United Nations Conference on Consular Relations

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would give general satisfaction. The main point of the draft resolution was that the Conference had decided not to take any decision on the question, but to transmit all documents and records pertaining to the discussion to the appropriate organs of the United Nations. Accordingly, any issue that might arise between two States in connexion with the refugee question would be settled without reference to the convention, and in whatever manner and in accordance with whatever principles those States would have adopted prior to the convention. That solution was the best that could be found to reconcile the conflicting positions taken during the debate.

67. Mr. DADZIE (Ghana) congratulated the sub-committee on its useful work, and said he would support the draft resolution.

68. Mr. KEVIN (Australia) observed that the draft resolution merely meant that all States would maintain their positions on the matter. It seemed a pity, however, to narrow the context of the problem, which was not limited by time.

69. Mr. EL-SABAH EL-SALEM (Kuwait) welcomed the draft resolution, which clearly showed that there was no difference between the basic motives of the members of the Committee. The refugee problem was of great concern to all States, as the humanitarian arguments advanced during the debate had amply proved. Many delegations had, however, doubted whether the convention was the proper place to express their support of refugees, particularly as the question had been raised unexpectedly and they had had no instructions on the subject from their governments.

70. Mr. AVILOV (Union of Soviet Socialist Republics) thanked the members of the sub-committee for the spirit of co-operation and goodwill they had shown in helping to break a deadlock which had threatened the harmonious progress of the Committee's work. The solution proposed took account of the impossibility of settling, in three or four meetings of a technical conference, a complex problem which specialized organs of the United Nations had failed to solve after years of work.

The draft resolution (A/CONF.25/C.1/L.160) was approved by 61 votes to none, with 6 abstentions.

71. Mr. RUDA (Argentina), explaining his delegation's vote on the joint draft resolution, said that he had voted for it without, however, abandoning the idea of the nine-power proposal (L.124/Rev.1) for a new article. His vote was in keeping with Argentina's traditional policy of supporting conciliatory moves in international relations.

72. Mr. TSHIMBALANGA (Congo, Leopoldville), explaining his vote on the draft resolution, said that his country was deeply concerned over the refugee question for two reasons. First, the tragic situation of refugees all over the world could leave no one indifferent; not only material and moral aid, but assistance with a view to repatriation should be extended to all those unfortunate people. Secondly, the Congo (Leopoldville) had given, and was still giving, shelter to thousands of refugees, to mention only those from Angola and Rwanda. His delegation had been surprised that the political aspects of the refugee question had been raised at a purely technical conference and regretted that the debate had taken the unfortunate, though usual, form of a difference of opinion between two blocs.

The meeting rose at 1.10 p.m.

TWENTY-EIGHTH MEETING

Monday, 25 March 1963, at 3.5 p.m.

Chairman: Mr. BARNES (Liberia)

Consideration of the draft articles on consular relations adopted by the International Law Commission at its thirteenth session (A/CONF.25/6) (*continued*)

New article to be inserted after article 67 (Optional character of the institution of consular agents who are not heads of post)

1. The CHAIRMAN invited debate on the new article which Switzerland proposed should be inserted after article 67 (A/CONF.25/C.1/L.102/Rev.1).

2. Mr. REBSAMEN (Switzerland) said that article 9 of the International Law Commission's draft mentioned four classes of heads of consular post, including consular agents. Some countries had consular agents who conducted consular agencies but who had not been appointed by the sending State as heads of consular posts. The future convention made no provision for that class, and it was to fill in that gap that Switzerland had submitted the draft of a new article leaving each State free to decide whether it would establish or admit consular agencies conducted by that class of consular agents, whose privileges and immunities would be determined by agreement between the sending State and the receiving State. The system had proved successful and should be provided for in a convention. It was not merely a matter affecting the codification of international law; it was also a question of equity.

3. Mr. de MENTHON (France) agreed with the Swiss representative. France did not regard its many consular agents throughout the world as heads of posts. A consular agent was appointed as such by the head of post under whose superintendence he was placed. He had no consular district and performed whatever consular functions were delegated to him. He was either a national of the sending State living in the town in which the agency was situated, or a national of the receiving State resident in the town; or also he could be a national of a third State, who, in most cases, carried on a gainful occupation.

4. The consular agent's status corresponded to that of honorary consuls or vice-consuls of foreign countries in France. Other countries had a different system, and there was nothing in article 9 to prevent consular agents who were not heads of post from conducting consular agencies. Accordingly, the manner in which consular

agents carried out their activities, and their privileges and immunities, should be defined. The new article proposed by Switzerland would answer the purpose, and he would vote for it.

5. Mr. WARNOCK (Ireland) said the new article was necessary, and he would vote for it.

The new article proposed by Switzerland (A/CONF.25/C.1/L.102/Rev.1) was adopted by 32 votes to 12, with 17 abstentions.

Article 71 (Relationship between the present articles and conventions or other international agreements) (*continued*)

6. The CHAIRMAN invited the Committee to continue its discussion of the amendments thereto submitted by Austria, Canada and the Netherlands (L.154), and by India (L.155).

7. Mr. KRISHNA RAO (India) announced that, after reflection, he wished to change his delegation's amendment, of which Ceylon, Liberia, Mali, the United Arab Republic and Yugoslavia had also become sponsors. He proposed the retention of the International Law Commission's draft as paragraph 1, and the addition of a paragraph 2 in the following terms: " Nothing in the present convention precludes States from concluding agreements or conventions confirming or supplementing or extending or amplifying the provisions thereof."

8. So far as point 2 of his delegation's original amendment was concerned, he asked the Committee merely to accept the principle, which would form the subject of a recommendation to be embodied in a conference resolution and which was sponsored by Ceylon, India, Mali, the United Arab Republic and Yugoslavia.

9. Mr. EVANS (United Kingdom) asked whether the delegate of India could say whether his text left undisturbed the rule of international law which permitted any two or more parties to a multilateral convention to agree to a departure from the terms of such a convention as between themselves, provided that the departure did not infringe the rights of the other parties to the convention. If that could be confirmed, he would vote for the text submitted by India.

10. Mr. KRISHNA RAO (India) said it was hard to answer that question, for the answer would have a bearing on the convention being prepared and also on conventions or agreements which might be concluded in the future.

11. Mr. WARNOCK (Ireland) said that, while he recognized the merits of the Indian amendment, it would in his view be preferable to retain the International Law Commission's text.

12. Mr. CAMERON (United States of America) said that since the Indian amendment as revised involved the retention of paragraph 1 of the International Law Commission's text, he would ask for a separate vote on the Indian text for paragraph 2.

13. Mr. KIRCHSCHLAEGER (Austria), speaking on behalf of the sponsors of the amendment by Austria, Canada and the Netherlands (L.154), asked that the Indian amendment should be put to the vote first.

14. The CHAIRMAN put to the vote the revised Indian text proposed as paragraph 2 of article 71.

The paragraph was adopted by 23 votes to 6, with 36 abstentions.

15. The CHAIRMAN announced that as the Indian amendment had been adopted there was no need to put the joint amendment to the vote. He put to the vote article 71 as amended.

Article 71, as amended, was adopted by 54 votes to none, with 9 abstentions.

16. The CHAIRMAN put to the vote the principle set forth in the second part of the Indian amendment (A/CONF.25/C.1/L.155), intended to form the subject of a recommendation by the Conference.

The Committee rejected the principle by 27 votes to 8, with 27 abstentions.

17. Mr. ABDELMAGID (United Arab Republic) said that he had voted for the first part of the Indian amendment, but considered that the text should be revised by the drafting committee.

18. Mr. KNEPPELHOUT (Netherlands) explained that he had voted against the principle set forth in the second part of the Indian amendment because he thought there was no need for a conference recommendation on the subject.

19. Miss ROESAD (Indonesia) said she had not voted for the principle set forth in the second part of the Indian amendment because she considered that the future convention should not be treated as a " pillar " agreement.

20. Mr. CRISTESCU (Romania) said that he had voted for article 71 as drafted by the International Law Commission on the understanding that the provisions of the convention would not affect existing international conventions or other agreements in force as between States parties to those conventions or agreements.

21. Obviously, the article could not be interpreted as having any bearing on consular conventions or agreements to which Romania had been a party, and which had lapsed and hence had lost all legal force.

Final clauses

22. The CHAIRMAN invited the Committee to consider the proposal for final articles submitted by the United States (A/CONF.25/C.1/L.7) and the amendments to that proposal submitted by the Union of Soviet Socialist Republics (A/CONF.25/C.1/L.158) and by the United Arab Republic and Yugoslavia (A/CONF.25/C.1/L.159). The United States had submitted a separate proposal for a disputes clause (A/CONF.25/C.1/L.70).

23. Mr. CAMERON (United States of America), introducing his delegation's proposal for final clauses, said that it reproduced the corresponding provisions of the Vienna Convention on Diplomatic Relations. While

providing that the Secretary-General should serve as the depositary of the Convention, his proposal recognized the important role which the generosity of the Austrian people and their government had played in the success of the Conference by providing that the Convention should remain open for signature at the Federal Ministry for Foreign Affairs of Austria until 31 October 1963.

24. The United States proposal contemplated that the Convention would enter into force thirty days after the deposit of the twenty-second instrument of ratification. Some delegations had suggested that sixty days would be a more appropriate period; his delegation had no objection to the longer period if that was the wish of the Committee.

25. The final articles proposed by the United States delegation would permit only States Members of the United Nations or the specialized agencies, States parties to the Statute of the International Court of Justice, and States invited by the General Assembly, to become parties to the Convention. That limitation was a logical consequence of the decision of the General Assembly to limit participation in the Conference to States Members of the United Nations and the specialized agencies. It was also politically necessary in order to avoid imposing on the Government of Austria and the Secretary-General the difficult political question of which political entities claiming statehood were in fact entitled to that status. The United States proposal placed that determination within the responsibility of the General Assembly, which was the political organ of the United Nations most capable of dealing with the question.

26. Accordingly, his delegation was strongly opposed to the amendments proposed by the Soviet Union and by the United Arab Republic and Yugoslavia, both of which would have the effect of permitting States not invited by the General Assembly to become parties to the Convention.

27. Mr. KONZHUKOV (Union of Soviet Socialist Republics) said that the task of the Conference was to prepare an international convention to serve as a guide to all States which had maintained consular relations since the most ancient times. The largest possible number of States should therefore be admitted to become parties to the convention; that would be a guarantee of the successful implementation of the provisions of the convention and would enhance the importance of the convention in international affairs. Limitation of the number of States parties to the convention was contrary to the aims and spirit of international collaboration. He had noted with regret that the final clauses proposed by the United States limited the number of States eligible to become parties. That was unacceptable to the USSR, and his delegation had accordingly submitted an amendment (L.158), which was based on international agreements, such as the Geneva conventions of 1949 on the protection of victims of war,[1] and the Declaration on the Neutrality of Laos, 1962. The convention on consular relations was an instrument to which all States should be parties.

28. Mr. ABDELMAGID (United Arab Republic), introducing the amendment (L.159) sponsored by his delegation and by the Yugoslav delegation, said that, according to Article 102 of the Charter, conventions registered with the Secretary-General of the United Nations could be invoked by the parties to them before any organ of the United Nations.

29. Mr. MARESCA (Italy) said that admittedly the Conference was free to adopt final clauses differing from those of the Vienna Convention on Diplomatic Relations, 1961, and based on other criteria than those adopted then. But those other criteria should be sound. The criterion introduced by the joint amendment sponsored by the United Arab Republic and Yugoslavia was not acceptable, for bilateral consular conventions registered with the Secretariat of the United Nations differed intrinsically from a multilateral convention on consular relations.

30. With regard to the criterion to be applied in the matter of the invitation addressed to States to become parties to the convention, he said it was true that in current practice international treaties often made provision for such an invitation; but it was essential that the invitation should be issued by a competent body. At present, the General Assembly of the United Nations did not *per se* possess that competence, which could be conferred on it only by the future convention. There was no objection to that procedure, inasmuch as the Conference had been convened by the United Nations and its deliberations were carried on under the auspices and in the spirit of the Organization. For all those reasons, the Italian delegation, while appreciating their motives, was unable to vote for the amendments to the United States proposal.

31. Mr. WU (China) expressed his delegation's full support for the United States proposal (L.7). He particularly approved article 1 and would oppose any amendment calling for the omission of one of the four categories of States eligible to become parties to the convention and also any amendment tending to increase the number of such States. He was particularly opposed to the joint amendment (L.159).

32. Mr. PETRŽELKA (Czechoslovakia) said that the final clauses were of crucial importance. The convention on consular relations should become an integral part of international law and should promote the development of relations between States in conformity with the principles laid down in the Charter. Like all general multilateral treaties, it should be open to all States without discrimination. The principle of universality,

[1] The four conventions in question, which are all dated 12 August 1949 and are reprinted in the United Nations *Treaty Series*, vol. 75, Nos. 970-973, are:

(i) Geneva Convention for the Amelioration of the Condition of Wounded and the Sick in Armed Forces in the Field;

(ii) Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea;

(iii) Geneva Convention Relative to the Treatment of Prisoners of War;

(iv) Geneva Convention Relative to the Protection of Civilian Persons in Time of War.

which followed logically from that of the sovereign equality of States laid down in the Charter, had been accepted by the International Law Commission at its fourteenth session.[2]

33. General Assembly resolution 1685 (XVI) was not mandatory. Once assembled, the Conference of Plenipotentiaries had full liberty to decide its own procedure and to take any decision compatible with international law. For that reason the Czechoslovak delegation would support the amendment submitted by the USSR (L.158) and requested the United States to accept it in a spirit of co-operation and goodwill.

34. Mr. KRISHNA RAO (India) said that he was likewise of the opinion that no State should be denied the right to become a party to the convention. There were many multilateral conventions the parties to which included countries that did not recognize one another. No provision of the Charter stipulated that only Members of the United Nations could become parties to international treaties and conventions. He suggested that point (*b*) of the joint amendment should be modified to read " or by parties to conventions on consular relations which have been registered with the Secretariat of the United Nations ".

35. Mr. ABDELMAGID (United Arab Republic) accepted that suggestion.

36. Mr. MEYER-LINDENBERG (Federal Republic of Germany) agreed that multilateral conventions which codified international law should be governed by the principle of universality. The convention should therefore be open to all States recognized as such. In other words, the convention should not be open to entities which, in the opinion of the majority, did not possess the character of States. He would support the United States proposal for the final clauses because under that text the question whether an entity was eligible to become a party would be decided by a United Nations body on which most States were represented.

37. The USSR amendment, which dispensed with any criterion for deciding which States should be admitted to participate in the convention, would leave the decision to the Secretary-General of the United Nations with whom the instruments of accession would be deposited; but obviously the Secretary-General could not take such a decision by himself.

38. The joint amendment would have the same undesirable consequences as the USSR amendment, in that it would permit any entity whatever to become party to the convention including even unrecognized States which had signed with recognized States a convention registered with the Secretary-General of the United Nations. His delegation would accordingly vote in favour of the United States proposal, which was modelled on the corresponding provisions of the Vienna Convention on Diplomatic Relations.

39. Mr. JELENIK (Hungary) said that the United States proposal was unacceptable as it stood, for it tended — in violation of international law — to discriminate between States, and in particular to exclude the Democratic Republic of Viet-Nam, the Democratic People's Republic of Korea and the German Democratic Republic. Those States were not Members of the United Nations, nor of the specialized agencies and were not parties to the Statute of the International Court of Justice, but they existed, and maintained normal diplomatic and consular relations with many other States. The adoption of the United States proposal would in effect create two separate systems of international law, one applying to Members of the United Nations, specialized agencies and the Court, and the other to States not admitted to membership of those bodies. The proposal ignored the principle of the sovereign equality of States, which rested on objective criteria. That was why he supported the amendment submitted by the USSR and would be unable to vote for the final clauses proposed by the United States unless they were so amended.

40. Mr. KESSLER (Poland) said that the convention should be open for the signature of all States. Any proposal tending to restrict the number of parties was unacceptable. In the case of non-political treaties, like that of the convention under discussion, there was an undeniable trend towards recognizing the right of all nations freely to accede to international instruments, a trend which resulted from the close interdependence of all States, whatever their economic or political systems. It would not be sensible to deny the benefit of the convention to certain States which were recognized by many States Members of the United Nations and which possessed a fully developed network of consulates.

41. The United States proposal was manifestly discriminatory. The political attitudes of certain States should not impede other States from acceding to international instruments of such importance. The arguments in favour of a " closed " convention were not convincing. It would not be logical to accord complete freedom to the plenipotentiaries of more than sixty States to codify international law and at the same time to refuse them the right to decide whether the convention they were to prepare should be open or closed. To be effective, the codifying convention should be universal. Poland was opposed to any form of ostracism or discrimination against certain States, and his delegation would therefore support the USSR amendment.

42. Mr. ANGHEL (Romania) said that the convention on consular relations should serve as the starting point for the development of consular relations among States, and that the participation of all States in the convention would be the fundamental condition of its efficacy. All States maintained consular relations and were interested in the codification and development of consular law. Many States represented at the Conference maintained consular relations with States which were not represented, and there should not be two different legal systems for the two categories of States. The accession of all States to the convention was the only solution in conformity with the principle of the equality of States, whatever their social and political system, and whether or not

[2] See *Official Records of the General Assembly, Seventeenth Session, Supplement No. 9*, chap. II, commentary on draft article 9.

they were members of the United Nations Nations or the specialized agencies, or parties to the Statute of the International Court of Justice. Any discriminatory provision would be contrary to the spirit of the Charter. The convention on consular relations would codify the rules which should be applied universally in the interests of peaceful coexistence and friendly relations among States. The principle of the universality of international conventions and treaties had long been recognized, and all deliberations should be based on the idea that the convention would be a legal, and not a political instrument. The idea of universal participation in conventions had already been accepted in international practice: the final clauses of the four Geneva conventions of 1949 on the protection of victims of war made it possible for all States to adopt and give effect to the provisions of those conventions. Similarly, certain international bodies had adopted the principle of universal participation in their meetings and in instruments adopted by them. For example, the rules of procedure of the First Meeting of the High Contracting Parties to the Convention on the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954), held in Paris in 1962, provided for that possibility. Furthermore, General Assembly resolution 1766 (XVII) recommended the study of the question of extend participation in general multilateral treaties and conventions and that question had been placed on the provisional agenda of the eighteenth session of the General Assembly. The final clauses proposed by the United States (L.7) were therefore unacceptable and the Romanian delegation would accordingly give its full support to the USSR amendment; it would also support the amendment submitted by the United Arab Republic and Yugoslavia, which would open the convention to a larger number of States.

43. Mr. de ERICE y O'SHEA (Spain) recalled the debate at the 40th and 41st meetings of the Committee of the Whole of the 1961 Vienna Conference on articles 48 to 53 of the Convention on Diplomatic Relations. With all due respect for the sponsors of amendments to the United States proposal for final clauses he thought there was no other solution than to approve the provisions proposed by the United States, which were modelled on articles 48 to 53 of the 1961 Convention. The Conference had been convened under General Assembly resolution 1685 (XVI), and that resolution had invited only States Members of the United Nations or of the specialized agencies and States parties to the Statute of the International Court of Justice to participate in the Conference. If the Conference exceeded the powers given to it, its decisions might be void; it was sovereign only within the limits expressly laid down by the General Assembly. Without wishing to enter into political, economic or legal questions, he said that the only solution was to embody in the convention on consular relations the terms of articles 48 to 53 of the Convention on Diplomatic Relations, and he therefore fully supported the United States proposal. It would still be open to the General Assembly at its next session to enlarge the number of States eligible to become parties to the convention.

44. Mr. CHIN (Republic of Korea) said he would support the proposal for the final clauses submitted by the United States because it was in accordance with the principle of universality and because it was exactly modelled on the final articles of the Vienna Convention on Diplomatic Relations. Moreover, it respected the terms of the General Assembly resolution under which the Conference had been convened. He was firmly opposed to the amendments to the United States proposal, for they diverged too greatly from the provisions of the 1961 Convention and conflicted with the relevant resolutions of the General Assembly. The questions which they raised should be brought up before the General Assembly as they were outside the Conference's mandate. His delegation would therefore vote in favour of the United States proposal and against all the amendments to it.

45. Mr. ALVARADO GARAICOA (Ecuador) said that the United States draft referred not only to States Members of the United Nations and of the specialized agencies and the States parties to the Statute of the International Court of Justice, but also to any other State invited by the General Assembly of the United Nations, and he was therefore prepared to support the proposal.

46. Mr. de MENTHON (France) entirely approved the United States draft. He was unable to support either the USSR amendment or that submitted by the United Arab Republic and Yugoslavia, for the Conference was bound by the terms of the General Assembly resolution, which had invited only the States Members of the United Nations and of the specialized agencies and the States parties to the Statute of the International Court of Justice. The United States text, which followed the provisions of the 1961 Convention, in no way ruled out the accession of other States, but left it to the Assembly of the United Nations to decide.

47. Mr. EVANS (United Kingdom) said that the question under discussion had been debated on many past occasions. He thought it was generally understood that only States recognized as sovereign and independent could become parties to international conventions and other international instruments. The question was which international entities should be regarded as sovereign independent States. Some entities were recognized as such by only a small minority of the international community, whilst most members of that community refused to accord them that status. A decision on that point was a very delicate and political matter. Since the Secretary-General of the United Nations was to be the depositary of the original text of the future convention, he should receive precise guidance to enable him to decide whether some particular entity fulfilled the conditions for becoming a party to the convention. The Soviet proposal to open the convention to signature and accession by " all States " did not offer the necessary guidance and would leave the Secretary-General with complete responsibility for a political decision which he should never be asked to take. The amendment by the United Arab Republic and Yugoslavia would have the same result since it was well established in the practice of

the United Nations that the registration of an agreement by the Secretariat did not carry any implication as to the status of the parties to the agreement in international law. For those reasons, the United Kingdom delegation would vote for the United States proposal and against both of the amendments to it.

48. Mr. DI MOTTOLA (Costa Rica) said that the mere fact of its existence did not confer on an international entity the status of member of the international community. The categories referred to in the United States text specified which States could sign the convention. In particular, under the provision concerning the fourth category, any State not already a Member of the United Nations or the specialized agencies, or a party to the Statute of the International Court of Justice, would be able to become a party to the convention on the invitation of the General Assembly. That provision was an alternative to the automatic operation of the first three criteria in that it would authorize the accession of additional States which were accepted by the international community. He would therefore vote for the United States proposal and against the amendments to it.

49. Mr. DONATO (Lebanon) said that, while realizing the force of the arguments advanced by the sponsors of the two amendments, he would be unable to accept either of them, for they did not observe the rules laid down by the Assembly resolution. He supported the United States proposal because it conformed with the spirit and the letter of the recommendations of the United Nations General Assembly and left the door open to any additional State which might be invited by the Assembly to become a party to the convention.

50. Mr. TÜREL (Turkey) agreed with the representatives who had sopken in favour of the United States proposal. That proposal was consistent with the relevant resolution of the General Assembly and with the terms of the corresponding provisions of the Vienna Convention of 1961. The Spanish representative had very aptly stated the reasons why the Conference should not depart from that precedent. The Turkish delegation would therefore vote against the amendments and for the United States proposal as it stood.

51. Mr. JAYANAMA (Thailand) said that the Conference should not discuss the controversial problem of universality and in that respect he shared the views of the Italian representative. He would therefore vote in favour of the United States proposal, all the more since it repeated the exact terms of articles 48 to 53 of the Vienna Convention, 1961, from which there was reason to depart.

52. Mr. PAPAS (Greece) said that he would vote for the United States proposal.

53. Mr. GUNEWARDENE (Ceylon) said that he had at all times actively upheld the principle of universality in the United Nations. The same problem had arisen during the discussion of the 1961 Convention. At that time, the delegation of Ceylon had supported a proposal similar to that submitted to the Committee by the United States representative and, as chairman of the drafting committee, he had done all in his power to prepare a text acceptable to the largest possible number of delegations. In the same spirit, and desiring to preserve the atmosphere of understanding and harmony in the Committee, he urged delegations not to reopen a debate which had been successfully settled at the previous conference by common sense and mutual comprehension. He fully recognized the merits of the amendments by the USSR and by the United Arab Republic and Yugoslavia, but continued to believe that, in existing circumstances, and for the sake of the success of the Conference itself, the best solution was still that adopted at the 1961 Convention. To enable members to reach agreement, he proposed that the Committee should postpone its vote till the next day.

54. Mr. PUREVJAL (Mongolia) said that, if the convention was to promote good relations between States, it should be universal and open to all States without discrimination. The United States proposal was essentially discriminatory and hence at variance with the principles of international law and with the purposes of the United Nations and of the convention itself, and he therefore supported the Soviet amendment. With regard to the question of competence, he thought that the Conference was free to decide which States were eligible to become parties to the convention.

55. Mr. de CASTRO (Philippines) thought that certain United Nations bodies were better qualified than the Conference to consider the political question which had been raised. He supported the United States proposal since it duly took account of the principle of universality while adhering to a reasonable and recognized practice. The text proposed by the United States would enable additional States to become parties to the convention provided that they could satisfy the international community of their status as sovereign independent States.

56. Mr. EL-SABAH EL-SALEM (Kuwait) said that his delegation had always been very optimistic as to the possibility of finding a basis of agreement and had always believed in the success of conferences like the present. The adoption of the 1961 Convention had proved that it was right. He thought that agreement could be reached and proposed that the Committee should postpone its vote on the proposals under discussion till the following meeting.

57. Mr. CAMERON (United States of America) said that there was no need to postpone the vote since his delegation's proposal reproduced the final clauses of the 1961 Convention and the matter had been debated exhaustively.

58. Mr. KONZHUKOV (Union of Soviet Socialist Republics) said that the comments made by several representatives reflected a certain concern caused by the current debate. He considered the proposal of the representative of Ceylon extremely wise, for it would enable delegations to ponder once again the full consequences of their vote.

59. Mr. CHIN (Republic of Korea) considered the matter quite clear and agreed with the United States representative.

60. The CHAIRMAN put to the vote the question whether the Committee wished to vote forthwith on the proposals before it.

The Committee decided to vote forthwith by 36 votes to 20, with 15 abstentions.

61. The CHAIRMAN put to the vote the amendment submitted by the Union of Soviet Socialist Republics (A/CONF.25/C.1/L.158).

At the request of the representative of the Republic of Korea, a vote was taken by roll-call.

The United States of America, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Yugoslavia, Albania, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Hungary, India, Indonesia, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic.

Against: United States of America, Uruguay, Republic of Viet-Nam, Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Denmark, Ecuador, Ethiopia, Federation of Malaya, Finland, France, Federal Republic of Germany, Greece, Holy See, Iran, Ireland, Israel, Italy, Japan, Republic of Korea, Lebanon, Liberia, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Portugal, San Marino, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Ceylon, Congo (Leopoldville), Ghana, Guinea, Kuwait, Laos, Mali, Morocco.

The amendment of the Union of Soviet Socialist Republics (A/CONF.25/C.1/L.158) was rejected by 49 votes to 15, with 8 abstentions.[3]

62. The CHAIRMAN put to the vote the amendment submitted jointly by the United Arab Republic and Yugoslavia (A/CONF.25/C.1/L.159).

At the request of the representative of the Republic of Korea, a vote was taken by roll-call.

Indonesia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Indonesia, Mongolia, Poland, Romania, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Yugoslavia, Albania, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Guinea, Hungary, India.

Against: Ireland, Israel, Italy, Japan, Republic of Korea, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Portugal, San Marino, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Republic of Viet-Nam, Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Denmark, Ecuador, Federation of Malaya, Finland, France, Federal Republic of Germany, Greece, Holy See.

Abstaining: Iran, Kuwait, Laos, Lebanon, Liberia, Mali, Morocco, Nigeria, Ceylon, Congo (Leopoldville), Ethiopia, Ghana.

The joint amendment of the United Arab Republic and Yugoslavia (A/CONF.25/C.1/L.159) was rejected by 44 votes to 16, with 12 abstentions.

63. Mr. TSYBA (Ukrainian Soviet Socialist Republic) requested that the United States proposal (A/CONF.25/C.1/L.7) should be put to the vote article by article.

At the request of the representative of the Republic of Korea, a vote was taken by roll-call on the first article.

Ethiopia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Ethiopia, Federation of Malaya, Finland, France, Federal Republic of Germany, Greece, Holy See, Iran, Ireland, Israel, Italy, Japan, Republic of Korea, Kuwait, Lebanon, Liberia, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Portugal, San Marino, Sierra Leone, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Republic of Viet-Nam, Argentina, Australia, Austria, Belgium, Brazil, Canada, Ceylon, Chile, China, Colombia, Costa Rica, Denmark, Ecuador.

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

Abstaining: Ghana, Guinea, India, Indonesia, Laos, Mali, Morocco, United Arab Republic, Yugoslavia, Congo (Leopoldville).

The first article was adopted by 53 votes to 11, with 10 abstentions.

The second article was adopted unanimously.

The third article was adopted by 55 votes to 11, with 5 abstentions.

The fourth article was adopted unanimously.

The fifth article was adopted by 56 votes to 10, with 5 abstentions.

The sixth article was adopted by 59 votes to 11, with 5 abstentions.[4]

64. Mr. BARTOŠ (Yugoslavia) suggested that it was unnecessary to vote on the United States proposal as a whole, because the articles had been put to the vote separately.

It was so agreed.

65. Mr. TSHIMBALANGA (Congo, Leopoldville) said that, as a non-aligned country, the Congo had abstained from voting on the amendments to the United

[3] The delegation of Ghana has informed the Secretariat that "The policy of Ghana which has always been in favour of the doctrine of 'all States' remains unchanged", and that consequently the vote of Ghana on this amendment, recorded as "abstention", should be changed to "yes".

[4] The new article at the end of the United States proposal was withdrawn and submitted as a separate proposal (A/CONF.25/C.1/L.70), which was considered at the twenty-ninth, thirtieth and thirty-first meetings.

States' proposal and on the controversial articles it contained because they had caused some political discussion. It had, however, voted in favour of the non-controversial articles submitted by the United States.

The meeting rose at 6.30 p.m.

TWENTY-NINTH MEETING

Tuesday, 26 March 1963, at 10.45 a.m.

Chairman: Mr. BARNES (Liberia)

Consideration of the draft articles on consular relations adopted by the International Law Commission at its thirteenth session (A/CONF.25/6) (*continued*)

Preamble

1. The CHAIRMAN drew attention to the proposals for a preamble to the convention submitted jointly by the delegations of Argentina, Ceylon, Ghana, India, Indonesia and the United Arab Republic (A/CONF.25/C.1/L.71) and by the delegations of the Congo (Leopoldville), Ethiopia, Guinea, Liberia, Libya, Mali, Morocco, Sierra Leone, Tunisia and Upper Volta (A/CONF.25/C.1/L.106).

2. Mr. KRISHNA RAO (India), introducing the six-power proposal (L.17), said that that text closely followed the preamble to the Vienna Convention on Diplomatic Relations. The statement in the fifth paragraph that the purpose of privileges and immunities accorded to consular officials was not to benefit individuals but to ensure the efficient performance of functions was designed not only to appeal to national legislative bodies, which would be called upon to ratify the convention, but also to reflect accurately the motives of delegations in their deliberations on those privileges and immunities. The paragraph expressed the so-called principle of functional necessity which was an essential attribute of consular priviliges and immunities.

3. Mr. BOUZIRI (Tunisia), introducing the ten-nation proposal (L.106) said that it reproduced the preamble to the draft articles prepared by the drafting committee of the International Law Commission (A/CONF.25/6, paragraph 36). The sponsors had proposed that formula in order to stress the difference between the convention under discussion and the Convention on Diplomatic Relations. Accordingly, they had not deemed it necessary to include a paragraph corresponding to the fourth paragraph of the preamble to the 1961 Convention, which rightly stressed the importance of diplomatic privileges and immunities. In a convention on consular relations, which granted very few privileges and immunities to consular officials, and those only in the exercise of their consular functions, such a paragraph seemed unnecessary. Moreover, privileges and immunities were granted to diplomatic agents as representatives of the sending State, whereas it was nowhere stated in the draft articles that consular officials represented the sending State. The sponsors had therefore considered it enough to refer merely to consular relations, which covered the notion of privileges and immunities and other facilities granted to consular officials in the exercise of their functions.

4. It also seemed unnecessary to state in the preamble that the few privileges and immunities granted to consular officials in the convention should be confined to the performance of their functions. In any case, the granting of privileges and immunities was a necessary evil and differentiation between various classes of persons should certainly be eliminated in an ideal world; reference to privileges and immunities had had to be included in the text of the convention, but there was no reason to mention them in the preamble.

5. Mr. ABDELMAGID (United Arab Republic) said that his delegation had sponsored the six-power proposal because consular privileges and immunities were inherent in consular functions and had become a part of international law. The essential difference between diplomatic and consular privileges and immunities lay in the functional character of the latter. The sponsors had therefore deemed it necessary to include the fifth paragraph of their proposal and to differentiate it from the corresponding paragraph of the preamble to the 1961 Convention by referring to " functions by consulates on behalf of their respective States ", as distinct from " functions of diplomatic missions as representing States ".

6. Mr. RUDA (Argentina) said that the sponsors of the six-power proposal had submitted their text in the belief that a codification of international law should be introduced by an indication of the general bases for its interpretation. The only essential difference between the two proposals before the Committee was that one of them included a reference to the basis on which privileges and immunities were granted to consular officials and the other did not. His delegation thought it essential to indicate the framework within which those privileges and immunities were granted and to state that their purpose was not to benefit individuals but to ensure the efficient performance of functions.

7. Mr. RUEGGER (Switzerland) noted with satisfaction that both the proposals affirmed in their last paragraphs that the rules of customary international law should continue to govern matters not expressly regulated by the provisions of the convention. At the 1961 Vienna Conference on Diplomatic Intercourse and Immunities, his delegation had proposed an additional article to that effect and it welcomed the inclusion of that important passage in the preamble.

8. Of the two texts before the Committee, his delegation preferred the six-nation proposal; it could not share the Tunisian representative's views concerning the difference between diplomatic and consular privileges and immunities. Moreover, article 5 (*a*) referred specifically to the consular function of protecting the interests of the sending State in the receiving State. The fifth paragraph of the six-power proposal should also be retained for psychological reasons: the convention would serve as a practical guide to career and honorary consuls