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3rd meeting of the First Committee

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Official Records of the United Nations Conference on Consular Relations, vol. I
(Summary records of plenary meetings and of meetings of
the First and Second Committees)

57. The PRESIDENT suggested that the amendment submitted by the United Arab Republic should be referred to the drafting committee.

It was so decided.

The meeting rose at 1 p.m.

THIRD MEETING

Wednesday, 6 March 1963, at 3.15 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)

Article 2 (Establishment of consular relations) (continued)

1. The CHAIRMAN reminded the Committee that, at the previous meeting, the representative of Czechoslovakia had said that he would not press for a vote on his amendment (A/CONF.25/C.1/L.1) and that it had been agreed to refer the United Arab Republic amendment (A/CONF.25/C.1/L.9) to the drafting committee.

2. If there was no objection, he would therefore assume that the Committee agreed to approve paragraph 1 of article 2, subject to the drafting committee's consideration of the United Arab Republic amendment.

It was so agreed.

3. The CHAIRMAN invited the Committee to consider paragraph 2. He drew attention to the amendments submitted by Bulgaria (L.2), Hungary (L.13), Brazil, Italy and the United Kingdom (L.19), Viet-Nam (L.30) and India (L.36).

4. Mr. de ERICE y O'SHEA (Spain) proposed that the Spanish title of section I (*Establecimiento y conducta . . .*) should be amended to read: "*Establecimiento y ejercicio . . .*"

5. The CHAIRMAN said that that point would be referred to the drafting committee.

6. Mr. EL-SABAH EL-SALEM (Kuwait) expressed his country's satisfaction at participating for the first time in a conference of plenipotentiaries.

7. Referring to the amendments to paragraph 2, he suggested that the Committee should consider first the amendments furthest removed from the International Law Commission's text — namely, those in which it was proposed to delete the paragraph altogether (L.19 and L.30).¹

8. With regard to the substance of the paragraph, he reserved his delegation's position.

9. The CHAIRMAN said that, in accordance with rule 41 of the rules of procedure, the proposal to delete paragraph 2 would be voted on first. During the discus-

sion, however, delegations could speak on all the amendments to paragraph 2.

10. Mr. BARUNI (Libya) expressed the view that paragraphs 2 and 3 should be brought into line. If the Committee retained paragraph 2, paragraph 3 should be amended to provide that the severance of diplomatic relations involved the severance of consular relations. That was the only solution consistent with the provision in paragraph 2 that the establishment of diplomatic relations implied consent to the establishment of consular relations.

11. Mr. SILVEIRA-BARRIOS (Venezuela) opposed the proposal to delete paragraph 2; that paragraph embodied a generally accepted international practice. Diplomatic relations and consular relations were separate matters, governed by different rules. The establishment and the severance of diplomatic relations were governed by the 1961 Vienna Convention; consular relations would be governed by the convention to be adopted by the present conference. As far as consular relations were concerned, paragraph 2 constituted a complement of the rule embodied in paragraph 1.

12. Mr. TSYBA (Ukrainian Soviet Socialist Republic) also opposed the proposal to delete paragraph 2. The provision contained in that paragraph embodied a world-wide practice. Consular functions were often performed by diplomatic missions, and the 1961 Vienna Convention on Diplomatic Relations expressly stated, in article 3, paragraph 2, that "Nothing in the present convention shall be construed as preventing the performance of consular functions by a diplomatic mission." His delegation accordingly considered it essential to retain paragraph 2.

13. Mr. DUARTE DA ROCHA (Brazil) said that the spirit and the letter not only of article 2, paragraph 1, but also of article 4 were somewhat distorted by the provision contained in paragraph 2 of article 2.

14. Article 2, paragraph 1, and article 4 stated the fundamental principle of international law that the establishment of consular relations, and the establishment of a consulate, were subject to the express consent of the States concerned. Paragraph 2 of article 2 introduced a new element, which was at variance with that fundamental principle; it introduced the concept of tacit agreement for the establishment of consular relations. That was a departure from the fundamental principle, which had no practical advantage whatsoever.

15. It was not uncommon, at the time when two States established diplomatic relations, for one of them not to wish to enter into consular relations with the other. Paragraph 2 would make it necessary to state such disinclination expressly — a situation which would be quite intolerable in practice.

16. Another important consideration was that paragraph 2 could be construed to mean that when the future convention on consular relations came into effect, all States parties to it must accept the proposition that they were *ipso facto* in consular relations with all States with which they maintained diplomatic relations.

¹ All references in this and subsequent records of the First Committee to "L" documents are references to documents in the series A/CONF.25/C.1/L . . .

17. Mr. BARTOŠ (Yugoslavia) said that he saw no contradiction between paragraphs 1 and 2 of article 2. Paragraph 1 stated the principle that the establishment of consular relations between States took place by mutual consent. Paragraph 2 stated the presumption that such consent existed in the event of diplomatic relations being established between two States.

18. He drew attention to the practice initiated by the United Kingdom Government after the First World War, of entrusting consular functions to diplomatic missions. That practice had been followed by many countries, including his own; as a result, it was common for diplomatic officers to exercise consular functions and to hold an *exequatur* for the purpose. That practice had many practical advantages; it enabled the sending State to reduce expenses and facilitated protection of the interests of its nationals.

19. The International Law Commission, of which he had the honour to be a member, had taken that widespread practice into consideration and had embodied it in paragraph 2. The rule contained in that paragraph was, moreover, of a purely permissive character, since it was qualified by the proviso "unless otherwise stated".

20. Lastly, there was no reason to fear that the provisions of paragraph 2 would enable a State to claim the right to establish consulates anywhere in the territory of another State, purely on the grounds that diplomatic relations were maintained. As explained by the International Law Commission in paragraph 5 of its commentary on article 2, an agreement respecting the establishment of a consulate was necessary by virtue of article 4 of the draft.

21. Mr. OSIECKI (Poland) also opposed the proposal to delete paragraph 2. It was perfectly logical that the consent of a State to the establishment of the more important type of relations — i.e., diplomatic relations — should imply consent to the establishment of consular relations; it was a case of the whole including the part.

22. The provisions of paragraph 2 were consistent with international practice, as demonstrated by consular conventions in force. Poland maintained consular relations with a large number of States and had consistently applied the principle stated in paragraph 2 without encountering any difficulties. He urged the Committee to retain that principle, which would facilitate international co-operation.

23. Mr. MARAMBIO (Chile) saw no advantage in retaining paragraph 2. His delegation did not agree that consular relations could be regarded as being subordinate to diplomatic relations. He thought it both useful and desirable to respect the absolute freedom of States in regard to the establishment and maintenance of consular relations. For those reasons, his delegation supported the proposal to delete paragraph 2.

24. Mr. de ERICE y O'SHEA (Spain) considered that paragraph 2 should be retained, since it was a delicately balanced compromise text reached by the International Law Commission after mature consideration. In a sense, it might be considered redundant because it reiterated the principle of mutual consent already stated in para-

graph 1; but there was no harm in reaffirming such an important principle.

25. The fact that diplomatic missions could exercise consular functions was an argument in favour of the provision contained in paragraph 2. A further argument was that the establishment of diplomatic relations implied the mutual recognition by the States concerned of each other's sovereignty, and full sovereignty implied the capacity to establish consular relations.

26. Referring to the other amendments, he opposed the proposal by Bulgaria (L.2) that the words "unless otherwise stated" be deleted. If those words were removed, the establishment of consular relations would be left to the discretion of one of the two parties concerned.

27. On the other hand, he supported the Hungarian proposal (L.13) that the words in question be replaced by the words "unless otherwise agreed". That was a useful drafting improvement, which laid appropriate stress on the element of bilateral agreement in the establishment of consular relations.

28. Lastly, he supported the Indian amendment (L.36) but suggested adding a reference to the Convention on the following lines: "in accordance with the present convention and in conformity with local laws and customs of the receiving State."

29. Mr. KRISHNA RAO (India) accepted the new wording suggested by the Spanish representative.

30. Mr. ABDELMAGID (United Arab Republic) thought that, contrary to what had been suggested by the Brazilian representative, there was no conflict between paragraphs 1 and 2. Both provisions were based on the principle that mutual consent was necessary for the establishment of consular relations. He stressed the difference between the establishment of consular relations (governed by article 2) and the establishment of a consulate (governed by article 4).

31. His delegation would vote against the proposal to delete paragraph 2.

32. Mr. HEPPEL (United Kingdom) said that the Committee was faced with a comparatively simple question — namely, whether consent to the establishment of diplomatic relations implied consent to the establishment of consular relations. The point was a somewhat controversial one and the International Law Commission itself had not been altogether unequivocal on it. By introducing the proviso "unless otherwise stated" the Commission had in fact recognized that consent to the establishment of diplomatic relations did not always imply consent to the establishment of consular relations.

33. It had been suggested in the amendments that the proposition contained in paragraph 2 should be further qualified. For his part, he felt that the question whether the establishment of diplomatic relations implied consent to the establishment of consular relations could only be answered in the negative. Paragraph 1 clearly laid down that the establishment of consular relations between States took place by mutual consent. Diplomatic relations and consular relations were different in charac-

ter; the provisions of paragraph 2 ignored that fact and introduced an unnecessary complication.

34. It had been suggested that the deletion of paragraph 2 could affect the provisions of article 68 on the exercise of consular functions by diplomatic missions. He wished to stress that in his opinion the provisions of article 68 would not be affected in any way.

35. The matter under discussion had a certain practical importance. The United Kingdom, for example, maintained diplomatic relations with a number of States with which it did not have consular relations. It was therefore essential, from the point of view of his country, to keep the two matters separate; a separate agreement was necessary for the establishment of consular relations.

36. Mr. CAMARA (Guinea) thought it essential to maintain the provisions of paragraph 2 notwithstanding the general rule laid down in paragraph 1. The two paragraphs dealt with two different cases. Paragraph 1 dealt with the establishment of consular relations by express agreement between two States concerned; paragraph 2 dealt with tacit consent to the establishment of consular relations. There was also a strong practical argument in favour of the provisions of paragraph 2: many countries, like his own, were not in a position to maintain consulates separate from their diplomatic missions. Those countries were therefore most desirous of retaining provisions of the type contained in paragraph 2.

37. Turning to the other amendments submitted, he said he could support the Indian amendment (L.36) provided that the words proposed were placed at the beginning rather than at the end of paragraph 2. With regard to the words "unless otherwise stated", his delegation proposed that they should be replaced by the words "unless there is a provision to the contrary".

38. Mr. MARTINS (Portugal) supported the proposal to delete paragraph 2. As he saw it, there was little difference of opinion with regard to the principles involved. He drew particular attention, in that connexion, to the provisions of article 4, paragraph 1, to the effect that a consulate could only be established with the consent of the receiving State. In the circumstances, he felt that paragraph 2 could be deleted and that the idea it contained could be embodied in the preamble.

39. Mr. CAMERON (United States of America) said that his delegation had initially intended to accept paragraph 2. That had been on the understanding, however, that the discussion would indicate unanimity with regard to the scope of the paragraph and its effect on the mutual consent provided for in paragraph 1. But the discussion had clearly shown not only that there was no unanimity on the question of retaining paragraph 2, but also that there was no unanimous understanding on the scope of its provisions and their effect on the general principle laid down in paragraph 1. For those reasons his delegation could not support paragraph 2 in its existing form, and would vote in favour of the proposal to delete it.

40. His delegation could not support the Hungarian amendment (L.13) because it would mean that the consent of a State to the establishment of diplomatic relations would imply the establishment of consular relations

and that, if one of the two States concerned nevertheless declined in those circumstances to establish consular relations, it would have to come to a special agreement with the other State regarding the non-establishment of such relations.

41. Lastly, his delegation opposed the Bulgarian proposal (L.2) to delete the words "unless otherwise stated" because that would leave paragraph 2 in a form which completely negated the principle of mutual consent laid down in paragraph 1.

42. Mr. BREWER (Liberia) was in favour of retaining paragraph 2. The proviso "unless otherwise stated" afforded adequate protection, by giving each of the States concerned the right to prevent the establishment of diplomatic relations from entailing the establishment of consular relations.

43. Moreover, it was appropriate that the establishment of relations between States at the higher, or diplomatic, level should imply the establishment of relations at the lower level.

44. Mr. NGUYEN QUOC DINH (Republic of Vietnam) associated himself with the arguments put forward by the other sponsors of the proposal to delete paragraph 2. He stressed the difference in character between diplomatic and consular functions and the different legal régimes applicable to them. A comparison of the provisions of the 1961 Vienna Convention on Diplomatic Relations with those of the draft on consular relations clearly showed the differences between the two types of relations. The question of the establishment of consular relations should not be linked to that of diplomatic relations.

45. The exercise of consular functions by diplomatic missions was a different problem from the one under discussion. Article 2 dealt with the principle of the establishment of consular relations. The exercise of consular functions by diplomatic missions was dealt with in article 3, paragraph 2, of the 1961 Vienna Convention on Diplomatic Relations and in article 68 of the consular draft.

46. If, as his delegation proposed, paragraph 2 were deleted and two States agreed to establish consular relations, there would be nothing to prevent a diplomatic mission from exercising consular functions.

47. Mr. D'ESTEFANO PISANI (Cuba) was in favour of retaining paragraph 2. The establishment of diplomatic relations normally implied that of consular relations. As correctly stated in paragraph 3, however, the severance of diplomatic relations did not *ipso facto* involve that of consular relations. His delegation felt strongly on that point, because his country had been the victim of economic and other forms of pressure, in which the severance of consular relations had played a part.

48. Lastly, his delegation supported the Hungarian amendment (L.13).

49. Mr. SEID (Chad) said that he was opposed to the deletion of paragraph 2. He did not think its provisions were superfluous, as some delegations had suggested.

50. His delegation supported the Hungarian amendment (L.13), which would improve the legal drafting of paragraph 2.

51. Mr. MAMELI (Italy) drew attention to the fundamental technical and legal differences between consular relations and diplomatic relations. His delegation, together with other delegations, had proposed the deletion of paragraph 2 because, among other reasons, it was at variance with the terms of paragraph 3. While he sympathized with the practical considerations put forward by the representative of Guinea, those considerations should not lead to the adoption of a provision which was unacceptable from the point of view of legal principle.

52. Mr. N'DIAYE (Mali) considered that no connexion should be established between the provisions of paragraph 2 and those of paragraph 3. The two paragraphs dealt with totally different matters. Paragraph 2 stated that the consent given to the establishment of diplomatic relations between two States normally implied consent to the establishment of consular relations. Paragraph 3, on the other hand, dealt with the maintenance of consular relations for the purpose of safeguarding the interests of the nationals of the country concerned after the severance of diplomatic relations, at least for a time.

53. The provisions of paragraph 2 were, moreover, necessary in order to enable a diplomatic mission to exercise consular functions until consulates were established.

54. His delegation supported the Hungarian amendment (L.13), which improved the wording of paragraph 2; it also supported the Indian amendment (L.36), which had the merit of safeguarding the sovereignty and prerogatives of the receiving State under its municipal law.

55. Mr. KONZHUKOV (Union of Soviet Socialist Republics) said that the provision in paragraph 2 that the establishment of diplomatic relations implied consent to the establishment of consular relations was in conformity with modern international law and the existing practice of States. The provision had both practical and theoretical significance: the very fact of the establishment of diplomatic relations was usually enough to allow consular functions to be exercised. In establishing diplomatic relations between the Soviet Union and about forty countries, no special declaration had been made concerning the establishment of consular relations. The Consular Convention of 1958 between the USSR and the Federal Republic of Germany, however, stated that the parties wished to regulate consular relations between them, while the Soviet Union's consular convention between the Soviet Union and Czechoslovakia referred to further development of consular relations between the two States. In view of that widespread practice, his delegation would vote against the deletion of paragraph 2 as proposed in documents L.19 and L.30. He also wished to point out to the authors of the proposal that, if paragraph 2 were deleted, paragraph 3 would no longer have any meaning.

56. The Soviet delegation would support the Hungarian and Bulgarian amendments (L.2 and L.13).

57. Mr. KRISHNA RAO (India) observed that the United Kingdom representative seemed to have misunderstood his reference to the Vienna Convention; the clause he had had in mind had been article 3, paragraph 2, of that convention. If he had had any lingering doubt in his mind concerning the need to retain paragraph 2, it would have been dispelled by the United Kingdom representative's reference to article 68, paragraph 1, and also by paragraph 4 of the commentary on article 2 of the draft.

58. He could accept the Spanish representative's oral amendment to his delegation's proposal, and suggested that the text might be referred to the drafting committee. On the other hand, he thought placing the Indian amendment at the beginning of the paragraph, as proposed by the representative of Guinea, would alter the meaning of the text.

59. Mr. DE CASTRO (Philippines) said that his delegation would vote against the proposal to delete paragraph 2 for three reasons. First, the idea that the establishment of diplomatic relations was accompanied by the establishment of consular relations was gaining increasingly wide recognition. Secondly, paragraph 2 might be beneficial to smaller countries. Thirdly, paragraph 2 provided safeguards for those countries which might not feel prepared to accept by implication the establishment of consular relations at the time when diplomatic relations were established.

60. Mr. DI MOTTOLA (Costa Rica) agreed with some previous speakers that paragraph 2 might be an unnecessary complication. It could be argued that it might be difficult to establish diplomatic relations if there was a wish to avoid consular relations; but that argument was nullified by the provision in paragraph 2 that a State which had established diplomatic relations could refuse to establish consular relations. The paragraph was therefore redundant, and he would vote for its deletion.

61. Mr. USTOR (Hungary) said that two main questions seemed to be involved in the dispute concerning the deletion of paragraph 2. The first was whether the rule stated in the paragraph was new or old, and the second, whether it should be inserted in the convention. The first question could be put in a different way — namely, whether the rule represented codification of international law or its progressive development. The Hungarian delegation believed that the rule was well established and conformed with modern practice. If two States agreed to establish diplomatic relations and missions, then, under article 3, paragraph 2, of the Vienna Convention on Diplomatic Relations, those missions could perform consular functions, and consular relations thus automatically came into being. Consequently, the answer to the second question was self-evident, and there was no reason to delete the paragraph.

62. With regard to the intentions of the Bulgarian and Hungarian amendments, neither of those delegations

wished to change the meaning of the rule as stated by the International Law Commission. The Bulgarian amendment (L.2) had obviously been introduced because the words "unless otherwise stated" were redundant in view of the obvious right of a State to refuse consent to the establishment of consular relations. He would be prepared to support that amendment, but would press his own delegation's proposal (L.13) if the majority of the Committee could not accept the Bulgarian amendment. The Hungarian proposal contained no new element, but merely stressed the point that only bilateral agreements, and not unilateral acts, could be binding in the case in point.

63. He had some doubts concerning the wisdom of adopting the Indian amendment, because it introduced the laws of the receiving State into the establishment of consular relations, which was governed by international law, rather than by local laws and customs. Moreover, the observance of municipal law was adequately safeguarded by article 55 of the draft.

64. Mr. PALIERAKIS (Greece) said that his delegation was in favour of deleting paragraph 2 because it might introduce difficulties into friendly diplomatic and consular relations between States. In some cases, diplomatic relations might be established without consular relations, owing to local or other conditions. If States were compelled to establish consular relations as a result of the establishment of diplomatic relations, the results might be quite contrary to the wishes of the International Law Commission. His delegation believed that the concepts of diplomatic relations and consular relations should not be connected in the draft.

65. Mr. KEVIN (Australia) said that his delegation would vote in favour of deleting the paragraph, because it was undesirable to include a clause which might have a retroactive effect.

66. Mr. PETRŽELKA (Czechoslovakia) said he would vote against the deletion of paragraph 2 because it embodied a generally recognized principle of international practice and its retention would be a contribution to the progressive development of international law. The principal fact in the establishment of consular relations was the express wish of the States concerned to establish them, and the phrase "unless otherwise stated" was therefore unnecessary; he would vote for the Bulgarian amendment and, if it were rejected, for the Hungarian amendment.

67. Mr. REZKALLAH (Algeria) agreed with the Spanish and Guinean representatives that the provision in paragraph 2 was an essential complement to the principle set out in paragraph 1. He did not consider the Indian amendment to be necessary, and thought that the words "unless otherwise stated" were insufficiently precise. He would therefore vote against the deletion of paragraph 2 and in favour of the Hungarian amendment.

68. Mr. BOUZIRI (Tunisia) said he would vote against the deletion of paragraph 2, since it would both complicate the text of the article and run counter to established practice. He would vote for the Hungarian

amendment and thought that the Indian amendment should be referred to the drafting committee.

69. Mr. CAMARA (Guinea), replying to the Italian representative, recalled that he had mentioned two legal considerations and one practical argument in favour of retaining paragraph 2. It was a fact that certain States were not always in a position to maintain diplomatic and consular relations separately. Moreover, the delegations which wished to delete paragraph 2 seemed to want to retain paragraph 3, although it was consequential on paragraph 2. In his opinion, a logical consequence of deleting paragraph 2 should be the deletion of paragraph 3 also; in that event, only paragraph 1, which stated a principle without any practical consequences, would remain.

70. Mr. RABASA (Mexico) said that, before the debate had begun, his delegation had been prepared to accept paragraph 2. The many arguments advanced in the Committee, however, had drawn the Mexican delegation's attention to the essential point that the establishment of diplomatic and consular relations was an act whereby States exercised a sovereign right. That right should be maintained intact and without any limitations on its free exercise. The Vienna Convention on Diplomatic Relations should be the keystone of the debate, which must be based on the will of the State to establish diplomatic and consular relations. That principle had been established in article 2 of the Vienna Convention, which referred exclusively to the mutual consent of the States concerned to establish diplomatic relations. It must be borne in mind that, in terms of exchanges between two sovereign States, diplomatic and consular relations were of the same importance and that neither could be restricted. The Mexican delegation would therefore vote for the deletion of paragraph 2.

71. The CHAIRMAN put to the vote the amendments submitted by Brazil, Italy and the United Kingdom (A/CONF.25/C.1/L.19) and by Viet-Nam (A/CONF.25/C.1/L.30), both of which called for the deletion of paragraph 2.

The amendments were rejected by 37 votes to 35, with 3 abstentions.

72. The CHAIRMAN put the Bulgarian amendment (A/CONF.25/C.1/L.2) to the vote.

The amendment was rejected by 57 votes to 2, with 3 abstentions.

73. The CHAIRMAN put to the vote the Guinean oral amendment, proposing that the words "unless otherwise stated" be replaced by the words "unless there is a provision to the contrary".

The amendment was rejected by 51 votes to 7, with 13 abstentions.

74. The CHAIRMAN put the Hungarian amendment (A/CONF.25/C.1/L.13) to the vote.

The amendment was rejected by 36 votes to 21, with 16 abstentions.

75. The CHAIRMAN put to the vote the Indian amendment (A/CONF.25/C.1/L.36), as orally amended by the Spanish representative.

The amendment was rejected by 37 votes to 23, with 14 abstentions.

Paragraph 2 of article 2 was adopted.

76. The CHAIRMAN invited the Committee to consider article 2, paragraph 3.

77. Mr. de ERICE y O'SHEA (Spain), introducing his delegation's amendment (L.22), said that its purpose was to establish a distinction between the "severance" of diplomatic relations and their "interruption or suspension". In his delegation's opinion, a violent breaking off of diplomatic relations implied the severance of consular relations also, whereas interruption or suspension of diplomatic relations meant that the work of the diplomatic mission ceased without actual severance of relations and without obligation on the part of either of the States concerned to give a reason for such cessation. The Spanish delegation believed that actual severance of relations called for a formal and solemn declaration and entailed cessation of consular functions as well as diplomatic functions. In other words, "severance" was too strong a word to use in cases where some kind of relations were to be maintained.

78. Mr. D'ESTEFANO PISANI (Cuba) said he could not agree with the Spanish representative. The amendment would entirely change the meaning of the paragraph.

79. Mr. BARTOŠ (Yugoslavia) observed that the term "severance" precisely conveyed the meaning of breaking off diplomatic relations in the legal sense. Perhaps the Spanish representative had meant to use the expression "severance and interruption".

80. Mr. WESTRUP (Sweden) agreed with the Yugoslav representative. The Spanish amendment as it had been explained would fundamentally alter the meaning of the article and was therefore unacceptable to the Swedish delegation.

81. Mr. DADZIE (Ghana) said that the word "severance" conveyed precisely the correct meaning in the English text; it included interruption and suspension of relations until they were resumed. Moreover, the words "*ipso facto*" had been chosen with great care, to show that consular relations would continue automatically after severance of diplomatic relations, unless the contrary intention was expressed. He could not support the Spanish amendment.

82. Mr. CAMARA (Guinea) observed that the Spanish amendment would add nothing to the text of paragraph 3, since, in the French text at least, the words "interruption ou suspension" conveyed the same meaning as "rupture". Moreover, if the severance of diplomatic relations did not *ipso facto* involve the severance of consular relations, suspension of diplomatic relations would obviously not involve suspension of consular relations.

83. Mr. RUEGGER (Switzerland) considered that the Law Commission's text should be retained. Severance of diplomatic relations was a recognized act of public

international law; the practical aim must be to protect individuals as far as possible, in the event of severance — and not only of interruption or suspension — of diplomatic relations. Furthermore, it was stated in paragraph 6 of the commentary on article 2 that paragraph 3 laid down a generally accepted rule of international law. It would be wise to respect as far as possible a text which had been discussed by eminent jurists for over eight years.

84. Mr. RASSOLKO (Byelorussian Soviet Socialist Republic) agreed that the Spanish amendment was unacceptable. The meaning of the word "severance" was perfectly clear from the very context of paragraph 3.

85. Mr. de ERICE y O'SHEA (Spain) regretted that the majority of representatives seemed to have misunderstood the purport of his delegation's amendment; in view of the consensus of opinion in the Committee, he withdrew it.

Article 2 was adopted, subject to the drafting committee's decision on the amendment submitted by the United Arab Republic (A/CONF.25/C.1/L.9).

The meeting rose at 6.15 p.m.

FOURTH MEETING

Thursday, 7 March 1963, at 10.35 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)

Article 3 (Exercise of consular functions)

1. The CHAIRMAN invited the comments of the members of the Committee on the amendments to article 3 of the International Law Commission's draft.¹

2. Mr. ABDELMAGID (United Arab Republic) said that his delegation's amendment (L.10) to article 3 was an amendment of form; he agreed that it should be referred to the drafting committee.

3. Mr. de ERICE y O'SHEA (Spain) explained that the purpose of the Spanish amendment (L.24) to article 3 was merely that the scope of the reference to article 68 should extend to the whole convention. As that might be regarded as purely an amendment of form, his delegation would agree to its being referred to the drafting committee.

4. The United States amendment (L.40) clarified the wording of the article. Consular functions were in fact exercised by consular officials, not by consulates. On the other hand, the Italian amendment (L.41) seemed unnecessary, since it had been established that the

¹ The following amendments had been submitted: United Arab Republic, A/CONF.25/C.1/L.10; Spain, A/CONF.25/C.1/L.24; United States of America, A/CONF.25/C.1/L.40; Italy, A/CONF.25/C.1/L.41; Japan, A/CONF.25/C.1/L.46.