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shall be construed as preventing the performance of consular functions by a diplomatic mission." But if the Italian amendment were adopted, every official performing consular functions would need a special authorization, which would be senseless.

46. With regard to the Spanish amendment, he shared the views of the representative of the Ukrainian Soviet Socialist Republic. He proposed that separate votes be taken on the two phrases "may also be exercised" and "in accordance with the provisions of the present convention". The Czechoslovak delegation would vote for the second phrase only.

47. Mr. FUJIYAMA (Japan) said that his delegation was not convinced by the arguments advanced in favour of retaining article 3; but in view of the opinion prevailing in the Committee, he would not insist on his amendment being put to the vote.

48. Mr. WARNOCK (Ireland) said he had no strong views on the matter. The purpose of the conference would be achieved if article 3 as drafted by the International Law Commission were retained; but he would gladly support the Italian and Spanish amendments, and was also in favour of the United States amendment.

49. Mr. CHIN (Republic of Korea) was in favour of adopting the text of the draft, with the United States amendment.

50. Mr. de ERICE y O'SHEA (Spain) said that he was prepared to support article 3 as drafted by the International Law Commission, merely substituting the words "in accordance with the present convention" for the words "in accordance with the provisions of article 68". Perhaps the Czechoslovak representative would then be able to withdraw his proposal for separate votes on the two parts of the sentence.

51. Mr. BREWER (Liberia) thought that the United States amendment would improve the wording of article 3. He was also in favour of the Spanish amendment.

52. Mr. RABASA (Mexico) insisted that the word "convención" be substituted for the word "convenio" in the Spanish text, to bring it into line with the other languages. He pointed out in addition that the word "convención" would appear in the title of the Convention.

53. Mr. de ERICE y O'SHEA (Spain) thought it would be better not to delete the word "also". That would bring the text into conformity with the International Law Commission's draft. The comment made by the representative of Mexico concerned the Spanish text only; the matter could be settled privately.

54. Mr. PALIERAKIS (Greece) proposed a sub-amendment to the United States amendment. He asked the United States representative if he would be willing to substitute the words "by diplomatic officials" for the words "by diplomatic missions" in the second sentence, so as to bring both parts of the article into line.

55. Mr. CAMERON (United States of America) said that, if the representative of Greece wished to make that proposal, he would gladly support it.

56. Mr. BOUZIRI (Tunisia) thought that article 3 as it stood was quite satisfactory, but that the Spanish amendment would improve it. He would therefore support that amendment as finally revised by the representative of Spain, retaining the word "also", which had its meaning and effect.

57. He did not quite understand the point of the United States amendment. If it was merely a matter of drafting, it should be referred to the drafting committee. If it affected the substance, he did not see that it served any useful purpose. He would therefore vote against it, and against the Italian amendment.

58. Mr. KRISHNA RAO (India) was opposed to the Greek sub-amendment, which was intended to interpret the 1961 Convention, because it was not possible to make changes, even indirectly, in the scope of a convention which had already been adopted and ratified — namely, the Vienna Convention on Diplomatic Relations, 1961.

59. Mr. USTOR (Hungary) warmly supported the representative of India. He thought that the Greek and United States amendments would destroy the harmony of article 3, as well as the harmony between the convention being drawn up and the Convention on Diplomatic Relations. The draft of article 3 as it stood seemed more in line with the Convention on Diplomatic Relations, and with international practice.

60. The CHAIRMAN put the amendments to the vote.

The Italian amendment (A/CONF.25/C.1/L.41) was rejected by 44 votes to 19, with 9 abstentions.

The United States amendment (A/CONF.25/C.1/L.40) was rejected by 40 votes to 19, with 13 abstentions.

The verbal sub-amendment submitted by Guinea, to delete the word "also" from the Spanish amendment (A/CONF.25/C.1/L.24) was rejected by 52 votes to 4, with 13 abstentions.

The Spanish amendment (A/CONF.25/C.1/L.24) was adopted by 57 votes to 5, with 6 abstentions.

Article 3, as amended, was adopted by 64 votes to 1, with 6 abstentions.

The meeting rose at 1.15 p.m.

FIFTH MEETING

Thursday, 7 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 4 (Establishment of a consulate)

Paragraph 1

1. The CHAIRMAN announced that no amendments to paragraph 1 had been submitted; he therefore sug-

gested that the draft prepared by the International Law Commission should be adopted.

Paragraph 1 was adopted.

Paragraph 2

2. The CHAIRMAN drew attention to two amendments to paragraph 2, one submitted by Brazil (A/CONF.25/C.1/L.35), and the other by Italy (A/CONF.25/C.1/L.42).

3. Mr. SILVEIRA-BARRIOS (Venezuela) said he wished to submit an oral amendment to paragraph 2. The paragraph as it stood laid down a strict rule presupposing the conclusion of an agreement between States to determine the seat of the consulate and the consular district. That was contrary to international practice, since the decision in question contained an element which came within the province of municipal law. His delegation therefore proposed that the paragraph should be amended to read as follows: "The seat of the consulate and the consular district shall be established by the sending State and shall be subject to the approval of the receiving State."

4. Mr. MIRANDA e SILVA (Brazil) observed that the Venezuelan proposal coincided with the amendment submitted by his own delegation. The Brazilian amendment was not intended to be a radical alteration of the draft, but merely to show more clearly that while the sending State determined the seat of the consulate and the consular district, the consent of the receiving State must be obtained. His delegation would be prepared to sponsor the amendment jointly with the Venezuelan delegation, in the wording proposed by that delegation.

5. Mr. MAMELI (Italy) said that the purpose of his delegation's amendment was to make it clear that the category of the consulate to be established must also be subject to mutual agreement between the receiving State and the sending State.

6. Mr. HEPPEL (United Kingdom) said that his delegation was in favour of altering the wording of the paragraph along the lines suggested by the Brazilian and Venezuelan delegations. With regard to the Italian amendment, he believed that deciding the rank of a consulate was essentially a matter for the sending State.

7. Mr. von HAEFTEN (Federal Republic of Germany) supported the Italian amendment. His country had had experience of cases in which the sending State had appointed honorary consuls-general to towns where only an honorary consul had been serving before, and difficulties had arisen in connexion with seniority in the consular corps. The question was an important one, especially where honorary consuls were concerned; while the United Kingdom representative had rightly pointed out that the matter was primarily one for the sending State to decide, the receiving State must be able to refuse its consent. He proposed that the Italian amendment should be combined with the joint Brazilian and Venezuelan amendment and that it should also apply to paragraph 3 of article 4.

8. Mr. ABDELMAGID (United Arab Republic) considered that, since paragraph 2 referred exclusively to

the seat of the consulate and the consular district, a reference to the rank of a consulate would be out of place there, though of course the two States should agree on the question of rank, if only out of respect for the principle of reciprocity. The original Brazilian amendment was in effect only a drafting change, and did not differ essentially from the Law Commission's text. The wording now proposed by the Venezuelan delegation, however, seemed to affect the principle involved, since it implied that the sending State should first establish the seat of the consulate and the consular district and should then submit its decision to the receiving State for approval. In any case, he considered that the Commission's text should be retained wherever possible.

9. Mr. D'ESTEFANO PISANI (Cuba) observed that the fact that article 1 (Definitions) had not yet been discussed would continue to cause difficulties throughout the debate, since the word "consulate" covered many types of office. It might be best to refer the Italian amendment to the drafting committee.

10. Mr. de MENTHON (France) agreed with the Venezuelan representative that the words "by mutual agreement" were unduly rigid, particularly in view of paragraph 2 of the commentary on article 4. The joint Brazilian and Venezuelan amendment seemed closer to the spirit of that commentary than was the text of the paragraph itself. His delegation considered the Italian amendment to be valuable and supported the proposal by the representative of the Federal Republic of Germany that it should be combined with the Brazilian and Venezuelan amendment.

11. Miss ROESAD (Indonesia) considered that the joint amendment, as worded by the Venezuelan representative, departed from the principle set out in paragraph 1, namely that the consent of the receiving State was essential for the establishment of a consulate. Her delegation could not vote for that amendment.

The Italian amendment (A/CONF.25/C.1/L.42) was adopted by 27 votes to 12, with 23 abstentions.

12. The CHAIRMAN put to the vote the joint Brazilian and Venezuelan amendment, pointing out that the Italian amendment just adopted by the Committee would be incorporated in it.

The joint Brazilian and Venezuelan amendment was adopted by 32 votes to 16, with 15 abstentions.

Paragraph 2, as amended, was adopted.

Paragraph 3

13. The CHAIRMAN announced that no amendments to paragraph 3 had been submitted and drew attention to the proposal by the representative of the Federal Republic of Germany that the Italian amendment to paragraph 2 should be incorporated in paragraph 3 also.

Paragraph 3 was adopted with that amendment.

Paragraphs 4 and 5

14. The CHAIRMAN pointed out that amendments to paragraphs 4 and 5 had been submitted by the delegations of Japan (A/CONF.25/C.1/L.47), the United King-

dom (A/CONF.25/C.1/L.50) and Spain and the Republic of Viet-Nam (A/CONF.25/C.1/L.52).

15. Mr. HEPPEL (United Kingdom), introducing his delegation's amendment, explained that the deletion of paragraph 4 had been proposed because the text contained no substance which was not already covered by paragraph 1. The United Kingdom amendment to paragraph 5 contained no substantial change, but expressed more clearly the provision that offices away from the seat of the consulate could not be established without the prior consent of the receiving State. Similar amendments had been submitted by other delegations, and it might be possible to agree on a single text.

16. Mr. von HAEFTEN (Federal Republic of Germany) supported the United Kingdom amendment to paragraph 5, but said he would prefer paragraph 4 to be retained even though it might not be absolutely necessary. Paragraph 5 referred to the establishment of branch offices set up by the same authority as the main consulate, whereas paragraph 4 referred to the establishment of vice-consulates or consular agencies by a consulate-general or consulate. Difficulties might arise if that difference were not stressed.

17. Mr. SILVEIRA-BARRIOS (Venezuela) supported the proposal to delete paragraph 4. Although the reason for including the paragraph was clearly stated in paragraph 6 of the commentary on article 4, the Venezuelan delegation did not believe that the number of countries whose municipal law sanctioned the practice in question was large enough to justify its standardization. He proposed that paragraph 5 should also be deleted because the case it dealt with also came under the municipal law of the receiving State.

18. Mr. PALIERAKIS (Greece) said he could support the United Kingdom amendment to paragraph 5, but he considered that paragraph 4 should be retained, since the two paragraphs dealt with completely different cases.

19. Mr. WU (China) drew attention to an anomaly in the drafting of the article. Paragraph 5 contained the phrase "without the prior express consent of the receiving State", whereas paragraphs 1, 3 and 4, which dealt with more important matters, referred merely to "the consent of the receiving State". In his delegation's opinion, the word "prior" should be inserted in paragraphs 1, 3 and 4.

20. Mr. KRISHNA RAO (India) thought that perhaps the delegations which had proposed the deletion of paragraph 4 had not taken the Commission's reasons for including the paragraph sufficiently into account. His delegation did not object to combining the provisions of paragraphs 4 and 5 in a single paragraph, but it did consider that the procedure for opening a vice-consulate or consular agency should be mentioned in the text.

21. Mr. de MENTHON (France) endorsed the Indian representative's remarks. His country had a particular interest in retaining paragraph 4, since it had some 500 consular agencies throughout the world. He could, however, support the United Kingdom amendment to paragraph 5.

22. Mr. BARTOŠ (Yugoslavia) agreed with the Indian and French representatives. The International Law Commission had separated paragraphs 4 and 5 in order to eliminate a controversy over the practice whereby a consul or consul-general was authorized by the exequatur itself to open a vice-consulate or consular agency, without necessarily requesting the permission of the receiving State. Most of the members of the Commission had spoken against that practice, and regarded it as regional, not universal. The purpose of paragraph 4, as drafted, was to deny the right of a consulate-general or a consulate to open a vice-consulate or consular agency without the consent of the receiving State.

23. Mr. FUJIYAMA (Japan) said that his delegation had proposed the deletion of paragraph 4 precisely because it believed that the government of the sending State alone had the authority to open vice-consulates and consular agencies and because it could not agree that consulates-general or consulates also had such authority.

24. Since the intention of his delegation's amendment to paragraph 5 coincided with the United Kingdom amendment to that paragraph, he withdrew his amendment in favour of that submitted by the United Kingdom.

25. Mr. ENDEMANN (South Africa) said that there seemed to be some confusion between the term "consulate" as used in the generic sense, and the term "consulate" referring to a specific type of mission. It was obvious that the term was used in the generic sense in paragraph 1. Although the Committee had not yet dealt with the article on definitions, he wished to point out that, according to the Commission's definition, the word "consulate" covered four classes of mission. The article on definitions did not specify by whom those missions were opened, and if, in the practice of some countries, vice-consulates and consular agencies could be opened by a consulate-general, that was not necessarily the concern of the receiving State. The essential point was that the establishment of such an office, whatever it might be called, was covered by paragraph 1. Hence, paragraph 4 was redundant.

26. On the other hand, the branch offices of a main consulate referred to in paragraph 5 were in a different class. The consent of the receiving State must be obtained if such a branch office were to be established at a locality away from the seat of the main office. The United Kingdom amendment, which clarified that provision, was therefore important.

27. Mr. CAMERON (United States of America) agreed with the speakers who had stressed the substantive difference between paragraphs 4 and 5. While there was some merit in the South African representative's contention that the establishment of the offices referred to in paragraph 4 might be made subject to the consent provided for in paragraph 1, the commentary on the article gave perfectly clear reasons for the inclusion of both paragraph 1 and paragraph 4. He therefore thought that the substance of paragraph 4 should be retained, although paragraphs 4 and 5 might be combined along the lines proposed in the amendment by Spain and the Republic of Viet-Nam.

28. Mr. WESTRUP (Sweden) said he was in favour of deleting paragraph 4 because it was redundant. His delegation could accept the United Kingdom amendment to paragraph 5.

29. Mr. BARTOŠ (Yugoslavia) pointed out that, in referring to the establishment of vice-consulates and consular agencies, a distinction should be made between districts which were, and districts which were not, covered by the jurisdiction of consulates-general or consulates.

30. Mr. TSYBA (Ukrainian Soviet Socialist Republic) said he was in favour of retaining paragraph 4 as it stood.

31. Mr. SILVEIRA-BARRIOS (Venezuela) reiterated his statement that the States which authorized consulates-general and consuls to open vice-consulates or consular agencies were in the minority. Paragraph 4 should be deleted.

32. Mr. de ERICE y O'SHEA (Spain) said that the purpose of the amendment which his delegation had submitted jointly with that of the Republic of Viet-Nam was to prevent the proliferation of consular branch offices in outlying localities on the pretext of authorization given to consulates-general and consulates. It was in the interests of all States to include in the convention a clause that would prevent any abuse of the principle laid down in paragraph 1.

33. Mr. MARTINS (Portugal) pointed out to the Spanish representative that the necessary safeguards were provided in paragraph 1, since the term "consulates" included all types of consular missions. The Commission's text of paragraph 5 also seemed to provide all the safeguards required.

34. He suggested that the word "seats" should be used instead of "localities".

35. Mr. HEPPEL (United Kingdom) thought that the misgivings expressed concerning the deletion of paragraph 4 were exaggerated. Although the consular commission might allow a consul-general or a consul to appoint vice-consuls or consular agents, it would not enable him to establish vice-consulates or consular agencies without the consent provided for in paragraph 1.

36. The CHAIRMAN put to the vote the United Kingdom amendment (A/CONF.25/C.1/L.50) proposing the deletion of paragraph 4.

The amendment was rejected by 43 votes to 17, with 5 abstentions.

37. The CHAIRMAN said that, having decided to retain paragraph 4, the Committee would next have to consider amendments to the text of that paragraph. The only amendment to paragraph 4 was the proposal by Spain and the Republic of Viet-Nam (L.52) to combine it with paragraph 5.

38. Mr. von HAEFTEN (Federal Republic of Germany) thought that that amendment might be a satisfactory compromise solution.

39. Mr. de ERICE y O'SHEA (Spain), speaking on behalf of the two sponsors of the amendment, said that, in order to take into account the ideas contained in the amendments to paragraph 5 submitted by the United Kingdom (L.50) and Japan (L.47), the joint amendment would be re-worded as follows: "The prior express consent of the receiving State shall also be required for the opening of an office forming part of an existing consulate but outside the seat thereof." He hoped that that would facilitate the work of the Committee; but the sponsors were quite willing to leave the final wording to the drafting committee.

40. Mr. GUNewardENE (Ceylon), speaking on a point of order, said that the joint amendment could only be treated as a proposal to replace paragraph 5, since the Committee had already decided to retain paragraph 4.

41. Mr. KRISHNA RAO (India), while agreeing with the representative of Ceylon, pointed out that there were no amendments to paragraph 4, which had been approved *in toto*. The joint amendment should deal only with paragraph 5.

42. The CHAIRMAN said that the joint amendment, as revised, no longer contained any reference to the opening of a vice-consulate or a consular agency in another place in the consular district; he therefore ruled that it did not constitute an amendment to paragraph 4, but only to paragraph 5.

43. Mr. RASSOLKO (Byelorussian Soviet Socialist Republic) supported the Chairman's ruling.

44. Mr. KEVIN (Australia) said that, as he understood it, the Committee had voted in favour of retaining the principle of paragraph 4.

45. Mr. PALIERAKIS (Greece) also supported the Chairman's ruling. The Committee had already reached a decision on paragraph 4; it was now called upon only to consider paragraph 5 and the amendments thereto.

46. Mr. PETRŽELKA (Czechoslovakia) agreed with representatives of Byelorussia and Greece. If the joint amendment were treated as an amendment to both paragraphs 4 and 5, its adoption would mean going back on the Committee's decision to retain paragraph 4. Reconsideration of that decision would require a two-thirds majority vote.

47. The CHAIRMAN reiterated his ruling that the revised joint amendment related exclusively to paragraph 5. Since the Committee had no amendments to paragraph 4 before it, he would assume, if there were no objection, that paragraph 4 was adopted as it stood.

It was so agreed.

48. The CHAIRMAN put to the vote the Venezuelan oral proposal to delete paragraph 5.

The proposal was rejected by 61 votes to 1, with 4 abstentions.

49. Mr. HEPPEL (United Kingdom) withdrew the United Kingdom amendment (L.50) in favour of the

revised amendment by Spain and the Republic of Viet-Nam (L.52).

50. Mr. DONATO (Lebanon), speaking on a point of order, said that the opening line of the joint amendment should be amended to read: "Replace paragraph 5 by the following: "

51. The CHAIRMAN said that that change was consequential upon his earlier ruling that the revised joint amendment did not apply to paragraph 4.

52. He invited the Committee to vote upon the joint proposal by Spain and the Republic of Viet-Nam to replace paragraph 5 by the revised text read out by the Spanish representative.

The revised proposal was adopted by 36 votes to 20, with 13 abstentions.

53. The CHAIRMAN invited the Committee to consider the proposal by Greece (A/CONF.25/C.1/L.49) to add a new paragraph 6 to article 4.

54. Mr. PALIERAKIS (Greece), introducing his delegation's amendment, said that it was intended to fill a gap in article 4. A consul very often needed to exercise his functions outside his consular district; the amendment would cover that contingency. As far as the substance was concerned, it conformed with the general rule laid down in article 4 by specifying that the exercise of consular functions outside the consular district required the consent of the receiving State.

55. Mr. EL-SABAH EL-SALEM (Kuwait) supported the Greek proposal. He noted that the International Law Commission's earlier draft had contained a provision on the subject;¹ its omission from the final text was a matter for regret. His delegation wished to suggest, however, that the term "consul" used in the proposed text should be replaced by "consular official" or any similar term which the drafting committee might prefer.

56. Mr. von HAEFTEN (Federal Republic of Germany) also supported the Greek proposal, which was in line with existing practice. In order to exercise his functions outside his consular district, a consular official required at least the tacit consent of the receiving State.

57. Mr. FUJIYAMA (Japan) said that his delegation's proposal for a new article (L.48) was intended to serve the same purpose as the Greek proposal; the two proposals should therefore be discussed together. His delegation was anxious that the idea contained in both proposals should be included in the Convention; the question whether it was embodied in a separate article or not was secondary.

58. Mr. ABDELMAGID (United Arab Republic) supported the Greek amendment, which embodied a very useful idea.

59. Mr. KRISHNA RAO (India) said that the Greek amendment was couched in negative terms. The inten-

tion was probably to provide that a consul might exercise his functions outside the consular district only with the consent of the receiving State. The second sentence of the Japanese amendment (L.48) for the addition of a new article might serve as a basis for discussing that point.

60. The CHAIRMAN said that it would be appropriate, in the light of the discussion, for the Committee to consider the proposals by Greece and Japan together.

61. Mr. HEPPEL (United Kingdom) said that his delegation supported the idea contained in both proposals. It preferred, however, the language used in the second sentence of the Japanese proposal because it was positive rather than negative; moreover, the Japanese proposal covered the question of tacit consent, to which the representative of the Federal Republic of Germany had drawn attention.

62. Mr. ENDEMANN (South Africa) supported the idea contained in both proposals. He thought, however, that it would be unfortunate to introduce that idea into article 4, which dealt with the establishment of a consulate; it belonged more properly to articles 6 and 7, which dealt with the exercise of consular functions. For those reasons, his delegation favoured a new article on the lines of the Japanese proposal, but placed after article 5.

63. Mr. MARTINS (Portugal) agreed with the South African representative regarding the position of the proposed new provision. He, too, preferred the positive formulation of the Japanese text to the negative one of the Greek proposal; but he suggested that the first sentence should be shortened to read: "Consular functions are performed within the consular district . . ."

64. Mr. LEE (Canada) urged that the express consent of the receiving State should be required for the performance by a consular official of consular functions outside his district. The reason for excluding the possibility of mere tacit consent was that the receiving State must retain a strict control over the area in which a consular official performed his functions. The commission of appointment usually specified the consular district, and the exequatur often laid down the limits within which its holder could exercise his functions; it was most important that any change should be subject to the express consent of the receiving State.

65. Accordingly, he suggested that the proposed new provision should be drafted on the following lines: "A consular official may, with the express consent of the receiving State, exercise his functions outside his consular district."

66. Mr. BOUZIRI (Tunisia) suggested that, in view of the doubts which had been expressed as to the appropriate place for the new provision, the discussion on the two proposals should be deferred.

67. Mr. KRISHNA RAO (India) noted that there was considerable support for the inclusion in the convention of a provision on the lines proposed by Greece and Japan. The Committee might therefore accept the prin-

¹ *Yearbook of the International Law Commission, 1960*, vol. II (United Nations publication, sales No. 60.V.1, vol. II), p. 33.

ciple of the proposed new provision and refer the question of its position in the convention to the drafting committee.

68. Mr. N'DIAYE (Mali) agreed with the previous speaker and urged that the Committee should not defer its decision on the principle.

69. Mr. MARAMBIO (Chile) suggested that the two proposals should be combined and that a new provision on the following lines should be adopted as paragraph 6 of article 4: "The consul may, in certain cases, exercise his functions outside his consular district with the consent of the receiving State."

70. Mr. DADZIE (Ghana) supported the text proposed by the representative of Canada, which avoided the negative form of the Greek proposal. Both the Greek and the Chilean proposals used the term "consul"; in fact, consular functions were not exercised by consuls only, but also by other consular officials and it was therefore necessary to use a broader term.

71. While his delegation favoured the text proposed by the Canadian representative, it thought that the formulation of the final text could well be left to the drafting committee.

72. Mr. USTOR (Hungary) urged that the Committee should first decide whether the idea contained in the proposals by Greece and Japan should be introduced into article 4 or be the subject of a new article. He himself thought it would be out of place in article 4 (Establishment of a consulate).

73. The CHAIRMAN pointed out that the Japanese proposal called for a new article; hence the procedural question raised by the Hungarian representative related only to the Greek proposal. He invited the Committee to decide whether the Greek proposal should be treated as an amendment to article 4 or not.

The Committee decided by 46 votes to 15, with 2 abstentions, that the Greek proposal (A/CONF.25/C.1/L.49) should not be treated as an amendment to article 4.

Article 4, as amended, was adopted.

74. The CHAIRMAN said that, in accordance with the decision just taken, the Greek proposal would be treated as a new provision. It would be discussed together with the Japanese and other related proposals at the next meeting.

75. Mr. WU (China) recalled his suggestion that the word "prior", used in paragraph 5 of article 4, should be inserted in paragraphs 1, 3 and 4 of that article. He thought that suggestion should be referred to the drafting committee.

76. The CHAIRMAN said that, as the word proposed raised a question of substance, he could not refer the matter to the drafting committee.

The meeting rose at 6 p.m.

SIXTH MEETING

Friday, 8 March 1963, at 11 a.m.

Chairman: Mr. SILVEIRA-BARRIOS (Venezuela)

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

Proposed new article (Exercise of consular functions outside the consular district)

1. The CHAIRMAN recalled that the Committee had decided at its fifth meeting to examine the Greek amendment (L.49) at the same time as the Japanese proposal (L.48) to insert a new article between articles 4 and 5. Those proposals had been withdrawn in favour of the joint proposal by Canada, Chile, Cuba, Ghana, Greece and Japan (A/CONF.25/C.1/L.68). Since he understood that the fate of the joint proposal was bound up with article 38, to be examined by the Second Committee, it would perhaps be better to wait till the Second Committee had come to a decision on article 38 before discussing it.

2. Mr. LEE (Canada) said that he did not agree. The joint proposal was a synthesis of points brought up in the previous day's debate and it was logical that the discussion of the proposal should immediately follow the debate. Moreover, the joint proposal was based on principles which the Committee seemed to have accepted. It did not run counter to article 38 and was not connected with it.

3. Mr. PALIERAKIS (Greece) hoped that the joint proposal would be examined without further delay as it had no connexion with article 38.

4. Mr. DADZIE (Ghana) introduced the joint proposal and said that its sponsors left it to the drafting committee to decide where the new article should be inserted. In substance the joint proposal would allow a consular official posted to a certain consular district to exercise his functions outside that district when circumstances required it, subject to the express consent of the receiving State.

5. Mr. GUNewardENE (Ceylon) supported the Canadian representative and said that he was in favour of the principle of the joint proposal. It was for the drafting committee to decide where the new article should be placed.

6. Mr. CONTRERAS CHAVEZ (El Salvador) said that the International Law Commission had been careful not to deal with the question of the exercise of consular functions outside the consular district, which gave rise to a delicate question of law. The Conference would do well to follow the same prudent course as the International Law Commission and to omit that point from the convention. Article 4, paragraph 3, adopted the day before, would provide an adequate solution for any questions that might arise.