

United Nations GENERAL ASSEMBLY

TWENTY-THIRD SESSION

Official Records



SIXTH COMMITTEE, 1054th
MEETING

Tuesday, 29 October 1968,
at 3.40 p.m.

NEW YORK

CONTENTS

	Page
<i>Agenda item 85:</i>	
<i>Draft Convention on Special Missions (continued)</i>	<i>1</i>
<i>Organization of the work of the Committee.</i>	<i>7</i>

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

AGENDA ITEM 85

Draft Convention on Special Missions (continued)
(A/6709/Rev.1 and Corr.1, A/7156 and Add.1 and
2; A/C.6/L.646, A/C.6/L.680, A/C.6/L.689)

*Article 19 (Right of special missions to use the flag
and emblem of the sending State)*

1. Mr. HAMBYE (Belgium) said that his delegation had submitted an amendment (A/C.6/L.680) to article 19 of the International Law Commission's draft because it would be going too far to permit all members of the special mission to use the flag and emblem of the sending State on means of transport used on official business; his delegation felt that only the head or acting head of the mission should have that right.

2. Mr. BARTOS (Expert Consultant) observed that the text of article 19 prepared by the International Law Commission reflected a practice which was not merely a matter of courtesy but also a means of facilitating the work of the special mission. Thus, when a special mission was sent to a country for the purpose of negotiating an agreement on frontier delimitation, it was extremely useful for its vehicles to bear distinctive signs indicating its nationality; the same was true in the case of a special mission which was sent to a troubled area. On the other hand, there was much less need for such distinctive signs when a special mission was sent to a country where conditions were normal and the mission carried on its activities exclusively in the capital of the receiving State. For his part, he felt that the rule proposed by the Commission was a useful one, it being understood that the flag and emblem of the sending State would be used only when necessary in order to facilitate the task of the special mission.

3. Jonkheer van PANHUYS (Netherlands) introduced his delegation's amendment to article 19 (A/C.6/L.689). While he recognized that it was proper that the special mission should, under normal conditions, have the right to use the flag and emblem of the sending State on its means of transport, there were cases where the exercise of that right could create difficulties. If, for example, there was tension between the sending and receiving States and the special mission

was sent precisely for the purpose of improving relations between them, it was understandable that the two States should wish to set aside the rule laid down in article 19. His delegation's amendment was intended to make it possible for the States concerned to decide between them that the special mission would not use the flag and emblem of the sending State, it being understood that there was no question of any discrimination being made as between the sending and receiving States. It might be argued that the provisions of article 50 dealt with the problem about which his delegation was concerned, but the amendment was useful nevertheless in that article 50 might give rise to problems of interpretation and also inasmuch as it was not known whether that article would be adopted by the Committee.

4. His delegation therefore left it to the Committee to decide whether the Netherlands amendment should be put to the vote or should be referred to the Drafting Committee with the request that the latter should study the relationship between articles 19 and 50. Lastly, his delegation would prefer that the phrase "A moins qu'il n'en soit convenu autrement" should be used in the French text of its amendment in place of the words "Sauf convention contraire", which it regarded as too formal.

5. Mr. DELEAU (France) said that his delegation supported the Belgian amendment (A/C.6/L.680), since it did not seem right to grant more extensive rights to special missions, which always had a limited task to perform, than to permanent diplomatic missions, which had a broad representative function. Article 20 of the Vienna Convention on Diplomatic Relations granted the right for means of transport to bear the flag and emblem of the sending State only in respect of the means of transport of the head of the mission. The French delegation considered that if that right was to be recognized for special missions, it should logically be recognized only in respect of the head of the mission, and that the cases in which it might be necessary for all the special mission's means of transport to bear the flag and emblem of the sending State were marginal cases which could unquestionably be dealt with by the parties concerned when they concluded the agreement on the sending of the special mission. It would be preferable not to lay down a general rule on the strength of special cases that would call for a special arrangement.

6. The Netherlands amendment (A/C.6/L.689) had the advantage of permitting the States concerned to adapt the rule set out in article 19 to particular circumstances and to broaden or limit the right in question. His delegation was therefore fully prepared to support that amendment. Lastly, he wished to associate himself with the Netherlands representative's

observation concerning the French text of the amendment.

7. Mr. NALL (Israel) noted that article 19 dealt with privileges similar to those accorded to diplomatic and consular staff under the Vienna Conventions on Diplomatic and Consular Relations; in the Conventions, however, the corresponding provisions were to be found in the section on privileges and immunities, whereas article 19 of the draft articles had been placed by the International Law Commission immediately before the section on facilities, privileges and immunities. He asked the Expert Consultant the reason for the Commission's decision in that regard.

8. Mr. HAMBYE (Belgium) said he concluded from the explanation just provided by the Expert Consultant that the International Law Commission had sought to give sanction to usage which sometimes had practical value but, in doing so, had given it infinitely broader scope than it had probably intended. He feared that that usage might become too widespread if extensive use of the sending State's flag and emblem was permitted. His delegation therefore suggested that, if its amendment (A/C.6/L.680) was referred to the Drafting Committee, the latter should try to improve the wording of article 19 so as to bring the rule laid down in that article more into conformity with practice.

9. Mr. BARTOS (Expert Consultant) said that he agreed with the Belgian representative, for it had been his experience that there were only certain circumstances, in which it was necessary to use the flag and emblem of the sending State. He therefore felt that a formula should be worked out which, while not unduly encouraging the use of the flag and emblem, would permit them to be used when necessary. As the Belgian representative had pointed out, special missions had to be given protection, but only within certain limits; it must be acknowledged that the International Law Commission, in its desire to ensure that protection, had worked out a very broad formula, even though its intention had been merely to make it possible to protect the missions.

10. Mr. BONNEFOY (Chile) noted that some countries received special missions from States which they did not recognize. That was a well-established practice which did not give rise to any problems as regards using the flag and emblem of the State in question, for it was understood that in such cases the special mission was not permitted to use its national flag and emblem; however, article 19 did not deal with that practice, which had been shown to be a useful one.

11. In the view of his delegation, the present wording of article 19 created two problems: first of all, since the Committee had decided to eliminate from the draft Convention any reference to the effect which the sending or reception of a special mission might have on the question of recognition, there was a danger that the mere fact that a special mission sent by a State not enjoying recognition could use its national flag and emblem would be taken to constitute tacit recognition; secondly—a problem which was perhaps even more genuine—the fact that such a mission could use its national flag and emblem might cause third States which also did not recognize the sending State to lodge protests whose motivations were

really of quite another sort, as had already occurred in actual practice. In its commentary on article 19, the International Law Commission had indicated that paragraph 1 of the article was based on article 20 of the Vienna Convention on Diplomatic Relations. In his opinion, it was inappropriate to base the paragraph on the Convention, since the use of the flag and emblem by permanent missions presented entirely different problems, in that recognition—tacit recognition, at the very least—was taken for granted.

12. For the reasons he had just set forth, his delegation felt that article 19 in its present form might hamper the exchange of special missions. The best solution would be to accept the Netherlands amendment (A/C.6/L.689), which provided that the rule laid down in article 19 would apply "except as otherwise agreed". His delegation would support that amendment.

13. Mr. JAFRI (Pakistan) said that his delegation found the International Law Commission's formulation of article 19 wholly acceptable. The Expert Consultant had shown very clearly that it was not at all desirable to give only the head of the special mission the right to use the flag and emblem of the sending State. His delegation was therefore unable to support the Belgian amendment (A/C.6/L.680). It would accept the Netherlands amendment (A/C.6/L.689) if it obtained the support of the majority.

14. Mr. OGUNDERE (Nigeria) said that in his delegation's view the Belgian amendment (A/C.6/L.680) was only a corollary of the French amendment to article 9 (A/C.6/L.666), which had been rejected; since the Committee had rejected the idea underlying the French proposal, it was difficult to see why it should be accepted in the case of article 19.

15. Furthermore, the Belgian amendment might create more difficulties than it solved. Where a special mission used two vehicles simultaneously, one for the head and the other for the administrative or technical staff, the first vehicle, which, in the terms of the Belgian amendment, would be the only one authorized to display the flag and emblem of the sending State, might be hampered in its movements and the privileges and immunities of its occupants might even be contested under article 31, paragraph 2, the provisions of article 36 notwithstanding. In view of those difficulties, and also because it believed that the safeguards provided for in article 19, paragraph 2, were sufficient to prevent any abuse, his delegation would be unable to support the Belgian amendment, for it considered that special missions should not be unduly hampered in their work.

16. He accepted the idea underlying the Netherlands amendment (A/C.6/L.689) but repeated that all the necessary safeguards were already provided for in article 19, paragraph 2; in that connexion, he referred to the last sentence of paragraph (3) of the International Law Commission's commentary on article 19. Article 50, paragraph 2 (c), to which the Netherlands representative had referred, also provided all the necessary safeguards.

17. Mr. CASTRÉN (Finland) said that his delegation found the text of article 19 wholly satisfactory. It would be unable to support the Belgian amendment

(A/C.6/L.680), for the reasons given by the Expert Consultant and by the International Law Commission itself in its commentary. His delegation saw no need for the Netherlands amendment (A/C.6/L.689), even if article 50 was not retained, since States were always free to conclude agreements derogating from the provisions of article 19, paragraph 1, which did not constitute a rule of jus cogens.

18. Mr. DADZIE (Ghana) pointed out that, save where the head of the permanent diplomatic mission was the head of the special mission, the mission did not, in principle, have the right to use the flag and emblem of the sending State. The International Law Commission had acted very wisely in deciding that such use was subject to the laws, regulations and usages of the receiving State.

19. In its present wording, article 19 was acceptable to his delegation. However, it would support the Belgian amendment (A/C.6/L.680), which had the merit of taking account of State practice by providing that the flag and emblem of the sending State could only be used on the means of transport of the representative who was the head of the special mission. Rejection of that amendment would mean that members of the special mission other than its head would be granted a right greater than that granted to members of diplomatic missions, who were not authorized to display the national flag and emblem on their means of transport.

20. His delegation did not see why, despite the basic rules set out in article 19, paragraph 1, the two States concerned could not agree as they saw fit on the use of the flag and emblem of the sending State by the special mission. The Netherlands amendment (A/C.6/L.689) would leave the States in question free to conclude such an agreement. For that reason, his delegation, which, it should be emphasized, did not wish members of special missions to be granted rights more extensive than those granted to the members of permanent diplomatic missions, would also support that amendment.

21. Mr. BAYONA ORTIZ (Colombia) said that the Chilean representative had very aptly drawn attention to the numerous problems that would be bound to arise if the present version of article 19 was adopted. He would therefore support not only the Netherlands amendment (A/C.6/L.689), which would help to prevent those problems from arising, but also the Belgian amendment (A/C.6/L.680), regarding which the Ghanaian representative had made some particularly pertinent comments.

22. Mr. MOLINA LANDAETA (Venezuela) said he had read the International Law Commission's commentary on article 19 with great interest and had carefully followed the explanations of the Expert Consultant. His delegation would support the present version of article 19 but had certain comments to make for the attention of the Drafting Committee.

23. In article 19, paragraph 2, it was provided that, in the exercise of the right to use the flag and emblem of the sending State, "regard shall be had to the laws, regulations and usages of the receiving State" in order to prevent certain possible abuses by the members of special missions, to which the

Commission had referred in paragraph (3) of its commentary on that article. It might well be asked whether the best way to prevent abuse might not be to use more precise language, along the lines of that contained in article 41 of the Vienna Convention on Diplomatic Relations, which required persons enjoying privileges and immunities to "respect" the laws and regulations of the receiving State. He would be grateful if the Drafting Committee would ensure that the wording ultimately decided upon took account of the concern he had expressed.

24. His delegation would not vote for the Belgian amendment (A/C.6/L.680), despite the good arguments which had been advanced in its support, and it would abstain on the Netherlands amendment (A/C.6/L.689), for which it saw no need, inasmuch as the provisions of article 9, paragraph 2, answered the purpose for which it was intended.

25. Mr. KESTLER FARNÉS (Guatemala), after drawing attention to the importance of article 19, noted that the International Law Commission had endeavoured to regulate the use of the flag and emblem of the sending State on the premises occupied by the special mission and on its means of transport, while ensuring that the laws, regulations and usages of the receiving State were respected. It had given thought to possible abuses which might cause friction between the States concerned. By inserting the phrase "when used on official business" at the end of article 19, paragraph 1, the Commission had wished to impose restrictions on the right to use the flag and emblem of the sending State in the interest of the special mission itself. There were numerous examples to show that the prerogatives assumed by officials of lower rank frequently gave rise to problems which only made the mission's work more difficult. Those problems could be dealt with very easily when there were normal relations between the States concerned but they might result in the failure of the special mission if the States did not recognize one another. The Commission had therefore acted very wisely in limiting the use of the flag and emblem of the sending State to means of transport when used on official business.

26. His delegation supported the Belgian amendment (A/C.6/L.680) and also the Netherlands amendment (A/C.6/L.689), which, by enabling the States concerned to agree on different provisions, served to allay any misgivings which might at first be felt with regard to the rather severe limitation that the Belgian proposal would impose.

27. Mrs. KELLY de GUIBOURG (Argentina) said that her delegation supported the Belgian amendment (A/C.6/L.680), which, based on article 20 of the Vienna Convention on Diplomatic Relations and article 29 of the Vienna Convention on Consular Relations, imposed a justified limitation of the rights of special missions to use the flag and emblem of the sending State; it also supported the Netherlands amendment (A/C.6/L.689), which, as the Chilean and Guatemalan representatives had pointed out, provided a more flexible version of a rule which was in the process of formulation.

28. Mr. OWADA (Japan) said that his delegation's position was based on the comments which his Govern-

ment had communicated to the Secretary-General (see A/7156). It considered that the right to use the national flag and emblem on the special mission's means of transport should be granted only to the head of the mission; the corresponding provisions of the 1961 Vienna Convention on Diplomatic Relations limited the right to the head of the mission, and that had been the practice among States. If that right were to be extended to other members of the mission in the way proposed by the International Law Commission, the treatment granted to special missions would be out of balance with the treatment accorded to permanent diplomatic missions by the Vienna Convention. For that reason, his delegation supported the Belgian amendment (A/C.6/L.680).

29. With regard to the Netherlands amendment (A/C.6/L.689), while he fully understood the misgivings which the Netherlands representative had expressed on that point, it was the understanding of the Japanese delegation that all the articles in the present draft Convention were in the nature of ius dispositivum, from which States parties to the Convention could always derogate by special agreement among themselves. Therefore, apart from the question whether that article was retained or not, States could always agree among themselves on derogations from any article of the Convention, and his delegation thought that, although it did not disagree with the substance of the amendment, it would perhaps be, strictly speaking, not necessary.

30. Mr. ALLOTT (United Kingdom) said that delegations were faced with a difficult choice between two reasonable solutions. The argument of the International Law Commission, as illustrated by the Nigerian representative, as to the need to identify the cars of special missions was impressive, but the Vienna Convention on Diplomatic Relations did not grant a permanent diplomatic mission the right to place the flag and emblem on all its means of transport. The Vienna Convention need not always be followed as a precedent, but difficulties might arise, particularly in the matter of dignity, if a special mission had a wider right than its country's permanent mission.

31. His delegation felt that the Belgian amendment (A/C.6/L.680) could be approved with the addition of the Netherlands amendment (A/C.6/L.689), although the latter raised a question as to the implication of including a derogation right in one article but not in others. The Drafting Committee could look at the implications, bearing in mind article 50. If the Netherlands amendment were put to the vote, his delegation would vote for it on the understanding that its adoption would not imply that other derogations were not possible, subject to whatever was agreed in article 50.

32. Mr. OMBERE (Kenya) said that when article 7 had been considered his delegation had had difficulty in accepting the amendment which would delete paragraph 2 of that article (A/C.6/L.654 and Add.1), because it had foreseen that the problem of recognition which had been raised at that time would have subsequent repercussions. That problem arose again in connexion with article 19, for the use by the special mission of the flag and emblem of a State which

was not recognized was bound to be interpreted as implying tacit recognition. Consequently, his delegation could hardly accept the wording of article 19 proposed by the International Law Commission. It would support the Netherlands amendment (A/C.6/L.689), which would give the article greater flexibility, and the Belgian amendment (A/C.6/L.680), which had the merit of ensuring uniformity between the provisions of article 19 of the draft Convention and those of article 20 of the Vienna Convention on Diplomatic Relations and article 29 of the Vienna Convention on Consular Relations.

33. In order to allay the fears expressed by the Nigerian representative, he suggested that it should be provided that the vehicles of special missions should be equipped with plates marked with the letters "S.M."

34. Mr. OSIPENKO (Ukrainian Soviet Socialist Republic) said he found the wording of article 19 of the International Law Commission's draft flexible, and considered it satisfactory. Paragraphs 1 and 2 of that article were well balanced in that they allowed special missions to use the flag and emblem of the sending State while requiring them to have regard to the laws, regulations and usages of the receiving State.

35. Consequently, it was difficult to see how the Belgian amendment (A/C.6/L.680), which would limit the use to the head of the mission, would improve the text of article 19, particularly as the provisions of paragraph 2 of that article amply sufficed to permit such a limitation if it was needed. In any event his delegation would support the majority view.

36. The Netherlands amendment (A/C.6/L.689), if adopted, would result in a text that would be very difficult to interpret. While in some circumstances it would be possible to conclude the agreement to which that amendment referred, it should not be forgotten that article 50 provided for that possibility. For that reason, his delegation would not support that amendment.

37. Mr. MOTZFELDT (Norway) said that he would like to see article 19 deleted because he believed that the matter could be settled by agreement between the sending State and the receiving State. However, if it was decided to retain that article his delegation would vote for the Belgian and the Netherlands amendments (A/C.6/L.680 and A/C.6/L.689). It also suggested, as a drafting improvement, that the word "right" in the two paragraphs of the article should be replaced by a more appropriate term.

38. Mr. EL REEDY (United Arab Republic) said that he understood the motives and the principles underlying the two amendments before the Committee. However, the restrictions which the Belgian amendment (A/C.6/L.680) would impose on the right of members of the special mission other than its head might give rise to difficulties, since if the special mission was of short duration but had important work to accomplish it should enjoy every possible facility in the matter of transport.

39. With regard to the Netherlands amendment (A/C.6/L.689), his delegation agreed with the comments made by the United Kingdom representative, as it believed that the adoption of that amendment

might imply that special arrangements were possible in respect of the privileges provided for in article 19, but not in respect of those provided for in the other articles of the Convention.

40. In conclusion, he said that he supported the present wording of article 19 and hoped that the Drafting Committee would endeavour to improve the expression "regard shall be had", in article 9, paragraph 2, along the lines indicated by the Venezuelan representative.

41. Mr. ALCIVAR (Ecuador) said that an important feature of article 19 was that it struck the necessary balance between the rights and obligations of the sending State and the receiving State. The effort to maintain that balance was evident throughout the draft articles. It was therefore regrettable that, while the text proposed by the International Law Commission was perfectly acceptable, there was a tendency to submit amendments which upset that balance in favour of the receiving State.

42. The Belgian amendment (A/C.6/L.680) would put the head of the special mission on the same footing as the head of a permanent diplomatic mission and would grant the right to use the flag and emblem of the sending State to him alone. That requirement did not take account of the particular nature of the special mission, which, as it had to perform a number of different functions, was made up of representatives of various categories. However, there was an even more convincing argument: the Sixth Committee had adopted article 9, which provided that the special mission might have no head; the Expert Consultant had explained in that connexion that some States, such as the Scandinavian States, sent special missions without heads. In such cases, who would be authorized to exercise the right to use the flag and emblem of the sending State?

43. With regard to the Netherlands amendment (A/C.6/L.689), his delegation considered that the words "except as otherwise agreed", which it would insert at the beginning of article 19, paragraph 1, were superfluous, since it would always be possible for States to conclude an agreement derogating from the provisions of article 19 of the future Convention and, for that matter, from any other article of that Convention. There was nothing to prevent the sending State and the receiving State from negotiating a special agreement governing the functioning of a special mission.

44. For those reasons, his delegation accepted the text proposed by the Commission and shared the view of the Venezuelan representative that it should be referred to the Drafting Committee for certain drafting improvements.

45. Mr. SPERDUTI (Italy) said that, except for a few points, regarding which it associated itself with the observations made by others, his delegation found the present wording of article 19 acceptable. In the first place, it considered that the use of the flag and emblem of the sending State by a special mission did not involve any particular difficulty where that State was not recognized by the receiving State, inasmuch as it could be assumed that an *ad hoc* agreement would be concluded to deal with such problems as might arise. Furthermore, it found no fault with the

text so far as the right to place the flag and emblem on the mission's premises was concerned. However, two major difficulties arose with regard to the provision of paragraph 1 concerning the use of the flag and emblem on means of transport.

46. First, there was a possibility of abuse of the rights provided for in article 19. It was true that that risk was limited by the provision in paragraph 2 to the effect that regard must be had to the laws, regulations and usages of the receiving State, but even if that provision was altered as suggested by the Venezuelan representative, it had to do with regulations and usages which had been established primarily for diplomatic missions and hardly concerned special missions. For that reason, he endorsed the Belgian amendment (A/C.6/L.680), provided that the Drafting Committee brought it into line with the relevant provisions already approved by the Sixth Committee, particularly those of article 14 concerning the designation of a representative of the sending State authorized to act on behalf of the special mission.

47. Secondly, the functions of some special missions might require extensive use of the flag and emblem of the sending State. The International Law Commission had mentioned that fact in paragraph (2) of its commentary, and the Expert Consultant had rightly drawn attention to it. In so far as the Netherlands amendment (A/C.6/L.689) would serve to meet the requirements in those particular cases, his delegation would be glad to support it. If it was not accepted, however, another formula would have to be found. For example, paragraph 1 might be drafted in two parts. The first part would consist of the present paragraph 1, as amended by the Belgian amendment, and the second would consist of an additional provision allowing for the possibility, in accordance with the idea expressed in the Netherlands amendment, of an agreement by the parties in particular cases and providing, for example, that the use of the flag and emblem of the sending State on the means of transport of the special mission could also be authorized by the receiving State in the light of particular requirements of the mission's business.

48. Mr. YASSEEN (Iraq) said that his delegation was in favour of retaining the present wording of article 19 and fully agreed with the comments of the representative of Ecuador. He would, however, like to explain his point of view on the amendments before the Committee. He agreed with the substance of the Netherlands amendment (A/C.6/L.689) but saw no special need to insert it in article 19, since the whole Convention was based on *jus dispositivum*, which could be departed from by agreement among the parties. The Belgian amendment (A/C.6/L.680), which would reserve the use of the flag and emblem for the head of the special mission only, was not acceptable, since a special mission might be without a head, yet might, for practical purposes in the conduct of its official business, find it necessary to use the flag or emblem of the sending State on its means of transport.

49. With reference to the statement of the United Kingdom representative, he pointed out that article 19 differed from the corresponding provision in the Vienna Convention on Diplomatic Relations because the use of the phrase "when used on official business" imposed a condition which did not exist in the Vienna Convention

and was in fact intended as a recognition of the functions of the special mission rather than of the person of the representative of a State. Since it was the functions that were taken into account, the differences between persons were irrelevant. What mattered was the official business.

50. In article 19, paragraph 2, the International Law Commission had wanted to solve the delicate problem of the relationship between domestic and international law in the matter of the right of a sending State to use its flag or emblem. As that right stemmed from international law, it could not be made to depend on domestic regulations. That was why the Commission had deliberately used the terms "exercise of the right" and "regard shall be had". He himself thought that if, in an extreme case, a domestic regulation precluded the use of the flag or emblem by a special mission, such domestic legal provision could not overrule the established principle.

51. Mr. KIBRET (Ethiopia) agreed with the representative of Iraq that, in using its flag or emblem, a special mission was exercising a right on which the sending State could insist. The Netherlands amendment (A/C.6/L.689) might therefore be of some practical use, though there might be some incompatibility between the exception made in that amendment and the existence, rather than the exercise, of the right in question. He would therefore suggest that the word "shall" in the English text of article 19, paragraph 1, should be replaced by the word "may".

52. His delegation found the wording of article 19 acceptable, but could not support the Belgian amendment (A/C.6/L.680).

53. Mr. DADZIE (Ghana) thought it would be inexact to say that a special mission might be without a head. If the sending State did not appoint a head, then the members of the mission appointed one from among themselves. His delegation would like its point of view to be borne in mind, since a contrary opinion would seem to have been expressed by another delegation.

54. Mr. VEROSTA (Austria) said that his delegation would vote in favour of both the Belgian and Netherlands amendments (A/C.6/L.680 and A/C.6/L.689). Article 19 laid down a new rule of international law with regard to the right of special missions to use the flag or emblem of the sending State, and paragraph 2 of that article qualified the application of the article in order to avoid any abuses.

55. Mr. PERSSON (Sweden) said that in its comments on article 6 (see A/7156), the Swedish Government had pointed out that it might be advisable to delete article 19. Consequently, his delegation was in agreement on that point with the Norwegian delegation. Nevertheless it would not object if it was decided to retain the article, though in that case the changes proposed in the Belgian and Netherlands amendments (A/C.6/L.680 and A/C.6/L.689) would have to be made. The text as drafted would seem to make the right to use the flag or emblem of the sending State depend on the consent of the receiving State. He would suggest to the Drafting Committee that the words "except as otherwise agreed" should more correctly be replaced by some such expression as "unless the receiving State objects".

56. The exercise of the right provided for in article 19 might give rise in the future to some difficulties in the case of joint special missions or when too many special missions met simultaneously, particularly in a State not participating in the deliberations, but it would be advisable to wait and see how the article worked in practice.

57. Jonkheer van PANHUYS (Netherlands) briefly reviewed the points of view of the delegations on the Netherlands amendment (A/C.6/L.689) and noted that the exception for which it provided had been regarded by some as intended to restrict the privilege provided for in article 19, while others had thought it might extend that privilege. It had also been said that that exception might be unnecessary in view of the provisions of article 50 and of general legal principles. The Netherlands delegation had itself referred to the relationship between its amendment and the rules laid down in article 50 and it agreed that the question of departing from a provision by mutual agreement among the parties could be raised in the case of any normative convention. In that connexion, it agreed with the comment made by the representative of Iraq. However, it thought the question should be cleared up. If the future Convention was to be based entirely on *jus dispositivum*, his delegation would not insist on its amendment, but in that case it should be duly pointed out that any provisions of the Convention might be set aside by common agreement.

58. The CHAIRMAN said the Committee would have to decide, after the Netherlands amendment (A/C.6/L.689) had been referred to the Drafting Committee, whether article 50, paragraph 2 (c) was a general provision applying to all articles of the Convention. If so, the said amendment would have to be regarded as superfluous.

59. He would put the Belgian amendment (A/C.6/L.680), which dealt with a question of substance, to the vote first, and then article 19 as a whole.

The Belgian amendment was rejected by 35 votes to 34, with 12 abstentions.

Article 19 was approved by 75 votes to 1, with 7 abstentions, and was referred to the Drafting Committee.

60. Mr. YAÑEZ-BARNUEVO (Spain) said, in explanation of his vote, that he had voted for the Belgian amendment. His delegation hoped that the Drafting Committee would take into account the interesting suggestions that had been made in the course of the debate. With regard to the Netherlands amendment, his delegation would base its position on the results of the Drafting Committee's work. It considered that the Ethiopian representative's oral proposal that the word "shall" in the English text of article 19, paragraph 1, be replaced by the word "may" could also be made for the Spanish text. With regard to the Venezuelan delegation's suggestion to strengthen the formula "regard shall be had" in paragraph 2, it wished to point out that article 48 of the draft Convention provided that the laws and regulations of the receiving State must be respected.

61. Mr. REIS (United States of America) hoped that the Drafting Committee would bear in mind the useful suggestions made during the debate, including the

Ethiopian representative's oral amendment concerning article 19, paragraph 1, and the Venezuelan proposal concerning paragraph 2 of the same article.

62. Mr. ENGO (Cameroon) said that he had voted in favour of the Belgian amendment, because he could see no valid reason for allowing a special mission to display the flag and emblem of the sending State on an unlimited number of vehicles. There were other distinctive signs for the identification of means of transport.

63. Mr. MULIMBA (Zambia) explained that he had voted against the Belgian amendment because of the difficulties it might have given rise to in the event of the absence of any head of mission or in the event of there being more than one head of mission. Provision for such situations was made in articles 9 and 5 respectively of the draft Convention.

64. Mr. ESPEJO (Philippines) said he had not supported the Belgian amendment since he shared the Nigerian representative's point of view. He wished to point out that the situation provided for in article 17, paragraph 3, made it necessary to allow for cases where a single mission might have to use its flag and State emblem on several of its vehicles when it was carrying out its functions in several places at once.

65. Mr. BIGOMBE (Uganda) said he had voted against article 19 because his delegation considered that its provisions were unnecessary and might lead to abuses.

66. Mr. HAMBYE (Belgium) pointed out, in view of the rejection of his delegation's amendment, that the Drafting Committee, to which article 19 as a whole was being referred, would have to endeavour to draft rules for a normal and non-abusive use of the flag and emblem of the sending State, bearing in mind the various points of view expressed during the debate, including that of the Expert Consultant.

67. Mr. SPERDUTI (Italy) stated that his delegation had voted in favour of the Belgian amendment, which it regarded as a useful one, and had also voted for the approval of article 19 of the draft. He thought that the Drafting Committee would have to consider ways of indicating the scope of the concept "official business", as it arose in actual practice.

Article 20 (End of the functions of a special mission)
(continued)

68. The CHAIRMAN suggested that, if there were no further comments on article 20, the Committee should approve it.

Article 20 was approved.

Organization of the work of the Committee

69. The CHAIRMAN said that the deadline for the submission of amendments to articles 26 to 30 of the draft Convention would be 6 p.m. on Wednesday, 30 October 1968.

The meeting rose at 6.20 p.m.

