nations Headquarters in New York.

Article V

The present Protocol is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article VI

The present Protocol shall remain open for accession by all States which may become Parties to the Convention. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article VII

1. The present Protocol shall enter into force on the same day as the Convention or on the thirtieth day following the date of deposit of the second instrument of ratification of or accession to the Protocol with the Secretary-General of the United Nations, whichever day is later.

2. For each State ratifying or acceding to the present Protocol after its entry into force in accordance with paragraph 1 of this article, the Protocol shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article VIII

The Secretary-General of the United Nations shall inform all States which may become Parties to the Convention:

(a) of signatures to the present Protocol and of the deposit of instruments of ratification or accession in accordance with articles IV, V and VI;

(b) of the date on which the present Protocol will enter into force in accordance with article VII.

Article IX

The original of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article IV.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Protocol, opened for signature at New York on _____.

Draft resolution II

SETTLEMENT OF CIVIL CLAIMS

The General Assembly,

Taking note that the Convention on Special Missions adopted by the General Assembly provides for immunity from the jurisdiction of the receiving State of members of a special mission of the sending State,

Recalling that such immunity may be waived by the sending State,

Noting, in addition, that, as recalled in the preamble to the Convention, the purpose of immunities is not to benefit individuals but to ensure the efficient performance of the functions of special missions,

Mindful of the deep concern expressed during the deliberations of the General Assembly that claims of immunity might, in certain cases, deprive persons in the receiving State of the benefit of a judicial settlement,

Recommends that the sending State should waive the immunity of members of its special mission in respect of civil claims of persons in the receiving State when it can do this without impeding the performance of the functions of the special mission; and that, when immunity is not waived, the sending State should use its best endeavours to bring about a just settlement of the claims.

Draft resolution III

TRIBUTE TO THE INTERNATIONAL LAW COMMISSION

The General Assembly,

Having adopted the Convention on Special Missions on the basis of the draft articles prepared by the International Law Commission,

Resolves to express its deep gratitude to the International Law Commission for its outstanding contribution to the codification and progressive development of the rules of international law on special missions.
