

**The United Kingdom and the Negotiation of the 1969 New York Convention on
Special Missions**

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Abstract

During 1968-69, members of the United Nations, meeting in the Legal Committee of the General Assembly, negotiated a Convention on Special Missions, sometimes known as the New York Convention, setting out the privileges and immunities of *ad hoc* embassies between states. The negotiation was part of a process through which the UN sought to clarify the status and rights of official representatives, so that diplomacy could function with security and certainty. This article looks at the role of one leading power, the United Kingdom, in the talks. It explores how British interests were defined, the tactics used to secure them and how London came to terms with pressure from other states to redefine its approach. The focus is on the overall political thrust of the British negotiating position, as formulated mainly by the Foreign Office, rather than the detailed talks on such thorny issues as tax avoidance and diplomatic property. The article shows that, while London was keen to see a codification of diplomatic law, Cold War considerations made it less than enthusiastic about an upsurge in the number of special missions that the New York Convention might encourage.

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During 1968-69, members of the United Nations (UN), meeting in the Legal Committee of the General Assembly, negotiated a Convention on Special Missions, sometimes known as the New York Convention, setting out the privileges and immunities of the ever-increasing number of *ad hoc* embassies that passed between states. This agreement followed the 1961 Vienna Convention on Diplomatic Relations, which set out the privileges and immunities of *permanent* embassies, and was part of a process through which the UN sought to clarify the status and rights of official representatives, so that diplomacy could function with greater security and certainty. This article looks at the role of one major power, the United Kingdom (UK) of Great Britain and Northern Ireland, in the talks of 1968-69. It explores how British interests were defined on this issue, the tactics used to secure their aims in the multilateral negotiations and how they came to terms with pressure from other states to define a Convention very different from the one London originally envisaged. The focus is very much on the overall political thrust of the British negotiating position, as formulated mainly by the Foreign Office (FO). Only limited attention is paid to specific amendments of many of the individual articles, the detailed negotiations in New York, or the position of ministries in London concerned with such thorny issues as tax avoidance, customs controls and diplomatic property. Such a look at the general UK position reveals that, while London was keen to see a codification of diplomatic law, it was less than enthusiastic about an upsurge in the number of special missions that the New York Convention might encourage. In particular, the British feared that the Soviet bloc might exploit the Convention to flood London and other Western capitals with spies. In the early stages of the negotiation,

London had only a limited impact in shaping the document, its views on an initial draft being largely ignored by the International Law Commission, the body responsible for drafting the document. However, in the final phase, in 1968-69, working alongside the French, the British were much more successful in shaping the document to suit their own interests, helping to ensure that it could not be exploited by the Soviets in the Cold War.

Special Missions

The New York convention defined a special mission as ‘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.’¹ As will become evident below, this precise form of words was subject to considerable debate. In the ancient and medieval worlds, special missions were the normal means of conducting diplomatic exchanges, with ambassadors sometimes taking months to travel to a foreign country, carry out their instructions and report back home. Only in the fifteenth and sixteenth centuries did the permanent, or resident, embassy emerge as a key institution of diplomacy, with several advantages over special missions. Resident ambassadors could collect more information on the states to which they were accredited, master local customs, establish close relations with members of the government, represent their government at ceremonies, propagandise and provide consular services for merchants. Actually, special mission never disappeared. In the eighteenth century, ‘Ceremonial embassies might still occur... and special, one-purpose missions to make peace remained common.’² Yet, when the widespread use of special envoys revived in the mid-twentieth century, Humphrey Trevelyan, a British ambassador,

disparaged them as ‘a bad American habit’.³ Others, too, have seen them as ‘a distinctive feature of American style’, the archetype being Colonel Edward House, employed by President Woodrow Wilson during the First World War.⁴ By then, modern communications meant that such individuals could travel far more widely, quickly and safely than their counterparts in the past.

American Presidents, like Wilson or Franklin Roosevelt, used special envoys to underscore the White House’s role in foreign policy, circumvent the State Department and carry secret messages. However, as Henry Wriston, one of the few academics to study them has noted, ‘The special envoy is not an American institution but a universal practice.’⁵ The British, too, often made use of it in the twentieth century, two of the more famous cases being Lord Runciman, who tried to settle the Sudeten problem in Czechoslovakia in 1938, and Lord Keynes, who negotiated a loan from the United States (US) in 1945. In fact, bearing in mind the New York Convention’s definition of the term, any official, one-off embassies abroad – such as those by heads of state and government (at ‘summit’ level), by foreign ministers, indeed by anyone officially accredited – are special missions. A study of British diplomacy in the 1960s and 1970s, found examples of special missions that included retired civil servants and generals, business leaders, lawyers, members of the Opposition and even members of the royal family.⁶ The special mission is clearly a flexible institution, used for diverse purposes. These include, to list only a selection, negotiating technical questions (where a permanent embassy might not be equipped for the task), attending major ceremonies (like the funeral of a great figure) and dealing with states where there were no diplomatic relations. The number of such missions has grown apace since 1945 for a number of reasons, including the easy

availability of jet air transport, the increasing number of independent states and the growing number of technical issues in an interdependent world, which are better resolved by experts than by the staff of resident embassies. It was easier to send out special missions than ever before and, an essential point for many less-developed states, a more convenient, cheaper practice than setting up permanent diplomatic posts in other capitals.⁷

However, the mushrooming number of special missions served to expose the legal uncertainties that surrounded them. While some forms of *ad hoc* visit had long possessed privileges and immunities in international custom, most notably those made by heads of state⁸, and while it was widely agreed that they all deserved some kind of protection, this was nowhere laid down in an agreed form. There was an argument that this absence did not really matter since, in practice, special missions ‘seldom gave rise to any practical difficulties’ and, in many cases, where it was necessary to give legal protection to a special envoy, ‘it was always possible to accredit him for a short period as a member of [a] permanent mission.’ Even in Communist states during the Cold War, special missions sent by Britain were generally well treated. In March 1968 the FO’s Security Department could not ‘recall any unpleasant incident involving Missions of this kind where the Mission has suffered because of a lack of diplomatic immunity.’ Furthermore, wealthier states, including the UK, which could afford large numbers of permanent embassies, and which hosted an equally large number in their capitals, had little enthusiasm for codifying the law around special missions. Such states already gave privileges to missions by heads of state and government, foreign ministers or senior officials. But, they ‘were very conscious of the administrative difficulties of extending inviolability to the hotel suites of

transient missions, or of extending tax and customs privileges to the multiplicity of foreign officials who came and went...'. By the 1960s, however, the view of poorer states was winning through, that, since they could not afford a substantial number of permanent embassies, their *ad hoc* missions deserved equality of respect and protection.⁹

The Decision to Pursue a Convention, 1958-67

The UN's International Law Commission (ILC), which was set up in 1948 to develop and codify international law, had first considered setting down rules about special missions in 1958, when it also began to draft articles on diplomatic privileges and immunities for permanent embassies. A *rapporteur*, Sweden's Emil Sandström, was appointed to draw up a report on 'ad hoc diplomacy', by which was meant 'itinerant envoys, diplomatic conferences and special missions sent to a State for limited purposes.' His report went before the ILC's twelfth annual meeting in 1960, but there was insufficient time to study the question and, in effect, it was decided to give primacy to negotiating the Vienna Convention on permanent embassies. Only in December 1961 did the General Assembly again ask the ILC to look at special missions and itinerant envoys. This time Milan Bartos, a Yugoslavian law professor, was appointed special *rapporteur* for the study, with the task of drafting some articles. (It was decided, for convenience sake, to leave aside the issue of diplomats attending ad hoc *conferences*.) Communist states and the Afro-Asian bloc of newly-independent states showed particular enthusiasm for an agreement. By the mid-1960s, as the process of decolonisation gathered pace, these two groups increasingly joined to outvote Western powers in the General Assembly.

Based on Bartos' work, the ILC put forward draft articles for a Convention in 1965 and invited governments to comment on this by May 1966. The draft articles were very elastic in their approach. Article 1 simply stated that 'For the performance of specific tasks, states may send temporary special missions with the consent of the State to which they are to be sent', while Article 2 read, 'The task of a special mission shall be specified by mutual consent of the sending State and the receiving State.' Special missions could be sent to more than one State (Article 5). The sending State could 'freely appoint' a mission's members (Article 3), although, at any point, the receiving State could declare an individual member 'not acceptable' (Article 4) and the receiving State could also set limits on a mission's size (Article 6). The draft articles also dealt with such topics as precedence, inviolability, freedom of movement, exemption from taxation and jurisdiction, the obligations of third states through which special missions passed and the position of a mission's support staff. Many of these were in line with privileges and immunities given to resident embassies under the Vienna Convention: indeed, it was a key principle of the drafting process that this should be so. The ILC also considered whether there should be two levels of special mission, the first of which would be led by those who 'hold high office in their States'. This idea would subsequently become of some significance in British thinking, as will become clear below.¹⁰

An initial consideration of the proposed Convention took place in London at this time and the FO began to gather views from other government departments. The potential reach of a Convention, in terms of granting privileges and immunities to visiting diplomats, was reflected in the broad range of those consulted, including not only the legal departments, the Treasury and Home Office, but also, among others, the Post Office

Inland Revenue, Customs and Excise, and the Ministry of Pensions and National Insurance.¹¹ The FO despatched their comments to New York on 20 May 1966, in a memorandum that, while expressing support for the codification of international law, was sceptical about the thrust of the draft Convention. In particular, the British bluntly expressed their ‘opposition to the undue extension privileges and immunities which certain articles appear to confer.’ It was believed that ‘the grant of such privileges and immunities should be strictly controlled by considerations of functional necessity and should be limited to the minimum required to ensure the efficient discharge of the duties entrusted to special missions.’ Among other detailed points, the UK wanted to define a special mission in precise terms, to place limits on the purposes of missions covered by the Convention, to keep immunities and privileges within those of the Vienna Convention and to clarify such issues as taxation, customs duties and the inviolability of premises.¹² This was partly because such a restrictive approach was felt to fit the wishes of Parliament, the legal profession, the Press and the general public, who were already resentful of the ability of diplomats to avoid paying taxes and evade traffic regulations. However, there were similar concerns within government, not least from the Inland Revenue, which was keen to crack down on tax avoidance by those claiming diplomatic privileges.¹³

Perhaps because of a lack of qualified legal advisers in many foreign ministries, few other governments responded to the initial invitation for comments on the ILC’s draft articles. As a result, a second invitation for comments was sent out by the UN Secretary-General, which brought more responses before the 1967 session opened. The ILC then re-drafted the articles, which now included a draft preamble and a definition of terms,

including the meaning of ‘special mission’.¹⁴ On 4 December 1967 the UN General Assembly resolved that there should be negotiations on a Convention, to be carried out through its Sixth (or Legal) Committee. This would begin work in the autumn of 1968. Governments were invited to submit views on the ILC’s draft articles to the Secretary-General by 1 July and this led to a renewed, more urgent debate in London.

The British Dilemma

The British negotiating position did not seem strong in the wake of the 1967 sessions. The ILC and the *rapporteur*, Bartos, were not responsive to views expressed in the 1966 British memorandum, even when these had the support of other West European governments. In their submission, the British had suggested broadening the Convention to cover a diverse range of missions that did not fall under the 1961 Vienna Convention (such as missions to conferences). London thereby hoped to avoid having to negotiate more Conventions in future. But this suggestion was not taken up. Nor had the British argument that special missions must have the ‘express consent’ of a receiving state been adopted. As one of the FO’s assistant legal advisers, Eileen Denza, complained, this opened up the possibility that ‘a group of wandering government officials who have entered UK territory without protest on our part’ could claim the entitlements of a special mission, including such rights as a diplomatic bag, immunity from legal suits and inviolable accommodation. In some ways, she felt, the 1967 draft was worse than that of 1965. For example, as noted above, the earlier document showed signs of differentiating between types of mission, with higher levels of immunity given to ones headed by a minister – an approach to which she was sympathetic, but which the British response of

May 1966 had not commented upon. It may be that the FO simply expected the idea to remain in future drafts, but the 1967 re-draft rejected the idea of tiers of immunity, in favour of the simpler reliance on a single list. True, the new Article 21 did note that special privileges were held by any head of state leading a mission, but this was no more than a statement of existing practice. It also said that heads of government, ministers and 'other persons of high rank' should enjoy, 'in addition to what is granted by these articles, privileges and immunities accorded by international law.' But this was ambiguous because, as far as the British were aware, such privileges were nowhere set out in international law. Worse still, the new draft continued to run against Britain's expressed 'opposition to the undue extension of privileges and immunities...'¹⁵

As a later memorandum pointed out, if Britain could not secure a better deal, Parliament might refuse to approve a Convention based closely on the current draft. On the other hand, if Britain refused to sign a document codifying international law, 'it would be politically embarrassing...'¹⁶ The situation was made more difficult by a toughening of the view, in the FO itself, that an increase in the number of special missions was undesirable. This view was linked to the fact that the Cold War was at its height. It was feared that Communist states would exploit the proposed Convention for nefarious purposes. As Howard Smith, head of the Northern Department, responsible for relations with the Soviet Union, pointed out in a minute of March 1968: the Communists were 'always looking for ways of proliferating their representation in the West', partly as 'a cloak for intelligence operations' and to help 'gather unclassified but specialist information.' The Communists were sure to try to extend the life of special missions for as long as possible and this would 'make the job of the Security Service, which is already

under pressure in keeping communist embassies under surveillance, all the more complex.’ Smith viewed the whole prospect of a Convention ‘with some apprehension’ and wanted ‘to diminish the extension of privilege involved as far as possible.’¹⁷

In retrospect, such fears may appear exaggerated, but it is worth emphasising that, just three years later, in September 1971, the problems of monitoring Soviet activities in Britain led to the expulsion of more than a hundred of their diplomatic staff and soured bilateral relations for years. In 1968, it was reckoned that, between them, the Soviet embassy and trade mission included 122 intelligence officers, with more employed at consular offices, all of which posed a major challenge to the counter-intelligence service, MI5.¹⁸ Derick Ashe, the head of the FO’s Security Department, which was responsible for liaison with the intelligence services, echoed Smith’s arguments. Ashe opposed any measure that might provide ‘unfriendly governments with additional umbrellas for intelligence operations’, and he expressed concern over the draft Convention’s obligation on third states to allow the free passage of special missions from one state to another. This, too, might be exploited by unfriendly governments to send their officials to the UK for an indeterminate period. Like Smith, he wanted to reduce the scope of the Convention ‘as much as possible.’¹⁹ Even though the draft Convention included the need for receiving states to approve special missions, the FO feared that ‘Communist countries would be skilful in exploiting every opportunity to create situations in which it could be difficult for Her Majesty’s Government to refuse consent.’²⁰ That was one reason why the FO hoped to strengthen the relevant Article, so that ‘express consent’ was required for missions.

Defining a British Position, March-October 1968

To prepare their negotiating position, the government's Immunities and Privileges Committee decided in March 1968 to establish an inter-departmental working group.²¹ This included representatives from the FO, Commonwealth Office, Law Officers' Department, Home Office and Customs and Excise, with Denza as chair, and with representatives of other departments invited to attend when necessary.²² Their task was threefold: to prepare comments on the ILC draft, suggest amendments to this and consider the best way of securing these amendments.²³ As a basis for discussion, the FO drafted comments on the ILC's 1967 draft Convention, which largely mirrored those of May 1966. The British were not negative about an agreement. Indeed, they still believed that in some ways it did not go far enough and that (partly to prevent the need for further conventions) its provisions should cover missions to *ad hoc* international conferences. However, the main British argument remained that the 'level of privileges and immunities is too high... not sufficiently related to functional need and... not confined to the minimum essential to enable missions to discharge their duties effectively.' The FO believed that 'most visits of representatives on official business should take place without rigid formality.' The Office was willing to extend the proposed privileges and immunities to 'high-ranking' missions, such as those led by ministers, and to those engaged in 'highly sensitive or dangerous' tasks, though it was unclear how these last would be defined. But it wanted a second, lower level of privileges and immunities for 'routine missions of a technical or economic character', while 'visits of a routine character by government officials should not receive privileges or immunities at all.' Effectively, then, at this point the FO wanted a three-tier system of special missions. The other main British

aim was to ensure that the application of the Convention should be 'subject to the express consent of the receiving State', even if this could be given informally.²⁴ There was a range of other concerns within the Office about a Convention, including exemptions it might give from taxes, customs duties and prosecution for traffic offences.²⁵

The working group held its first meeting on 22 March 1968, when the representative from the Law Officers' Department expressed scepticism about the whole idea of negotiating a Convention, but Denza insisted that it was British policy to support the codification of international law. Discussion focused on the FO's draft comments on the Convention. These were largely approved, with Michael Jenkins, of the Office's Northern Department, underlining the danger that, if restrictions on special missions were not tight enough, they could be exploited by Communist states. He wanted to see a close definition of the term 'special mission' and clarification that they were for 'specific short-term negotiations...' The meeting agreed to pursue the idea of a three-tier system of special missions, despite doubts about how easy it would be to differentiate between the tiers.²⁶ Further meetings of the working group, during April and May, discussed the FO paper and agreed specific comments on individual articles in the draft convention.²⁷ The proposed negotiating position was then circulated round Whitehall and beyond, but drew some criticisms. The British mission at the UN, whose prime concern was the practical business of negotiating the Convention, feared that the idea of three tiers of special mission 'does not seem sufficiently clearly defined or sufficiently supported by argument to carry conviction', especially because it was difficult to distinguish between the second and third levels. For example, at what point did a mission become 'routine'? And, what

happened if the sending and receiving state could not agree on the tier into which a particular mission fell?²⁸

At a meeting of the working group in June, debate focused on the issue of three tiers. The FO legal advisers still felt this was defensible; there were already different tiers under Article V of the Convention on the Privileges and Immunities of the UN's Specialised Agencies. However, other members were worried that it might be dismissed by the Afro-Asian bloc as an 'uncooperative' step, or that it could be ruled out simply because it would be time-consuming to negotiate. As a result, the group decided to seek a system based on two tiers only, with the number of missions on the higher scale to be kept limited in number. These missions, which would be given privileges and immunities in line with the ILC draft, would generally be led by a head of state, head of government or a minister and their privileges and immunities would revert to the lower tier if the head returned home. However, other missions could be included by mutual agreement between the sending and receiving states. The majority of missions would be granted a lower level of privileges and immunities but, since these would be in line with the Convention on the Privileges and Immunities of the UN's Specialised Agencies, it was hoped they would be acceptable to member states.²⁹ This position, along with other detailed comments on the draft articles, then went back to the Immunities and Privileges Committee for approval.³⁰ Despite some redrafting of detailed points, this remained the British position in October 1968, when discussions in the Sixth Committee began. In trying to achieve their aim, the British, well aware that 'an attack openly directed at fundamental revision of the final draft Articles could be counter-productive', planned to appear positive and constructive. In the last analysis, however, if 'there should be an attempt to steamroller the draft

Articles through... it may be necessary for the delegation to take a very tough line and warn that unless there is some modification...the resulting Convention will be unacceptable to a number of States.’ By then, the newly-merged Foreign and Commonwealth Office (FCO) was confident that the UK was not alone in its views.³¹

Mustering Support, March-December 1968

From the outset of the discussions on a Convention, the British recognised the need to secure allies in the negotiations. There was a general expectation that the Communist and Afro-Asian blocs in the UN would back a far-reaching Convention, but responses to the ILC’s draft articles of 1965 had shown that Britain’s approach was shared by some other countries, including West Europeans (notably Belgium and the Netherlands) and the Commonwealth (especially Australia and Canada). Denza believed it particularly important to co-operate closely with the Europeans. There had been some allies in less likely quarters too. Neutral Finland shared the British view that the Convention should be broadened to cover conference delegations; Czechoslovakia, though part of the Soviet bloc, had been sympathetic to dividing special missions into two tiers, with different levels of immunity; and, from Africa, Gabon feared an ‘inflation’ of immunities and privileges for diplomats.³² Doris Puleston, of the Protocol and Conference Department, who was one of the FO’s representatives on the working group, felt that ‘quite a large scale operation might be needed to enlist support in the practical shape of votes in the Sixth Committee’, beginning with a ‘consolidation of Western European views.’³³ When reviewing the situation in March 1968, the FO was confident that Western European and Commonwealth states had shared London’s ‘critical views’ of the 1965 draft articles, but

recognised that ‘a concerted and prepared approach will be needed’ to secure its aims. The General Assembly included ‘a majority of states – Afro-Asian and Communist – who will probably be in favour of retaining the ILC draft Articles in their present form...’. It was hoped to muster support through talks at the Committee on Legal Co-operation of the Council of Europe in Strasbourg, as well as via talks with US and Commonwealth legal representatives based at the UN in New York.³⁴

Henry Darwin, the legal adviser at Britain’s UN Mission in New York, wrote to Denza in May, when the FO was still focusing on settling its negotiating position, to press the need for more attention to procedures. The Sixth Committee, working as it was to a tight deadline, was likely to deal with the Convention ‘at some speed’ and it was essential that Britain must have strong allies. Otherwise, ‘the discussions will pass us by; we will be unable to influence the development of the draft and will end up with a Convention based closely on the ILC Articles.’ Communist states were already ‘leading the pack’ in support of the ILC draft and Britain had to secure Western support for its position. However, with many officials absent from New York in June (because there were meetings to attend in Geneva) and over the summer holidays, it would not be possible to have wide-ranging talks with Western representatives until mid-September, a matter of weeks before the Sixth Committee focused on the question.³⁵

Nonetheless, the FO did not begin to gather support in earnest until the Summer, after the working group had prepared Britain’s negotiating stance. In late July, Puleston drafted a telegram to send to British posts, asking them to enlist support for London’s position.³⁶ But, perhaps because it was the holiday season, this was not sent out by Lees Mayall, Head of the Protocol and Conference Department, until 20 August, accompanied

by a warning that Communist countries would try to ‘railroad’ the draft articles through.³⁷ The UK’s proposed amendments to the draft Convention were only sent on 23 September, a matter of weeks before the General Assembly was due to get to work.³⁸ Even though it was decided to omit the Soviet bloc, China and two countries with which London currently had no diplomatic relations (Syria and Guatemala), and while the British continued to make a separate effort in the Council of Europe, this still amounted to a large-scale campaign, involving ninety countries. There was a particular effort to secure US sympathy, but the State Department was doubtful about the chances of fundamental alterations to the ILC draft and felt that a British campaign to amend them could prove counter-productive. Richard Kearney, who did much to shape the Department’s views on the issue, had himself been part of the ILC in the 1967 talks and his experience evidently left him very doubtful about altering the Commission’s approach.³⁹ Indeed, so strong were his feelings that the British felt it would only be possible to alter US pessimism if they could muster support for their own views elsewhere.⁴⁰ Meanwhile, it was hoped that the Americans would ‘keep their views to themselves while we are canvassing.’⁴¹

In contrast to American caution, the French took an even more critical view of the ILC proposals than Britain did. Paris proposed many amendments to them, an approach that the FO felt was ‘tactically less likely to succeed.’⁴² More encouraging was the sympathy expressed for the British by almost all the members of the Council of Europe, who discussed the issue in September. The Canadians were also ready to support the British case.⁴³ There were other states that needed little persuasion to sign up as allies. Pro-Western, economically-developed countries like Australia and Japan, had little desire

to create a far-reaching Convention.⁴⁴ The Iranian Ministry of Foreign Affairs also expressed support for the British approach, as did other firmly anti-Soviet regimes like South Africa and Pakistan.⁴⁵ Nonetheless, some pro-Western states were more lukewarm. The Moroccan government, for example, was keen to prevent Communist infiltration under the guise of diplomatic missions, but the King was also an avid employer of special emissaries and he favoured broad privileges and immunities for them.⁴⁶ In Israel, too, the foreign ministry's legal adviser, Yehuda Gera, felt his country would gain from greater protection for special missions, especially when so many other states did not recognise Israel's existence. One of the many elastic elements of the ILC draft was that *diplomatic recognition was not necessary* for special missions to pass between two states, a point Israel could only welcome.⁴⁷ Despite French scepticism about the Convention, it was felt that many of their former African colonies, like Senegal, Mauretania and Mali, would fall in behind the Afro-Asian desire for a strong Convention.⁴⁸ When approaching the foreign ministry in Algiers, Nicholas Fenn, Britain's Head of Chancery, 'tried to make their blood curdle a little by suggesting possible activities on the part of a mission from an unnamed country to Algeria', but this had no effect. Fenn was left with the feeling that Algerian officials 'thought that we were making an unnecessary fuss', that they would follow the Soviets on 'this rather esoteric question.'⁴⁹

The attitude of most governments to the draft Convention was one of indifference. Ronald McKeever, who was jointly British ambassador to Togo and Dahomey, approached senior figures in both foreign ministries but found them ignorant of the whole question – though McKeever felt that it would be possible to win them over by stressing 'the danger of free-wheeling missions from communist countries which might descend on

their capitals.⁵⁰ The Niger foreign minister doubted that many special missions would want to visit in his country, while the foreign ministries of Ivory Coast and Upper Volta were described as ‘more or less a man, a couple of boys, a French typist and a French *Conseiller Technique*’, who were too busy with other issues to worry about special missions. In any case, their ambassadors to the UN were likely to ‘disregard orders if they conflict with the African lobby consensus in New York.’⁵¹ It was difficult to get a view from the Mexican government because it was preoccupied with hosting the Olympic Games. Indeed, by the time the Mexicans expressed a detailed opinion the British proposal for a two-tier approach had already been rejected in New York.⁵² From many governments, it was not even possible to extract an opinion.

Preparing for the second round, December 1968 to August 1969

In the aftermath of the 1968 negotiations, Darwin, from the perspective of the UN mission, felt the British campaign had been poorly organised, hence Britain’s inability to shape the draft document in the ways it wanted. Although the UK took part in a ‘western group’ within the Sixth Committee, where there was some sympathy for its views:

...our prospects... were much weakened because we presented our ideas so late in the year. This meant that the lobbying in capitals was too near the Assembly ... Secondly, it meant that we had to present the text of our proposal to the delegations in the Sixth Committee almost as a novelty, since few of them had worked out the real meaning of our written comments and many no doubt had not read them.

For the moment, the British were saved by the fact that the Sixth Committee, although it held thirty-four meetings between 15 October and 15 November 1968, failed to reach a final agreement on a Convention. While twenty-nine articles were settled, mainly those that had a clear parallel in the 1961 Vienna Convention (and were therefore less controversial for Britain), another twenty-one remained to be discussed, as had the issue of defining basic terms (in Article 1). Another round of talks would therefore be necessary in 1969. Ahead of these, Darwin was determined to avoid a repetition of the errors of 1968: he wanted two rounds of lobbying, in June and September, with discussions via the Council of Europe even before that. He also advocated trying to win over the UK's perceived opponents, by sounding out Communist states on British thinking.

The British aim remained 'to reduce the scale of privileges either by considerably narrowing the definition or by establishing a two-tier scheme.' The problem, however, was that neither the ILC nor the Sixth Committee had shown any enthusiasm for the two-tier scheme that lay at the heart of British thinking in 1968, partly because it seemed so difficult to divide special missions into separate categories. Nor did they like an alternative, the French proposal that only high-ranking members of special missions should receive diplomatic-level immunities and privileges. There was a disappointing lack of support from other delegations in general, including the United States, but the fact that Britain and France, while sharing similar doubts about the ILC draft, had pressed different alternatives, itself damaged the Western case. There was a determination in London to prepare the ground better next time. Darwin, however, was sceptical about how easy it might be to achieve a restrictive definition of special missions and a report to

the inter-departmental working group, drawn up by the FCO's Protocol and Conference Department, noted that the Communist states and some others (like Iraq) were determined on a loose definition of special missions. It is worth quoting one section in this report that shows London now fully understood why so many less-developed states were keen to protect special missions: 'It would be hard to say that there is no foundation for the assertion that emergent countries which cannot afford to train and pay a large diplomatic service or to keep up many permanent diplomatic establishments find it economical and convenient to use special missions for *ad hoc* diplomacy.'

Nevertheless, the situation was not without hope. Rather than pushing through a Convention at this point, as some delegations had wanted, the Sixth Committee had agreed to suspend its work. This could 'reasonably be interpreted as showing that more than a few delegations were willing to allow us the opportunity to reconsider the problems and create new proposals to overcome them.' Furthermore, the atmosphere in New York had been 'friendly and tolerant', it was clear that the USSR wanted to reach agreement on an acceptable draft and there was evidence of 'a general disposition to take the views of others into account and to search for compromise solutions.' After all, there was little point for anyone in producing a draft that many states refused to sign. Partly because they took such a keen interest in the issue, the UK had got onto the fifteen-member Drafting Committee, as had France, which put both in a strong position to have their views count.⁵³ Additional hope was provided, in February 1969, by a meeting between Doris Puleston and a member of the French foreign ministry, when it emerged that, despite its uncompromising approach to the recent talks in the Sixth Committee, Paris had similar feelings about future negotiations. Ideally, they wanted to accept such a

document, but they were determined to see some amendments to it, so as to restrict its applicability, and they also hoped to secure a tight definition of the term ‘special mission’ in the opening article. This showed that the UK and France might be able to work together on the issue.⁵⁴

Philip Allott, one of the FO’s Assistant Legal Advisers, who had attended the New York sessions, was more hopeful than Darwin that it might be possible to achieve a tighter definition of special missions in the Convention’s first article. In early 1969, this view began to gather support in the FCO. Allott put his case to the inter-departmental working group at the end of January, where there was general acceptance that a two-tier system was now impossible. It certainly seemed that ‘nothing is likely to change the basic attitude of the majority in the Sixth Committee’ that the ILC draft, with its extensive privileges and immunities was acceptable. Rather than turning Britain’s back on the document, London preferred to continue efforts to amend it. But it was clear that securing amendments to a number of articles would be a difficult business. It was far easier to find some kind of general solution to the British dilemma. Since the idea of creating two tiers of mission – the central plank of their position in 1968 – appeared a forlorn hope, the UK focused on a different strategy, effectively aimed at limiting the application of the Convention as a whole via a restrictive definition of special missions, linked to amendments to the specific articles on privileges and immunities.⁵⁵ To achieve this, there was a renewed attempt to coordinate policy with the French and, in late May, another discussion at the Council of Europe. The last proved to be a muddled discussion and it proved difficult to produce a restrictive definition of the term ‘special mission’, although there was general agreement that one was desirable. In particular, it was agreed that

missions must be *diplomatic* in nature (as opposed to having, say, some artistic, sporting or scientific purpose) and that they must be recognised as such by both the sending and receiving states. The Council of Europe members also accepted that, if a restrictive definition of special missions could be achieved, then it would be easier to accept a broad definition of immunities and privileges in other articles.⁵⁶

The British subsequently drafted a paper, for discussion with other governments, on defining the term ‘special missions’. The 1967 ILC draft definition had read that, ‘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.’ The British knew that careful consideration had gone into this definition and that it was already seen, by the ILC, as being restrictive. London could see that it differentiated special missions from permanent embassies, that it made clear they must be temporary (not open-ended), that they should operate at state level (and therefore exclude non-governmental bodies) and that they should have some particular task to perform. Indeed, in contrast to the French, the FCO felt that, in the last analysis, they could live with the ILC definition. But they felt it could be improved upon, so as to restrict such missions to *diplomatic* purposes. They also hoped to add an explicit reference to the need for mutual agreement between the sending and receiving states before a special mission could take place.⁵⁷

It was clear already that the French government, which all along had been even more critical of the draft Convention than Britain, shared this view and, by mid-August, the French foreign ministry had agreed that its UN mission would work to secure a restrictive definition of special missions. A draft brief for the British delegation instructed

them to work closely with the French either to achieve a tighter definition or, failing that, to have inscribed on the record a restrictive interpretation of the existing ILC draft.

Although there were striking similarities in their interests, it was not easy for London and Paris to work together, largely because they had contrasting tactical approaches. The FCO wanted to appear co-operative in New York and was ready to start from a position of clarifying the ILC draft, to make its restrictive nature clear. But the Quai d'Orsay wanted to be more forthright, to draft a new definition and insist that this should be discussed at the outset of the next Sixth Committee sessions. Until late in the proceedings, Paris was even considering a stark warning to the other delegations that the draft Convention was unacceptable. This was why instructions to the UK delegation included the argument that Britain might have to 'part company with the French if they choose to follow an unreasonable course.'⁵⁸ London and Paris were allies of a kind, then, but less than united.

The Convention achieved, August-December 1969

Despite all the concerns that preceded them, the final negotiations in New York actually went remarkably smoothly, largely because most delegations were happy to accept the ILC draft, but also because of a willingness to strike compromises so as to embrace as many states as possible, including Britain and France. A draft technical brief for the British delegation was completed in late August⁵⁹ and sent to Darwin in New York on 4 September. By then, the FO believed that 'our general position this year should be considerably easier than last year' and that, 'if the position develops satisfactorily in relation to Article 1 (a.)', then all that would really be required would be a few

amendments to other articles, such as the definition of ‘diplomatic staff’. When negotiating the all-important Article 1 (a.), the British planned to ‘give the impression of relaxed reasonableness this year rather than an impression of bitterness or hostility.’ This was all the easier given the British view that the existing ILC definition ‘can be quite properly interpreted’ in the way London wanted. It was possible that the debates might not go Britain’s way and that other Whitehall departments take a difficult line when it came to ratification, but ‘We can only face these possibilities if and when they occur.’⁶⁰ Continuing to work closely with the French, Britain’s UN mission began to share the position paper with other delegations in early September, starting with Western delegations and moving on to states who were members of the ILC.⁶¹

The Sixth Committee resumed its discussion of special missions on 10 October 1969, with British and French representatives again serving as part of the smaller Drafting Committee. This gave them significant influence over the shape of the debate and, since London and Paris now co-operated more closely together, they were better able to secure their aims than they had been in the previous round of talks. The chance of a difference of opinion between London and Paris was much reduced when, at the start of the talks, the Sixth Committee agreed to put the definitions article, Article 1 (a.) to the Drafting Committee without any prior discussion. The new definition did not use the term ‘diplomatic’ to describe the functions of a special mission. But it did make clear that missions must represent a state and it absorbed the point that they could only be sent with the consent of the receiving state. This was very welcome to both the British and the French, allowing them to devise a restrictive definition that was subsequently accepted by the Sixth Committee ‘without substantial debate.’ The achievement was so significant

that the two countries then withdrew many of their proposed amendments to other articles.⁶²

The FCO subsequently judged that, during the talks, ‘The major achievement of the UK and France, with the support of some other Western delegations, was to ensure that the Convention would apply only to those special missions which represent the State in international relations in exactly the same way as permanent missions...’ There were still difficult arguments over several matters, including the definition of ‘members of the diplomatic staff’ of a mission. On this issue, the British helped defeat a Soviet attempt to allow a sending state to define its own ‘diplomatic staff’; and it was agreed that ‘diplomatic staff’ should be restricted to those appointed ‘for the purposes of the special mission.’ The British delegation had mixed success in pressing various other, minor amendments to the draft Convention. But effectively these were not important, because the FCO was more than satisfied with its success on Article 1 (a.) which was seen as ‘the key provision of the Convention.’ By securing a satisfactory, restricted definition on this, it was less vital for the British and French delegations to scale down the immunities and privileges granted by other articles – especially when these were generally in line with the Vienna Convention. There was now much less chance of the Soviet bloc exploiting the new convention for nefarious purposes. Indeed, for the FCO, success over a definition was ‘the turning point in the negotiations ...’ There was a final hurdle to cross, when the Cold War again intruded on discussions, as the Soviets tried to make the Convention applicable to ‘all states’, including those, like East Germany, who Western states did not recognise. This was defeated, albeit by the narrow margin of 46 to 39, with 25 abstentions. The Convention was adopted by the General Assembly on 8 December, with

the UK voting among the 88 in favour (with one abstention and none against). It was accompanied by an optional protocol on the resolution of disputes that might arise from its interpretation.⁶³ In reporting back to the inter-departmental Working Group, the FCO complained that, 'The debates in the Sixth Committee's work were never thorough and scholarly and rapidly developed into a rather half-hearted rubber-stamp operation on the ILC's draft.' However, 'the fact is that the resulting Convention may well find wide acceptance by States' and the 'consensus-building atmosphere happened to be useful to us' in obtaining a restricted definition of special missions.⁶⁴

Conclusion

Looked at in retrospect, it must be conceded that the New York Convention proved less significant to international diplomacy than its advocates hoped, or the British and other doubters initially feared. Just as many states showed limited interest in the actual negotiations, so they were lethargic about bringing into action, perhaps because many of the more important special missions (especially ministerial visits) were already treated well be recipients. Indeed, UN members were so slow to ratify the document, that it only entered into force on 21 June 1985, when there were twenty-two ratifications. The UK was not among their number, although it had been among the few who made the effort to sign the Convention (in December 1970).⁶⁵ In many ways it was still an elastic document, if not quite as elastic as the ILC's original 1965 draft. It allowed special missions to continue even when diplomatic and consular relations were broken. Indeed, they could be sent at any time, by mutual consent, whether diplomatic relations existed or not. Special missions could be sent to more than one state, could include diplomatic and support staff

as well as a head of mission, and the head could be a head of state or government, a foreign minister or any other individual. The Convention was particularly flexible about the functions of a special mission, which should simply 'be determined by the mutual consent of the sending and receiving state.' Neither did articles 1 and 2 speak of the 'express consent' of the receiving state in the way the British had hoped. Nonetheless, the Convention did limit the legal responsibilities of receiving states in some ways. In particular, the definition of a mission in Article 1 meant that they must be state representatives (not members of cultural bodies or parliamentary delegations) and that the mission could only be sent if the receiving state gave prior consent. Most provisions mirrored the privileges and immunities provided for permanent embassies in the 1961 Vienna Convention, with some exceptions, such as the right of two or more states to join together in sending a mission. But, there were restrictions that were welcome to states like Britain. For example, tax exemption was strictly limited to the duration of the mission; there were limits on the right of members of special missions to claim immunity for traffic accidents; and, wherever possible, special missions were expected to use the diplomatic bag and other communications systems of their permanent embassy.⁶⁶

It may seem surprising that the British, who all along favoured the codification of diplomatic law, should have been so concerned about an attempt to lay down rules on the operation of *ad hoc* embassies. In March 1968, one FO official even wrote dramatically of the dangers of 'a series of Frankenstein's monsters of Special Missions over which we might lose control.'⁶⁷ By September 1968, concern over the Convention was so great that, despite the embarrassment such a step might cause, Lees Mayall argued that a British refusal to sign it 'need not be regarded as a calamity.'⁶⁸ This was because the Convention

was far from being a neutral document, over which all countries might agree. It was very much a product of its time and London was affected by two broader, contemporary factors. The first was the Cold War, which led to worries about communist exploitation of the Convention to pursue espionage. The second was the fact that ‘decolonisation’ was currently at its height and, while Britain, France and other Western powers had a global system of permanent embassies, many newly-independent states did not; instead, they relied extensively on special missions to engage in diplomacy. The result of these two developments was that, in the ILC and the General Assembly, the UK felt outnumbered by a combination of the Soviet bloc and Afro-Asian countries. These might push through a far-reaching Convention, which would undermine British security and lead to a mushrooming number of roving diplomats who could evade customs duties, taxes and traffic regulations – and criminal prosecution for serious offences.

In trying to avoid this unwelcome scenario, the British strategy was actually quite simple. As Mayall once wrote, during the negotiations, the UK’s ‘consistent line has been to advocate a more restricted application of immunities and privileges, based on the principle of functional need...’⁶⁹ But there were different ways to achieve this. In 1966, London decided to focus on creating two tiers of special mission. The higher tier, with a full set of privileges and immunities, included missions operating at ministerial level, ones that Britain was well used to sending and receiving. The lower level of immunities could be granted to other missions, whose growing numbers were the development really to be feared. In a way, seeking such a solution to their dilemma made sense. After all, the ILC itself had raised the idea of two tiers in its 1965 discussions. But it made less sense for the UK to adopt this solution in 1967 when the ILC had decided not to pursue it. The

result was that the 1968 negotiations went badly for Britain, not helped by its tardiness in mustering support, a lack of sympathy from the US and differences with the French, who were more forthright in their criticisms of the document. In this phases, British influence over the direction of the negotiations seemed almost non-existent. Indeed, but for the slow progress of the Sixth Committee, London could have ended up with a Convention that was little to its liking.

As it transpired, the negotiations continued in 1969 and proved much more successful for Britain, which had a much greater influence over the details of the eventual draft. By focusing on a narrow definition in the first article and by working more closely with France, the British secured a Convention that they could accept. There is no evidence in government files that the Eastern bloc exploited the agreement for nefarious purposes in London. Aside from the terms of the eventual document, the September 1971 expulsion of Soviet diplomats showed that Britain would not tolerate intelligence officers working *en masse* under diplomatic cover. As a final point, however, it is worth emphasising that the negotiations proved very much a learning experience for the British, especially in terms of understanding why, among a great degree of indifference, some states were keen to protect special missions. In 1968, London had to recognise that a Convention was not simply designed to benefit the Soviet bloc. Even strongly pro-Western regimes, like those in Morocco and Israel, could benefit from such a codification. The British gradually recognised, too, that the case for a Convention genuinely made practical sense for many 'third world' states. One official noted in May 1969 how 'we were impressed by the extent to which the developing countries regarded special missions as essentially itinerant diplomatic missions particularly relevant to

countries which had a small number of permanent missions but not different in kind from permanent missions.⁷⁰ Indeed, by the time the FCO recommended acceptance of the Convention to ministers, Britain itself was set on a course of spending reductions which meant less spending on permanent embassies, so that, ‘in consequence we are likely in the near future to send more special missions to other countries.’ The staff of such missions, ‘should be entitled to call on the government of the country where they are working for special protection.’⁷¹ In such a situation, the New York Convention could only be welcomed.

References

¹ United Nations, *Treaty Series*, vol.1400, Convention on Special Missions, 8 Dec. 1969, article 1 (a.). See also G.R. Berridge and Lorna Lloyd, *The Palgrave-Macmillan Dictionary of Diplomacy* (Basingstoke: third edition, Palgrave-Macmillan, 2012), 351-2.

² Keith Hamilton and Richard Langhorne, *The Practice of Diplomacy* (London: Routledge, 1995), 63-64.

³ Humphrey Trevelyan, *Diplomatic Channels* (Basingstoke: Macmillan, 1973), 71.

⁴ R.P. Barston, *Modern Diplomacy* (London: third edition, Longman, 2006), 71.

⁵ H. Wriston, 'The Special Envoy', *Foreign Affairs*, 38 (1959-60), 219-37, quote from 219. Surprisingly, there are few other studies of special missions, but see: Michael Fullilove, *Special Faith and Confidence: Franklin D. Roosevelt's personal envoys and the war in Europe, 1939-41* (D.Phil. dissertation, Oxford, 2004).

⁶ John W. Young, *Twentieth Century Diplomacy: a case study in British practice, 1963-76* (Cambridge: Cambridge University Press, 2008), chapter 5.

⁷ Lord Gore-Booth (ed), *Satow's Guide to Diplomatic Practice* (London: fifth edition, Longman, 1979), 156. I have used this edition of the Guide because it was the next published after the negotiation of the New York Convention.

⁸ Gore-Booth, (ed), *Satow's Guide*, chapter 2.

⁹ Quotes from Gore-Booth, (ed), *Satow's Guide*, 156-7; and, on the treatment of British special missions in Communist states, see Smith to Mayall, 15 March 1968 [Kew], T[he] N[ational] A[rchives], F[oreign and] C[ommonwealth] O[ffice Records] 57/39.

¹⁰ Report of the I[nternational] L[aw] C[ommission] on the work of the first part of its Seventeenth Session, 3 May-9 July 1965, chapter III, at

http://untreaty.un.org/ilc/documentation/english/a_cn4_181.pdf (accessed 4 March 2011).

This includes a commentary on each article.

¹¹ The list also included the Commonwealth Office (which had not yet merged with the Foreign Office to form the FCO), the Ministry of Transport and the Ministry of Pensions and National Insurance: I[m]munities and P[r]ivileges Committee](68)3, 9 Feb. 1968, TNA, CAB[inet Office Records] 134/2930.

¹² Mayall to Caradon, 20 May 1966, TNA, F[oreign] O[ffice Records] 372/8132, , and attached Memo (including detailed comments on particular articles). Unfortunately, few documents survive on the thinking behind this.

¹³ See Mayall letter to diplomatic posts, ‘Special Missions’, Aug. 1968, paragraph 4, FCO 57/40.

¹⁴ Report of the International Law Commission on the work of the first part of its Nineteenth Session, 8 May-14 July 1967, chapter II, at http://untreaty.un.org/ilc/documentation/english/a_cn4_199.pdf (accessed 4 March 2011).

¹⁵ Denza to Evans, 28 Feb. 1968, FCO 57/39. Denza later wrote *Diplomatic Law: commentary on the Vienna Convention on diplomatic relations* (London: Oceana, 1976), now in its fourth edition (Oxford: Oxford University Press, 2008).

¹⁶ Mayall letter to diplomatic posts, ‘Special Missions’, Aug. 1968, paragraphs 6 and 7, FCO 57/40.

¹⁷ Smith to Mayall, 15 March 1968, FCO 57/39.

¹⁸ G. Hughes, ‘Giving the Russians a Bloody Nose: Operation Foot and Soviet espionage in the United Kingdom, 1964-71’, *Cold War History*, 6 (2006), 229-49, statistics from 234.

¹⁹ Ashe to Mayall, 14 March 1968, FCO 57/39.

²⁰ Mayall letter to diplomatic posts, 'Special Missions', Aug. 1968, paragraph 6, FCO 57/40.

²¹ This proposal, made by the FCO, was agreed at a meeting of the inter-departmental Immunities and Privileges Committee: IP(68)3, 9 Feb., and IP(68)9, 26 March 1968, CAB 134/2930. This Committee, comprising civil servants from several departments, was charged with reviewing issues of privileges and immunities granted to diplomats, consular staff and international organisations.

²² Puleston to Heppel (11 March) and IP(68)9 (26 March 1968), FCO 57/37; and see Denza to Darwin, 21 Feb. 1968, FCO 57/39.

²³ S[pecial]M[issions Memo] No. 1, 18 March 1968, FCO 57/37.

²⁴ 'Draft UK Comments', undated, FCO 57/37.

²⁵ Bates to Mayall, 20 March 1968, FCO 57/39.

²⁶ Record of meeting, 22 March 1968, FCO 57/37, and see revised 'Draft UK Comments', undated, with a tightening of the British position on a number of points.

²⁷ Records of meetings, 5 and 10 April, and 3 May 1968, FCO 57/37.

²⁸ Paper by UK Mission, New York, 29 May 1968, FCO 57/37.

²⁹ Record of meeting, 12 June 1968, FCO 57/37, and see the comments on the British tactics in Mayall letter to diplomatic posts, 'Special Missions', Aug. 1968, FCO 57/40.

³⁰ IP(68)15, 17 June 1968, CAB 134/2930.

³¹ IP(68)24, 11 Oct. 1968, CAB 134/2930. This document confirms that the British would still have been willing to accept a three-tier system, if other states wanted it.

³² Denza to Evans, registered on 28 Feb. 1968, FCO 57/39.

³³ Puleston to Denza, 22 Feb. 1968, FCO 57/39.

³⁴ SM No. 1, 18 March 1968, FCO 57/37.

³⁵ Darwin to Denza, 29 May 1968, FCO 57/37.

³⁶ Puleston to Denza, 24 July 1968, FCO 57/40.

³⁷ Mayall letter to diplomatic posts, 'Special Missions', dated 'Aug. 1968', FCO 57/40.

That the precise date was 20 Aug. is shown by Champion to Stow, 26 Sept. 1968.

³⁸ Mayall letter, 23 Sept. 1968, FCO 57/40.

³⁹ Letter to Youde, 21 Aug., and see minutes by Puleston and Denza, 17-18 Sept., and de Courcy-Ireland to Denza, 20 Sept. 1968, FCO 57/40.

⁴⁰ Mayall letter, 23 Sept. 1968, FCO 57/40.

⁴¹ Mayall to Owen, 27 Sept. 1968, FCO 57/40. The US stuck to its position that, while it was sympathetic to the British case, it feared that it would 'only generate ill-feeling' by pressing it against the majority in the General Assembly: Hurrell to Mayall, 15 Oct. 1968, FCO 57/118.

⁴² FO telegram to Abidjan, 27 Sept., FCO 57/40; and see Allott to Puleston, 7 Oct. 1968, FCO 57/41.

⁴³ Mayall to Owen, 27 Sept. 1968, FCO 57/40.

⁴⁴ See, for example, Wetton to Mayall, 11 Sept. 1968 (on Japan), and Canberra to Commonwealth Office, 27 Sept. 1968 (on Australia), FCO 57/40.

⁴⁵ Champion to Stow, 26 Sept.; FCO57/41, Berthoud to Mayall, 8 Oct., and note by the Pakistani Ministry of Foreign Affairs, 5 Oct. 1968, FCO 57/40.

⁴⁶ Walker to Stow, 3 Oct. 1968, FCO 57/40.

⁴⁷ Aspin to Mayall, 17 Oct. 1968, FCO 57/118.

⁴⁸ Spreckley to Mayall, 4 Oct. 1968, FCO 57/41.

⁴⁹ Fenn to Mayall, 5 Oct. 1968, FCO 57/41.

⁵⁰ McKeever to Mayall, 8 Oct. 1968, FCO 57/41.

⁵¹ McMullen to Mayall, 15 Nov. 1968, FCO 57/118.

⁵² Harding to Stow, 18 Nov. 1968, FCO 57/118.

⁵³ The above summary of the 1968 negotiations in the Sixth Committee is based on SM No. 20, 12 Dec. 1968, FCO 57/122, and Darwin to Denza, 4 Feb. 1969, FCO 57/119.

⁵⁴ Puleston to Darwin, 19 Feb. 1969, FCO 57/119.

⁵⁵ Allott's views were first put forward in SM No. 21, 16 Jan. 1969, FCO 57/122. See also SM No. 21 (record of working group meeting), 29 Jan., and SM No. 23, 4 Feb. (setting out possible re-draft of the definitions article) in FCO 57/122; and Allott to Colson, 8 May 1969 (including quote), FCO 57/119.

⁵⁶ Allott to Puleston, 3 June, FCO 57/119; and SM No. 26, 6 June 1969, FCO 57/122.

⁵⁷ 'Draft paper for use with other governments', undated, FCO 57/119. On British thinking about a restrictive definition, see SM No. 23, 4 Feb., SM No. 27, 10 June, and SM No. 28, 18 June 1969, FCO 57/122.

⁵⁸ SM No. 30, 15 Aug. 1969, with annexed draft brief for UN delegation, FCO 57/119; SM No. 38, 28 Jan. 1970, paragraph 4, CAB 165/717. On the dangers of working closely with the French, see also Allott to Darwin, 5 Aug. 1969, FCO 57/119.

⁵⁹ SM No. 31, 25 Aug. 1969, including draft brief for delegation, FCO 57/120. For updated versions see SM No. 32, 11 Sept., FCO 57/123; and I[nternational]O[rganisations]C[ommittee](69)103, 17 Sept. 1969, FCO 57/120.

⁶⁰ Allott to Darwin, 4 Sept. 1969, FCO 57/119.

⁶¹ Darwin to Allott, 8 Sept. 1969, FCO 57/119.

⁶² SM No. 38, 28 Jan. 1970, CAB 165/717.

⁶³ Undated draft Memo following Puleston minute, 31 Dec. 1969, FCO 57/180; SM No. 38, 28 Jan. 1970, CAB 165/717. There are almost daily telegrams from the UK Mission, New York, on the talks, in FCO 57/120 and 121.

⁶⁴ SM No. 38, 28 Jan. 1970, FCO 57/180.

⁶⁵ As of March 2012, there were only 38 parties to the Convention, whereas 187 states were parties to the Vienna Convention.

⁶⁶ Convention on Special Missions, 8 Dec. 1969, at <http://treaties.un.org/untc//Pages//doc/Publication/UNTS/Volume%201400/volume-1400-I-23431-English.pdf> (accessed 18 July 2011); Gore-Booth, ed., *Satow's Guide*, 158-60.

⁶⁷ Barclay to Mayall, 20 March 1968, FCO 57/39.

⁶⁸ Mayall to Owen, 27 Sept. 1968, point (iv.), FCO 57/40.

⁶⁹ Mayall letter to diplomatic posts, 'Special Missions', Aug. 1968, FCO 57/40.

⁷⁰ Allott to Colson, 8 May 1969, FCO 57/119.

⁷¹ 'Speaking Notes', annexed to Mayall to Royle, 17 Aug. 1970, FCO 57/181.